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FEDERAL REGISTER

THE NATIONAL ARCHIVES
 LITTERA SCRIPTA MANET
 OF THE UNITED STATES
 1934
 VOLUME 28
 NUMBER 1

Washington, Tuesday, January 1, 1963

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Compiled by Office of the Federal Register, National Archives and Records Service, General Services Administration

Order from Superintendent of Documents, United States Government Printing Office, Washington 25, D.C.

FEDERAL REGISTER

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WOrth 3-3261

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Presidential Documents

Title 3—THE PRESIDENT

Executive Order 11072

EXTENDING THE EXTERIOR BOUNDARIES OF THE SUPERIOR NATIONAL FOREST IN MINNESOTA AND THE CLARK NATIONAL FOREST IN MISSOURI

WHEREAS it would be in the public interest to extend the exterior boundaries of the Superior National Forest in Minnesota and the Clark National Forest in Missouri to include certain lands acquired or which may be hereafter acquired for national forest purposes; together with adjoining public lands:

NOW, THEREFORE, by virtue of the authority vested in me by section 24 of the Act of March 3, 1891 (26 Stat. 1103, as amended; 16 U.S.C. 471), the Act of June 4, 1897 (30 Stat. 34, 36; 16 U.S.C. 473), and section 11 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 521), and as President of the United States, and upon the recommendation of the Secretary of Agriculture, it is ordered as follows:

The exterior boundaries of the Superior National Forest, Minnesota, and the Clark National Forest, Missouri, are hereby extended to include the following described lands and, subject to valid claims now existing and hereafter maintained, all lands of the United States within said boundaries which are not now parts of such National Forests hereby are reserved as parts of the Superior and Clark National Forests respectively:

LANDS ADDED TO THE SUPERIOR NATIONAL FOREST, MINNESOTA

FOURTH PRINCIPAL MERIDIAN

Tps. 64, 65, 66 N., R. 17 W.,
All that part north and east of the Vermilion River.

T. 67 N., R. 17 W.,
Sec. 1, lots 2, 3, 4, 7, and 8, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$;
Secs. 2 to 11, inclusive;
Sec. 12, lots 2 to 5, inclusive, and lot 9;
Sec. 13, lots 1 to 4, inclusive;
Secs. 14 to 23, inclusive;
Sec. 24, lot 1 and lots 4 to 7, inclusive;
Secs. 25 to 36, inclusive.

T. 68 N., R. 17 W.,
Secs. 1 to 35, inclusive;
Sec. 36, lots 1 to 7, inclusive, and lot 10.

T. 69 N., R. 17 W.,
Entire township.

T. 66 N., R. 18 W.,
All that part north and east of the Vermilion River.

Tps. 67, 68 N., R. 18 W.,
Entire townships.

T. 69 N., R. 18 W.,
Sec. 19, and secs. 25 to 36, inclusive.

T. 64 N., R. 3 E.,
Secs. 1 to 6, inclusive;
Sec. 7, NE $\frac{1}{4}$ NE $\frac{1}{4}$, and lots 1 to 4, inclusive;
Sec. 8, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
Secs. 9 to 16, inclusive.

T. 65 N., R. 3 E.,
Entire township.

LANDS ADDED TO THE CLARK NATIONAL FOREST, MISSOURI

FIFTH PRINCIPAL MERIDIAN

Tps. 35, 36 N., R. 8 W.,
Secs. 4 to 9, inclusive, secs. 16 to 21, inclusive, and secs. 28 to 33, inclusive.

T. 37 N., R. 8 W.,
Secs. 19 to 21 inclusive, and secs. 28 to 33 inclusive.

T. 35 N., R. 9 W.,
Entire township.

THE PRESIDENT

T. 36 N., R. 10 W.,

Secs. 4, 5 and those parts of secs. 6 and 7 lying east of the Big Piney River;
Secs. 8, 9, 16, and those parts of secs. 17, 18, and 19 lying east of the Big Piney River;

Secs. 20, 21, 28, 29, and that part of sec. 30 lying east of the Big Piney River;
Sec. 31, that part of the N $\frac{1}{2}$ lying east of the Big Piney River, S $\frac{1}{2}$;
Secs. 32, 33.

T. 37 N., R. 10 W.,

Those parts of secs. 21, 28, 32, and 33 lying east of the Gasconade River.

T. 36 N., R. 11 W.,

Sec. 24, that part lying east of the Big Piney River;
Sec. 36, S $\frac{1}{2}$.

T. 36 N., R. 12 W.,

That part of the S $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$ of sec. 36 described as follows: Beginning at a point which is N. 79° W. from the southeast corner of said section 36, T. 36 N., R. 12 W., a distance of 1.90 chains; thence N. 79° W., on conditional line 38.82 chains to the half section line of section 36; thence south with said half section line to south quarter corner of said section 36; thence easterly along the south line of said section 36 to the point of intersection with the line which runs S. 15°30' W. from the point of beginning; thence N. 15°30' E. to the point of beginning containing 14 acres more or less.

JOHN F. KENNEDY

THE WHITE HOUSE,

December 28, 1962.

[F.R. Doc. 62-12938; Filed, Dec. 31, 1962; 10:18 a.m.]

Rules and Regulations

Title 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

SUBCHAPTER B—FARM OWNERSHIP LOANS

SUBCHAPTER C—LOANS PRIMARILY FOR PRODUCTION PURPOSES

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

AMENDMENTS AND PARTIAL REVISION TO CHAPTER

That portion of Part 331, Title 6, Code of Federal Regulations (26 F.R. 4504), pertaining to Special Livestock loans is revoked and that portion of Part 381 pertaining to Emergency loans is superseded by Part 332, Title 6, Code of Federal Regulations, as revised. Parts 331 to 337 in Subchapter B are so numbered as Parts 321 to 327, respectively. Subchapter C, Title 6, Code of Federal Regulations, is reorganized and revised to read as follows:

[FHA Instruction 441.1 Administration Letters 703(440), 549(441), 772(441)]

PART 331—OPERATING LOANS

Subpart A—Policies and Authorities

- Sec. 331.1 General.
- 331.2 Scope of farming operations to be financed with Operating loans.
- 331.3 Eligibility requirements.
- 331.4 Veterans preference.
- 331.5 Certification by County Committee.
- 331.6 Participation under written agreements between the Farmers Home Administration and Commercial banks, cooperative lending agencies, or other legally organized agricultural lending agencies.
- 331.7 Loan purposes.
- 331.8 Loan limitations and special requirements.
- 331.9 Rates and terms.
- 331.10 Security policies.
- 331.11 Land tenure.
- 331.12 Loan approval.

Subpart B—Loan Processing

- Sec. 331.31 General.
- 331.32 Loan forms and routines.
- 331.33 Review and approval or rejection.
- 331.34 Loan closing.
- 331.35 Revision in the use of Operating loan funds.

Subpart A—Policies and Authorizations

AUTHORITY: §§ 331.1 to 331.12 issued under secs. 311, 312, 313, 315, 316, 333, 339, 75 Stat. 310, as amended, 311, 314, 318, 343, 76 Stat. 632, secs. 2, 4, 64 Stat., 99, 100; 7 U.S.C. 1941-1943, 1945, 1946, 1983, 1989, 1991, 40 U.S.C. 440, 442; Order of Sec. of Agr., 19 F.R. 74, 26 F.R. 8403, 27 F.R. 5005.

§ 331.1 General.

(a) This subpart prescribes the policies and authorizations for making Operating loans to farmers (including

ranchers) who will be conducting not larger than family farming operations.

(b) The basic objective of Operating loans to farmers is to enable them to carry on a successful system of farming, to make efficient use of their land, labor, and other resources, to make needed improvements in their living conditions and economic situation, and to qualify for credit from private or cooperative sources within a reasonable time.

(c) Primary emphasis will be given to assisting family farm operators who will be making significant adjustments and improvements in their farm and home operations.

(d) The basic objective of Operating loans will be accomplished through the extension of credit and supervisory assistance.

(e) Supervisory assistance will be provided borrowers to the extent necessary to achieve the objectives of the loan and to protect the interests of the Government in accordance with Part 302 of this chapter. Such assistance consists of farm and home planning, record keeping, analyzing the farm business, and giving management advice.

(f) The making of Operating loans to Indians and permittees and lessees on Indian trust lands is subject to the additional policies and procedures contained in Part 325 of this chapter.

§ 331.2 Scope of farming operations to be financed with Operating loans.

Loans may be made to farmers who, after the loan is made, will be conducting not larger than a family farming operation. The term farming operation as used in this subpart includes an operation which consists, in whole or in part of the production of fish under controlled conditions in lakes, ponds, and streams.

(a) *Adequate family farming operation.* An adequate family farming operation is defined as a farming operation (1) that is of sufficient size and productivity to furnish income that will enable a farm family to have a reasonable standard of living; pay operating expenses, including maintenance of necessary livestock, fish, farm and home equipment, land and buildings and other farm structures; pay their debts; and have a reasonable reserve to meet unforeseen emergencies, (2) for which the management of the farm and the recreational enterprise is furnished by the operator and his immediate family, and (3) for which the labor, including any labor necessary for the recreational enterprise, is furnished primarily by the operator and his immediate family except during seasonal peakload periods. It is not intended to include in this definition operations which require large amounts of seasonal hired labor.

(b) *Other family farming operations.* An "other" family farming operation is defined as a farming operation of insufficient size and productivity to qualify

as an "adequate" family farming operation and (1) that will produce agricultural commodities in sufficient quantities that the proceeds from their sale will be a substantial portion of the operator's total cash income, (2) that will provide farm income which together with any income from other sources, including recreational enterprises, will enable the family to have a reasonable standard of living; pay operating expenses including maintenance of necessary livestock, fish, farm and home equipment, recreational equipment or facilities, land and buildings; pay their debts; and have a reasonable reserve for unforeseen emergencies, (3) for which the management of the farm and the recreational enterprise is furnished by the operator and his immediate family, (4) for which the labor, including any labor necessary for the recreational enterprise, is furnished primarily by the operator and his immediate family except during seasonal peakload periods, and (5) in which the farm to be operated is recognized in the community as a farm rather than a rural residence. It is not intended to include in this definition operations which require large amounts of seasonal hired labor. Loans may also be made to established farmers who can meet all of the requirements of this paragraph, except with respect to income as prescribed in subparagraph (2) of this paragraph, provided their incomes are sufficient to pay necessary farm operating and family living expenses not provided for in the loan, including any such expenses in connection with a recreational enterprise, meet the required payments on the Operating loan, and make the required payments on other indebtedness after any necessary debt adjustments, extensions, reamortizations, deferments, or nondisturbance agreements have been obtained in connection with such indebtedness.

§ 331.3 Eligibility requirements.

To be eligible for an Operating loan each applicant must:

(a) Be a citizen of the United States.

(b) Possess legal capacity to incur the obligations of the loan.

(c) Be an individual who has a farm background and either training or farm experience sufficient to assure reasonable prospects of success in the proposed farming operation.

(d) Possess the character, ability, and industry necessary to carry out the proposed farming operation and honestly endeavor to carry out the undertakings and obligations required of him in connection with the loan.

(e) Be unable to obtain sufficient operating credit elsewhere to finance his actual needs at reasonable rates and terms taking into consideration prevailing private and cooperative rates and terms in the community in or near which he resides for loans for similar purposes

and periods of time. The applicant's equity in real estate, chattels, and other assets should be considered in determining his ability to obtain credit from private and cooperative sources.

(f) After the loan is made, be conducting not larger than a family farming operation as an owner or tenant.

(g) Be able to meet his major needs for operating credit within the indebtedness limitation for Operating loans during the period that such loans likely will be needed, except in cases where additional financing on a contractual or equally definite basis is available.

(h) When a loan for recreational purposes is being considered, possess the ability necessary to carry out the proposed enterprise.

§ 331.4 Veterans' preference.

Veterans, as defined in Part 301 of this chapter, will be given preference. When it appears that available funds will be inadequate to meet the needs of all applicants, the applications on hand from veterans will be processed first.

§ 331.5 Certification by County Committee.

Before an Operating loan is approved, the County Committee will certify on Form FHA 440-2, "County Committee Certification," that the applicant is eligible for a loan in accordance with the provisions of § 331.3 of this chapter. In addition, the County Committee will establish the maximum amount of credit which may be extended, under the certification, to meet the actual needs of the applicant during the crop year indicated. This will not necessarily represent the amount which actually will be loaned.

§ 331.6 Participation under written agreements between Farmers Home Administration and commercial banks, cooperative lending agencies, or other legally organized agricultural lending agencies.

There are some situations in which commercial banks, cooperative lending agencies, or other legally organized agricultural lending agencies may be unable to extend to some of their farm customers the amounts of credit needed under the existing conditions. This may be due to certain banking or lending limitations, a lack of funds resulting from an adverse collection season, or other factors. In spite of these conditions such a lender may wish to continue a line of credit with a customer and likely will be willing to again provide his total credit needs after a temporary period. In such cases if the applicant is otherwise eligible for an Operating loan the Farmers Home Administration may participate with the other lender by providing part or all of the new credit the applicant needs for the crop year under the other provisions of this Subpart A and Subpart B of this Part 331 as modified and supplemented by the following:

(a) The other lender will close and service the loans to the applicant and in doing so agrees to diligently protect the Government's interests as well as its own.

(b) The applicant is not indebted for a Farmer's Home Administration Oper-

ating or Emergency loan except that he may be indebted for an Operating loan previously made under a written participation agreement on Form FHA 441-3, "Participation Agreement."

(c) The applicant's immediate need for a Farmers Home Administration Operating loan is primarily for annual operating expenses and replacement of capital items.

(d) The applicant is carrying on a reasonably sound farm and home operation, will not be making major adjustments and improvements in his operations during the period of the Farmers Home Administration Operating loan, and does not need intensive farm and home or financial management supervisory assistance to help assure satisfactory progress or protection of the Government's interest.

(e) The Farmers Home Administration and other lender executes Form FHA 441-3. This agreement will show the amount of credit to be provided by Farmers Home Administration and the other lender, the division of payments on the loans and the income that may be received from the sale of security property. The participation agreement will also provide for the loan to be closed and serviced by the other lender.

(f) The loan to be made by the Farmers Home Administration must not result in the applicant's Farmers Home Administration indebtedness for Operating loans exceeding 80 percent of his combined total operating-type indebtedness owed to Farmers Home Administration and the other lender.

§ 331.7 Loan purposes.

Subject to the loan limitations and special requirements set forth in § 331.8 of this Subpart A, operating loans may be made for:

(a) Purchase of livestock, poultry, farm equipment, and paying costs incident to reorganizing the farming system for more profitable operation and for other farm needs, including equipment to be utilized in the development of forest lands, and the production and harvesting of forestry products such as pulpwood, mine-timber, railroad ties, or timber for other uses.

(b) Purchase of an undivided interest in livestock, poultry, farm equipment, or facilities to be operated under a joint arrangement or as a group service.

(c) Purchase of feed, seed, fertilizer, insecticides, and farm supplies; the repair of equipment; and other essential farm operating expenses, including cost incident to the production and harvesting of forestry products such as pulpwood, mine-timber, railroad ties, or timber for other uses.

(d) Payment of customary and equitable cash rent or cash charges for the use of farm buildings, pasture, crop, or hay land, and grazing permits if all of the following conditions exist:

(1) Arrangements cannot be made for such rent or charges to fall due at the time when income for such payments is expected to become available.

(2) The applicant is obligated under a written lease to pay such rent or charges in advance of the time when income is

expected to become available to him for that purpose and the payment from loan funds is made in advance of such time.

(3) Not more than one year's cash rent or cash charges are paid with loan funds in any one lease year, except that if a loan is approved near the end of the current lease year funds for payment of such rent or charges for the succeeding lease year may be included in the loan.

(4) The terms of the lease provide the applicant with reasonably secure and satisfactory tenure.

(e) Payment of taxes due or about to become due, Social Security taxes in connection with hired labor, water or drainage charges or assessments, premiums for insurance on real and personal property subject to the limitations in § 331.8(b)(5) of this Subpart A and premiums for public liability and property damage insurance on farm equipment (including farm trucks) and on recreational equipment and enterprises.

(f) Payment of not more than one year's interest calculated at a rate not to exceed that which is reasonable and customary for the area, that is due or about to become due on debts secured by liens of other creditors on livestock, farm equipment, and farm real estate.

(g) Payment of depreciation in any one year not to exceed 15 percent of the market value of the essential farm equipment or recreational equipment under prior lien to another creditor or 15 percent of the amount owed to such creditors, whichever is lesser.

(h) Acquisition of memberships in farm purchasing and marketing and farm service-type cooperative associations or to purchase stock in such associations to help provide capital for improvement of services to farmer members. Purchase membership or stock in a recreational-type cooperative association organized to utilize the applicant's resources and to produce additional income exclusive of membership in associations which will acquire, lease, or improve land not otherwise under the control of the members.

(i) Meeting family subsistence needs, including premiums on reasonable amounts of health and life insurance and expenses for medical care. Applicants must understand, however, that within the limits of their resources they should plan and carry on adequate food production and conservation programs.

(j) Purchase of essential home equipment and furnishings, and the payment for home equipment repairs required by the applicant family to sustain itself on the farm in a reasonably satisfactory manner.

(k) Refinancing debts as follows:

(1) A debt secured by a lien on livestock, farm and home and recreational equipment, and harvested feed, not to exceed the market value of such property serving as security for the debt being refinanced. However, any portion of a secured debt which is in excess of the market value of such property may be considered for refinancing under subparagraph (2) of this paragraph.

(2) A debt, other than one authorized to be refinanced in subparagraph (1) of this paragraph, not to exceed the applicant's equity in the livestock and farm

and recreational equipment to be taken as security for the loan. The applicant's equity in crops, livestock increase, and livestock products on hand may be included in determining his equity when the debt being refinanced was incurred for operating expenses during the crop year for which the loan is being made. See refinancing limitations in § 331.8(b) of this Subpart A.

(m) Purchase of milk base either with or without cows where such action is necessary to assure the borrowers a satisfactory market for his dairy products, as authorized or approved by the State Director.

(n) Purchase of grazing license or permit rights of private parties which can be validly sold and transferred or waived separate from any land lease or other interest in land either with or without eligible livestock, provided loans for this purpose are authorized or by the State Director.

(o) The purchase of equipment, animals and birds, or facilities, and for operating expenses relating to the acquisition, development, and operation of recreational enterprises such as boating, fishing, swimming, picnicking, horseback riding, hunting, ski jumps, tennis courts, vacation cottages, camp grounds, and nature trails not otherwise provided for in this Subpart A.

(p) Purchase of fish used to stock ponds, streams, or lakes under controlled conditions, and for operating expenses relating to such enterprises.

(q) The following real estate improvements, subject to the limitations in § 331.8 of this Subpart A.

(1) Purchase, construction, alteration, repair, or relocation of essential farm service buildings and minor repairs or alterations to farm dwellings.

(2) Purchase, construction, alteration, repair, or relocation of facilities or buildings to be utilized in a recreational enterprise.

(3) Land and water development, use, and conservation essential to the operation of the farm or recreational enterprise such as fencing, land clearing, establishment and development of forest lands, establishment and improvements of permanent hay or pasture, drainage and irrigation facilities, construction of small lakes or ponds, basic applications of lime and fertilizer, and the development of farmstead, livestock, and irrigation water supply and equipment therefor. Loan funds may be used to pay that part of the cost facilities, improvements, and practices which is to be earned by participation in the Agricultural Conservation or Great Plains programs only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which funds were advanced likely will exceed \$500, the applicant will assign the payment to the Farmers Home Administration.

(r) Additional purposes in Hawaii as follows:

(1) For purchasing necessary coffee-drying equipment and trellises for passion fruit under provisions of this paragraph provided such equipment does not become a part of the real estate.

Consideration should be given to the acquisition of such equipment through the use of group services where possible.

(2) Subject to the limitations prescribed in § 331.8(d) of this Subpart A for erecting necessary farm buildings and making essential repairs and improvements to existing farm buildings provided the buildings, repairs or improvements for which the loan is made are normally considered a part of the cost of operating the farm and will enable the applicant to establish or reorganize an approved farming enterprise.

(3) Subject to the limitations prescribed in § 331.8(d) of this Subpart A for establishing and improving pastures, hay crops, coffee, pineapple, banana, and similar perennial-type crops and for the construction of terraces, water ways, and farm ponds; clearing, leveling and draining land; and paying for other Soil and Water Conservation and improvement mortgage.

(4) When loans are made to tenants for real estate improvements as authorized in this paragraph, the lease must provide for an assignment of the lease to the Government or to someone designated by the Government. Loans may not be made to tenants operating on Hawaiian Homes Commission lands unless its present regulations and policies are changed in a manner which would permit the Farmers Home Administration to obtain a valid crop mortgage.

(s) Financing feeder cattle enterprises to enable the borrower to provide a profitable means of using feed produced on the ranch or farm. Only feeder enterprises in which the borrower produces practically all the required hay and other roughage and a substantial part of the grain needed will be considered favorably for financing with Operating loans. Only sound feeder operations which do not involve excessive risks to either the borrower or to the Government will be financed.

(1) Loans will not be made to finance commercial feed lot operations or where the applicant will require a substantial amount of credit for either the purchase of feed or for grazing fees.

(2) Ordinarily loans will be made only to finance feeder enterprises where light-weight feeders, such as feeder calves or yearlings are involved, and not to finance feeding operations involving heavy cattle, feeders which will be fed for only a short period, or feeders to be finished to prime grade.

(3) The making of operating loans involving poultry production is subject to policies for such loans contained in Part 321 of this chapter.

§ 331.8 Loan limitations and special requirements.

(a) *Refinancing of debts and obtaining credit elsewhere.* (1) When an applicant's request includes the use of loan funds for refinancing of debts it must be determined before a loan is made that his present creditors will not give him rates and terms on the existing debts that he reasonably could be expected to

meet. If the applicant has requested loan funds for additional purposes, a determination also must be made that his present creditors or other sources will not extend to him the additional credit he needs on such rates and terms. County Supervisors will therefore:

(i) Discuss with the applicant the possibility of obtaining the needed credit from the applicant's present creditors or other sources. He may request the applicant to contact his present creditors to explain his credit needs and to determine if the creditors will provide any additional funds needed, renew, extend, change, or reduce the present debts as appropriate. He will also advise the applicant of other credit sources available in the area which might assist him with his credit needs and request that he contact such credit sources. If the applicant is unsuccessful in his efforts to obtain credit or to get a revision of the rates and terms of his indebtedness, the County Supervisor will obtain from the applicant and document the reasons given for not assisting the applicant.

(ii) If the County Supervisor is notified by the applicant that his negotiations with the present creditors or other sources were unsuccessful he will determine on the basis of the applicant's financial statement, planned income and expenses, estimated amount available for debt payment, and the additional facts presented by the applicant, whether it appears necessary to refinance the debts or any portion of the debts or to obtain a change in the rates and terms. When it is determined that refinancing may be necessary, he will contact in person, when practicable, each secured creditor and each unsecured creditor to whom substantial debts are owed for the purpose of verifying the necessity for refinancing. If the loan is to be processed, a statement of each secured account to be refinanced showing the final due date, interest rate, annual installment, amount delinquent, unpaid principal, and accrued interest will be obtained. A statement also will be obtained for each unsecured account to be refinanced.

(b) *Purposes for which loans may not be made.* While it is impracticable to list all of the purposes for which loans may not be made, the following are those commonly requested by applicants which are not authorized:

(1) Purchase of passenger automobiles, the refinancing of debts secured by liens on such automobiles, or the payment of unsecured debts incurred for the purchase of such automobiles.

(2) Payment of Federal or State Income Taxes, or Social Security taxes payable by borrowers in their own behalf.

(3) Purchase of real estate, or the making of payments on, or the refinancing of, any real estate indebtedness other than the payment of taxes and interest as authorized in this Subpart A. In addition, loans may not be made for carrying on any land purchasing or land leasing program.

(4) Replacing livestock, farm equipment, or crops sold, or refinancing chattel debts incurred primarily for the purpose of obtaining funds for any of the real estate purposes referred to in subparagraph (3) of this paragraph, if such

action was taken by the applicant with the intent of replacing the chattel property or refinancing the debts with Operating loan funds.

(5) Payment of taxes or insurance premiums in connection with real estate securing Farmers Home Administration loans other than Operating loans.

(6) Payment of debts owed by the applicant to the Farmers Home Administration or to make principal or interest payments on such debts.

(7) Loan funds will not be used to (i) purchase memberships or stock in production cooperatives, (ii) purchase memberships or stock for the purpose of establishing control by the Farmers Home Administration in any type of cooperative, or (iii) furnish a majority of the associations' capital requirements.

(8) To convert or develop his entire farming into a recreational enterprise.

(c) *Limitations on loans for other family-farming operations.* Loans may not be made to establish individuals in farming operations of the scope referred to in § 331.2(b) of this subpart.

(d) *Limitations on loans for real estate improvements.* (1) Not more than \$2,500 may be advanced to a borrower in any one fiscal year for real estate improvements; furthermore, Operating loans will not be made year after year to make substantial real estate improvements. Equipment which is installed under a severance agreement and on which a valid chattel lien is obtained is not considered real estate improvement.

(2) Before an Operating loan is made for real estate improvements, a careful analysis must be made of the applicant's resources and proposed operations and a determination made that:

(i) Such real estate improvements cannot be provided practicably through a real estate loan.

(ii) The sum of the Operating loan being made for real estate improvements and the unpaid indebtedness against the farm and other security which secures the Farmers Home Administration real estate loan will not exceed the total indebtedness or the normal value limitations prescribed for real estate loans.

(iii) The applicant will likely continue to operate the farm for a sufficient period of time and under such terms that will enable him to obtain reasonable returns on his investment.

(3) Operating loans may not be made to a tenant to finance real estate improvements unless he has a written lease under equitable terms. In addition, the lease in such case must provide for compensating the tenant for any unexhausted value of the improvement upon termination of the lease.

(e) *Limitations on amount of loan.* The amount of each loan will be limited to the needs of the applicant and his ability to pay. In addition, consideration will be given to the value of the chattel property, including crops, which will be available as security. In no case may a loan be made which would result in the total principal balance outstanding to exceed \$35,000 for Operating loans (including Production and Subsistence). In addition, not more than 25 percent of the Operating loan appropriation for any

fiscal year may be used to increase the indebtedness of any borrower above \$15,000.

(f) *Debt settlement cases.* A loan will not be made to an applicant whose debts have been settled pursuant to Part 364 of this chapter or who has been released from personal liability under Part 372 of this chapter, as reflected by the County Office records, or where settlement or release under such regulations is contemplated, unless the applicant's failure to pay his loan indebtedness was the result of circumstances beyond his control, the conditions which necessitated the debt settlement or release, other than weather hazards, disasters, or price fluctuations, have been removed, and the borrower's operations will be sound and afford him a reasonable prospect of repaying the loan and meeting his other obligations. Prior to approval of the loan the State Office will determine whether the loan should be made.

(g) *Loans to individuals for forestry purposes.* Applicants for operating loans for forestry purposes are responsible for getting technical assistance from the Extension Service, U.S. Forest Service, Soil Conservation Service, State Forest Technicians, or other competent technicians in developing a forest plan on management and operation of his forest farm or farm woodlot. The plan will include projected yields, with operating expenses and estimated income, as well as a cruise of existing timber. The cruise report should include information such as an inventory of the kind and amount of timber on the land, the size and growth rate of the predominant type of trees, amount of merchantable timber on the farm, and the dates the timber should be marked for sale. Also, it should show the kind of forestry product sales such as pulpwood, mine-timber, railroad ties, or sale for other timber uses. No loan may be considered for a deferred payment or for a 3 percent interest rate unless an acceptable forestry plan of operation and management is provided and the loan approval official is reasonably assured that such a plan will be followed.

(h) *Loans to individuals jointly engaged in farming.* (1) A joint loan may be made to two eligible applicants living together or living separately and operating jointly not larger than one family-farm unit. When joint loans are made, both individuals will execute the application, loan authorization, notes, mortgages, and other documents required in connection with the making and closing of the loan.

(2) Separate loans may be made to eligible applicants who are engaged jointly in farming, provided not more than two individuals are interested in the operations, and the operations provide the equivalent of not larger than a family-farming operation for each individual. If a loan is made to only one such individual, it will be secured by a lien on his interest in the crops and chattel property as required by § 331.10 of this subpart. If a loan is made to each of the two individuals, a separate mortgage may be executed by each borrower on his interest in the property to secure his loan or a joint mortgage may

be executed by both borrowers to secure both loans.

(i) *Relationship with Emergency loans.* Initial operating loans will not be made to applicants in areas designated for Emergency loans when credit needs can be met adequately with Emergency loans and can be scheduled for payment in full from the first year's operations.

(j) *Loans for recreational enterprises.* The farm and home plan will have sufficient information attached to determine the feasibility and soundness of the applicant's request for Farmers Home Administration assistance in conducting a recreational enterprise in conjunction with his farming operation. Such information will indicate whether the enterprise provides sufficient income to meet its operating expenses, depreciation, proportionate share of the debt, and make a reasonable contribution to the family's income.

§ 331.9 Rates and terms.

Interest will be charged at the rate of 5 percent per annum on all Operating loans, except that loans made for the purchase of equipment to be used primarily in connection with a forestry enterprise and loans for operating expenses directly relating to a forestry enterprise will bear interest at the rate of 3 percent per annum. Interest will accrue from the date of the loan check on outstanding principal only and will not be compounded. Loans will be scheduled for payment as follows:

(a) Payments of principal on Operating loans will be scheduled on the note in accordance with the borrower's reasonable ability to pay, determined by an analysis of his farm and home operations as reflected in his farm and home plans. Principal payments on such loans will be scheduled at least annually, unless it is determined that income sufficient to meet the initial payment will not be received within 12 months from the date of the loan check, in which case the initial payment may be scheduled on a date coinciding with the date of the income is to be received, but not beyond the end of the second full crop year following the date of the loan. At least one payment will be scheduled during each 12-month period thereafter. In no event will any payment be scheduled later than 7 years from the date of the loan check.

(1) Advances for annual recurring operating expenses will be scheduled for payment when the principal income from the year's operations normally would be received. This includes advances for the payment of debts incurred in connection with the current year's operations, interest, taxes, and depreciation.

