PART I

# FEDERAL REGISTER

VOLUME 13 NUMBER 255

Washington, Friday, December 31, 1948

## TITLE 6—AGRICULTURAL CREDIT

### Chapter IV—Production and Marketing Administration and Commodity Credit Corporation, Department of Agriculture

[Supp. Announcement 2]

PART 507—COTTON

SUPPLEMENTAL ANNOUNCEMENT TO TERMS AND CONDITIONS OF COTTON SALES FOR EXPORT PROGRAM

The Terms and Conditions of Cotton Sales for Export Program as revised June 2, 1948 (13 F. R. 2946), is hereby amended as to all export sales of which notice is received after 3:00 p. m., e. s. t., December 27, 1948, as follows:

(1) Sections 507.1 and 507.13 (d) are amended by substituting the words "New Orleans PMA Commodity Office" for the words "New Orleans CCC Office, Production and Marketing Administration."

(2) Sections 507.2 (d), 507.4 (g) and 507.6 (a) and (d) are amended by substituting the date "January 1, 1950" for the date "January 1, 1949."

(3) Section 507.2 (d) is amended by substituting the date "March 31, 1950" for the date "March 31, 1949."

(Sec. 32, 49 Stat. 774, as amended; 7 U. S. C. 612c)

Dated this 27th day of December 1948.

[SEAL] RALPH S. TRIGG,
*Authorized Representative of the Secretary of Agriculture.*

[F. R. Doc. 48-11467; Filed, Dec. 30, 1948; 8:55 a. m.]

## TITLE 7—AGRICULTURE

### Chapter I—Production and Marketing Administration (Standards, Inspections, Marketing Practices)

PART 28—COTTON STANDARDS

MISCELLANEOUS AMENDMENTS

Pursuant to the provisions of the United States Cotton Standards Act (42 Stat. 1517; 7 U. S. C. 51 et seq.) and the Act of Congress of March 3, 1927, as amended (44 Stat. 1372, as amended; 7 U. S. C. 471 et seq.), the regulations thereunder (7 CFR and Supps. Part 28) are hereby amended in the manner hereinafter set forth to be and become effective upon publication in the FEDERAL REGISTER. These amendments are designed to reflect the current organizational set-up of the Department and the authority of the Administrator, Production and Marketing Administration, with respect to these regulations, and to bring up to date the list of practical forms of official cotton standards that are available.

1. Revise the provisions in paragraph (a) of § 28.2 *Terms defined* to read as follows:

(a) *The act.* The United States Cotton Standards Act, approved March 4, 1923 (42 Stat. 1517; 7 U. S. C. 51–65), with such amendments as may be made from time to time.

2. Revise the provisions in paragraph (f) of § 28.2 to read as follows:

(f) The Administrator of the Production and Marketing Administration (hereinafter referred to as "the Administration") of the Department of Agriculture or any officer or employee of the Administration to whom the Administrator has heretofore lawfully delegated, or to whom the Administrator may hereafter lawfully delegate, the authority to act in his stead.

3. Delete the word "bureau" wherever it appears in this part and substitute therefor the word "agency."

(Continued on p. 9291)

*This issue is divided into two parts with separate tables of contents and codification guides. Part I consists of documents submitted in regular course for publication on December 31. Part II consists of documents on which a waiver of time requirements was made in order to permit inclusion in the Code of Federal Regulations, 1949 Edition.*

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FEDERAL REGISTER

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## CODIFICATION GUIDE

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

## CODIFICATION GUIDE—Con.



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4. Delete the terms "Chief of the Bureau," "Chief of the Bureau of Agricultural Economics," and "Director" wherever they appear in this part and substitute therefor the word "Administrator."

5. Delete the terms "Bureau" and "Office of Marketing Services" wherever they appear in this part and substitute therefor the word "Administration."

6. Revise the provisions in § 28.115 *Practical forms of official cotton standards* to read as follows:

§ 28.115 *Practical forms of official cotton standards.* (a) Practical forms of

any of the official cotton standards of the United States enumerated in this paragraph, each certified under the seal of the United States Department of Agriculture and under the signature of the Secretary, thereto affixed by himself or by some other official or employee of the Department thereunto duly authorized by him, and in the case of the standards for grade and color accompanied by photographs representing the cotton in such practical forms on the date of certification, will be furnished to any person requesting the same, upon prepayment of the cost thereof as determined by the Secretary, subject to the other conditions of this section.

Standards for grades of American upland cotton as follows:

No. 2, or Strict Good Middling.
No. 3, or Good Middling.
No. 4, or Strict Middling.
No. 5, or Middling.
No. 6, or Strict Low Middling.
No. 7, or Low Middling.
No. 8, or Strict Good Ordinary.
No. 9, or Good Ordinary.
No. 3, Tinged, or Good Middling Tinged.
No. 4, Tinged, or Strict Middling Tinged.
No. 5, Tinged, or Middling Tinged.
No. 6, Tinged, or Strict Low Middling Tinged.
No. 7, Tinged, or Low Middling Tinged.

Standards for length of staple, as follows:

AMERICAN UPLAND COTTON

| | |
|---|---|
| ¾ inch. | 1 1/16 inches. |
| 13/16 inch. | 1 5/32 inches. |
| ⅞ inch. | 1 3/16 inches. |
| 29/32 inch. | 1 