(2) Advances to purchase or produce feed for productive livestock, or livestock to be fed for the market, will be scheduled for payment when the principal income from the sale of such livestock or livestock products can be expected.

(3) Advances for the purchase of equipment or the refinancing of debts on equipment will ordinarily be scheduled

for payment over a period not to exceed 5 years. In determining the payment period for advances made for such purposes, the loan approval official will give careful consideration to the useful life of the property and the fact that repayment on such advances must more than offset depreciation, including obsolescence, of the equipment if the borrower is to make financial progress.

(4) Advances for purposes other than those enumerated in subparagraphs (1), (2), and (3) of this paragraph will be scheduled for payment over the minimum period consistent with the applicant's ability to pay, as determined from an analysis of the farm and home operations. In no instance may the payment schedule extend beyond the useful life of the security offered for the advance.

(5) When conditions warrant such action, principal payments scheduled in accordance with subparagraphs (3) and (4) of this paragraph may vary in amount. For example, when a livestock enterprise is being expanded as the feed and pasture program is developed, a graduated payment schedule could be used if necessary. In connection with subsequent loans for such purposes, it is necessary to consider payment schedules established previously for outstanding loans in order to assure a realistic overall payment schedule within the prescribed limits.

(b) Loans will be scheduled for repayment from anticipated income within a 7-year period. The last installment will not be larger than the amount which can then be refinanced with another lender or be repaid within a renewal period of not to exceed 5 years.

§ 331.10 Security policies.

(a) Except as provided in subparagraph (3) of this paragraph, and in paragraphs (b), (c), and (d) of this section each loan will be secured as follows:

(1) *Crops, title to which is held by the borrower.* By a first lien on the applicant's crops, or his share of the crops if he is a share tenant, which are growing or to be grown by him, subject only to:

(i) The landlord's lien on the crops for reasonable cash or privilege rent for the current year.

(ii) The real estate mortgagee's lien on real estate purchase contract holder's lien on the crops for the current year's installment on the real estate debt, provided such installment is reasonable when related to the normal rental charges for similar farms in the area.

(iii) The lien of another creditor on particular crops for advances made or to be made by him to produce such crops provided no advance will be made by the Farmers Home Administration in connection with such crops.

(iv) The contract of another creditor or the lien in connection with such contract on particular crops for advances made or to be made by him to produce, harvest, process, or market such crops, provided the crops are under written contract with the creditor, and the contract limits advances to production, harvesting, processing, or marketing costs in connection with the contract crop or to purposes related thereto.

(2) *Crops grown under contract when title to the crop is held by the contractor.* When a crop is being produced, harvested, processed, or marketed by the applicant under an equitable written contract with a responsible contractor and title to the crop is retained by such contractor, loans may be made in connection with such crops provided (i) the contractor limits his advances to production, harvesting, processing, or marketing costs in connection with the contract crop or to purposes related thereto, and (ii) an assignment of all or part of an applicant's share of the income from the crop is given to the Farmers Home Administration and is accepted in writing by the contractor holding title to the crops. The assignment will be in an amount at least equal to the amount planned to be paid on the applicant's Farmers Home Administration indebtedness from such crop. However, when no payment is expected to be made on the loan from the crops, an assignment will not be required. The form for use in obtaining such assignments will be approved by the Office of the General Counsel.

(3) *Feed crops only.* Subject to the limitations of subparagraph (6) of this paragraph, a crop mortgage need not be taken when the crops to be produced by the borrower are for feed purposes only and the loan approval official determines that the loan is otherwise reasonably well secured and that liquidation action either voluntary, or involuntary, is not likely to occur during the crop year for which the loan is made.

(4) *Livestock, poultry, farm equipment, and facilities purchased or refinanced.* (This includes animals, fish, birds, and recreational equipment and facilities.) By a first lien on all such items, including buildings and fixtures which can be made subject to a valid chattel lien and undivided interests in such property, purchased or refinanced with the proceeds of the loan. However, liens will not be taken on poultry kept primarily for subsistence purposes, on household goods and equipment, on small tools and equipment. An applicant obtaining a loan for the purchase of an undivided interest in the property referred to above or the refinancing of debts on such items will secure his loan by a mortgage on his undivided interests in the item purchased or refinanced along with any other security required by this § 331.10. Joint mortgages will not be taken except as provided in § 331.8(f) of this subpart. Each party having an undivided interest in such property will execute Form FHA 441-12, "Agreement for Disposition of Jointly-Owned Property," providing for the disposition of his interest in the property. However, Form FHA 441-12 will not be required when a tenant and landlord own property jointly and the lease provides for satisfactory division of such property or the proceeds from its sale, or a joint mortgage is taken to secure loans to two individuals jointly engaged in farming.

(5) *Other livestock, poultry, farm equipment, and facilities of security value.* (This includes animals, fish, birds, and recreational equipment and facilities.) By the best lien obtainable

on as much of such property of significant security value owned by the applicant at the time the loan is approved as is necessary to protect the interest of the Government. This will include any undivided interest in such property owned by the applicant jointly with others who have an interest in the operation.

(i) Ordinarily liens should not be taken on only part of a herd or flock due to the security servicing problems involved.

(ii) Liens should not be taken on small equipment and tools, household goods and equipment, passenger automobiles, or livestock or poultry kept primarily for subsistence purposes, or on undivided interests in property owned jointly by the applicant or others who have no interest in the farming operation or recreational enterprise.

(6) *Liens and assignments to protect the Government's interest in feed purchased or produced with loan funds.* Loans made to purchase or produce feed for livestock being fed for market or to be fed to productive livestock (excluding livestock and poultry kept primarily for subsistence purposes) will ordinarily be secured by first liens on such livestock. However, when a first lien cannot be obtained, the loan will be secured by liens or assignments as provided below:

(i) When the livestock will be owned by the applicant and a first lien cannot be obtained, a junior lien will be taken, provided it is determined that the applicant has, or will acquire during the feeding period, an equity in the livestock being fed or will receive income from livestock or livestock products, either of which must be commensurate with the investment made for this purpose; and provided prior lienholders sign Form FHA 441-13, "Division of Income and Nondisturbance Agreement," or similar form approved by the Office of the General Counsel, agreeing to a suitable nondisturbance period and to a division of the income to be received from the livestock and livestock products, which will permit the applicant to pay his loan in accordance with the policies expressed herein. However, when no payment is expected to be made on the loan from the livestock or livestock products, Form FHA 441-13 will not be required.

(ii) When the livestock enterprise is to be managed by the applicant under a livestock share lease, share agreement, or contract, and the income to be received therefrom will be from the livestock fed, or from livestock products, an assignment of all or a part of such income will be taken provided the owner or purchaser of the livestock or livestock products accepts in writing the assignment. The assignment will be in an amount at least equal to the amount planned to be paid on the applicant's Farmers Home Administration indebtedness from such income. The form for use in obtaining such assignments will be approved by the Office of the General Counsel. However, when no payment is expected to be made on the loan from the livestock or livestock products, an assignment will not be required. When the borrower's compensation under the livestock share lease, share agreement,

or contract is livestock increase, the applicant will be required to agree in writing at the time the loan is made to give a first lien on such increase as soon as an effective lien can be taken, unless an after-acquired property clause in an existing lien instrument will provide such a first lien.

(7) *Assignments of crop insurance.* Assignments of all or a part of crop insurance proceeds will be taken when the loan approval official determines such action is necessary to protect the interests of the Government. However, an assignment is not required in cases where a crop insurance policy contains a standard mortgage clause naming the Farmers Home Administration as mortgagee.

(8) *Assignments of proceeds from sale of agricultural products.* When loans are made to finance dairy or commercial egg enterprises from which payments are expected, assignments will be taken on the milk or egg income to assist in obtaining regular payments as income is received whenever it is possible to obtain an agreement from the purchaser to honor the assignments. The assignment will be in an amount sufficient to meet repayments planned from this source. Assignments of proceeds from the sale of other agricultural products or agricultural income, including wool incentive and agricultural program payments, will be taken when necessary to protect the interest of the Government and can be obtained.

(9) *Severance agreements.* When Operating loan funds are used to purchase or refinance debts on property which is or may become attached to real estate and it is necessary to sever such property from the real estate to meet the security requirements contained in subparagraph (4) of this paragraph, Form FHA 440-6, "Severance Agreement," will be obtained.

(10) *Real estate.* Real estate security will not be taken in connection with making initial Operating loans. Furthermore, real estate security will not be taken in connection with making subsequent Operating loans except in individual cases in which it appears that it may be necessary to rely on such security for payment of the loan. When such security is taken the provisions of § 371.2 (b) of this chapter will apply.

(b) Loans made for the acquisition of memberships or the purchase of stock in cooperative associations may be made on the basis of the borrower's promissory note without taking other security except as follows:

(1) An assignment or a pledge of the stock or other evidence of membership will be obtained, provided such a pledge or assignment would have security value. Assignments may also be taken on significant amounts of dividends to be received from stock, memberships or patronage, or on undivided profits and other retains. The assignment or pledge will be made on forms and in the manner approved by the Office of the General Counsel.

(2) In individual cases, loan approval officials may require a lien on crops or chattels as security for a loan made for

the acquisition of a membership or stock if they determine that such action is necessary to protect the interest of the Government due to such reasons as the amount of the advance or the borrower's financial situation.

(c) Loans made under participation agreements between the Farmers Home Administration and other lenders under Form FHA 441-3, as prescribed in § 331.6 of this subpart, will be secured by liens taken by the other lenders. Such liens will be taken on livestock or farm equipment or crops and may also include any other chattel property which the other lender determines is desirable. In such cases the loan approval official must determine that the security to be obtained by the other lender in accordance with the provisions of the participation agreement will be adequate to protect the interests of the Government under that agreement.

(d) Loans of not more than \$1,500 for real estate improvements may be made on the basis of the borrower's promissory note without taking other security when the applicant has a good reputation for paying his debts promptly, when he clearly has sufficient income to meet all of his obligations, and when he has assets from which a recovery of the loan could be made in case of default.

(e) Property and public liability and property damage insurance will be obtained as follows:

(1) Applicants obtaining Operating loans should be encouraged to carry insurance on their livestock, equipment, crops, feed, seed, and other property necessary to afford them adequate protection against substantial losses from the common hazards existing in an area. It is especially desirable that insurance be obtained by applicants who obtain large loans and have considerable livestock, equipment, feed, and seed which are housed over an extended period. Such insurance may be required. It may be obtained from any insurance company properly authorized to do business in the area.

(2) Applicants receiving loans for a recreational enterprise will be advised of the possibilities of incurring liability and encouraged to obtain public liability and property damage insurance.

(3) When insurance is required on property serving as security for an Operating loan, a Form FHA 426-2, "Property Insurance Mortgage Clause (Without Contribution)," or a standard mortgage clause which is in general use in the area will be attached to or printed in the policy and will show the United States of America (Farmers Home Administration) as mortgagee.

(f) State Directors will inform County Supervisors on a State basis if it is necessary, because of State statutes or types of leases, land purchase contracts, and real estate mortgages commonly in use, to obtain subordination agreements, and to take other action as necessary.

(g) Lien searches will be obtained in accordance with the provision of Subpart B of this chapter to determine that the Farmers Home Administration will have the required security except that when the loan is made under a written participation agreement with another

lender a lien search will not be required by the Farmers Home Administration if the loan approval official determines that the other lender will take the necessary steps in closing the loan to assure proper protection of the Government's interests.

§ 331.11 Land tenure.

Good land tenure is essential in building a sound and successful farming business. Applicants will, therefore, be required to make satisfactory arrangements for the use of sufficient land of the quality necessary for carrying on an approved system of farming on a sound and practical basis. The tenure policies set forth below will be followed in the making and approving of loans.

(a) *Tenant operators.* (1) Before a loan is made the tenant, the landlord, and the County Supervisor must understand the terms and conditions of the tenure arrangements. The understanding will include how the farm will be operated, the manner in which the planned adjustments and improvements will be financed, the distribution of income and expenses and other contributions by the tenant or the landlord, provisions for the division of the jointly owned property when the lease is terminated, agreement on any pertinent long-time aspects of the case, as outlined in Part 302 of this chapter, and any other factors affecting the tenure relationship.

(2) Ordinarily, loans will not be made unless the applicant obtains a satisfactory written lease. However, when for good reason an applicant cannot obtain a written lease on part or all of the land he expects to operate, the loan may be approved, provided the County Supervisor determines that the understanding existing between the tenant and landlord are definite and the rental terms are satisfactory, the lack of a written lease will not likely jeopardize the applicant's farming operations, and the rental arrangements made with respect to each tract of land are documented.

(b) *Owner operators.* Before loans are made to owner operators, the terms existing with respect to any real estate indebtedness owing will be ascertained and a determination will be made as to whether the applicant's proposed farming operations will enable him to meet the required payments on the real estate indebtedness as well as being sound in other respects, and the applicant will have reasonably secure tenure on the farm under the terms of the real estate mortgage or purchase contract.

§ 331.12 Loan approval.

(a) *Administrative determinations and responsibilities.* When the County Committee certification has been made, the loan approval official will determine administratively whether:

(1) The applicant is eligible and likely to be successful in the proposed operations and to achieve the objectives of the loan.

(2) The applicant has available, under satisfactory tenure arrangements, a farm adequate in size and productivity to reasonably expect success, taking into consideration off-farm income and income from a recreational enterprise.

(3) Plans have been made and documented for the proper system of farming and for any crucial adjustments, improvements, and practices essential for the applicant's success and whether provision has been made for proper follow-up supervision and corrective action.

(4) The proposed farm and home operations and recreational enterprise of the applicant are sound.

(5) The loan is sound and can be repaid from income as scheduled.

(6) The amount of the loan and the purposes for which the funds are to be used are consistent with the applicant's needs and are for authorized purposes.

(7) The security requirements can be met.

(8) The certifications required of the applicant and County Committee have been made.

(9) The loan meets all other Farmers Home Administration requirements.

(b) *Authority.* State Directors are authorized hereby to approve Operating loans in accordance with the requirements of this Subpart A and Subpart B of this chapter. However, no initial or subsequent Operating loan may be approved by the State Director without the consent of the National Office if (1) the loan being made will cause the total principal balance of Operating loans (including Production and Subsistence loans) plus the total principal balance owed on any Emergency-type loans (including Special Livestock loans) to exceed \$25,000, or (2) the applicant is indebted for a Farmers Home Administration real estate loan or such a loan is being made, and the total principal balance on all indebtedness to, or insured by, Farmers Home Administration will exceed \$50,000. However, when the National Office has concurred in the approval of an Operating loan as provided under subparagraph (1) or (2) of this paragraph, the case need not be resubmitted to the National Office in connection with requests for additional Operating loans unless major changes are made in the planned farm and home operations, or the borrower has not made satisfactory progress in the repayment of the loan.

(c) *Redelegation of authority.* (1) State Directors are authorized to redelegate to qualified State Office employees, including Area Supervisors, County Supervisors, and GS-7 Assistant County Supervisors, his authority to approve loans subject to the following limitations:

(i) Area Supervisors may not be authorized to approve a loan to an applicant which will cause the total principal balance of Operating loans (including Production and Subsistence loans) plus the total principal balance owed on any Emergency-type loans (including Special Livestock loans) to exceed \$18,000.

(ii) County Supervisors and GS-7 Assistant County Supervisors may not be authorized to approve a loan to an applicant which will cause the total principal balance of Operating loans (including Production and Subsistence loans) plus the total principal balance owed on any Emergency-type loans (in-

cluding Special Livestock loans) to exceed \$12,000.

(2) Each State Director will determine the loan approval authority to be redelegated to State and County Office employees and will issue redelegations of such authority on a position basis.

(3) State Directors will restrict or revoke the exercise of delegated loan approval authority to individual State and County Office employees by written notice where such action is necessary in the administration of a sound loan program.

Subpart B—Loan Processing

AUTHORITY: §§ 331.31 to 331.35 issued under secs. 311, 312, 313, 315, 316, 333, 339, 75 Stat. 310, as amended, 311, 314, 318, 343, 76 Stat. 632, secs. 2, 4, 64 Stat. 99, 100; 7 U.S.C. 1941, 1942, 1943, 1945, 1946, 1983, 1989, 1991; 40 U.S.C. 440, 442; Order of Sec. of Agr., 19 F.R. 74, 26 F.R. 8403, 27 F.R. 5005.

§ 331.31 General.

This Subpart B of this Part 331 sets forth the requirements and procedures for the preparation and execution of documents and for other routines in connection with making Operating loans.

§ 331.32 Loan forms and routines.

(a) *Applications for loans.* (1) Applicants who are not indebted for Operating, any Emergency, or Special Livestock loans will execute Form FHA 410-1, "Application for FHA services," in accordance with Part 301 of this chapter.

(2) Applicants who are indebted for Operating, any Emergency, or Special Livestock loans will not be required to execute Form FHA 410-1 if the application taken in connection with such loans or a Form FHA 431-2, "Farm and Home Plan," reasonably reflects their current status.

(b) *Form FHA 440-2, "County Committee Certification."* (1) When the applicant is determined to be eligible, the County Committee will execute Form FHA 440-2 before the loan is approved. This certification will cover any Operating loans to be made to the applicant for the crop year specified within the maximum amount of credit established by the County Committee. The date designated by the County Committee as the end of the crop year and the maximum amount of credit will be inserted in the appropriate spaces.

(i) It is intended that County Committees will have some latitude in determining for which crop years credit may be extended. In some cases where an initial Operating loan is being made, the County Committee may indicate that the crop year for which credit may be extended coincides with that for which an interim plan is developed. Such action may be taken because the Committee wishes to review the circumstances of the applicant again at the end of the interim crop year before committing itself for the succeeding crop year. In other cases, the County Committee may, when an application is being acted upon during the latter part of a crop year, establish the maximum amount of credit for both the interim crop year and the next crop year, provided the operations for the current year have advanced to the point that the

County Committee will be able to determine with reasonable certainty the maximum amount of credit which the applicant would need for the next crop year under normal conditions. The same principles with respect to County Committee certifications for an initial loan may be followed in connection with subsequent loans.

(ii) If it is found, after an applicant has been certified as eligible, that a different farm will be operated or that an amount of credit in excess of the maximum previously established by the County Committee will be required for the designated crop year, it will be necessary for the County Committee again to certify the applicant as eligible on the basis of the changed circumstances if a loan is to be made.

(2) When the County Committee has agreed to increase the original amount of loan assistance certified for the crop year because such amount was insufficient to meet the needs of the borrower, a new Form FHA 440-2 will be prepared and executed. The date of the end of the same crop year (month, day, and year) as that indicated in the original certification will be inserted in the appropriate space. In the space indicating the maximum amount of credit for the crop year, the amount to be inserted will be the sum of the latest certification for the crop year for any Operating, any Emergency, and Special Livestock loan plus the additional amounts of any such loans the County Committee determines are necessary to meet the actual credit needs of the borrower for the remainder of the crop year. A notation will be made in the blank space on Form FHA 440-2 that the County Committee has again reviewed the applicant's situation and his credit needs for the crop year are as indicated rather than \$----- shown on the previously executed Form FHA 440-2. The new Form FHA 440-2 should be executed by the County Committee and dated as of that date.

(c) *Form FHA 431-1, "Long-Time Farm and Home Plan."* Form FHA 431-1 will be developed with those applicants who are to receive intensive supervision as prescribed in Part 301 of this chapter.

(d) *Form FHA 431-2, "Farm and Home Plan."* Form FHA 431-2 will be developed with all applicants as prescribed in Part 301 of this chapter except when a loan is made only for the acquisition of membership or the purchase of stock in a cooperative association and the applicant is not indebted for another Farmers Home Administration loan. In the latter case, the best estimates available will be used to complete Table J of Form FHA 431-2 in order to determine whether the loan requested can be paid and the period over which payments should be scheduled. The source of payment should be shown in Table K. When the preparation of Table J is inadequate to enable the loan approval official to make the required determinations, other portions of Form FHA 431-2 as necessary will be used. When a loan is being made for a recreational enterprise, a statement of income and expenses will be attached

to the farm and home plan as prescribed in § 331.8(j).

(e) *Appraisal of property.* (1) When a secured debt is to be refinanced under the provisions of § 331.7(1), the following information will be recorded concerning each debt: the name of the applicant; the name of the lienholder; the amount owed on the debt; a description of each item of property on which the indebtedness is owed and the market value of each; the total value of all property on which the indebtedness is owned; and the name and title of the person making the report. If more than one secured debt is to be refinanced, a separate appraisal form will be used for each.

(2) When other debts are to be refinanced under the provisions of § 331.7(1)(2), an appraisal report will be prepared showing the name of the applicant; the value of the livestock, poultry, farm equipment, animals, fish, birds, recreational equipment and facilities to be taken as security for the loan; the amount of indebtedness secured by liens on such property; the applicant's equity in such property; and the name and title of the person making the report. If the debt being refinanced was incurred for operating expenses during the crop year for which the loan is being made and it is necessary to compute the applicant's equity in crops, livestock increase, and livestock products in order to determine whether refinancing can be done under the provisions of § 331.7(1)(2), the value of the applicant's equity in such items also will be shown in the appraisal.

(3) When funds are to be advanced for the payment of depreciation pursuant to § 331.7(g), an appraisal report will be made with respect to the farm equipment or recreational equipment involved for the purpose of making the determination required in that paragraph.

(f) *Tenure agreement.* Generally, a copy of the lease agreement between tenant applicants and their landlords will be obtained and made a part of the loan docket. Where it is not practical to obtain a copy of the lease agreement, a statement setting forth those terms and conditions of the agreement which are not clearly reflected in the Farm and Home Plan will be prepared and made a part of the loan docket.

(g) *Form FHA 441-1, "Promissory Note."* The amount of each loan and the scheduled payments thereon will be in multiples of \$10. Not more than four payments on a single note will be scheduled for any year. The time limitations for payment schedules prescribed in § 331.9 run from the date of the loan check instead of from the date of the note. Form FHA 441-1 will be dated as of the date of execution by the applicant. The applicant's spouse will be required to execute Form FHA 441-1 when legally required by State law; or the loan approval official determines that the signature is needed because of the spouse's interest in the farm being operated or in property offered as security; or it is determined by the State Director, on a state basis, that the spouse's signature will be required.

(1) When an Operating loan is made for purposes which would be secured in accordance with the provisions of § 331.10(a) and also for purposes in which the security provisions of § 331.10(b)(1) or (d) apply, separate notes will be required.

(2) When an Operating loan is being made simultaneously for forestry purposes at the rate of 3 percent interest as prescribed in § 331.9 and for other operating purposes, separate notes will be prepared.

(h) *Form FHA 441-3, "Participation Agreement."* This form will be used when the Farmers Home Administration is participating in a loan under the provisions of § 331.6. Form FHA 441-3 will be executed by the applicant and the other lender before it is executed by the loan approval official on behalf of the Government.

(i) *Form FHA 441-16, "Repayment Schedule for Participation Loans."* This form will be used when the Farmers Home Administration is participating in a loan to provide the repayment schedule agreed upon for each advance to be made by the Farmers Home Administration under the Participation Agreement. Form FHA 441-16 will show the same repayment schedule as is shown on the note taken by the lender to evidence each Farmers Home Administration advance.

(j) *Form FHA 441-4, "Participation Notice."* When the Farmers Home Administration is participating in a loan, this form will be used by the lender to notify the County Supervisor of the actions taken in closing the loan.

(k) *Form FHA 440-9, "Supplementary Payment Agreement."* This form will be used, as needed, with applicants and borrowers who will be receiving regular off-farm income and income from a recreational enterprise from which payments are to be made on the loan.

(l) *Form FHA 440-1, "Payment Authorization."* (1) Form FHA 440-1 will be prepared for the total amount of the loan as indicated on Form FHA 441-1. Separate Forms FHA 440-1 will be prepared for each loan. However, when separate notes are prepared in accordance with § 331.32(g) of this Subpart B, Form FHA 440-1 will be prepared for the total amount of the notes. The approval official will indicate his determination that the applicant is eligible and his approval of the loan by signing and dating the original in the space provided, and by inserting his title. The type of loan will be inserted in the space provided for that purpose.

(m) *Immediate and future disbursements.* All of the applicant's anticipated credit needs for the crop year will be planned for when Form FHA 431-2 is developed and all of the documents for loan advances required for the crop year may be submitted to the Finance Office at one time. Such documents may provide for the loan funds to be disbursed in an immediate loan advance; an immediate loan advance and one or more future loan advances; or one or more future loan advances without an immediate advance, provided, however, all such loans must be disbursed at least 30

days apart. Subsequent loans also may be submitted at any time during the crop year to meet credit needs of the applicant which could not be anticipated at the beginning of the crop year, provided the need for such credit is reflected on a revision of Form FHA 431-2. When credit is to be extended in more than one loan advance, a separate payment authorization and note must be submitted for each advance and for each future advance.

(n) *Form FHA 440-4 (State), "Crop and Chattel Mortgage."* The property listed should be described accurately and adequately and should be reconciled with any existing security instruments and Form FHA 462-1, "Record of the Disposition of Security Property." When a chattel mortgage is to be taken in connection with a fish or recreational enterprise, any necessary changes will be made in the text of the security instrument and the proper description of the property to be described in the security instrument. The requirements for the signature of the applicant's spouse will be as prescribed for Form FHA 441-1 in § 331.32(g).

(o) *Form FHA 441-5, "Subordination Agreement."* When a subordination agreement is required, Form FHA 441-5 or other form approved by the State Director, where Form FHA 441-5 is not legally sufficient, will be used. The years to be covered by the subordination generally will be for the unexpired period of the lease but as a minimum will be for the year for which the loan is made.

(p) *Form FHA 441-8, "Assignment of Proceeds from the Sale of Agricultural Products."* Form FHA 441-8 or other form approved by the State Director, will be used to obtain an assignment of proceeds from the sale of farm, dairy, poultry, or other agricultural products.

(q) *Form FHA 440-6, "Severance Agreement."* (1) If severance agreements are required, such agreements will be executed no later than the date on which the property purchased with loan funds is delivered to the farm, or prior to the release of loan funds to the creditor if refinancing of debts on such property is involved.

(2) Form FHA 440-6 will be executed by the parties indicated (including the Farmers Home Administration if a real estate lienholder) in the following situations:

(i) When the borrower owns the land free of any liens other than liens for real or personal property taxes, he will execute the form.

(ii) When the borrower owns the land subject to liens, he and all lienholders except those holding liens for real or personal property taxes will execute the form.

(iii) When the borrower is purchasing the land under a title retaining contract, he, the owner, and all lienholders except those holding liens for real or personal property taxes will execute the form.

(iv) When the borrower is leasing the land, he and the owner only will execute the form.

(3) State Directors will specify the situation in which severance agreements are required under State law to comply

with the requirements of Subpart A of this Part 331; whether the severance agreement should be filed or recorded; and whether the spouse of the borrower and the spouses of other parties of interest also will be required to execute the severance agreement. In specifying the situations in which severance agreements will be required, consideration will be given to the actions necessary to prevent the property from becoming part of the real estate as well as to severance after it has become attached to the real estate.

(r) *Form FHA 441-13, "Division of Income and Nondisturbance Agreement."* Form FHA 441-13 will be used when it is necessary to obtain both a division of income and a nondisturbance agreement from prior lienholders.

(s) *Form FHA 441-10, "Nondisturbance Agreement."* Form FHA 441-10 will be used when it is necessary to obtain only nondisturbance agreements from creditors of an applicant who are in a position to interfere with the applicant's farming operations.

§ 331.33 Review and approval or rejection.

After the documents prescribed in § 331.32 of this Subpart B have been assembled, the loan approval official will make the determinations required in § 331.12(a).

(a) *Approval of loans.* If the loan is to be approved, the loan approval official will date and sign Form FHA 440-1 and insert his title in the spaces designated for these purposes. The loan approval official also will specify any special conditions of approval or special security requirements.

(b) *Rejection of loans.* If a loan is rejected, the County Supervisor will notify the applicant of the rejection and will return to him the original of Form FHA 441-1, any tenure agreements, and any executed security instruments.

§ 331.34 Loan closing.

(a) *Check delivery.* Upon receipt of a loan check, the County Supervisor will notify the applicant promptly on Form FHA 440-8, "Notice of Check Delivery"; or mail the check to him; or if a "participation loan" is involved, deliver the loan check to the other lender and notify the applicant of such delivery; or when a supervised bank account is required and the depository bank does not require the applicant's endorsement for deposit, he may deposit the loan check in the supervised bank account and furnish the applicant a copy of the deposit slip. If the bank will not accept the loan check for deposit in a supervised bank account without the applicant's endorsement, the County Supervisor will retain the check and arrange with the applicant for a time and place for its deposit. If a "participation loan" is made the other lender will close the loan, including the taking of the security instruments, in accordance with the provisions of the "Participation Agreement."

(b) *Form FHA 440-13, "Report of Lien Search."* Form FHA 440-13 or other

form providing substantially the same information will be prepared.

(1) Lien searches will be obtained at a time which will assure that the security instruments filed or recorded give the Government the required security.

(2) Except as otherwise provided in this subparagraph, applicants are required to obtain and pay the cost of lien searches. Applicants should select the sources through which lien searches are made. The cost of lien searches may be paid from the proceeds of loan checks when necessary.

(i) State Directors may authorize the employees of a particular County Office unit to make lien searches without cost to applicants when the cost of lien searches is exorbitant, such service is not available, or experience has shown that the service available will cause undue delay in the closing of loans or make it difficult to determine before withdrawal of loan funds that required security has been obtained.

(ii) County Office employees may make continuation lien searches when such searches are necessary to assure that the Government will obtain the required security, or are required by the State Director in connection with subsequent mortgages taken to describe additional chattels purchased with loan funds.

(3) State Directors will determine the minimum requirements for lien searches, including the records to be searched and the period to be covered with respect to each.

(c) *Security Documents.* County Office employees in bonded positions are authorized to execute and file or record any legal instruments necessary to obtain or preserve security for loans. This includes mortgages and similar lien instruments, as well as affidavits, acknowledgments, and other certifications, when the mortgagee must execute such instruments under State law.

(d) *Obtaining security for Operating loans.* In cases in which capital goods are to be purchased and covered by a lien, the County Supervisor will encourage the applicant to make preliminary arrangements for the purchase of all such items by the time the initial mortgage is taken in order to eliminate the taking of additional mortgages. The taking of security in closing loans will be governed by the following requirements:

(1) If all of the loan funds are deposited in a supervised bank account, the initial mortgage to secure the loan will be taken not later than the date of the first withdrawal of any of the loan funds from such account.

(2) If only a part or none of the loan funds are deposited in a supervised bank account, the initial mortgage to secure the loan will be taken not later than the time of the delivery of the loan check to the applicant.

(3) If, at the time the initial mortgage is taken, a part of the property which is to serve as security for the loan as yet to be purchased, a first lien will be taken on such property at the time it is purchased, unless the after-acquired property clause in the mortgage gives the Government a first lien on such property.

(e) *Executing and recording or filing.* Crop and chattel mortgages must be delivered or mailed to the recording office for recordation or filing, whichever is appropriate.

(f) *Fees.* Statutory fees for filing or recording mortgages or other legal instruments and notary and lien search fees incident to loan transactions in all cases will be paid by the borrower from personal funds or from the proceeds of the loan. Whenever cash is accepted by the Farmers Home Administration personnel to be used to pay the filing or recording fees for security instruments, or the cost of making lien searches, Form FHA 440-12, "Acknowledgment of Payment for Recording, Lien Search, and Releasing Fees," will be executed. Farmers Home Administration personnel who accept custody of such fees will make it clear to the borrower that the amount so accepted is not received by the Government as credit on the borrower's indebtedness, but is accepted only for the purpose of paying the recording, filing, or lien search fees on behalf of the borrower.

§ 331.35 Revision in the use of Operating loan funds.

(a) *Authority of the County Supervisor.* The County Supervisor is authorized to approve changes in the purposes for which loan funds are to be used provided: the loan was within the County Supervisor's loan approval authority; such a change is for an authorized purpose and within applicable limitations; such a change will not adversely affect the soundness of the farming operation, the recreational enterprise, or the Government's interest. If the County Supervisor is uncertain as to the probable effect the change would have on the soundness of the farming operation or on the Government's interest, he should obtain the advice of the State Director prior to approving the change.

(b) *Authority of State Office Officials.* (1) The State Director may delegate additional authority to County Supervisors to approve certain kinds of changes in the use of loan funds provided prior approval is obtained from the National Office.

(2) The State Director and employees in the State Office who have loan approval authority are authorized to approve changes in the use of loan funds provided the changes are consistent with authorities, policies, and limitations for making Operating loans.

(c) *Documentation and routines.* When changes are made in the use of loan funds, no revision will be made in the repayment schedule on Form FHA 441-1. However, when funds loaned for the purchase of capital goods are to be used to meet operating expenses, the borrower must agree to repay the funds so used in accordance with the repayment terms prescribed in § 331.9 of this chapter. Appropriate changes with respect to the repayments will be made in Table K of Form FHA 431-2 and initialed by the borrower.

[FHA INSTRUCTIONS 441.2, 441.4, ADMINISTRATION LETTERS 725(441), 733(441), 773(441)]

PART 332—EMERGENCY LOANS

Subpart A—Policies and Procedures

- Sec.
- 332.1 General.
- 332.2 Designation of Emergency loan areas.
- 332.3 Scope of farming operations to be financed with Emergency loans.
- 332.4 Eligibility requirements.
- 332.5 Certification by County Committee.
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- 332.9 Rates and terms.
- 332.10 Security policies.
- 332.11 Loan approval.
- 332.12 Subsequent Emergency loans to cranberry growers.
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Subpart B—Loan Processing

- 332.21 General.
- 332.22 Processing.

Subpart A—Policies and Authorities

AUTHORITY: §§ 332.1 to 332.14 issued under sec. 321-327, 333, 339, 75 Stat. 311, as amended, 314, 318; 7 U.S.C. 1961-1967, 1983, 1989. Order of Sec. of Agr. 19 F.R. 74, 26 F.R. 8403, 27 F.R. 5005.

§ 332.1 General.

This subpart prescribes the policies and authorities for making Emergency loans to farmers and stockmen. Special provisions with respect to certain types of Emergency loans are set forth in the last sections of this Subpart A. The basic objectives are to assist eligible applicants to continue their normal farming or livestock operations, and return to local sources of credit as soon as possible. These objectives will be accomplished through the extension of credit and such supervisory assistance as is determined necessary to achieve the objectives of the loan and protect the Government's interest. Supervisory assistance will be given in accordance with the provisions of Part 302 of this chapter. Such loans made to certain Indians and to permittees and lessees on Indian trust lands are subject to the additional policies and procedures contained in Part 325 of this chapter.

§ 332.2 Designation of Emergency loan areas.

(a) The Secretary of Agriculture may designate an area as an Emergency loan area when there exists in the area a general need for agricultural credit which cannot be met for temporary periods by private, cooperative, or other responsible sources, including other types of loans made by the Farmers Home Administration, and when the need for agricultural credit in the area is the result of a natural disaster. Such designation will cover a specific period during which initial loans will be made but such period may be extended by the Secretary.

(b) When an additional natural disaster occurs in a designated Emergency loan area and results in a need for emergency credit which can be met without extending the period for approving ini-

tial loans, the State Director, may authorize Emergency loans under the existing designation to meet the need for credit resulting from the additional disaster.

§ 332.3 Scope of farming operations to be financed with Emergency loans.

The scope of farming operations to be financed with Emergency loans is the same as for Operating loans in Part 331 of this chapter, except that Emergency loans may be made to established operators of larger than family farms.

§ 332.4 Eligibility requirements.

To be eligible for an Emergency loan, an applicant must:

(a) Be a citizen of the United States, if an individual. If a partnership, the individual partners must be citizens of the United States.

(b) Be an established farmer or rancher, whether owner or tenant, (including a partnership or corporation organized in the United States engaged primarily in farming or ranching).

(c) Operate in a designated area, or in a nondesignated area and have substantial losses as the result of a recent natural disaster not general to the area.

(d) Possess legal capacity to contract for the loan.

(e) Possess the character, ability, industry, and experience necessary to carry out the proposed farming or ranching operations and will honestly endeavor to carry out the undertakings and obligations required of him in connection with the loan.

(f) Be unable to obtain sufficient operating credit elsewhere to finance his actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which he resides for loans for similar purposes and periods of time. The applicant's equity in real estate, chattels, and other assets should be considered in determining his ability to obtain credit from private and cooperative sources. When the applicant is a partnership or corporation, the partners or principal stockholders must be unable to supply the needed credit from their own resources or with loans obtained from other sources.

§ 332.5 Certification by County Committee.

(a) Before an Emergency loan to an individual is approved, the County Committee will certify on Form FHA 440-2, "County Committee Certification," that the applicant is eligible for a loan in accordance with § 332.4. In addition, the County Committee will establish the maximum amount of credit which may be extended under the certification to meet the actual needs of the applicant during the crop year indicated. This will not necessarily represent the amount which actually will be loaned.

(b) Before an Emergency loan is made to a partnership or corporation, the County Committee will certify on Form FHA 440-2 that the partnership or corporation is eligible and will recommend that a loan be made in an amount not to

exceed the maximum certified amount shown on Form FHA 440-2.

§ 332.6 Loan purposes.

Emergency loans may be made for the following purposes:

(a) Purchase of feed, seed, fertilizer, insecticides, and farm supplies; the repair of equipment; and other essential farm operating expenses.

(b) Purchase of livestock to replace those lost, destroyed, or disposed of as a result of the natural disaster for which the area was designated; purchase of replacement farm machinery and equipment; and for other farm needs.

(c) Payment of not more than one year's customary and equitable cash rent or cash charges for the use of farm buildings, pasture, hayland, cropland for the production of feed crops, and grazing permits if all of the following conditions exist:

(1) Arrangements cannot be made for such rent or charges to fall due at the time when income for such payments is expected to become available.

(2) The applicant is obligated under a written lease to pay such rent or charges in advance of the time when income is expected to become available to him for that purpose and the payment from loan funds is made in advance of such time.

(d) Payment of not more than one year's taxes on personal property and real estate other than Farm Ownership and Housing farms; not more than one year's premiums for insurance on personal property and real estate, other than Farm Ownership, Soil and Water Conservation, and Housing farms; Social Security taxes in connection with hired labor only; and water or drainage charges or assessments.

(e) Payment of bills that were incurred during the crop year for which the loan is being made and during previous crop years for annual recurring operating expenses in connection with the production of livestock, livestock products, and crops. However, bills incurred in connection with livestock, livestock products, and crops that have been disposed of, destroyed or lost, may be paid only to the extent of the applicant's equity in the livestock and equipment taken as security for the loan. Loans will not be made for the payment of bills which:

(1) Can be paid from the sale of livestock, livestock products, or crops to be marketed within a few weeks following the approval of the loan, or

(2) Represent an amount beyond the applicant's ability to repay within a reasonable period.

(f) Payment of not more than one year's interest calculated at a rate not to exceed that which is reasonable and customary for the area, that is due or about to become due on debts secured by liens of other creditors on livestock, farm equipment, and farm real estate.

(g) Payment of depreciation in any one year not to exceed 15 percent of the market value of essential farm equipment under prior lien to another creditor or 15 percent of the amount owed to such creditor, whichever is lesser.

(h) Meeting family subsistence needs, including premiums on reasonable amounts of health and life insurance and expenses for medical care. Applicants must understand, however, that within the limits of their resources, they should plan and carry on adequate food production and conservation programs.

(i) Purchase of essential replacement home equipment and furnishings, and the payment for home equipment repairs required by the applicant family to sustain itself on the farm in a reasonably satisfactory manner.

(j) Expenses incident to loan closing.

(k) The replacement or repair of buildings, fences, and drainage or irrigation systems, necessary as a direct result of the natural disaster for which the area was designated, in order to bring the farm back to normal production and use.

(l) The re-leveling of land and the clearing of debris made necessary as a direct result of the natural disaster for which the area was designated.

(m) The purchase of trees, rootstock, and plants for reestablishing commercial orchards or berry and perennial crops, when necessary as a direct result of the natural disaster for which the area was designated.

(n) The payment of bills incurred for emergency repairs and improvements to farm real estate, necessary as a direct result of the disaster, provided it is determined that the expenditures were essential to a preservation of the property or a continuation of the applicant's normal farming or livestock operations, and had to be made before an Emergency loan could be obtained; and provided the loan for such purposes is approved within a reasonable period following designation of the area.

§ 332.7 Loan limitations.

Emergency loans will not be made:

(a) To refinance debts, either secured or unsecured, except the payment of bills as authorized in § 332.6 (e) and (n).

(b) To pay Federal or State income taxes, or Social Security taxes payable by borrowers in their own behalf.

(c) To purchase passenger automobiles.

(d) To enable an applicant to become established or reestablished in farming or ranching, or to reorganize his farming or ranching operations.

(e) To enable an applicant to expand his farm or ranch operations substantially in excess of his typical operations during the two or three years prior to the loan application.

(f) To finance commercial feed lot operations.

(g) To a landlord to furnish his tenant operators, whether share, cash, or standing rent is paid by these tenants. However, loans may be made to operating landlords or tenants to furnish their sharecroppers.

(h) To an applicant whose debts have been settled pursuant to Part 364 and Part 372 Subpart A, of this chapter, unless the requirements of § 331.8(e) of this chapter are met.

(i) To finance unproven types of farming operations in an area.

§ 332.8 Relationship with other types of Farmers Home Administration loans.

Initial Emergency loans, instead of initial Operating loans will be made to eligible applicants who need credit which can be scheduled for repayment in full from the first year's operations. Otherwise, initial Emergency loans will not be made to other applicants whose credit needs can be met with another type of Farmers Home Administration loan.

§ 332.9 Rates and terms.

Interest will be charged at the rate of 3 percent per annum on all Emergency loans. Interest will accrue from the date of the loan check on outstanding principal only and will not be compounded. Loans will be scheduled for payment as follows:

(a) Payments of principal will be scheduled on the note in accordance with the borrower's reasonable ability to pay, determined by an analysis of his farm and home operations as reflected in his farm and home plans. Principal payments on such loans will be scheduled at least annually, unless it is determined that income sufficient to meet the initial payment will not be received within 12 months from the date of the loan check, in which case the initial payment may be scheduled on a date coinciding with the date the income is to be received, but not beyond the end of the second full crop year following the date of the loan. At least one payment will be scheduled during each 12-month period thereafter. In no event will any payment be scheduled later than seven years from the date of the loan check, except as provided in subparagraph (4) of this paragraph.

(1) Advances for annual recurring operating expenses will be scheduled for payment when the principal income from the year's operations normally would be received. This includes advances for the payment of bills incurred in connection with the current year's operations, interest, taxes, and depreciation.

(2) Advances to purchase or produce feed for productive livestock, or livestock to be fed for the market, will be scheduled for payment when the principal income from the sale of such livestock or livestock products can be expected.

(3) Advances for the purchase of farm and home equipment will ordinarily be scheduled for payment over a period not to exceed five years. In determining the payment period for advances made for such purposes, the loan approval official will give careful consideration to the useful life of the property and the fact that repayment on such advances must more than offset depreciation, including obsolescence, of the equipment if the borrower is to make financial progress.

(4) Advances for real estate purposes, secured primarily by real estate liens, may be scheduled over periods not to exceed 20 years.

(5) Advances for purposes other than those enumerated in subparagraphs (1), (2), (3), and (4) of this paragraph will be scheduled for payment over the minimum period consistent with the applicant's ability to pay, as determined from an analysis of the farm and home operations. In no instance may the payment

schedule extend beyond the useful life of the security offered for the advance.

§ 332.10 Security policies.

(a) Emergency loans for other than real estate purposes will be secured as follows:

(1) *Crops, title to which is held by the borrower.* By a first lien on the applicant's crops, or his share of the crops, if he is a share tenant, which are growing or to be grown by him, subject only to:

(i) The landlord's lien on the crops for reasonable share rent for the current year.

(ii) The real estate mortgagee's lien or real estate purchase contract holder's lien on the crops for the current year's installment on the real estate debt, provided such installment is reasonable when related to the normal rental charges for similar farms in the area.

(iii) The lien of another creditor on particular crops for advances made or to be made by him to produce such crops provided no advances will be made by the Farmers Home Administration in connection with such crops.

(iv) The contract of another creditor or the lien in connection with such contract on particular crops for advances made or to be made by him to produce, harvest, process, or market such crops, provided the crops are under written contract with the creditor, and the contract limits advances to production, harvesting, processing, or marketing costs in connection with the contract crop or to the purposes related thereto.

(2) *Crops grown under contract when title to the crop is held by the contractor.* When a crop is being produced, harvested, processed, or marketed by the applicant under an equitable written contract with a responsible contractor and title to the crop is retained by such contractor, loans may be made in connection with such crops provided; the contractor limits his advances to production, harvesting, processing, or marketing costs in connection with the contract crop or to purposes related thereto; and an assignment of all or a part of an applicant's share of the income from the crop is taken by the Farmers Home Administration and is accepted in writing by the contractor holding title to the crops. The assignment will be in an amount at least equal to the amount planned to be paid on the applicant's Farmers Home Administration indebtedness from such crops. However, when no payment is expected to be made on the loan from the crops, an assignment will not be required. The form for use in obtaining such assignments will be approved by the Office of the General Counsel.

(3) *Livestock, farm equipment, and facilities purchased with loan funds.* By a first lien on all livestock, including poultry and farm equipment and facilities, including buildings and fixtures which can be made subject to a valid chattel lien and on any undivided interest in such property purchased with the proceeds of the loan. However, liens will not be taken on poultry kept primarily for subsistence purposes, on household goods and equipment, on small tools, and equipment.

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(i) An applicant obtaining a loan for the purchase of an undivided interest in livestock, farm equipment, or facilities will secure his loan by a mortgage on his undivided interest in the item purchased, along with any other security required by this section. Each party having an undivided interest in the livestock, farm equipment, or facility purchased will execute Form FHA 441-12, "Agreement for Disposition of Jointly-Owned Property," providing for the disposition of his interest in the property. However, Form FHA 441-12 will not be required when a tenant and landlord own property jointly and the lease provides for satisfactory division of such property or the proceeds from its sale, or when a joint mortgage is taken to secure loans to two individuals jointly engaged in farming.

(4) *Other livestock and farm equipment of security value.* By the best lien obtainable on as much of the other livestock, poultry, and farm equipment of significant security value owned by the applicant at the time the loan is approved as is necessary to protect the interest of the Government. This will include any undivided interest in such property owned by the applicant jointly with others who have an interest in the farming operation.

(i) Ordinarily, liens should not be taken on only part of a herd or flock due to the security servicing problems involved.

(ii) Liens should not be taken on small equipment and tools, household goods and equipment, passenger automobiles, or livestock or poultry kept primarily for subsistence purposes, or on undivided interest in farm equipment or facilities owned jointly by the applicant or others who have no interest in the farming operation.

(5) *Liens and assignments to protect the Government's interest in feed purchased or produced with loan funds.* Loans made to purchase or produce feed for livestock being fed for market or to be fed to productive livestock (excluding livestock and poultry kept primarily for subsistence purposes) will ordinarily be secured by first liens on such livestock. However, when a first lien cannot be obtained, the loan will be secured by liens or assignments as provided below:

(i) When the livestock will be owned by the applicant and a first lien cannot be obtained, a junior lien will be taken, provided it is determined that the applicant has, or will acquire during the feeding period, an equity in the livestock being fed or will receive income from livestock or livestock products, either of which must be commensurate with the investment made for this purpose; and provided prior lien holders sign Form FHA 441-13, "Division of Income and Nondisturbance Agreement," or similar form approved by the Farmers Home Administration, agreeing to a suitable nondisturbance period and to a division of the income to be received from the livestock and livestock products, which will permit the applicant to pay his loan in accordance with the policies expressed herein. However, when no payment is expected to be made on the loan from the

livestock or livestock products, Form FHA 441-13 will not be required.

(ii) When the livestock enterprise is to be managed by the applicant under a livestock share lease, share agreement, or contract, and the income to be received therefrom will be from the livestock fed, or from livestock products, an assignment of all or a part of such income will be taken provided the owner or purchaser of the livestock or livestock products accepts in writing the assignment. The assignment will be in an amount at least equal to the amount planned to be paid on the applicant's Farmers Home Administration indebtedness from such income. The form for use in obtaining such assignments will be approved by the Office of the General Counsel. However, when no payment is expected to be made on the loan from the livestock or livestock products, an assignment will not be required. When the borrower's compensation under the livestock share lease, share agreement, or contract is livestock increase, the applicant will be required to agree in writing at the time the loan is made to give a first lien on such increase as soon as an effective lien can be taken, unless an after-acquired property clause in an existing lien instrument will provide such a first lien.

(6) *Assignments of crop insurance.* Assignments of all or a part of crop insurance proceeds will be taken when the loan approval official determines such action is necessary to protect the interests of the Government. However, an assignment is not required in cases where a crop insurance policy contains a stand-mortgage clause naming the Farmers Home Administration as mortgagee.

(7) *Assignments of proceeds from sale of agricultural products.* When loans are made to finance dairy or commercial egg enterprises from which payments are expected, assignments will be taken on the milk or egg income to assist in obtaining regular payments as income is received whenever it is possible to obtain an agreement from the purchaser to honor the assignments. The assignment will be in an amount sufficient to meet repayments planned from the source. Assignments of proceeds from the sale of other agricultural products or agricultural income, including wool incentive and Agricultural Conservation Program payments, will be taken when necessary to protect the interest of the Government and can be obtained.

(8) *Severance Agreements.* When Emergency loan funds are used to purchase property which is or may become attached to real estate and it is necessary to sever such property from real estate to meet the security requirements contained in subparagraph (3) of this paragraph, Form FHA 440-6, "Severance Agreement," will be obtained.

(9) *Real estate.* The best lien obtainable will be taken as additional security when in the opinion of the loan approval official such a lien is needed to adequately protect the Government's interest. When a lien is required as additional security, an appraisal of the farm will not be necessary and title evidence will not be required. Property insurance

will be required only when the loan approval official determines that insurance is necessary to protect the Government's interest.

(b) Advances for real estate repairs and improvements will be secured, except as provided in subparagraph (7) of this paragraph, only by liens on real estate in which the applicant has sufficient equity to provide adequate security for the loan, subject to the following:

(1) The determination of the applicant's equity in the real estate offered as security will be based on an appraisal of the property by a qualified Farmers Home Administration employee authorized to appraise farms, using Forms FHA 422-1, "Appraisal Report," and related forms. However, when the amount of the loan does not exceed \$5,000, the County Supervisor may make the appraisal, in which event only Parts 1, 2, and 7 of Forms FHA 422-1 will be completed.

(2) If the property is held under a purchase contract, it must be determined that the applicant has a mortgageable interest in the property and that the purchase contract is not subject to summary cancellation upon default, and does not contain other provisions which might jeopardize the Government's security position or the borrower's ability to repay the loan.

(3) If any of the prior liens against the property contain future advance provisions, or other provisions which might jeopardize the security position of the Government or the applicant's ability to meet his obligations under these prior liens and also repay his Emergency loan, the prior lienholders involved must agree in writing before the loan is closed, to modify, waive, or subordinate such objectionable provisions. This usually will be accomplished on Forms FHA 446 or 427-8, "Agreement with Prior Lienholder," subject to any modifications necessary to meet legal requirements for closing a particular loan.

(4) In states where a prior lienholder may foreclose his security instrument under power of sale or otherwise and extinguish junior liens of private parties without making junior lienholders parties or giving them actual notice and a junior lien on real estate is to be taken as security for the loan, the prior lienholders must agree in writing to give the Government advance notice of foreclosure or assignment of the mortgage. Such agreements will be recorded when legally permissible.

(5) If there are insurable buildings located on the property, or if new buildings are to be erected or major improvements made to existing buildings, the applicant will provide adequate property insurance coverage, at the time of loan closing or as of the date materials are delivered to the property, as appropriate, in accordance with the provisions of Part 306 of this chapter.

(6) If insurance claims for loss or damage of buildings to be replaced or repaired with loan funds are outstanding at the time the loan is made, the applicant will be required to agree in writing for the proceeds of such claims to be used for replacement or repair of

buildings or to be paid to the Government for application on the loan when settlement is made, or for such proceeds to be applied on debts secured by prior liens.

(7) When a relatively small amount is being advanced for real estate purposes and it can be secured adequately by a first lien on chattel property and repaid over a period not in excess of five years, such a lien may be taken in lieu of a lien on real estate, provided the taking of a chattel lien will not interfere with the applicant's ability to obtain operating credit during that period.

(c) When a loan is made which includes funds for operating expenses, and real estate purposes other than under the circumstances described in paragraph (b)(7) of this § 332.10, only one loan docket will be prepared. However, notes and vouchers will be prepared separately for the amounts of loan funds to be used for each of these two purposes, and the loan will be secured as follows:

(1) That portion of the loan made for operating purposes will be secured as outlined under paragraph (a) of this § 332.10, and also, if legally possible, by any liens taken to secure advances made for real estate purposes. The notes for advances for operating purposes will be described in both the crop and chattel mortgage and the real estate mortgage.

(2) That portion of the loan made for real estate purposes will be secured as outlined under paragraph (b) of this § 332.10. The notes for advances for real estate purposes will be described only in the real estate mortgage, unless scheduled for repayment within five years and a chattel lien is obtained in accordance with paragraph (b)(7) of this § 332.10.

§ 332.11 Loan approval.

(a) *Administrative determinations and responsibilities.* When the County Committee certification has been made, the loan approval official will determine administratively whether:

(1) The applicant is eligible and likely to be successful in the proposed operations and to achieve the objectives of the loan.

(2) The applicant has satisfactory tenure arrangements for the farm to be operated.

(3) The proposed farm and home operations of the applicant are reasonably sound.

(4) The loan is sound and can be repaid from income as scheduled.

(5) The amount of the loan and the purposes for which the funds are to be used are consistent with the applicant's needs and are for authorized purposes.

(6) The security requirements can be met.

(7) The certifications required of the applicant and County Committee have been made and are a part of the loan docket.

(8) The loan meets all other Farmers Home Administration requirements.

(b) *Authority.* State Directors are authorized hereby to approve Emergency loans in accordance with the require-

ments of Part 332 of this chapter. However, no initial or subsequent Emergency loan may be approved by the State Director without the consent of the National Office if the loan being made will cause the total principal balance of any Emergency-type loans (including Special Livestock loans) plus the total principal balance owed on Operating loans (including Production and Subsistence loans) to exceed \$25,000; or the applicant is indebted for a Farmers Home Administration Real Estate loan or such a loan is being made, and the total principal balance on all indebtedness to, or insured by, Farmers Home Administration will exceed \$50,000. However, when the National Office has concurred in the approval of an Emergency loan as provided under the above limitations, the case need not be resubmitted to the National Office in connection with requests for additional Emergency loans unless the additional loan being made would cause the total principal balance owed on Emergency-type loans and Operating loans to exceed \$35,000; major changes are made in the planned farm and home operations; or the borrower has not made satisfactory progress in repaying the previous loan.

(c) *Redelegation of authority.* Except for loans as described in paragraph (d) of this § 332.11, State Directors are authorized hereby to redelegate and to restrict or revoke such redelegations to qualified State Office employees, including Area Supervisors, and County Supervisors, GS-7 Assistant County Supervisors, and Emergency Loan Supervisors, his authority to approve Emergency loans subject to the following limitations:

(1) Area Supervisors may not be authorized to approve a loan to an applicant which will cause the total principal balance of any Emergency-type loan (including Special Livestock loans) plus the total principal balance owed on Operating loans (including Production and Subsistence loans) to exceed \$18,000.

(2) County Supervisors, GS-7 Assistant County Supervisors, and Emergency Loan Supervisors may not be authorized to approve a loan to an applicant which will cause the total principal balance of any Emergency-type loan (including Special livestock loans) plus the total principal balance owed on Operating loans (including Production and Subsistence loans) to exceed \$12,000.

(d) *Loans in nondesignated areas.* Within the limitations of the loan approval authority delegated in paragraph (b) of this § 332.11, State Directors are authorized hereby to approve Emergency loans for eligible applicants in nondesignated areas, including partnerships and corporations engaged primarily in farming or ranching, who have suffered severe production losses resulting from a natural disaster not general to the area. This authority may not be redelegated to Area Supervisors, County Supervisors, GS-7 Assistant County Supervisors, or Emergency Loan Supervisors.

(e) *Subsequent loans.* Subsequent Emergency loans may be made within the limitations, policies, and authorities

contained herein, without regard to the termination date for making initial loans, when the applicant is still unable to obtain credit from other sources because of the natural disaster which caused the designation of the area, or the subsequent loan is necessary to protect the Government's interest in Emergency loans, previously made, including Production Emergency, Economic Emergency, Special Emergency, and Special Livestock loans. In either event, there must be reasonable assurance that the subsequent loan will be repaid and the balances owed on previous loans will be repaid or substantially reduced within a reasonable period.

(f) *Loans to paid-up borrowers.* With the prior concurrence of the Administrator, the State Director may authorize additional loans on an area basis to otherwise eligible applicants who received Emergency loans during the previous year and have repaid their Emergency accounts in full but are still unable, because of the natural disaster which caused the designation of the area, to obtain needed credit from other sources. The prior concurrence of the Administrator may be requested only when a substantial number of paid-up borrowers in an area are unable to obtain from other sources the credit required to continue their normal farming or livestock operations. This authority does not relate to paid-up Production Emergency loan borrowers.

§ 332.12 Subsequent Emergency loans to cranberry growers.

Subsequent Emergency loans to eligible and qualified cranberry growers will be made and processed in accordance with the requirements of this Part 332 of this chapter except as provided for in this § 332.12. A subsequent Emergency loan as used in this § 332.12 is an Emergency loan to a cranberry grower who is indebted for an Emergency loan or a Production Emergency loan previously made.

(a) *Eligibility.* Section 332.4 of this Subpart A is supplemented by the following:

(i) If the applicant is a partnership or corporation, it must be determined that the partners or principal stockholders are unable personally to finance the operations involved or to obtain the necessary credit for this purpose.

(ii) The applicant will personally manage the cranberry operations involved. If the applicant is a partnership or corporation, the operations must be under the personal direction of a partner or principal stockholder.

(b) *Loan purposes.* Loans to cranberry growers will be restricted to the purposes authorized in paragraphs (a), (d), (f), (h), and (j) of § 332.6 of this Subpart A. In addition, loans may include funds for the payment of bills already incurred for annual recurring expenses in connection with the cranberry crop being financed and to make necessary repairs to machinery and irrigation equipment.

(c) *Rates and terms.* Section 332.9 of this Subpart A is modified to provide that loans to cranberry growers will be

scheduled for repayment as the income from the crop being financed is expected to be received.

(d) *Security.* Section 332.10 of this Subpart A is supplemented to provide that an assignment will be obtained on the cranberry crop being financed and accepted by the marketing facility.

§ 332.13 Emergency loans for orchard rehabilitation and other related purposes.

Emergency loans for orchard rehabilitation and other related purposes will be made subject to the requirements of this Part 332, except as modified and supplemented by this § 332.13, which shall be effective only upon order by the Administrator for use in a particular area.

(a) *Definition.* "Orchard rehabilitation" means the renovation or reestablishment of orchards made necessary because of major damage resulting from natural disasters. This includes either complete or partial rehabilitation.

(b) *Eligibility.* Section 332.4 of this Subpart A is modified to the extent that loans under this § 332.13 will be made only to owner-applicants.

(c) *Loan purposes.* Emergency loans may be made to eligible orchardists for rehabilitating diseased or destroyed orchards; continuing the normal operation of fruit trees which have not been damaged by disease or other natural disaster; and establishing new agricultural or livestock enterprises to take the place, completely or partially, of diseased or destroyed fruit trees. Such loans may be made for the purposes specifically authorized by § 332.6 of this Subpart A except as modified below:

(1) The purposes authorized by paragraphs (c), (i), and (n) of § 332.6 of this Subpart A are not applicable.

(2) Paragraph (b) of § 332.6 of this Subpart A is modified to permit the advance of loan funds to purchase livestock and equipment as necessary to establish new enterprises.

(3) Paragraph (e) of § 332.6 of this Subpart A is modified to provide only for the payment of bills incurred during the crop year for which the loan is made for annual recurring expenses in connection with the production of livestock, livestock products, and crops yet to be sold.

(4) Paragraph (h) of § 332.6 of this Subpart A is modified to provide that advances will not be made for family subsistence to an applicant for only an orchard rehabilitation loan unless his full time will be required for orchard rehabilitation, and then only if other arrangements cannot be made for meeting subsistence expenses.

(5) Paragraph (k) of § 332.6 of this Subpart A is modified to provide for the purchase and installation of fencing, as necessary to protect replanted orchards; and the purchase and installation of needed irrigation systems when a Soil and Water Conservation loan cannot be made.

(6) Loans may be made to enable established orchard owners who are otherwise eligible for Emergency loans to rehabilitate orchards for the production of the same type of fruit, or for the pro-

duction of a different type of fruit suitable for the area when the applicant has had adequate experience to assure reasonable prospects of success with that type of fruit. For example, a diseased pear orchard may be rehabilitated for the production of apples. Loans for orchard rehabilitation may be made only to applicants who are otherwise eligible and who agree to replant with the species of trees approved by the Farmers Home Administration. Trees used for orchard rehabilitation will be certified to in writing by the selling nurseryman.

(7) *Establishing new enterprises.* Loans may be made to otherwise eligible orchardists to enable them to reorganize their operations to include field crops, pastures, livestock enterprises, or other agricultural enterprises when this can be done on a sound basis with applicants who have had adequate experience to assure reasonable prospects for success. This may include the interplanting of crops in orchards during the first few years of the rehabilitation period. When an applicant is receiving an Emergency loan for orchard rehabilitation and also for other purposes, separate notes will be used to evidence the advances for orchard rehabilitation and for other purposes. In such case, the amounts to be advanced for orchard rehabilitation will be itemized in Form FHA 431-2, "Farm and Home Plan."

(d) *Rates and terms.* Section 332.9 of this Subpart A is modified hereby to provide that advances for orchard rehabilitation will be scheduled for repayment in annual installments over the shortest period consistent with the applicant's estimated repayment ability from all sources, including income from other crops, livestock, and outside employment, but not to exceed 20 years from the date of the initial loan. If the applicant will not have income from crops, livestock, or other sources which would enable him to make earlier annual payments, repayments on advances for orchard rehabilitation, including interest when necessary, may be deferred until income is to be received from the rehabilitated fruit trees. When the loan approval official determines that a portion of the interest that will accrue as of the due date of the first principal installment should be deferred, the following change in Form FHA 441-1, "Promissory Note," should be made:

(1) Change the period to a comma at the end of the first sentence of the second paragraph, insert an asterisk, and then type the following on the margin or below the printed language of the note and have it initialed by the signers: "except that at least one-half of the interest accrued to the due date of the first principal installment may be paid on that date and the balance of such interest on the second principal installment due date."

(e) *Security.* Emergency loans for orchard rehabilitation will be secured in accordance with § 332.10(b) of this Subpart A. Amounts loaned for purposes other than orchard rehabilitation will be secured in accordance with the applicable requirements of § 332.10(a) of

this Subpart A and, in addition, by the best lien obtainable on real estate when such additional security is needed to adequately secure the loan.

(f) *Loan approval and administrative determinations.* Before an Emergency loan is made for orchard rehabilitation, the loan approval official will make the following determinations in addition to those required by § 332.11(a) of this Subpart A:

(1) The applicant will have reasonable prospects of repaying the total amount it will be necessary to borrow for orchard rehabilitation. This determination will be based on a careful analysis of the estimated costs and income, and fixed obligations, by years, for the rehabilitation period, and the same information for a typical year after normal production is achieved. The estimated costs will include both operating and living expenses.

(2) The current market value of the applicant's farm real estate as rehabilitated will be not less than the total of the debts secured by liens on the property plus the estimated total cost of the rehabilitation, as defined above. This determination will be based on an appraisal made in accordance with § 332.10(b) (1) of this Subpart A.

(3) The applicant will be able to make satisfactory arrangements, on an annual basis, with regard to annual installments on real estate debts and other fixed obligations. When necessary, in the opinion of the loan approval official, annual non-disturbance agreements will be obtained from creditors in position to interfere with the applicant's orchard operations.

§ 332.14 Loans to oyster planters.

(a) *General.* Emergency loans may be made to established oyster planters to enable them to continue their normal oyster planting operations, including annual operating costs as well as expenses of rehabilitating oyster planting operations when necessary. Such loans will be subject to the requirements of Subpart A of this Part 332, except as modified and supplemented by this § 332.14. Emergency loans are the only type of Farmers Home Administration loan which may be made to finance oyster planting operations.

(b) *Definitions.* (1) "Oyster planting" means renovating oyster seed beds and planting, caring for, cultivating, and harvesting planted oysters on the applicant's owned or leased oyster ground. Other types of oyster operations, such as contract planting and gathering wild oysters, are not "oyster planting" operations within the intent of this § 332.14.

(2) "Oyster planter" means, one who performs or actively manages oyster planting functions, described in subparagraph (b) of this § 332.14, as his own operations, on owned or leased oyster ground. An operator who performs any or all of these functions other than his own oyster planting operations, or is self-employed or employed by others in any type of oyster operations or marine life operations other than oyster planting operations as described in this paragraph (b) of this § 332.14, is not considered an oyster planter. However, these activities on a limited basis would not disqualify

an applicant who conducts oyster planting operations.

(3) "Rehabilitating oyster planting operations" means, restoring such operations to a normal pattern. Generally, a period of three years is required for planted oysters to reach the harvesting stage. It is the normal pattern for operators to plant one-third of their oyster ground each year in order to have a crop for sale each year. When all of an applicant's planted oysters are destroyed by a natural disaster, the rehabilitation to a normal pattern generally consists of replanting one-third of the applicant's oyster ground during the first year, one-third during the second year, and one-third during the third year. The operations then will have been restored to a normal pattern and subsequent replantings each year will be normal and will not be considered as for rehabilitation purposes.

(i) It is recognized that there may be variations of the normal pattern of oyster planting operations in some areas. The making of loans will always be adapted to the proven normal pattern of the area. Therefore, when the normal pattern of a particular designated or nondesignated area differs from that described in this § 332.14, the State Director will report the matter to the National Office for additional instructions.

(4) "Oyster ground" means, ground under water on which oyster planting operations are conducted.

(c) *Designation of Emergency loan areas.* Section 333.2 of this Subpart A is supplemented hereby to provide that Emergency loans can be made to oyster planters in designated areas only if the area designation specifies that such loans may be made.

(d) *Eligibility requirements.* Section 332.4 of this Subpart A is supplemented by the following:

(1) Section 332.4(b) of this Subpart A is supplemented to require the following:

(i) The applicant must actively manage his oyster planting operations. An applicant who does not devote full time to his oyster planting operations may be considered as the active manager if he exercises control and visits the operations often enough to give instructions and see that they are carried out. Applicants who visit their operations only infrequently or who have entrusted management to some other individual or firm cannot meet this requirement. If a partnership or corporation, the operations must be actively managed by a principal partner or stockholder.

(ii) The applicant must furnish satisfactory evidence from other reliable sources, such as banks and other lenders, buyers, and lessors, of a good record of oyster planting operations in the past.

(iii) The applicant must agree in writing to abide by any Federal and State laws or regulations applicable to oyster planting operations in his area.

(2) Section 332.4(f) of this Subpart A is supplemented to require that the applicant must be unable to provide the needed funds from his own resources or to obtain credit from other responsible sources. For partnerships or corporations, the partners or principal stockholders must be unable to provide the

needed funds from their personal resources or to obtain credit from other responsible sources.

(e) *Loan purposes.* Section 332.6 of this Subpart A is not applicable. Instead, Emergency loans to eligible oyster planters may be made for the following purposes:

(1) Purchase of seed oysters and oyster planting supplies; the repair of oyster planting machinery or equipment; purchase of replacement oyster planting machinery and equipment; and other essential operating expenses, including funds for oyster seed bed renovation.

(2) Family subsistence needs for applicants who devote a major portion of their time to their oyster planting operations when funds are not available from other sources for this purpose.

(3) Payment of not more than a year's interest calculated at a rate not to exceed that which is reasonable and customary for the area, that is due or about to become due on debts secured by liens of other creditors on equipment and real estate essential to the applicant's oyster planting operations.

(4) Payment of not more than one year's customary and equitable cash rent or cash charges for the use of grounds leased for oyster planting operations, provided other arrangements cannot be made for the payment of rent and the applicant holds a written lease.

(5) Payment of not more than one year's taxes on personal property and real estate other than Farm Ownership or Rural Housing farms; payment of not more than one year's premiums for insurance on personal property and real estate other than on Farm Ownership, Soil and Water Conservation, and Rural Housing farms; and payment of Social Security taxes in connection with hired labor only.

(6) Expenses incident to loan closing.

(f) *Loan limitations.* Section 332.7 of this Subpart A is supplemented to prohibit making any Emergency loan to finance an applicant's oyster planting needs, rehabilitation or otherwise, for a period longer than one crop year at a time. This is not intended, however, to prohibit subsequent loans in succeeding years on a crop year basis. This prohibits deals only with loan making and not with scheduling loans for repayment.

(g) *Repayment terms.* (1) Emergency loans for authorized purposes in connection with the rehabilitation of oyster planting operations, including annual operating expenses during the rehabilitation period, will be scheduled for repayment over the shortest period consistent with the applicant's estimated repayment ability from all sources, but not longer than three years from the date of the loan. Also, if the applicant will not have income from any source which would enable him to make earlier repayments, the full amount may be scheduled for repayment in the third year.

(2) Emergency loans to oyster planters for other than rehabilitating oyster planting operations will be scheduled for repayment strictly in accordance with § 332.9 of this Subpart A. Amounts advanced for annual operating expenses during a rehabilitation period will be considered as for rehabilitation purposes but that any advanced for normal an-

nual replantings will not be considered as for rehabilitation purposes.

(h) *Security.* Section 332.10 of this Subpart A is not applicable. Instead, Emergency loans to oyster planters will be secured by a first lien on all oysters planted or to be planted by the applicant, a first lien on all replacement machinery and equipment purchased with loan funds, the best lien obtainable on all other machinery and equipment of security value, the best lien obtainable on all real estate of security value owned by the applicant, an assignment of leases on oyster grounds held by the applicant, when possible, an assignment of income from the sale of oysters or other produce, and liens on such other property of security value as the loan approval official determines is necessary. Insurance will be required on buildings, machinery, and equipment, especially boats, serving as security for the loan, when the loan approval official determines this is necessary to protect the Government's interest. Insurance obtained on buildings will be in accordance with Part 306 of this chapter. Insurance obtained on other property will be in such form, amount, and against such hazards as the loan approval official requires with policy assignment or mortgage clause in favor of the Government.

(i) *Loan approval.* Section 332.11(a) of this Subpart A is supplemented to require the following additional determinations by the loan approval official:

(1) That the applicant either owns or has under lease sufficient acreage in oyster grounds to justify the loan.

(2) That if grounds are leased, the lease arrangements are such that the applicant will have secure tenure during the term of the loan with reasonable rental terms.

(3) That the applicant will have reasonable prospects for repaying the loan on schedule. This determination will be based on a careful analysis of estimated costs and income and fixed obligations by years until normal operations are achieved, and the same information for a typical year with normal sales.

(4) That the applicant will furnish prior to loan closing a statement indicating his plans for selling the oysters or other produce.

(j) *Processing.* Emergency loans to oyster planters will be processed in accordance with the applicable requirements of Subpart B of this Part 332, except that the taking of security and the filing of recording of security instruments will be in accordance with the requirements of the Office of the General Counsel.

Subpart B—Loan Processing

AUTHORITY: §§ 332.21 and 332.22 issued under sec. 321-327, 333, 339, 75 Stat. 311, as amended, 314, 318; 7 U.S.C. 1961-1967, 1983, 1989; Order of Sec. of Agr., 19 F.R. 74, 26 F.R. 8403, 27 F.R. 5005.

§ 332.21 General.

This subpart sets forth the requirements and procedures for the preparation and execution of documents and for other routines in connection with making initial subsequent Emergency loans.

§ 332.22 Processing.

Emergency loans will be processed in the same manner as Operating loans in accordance with the provisions of Subpart B of Part 331 of this chapter with the following modifications and additions:

(a) Section 331.32(d) of this chapter is supplemented by the following:

(1) If the applicant is a partnership, personal financial statements will be obtained from each of the partners and included in the loan docket, in addition to the partnership's financial statement.

(2) If the applicant is a corporation, the corporation will furnish a complete list of its stockholders, showing the address, principal occupation, and the number of shares of stock held in the corporation by each. Personal financial statements will be obtained from each of the principal stockholders and included in the loan docket. Principal stockholders as used herein means each stockholder owning as much as 10 percent of the stock of the corporation. A copy of the corporation's charter or articles of incorporation, bylaws, any resolutions adopted by the Board of Directors authorizing the corporation to borrow and pledge its assets, and any leases, contracts, or agreements that have been entered into by the corporation which may be pertinent to a consideration of its application also will be included in the loan docket.

(b) Section 331.32(e) of this chapter is applicable only to appraising chattels under prior lien to another creditor when funds are to be advanced for the payments of depreciation pursuant to § 332.6(g) of this Part 332 and bills pursuant to § 332.6(e) of this Part 332, incurred in connection with the production of livestock, livestock products, or crops that have been disposed of, destroyed, or lost.

(c) Section 331.32(g) of this chapter is supplemented by the following:

(1) When the applicant is a partnership, or operates as such, Form FHA 441-1, "Promissory Note," will be executed so as to evidence the liability of the partnership as well as each partner as an individual. This will be accomplished by typing the names of the partnership above the space provided for signatures and having the note executed by each member of the partnership both as an individual and as a partner. To evidence the liability of the partnership, the words "As Partners" will be typed immediately beneath the name of the partnership and each partner will sign thereunder. To evidence the partners' liability as individuals, the words "As Individuals" will be typed at the top of the blank space to the left of the lines for signatures, and each partner will sign thereunder, along with his spouse, if required.

(2) When the applicant is a corporation, Form FHA 441-1 will be executed by the corporation acting through its appropriate officials and, in order to evidence their personal liability for the debt, by the principal stockholders as individuals, except in unusual circumstances including legal disability, absence from the country, limitations in prior contracts with the corporation, or lack

of assets owned by a stockholder. The name of the corporation will be typed above the space provided for signatures, to sign for the corporation will be typed below his signature. The signatures of the principal stockholders will be obtained in the same manner as indicated above for the individual members of a partnership.

(3) When an Emergency loan is made for purposes which would be secured in accordance with the provisions of § 332.10 (a) and (b) of this Part 332, separate notes will be required.

(d) Section 331.32(g) (1) and (2), (h), (i), and (j) of this chapter are not applicable.

(e) Section 331.32(n) of this chapter is supplemented by the following:

(1) Form FHA 427-2 (State), "Real Estate Mortgage for ----- (Direct Loan)," will be used in taking liens on real estate. This form will be prepared, executed, and filed or recorded in accordance with State laws and any closing instructions.

(2) Title clearance and the closing of Emergency loans which are to be secured only by real estate liens will be in accordance with the requirements of Part 307 of this chapter, except that the promissory note will be dated as of the date of execution instead of the date of loan closing. Title clearance will not be required when real estate is taken as additional security only, but in such cases the lien instrument will be executed by the applicant before the loan is closed.

(f) Section 331.32(o) of this chapter is supplemented to provide that when an Emergency loan is made to an applicant who is paying cash rent for land to be used for the production of cash crops, the parenthetical statement with regard and the name and title of each official to rent in Form FHA 441-5, "Subordination Agreement," will be deleted and the lienholder will initial the deletion in the margin.

(g) The administrative determinations required by § 332.11(a) of this Part 332 will be made in lieu of those prescribed by § 331.33 of this chapter.

Dated December 19, 1962.

FLOYD F. HIGBEE,
Acting Administrator,
Farmers Home Administration.

[F.R. Doc. 62-12651; Filed; Dec. 31, 1962;
8:45 a.m.]

Title 7—AGRICULTURE

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

[Orange Reg. 20]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

§ 905.354 Orange Regulation 20.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part

905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, including Temple oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of oranges, including Temple oranges, grown in the production area, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on December 26, 1962, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of oranges, including Temple oranges, and compliance with this section will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

(b) *Order.* (1) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, standard pack, and standard box, as used herein, shall have the same meaning as is given to the respective term in the United States Standards for Florida Oranges and Tangelos (§§ 51.1140-51.1178 of this title).

(2) Orange Regulation 19 (§ 905.351; 27 F.R. 11870) is hereby terminated at 12:01 a.m., e.s.t., December 28, 1962.

(3) During the period beginning at 12:01 a.m., e.s.t., December 28, 1962, and ending at 12:01 a.m., e.s.t., January 7, 1963, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any oranges, including Temple oranges, grown in the production area, which do not grade at least U.S. No. 2 Russet;

(ii) Any oranges (including Temple oranges) grown in the production area, which are damaged by dryness or mushy condition; or

(iii) Any oranges, except Temple oranges, grown in the production area, which are of a size smaller than $2\frac{1}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of oranges smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said United States Standards for Florida Oranges and Tangelos: *Provided*, That in determining the percentage of oranges in any lot which are smaller than $2\frac{1}{16}$ inches in diameter, such percentage shall be based only on those oranges in such lot which are of a size $2\frac{1}{16}$ inches in diameter or smaller.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 27, 1962.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 62-12932; Filed, Dec. 31, 1962; 8:46 a.m.]

[Grapefruit Reg. 20]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

§ 905.355 Grapefruit Regulation 20.

(a) *Findings*. (1) Pursuant to the marketing agreement, as amended, and Order No. 905 as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the *FEDERAL REGISTER* (5 U.S.C. 1001-1011) because the time intervening

between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of all grapefruit, grown in the production area, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on December 26, 1962, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of grapefruit, and compliance with this section will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

(b) *Order*. (1) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, standard pack, and standard box, as used herein, shall have the same meaning as is given to the respective term in the United States Standards for Florida Grapefruit (§§ 51.750-51.783 of this title).

(2) Grapefruit Regulation 19 (§ 905.352; 27 F.R. 11871) is hereby terminated at 12:01 a.m., e.s.t., December 28, 1962.

(3) During the period beginning at 12:01 a.m., e.s.t., December 28, 1962, and ending at 12:01 a.m., e.s.t., January 7, 1963, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any grapefruit, grown in the production area, which do not grade at least U.S. No. 2 Russet;

(ii) Any grapefruit, grown in the production area, which are damaged by dryness or mushy condition;

(iii) Any seeded grapefruit, grown in the production area, which are smaller than $3\frac{1}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of seeded grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in said United States Standards for Florida Grapefruit; or

(iv) Any seedless grapefruit, grown in the production area, which are smaller than $3\frac{1}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of seedless grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in said United States Standards for Florida Grapefruit. (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 27, 1962.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 62-12931; Filed, Dec. 31, 1962; 8:46 a.m.]

[Tangerine Reg. 8]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

§ 905.356 Tangerine Regulation 8.

(a) *Findings*. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the *FEDERAL REGISTER* (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of tangerines, grown in the production area, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on December 26, 1962, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section,

including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such tangerines; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of tangerines, and compliance with this section will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

(b) *Order.* (1) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, and standard pack, as used herein, shall have the same meaning as is given to the respective term in the United States Standards for Florida Tangerines (§§ 51.1810-51.1834 of this title).

(2) Tangerine Regulation 7 (§ 905.350; 27 F.R. 11796) is hereby terminated at 12:01 a.m., e.s.t., December 28, 1962.

(3) During the period beginning at 12:01 a.m., e.s.t., December 28, 1962, and ending at 12:01 a.m., e.s.t., January 7, 1963, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any tangerines, grown in the production area, that do not grade at least U.S. No. 2 Russet; or

(ii) Any tangerines, grown in the production area, which are damaged by dryness or mushy condition.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 27, 1962.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 62-12934; Filed, Dec. 31, 1962; 8:46 a.m.]

[Tangelo Reg. 8]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

§ 905.357 Tangelo Regulation 8.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangelos, as

hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of tangelos, grown in the production area, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on December 26, 1962, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such tangelos; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of tangelos, and compliance with this section will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

(b) *Order.* (1) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, standard pack, and standard box, as used herein, shall have the same meaning as is given to the respective term in the United States Standards for Florida Oranges and Tangelos (§§ 51.1140-51.1178 of this title).

(2) Tangelo Regulation 7 (§ 905.353; 27 F.R. 11871) is hereby terminated at 12:01 a.m., e.s.t., December 28, 1962.

(3) During the period beginning at 12:01 a.m., e.s.t., December 28, 1962, and ending at 12:01 a.m., e.s.t., January 7, 1963, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any tangelos, grown in the production area, which do not grade at least U.S. No. 2 Russet; or

(ii) Any tangelos, grown in the production area, which are damaged by dryness or mushy condition.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 27, 1962.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 62-12933; Filed, Dec. 31, 1962; 8:46 a.m.]

PART 907—HANDLING OF NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Early Maturity Allotments

Notice is hereby given of the approval of an amendment, as hereinafter set forth, of the rules and regulations (7 CFR Part 907.100 et seq.; Subpart—Rules and Regulations) currently in effect pursuant to the amended marketing agreement and Order No. 907, as amended (7 CFR Part 907; 27 F.R. 10087), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

It is hereby found and determined that the said amendment of the rules and regulations, which was submitted for approval by the Navel Orange Administrative Committee, established pursuant to the amended marketing agreement and order as the agency to administer the provisions thereof, is in accordance with the provisions of the said amended marketing agreement and order and will tend to effectuate the declared purposes of the Agricultural Marketing Agreement Act of 1937, as amended, and the said rules and regulations are hereby amended as follows:

Section 907.113 *Early maturity allotments* is deleted and the following substituted in lieu thereof:

§ 907.113 Early maturity allotments.

(a) *Applications to be filed.* On or before 12 o'clock noon of the day preceding the regular weekly meeting of the committee any handler controlling early maturity oranges who desires to receive allotment therefor for use during the following week must file with the committee at any of its designated offices an application on N.O.A.C. Form No. 9. Such application shall show the name and address of the applicant, the general location of early maturity oranges for which he desires allotment, the number of cartons of allotment desired, and such other information as the committee may from time to time request.

(b) *Transfer of allotment.* Any handler who transfers early maturity allotment to another handler to whom early maturity allotment is issued must notify the committee of such transfer on or before 12 o'clock noon of the Monday following the week for which such allotment was issued. Unless such notification is received by the committee within the time prescribed the allotment shall be charged to the handler to whom it

was issued and failure to ship the allotment shall be the responsibility of such handler. The committee shall confirm all qualifying transfers by memorandum addressed to the parties concerned, which memorandum shall be deemed to satisfy the requirements of this section.

It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1001-1011) in that (1) an amendment of the said marketing agreement and order, effective November 1, 1962, changed the provisions relating to early maturity allotments; (2) the change in the rules and regulations makes such rules and regulations conform to the provisions of the said amended marketing agreement and order; (3) the changes effectuated by such amendment of the rules and regulations will not require any special preparation which cannot be completed prior to the effective time hereof; (4) limited shipments of navel oranges are now being made; and (5) provisions relating to early maturity allotment are generally applicable to the early shipments from each district. Therefore, to be of maximum benefits this amendment should be made effective as soon as possible.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated, December 27, 1962, to become effective upon publication in the FEDERAL REGISTER.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F.R. Doc. 62-12930; Filed, Dec. 31, 1962;
8:46 a.m.]

PART 912—GRAPEFRUIT GROWN IN INDIAN RIVER DISTRICT IN FLORIDA

Order Amending Order Regulating Handling

§ 912.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations made in connection with the issuance of the order; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900; 27 F.R. 9939), a public hearing was held at Vero Beach, Florida, July 2, 1962, upon proposed amendments to the marketing agreement and Order No. 912 (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as hereby proposed to be amended, regulates the handling of grapefruit grown in the Indian River District in Florida in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a proposed marketing agreement upon which hearings have been held;

(3) The order, as hereby proposed to be amended, is limited in its application to the smallest regional production area that is practicable consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of grapefruit grown in the Indian River District in Florida which make necessary different terms and provisions applicable to different parts of the production area;

(5) All handling of grapefruit grown in the Indian River District, as defined in the order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Additional findings.* It is hereby found, on the basis hereinafter indicated that good cause exists for making the provisions of this amendatory order effective upon publication in the FEDERAL REGISTER, and that it would be contrary to the public interest to postpone such effective date until 30 days after publication (5 U.S.C. 1001-1011). The provisions of the order revises the principal regulatory period to cover all of the weeks from the first week in January through the last week beginning in April. Presently such period now begins with and includes the second full calendar week in January and ends with and includes the third full calendar week in April. The order also revises the computation of the handler's prorate bases; and permits allotment loans to be repaid at any time during the fiscal year. Shipments of grapefruit are currently being made and the volume of such shipments are expected to increase. The period during which volume regulations are most likely to be imposed begin with the first week in January. Hence, for the program to be of maximum benefit for the 1962-63 season, the order should be made effective upon publication in the FEDERAL REGISTER. The provisions of this order are well known to producers and handlers. The hearing in connection therewith was held at Vero Beach, Florida, on July 2, 1962, and the recommended decision and the final decision were published in the FEDERAL REGISTER on October 24, 1962 (27 F.R. 10371), and November 20, 1962 (27 F.R. 11429), respectively. Copies of the provisions of the amendatory order were made available to all known interested parties, and compliance with such provisions will not require advance preparation on the part of persons subject thereto which cannot be

completed prior to the effective time hereof.

(c) *Determinations.* It is hereby determined that:

(1) The agreement amending the marketing agreement regulating the handling of grapefruit grown in the Indian River District in Florida, upon which the aforesaid public hearing was held, has been signed by handlers (excluding cooperative associations of producers who were not engaged in processing, distributing, or shipping the grapefruit covered by this order) who, during the period beginning August 1, 1961, through July 31, 1962, handled more than 50 percent of the volume of grapefruit covered by this order, as hereby amended;

(2) The issuance of this order, amending the aforesaid order, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who, during the determined representative period (August 1, 1961, through July 31, 1962), were engaged in the production area specified in the order, in the production of grapefruit for market; such producers having also produced for market at least two-thirds of the volume of grapefruit represented in such referendum.

It is, therefore, ordered, That, on and after the effective date hereof, all handling of grapefruit grown in the production area shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby amended as follows:

1. The first sentence of paragraph (b) of § 912.32 *Procedure of committee* is revised to read as follows:

(b) For any decision or recommendation with respect to regulations to be effective during any calendar week except a week during the period beginning with and including the first full calendar week in January and ending with but not including the first full calendar week in May, twelve members shall constitute a quorum and twelve concurring votes shall be required.

2. Paragraph (a) of § 912.46 *Recommendation for volume regulations* is revised to read as follows:

(a) The committee may, during any week, recommend to the Secretary the total quantity of grapefruit which it deems advisable to be handled during the next succeeding week: *Provided*, That such regulations shall not be recommended during the period beginning with and including the first full calendar week in January and ending with but not including the first full calendar week in May after regulations during such period have limited the volume of grapefruit handled during 12 weeks.

3. The proviso in § 912.47 *Issuance of volume regulation* is revised to read as follows:

Provided, That such regulations shall not, in the aggregate, limit the volume of grapefruit shipments during more than 12 weeks of the period beginning with and including the first full calendar week in January and ending with but not in-

cluding the first full calendar week in May.

4. Paragraph (d) of § 912.48 *Prorate bases* is deleted and the following substituted therefor:

(d) Each week during the marketing season when volume regulation is likely to be recommended, the committee shall compute a prorate base for each person who has made application in accordance with the provisions of this section. Such prorate base for each handler shall, except as provided in paragraph (e) of this section, be the seasonal average quantity of grapefruit shipped by him during the immediately preceding three marketing seasons.

5. The last sentence in paragraph (a) of § 912.52 *Allotment loans* is revised to read as follows:

Each such agreement shall specify the date, during the then current fiscal period, for the repayment of the loan.

6. The provisions of § 912.4 *Fruit or grapefruit* are revised to read as follows:

"Fruit" or "grapefruit" means any or all varieties of citrus paradisi, MacFadyen grown in the Indian River District.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated, December 27, 1962, to become effective upon publication in the FEDERAL REGISTER.

JOHN P. DUNCAN, Jr.,
Assistant Secretary.

[F.R. Doc. 62-12909; Filed, Dec. 31, 1962;
8:46 a.m.]

[Grapefruit Reg. 5, Amdt. 2]

PART 944—FRUITS; IMPORT REGULATIONS Grapefruit

Pursuant to the provisions of section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), the provisions of paragraph (a) Grapefruit Regulation 5 (§ 944.101; 27 F.R. 9771, 10091) are hereby amended to read as follows:

(a) On and after 12:01 a.m., e.s.t., December 29, 1962, the importation of any grapefruit is prohibited unless such grapefruit are inspected and meet the following applicable requirements:

(1) Seeded grapefruit shall grade at least U.S. No. 2 Russet and be free from damage by dryness or mushy condition and be of a size not smaller than $3\frac{1}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of seeded grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the United States Standards for Florida Grapefruit; and

(2) Seedless grapefruit shall grade at least U.S. No. 2 Russet and be free from damage by dryness or mushy condition and be of a size not smaller than $3\frac{3}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of seedless grapefruit smaller than such minimum

size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the United States Standards for Florida Grapefruit.

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective time of this amendment beyond that herein-after specified (5 U.S.C. 1001-1011) in that (a) the requirements of this amended import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674; 75 Stat. 305), which makes such regulation mandatory; (b) such regulation imposes the same restrictions on imports of all grapefruit as the grade and size restrictions made applicable to the shipment of all grapefruit grown in Florida under Grapefruit Regulation 20 (§ 905.355) effective December 28, 1962; (c) compliance with this amended import regulation will not require any special preparation which cannot be completed by the effective time hereof; and (d) this amendment relieves restrictions on the importation of grapefruit.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated, December 28, 1962, to become effective at 12:01 a.m., e.s.t., December 29, 1962.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F.R. Doc. 62-12937; Filed, Dec. 31, 1962;
8:46 a.m.]

[946.317, Amdt. 1]

PART 946—IRISH POTATOES GROWN IN WASHINGTON

Limitation of Shipments

Findings. (a) Pursuant to Marketing Agreement No. 113, and Order No. 946 (7 CFR Part 946), regulating the handling of Irish potatoes grown in the State of Washington, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of recommendations and information submitted by the State of Washington Potato Committee, established pursuant to the said marketing agreement and order, and other available information, it is hereby found that the amendment to the limitation of shipments regulations hereinafter set forth, limiting the grade, size, quality, and maturity of Washington potatoes will maintain orderly marketing conditions tending to increase returns to potato growers in the production area.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, and engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1003) in that (1) the time intervening between the date when information upon which this amendment is based became available and the time when this amend-

ment must become effective in order to effectuate the declared policy of the act is insufficient, (2) more orderly marketing in the public interest, than would otherwise prevail, will be promoted by regulating the handling of potatoes, in the manner set forth below, on and after the effective date of this amendment, (3) regulations have been issued under the order since 1949 and have been in effect this season since July 2, 1962, so compliance with this amendment will not require any special preparation on the part of handlers, and (4) information regarding the committee's recommendation has been disseminated to producers and handlers in the production area.

Order. In § 946.317 (27 F.R. 6081) delete the introductory paragraph and paragraph (a) and substitute in lieu thereof the introductory paragraph and paragraph (a) set forth below.

§ 946.317 Limitation of shipments.

During the period from January 2, 1963, through July 31, 1963, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a) and (b) of this section or unless such potatoes are handled in accordance with the provisions of paragraphs (c), (d), (e), and (f), of this section.

(a) *Minimum quality requirements—*
(1) *Grade.* All varieties—U.S. No. 2, or better, grade.

(2) *Size.* (i) Round varieties—2 inches minimum diameter. *Provided,* That during the period June 1, 1963 through July 31, 1963, $1\frac{1}{8}$ inches minimum diameter may be handled.

(ii) Long varieties—2 inches minimum diameter or 4 ounces minimum weight.

(3) *Cleanliness.* All varieties—at least "fairly clean."

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 26, 1962, to become effective January 2, 1963.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Veg-
etable Division, Agricultural
Marketing Service.

[F.R. Doc. 62-12908; Filed, Dec. 31, 1962;
8:46 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Adminis- tration, Department of Health, Edu- cation, and Welfare

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

POLYVINYL POLYPYROLIDONE

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by Antara Chemicals Division of General Aniline and Film Corporation, 435 Hudson Street, New York 14, New York, and other relevant material, has concluded that the following

regulation should issue with respect to the food additive polyvinylpyrrolidone as a clarifying agent in beverages. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), Part 121 is amended by adding to Subpart D the following new section:

§ 121.1110 Polyvinylpyrrolidone.

The food additive polyvinylpyrrolidone may be safely used in accordance with the following prescribed conditions:

(a) The additive is a homopolymer of purified vinylpyrrolidone catalytically produced under conditions producing polymerization and cross-linking such that an insoluble polymer is produced.

(b) The food additive is so processed that when the finished polymer is refluxed for 3 hours with water, 5 percent acetic acid, and 50 percent alcohol, no more than 50 parts per million of extractables is obtained with each solvent.

(c) It is used or intended for use as a clarifying agent in beverages and vinegar, followed by removal with filtration.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1).)

Dated: December 26, 1962.

GEO. P. LARRICK,

Commissioner of Food and Drugs.

[F.R. Doc. 62-12916; Filed, Dec. 31, 1962; 8:46 a.m.]

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Animal Feed or Animal-Feed Supplements

PART 146—GENERAL REGULATIONS FOR THE CERTIFICATION OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

Amprolium in Feed for Chickens and Turkeys

1. The Commissioner of Food and Drugs, having evaluated the data submitted in petitions filed by Merck Chem-

ical Division, Merck and Company, Rahway, New Jersey, and other relevant information, has concluded that the food additive regulations should be amended to provide for addition of ethopabate (methyl-4-acetamido-2-ethoxy benzoate) to amprolium-medicated chicken feeds with or without specified antibiotics. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Edu-

cation, and Welfare (25 F.R. 8625), § 121.210 (21 CFR 121.210 (27 F.R. 2799, 3198, 3882, 8072, 9596, 10680, 11312)) is revised and amended, and related portions of § 121.208 (21 CFR 121.208 (27 F.R. 11310, 11547, 11760)) are amended, as follows:

a. Section 121.208(d) is amended by changing items 1(a), 4(a), and 5(a) in table 1 to read as follows:

§ 121.208 Chlortetracycline.

* * * * *

(d) * * *

TABLE 1—CHLORTETRACYCLINE IN FINISHED CHICKEN AND TURKEY FEED

Principal ingredient ¹	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
1. * * * (a) Chlortetracycline.	50-100	Amprolium...	36.3-227 (0.004%— 0.025%)	For chickens; not for laying chickens; as prescribed in § 121.210(c), table 1, items 2.1, 2.2, or 3.1.	§ 121.210(c), table 1, items 2.1, 2.2, or 3.1.
4. * * * (a) Chlortetracycline.	50-100	Amprolium...	36.3-227 (0.004%— 0.025%)	For chicks; as prescribed in § 121.210(c), table 1, items 2.1, 2.2, or 3.1.	§ 121.210(c), table 1, items 2.1, 2.2, or 3.1.
5. * * * (a) Chlortetracycline.	100-200	Amprolium...	36.3-277 (0.004%— 0.025%)	For chickens; not for laying chickens; as prescribed in § 121.210(c), table 1, items 2.1, 2.2, or 3.1.	§ 121.210(c), table 1, items 2.1, 2.2, or 3.1.

b. Section 121.210 is revised to read as follows:

§ 121.210 Amprolium.

The food additive amprolium (1-(4-amino-2-n-propyl-5-pyrimidinylmethyl)-2-picolinium chloride hydrochloride) may be safely used in accordance with the following prescribed conditions:

(a) The antibiotic activities authorized are expressed in terms of the weight of the appropriate antibiotic standard.

(b) Permitted uses of amprolium alone and with certain other additives are described in tabular form in this section, and these tables are to be read as follows:

(1) The numbered line items establish the required limitations and indications for use of the principal ingredient as the medicament, alone, or with an additional ingredient added for increased effectiveness.

(2) The lettered line items establish the required limitations and indications for use of secondary ingredients that may be added to the indicated principal ingredients. Where principal and sec-

ondary ingredients have been mixed, the applicable limitations and indications for use from both the numbered items and lettered items apply. If duplicate limitations occur, these may be appropriately combined.

(3) Permitted combinations of principal ingredients and secondary ingredients are individually listed. Unless specifically provided by the regulations, the principal ingredients may not be mixed with two or more secondary ingredients.

(4) Where cross-references specify a particular table and item number of another section, use of only the principal ingredient of the numbered item is authorized thereby.

(5) The term "principal ingredient" as used in this section refers to the additive named in the title of this section and is not intended to imply that the ingredient is of a greater value than any other additives named in this section.

(c) It is used or intended for use in drinking water and in feeds which do not contain bentonite, as follows:

TABLE 1—AMPROLIUM IN FINISHED CHICKEN AND TURKEY FEED

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
1.1 Amprolium.	113.5-227 (0.0125%— 0.025%)			For turkeys.	Prevention of coccidiosis.
a. 1.1	113.5-227	Penicillin	2.4-50	For turkeys; as procaine penicillin.	Growth promotion and feed efficiency. Do.
b. 1.1	113.5-227	Penicillin plus bacitracin.	3.6-50	For turkeys; not less than 0.6 gm. of penicillin nor less than 3.0 gm. of bacitracin; as procaine penicillin plus bacitracin, bacitracin methylene disalicylate, manganese bacitracin, or zinc bacitracin.	

TABLE 1—AMPROMIUM IN FINISHED CHICKEN AND TURKEY FEED—Continued

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
c. 1.1.....	113.5-227	Penicillin plus streptomycin.	14.4-50	For turkeys; not less than 2.4 gm. of penicillin nor less than 12 gm. of streptomycin; as procaine penicillin plus streptomycin sulfate.	Growth promotion and feed efficiency.
d. 1.1.....	113.5-227	Streptomycin.....	30-50	For turkeys; as streptomycin sulfate.	Do.
e. 1.1.....	113.5-227	Bactracin.....	4-50	For turkeys; as bactracin, bactracin methylene disalicylate, manganese bacitracin, or zinc bacitracin.	Do.
f. 1.1.....	113.5-227	Chlortetracycline.	10-50	For turkeys; as chlortetracycline hydrochloride.	Do.
g. 1.1.....	113.5-227	Penicillin plus streptomycin.	90	For turkeys; 15 gm. of penicillin plus 75 gm. of streptomycin; as procaine penicillin plus streptomycin sulfate.	Treatment of infectious sinusitis, blue comb (nonspecific enteritis, mild fever), and hexamitiasis.
2.1 Amprollum.....	113.5-227 (0.0125%)	do.....	do.....	For broiler chickens; not for laying chickens.	Prevention of coccidiosis.
2.2 Amprollum.....	113.5-227 (0.0125%)	Ethopabate.....	3.6	do.....	Do.
a. 2.1 or 2.2.....	113.5-227	Penicillin.....	2.4-50	For broiler chickens; not for laying chickens; as procaine penicillin.	Growth promotion and feed efficiency.
b. 2.1 or 2.2.....	113.5-227	Penicillin plus bactracin.	3.6-50	For broiler chickens; not for laying chickens; not less than 0.6 gm. of penicillin nor less than 3.0 gm. of bactracin; as procaine penicillin plus bactracin, bactracin methylene disalicylate, manganese bacitracin, or zinc bacitracin.	Do.
c. 2.1 or 2.2.....	113.5-227	Penicillin plus streptomycin.	14.4-50	For broiler chickens; not for laying chickens; not less than 2.4 gm. of penicillin nor less than 12 gm. of streptomycin; as procaine penicillin plus streptomycin sulfate.	Do.
d. 2.1 or 2.2.....	113.5-227	Streptomycin.....	30-50	For broiler chickens; not for laying chickens; as streptomycin sulfate.	Do.
e. 2.1 or 2.2.....	113.5-227	Bactracin.....	4-50	For broiler chickens; not for laying chickens; as bactracin, bactracin methylene disalicylate, manganese bacitracin, or zinc bacitracin.	Do.
f. 2.1 or 2.2.....	113.5-227	Chlortetracycline.	10-50	For broiler chickens; not for laying chickens; as chlortetracycline hydrochloride.	Do.

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
g. 2.1 or 2.2.....	113.5-227	Bactracin.....	50-100	For broiler chickens; not for laying chickens; as bactracin, bactracin methylene disalicylate, or zinc bacitracin.	Prevention of chronic respiratory disease (arsenic infection) and blue comb (nonspecific infectious enteritis).
h. 2.1 or 2.2.....	113.5-227	do.....	100-200	do.....	Treatment of chronic respiratory disease (arsenic infection) and blue comb (nonspecific infectious enteritis). § 121.208(d), table 1, items 1, 4, and 5.
i. 2.1 or 2.2.....	113.5-227	Chlortetracycline.	50-200	For broiler chickens; not for laying chickens; as prescribed in § 121.208(d), table 1, items 1, 4, and 5.	Treatment of chronic respiratory disease (arsenic infection) and blue comb (nonspecific infectious enteritis).
j. 2.1 or 2.2.....	113.5-227	Penicillin plus streptomycin.	90	For broiler chickens; not for laying chickens; 15 gm. of penicillin plus 75 gm. of streptomycin; as procaine penicillin plus streptomycin sulfate.	Prevention of early mortality of chicks.
k. 2.1 or 2.2.....	113.5-227	Penicillin plus streptomycin.	90	For chicks; 15 gm. of penicillin plus 75 gm. of streptomycin; as procaine penicillin plus streptomycin sulfate.	Development of active immunity to coccidiosis.
3.1 Amprollum.....	36.3-113.5 (0.04%-.0125%).				

Amount of amprolium in feed for birds, by age groups		
Growing conditions	Up to 5 weeks of age	From 5 to 14 weeks of age
Severe exposure to coccidiosis.	Grams per ton 113.5 (0.0125%)	Grams per ton 72.6-113.5 (0.008%-.0125%)
	Severe exposure to coccidiosis.	Grams per ton 36.3-113.5 (0.004%-.0125%)
Moderate exposure to coccidiosis.	Grams per ton 72.6-113.5 (0.008%-.0125%)	Grams per ton 36.3-113.5 (0.004%-.0125%)
	Slight exposure to coccidiosis.	Grams per ton 36.3-113.5 (0.004%-.0125%)

Growth promotion and feed efficiency.	
2-4-50	Penicillin.....
3-6-50	Penicillin plus bactracin.

TABLE 1—AMPROMIUM IN FINISHED CHICKEN AND TURKEY FEED—Continued

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
g. 2.1 or 2.2.....	113.5-227	Bactracin.....	50-100	For broiler chickens; not for laying chickens; as bactracin, bactracin methylene disalicylate, or zinc bacitracin.	Prevention of chronic respiratory disease (airsac infection) and blue comb (nonspecific infectious enteritis).
h. 2.1 or 2.2.....	113.5-227	do.....	100-200	do.....	Treatment of chronic respiratory disease (airsac infection) and blue comb (nonspecific infectious enteritis).
i. 2.1 or 2.2.....	113.5-227	Chlortetracycline.	50-200	For broiler chickens; not for laying chickens; as prescribed in § 121.208(d), table 1, items 1, 4, and 5.	Prevention of chronic respiratory disease (airsac infection) and blue comb (nonspecific infectious enteritis).
j. 2.1 or 2.2.....	113.5-227	Penicillin plus streptomycin.	90	For broiler chickens; not for laying chickens; 15 gm. of penicillin plus 75 gm. of streptomycin; as procaine penicillin plus streptomycin sulfate.	Treatment of chronic respiratory disease (airsac infection) and blue comb (nonspecific infectious enteritis).
k. 2.1 or 2.2.....	113.5-227	Penicillin plus streptomycin.	90	For chicks; 15 gm. of penicillin plus 75 gm. of streptomycin; as procaine penicillin plus streptomycin sulfate.	Prevention of early mortality of chicks.
3.1 Ampromium.....	36.3-113.5 (0.04%—0.125%).	do.....	do.....	For replacement chickens; not for laying chickens, as follows:	Development of active immunity to coccidiosis.

Amount of amprolium in feed for birds, by age groups			
Growing conditions	Up to 5 weeks of age	From 5 to 8 weeks of age	From 8 to 14 weeks of age
Severe exposure to coccidiosis.	Grams per ton 113.5 (0.0125%)	Grams per ton 72.6-113.5 (0.008%—0.0125%)	Grams per ton 36.3-113.5 (0.004%—0.0125%)
Moderate exposure to coccidiosis.	72.6-113.5 (0.008%—0.0125%)	54.5-113.5 (0.006%—0.0125%)	36.3-113.5 (0.004%—0.0125%)
Slight exposure to coccidiosis.	36.3-113.5 (0.004%—0.0125%)	36.3-113.5 (0.004%—0.0125%)	36.3-113.5 (0.004%—0.0125%)

a. 3.1.....	36.3-113.5	Penicillin.....	2, 4-50	For replacement chickens; not for laying chickens; as procaine penicillin.	Growth promotion and feed efficiency.
b. 3.1.....	36.3-113.5.....	Penicillin plus bactracin.	3, 6-50	For replacement chickens; not for laying chickens; not less than 0.6 gm. of penicillin nor less than 3.0 gm. of bactracin; as procaine penicillin plus bactracin, bactracin methylene disalicylate, manganese bactracin, or zinc bactracin.	Do.

Amount of ampromium in feed for birds, by age groups		
Growing conditions	Up to 5 weeks of age	From 5 to 14 weeks of age
Severe exposure to coccidiosis.	Grams per ton 113.5-113.5 (0.0125%)	Grams per ton 72.6-113.5 (0.008%—0.0125%)
Moderate exposure to coccidiosis.	72.6-113.5 (0.008%—0.0125%)	54.5-113.5 (0.006%—0.0125%)
Slight exposure to coccidiosis.	36.3-113.5 (0.004%—0.0125%)	36.3-113.5 (0.004%—0.0125%)

Growth promotion and feed efficiency.	
2.4-50	For replacement chickens; not for laying chickens; as procaine penicillin, penicillin plus streptomycin, or less than 0.6 gm. of penicillin plus 3.0 gm. of bactracin; as procaine penicillin plus bactracin, bactracin methylene disalicylate, manganese bacitracin, or zinc bacitracin.
3.6-50	Do.

TABLE 1—AMPROLIUM IN FINISHED CHICKEN AND TURKEY FEED—Continued

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
c. 3.1.....	36.3-113.5	Penicillin plus streptomycin.	14.4-50	For replacement chickens; not for laying chickens; not less than 2.4 gm. of penicillin nor less than 12 gm. of streptomycin; as procaine penicillin plus streptomycin sulfate.	Growth promotion and feed efficiency.
d. 3.1.....	36.3-113.5	Streptomycin.....	30-50	For replacement chickens; not for laying chickens; as streptomycin sulfate.	Do.
e. 3.1.....	36.3-113.5	Bacitracin.....	4-50	For replacement chickens; not for laying chickens; as bacitracin, bacitracin methylene disalicylate, maganese bacitracin, or zinc bacitracin.	Do.
f. 3.1.....	36.3-113.5	Chlortetracycline..	10-50	For replacement chickens; not for laying chickens; as chlortetracycline hydrochloride.	Do.
g. 3.1.....	36.3-113.5	Bacitracin.....	50-100	For replacement chickens; not for laying chickens; as bacitracin, bacitracin methylene disalicylate, or zinc bacitracin.	Prevention of chronic respiratory disease (airsac infection) and blue comb (nonspecific infectious enteritis).
h. 3.1.....	36.3-113.5	do.....	100-200	do.....	Treatment of chronic respiratory disease (airsac infection) and blue comb (nonspecific infectious enteritis).
i. 3.1.....	36.3-113.5	Chlortetracycline..	50-200	For replacement chickens; not for laying chickens; as prescribed in § 121.208(d), table 1, items 1, 4, and 5.	§ 121.208(d), table 1, items 1, 4, and 5.
j. 3.1.....	36.3-113.5	Penicillin plus streptomycin.	90	For replacement chickens; not for laying chickens; 15 gm. of penicillin plus 75 gm. of streptomycin; as procaine penicillin plus streptomycin sulfate.	Treatment of chronic respiratory disease (airsac infection) and blue comb (nonspecific infectious enteritis).
k. 3.1.....	36.3-113.5	do.....	90	For chicks; 15 gm. of penicillin plus 75 gm. of streptomycin; as procaine penicillin plus streptomycin sulfate.	Prevention of early mortality to chicks.

TABLE 2—AMPROLIUM IN DRINKING WATER FOR CHICKENS

Principal ingredient	Quantity	Limitation	Indications for use
Amprolium.....	0.006%-0.024%	In chicken drinking water; as sole source of amprolium; not for laying chickens.	Treatment of coccidiosis.

(d) To assure safe use, the label and labeling of the additive, any combination of additives, and any intermediate premix or final feed shall bear, in addition to the other information required by the act, the following:

(1) The name of the additive or additives.

(2) A statement of the quantity or quantities contained therein, except that the final feed label need not bear the quantities of the antibiotic drugs added solely for growth promotion.

(3) Adequate directions and warnings for use, including a statement that such feeds may not be fed to laying birds.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

2. Based upon an evaluation of the data before him and proceeding under the authority of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(4), 72 Stat. 1786; 21 U.S.C. 348(c)(4)), the Commissioner of Food and Drugs has

further concluded that where chickens have been treated with amprolium-medicated feed containing ethopabate, in accordance with § 121.210, a tolerance limitation is required in order to assure that edible tissues from chickens are safe for human food. Therefore, Subpart D of the food additive regulations is amended by adding thereto the following new section:

§ 121.1106 Ethopabate (methyl-4-acetamido-2-ethoxy benzoate).

A tolerance of zero is established for residues of ethopabate (methyl-4-acetamido-2-ethoxy benzoate) in edible tissues of chickens.

(Sec. 409(c)(4), 72 Stat. 1786; 21 U.S.C. 348(c)(4))

§ 146.26 [Amendment]

3. Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and

Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and delegated to the Commissioner of Food and Drugs by the Secretary (26 F.R. 8625), § 146.26 *Animal feed containing penicillin* * * * is amended as indicated below.

Paragraph (b) is amended by changing subparagraph (44) to read as set forth below and by adding thereto a new subparagraph (54), as follows:

(44) It is a medicated chicken or turkey feed containing antibiotics and amprolium in the amounts and for the purposes indicated in § 121.210 of this chapter, and its labeling bears adequate directions and warnings for such use: *Provided, however,* That such medicated complete feed has been prepared from a concentrated amprolium-antibiotic medicated feed that contained not more than 0.05 percent amprolium. If the complete medicated feed is prepared from a product of amprolium that contains more than 0.05 percent of the drug, it is exempt from certification only under the condition that there has been submitted to the Commissioner, in triplicate, adequate information of the kind described in § 146.7 to establish the safety and efficacy of the article and to guarantee its identity, strength, quality, and purity. The exemption shall expire at the beginning of any act changing the composition or labeling of such drug, or the methods used in and the facilities and controls used for its manufacturing, processing, and packaging, or in its labeling, unless the person who obtains the exemption has submitted to the Commissioner, in triplicate, amended information that describes such proposed changes, and such amendment has been accepted by the Commissioner. Both concentrates and finished poultry feed containing amprolium must comply with all the requirements of § 121.210 of this chapter, including labeling.

* * * * *

(54) It is a medicated feed for growing broiler chickens; it contains amprolium, ethopabate (methyl-4-acetamido-2-ethoxy benzoate), and antibiotics in the amounts and for the purposes indicated in § 121.210 of this chapter; and its labeling bears adequate directions and warnings for such use; *Provided, however,* That such medicated complete feed has been prepared from a concentrated medicated feed that contained not more than 0.05 percent amprolium and not more than 0.0008 percent ethopabate. If the medicated feed is prepared from a product that contains more than 0.05 percent amprolium and more than 0.0008 percent ethopabate, it is exempt from certification only under the condition that there has been submitted to the Commissioner, in triplicate, adequate information of the kind described in § 146.7 to establish the safety and efficacy of the article and to guarantee its identity, strength, quality, and purity. The exemption shall expire at the beginning of any act changing the composition or labeling of such drug, or the methods used in and the facilities and controls used for its manufacturing, processing, and packaging, or in its

labeling, unless the person who obtains the exemption has submitted to the Commissioner, in triplicate, amended information that describes such proposed changes, and such amendment has been accepted by the Commissioner. Both concentrates and finished poultry feed containing amprolium and ethopabate must comply with all the requirements of § 121.210 of this chapter, including labeling.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the *FEDERAL REGISTER* file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the *FEDERAL REGISTER*.

(Secs. 409 (c) (1), (4), 507; 72 Stat. 1786, 59 Stat. 463, as amended; 21 U.S.C. 348(c) (1), (4), 357)

Dated: December 20, 1962.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 62-12792; Filed, Dec. 31, 1962;
8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

Skamokawa Creek, Wash.

Pursuant to the provisions of Section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.758 governing the operation of the Washington State Highway Bridge across Skamokawa Creek near Skamokawa, Washington, is hereby amended, changing paragraph (a) to permit the drawbridge to remain in a closed position, effective 30 days after publication in the *FEDERAL REGISTER*, as follows:

§ 203.758 Skamokawa Creek, Wash.; Washington State Highway Bridge at Skamokawa.

(a) The draw of the bridge need not be opened for the passage of vessels.

[Regs., Dec. 14, 1962, 285/111 (Skamokawa Creek, Wash.)—ENG CW—ON] (Sec. 5, 28 Stat. 362; 33 U.S.C. 499)

J. C. LAMBERT,
*Major General, U.S. Army,
The Adjutant General.*

[F.R. Doc. 62-12901; Filed, Dec. 31, 1962;
8:45 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 2—DELEGATIONS OF AUTHORITY

Chairman and Vice Chairman, Board of Veterans Appeals

Section 2.66 is revised to read as follows:

§ 2.66 Chairman and Vice Chairman, Board of Veterans Appeals delegated authority to authorize assumption of jurisdiction of adjudicative determination not involved in appeal before Board where determination has not become final; administrative action on adjudicative determination not involved in appeal before Board where determination has become final; and to approve central office investigations of matters before the Board.

This delegation of authority is identical to § 19.0a of this chapter.

[SEAL]

W. J. DRIVER,
Deputy Administrator.

[F.R. Doc. 62-12919; Filed, Dec. 31, 1962;
8:47 a.m.]

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

MISCELLANEOUS AMENDMENTS

1. Section 3.103 is revised to read as follows:

§ 3.103 Information to be furnished claimants; appellate rights.

(a) *General.* The claimant will be notified of any decision authorizing the payment of benefit or disallowance of a claim. Notice will include the reason for the decision, the claimant's right to initiate an appeal by filing a notice of disagreement and of the time limits within which such notice may be filed.

(b) *Statement of the case.* On and after January 1, 1963, where an appeal is initiated within the time specified in §§ 3.104 and 3.111, the agency of original jurisdiction will take appropriate development or review action. A notice of disagreement may be filed by the claimant or his authorized representative, attorney or agent; if the claimant is incompetent, by the legal guardian or other proper fiduciary, or in the absence of one of these, by his next of kin or next friend. Not more than one recognized organization, attorney, or

agent will be recognized at any one time in the prosecution of a claim. If such action does not resolve the disagreement either by granting the benefit sought or through withdrawal of the notice of disagreement, such agency will forward to the claimant at his latest address of record and to his representative, if there is one, a statement of the case consisting of:

(1) A summary of the evidence in the case pertinent to the issue or issues with which disagreement has been expressed (see paragraph (g) of this section);

(2) A citation and discussion of the pertinent law, Veterans Administration regulations, and, where applicable, the provisions of the Schedule for Rating Disabilities;

(3) The decision on such issue or issues and the reasons therefor.

(c) *Substantive appeal.* The claimant will be notified that a substantive appeal should be filed within 60 days after the date of mailing of the statement of the case. This may be extended for a reasonable period on request for good cause shown. The claimant will also be informed that:

(1) The benefits sought must be clearly identified in his appeal;

(2) The appeal should set out specific allegations of error of fact or law, related to specific items in the statement of the case;

(3) He will be presumed to be in agreement with any statement of fact contained in the statement of the case to which no exception is taken, and

(4) The agency of original jurisdiction may close the case for failure to respond after dispatch of the statement of the case.

(d) *Time limit.* While a substantive appeal should be filed within 60 days from the date of mailing of the statement of the case, it is acceptable if filed within the remainder of the 1-year period from the date of mailing of notification of the review or determination being appealed.

(e) *Failure to respond.* The agency of original jurisdiction will close the case for failure to respond to the statement of the case within the time period or periods allowed without notice to the claimant.

(f) *Form of substantive appeal.* The substantive appeal should be on VA Form 1-9, Appeal to Board of Veterans Appeals, but this is not essential so long as it is in writing and meets the requirements of § 19.1a(d) of this chapter. Receipt of an appeal form prior to dispatch of the statement of the case will be considered a notice of disagreement and the foregoing requirements will be followed as to development and review, preparation of statement of the case, notice of requirement, and time limits for filing a substantive appeal.

(g) *Disclosure.* A statement of the case will not disclose matters that would be contrary to 38 U.S.C. 3301 or otherwise contrary to the public interest. Such matters may be disclosed to a designated representative unless the relationship between the claimant and the repre-

sentative is such that disclosure to the representative would be as harmful as if made to the claimant. (38 U.S.C. 4005(d); Public Law 87-666)

2. In § 3.104, paragraph (c) is amended to read as follows:

§ 3.104 Finality of decision.

(c) Except in the case of simultaneously contested claims (§ 3.111), a decision of an agency of original jurisdiction will be final unless notice of disagreement is filed within one year from the date the claimant is notified of the result of a determination and is followed by a timely substantive appeal. A notice of disagreement or substantive appeal postmarked before the expiration of the applicable period will be accepted as timely filed. Where an appeal is timely filed, as provided in § 3.103(c) the decision, if affirmed, does not become final until the date of the appellate decision. (38 U.S.C. 4004(a) and 4005(b) and (c); Public Law 87-666)

3. In § 3.109, paragraph (b) is amended and paragraph (c) is revoked to read as follows:

§ 3.109 Time limit.

(b) *Failure to furnish claim form or notice of time limit.* Failure to furnish a potential claimant any form or information concerning the right to file claim for pension, compensation, or dependency and indemnity compensation, or to furnish notice of the time limit for the filing of a claim or submission of evidence, or to furnish notice of the right to appeal and of the time limit for filing of a notice of disagreement or a substantive appeal will not extend the periods allowed for these actions.

(c) [Revoked]

4. Section 3.110 is revised to read as follows:

§ 3.110 Computation of time limit.

In computing the time limit for any action required of a claimant, including the filing of claims or evidence requested by the Veterans Administration, the first day of the specified period will be excluded and the last day included. This rule is applicable in cases in which the time limit expires on a workday. Where the time limit would expire on a Saturday, Sunday, or holiday, the next succeeding workday will be included in the computation.

5. Section 3.111 is revised to read as follows:

§ 3.111 Appeals on simultaneously contested claims.

(a) Where one claim is allowed and one disallowed, or the allowance of one claim would result in payment of a lower rate to another claimant, the person adversely affected may file a notice of disagreement within 60 days from the date of the letter of disallowance. All parties of interest will be specifically notified of the action taken and that unless a notice of disagreement is received within the 60-day period, an appeal from the determination will not be entertained.

(b) If a substantive appeal is received and it is indicated that additional evidence is to be submitted, a period of 60 days will be allowed to submit such evidence. This may be extended not to exceed an additional 60 days if good cause is shown.

(c) Upon the filing of a notice of disagreement, on or after January 1, 1963, all parties in interest will be furnished with a statement of the case in the same manner as is prescribed in § 3.103(b). The party in interest who filed a notice of disagreement will be notified that a substantive appeal may be filed within 30 days from the date of mailing of such statement of the case and of the requirements outlined in § 3.103(c) for the presentation of an appeal. Extension of time may be granted for good cause shown but with consideration to the interests of the other parties involved. The substance of the appeal will be communicated to the other party or parties in interest and a period of 30 days will be allowed for filing a brief or argument in answer thereto.

(d) Unless a notice of disagreement and a substantive appeal are timely filed, the decision of the agency of original jurisdiction will be final, and an award will be made to the claimant whose entitlement has been established. (38 U.S.C. 4005A(b); Public Law 87-666)

(e) Notices as required by this section will be forwarded to the parties in interest to the latest known address of record and such action shall constitute sufficient evidence of notice. (38 U.S.C. 4005A(b); Public Law 87-666) (72 Stat. 1114; 38 U.S.C. 210)

These regulations are effective January 1, 1963.

[SEAL]

W. J. DRIVER,
Deputy Administrator.

[F.R. Doc. 62-12918; Filed, Dec. 31, 1962; 8:47 a.m.]

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

DEPENDENCY AND INCOME

1. Section 3.250 is revised to read as follows:

§ 3.250 Dependency of parents; compensation.

(a) *Income*—(1) *Conclusive dependency.* Dependency of a parent (other than one who is residing in a foreign country) will be held to exist where the monthly income does not exceed:

(i) \$105 for a mother or father not living together;

(ii) \$175 for a mother and father, or remarried parent and spouse, living together;

(iii) \$45 for each additional "member of the family" as defined in paragraph (b) (2) of this section. (38 U.S.C. 102(a) (2))

(2) *Excess income.* Where the income exceeds the monthly amounts stated in subparagraph (1) of this paragraph dependency will be determined on the facts in the individual case under

the principles outlined in paragraph (b) of this section. In such cases, dependency will not be held to exist if it is reasonable that some part of the corpus of the claimant's estate be consumed for his maintenance.

(3) *Foreign residents.* There is no conclusive presumption of dependency. Dependency will be determined on the facts in the individual case under the principles outlined in this section.

(b) *Basic rule.* Dependency will be held to exist if the father or mother of the veteran does not have an income sufficient to provide reasonable maintenance for such father or mother and members of his or her family under legal age and for dependent adult members of the family if the dependency of such adult member results from mental or physical incapacity.

(1) "Reasonable Maintenance" includes not only housing, food, clothing, and medical care sufficient to sustain life, but such items beyond the bare necessities as well as other requirements reasonably necessary to provide those conveniences and comforts of living suitable to and consistent with the parents' reasonable mode of life.

(2) "Member of the family" means a person (other than spouse) including a relative in the ascending as well as descending class, whom the father or mother is under moral or legal obligation to support. In determining whether other members of the family under legal age are factors in necessary expenses of the mother or father, consideration will be given to any income from business or property (including trusts) actually available, directly or indirectly, to the mother or father for the support of the minor but not to the corpus of the estate or the income of the minor which is not so available.

(c) *Inception of dependency.* The fact that the veteran has made habitual contributions to his father or mother, or both, is not conclusive evidence that dependency existed but will be considered in connection with all other evidence. In death claims, it is not material whether dependency arose prior or subsequent to the veteran's death. (38 U.S.C. 102(a)) (See § 3.1000(d) (3) as to accrued.)

(d) *Remarriage.* Dependency will not be denied solely because of remarriage (38 U.S.C. 102(a) (2)). Compensation may be continued if the parent submits evidence to show that dependency exists, considering the combined income and expenses of the parent and spouse.

2. Section 3.251 is revised to read as follows:

§ 3.251 Income of parents; dependency and indemnity compensation.

(a) *Annual income limitation.* (1) Dependency and indemnity compensation is not payable to a parent whose annual income exceeds the following limitations:

(i) \$1,750, one parent alone;

(ii) \$1,750, separately, two parents not living together;

(iii) \$2,400 combined income, two parents living together or remarried parent living with spouse. (38 U.S.C. 415)

(2) Where the claim is based on service in the Commonwealth Army of the Philippines, or as a guerrilla or as a Philippine Scout under section 14, Public Law 190, 79th Congress, the income limitation will be computed at the rate of one Philippine peso for each dollar.

(3) If the remarriage of a parent has been terminated, or the parent is separated from his or her spouse, the rate of dependency and indemnity compensation for the parent will be that which would be payable if there were one parent alone or two parents not living together, whichever is applicable.

(4) Where there are two parents living and only one parent has filed claim, the rate of dependency and indemnity compensation will be that which would be payable if both parents had filed claim.

(b) *Basic rule.* Payments of any kind or from any source will be counted as income unless specifically excluded. Income will be counted for the calendar year in which it is received and total income for the full calendar year will be considered except as provided in § 3.260.

3. The cross reference immediately following § 3.251 is deleted.

4. Section 3.252 is revised to read as follows:

§ 3.252 Annual income; pension; World War I, World War II and Korean conflict.

(a) *Annual income limitation; protected pension.* Where the right to pension under laws in effect prior to June 30, 1960, is protected under § 3.956, pension is not payable to an unmarried veteran, or to a widow without a child, or to or on account of a child, whose annual income exceeds \$1,400; or to a married veteran or a veteran with a child, or to a widow with a child, whose annual income exceeds \$2,700.

(b) *Annual income and net worth limitation; Public Law 86-211 (73 Stat. 432).* Pension is not payable to an unmarried veteran, or to a widow without a child, or to or on account of a child whose annual income (excluding earned income of a child-claimant) exceeds \$1,800; or to a married veteran or a veteran with a child, or to a widow with a child, whose annual income exceeds \$3,000; or to a veteran, widow or child if it is reasonable that some part of the claimant's estate be consumed for his maintenance. Where a veteran and spouse are living together, the separate income of the spouse will be considered as the veteran's income, as provided in § 3.262(b). (38 U.S.C. 521, 541, 542 and 543)

(c) *Basic rule.* Payments of any kind or from any source will be counted as income unless specifically excluded. Income will be counted for the calendar year in which it is received and total income for the full calendar year will be considered except as provided in § 3.260.

(d) *Veteran with a spouse.* For the purpose of determining eligibility under paragraph (b) of this section the pension rates provided by 38 U.S.C. 521(c) may be authorized for a married veteran if he is living with or, if estranged, is

reasonably contributing to the support of his spouse. The determination of "reasonable" contribution will be based on all the circumstances in the case, considering the income and estate of the veteran and the separate income and estate of the spouse. Apportionment of the veteran's pension under § 3.451 meets the requirement of reasonable contribution.

(e) *Widow with a child—(1) Child.* The term "child" means a child as defined in § 3.57. Where a posthumous child is involved, the widow will not be considered a widow with a child prior to the date of birth of the child.

(2) *Veteran's child not in widow's custody.* Where the veteran was survived by a widow and by a child, the income increments for a widow and child are applicable even though the child is not the child of the widow and not in her custody.

(3) *Income of child.* The separate income received by a child or children, regardless of custody, will not be considered in computing the widow's income. Where the separate income of the child is turned over to the widow, only so much of the money as is left after deducting any expenses for maintenance of the child will be considered the widow's income.

§ 3.252 [Amendment]

5. The cross references immediately following § 3.252 are deleted.

6. Section 3.256 is revised to read as follows:

§ 3.256 Annual income and net worth questionnaires.

A questionnaire will be sent once each calendar year to each payee who is receiving pension or dependency and indemnity compensation, whose entitlement is subject to an annual income (and net worth where applicable) limitation. (38 U.S.C. 415(e) and 506(a))

7. Section 3.257 is revised to read as follows:

§ 3.257 Children; no widow entitled.

Where pension is not payable to a widow because her annual income exceeds the statutory limitation or because of her net worth, payments will be made to or for the child or children as if there were no widow.

§ 3.257 [Amendment]

8. The cross reference immediately following § 3.257 is deleted.

9. New §§ 3.260, 3.261, 3.262 and 3.263 are added to read as follows:

§ 3.260 Computation of income.

For entitlement to pension or dependency and indemnity compensation, income will be counted for the calendar year in which it is received.

(a) *Installments.* Income will be determined by the total amount received or anticipated during the calendar year.

(b) *Deferred determinations.* Where there is doubt as to the amount of the anticipated income, pension or dependency and indemnity compensation will be allowed at the lowest appropriate rate or will be withheld, as may be in order, until the end of the calendar year, when the

total income received during the year may be determined.

(c) *Proportionate income limitations; excess income.* A proportionate income limitation will be established under the conditions set forth in paragraph (d) of this section where the claimant's income for the full calendar year in which payments commence or recommence exceeds the applicable limitation as follows:

(1) In pension claims under laws in effect on June 30, 1960, \$1,400 for a veteran without a spouse or child, or a widow without a child, or for a child; \$2,700 for a veteran with a spouse or child, or a widow with a child.

(2) In pension claims under Public Law 86-211 (73 Stat. 432), \$600 for a veteran without a spouse or child, or a widow without a child; \$1,000 for a veteran with a spouse or child, or a widow with a child; \$1,800 for a child.

(3) In parents' dependency and indemnity compensation claims, \$750 for a sole surviving unmarried parent, or a parent not living with a spouse; \$1,000 total combined annual income for parents living together or for a remarried parent living with a spouse.

(d) *Proportionate income limitations; computation.* Income limitations will be computed proportionately for the purpose of determining initial entitlement, or for resuming payments on an award which was discontinued for a reason other than excess income or a change in marital or dependency status. A proportionate income limitation will be established for the period from the date of entitlement to the end of that calendar year. The total amount of income received by the claimant during that period will govern the payment of benefits. Income received prior to the date of entitlement will be disregarded.

(e) *Proportionate income limitations; spouse.* In determining whether proportionate computation is applicable to a claim under Public Law 86-211 (73 Stat. 432), the total income for the calendar year of entitlement of both veteran and that of the spouse available for use of the veteran will be considered. If a proportionate income limitation is then applicable, it will be applied to both the veteran's and the spouse's income. The spouse's income will not be included, however, where her total income for the calendar year does not exceed \$1,200.

(f) *Rate changes.* In years after that for which entitlement to pension or dependency and indemnity compensation has been established or reestablished as provided in paragraph (d) of this section, total income for the calendar year will govern the payment of benefits. Where there is a change in the conditions of entitlement because of a change in marital or dependency status, entitlement for each period will be determined separately. For the period when the claimant was married or had a dependent, the rate payable will be determined under the annual income limitation or increment applicable to a claimant who is married or has a dependent. For the period when the claimant was unmarried or without a dependent, the rate payable will be determined under the annual income limitation or increment

applicable to a claimant who is not married or has no dependent. Since these determinations will be based on total income for the calendar year, it is not material whether such income was received before or after the change of status.

§ 3.261 Character of income; exclusions and estates.

The following factors will be considered in determining whether a claimant meets the requirements of §§ 3.250, 3.251 and 3.252 with reference to dependency, income limitations and corpus of estate:

	Dependency (parents)	Dependency and indemnity compensation (parents)	Pension; protected (veterans, widows and children)	Pension; Pub. Law 86-211 (veterans, widows and children)	See—
(a) <i>Income:</i>					
(1) Total income from employment, business, investments, or rents.	Included.	Included.	Included.	Included.	§ 3.262(a).
(2) Income of spouse.	do.	do.	Excluded.	Over \$1,200, included.	§ 3.262(b).
(3) Earnings of members of family under legal age.	do.	Excluded.	do.	Excluded.	§ 3.250(b) (2).
(4) Earned income of child-claimant.	Included.	Included.	Included.	do.	§ 3.252(e) (3).
(5) Gifts, including contribution from adult members of family.	Excluded.	Excluded.	Excluded.	Included.	§ 3.262(c).
(6) Value of maintenance by relative, friend or organization.	do.	do.	do.	do.	
(7) Rental value in property owned by and resided in by claimant.	do.	do.	do.	do.	
(8) Charitable donations authorized by service personnel.	Included.	Included.	Included.	Included.	§ 3.262(d).
(9) Family allowance authorized by service personnel.	do.	do.	do.	Included except as earned income of child-claimant.	
(10) Reasonable value of allowances to person in service in addition to base pay.	Excluded.	Excluded.	Excluded.	do.	
(11) Mustering-out pay.	do.	do.	do.	Included.	
(12) Six-months' death gratuity.	do.	do.	do.	do.	
(13) Bonus or similar cash gratuity paid by any State based on service in Armed Forces of United States.	do.	do.	do.	do.	
(14) Retired Serviceman's Family Protection Plan (10 U.S.C. ch. 73):					
Annuities.	Included.	Included.	Included.	do.	
Refunds (10 U.S.C. 1446).	do.	do.	do.	do.	
(15) Retirement pay received direct from service department (amounts waived under 38 U.S.C. 3105 are not included).	Included.	Included.	Included.	do.	§ 3.262(h).
(16) Retirement benefits; general.	do.	do.	do.	do.	
(17) Social security benefits:					
Old age and survivors', and disability insurance.	do.	do.	do.	do.	§ 3.262(e).
Charitable programs.	do.	do.	do.	do.	§ 3.262(f).
Lump-sum death payments.	Excluded.	Excluded.	do.	Excluded.	
(18) Railroad Retirement benefits.	Included.	Included.	Disability pension—Excluded. Death pension—Included.	Included.	§ 3.262(g).
(19) Retirement pay waived under Federal statute.	Excluded.	Excluded.	Included.	do.	§ 3.262(h).

	Dependency (parents)	Dependency and indemnity compensation (parents)	Pension; protected (veterans, widows and children)	Pension; Pub. Law 86-211 (veterans, widows and children)	See—
(20) Veterans Administration payments:					
Pension.	Excluded.	Included.	Excluded.	Excluded.	
Compensation and dependency and indemnity compensation.	do.	Excluded.	do.	do.	
World War I adjusted compensation.	do.	Included.	do.	Included.	
Insurance for disability or death, maturity of endowment policies, and dividends, including special and termination dividends.	do.	do.	do.	Excluded.	
Service member's indemnity.	Included.	do.	do.	do.	
Subsistence allowance (38 U.S.C. ch. 31) and such education and training allowance (38 U.S.C. ch. 33) as exceeds amounts expended for training.	Excluded.	do.	Excluded.	do.	
Special allowance under 38 U.S.C. 412.	do.	Included.	Included.	Included.	
Statutory burial allowance.	do.	Excluded.	do.	Excluded.	
Accrued.	do.	Included.	do.	Included except as reimbursement.	§ 3.262(i).
(21) Compensation (civilian) for injury or death.	Included.	Included.	Included.	Included.	
(22) Contributions by a public or private employer to a public or private health or hospitalization plan for an active or retired employee.	Excluded.	Excluded.	Excluded.	Excluded.	
(23) Overtime pay; Government employees.	Included.	Included.	Disability pension—Excluded. Death pension—Included.	Included.	
(24) Commercial life insurance; disability, accident, or health insurance, less payments of medical or hospital expenses resulting from the accident or disease for which payments are made.	Included (as received).	Included (as received).	Included (special provision).	Included (as received).	§ 3.262(j).
(25) Commercial annuities or endowments.	do.	Included (special provision).	do.	Included (special provision).	§ 3.262(j).
(26) Dividends from commercial insurance.	Excluded.	Excluded.	Excluded.	Excluded.	
(27) Insurance under Merchant Marine Act of 1936, as amended.	Included.	Included.	Included.	Included.	
(28) Fire insurance.	Excluded.	Excluded.	Excluded.	Excluded.	
(29) Bequests and inheritances.	Included.	Included.	Included.	Included.	§ 3.262(k).
(30) Profit from sale of property.	do.	do.	do.	do.	§ 3.262(k).
(b) <i>Deduction of amounts paid by claimant:</i>					
(1) Unusual medical expenses.	Not authorized.	Authorized.	Not authorized.	Not authorized.	§ 3.262(l).
(2) Just debts, expenses of last illness and burial of veteran.	do.	Not authorized.	do.	Authorized.	§ 3.262(m).
(c) <i>Corpus of estate.</i>	Considered conditionally.	Not considered.	Not considered.	Considered.	§ 3.263.

§ 3.262 Evaluation of income.

(a) *Total income.* All income from sources such as wages, salaries, earnings, bonuses from employers, income from a business or profession or from investments or rents as well as the fair value of personal services, goods or room and board received in lieu thereof will be included.

(1) Salary is not determined by "take-home" pay, but includes deductions made under a retirement act or plan and amounts withheld by virtue of income tax laws.

(2) The gross income from a business or profession may be reduced by the necessary operating expenses, such as cost of goods sold, or expenditures for rent, taxes, and upkeep. Depreciation is not a deductible expense. The cost of repairs or replacement may be deducted. The value of an increase in stock inventory of a business is not considered income.

(3) A loss sustained in operating a business, profession, or farm or from investments may not be deducted from income derived from any other source.

(b) *Income of spouse.* Income of the spouse will be determined under the rules applicable to income of the claimant.

(1) *Parents.* Where the mother and father, or remarried parent and spouse are living together, the total combined income will be considered in determining dependency, or in determining the rate of dependency and indemnity compensation payable to the parent. This rule is equally applicable where both parents have remarried and each is living with his or her spouse. If the remarriage of a parent has been terminated, or the parent is separated from his or her spouse, income of the spouse will be excluded.

(2) *Veterans.* The separate income of the spouse of a disabled veteran who is entitled to pension under laws in effect on June 30, 1960, will not be considered. Where pension is payable under Public Law 86-211 (73 Stat. 432), to a veteran who is living with a spouse there will be included as income of the veteran all income of the spouse in excess of \$1,200 which is reasonably available to or for the veteran, unless hardship to the veteran would result. The presumption that inclusion of such income is available to the veteran and would not work a hardship on him may be rebutted by evidence of unusual family expenses, such as medical expenses under the principles outlined in subparagraph (1) of this paragraph or unavailability because needed to defray expenses beyond the usual family requirements such as college education of a child.

(c) *Maintenance.* The value of maintenance furnished by a relative, friend, or a charitable organization (civic or governmental) will not be considered income. Where the claimant is maintained in a rest home or other community institution or facility, public or private, because of impaired health or advanced age, money paid to the home or to the claimant to cover the cost of maintenance will not be considered income, regardless of whether it is fur-

nished by a relative, friend or charitable organization. The expense of maintenance is not deductible if it is paid from the claimant's income, except as provided in subparagraph (1) of this paragraph in claims for dependency and indemnity compensation.

(d) *Charitable donations.* Charitable donations from public or private relief or welfare organizations will not be considered income except in claims for pension under laws in effect on June 30, 1960. In the latter cases, additional charitable allowances received by a claimant for members of his or her family may not be divided per capita in determining the amount of the claimant's income.

(e) *Retirement benefits; general.* Retirement benefits paid under a Federal, State, municipal or private business or industrial plan are considered income. Where the payments received consist of part principal and part interest, interest will not be counted separately.

(1) In determining dependency of a veteran's parent or the income of a veteran's widow where the retirement benefit is based on her husband's employment, or the income of a child, payments will be considered income as received.

(2) In determining income for dependency and indemnity compensation or pension purposes, where the retirement benefit is based on the claimant's own employment, payments will not be considered income until the amount of the claimant's personal contribution (as distinguished from amounts contributed by the employer) has been received. After he has received an amount equal to his personal contribution all payments will be considered income.

(f) *Social security benefits.* Old Age and Survivors' Insurance and disability insurance under Title II of the Social Security Act will be considered income as a retirement benefit under the rules contained in paragraph (e) of this section. Benefits received under non-contributory programs, such as old age assistance, aid to dependent children and aid to the needy blind are subject to the rules contained in paragraph (d) of this section applicable to charitable donations. The lump-sum death payment under Title II of the Social Security Act will be considered as income except in claims for dependency and indemnity compensation and for pension under Public Law 86-211 (73 Stat. 432).

(g) *Railroad retirement benefits—(1) Parents, widows and children.* Retirement benefits received from the Railroad Retirement Board will be considered as income under the rules contained in paragraph (e) of this section. (See paragraph (h) of this section as to waivers.)

(2) *Veterans.* Effective July 1, 1959, retirement benefits received from the Railroad Retirement Board were excluded from consideration as income in determining eligibility for disability pension. (45 U.S.C. 228s-1) This exclusion continues to be applicable to claims under laws in effect on June 30, 1960. Where eligibility to pension is subject to determination under Public Law 86-211 (73 Stat. 432), such retirement benefits will be considered as income under

the rules contained in paragraph (e) of this section.

(h) *Retirement benefits waived.* Except as provided in this paragraph, retirement benefits (pension or retirement payments) which have been waived will be included as income. Retirement pay from a service department which has been waived under 38 U.S.C. 3105 will not be considered in determining income. For the purpose of determining dependency of a parent, or eligibility of a parent for dependency and indemnity compensation or eligibility of a veteran, widow or child for pension under laws in effect on June 30, 1960, retirement benefits from the following sources which have been waived pursuant to Federal statute will not be considered as income:

(1) Civil Service Retirement and Disability Fund;

(2) Railroad Retirement Board (see paragraph (g) (2) of this section);

(3) District of Columbia, firemen, policemen or public school teachers;

(4) Former lighthouse service.

(i) *Compensation (civilian) for injury or death.* Compensation paid by the Bureau of Employees' Compensation, Department of Labor (of the United States), or pursuant to any workmen's compensation or employer's liability statute, or damages collected because of personal injury or death, less medical, legal, or other expenses incident to the injury or death or the collection or recovery of such moneys will be considered income. Where monthly payments of employees' compensation payable by a Federal or State agency are withheld until the value equals a lump sum paid as damages by a third party, it will be considered that the claimant is receiving the income on a monthly basis.

(j) *Commercial insurance—(1) Annuity or endowment insurance.* In determining dependency, payments are considered income as received. For dependency and indemnity compensation or for pension, where an annuity or payment of endowment insurance is received by the purchaser, no part of the payments received will be considered income until the full amount of the consideration has been received, after which the full amount of such payments will be considered income.

(2) *Life insurance.* In determining dependency, or eligibility for dependency and indemnity compensation, or for pension under Public Law 86-211 (73 Stat. 432), payments are considered income as received. (For dependency and indemnity compensation, this rule also applies to Governmental insurance.)

(3) *Interest on life insurance.* For pension under laws in effect on June 30, 1960, where it is considered that life insurance was received in a lump sum in the calendar year in which the veteran died and payments are actually received in succeeding years, no part of the payments received in succeeding years will be considered income until an amount equal to the lump-sum face value of the policy has been received, after which the full amount of such payments will be considered income.

(k) *Property—(1) Ownership.* The terms of the recorded deed or other evi-

dence of title will constitute evidence of ownership of real or personal property. This includes property acquired through purchase, bequest, or inheritance. If property is owned jointly, each person will be considered as owning a proportionate share. The claimant's share of property held in partnership will be determined on the facts found. In the absence of evidence to the contrary, the claimant's statement as to the terms of ownership will be accepted.

(2) *Income-producing property.* Income received from real or personal property owned by the claimant will be counted. The claimant's share will be determined in proportion to his right according to the rules of ownership.

(3) *Sale of property.* Except as provided in subparagraph (4) of this paragraph, net profit from the sale of real or personal property will be counted. In determining net profit from the sale of property owned prior to the date of entitlement, the value of the date of entitlement will be considered in relation to the selling price. Where payments are received in installments, payments will not be considered income until the claimant has received amounts equal to the value of the property at the date of entitlement. Principal and interest will not be counted separately.

(4) *Homes.* Net profit from the sale of the claimant's residence which is received during the calendar year of sale will not be considered as income under the following conditions:

(i) To the extent that it is applied within the calendar year of the sale, or the succeeding calendar year, to the purchase price of another residence as his principal dwelling;

(ii) Such application of the net profit is reported within 1 year following the date so applied, and

(iii) The net profit is so applied after January 10, 1962, to a purchase made after said date.

This exclusion will not apply where the net profit is applied to the price of a home purchased earlier than the calendar year preceding the calendar year of sale of the old residence.

(1) *Unusual medical expenses; dependency and indemnity compensation.* In claims for dependency and indemnity compensation, there will be excluded from the amount of a claimant's annual income any amounts paid for unusual medical expenses (38 U.S.C. 415(g)(2)). This includes expenses paid by a parent by reason of his illness and those paid by the parent for members of his family. "Members of his family" means those persons, including relatives in the ascending as well as descending class, whom the parent is under moral or legal obligation to support and who are members of his household.

(1) A determination of whether the circumstances in the individual case represents "unusual" expenses will be made on the pertinent facts. Generally this situation will encompass expenses incurred by reason of chronic invalidism or for surgery or prolonged illness. Brief periods of illness with moderate medical expenses, which did not materially

interfere with a normal mode of living, are not included.

(2) Expenses paid by a parent for maintenance of the parent or paid by the parent for maintenance of a member of his family (who is actually or constructively a member of his household) in a nursing or convalescent home may be deducted.

(3) Except as provided in subparagraph (4) of this paragraph, the exclusion of unusual medical expenses is applicable only to amounts actually paid. Expenses incurred but unpaid are not deductible. It is not material that the expenses were incurred by reason of illness in a prior year. Deductions are limited to amounts paid in a particular calendar year. In the absence of doubtful circumstances the claimant's statement as to amounts paid will be accepted.

(4) Where a claimant indicates that he expects to have medical expenses which meet the requirements of this paragraph (e.g., maintenance in a nursing home), an estimate of amounts which will be paid for such expenses may be accepted for the purpose of determining the rate of dependency and indemnity compensation. Where an estimate of such expenses has been accepted for the purpose of authorizing prospective payments, any necessary adjustment in the award of dependency and indemnity compensation will be made upon receipt of an amended estimate or after the end of the calendar year upon receipt of an income questionnaire.

(m) *Veteran's final expenses; pension.* In claims for pension under Public Law 86-211 (73 Stat. 432) there will be excluded from the income of a widow or of a child of a deceased veteran where there is no widow, amounts equal to amounts paid by the widow or child for:

(1) His just debts;

(2) The expenses of his last illness; and

(3) The expenses of his burial to the extent such expenses are not reimbursed by the Veterans Administration.

Where the claimant receives income during the calendar year in which the veteran died and makes expenditures during the following year for the debts and expenses described, such expenditures may be deducted from the claimant's income for the year of death, if this deduction is advantageous to the claimant. Payments made in subsequent years will be deducted from annual income received during the calendar year in which such payments are made. In the absence of contradictory information, the claimant's certified statement will be accepted as to the nature, amount and date of payment, and identity of the creditor.

§ 3.263 Corpus of estate; net worth.

(a) *General.* The following rules are for application in determining the corpus of estate of a parent where dependency is a factor under § 3.250, and the net worth of a veteran, widow or child where pension is subject to Public Law 86-211 (73 Stat. 432) under § 3.252(b). Only the estate of the parent, in claims based

on dependency, or the estate of the veteran, widow or child-claimant in claims for pension, will be considered. In the absence of contradictory information, the claimant's statement as to ownership and estimate of value will be accepted.

(b) *Definition.* "Corpus of estate" and "net worth" mean the market value, less mortgages or other encumbrances, of all real and personal property owned by the claimant except the claimant's dwelling (single-family unit) including a reasonable lot area, and personal effects suitable to and consistent with the claimant's reasonable mode of life.

(c) *Ownership.* See § 3.262(k).

(d) *Evaluation.* In determining whether some part of the claimant's estate should be consumed for his maintenance, consideration will be given to the amount of the claimant's income, together with the following factors: whether the property can be readily converted into cash at no substantial sacrifice; ability to dispose of property as limited by community property laws; life expectancy; number of dependents who meet the requirements of § 3.250 (b)(2); potential rate of depletion, including unusual medical expenses under the principles outlined in § 3.262(l) for the claimant and his dependents.

10. Immediately following § 3.263, the following cross references are added:

Cross REFERENCES: Reductions and discontinuances; dependency. See § 3.500(h).

Material change in income, net worth or change in status. See § 3.660.

Income and net worth questionnaires. See § 3.661.

Children; no widow entitled. See § 3.662. (72 Stat. 1114; 38 U.S.C. 210)

These regulations are effective January 1, 1963.

[SEAL]

W. J. DRIVER,
Deputy Administrator.

[F.R. Doc. 62-12821; Filed, Dec. 31, 1962; 8:45 a.m.]

PART 6—UNITED STATES GOVERNMENT LIFE INSURANCE

PART 8—NATIONAL SERVICE LIFE INSURANCE

Miscellaneous Amendments

1. In Part 6, § 6.150 is revised to read as follows:

§ 6.150 Claims alleging insurance contract where there is no application for insurance on file.

In those cases where claim is made alleging that a person made valid application for yearly renewable term (War Risk) insurance or United States Government life insurance, and that the insurance is subject to reinstatement, or that such insurance matured by reason of the total and permanent disability or death of the person at a time when the insurance was in force, and, in case of death, that there was a valid designation of beneficiary, or that there is entitlement to total disability benefits, and

where there is no application for insurance on file, the claimant will be required to submit all available evidence concerning the alleged application for insurance in such manner and on such forms as may be deemed necessary. The evidence submitted by the claimant and the evidence as disclosed by records in possession of the Government relative to the question as to whether the person made a valid application for insurance will be considered and, if found sufficient to establish as a fact that the said person did apply for insurance and if the other allegations of said claim are sustained, a record of insurance will be established in accordance with such finding. However, if it be determined that the evidence is not sufficient to establish as a fact that the said person applied for insurance as alleged, or determined that any insurance applied for as alleged would not be valid or not subject to reinstatement, or determined that the said person did not become permanently and totally disabled, or die at a time when the insurance would have been in force if insurance had been applied for, or, in case of death, if it be determined that there was no valid designation of beneficiary, the claimant will be so informed. The claimant will be notified of his right to initiate an appeal by filing a notice of disagreement and the time limitation for filing such notice. Further, the claimant will be informed that unless he desires to initiate and perfect an appeal to the Administrator, a disagreement exists as to the matters in controversy as contemplated by the provisions of 38 U.S.C. 784 as far as the Veterans Administration is concerned. The Chief Insurance Director or Deputy Chief Insurance Director will make all original determinations as to whether a person made valid application for insurance as alleged. The determination as to the validity of beneficiary designations, in death cases, will be made by the claims activity having jurisdiction over the insurance death claim.

2. Section 6.204 is revoked.

§ 6.204 Appeal from decision of disability insurance claims activity.
[Revoked]

3. Immediately preceding § 6.210, a new centerhead is added as follows: "Appeals".

4. Section 6.210 is added to read as follows:

§ 6.210 Appeal to Board of Veterans Appeals.

(a) *General.* On and after January 1, 1963, an appeal to the Board of Veterans Appeals in connection with a claim for insurance benefits, or from a decision of fraud or forfeiture, will consist of a timely filed notice of disagreement in writing, followed by the furnishing of a statement of the case to the claimant and his representative and a timely filed substantive appeal. The provisions of §§ 3.103, 3.104(c), 3.111, and Part 19 of this chapter will be followed in connection with appeals involving insurance death claims which are under the jurisdiction of the Department of Veterans Benefits. Notice to the claimant and his representative, if any, by the Department

of Insurance of the disallowance or partial disallowance of a claim for insurance benefits or of a decision of fraud or forfeiture will include the reason for the decision, the claimant's right to initiate an appeal by filing a notice of disagreement and the time limitation within which such notice may be filed.

(b) *Statement of case.* On or after January 1, 1963, where a notice of disagreement is filed within 1 year from the date of mailing the initial notice of disallowance or partial disallowance of a claim for insurance benefits, or of a decision of fraud or forfeiture, the Department of Insurance will take appropriate development or review action. A notice of disagreement may be filed by the claimant or his authorized representative, attorney or agent; if the claimant is incompetent, by the legal guardian or other proper fiduciary, or in the absence of one of these, by his next of kin or next friend. Not more than one recognized organization, attorney, or agent will be recognized at any one time in the prosecution of a claim. If such action does not resolve the disagreement either by granting the benefit sought or through withdrawal of the notice of disagreement, such Department will forward to the claimant at his latest address of record and to his representative, if there is one, a statement of the case consisting of:

(1) A summary of the evidence in the case pertinent to the issue or issues with which disagreement has been expressed;

(2) A citation or discussion of the pertinent law and regulations;

(3) The decision on such issue or issues and the reasons therefor.

(c) *Substantive appeal.* The claimant will be notified that a substantive appeal should be filed within 60 days after the date of mailing of the statement of the case. This may be extended for a reasonable period on request for good cause shown. The claimant will also be informed that:

(1) The benefits sought must be clearly identified in his appeal;

(2) The appeal should set out specific allegations of error of fact or law, related to specific items in the statement of the case;

(3) He will be presumed to be in agreement with any statement of fact contained in the statement of the case to which no exception is taken, and

(4) The Department of Insurance may close the case for failure to respond after dispatch of the statement of the case.

(d) *Time limit.* While a substantive appeal should be filed within 60 days from the date of mailing of the statement of the case, it is acceptable if filed within the remainder of the 1-year period from the date of mailing of notification of the disallowance or determination being appealed.

(e) *Disclosure.* A statement of the case will not disclose matters that would be contrary to 38 U.S.C. 3301 or otherwise contrary to the public interest. Such matters may be disclosed to a designated representative unless the relationship between the claimant and the representative is such that disclosure to the representative would be as harmful as if made to the claimant.

(f) *Form of substantive appeal.* The substantive appeal should be on VA Form 1-9, Appeal to the Board of Veterans Appeals, but this is not essential so long as it is in writing and meets the requirements of § 19.1a(d) of this chapter. Receipt of an appeal form prior to dispatch of the statement of the case will be considered a notice of disagreement and the foregoing requirements will be followed as to development and review, preparation of statement of the case, notice of requirements, and time limitations for filing a substantive appeal.

(g) *Failure to respond.* The Department of Insurance will close the case for failure to respond to the statement of the case within the time period or periods allowed without notice to the claimant. However, if there is a question as to the adequacy or timely filing of a notice of disagreement or substantive appeal, or if a protest is received from an adverse determination as to adequacy or timeliness, the case will be forwarded to the Board of Veterans Appeals for final determination.

(h) *Finality of decision.* A decision by the Department of Insurance will be final unless a timely notice of disagreement is filed and is followed by a timely substantive appeal as provided in this section. A notice of disagreement or substantive appeal postmarked before the expiration of the applicable period will be accepted as timely filed.

(i) *Failure to furnish notice of right to appeal and time limitation.* Failure to furnish a claimant with notice of the right to appeal and the time limitation for filing of a notice of disagreement or a substantive appeal will not extend the periods allowed for these actions.

5. In Part 8, § 3.70 is revised to read as follows:

§ 3.70 Claims alleging insurance contract where there is no application for insurance on file.

In those cases where claim is made alleging that a person made valid application for National Service life insurance, and that the insurance is subject to reinstatement or a waiver of payment of premiums is in order, or that the insurance matured by reason of the death of the insured at a time when the insurance was in force, and that there was a valid designation of beneficiary, and where there is no application for insurance on file, the claimant will be required to submit all available evidence concerning the alleged application for insurance in such manner and on such forms as may be deemed necessary. The evidence submitted by the claimant and the evidence as disclosed by records in possession of the Government relative to the question as to whether the person made a valid application for insurance will be considered and, if found sufficient to establish as a fact that the said person did apply for insurance and if the other allegations of said claim are sustained, a record of insurance will be established in accordance with such finding. However, if it be determined that the evidence is not sufficient to establish as a fact that the said person applied for insurance as

alleged, or determined that any insurance applied for as alleged would not be valid or not subject to reinstatement, or determined that the said person did not die at a time when the insurance would have been in force if insurance had been applied for, or, in case of death, if it be determined that there was no valid designation of beneficiary, the claimant will be so informed. The claimant will be notified of his right to initiate an appeal by filing a notice of disagreement and the time limitation for filing such notice. Further, the claimant will be informed that unless he desires to initiate and perfect an appeal to the Administrator, a disagreement exists as to the matters in controversy as contemplated by the provisions of 38 U.S.C. 784 as far as the Veterans Administration is concerned. The Chief Insurance Director or the Deputy Chief Insurance Director will make all original determinations as to whether a person made valid application for insurance as alleged. The determination as to the validity of beneficiary designations, in death cases, will be made by the claims activity in the office having jurisdiction over the insurance death claim.

6. Immediately preceding § 8.117, a new centerhead is added as follows: "Appeals".

7. Section 8.117 is added to read as follows:

§ 8.117 Appeal to Board of Veterans Appeals.

The provisions of § 6.210 of this chapter will be followed in connection with appeals to the Board of Veterans Appeals involving a claim for insurance benefits, or from a decision of fraud or forfeiture. (72 Stat. 1114; 38 U.S.C. 210)

These regulations are effective January 1, 1963.

[SEAL]

W. J. DRIVER,
Deputy Administrator.

[F.R. Doc. 62-12917; Filed, Dec. 31, 1962; 8:46 a.m.]

PART 19—BOARD OF VETERANS APPEALS

Miscellaneous Amendments

1. Section 19.0 is revised to read as follows:

§ 19.0 General appellate jurisdiction.

All questions on claims involving benefits under the laws administered by the Veterans Administration are subject to review on appeal to the Administrator of Veterans Affairs, decisions in such cases to be made by the Board of Veterans Appeals. Jurisdiction is vested by statute in the Board to make final decisions on all questions reviewed on appeal, with the exception of those involving insurance contracts. (38 U.S.C. 784, 4004(a).) In its decisions, the Board is bound by the regulations of the Veterans Administration, instructions of the Administrator and precedent opinions of the chief law officer. The statutory jurisdiction vests responsibility in the Board to apply and exercise all the adjudicative criteria and

authority in such controlling media properly for application by the department having original adjudicative responsibility for claims for benefits.

2. In § 19.0a, paragraph (c) is deleted and paragraph (d) is redesignated (c) to read as follows:

§ 19.0a Delegation of authority to Chairman and Vice Chairman, Board of Veterans Appeals.

(c) To approve Central Office investigations of matters before the Board.

3. Sections 19.1a, 19.1b, 19.1c, 19.1d, and 19.1e are added to read as follows:

§ 19.1a What constitutes an appeal.

(a) *General.* On and after January 1, 1963, an appeal will consist of a timely filed notice of disagreement in writing, followed by the furnishing of a statement of the case to the claimant and his representative, and a timely filed substantive appeal directed to the statement of the case.

(b) *Notice of disagreement.* A written communication from a claimant or a representative expressing dissatisfaction and disagreement with an adjudicative determination of an agency of original jurisdiction will constitute a notice of disagreement. The notice should be in terms which can be reasonably construed as evidencing a desire for review of that determination. A completed VA Form 1-9, Appeal to Board of Veterans Appeals, received prior to the furnishing of a statement of the case, will be construed as a notice of disagreement.

(c) *Statement of the case.* A statement of the case prepared by the agency of original jurisdiction as a result of a notice of disagreement will consist of a summary of the evidence pertinent to the issue or issues with which disagreement is expressed; a citation or discussion of the pertinent law, Veterans Administration regulations or other criteria, and, where applicable, the Schedule for Rating Disabilities; and the reasons for the determination.

(d) *Substantive appeal.* VA Form 1-9, Appeal to Board of Veterans Appeals, adequately executed, or its equivalent in correspondence from a claimant or his representative following the furnishing of a statement of the case will constitute a substantive appeal. The appeal should set out specific allegations of error of fact or law. Such allegations shall be construed in a liberal manner in determining their adequacy, with consideration of the technicalities involved. To the extent feasible, allegations should be related to specific items in the statement of the case.

§ 19.1b Right to representation.

A claimant will be accorded full right to representation in all stages of an appeal by a recognized service organization, attorney or agent, or other person authorized to represent him before an agency of original jurisdiction. Designation will be made by a duly executed power of attorney. Only one representative will be recognized at any one time. (§§ 14.626-14.663 of this chapter)

§ 19.1c Right to a hearing.

A claimant who has filed an appeal shall be entitled upon request for a formal hearing before a section of the Board of Veterans Appeals or, at his discretion, before designated personnel acting as a hearing agency for the Board of Veterans Appeals in a regional office, clinic, or center having adjudication activities. The hearing on appeal will normally be set for a date after a statement of the case is furnished. The claimant, or his authorized representative, or both, may be heard along with such witnesses as they may present. Appearance at a hearing shall be without expense to the Government.

§ 19.1d Information to be furnished claimants.

(a) *Notice of disagreement.* The claimant and his representative will be informed of the right to initiate an appeal by the filing of a notice of disagreement in writing and the time limit within which such notice must be filed. This information will be included in each notification of a determination of entitlement or nonentitlement by an agency of original jurisdiction.

(b) *Statement of the case.* The claimant and his representative will be furnished a statement of the case where a notice of disagreement has been filed and the action taken thereon by the agency of original jurisdiction does not resolve the disagreement, either by granting the benefit sought or through withdrawal of the notice of disagreement by the claimant or his representative.

(c) *Substantive appeal.* When a statement of the case is furnished, the claimant and his representative will be informed in writing of the right to appellate review by the filing of a substantive appeal and the time limit within which such appeal must be filed.

(d) *Failure to receive notice.* While it is contemplated that notification by the agency of original jurisdiction of time limits and other elements of appellate rights will be complete, failure to notify the claimant of his right to seek appellate review or of the time limits applicable to notice of disagreement or substantive appeal will not extend the applicable period for taking these actions.

§ 19.1e Who can file appeal.

A notice of disagreement and a substantive appeal may be filed by the claimant or his authorized representative, attorney or agent. If the claimant is incompetent, they may be filed by the legal guardian, or other proper fiduciary; or in the absence of one of these, by his next of kin or next friend. They shall be filed with the activity which made the decision being appealed.

4. Sections 19.2, 19.3, 19.4, 19.5, 19.7 and 19.8 are revised to read as follows:

§ 19.2 Time limit within which appeals must be filed.

(a) *Notice of disagreement—(1) General.* A notice of disagreement shall be filed within 1 year from the date of mailing of notification of the initial review or determination; otherwise, that

determination will become final. (38 U.S.C. 4005(b))

(2) *Contested claims.* Where one claim is allowed and one denied, or the allowance of one claim would result in payment of a lesser amount to another claimant, the notice of disagreement from the person adversely affected shall be filed within 60 days from the date of mailing of notification of the review or determination. (38 U.S.C. 4005A(a))

(b) *Substantive appeal.*—(1) *General.* A substantive appeal shall be filed within 60 days from the date of mailing of the statement of the case, or within the remainder of the 1-year period from the date of mailing of the notification of the review or determination being appealed, whichever is greater. (38 U.S.C. 4005d(3))

(2) *Contested claims.* A substantive appeal shall be filed within 30 days from the date of mailing of the statement of the case. (38 U.S.C. 4005A(b))

(c) *Extension of time.*—(1) *General.* An extension of the 60-day period to file a substantive appeal may be granted for good cause shown. (38 U.S.C. 4005(d)(3))

(2) *Contested claims.* In granting an extension in contested claims, consideration will be given to the interests of the other parties involved. (38 U.S.C. 4005A(b))

(3) *Additional evidence filed.* The filing of additional evidence after receipt of notice of an adverse decision shall not extend the time limit for filing a notice of disagreement or substantive appeal.

(d) *Acceptance of postmark date.* A notice of disagreement or a substantive appeal postmarked prior to the expiration of the applicable time limit will be accepted as having been timely filed.

(e) *Computation of time limit.* In computing the time limit for filing a notice of disagreement or a substantive appeal, the first day of the specified period will be excluded and the last day included. Where the time limit would expire on a Saturday, Sunday, or holiday, the next succeeding workday will be included in the computation.

(f) *Adequacy or timely filing questioned.* If there is a question as to the adequacy or timely filing of a notice of disagreement or substantive appeal or if a protest is received from an adverse determination as to adequacy or timeliness, the agency of original jurisdiction will forward the case to the Board of Veterans Appeals for a final determination.

§ 19.3 Termination of appeals.

(a) *Closing; failure to respond to statement of case.* The agency of original jurisdiction may close a case without notice to a claimant for failure to respond to a statement of the case within the period or periods allowed. (38 U.S.C. 4005(d)(3)) However, if response is subsequently received within the 1-year appeal period (except for contested claims), the appeal will be considered to be reactivated.

(b) *Withdrawal.*—(1) *Notice of disagreement.* A notice of disagreement may be withdrawn at any time before a

timely substantive appeal is filed or expiration of the time allowed for such action.

(2) *Substantive appeal.* A substantive appeal may be withdrawn at any time before the Board enters a decision, except where withdrawal would be detrimental to the appellant or the Government.

(3) *Who may withdraw.* Withdrawal may be by the claimant or his authorized representative (person or organization) except that a representative may not withdraw either a notice of disagreement or substantive appeal filed by the claimant personally.

(c) *Dismissal.* Appeals which are insufficient in allegations of error of fact or law may be dismissed by the Board of Veterans Appeals.

§ 19.4 Decision.

The claimant will be presumed to be in agreement with any statement of fact contained in the statement of the case to which no exception is taken. Decisions of the Board, however, shall be based on a review of the entire record. They shall be in written form setting forth specifically the issue or issues considered by the Board, separately stated findings of fact and conclusions of law and the reasons for the Board's decision. (38 U.S.C. 4004(d), 4005(d))

§ 19.5 Finality of decisions of the Board of Veterans Appeals.

The Board's determinations are final except for the correction of error therein or when, in the opinion of the Board, a contrary conclusion is justified on the basis of additional official information furnished by the service department. Decisions of the Board of Veterans Appeals made while a section of the Board is sitting in a regional office or center shall have the same effect as those rendered by the Board in Washington. However, when a claim has been finally disallowed by the Board, a subsequent claim on the same factual basis, if supported by new and material evidence, shall have the attributes of a new claim.

§ 19.7 Administrative appeals; employees authorized to file appeals.

Pursuant to the authority contained in 38 U.S.C. 4006, a chief director, service director of a department, or the General Counsel is hereby authorized to file an administrative appeal within 1 year from the date of a decision, or within 1 year from the date of mailing of notice of such decision, whichever is the later date. Managers, the adjudication officers and officials at comparable level in field offices deciding any claims for benefits are authorized to file an appeal from any decision originating within their established jurisdiction. Such an appeal is authorized by a Manager within 6 months from the date of the decision or within 6 months from the date of mailing of notice of the decision, whichever is the later date, and by officials below the level of Manager within 60 days from such date.

§ 19.8 Merger of administrative appeal in claimant's appeal.

A claimant or his representative may elect to join in an administrative appeal.

In that event, the administrative appeal will be regarded as merged with the claimant's appeal, and Veterans Administration regulations governing an appeal filed by the claimant are for application. Where the claimant does not merge, normal appellate rights are preserved. (72 Stat. 1114; 38 U.S.C. 210)

These regulations are effective January 1, 1963.

[SEAL]

W. J. DRIVER,
Deputy Administrator.

[F.R. Doc. 62-12920; Filed, Dec. 31, 1962; 8:47 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 13842; FCC 62-1328]

PART 1—PRACTICE AND PROCEDURE

Financial Report for Networks and Licensees of Broadcast Stations

1. The Commission has before it for consideration its notice of proposed rule making (FCC 60-1322) released November 7, 1960, wherein various amendments to FCC Form 324, the annual financial report, were proposed. Comments and reply comments in response to the proposed revision were received from various licensees, broadcasting associations, and other interested parties. After consideration of the views of commenting parties and upon careful consideration of the necessity for the Commission to gather basic financial data of the industry and broadcast licensees, the Commission is now prepared to amend Form 324.

2. Present FCC Form 324 was adopted in 1953, after an extensive simplification of the prior annual financial report. The present form contains three basic schedules: an analysis of station broadcast revenues, of broadcast expenses, and a schedule of tangible property owned and devoted exclusively to broadcast service. In the notice of proposed rule making it was suggested, in addition to these three schedules, that there be filed annually a condensed balance sheet, an analysis of notes payable, an income statement, an analysis of national and local time sales for television stations, an analysis of broadcast expenses, and a schedule listing the payments for salary, commissions, rent, etc., paid to the proprietor, partners, stockholders, officers, or directors of the licensee.

3. General criticism was directed by nearly all the commenting parties to the additional burdens which would be placed on licensees to fully report all that the proposed form would require and upon the Commission to tabulate and evaluate the data. In addition, attention was drawn to supposed ambiguities in certain of the schedules, and doubt was expressed that the Commission had the requisite authority to require much of the information. The National Association of Broadcasters expressed concern on

behalf of its members that the Commission could not protect the confidentiality of the data, and also argued that when a definite need arises for the information the Commission—when acting on applications for construction permits or renewal of license or at other times—can then require that it be provided, but that no showing has been made of our need to compile much of the data on an annual basis.

4. While we are not in accord with some of the views thus expressed, the Commission is of the opinion that certain of the information may be obtained when needed during appropriate proceedings before the Commission, and that, on balance, the necessity to gather some of the data on an annual basis is not fully justified. Accordingly, our revised FCC Form 324 will include the following schedules: Schedule 1, Broadcast Revenues (retained from the old form); Schedule 2, Broadcast Expenses (retained from the old form); Schedule 3, Broadcast Income; Schedule 4, Employment; and Schedule 5, Tangible Property Owned and Devoted Exclusively to Broadcast Service by the Respondent (retained from the old form).

5. Schedule 1 (Broadcast Revenues), is essentially the same as in the current form. We are, however, providing for a separate recording of revenues derived from political broadcasting. This will provide the Commission with basic information on monies received by stations and networks for political broadcasting on a regular yearly basis. The new form also requires information on revenues from time sales and from other sources of FM stations operating as part of a joint AM-FM operation; in view of the growing interest in FM, various industry sources indicated the need for such information.

6. The proposed schedule of broadcast expenses contained in the notice of proposed rule making required a detailed listing of broadcast expenses in the categories of technical, program, selling, and general and administrative expenses. Upon consideration, the Commission has decided to ask only for a report of the salary and wage expense in each of these categories, in addition to the information currently reported.

7. Schedule 3 (Broadcast Income), requires the listing of broadcast revenues and expenses as derived from the first two schedules. In addition, this schedule requires the reporting of the total of any amounts included in total broadcast expenses which represent payments for salary, commissions, rent, or services of any character paid to the proprietor, the partners, the stockholders, or any close relative of such persons. Commenting parties have objected to disclosures of this type of "sensitive" information. The Commission is of the opinion, however, that an unrealistic picture of the financial condition of a licensee is drawn where the income statements reveal a loss operation or a small profit, but where substantial sums are paid to those having a proprietary interest in the business. Similarly, where sums are paid as salaries, etc. to close relatives of the proprietors, a more meaningful statement

of the financial condition of the station requires that these payments be reported. For this reason, the reporting requirements for payments to proprietors have been expanded to include salaries, etc. dispersed to close relatives. It is not the intent of the Commission to pass upon the judgment of the licensee in paying to himself, or to others with an interest in the business, sums representing salaries, commissions, etc. But, we are of the opinion that these figures should be included since they can be a significant additional element in evaluating the viability of station operations. We are not requiring, however, that the names of the persons to whom these payments are made and the positions occupied with the station be reported. Removal of this requirement should add an additional measure of confidentiality to the data. And, in any event, our concern is not with the individuals but with the financial condition of the licensee and overall operating trends.

Several large publicly held corporations have objected to the request for this information on the ground that payments are made by them throughout the year to people who may have a proprietary interest in the corporation and that to require the reporting of each such payment to a minor stockholder would create substantial burdens for them, and would be meaningless to the Commission. Accordingly, the Commission has decided to limit the information requested to payments to persons having at least 5 percent interest in the respondent (or to close relatives of such persons); this information, we believe, is normally available in the ordinary course of business.

8. Schedule 4 (Employment) requires the same information on overall employment as was reported in the old form. In addition, for those stations reporting 15 or more total employees, a distribution of employees among departments or functions is required.

9. The final schedule (Schedule 5) has been retained from the old form and requires the listing of tangible property owned and devoted exclusively to broadcast service. The suggested form in the notice of proposed rule making listed the tower and antenna systems as separate items. Commenting parties noted that many broadcasters carried these items in one account, and that it would be difficult for them to separate the cost and depreciation to be attributed to each. We have accordingly revised the schedule to provide that the tower and antenna systems may be listed together as one item. This schedule also differs from the prior one in that the cost of tangible property is to be listed as the total cost to the licensee rather than the cost when first dedicated to broadcast service. We have also revised the instructions so that the depreciation to be shown will be the depreciation which has been accrued by the licensee since his acquisition of the property. These latter modifications have received general approval.

10. Several parties questioned the Commission's authority to require the

filing of annual financial reports. In major part this challenge appears to be directed not so much to the filing of financial reports per se, as to the extent and nature of the disclosures called for in the proposed new forms. The requirements we here adopt are very substantially reduced from those proposed and represent only limited extensions of our previous reporting requirements. Insofar as the comments may have been intended to question the Commission's power to require annual filing of any financial data—such as the revised requirements herein adopted—we do not find them persuasive. Information so furnished is regularly used in making determinations of financial qualifications of applicants for licenses as we are required to do under section 308(b) of the Communications Act. While we do not place entire reliance on annual financial reports, since they are not available for initial licensing and need to be supplemented in some cases where there are questions requiring further submissions, we think it clear that section 308(b) alone establishes the requisite statutory authority for requiring the submission of such annual data as are herein required.

11. Beyond this, there would appear to be little warrant for construing the Commission's broad powers (conferred by sections 4(i) and 303(r) of the Communications Act), to make rules consistent with the discharge of its statutory functions and responsibilities, as excluding the obviously important power to obtain financial data from which the Commission derives useful information. This data is essential in the process of forming judgments necessary for sound decisions concerning many matters affecting the distribution of standard, FM, and television broadcast spectrum space among the states and communities in conformity with the standards set out in section 307(b) of the Communications Act. Mere reference to the familiar problem of UHF television stations operating in the present predominantly VHF system, amply illustrates the point and underscores the need for the information we require to be filed.

12. Aside from the question of our statutory authority, the data collected annually provides useful information for Congress on the economic status of the industry, and section 4(k)(1) of the Act specifically requires that we transmit such information to them. The annual financial report serves still another purpose through the use to which the data is put by the industry itself. As an annual index of the growth of broadcasting, it facilitates industry planning, provides licensees with a check on comparable broadcast activity, and provides a guide for efficient station management. Considering the manifold valuable uses to which the data is put by the industry, the Congress, and the Commission, we are assured that the public interest is served by requiring the annual filing of a financial report.

13. In view of the foregoing: *It is ordered*, That effective February 1, 1963, § 1.341 of the Commission's Rules is

RULES AND REGULATIONS

amended, as set out below, and FCC Form 324¹ is revised.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 303, 307, 48 Stat. 1082, 1083; 47 U.S.C. 303, 307)

NOTE: Form is for information only and is not to be used for formal submission to the Commission.

Adopted: December 17, 1962.

Release: December 19, 1962.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

Section 1.341 of the rules is amended to read as follows:

§ 1.341 Financial report

Each licensee or permittee of a commercially operated standard, FM, television, or international broadcast station (as defined in Part 3 of this chapter) shall file with the Commission on or before April 1 of each year, on FCC Form 324,¹ an annual financial report.

[F.R. Doc. 62-12927; Filed, Dec. 31, 1962;
8:45 a.m.]

¹ Form filed as part of original document.

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 7]

SHENANDOAH NATIONAL PARK, VIRGINIA

Fishing, Report of Accidents by Wrecker Operators, Horses, Camp- ing

Notice is hereby given that pursuant to the authority contained in Section 3 of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 3), 245 DM 1 (27 F.R. 6395), National Park Service Order No. 14 (19 F.R. 8824), Regional Director, Southeast Region, Order No. 3 (21 F.R. 1493), as amended, it is proposed to amend § 7.15 of Title 36, Code of Federal Regulations, as is set forth below. The purpose of this amendment is to revise certain fishing regulations; to require wrecker operators to report vehicle accidents; to control horseback riding on certain trails and developed areas; and to establish hours of quiet in campgrounds and picnic areas.

It is the policy of the Department of the Interior whenever practicable to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to the Superintendent, Shenandoah National Park, Luray, Virginia, within thirty days of the date of publication of this notice in the *FEDERAL REGISTER*.

Subparagraphs (4) and (5) of paragraph (a) of § 7.15 are amended to read as follows, and new paragraphs (d), (e) and (f) are added thereto:

§ 7.15 Shenandoah National Park.

(a) Fishing

* * * * *

(4) *Size limit.* Trout under eight (8) inches in length shall not be retained. All undersized fish shall be immediately and carefully returned to the water.

(5) *Limit of catch.* The limit of catch per day, or possession by each person fishing, shall not exceed five (5) fish.

* * * * *

(d) *Report of accidents by wrecker operators.* Before the operator of a commercial wrecking car shall attempt to remove any vehicle involved in an accident within the Park, he shall take reasonable steps to ascertain whether any of the persons involved in the accident has reported it to the appropriate Park authority, and if he ascertains that a report of the accident has not been made, he shall report it to the nearest Park authority.

(e) *Horses.* (1) Horseback riding on the Appalachian Trail and Blue Blaze

Trails, maintained and provided for foot hiking, is prohibited.

(2) The riding or hitching of horses shall not be allowed in campground or picnic areas, nor within the immediate vicinity of trail shelters, eating or sleeping establishments, or other areas of public gatherings, except where trails and facilities are designated for horse use.

(f) *Camping.* Quiet shall be maintained in all campground and picnic areas, between the hours of 10:00 p.m. and 6:00 a.m.

R. TAYLOR HOSKINS,
Superintendent,
Shenandoah National Park.

[F.R. Doc. 62-12905; Filed, Dec. 31, 1962;
8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 950]

IRISH POTATOES GROWN IN MAINE

Proposed Expenses and Rate of Assessment

Notice is hereby given that the Secretary of Agriculture is considering the approval of the expenses and rate of assessment, hereinafter set forth, which were recommended by the Maine Potato Marketing Committee, established pursuant to Marketing Agreement No. 122, as amended and Order No. 950, as amended (7 CFR Part 950), regulating the handling of Irish potatoes grown in Maine. This is a regulatory program issued under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Consideration will be given to any data, views, or arguments pertaining thereto which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than 15 days following publication of this notice in the *FEDERAL REGISTER*. The proposals are as follows:

§ 950.210 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred by the Main Potato Marketing Committee, established pursuant to Marketing Agreement No. 122 and this part, both as amended, to enable such committee to perform its functions under provisions of the amended marketing agreement and order during the fiscal period ending August 31, 1963, will amount to \$49,000.00.

(b) The rate of assessment to be paid by each handler pursuant to Marketing Agreement No. 122, and this part, both as

amended, shall be \$1.25 per railroad car, \$1.00 per truckload of 25,000 pounds or over, and \$0.50 (fifty cents) per truckload of less than 25,000 pounds, or the respective equivalent quantities, of potatoes handled by him as the first handler thereof during said fiscal period.

(c) Terms used in this section shall have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 26, 1962.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 62-12911; Filed, Dec. 31, 1962;
8:46 a.m.]

[9 CFR Part 201]

REGULATIONS UNDER PACKERS AND STOCKYARDS ACT

Notice of Proposed Rule Making

Notice is hereby given that, pursuant to the authority contained in section 407(a) of the Packers and Stockyards Act (7 U.S.C. 228(a)), the Agricultural Marketing Service is considering amending § 201.78 of the Regulations Under the Packers and Stockyards Act (9 CFR 201.78), as follows:

Delete from the sixth sentence of § 201.78 the words " * * * for a period of not less than six months," so that such sentence will read as follows: "Scale tickets shall be executed at least in duplicate, one copy being supplied the seller and one copy being retained by the packer."

The Agricultural Marketing Service has formulated and adopted for the guidance of all packers a statement with respect to the periods after which certain of their records may be disposed of (9 CFR 203.4; 27 F.R. 11757). The purpose of this proposed amendment is to make the requirements of § 201.78 consistent with the view expressed in such statement.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendment may do so by filing them with the Director, Packers and Stockyards Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., within 30 days after publication hereof in the *FEDERAL REGISTER*.

Done at Washington, D.C., this 26th day of December 1962.

CLARENCE H. GIRARD,
Acting Deputy Administrator,
Agricultural Marketing Service.

[F.R. Doc. 62-12910; Filed, Dec. 31, 1962;
8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that petitions (FAP 967, 993) have been filed by Nalco Chemical Company, 6216 West 66th Place, Chicago 38, Illinois, and Drew Chemical Corporation, 416 Division Street, Boonton, New Jersey, proposing the issuance of a regulation to provide for the safe use, as boiler water additives, of cobalt sulfate, lignosulfonic acid, monobutyl ether of polyoxyethylene glycol (minimum molecular weight 1,500), monobutyl ether of polyoxypropylene glycol (minimum molecular weight 1,500), polyoxyethylene glycol (minimum molecular weight 1,000), polyoxypropylene glycol (minimum molecular weight 1,000), sodium humate, and sodium metasilicate.

Dated: December 20, 1962.

J. K. KIRK,
Assistant Commissioner of
Food and Drugs.

[F.R. Doc. 62-12902; Filed, Dec. 31, 1962;
8:45 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 709) has been filed by Dr. Kurt Herberts and Company, Schliessfach 44, Wuppertal-Barmen, Federal Republic of Germany, proposing the amendment of the list "Components of Adhesives" in § 121.2520(c)(5) by:

1. Changing the item "1,2,6-Hexanetriol" to read "Hexanetriols."
2. Adding in alphabetical order the new items "Toluene-2,4-diisocyanate" and "Toluene-2,6-diisocyanate."

Dated: December 26, 1962.

J. K. KIRK,
Assistant Commissioner of
Food and Drugs.

[F.R. Doc. 62-12915; Filed, Dec. 31, 1962;
8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 0, 1]

[Docket No. 14864]

INSPECTION OF RECORDS TO PRE-GRANT PROCEDURES, AND TO LOCAL NOTICE OF FILING OR OF DESIGNATION FOR HEARING OF BROADCAST APPLICATIONS

Order Extending Time for Filing Comments and Reply Comments

In the matter of new § 0.418 and amendment of §§ 0.406, 1.359, and 1.362 of the Commission's rules relating to Inspection of Records, to pre-grant procedures, and to local notice of filing or of designation for hearing of broadcast applications; Docket No. 14864.

1. The Commission has before it for consideration a request for extension of time within which to file comments in the above-captioned proceeding filed by the National Association of Broadcasters. Comments are now due on December 28, 1962. Petitioner requests that the date be extended to January 18, 1963.

2. In support of the extension, the NAB states that "broadcasters are attempting to assess the administrative effects on their operations" of the proposal, that broadcasters are now engaged in a detailed examination of their records in order to complete the Commission's questionnaire on political broadcasting, and that, in addition, because of the coincidence of the filing date with the holiday season, it will be difficult for licensees to prepare helpful comments in the prescribed time. The Commission believes that good cause has been shown and will grant the requested extension. We shall also extend the time for filing reply comments to February 4, 1963.

3. Accordingly, it is ordered, This 19th day of December 1962, That the request of the National Association of Broadcasters is granted, and that the time for filing comments in this proceeding is extended from December 28, 1962 to January 18, 1963, and the time for filing reply comments is extended from January 11, 1963, to February 4, 1963.

4. This action is taken pursuant to authority found in sections 4(d), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.241(d)(8) of the Commission's rules.

Released: December 26, 1962.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-12924; Filed, Dec. 31, 1962;
8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 176]

[Ex Parte No. MC-51]

POOLING BY MOTOR COMMON CARRIER OF HOUSEHOLD GOODS

Notice of Proposed Rule Making

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 7th day of December A.D. 1962.

It appearing that this proceeding was instituted by order of the Commission, Division 3, entered June 18, 1958, 23 F.R. 5133, pursuant to section 4(a) of the Administrative Procedure Act and sections 5(1), 12(1), and 204(a)(1) and (6) of the Interstate Commerce Act, for purposes therein stated in lettered paragraphs (a) through (e), inclusive;

It further appearing that in the FEDERAL REGISTER of October 18, 1961, 26 F.R. 9786, in connection with paragraph (e) of the order, there were published, as part of a proposed report served concurrently, four tentative rules prepared by the Bureau of Finance of the Commission;

It further appearing that concurrently with the proposed report and draft of tentative rules, a form of questionnaire was served; that responses to the questionnaire were received from approximately 198 carriers, Part A of which was completed by 13 principal carriers, three of which also completed Part B as agents of other carriers; that carrier agents of six principal carriers filed 185 responses; that statements of no arrangements believed to be within the scope of the questionnaire were received from four carriers; and that approximately 120 carriers withdrew from the proceeding in lieu of responding to the questionnaire;

It further appearing that in response to invitations to comment on the original notice, and on the said report and tentative rules, interested persons have supplied a large amount of pertinent and helpful comment;

And it further appearing that the Commission will recommend legislation to exempt motor carriers of household goods from the provisions of section 5(1); that no affirmative action on the tentative rules, or any of them, is warranted at this time; and that the proceeding should be discontinued:

It is ordered, That the said proceeding be, and it is hereby, discontinued.

And it is further ordered, That notice of discontinuance shall be given by depositing a copy of this order in the Office of the Secretary of the Commission for public inspection, and by filing a copy with the Director, Office of the Federal Register.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 62-12914; Filed, Dec. 31, 1962;
8:46 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circ. 570, 1962 Rev. Supp. No. 15]

COMMONWEALTH INSURANCE COMPANY OF NEW YORK

Termination of Authority to Qualify As Surety on Federal Bonds

DECEMBER 21, 1962.

Notice is hereby given that the Certificate of Authority issued by the Secretary of the Treasury to The Commonwealth Insurance Company of New York, New York, New York, under the provisions of the Act of Congress approved July 30, 1947 (6 U.S.C. 6-13) to qualify as sole surety on recognizances, stipulations, bonds and undertakings permitted or required by the laws of the United States is hereby terminated effective as of midnight December 31, 1962.

The Mercantile Insurance Company of America, a New York corporation, holds a Certificate of Authority from the Secretary of the Treasury as an acceptable surety on bonds in favor of the United States. Pursuant to Agreement of Merger, effective midnight December 31, 1962, approved by the Superintendent of Insurance of the State of New York, November 8, 1962, The Commonwealth Insurance Company of New York, New York, is merged into The Mercantile Insurance Company of America, New York, New York, the surviving company. The Mercantile Insurance Company of America acquires all of the assets and assumes all of the liability of The Commonwealth Insurance Company of New York. A copy of the Agreement of Merger is on file in the Treasury Department, Bureau of Accounts, Surety Bonds Branch, Washington 25, D.C.

No action need be taken by bond approving officers, by reason of the merger, with respect to any bond or other obligations in favor of the United States, or in which the United States has an interest, direct or indirect, issued on or before December 31, 1962, by The Commonwealth Insurance Company of New York pursuant to the Certificate of Authority issued to the Company by the Secretary of the Treasury.

As a result of the merger, an underwriting limitation of \$1,789,000.00 has been established for The Mercantile Insurance Company of America, New York, New York, by the Treasury Department, effective January 1, 1963, under the company's Certificate of Authority to act as an acceptable surety on Federal bonds.

[SEAL]

JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[F.R. Doc. 62-12921; Filed, Dec. 31, 1962; 8:45 a.m.]

[AA 643.3-m]

PORTLAND CEMENT FROM ITALY

Fair Value Determination

DECEMBER 20, 1962.

A complaint was received that portland cement, other than white, nonstaining portland cement from Italy was being sold in the United States at less than fair value within the meaning of the Antidumping Act of 1921.

I hereby determine that portland cement, other than white, nonstaining portland cement from Italy is not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

Statement of reasons. The quantity sold in the home market was sufficient to furnish a basis of comparison for fair value purposes. Since all sales are outright purchase transactions devoid of any relationship, financial or otherwise, comparison was made between purchase price and adjusted home market price for quantities comparable to the quantities sold for export to the United States.

Purchase price was calculated on the basis of the f.o.b. mill unit price for export to the United States. A statutory addition to the price was made for a home market tax which is refunded upon exportation of the cement.

In computing adjusted home market price, deductions were made from the f.o.b. mill unit price for home consumption to allow for a quantity and a cash discount applicable on home market sales. The differential by which the export sales commission exceeds the sales commission in the home market was added to home market price.

Purchase price was found to be not lower than the adjusted home market price.

This determination and the statement of reasons therefor are published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

[SEAL]

JAMES A. REED,
Assistant Secretary of the Treasury.

[F.R. Doc. 62-12922; Filed, Dec. 31, 1962; 8:45 a.m.]

[AA 643.3-a]

PORTLAND CEMENT FROM YUGOSLAVIA

Fair Value Determination

DECEMBER 20, 1962.

A complaint was received that portland cement, other than white, nonstaining portland cement, from Yugoslavia was being sold in the United States at less than fair value within the meaning of the Antidumping Act of 1921.

I hereby determine that portland cement, other than white, nonstaining portland cement, from Yugoslavia is not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

Statement of reasons. The information received disclosed that shipments to the United States were pursuant to arms length transactions. The quantity sold in the home market was adequate to furnish a basis for comparison. Purchase price was compared, accordingly, with the adjusted home market price for fair value purposes.

Purchase price was computed on the basis of the f.o.b. stowed price per metric ton. A selling commission allowed to the importer was deducted from the price and uncollected and rebated taxes were added.

The f.o.b. stowed home market price was constant during the period under consideration. A cash discount was deducted from the price. An allowance was made for quantity discount applicable to quantities equal to those shipped to the United States. An addition was made for the difference between the cost of packing for exportation to the United States and the home market packing cost.

Purchase price was lower than the adjusted home market price. The only shipments in 1961 were imported and appraised, however, prior to receipt of the complaint. There have been no shipments during 1962. The manufacturer has given assurances that there will be no further sales to the United States at less than adjusted home market price.

The amount involved during the period in which the margin existed was not more than insignificant.

This determination and the statement of reasons therefor are published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

[SEAL]

JAMES A. REED,
Assistant Secretary of the Treasury.

[F.R. Doc. 62-12923; Filed, Dec. 31, 1962; 8:45 a.m.]

DEPARTMENT OF COMMERCE

Bureau of International Programs

[File 23-846]

LEOPOLD CHARLES AND CO. LTD. ET AL.

Order Temporarily Denying Export Privileges

In the matter of Leopold Charles and Co., Ltd., also known as Charles Leopold

and Co., Ltd., 27-29 Whitfield Street, London W. 1., England, Mr. Charles Lefton, 27-29 Whitfield Street, London W. 1., England; Mr. P. Dorling, 27-29 Whitfield Street, London W. 1., England, respondents; File 23-846.

The Director, Investigations Staff, Bureau of International Programs, United States Department of Commerce, pursuant to the provisions of § 382.11 of the Export Regulations (Title 15, Chapter III, Subchapter B, Code of Federal Regulations), has applied to the Compliance Commissioner for an order temporarily denying all export privileges to the above named respondents. It was requested that the order remain in effect for a period of ninety days pending continued investigation into the facts and transactions giving rise to the application and the commencement of such proceedings as may be deemed proper under the law against said respondents.

The Compliance Commissioner has reviewed the application and the evidence presented in support thereof and has submitted his report, together with his recommendation that the application be granted and that a temporary denial order be issued for ninety days. The evidence presented shows that the respondent Leopold Charles and Co. Ltd. is a corporation with a place of business in London, England, and that the respondent Charles Lefton is the active director of said company and is the individual in charge of its operations. The respondent P. Dorling is an employee of said company and participated in an illegal transshipment of United States commodities to the Soviet bloc. Upon consideration of the recommendation and the evidence submitted, I find that the evidence reasonably supports the conclusions that the respondents have engaged in obtaining commodities of United States origin and have caused the transshipment to a Soviet bloc destination in violation of the United States Export Control Act and regulations thereunder. I further find that the evidence reasonably supports the conclusion that unless export privileges are temporarily denied, the respondents will continue to obtain goods of United States origin and thereafter cause them to be shipped to destinations in contravention of the United States Export Control Act and regulations. An order temporarily denying export privileges to the respondents is reasonably necessary for the protection of the public interest and national security. Accordingly, it is hereby ordered:

1. The respondents, their successors, agents, and employees are hereby denied all privileges of participating, directly or indirectly, in any manner or capacity, in an exportation of any commodity or technical data from the United States to any foreign destination, including Canada. Without limitation of the generality of the foregoing denials of export privileges, participation in an exportation is deemed to include and prohibit participation by any respondent or related party directly or indirectly in any manner or capacity (a) as a party or as a representative of a party to any validated export license application, or documents to be submitted therewith,

(b) in the preparation or filing of any export license application or of any documents to be submitted therewith, (c) in the obtaining or using of any validated or general export license or other export control document, (d) in the receiving, ordering, buying, selling, using or disposing in any foreign country of any commodities or technical data, in whole or in part exported or to be exported from the United States, and (e) in the storing, financing, forwarding, transporting, or other servicing of such exports from the United States;

2. Such denial of export privileges shall extend not only to the respondents, but also to any successors and to any person, firm, corporation, or business organization with which they now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith;

3. This order shall take effect forthwith and shall remain in effect for a period of ninety days from the date hereof, unless it is hereafter extended, amended, modified, or vacated in accordance with the provisions of the United States Export Regulations;

4. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Programs, shall do any of the following acts, directly or indirectly, in any manner or capacity, on behalf of or in any association with any such respondents or related party, or whereby any such respondent or related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any exportation, re-exportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any such respondent or related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, re-exportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States;

5. A certified copy of this order shall be served upon the respondents;

6. In accordance with the provisions of section 382.11(c) of the Export Regulations, the respondents may move at any time to vacate or modify this temporary denial order by filing an appropriate motion therefor, supported by evidence, with the Compliance Commissioner and may request oral hearing thereon, which, if requested, shall be held before the Compliance Commissioner at Washington, D.C., at the earliest convenient date.

Dated: December 10, 1962.

FORREST D. HOCKERSMITH,
Director,
Office of Export Control.

[F.R. Doc. 62-12903; Filed, Dec. 31, 1962;
8:45 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-174]

PENNSYLVANIA STATE UNIVERSITY

Notice of Issuance of Facility License Amendment

Please take notice that the Atomic Energy Commission has issued Amendment No. 2, set forth below, to Facility License No. R-72. The license authorizes The Pennsylvania State University to possess, but not to operate, the nuclear research reactor facility located at the Curtiss-Wright Nuclear Research Laboratory of The Pennsylvania State University at Quehanna, Pennsylvania. The amendment, as requested by the licensee's application for amendment dated October 25, 1962, extends the term of the license for an additional ten years to December 12, 1972.

The Commission has found that:

(1) Possession of the reactor in accordance with the license as amended will not present undue hazard to the health and safety of the public and will not be inimical to the common defense and security;

(2) The application for amendment complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR;

(3) Prior public notice of proposed issuance of this amendment is not necessary in the public interest since possession of the reactor in accordance with the license, as amended, will not present any substantial change in the hazards to the health and safety of the public from those considered and evaluated in connection with the previously approved possession.

Within fifteen days from the date of publication of this notice in the FEDERAL REGISTER, the licensee may file a request for a hearing, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's "Rules of Practice" (10 CFR Part 2). If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details see the application for license amendment, dated October 25, 1962, by The Pennsylvania State University on file at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Germantown, Md., this 21st day of December 1962.

For the Atomic Energy Commission.

ROBERT H. BRYAN,
Chief, Research and Power Re-
actor Safety Branch, Division
of Licensing and Regulation.

[License No. R-72; Amdt. 2]

License No. R-72, which authorizes The Pennsylvania State University to possess, but not to operate, the nuclear research reactor facility located at the Curtiss-Wright Nuclear Research Laboratory of The Pennsylvania

State University at Quehanna, Pennsylvania, is hereby amended by changing the license expiration date to December 12, 1972.

This amendment is effective as of the date of issuance.

Date of issuance: December 21, 1962.

For the Atomic Energy Commission.

ROBERT H. BRYAN,
Chief, Research and Power Reactor
Safety Branch, Division of Licensing
and Regulation.

[F.R. Doc. 62-12898; Filed, Dec. 31, 1962;
8:45 a.m.]

[Docket No. 50-113]

UNIVERSITY OF ARIZONA

Notice of Issuance of Facility License Amendment

Please take notice that the Atomic Energy Commission has issued, effective as of the date of issuance, Amendment No. 4, set forth below, to Facility License No. R-52. The license authorizes The University of Arizona to operate its TRIGA type nuclear reactor, located in Tucson, Arizona. The amendment authorizes the licensee (1) to replace the one curie polonium-beryllium (Po-Be) start up source with a five curie polonium-beryllium (Po-Be) start up source, and (2) to use up to 2 grams of highly enriched U-235 foils to monitor power and flux distributions, as described in the licensee's application for license amendment dated November 26, 1962.

The Commission has found that:

(1) Operation of the reactor in accordance with the license, as amended, will not present undue hazard to the health and safety of the public and will not be inimical to the common defense and security;

(2) The application for amendment complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR;

(3) Prior public notice of proposed issuance of this amendment is not necessary in the public interest since operation of the reactor in accordance with the license, as amended, will not present any substantial change in the hazards to the health and safety of the public from those considered and evaluated in connection with the previously approved operation.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's Regulation (10 CFR Part 2). If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see (1) a related hazards analysis prepared by the Test and Power

Reactor Safety Branch of the Division of Licensing and Regulation and (2) the licensee's application for license amendment dated November 26, 1962, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of item (1) above may be obtained at the Commission's Public Document Room, or upon request, addressed to the Atomic Energy Commission, Washington, D.C., Attention: Director, Division of Licensing and Regulation.

Dated at Germantown, Md., this 21st day of December 1962.

For the Atomic Energy Commission.

SAUL LEVINE,
Chief, Test and Power Reactor
Safety Branch, Division of
Licensing and Regulation.

[License No. R-52; Amdt. 4]

License No. R-52, as amended, issued to The University of Arizona, is hereby amended in the following respects:

1. In addition to the activities previously authorized by the Commission in License No. R-52, as amended, The University of Arizona is authorized (1) to replace the one curie polonium-beryllium (Po-Be) start up source with a five curie polonium-beryllium (Po-Be) start up source, and (2) to use up to 2 grams of highly enriched U-235 foils to monitor power and flux distributions, as described in its application for license amendment dated November 26, 1962, in the University's TRIGA nuclear reactor located on the campus in Tucson, Arizona.

2. Paragraph 3.D. is revised in its entirety to read as follows:

D. Pursuant to the Act and Title 10, CFR, Chapter I, Part 30, "Licensing of Byproduct Material," to possess but not to separate from the fuel or target material, such byproduct material as may be produced by operation of the reactor, and to possess and use up to 5 curies of polonium as a polonium-beryllium neutron start up source in connection with operation of the reactor.

Operation of the reactor shall be performed in accordance with the procedures and subject to the limitations contained in License No. R-52, as amended, and in the application for license amendment dated November 26, 1962.

This amendment is effective as of the date of issuance.

Date of issuance December 21, 1962.

For the Atomic Energy Commission.

SAUL LEVINE,
Chief, Test and Power Reactor Safety
Branch, Division of Licensing
and Regulation.

[F.R. Doc. 62-12899; Filed, Dec. 31, 1962;
8:45 a.m.]

[Docket No. 50-83]

UNIVERSITY OF FLORIDA

Notice of Issuance of Facility License Amendment

Please take notice that the Atomic Energy Commission has issued, effective as of the date of issuance, Amendment No. 7, set forth below, to Facility License No. R-56. The license authorizes the University of Florida to operate its Argonaut-type graphite moderated and reflected, light water cooled nuclear re-

actor, located in Gainesville, Florida. The amendment authorizes the licensee to: (1) enlarge a beam port extension hole from two inches to three inches in diameter, (2) remove graphite stringers from the moderator and insert boron-loaded ion chambers in their places for experimental purposes, (3) load the UFTR with sufficient additional fuel to overcome the negative reactivity (about 1.05% delta k/k) caused by the insertion of the five boron-loaded ion chambers into the graphite stringer spaces in the graphite moderator, as described in the licensee's application for license amendment dated October 9, 1962, and supplemental letters dated October 26, 1962 and December 13, 1962.

The Commission has found that:

(1) Operation of the reactor in accordance with the license as amended will not present undue hazard to the health and safety of the public and will not be inimical to the common defense and security;

(2) The application for amendment complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR;

(3) Prior public notice of proposed issuance of this amendment is not necessary in the public interest since operation of the reactor in accordance with the license, as amended, will not present any substantial change in the hazards to the health and safety of the public from those considered and evaluated in connection with the previously approved operation.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's Regulation (10 CFR Part 2). If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see (1) a related hazards analysis prepared by the Test & Power Reactor Safety Branch of the Division of Licensing and Regulation and (2) the licensee's application for license amendment dated October 9, 1962 and supplemental letters dated October 26, 1962 and December 13, 1962, all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of item (1) above may be obtained at the Commission's Public Document Room, or upon request, addressed to the Atomic Energy Commission, Washington, D.C., Attention: Director, Division of Licensing and Regulation.

Dated at Germantown, Md., this 21st day of December 1962.

For the Atomic Energy Commission.

SAUL LEVINE,
Chief, Test and Power Reactor
Safety Branch, Division of Li-
censing and Regulation.

[License No. R-56; Amdt. 7]

License No. R-56, as amended, issued to University of Florida, is hereby amended in the following respects:

In addition to the activities previously authorized by the Commission in License No. R-56, as amended, University of Florida is authorized to: (1) enlarge the south beam port extension hole from two inches to three inches in diameter, (2) remove one existing and four proposed vertical graphite stringers from the moderator and insert boron-loaded ion chambers in their places for experimental purposes, and (3) load the UFTR with sufficient additional fuel to overcome the negative reactivity (about 1.05% delta k/k) caused by the insertion of the five boron-loaded ion chambers into graphite stringer spaces in the graphite moderator, as described in the licensee's application for license amendment dated October 9, 1962, and supplemental letters dated October 26, 1962 and December 13, 1962, in the University's UFTR nuclear reactor located at Gainesville, in Alachua County, Florida.

This amendment is effective as of the date of issuance.

Date of issuance: December 21, 1962.

For the Atomic Energy Commission.

SAUL LEVINE,

Chief, Test and Power Reactor Safety
Branch, Division of Licensing and
Regulation.

[F.R. Doc. 62-12900; Filed, Dec. 31, 1962;
8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 14789; FCC 62M-1697]

AVOYELLES BROADCASTING CORP.

Order Continuing Hearing

In re application of Avoyelles Broadcasting Corporation, New Roads, Louisiana, Docket No. 14789, File No. BP-14122; for construction permit.

Pursuant to an informal written request by the applicant, in which the Broadcast Bureau has joined: *It is ordered*, This 21st day of December 1962, that the procedural dates heretofore specified are changed as follows:

Final engineering exhibit to be submitted to Commission staff and Examiner on or before January 24, 1963, in lieu of December 21, 1962.

Any request for availability of witnesses for cross-examination shall be made by the Commission's staff on or before January 31, 1963, in lieu of December 28, 1962.

The hearing presently scheduled for January 11, 1963, is postponed to February 20, 1963, at 10:00 a.m. at the Commission's offices in Washington, D.C.

Released: December 26, 1962.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-12925; Filed, Dec. 31, 1962;
8:45 a.m.]

[Docket No. 14854; FCC 62M-1694]

CHARLES H. HAGGARD AND KENNETH R. ROGERS

Order Continuing Prehearing Conference

In re application of Dr. Charles H. Haggard and Kenneth R. Rogers, Crystal City, Texas, Docket No. 14854, File No. BP-14502; for construction permit.

It is ordered, This 20th day of December 1962, on the Hearing Examiner's own motion, that the prehearing conference presently scheduled herein to be held on January 4, 1963 is continued to January 7, 1963 commencing at 9:00 a.m. in the offices of the Commission at Washington, D.C.

Released: December 26, 1962.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-12926; Filed, Dec. 31, 1962;
8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1490]

E. I. DU PONT DE NEMOURS AND CO.

Notice of Filing of Application for an Order Exempting Proposed Trans- action Between Affiliated Persons

DECEMBER 26, 1962.

Notice is hereby given that E. I. du Pont De Nemours and Company, Wilmington 98, Delaware ("applicant"), a Delaware corporation, has filed an application pursuant to sections 6(c) and 17(b) of the Investment Company Act of 1940 ("Act") for an order exempting the transactions described below from the provisions of section 17(a) of that Act. Applicant proposes to purchase real property from certain of its employees for the purpose of preserving a reservoir site in the White Clay Creek Basin near Newark, Delaware. All interested persons are referred to the application on file with the Commission for a full statement of the representations therein which are summarized below.

Christiana Securities Company ("Christiana"), a registered closed-end investment company owns approximately 29 percent of the outstanding common stock of applicant. Under section 2(a) (9) of the Act, applicant is presumed to be controlled by Christiana and is an affiliated person thereof. Under section 2(a) (3) of the Act, applicant's employees are affiliated persons of an affiliated person.

Applicant has bought and proposes to buy tracts of land owned by about 50 persons in order to preserve a suitable site for construction of a dam and water retention reservoir to assure an adequate

future supply of fresh water for residential and industrial uses in northern Delaware which faces an acute future fresh water shortage. Applicant's headquarters offices, two of its major plant facilities, a sizeable office building for its engineering staff, two large research centers and the homes of most of its employees at these facilities are located in this area.

Engineering studies indicate that approximately 1,400 acres are needed to develop and build the reservoir, including 413 acres owned by applicant. Since certain owners of the basin land will sell only on an "all or none basis", applicant would purchase a total of approximately 1,562 acres in order to acquire the balance of the land needed for the proposed project. About 150 of the acres needed for the reservoir would be purchased from eleven employees at an option price agreed upon with one such employee, Dr. Philip B. Kraus, and at prices still to be determined in respect of the other ten. Applicant also intends to purchase approximately 394 acres from Mr. S. Hallock du Pont, a director of Christiana, after it files an amendment to the instant application in which it will make a separate request that an order be issued by the Securities and Exchange Commission granting an exemption from the provisions of section 17(a) of the Act to permit applicant to acquire said property from S. Hallock du Pont.

Applicant has acquired an option to purchase from Kraus, a chemical engineer in applicant's Engineering Department, 37 acres of land and a flowage easement on 1.5 acres, located in the State of Pennsylvania, at the price of \$75,000. The negotiations leading to the option price of the land were based on a valuation of approximately \$1,000 per acre for the land and approximately \$37,000 for the improvements thereon. The application states that the price was arrived at by negotiation directly with the owner and the property has not been the subject of appraisal by real estate experts other than the experienced personnel of applicant's Real Estate Division. It is represented that the price to be paid for the Kraus property is fair by comparison to the price paid for adjoining property purchased from a non-affiliate.

Applicant also proposes to purchase approximately 113 acres, in the aggregate, from ten other employees at prices to be determined. It is represented that actual surveys may indicate that fee title to some of the foregoing properties may not have to be acquired and that the acquisition of flowage easements (in "free board" area, above pool elevation) over all or part thereof will suffice. It is also possible that the property of other employees of applicant may become involved in the course of acquiring the reservoir site.

Section 17(a) of the Act prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, from selling to or purchas-

ing from such registered investment company or any company controlled by such registered investment company, any security or other property, subject to certain exceptions, unless the Commission upon application pursuant to section 17(b) grants an exemption from the provision of section 17(a), after finding that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, that the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the Act, and is consistent with the general purposes of the Act.

Section 6(c) of the Act authorizes the Commission, by order upon application, to exempt, conditionally or unconditionally, any transaction or any class of transactions from any provisions of the Act or of any rule or regulation thereunder, if and to the extent that the Commission finds such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Since the transactions between applicant and employees other than Kraus which would be exempted by the requested order are not specific proposed transactions but a class of future transactions meeting the conditions described in the application and summarized herein, applicant has included in its application a request that, in addition to an exemption pursuant to section 17(b) of the Act, the Commission grant an exemption under section 6(c) of the Act, subject to the following terms and conditions to which it has consented:

(1) Affiliated persons of applicant and affiliates thereof will not participate in any such proposed transactions which would otherwise be subject to Section 17(a) without applicant's giving at least fifteen days advance notice describing the transaction and terms thereof in detail similar to that provided herein as to the transaction and terms thereof with applicant's employee, Philip B. Kraus, to the Commission of any such proposed future transaction, subject however, to the right of acceleration of such notice period in any particular case and

(2) If, upon the receipt of any notice of such proposed transaction under condition (1) above, the Commission determines that a substantial question exists as to whether the continued exemption from the provisions of section 17(a) for such transaction is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, the

Commission shall give notice thereof to applicant, whereupon, the exemption from the provisions of section 17(a) of the Act for such proposed transaction shall terminate.

Notice is further given that any interested person may, not later than January 17, 1963, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicant. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule O-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 62-12906; Filed, Dec. 31, 1962;
8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Rev. S.O. 562, Taylor's I.C.C. Order 136,
Amdt. 10]

RUTLAND RAILROAD CORP.

Rerouting or Diversion of Traffic

Upon further consideration of Taylor's I.C.C. Order No. 136 (Rutland Railroad Corporation) and good cause appearing therefor:

It is ordered, That:

Taylor's I.C.C. Order No. 136 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) Expiration date: This order shall expire at 11:59 p.m., March 31, 1963, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this amendment shall become effective at 11:59 p.m.,

December 31, 1962, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement, and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 26, 1962.

INTERSTATE COMMERCE

COMMISSION,

[SEAL]

CHARLES W. TAYLOR,

Agent.

[F.R. Doc. 62-12913; Filed, Dec. 31, 1962;
8:46 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

DECEMBER 27, 1962.

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. 38088: *Chemicals from Freeport, Tex., to Chicago, Ill.* Filed by Southwestern Freight Bureau, Agent (No. B-8317), for interested rail carriers. Rates on acetone, butyl acetate, denatured alcohol, methanol (methyl alcohol), methyl acetone, vinyl acetate, lacquer solvent, and mixture of butyl and isobutyl alcohol, in tank-car loads, from Freeport, Tex., to Chicago, Ill. (applicable only for deliveries on railroad tracks serving the Lake River Terminals at Crawford, Ill., or Union Carbide Chemicals Co., at Whiting, Ind.).

Grounds for relief: Market competition.

Tariff: Supplement 260 to Southwestern Freight Bureau tariff I.C.C. 4064.

FSA No. 38089: *Petroleum and petroleum products to points in Minnesota.* Filed by Trans-Continental Freight Bureau, Agent (No. 395), for interested rail carriers. Rates on petroleum and petroleum products, in tank-car loads, from Billings, East Billings, Great Falls and Laurel, Mont., to Glenwood Jct., Golden Valley-New Hope and Golden Valley-Plymouth, Minn.

Grounds for relief: Market competition.

Tariff: Supplement 83 to Trans-Continental Freight Bureau tariff I.C.C. 1644.

By the Commission.

[SEAL]

HAROLD D. McCoy,
Secretary.

[F.R. Doc. 62-12904; Filed, Dec. 31, 1962;
8:46 a.m.]

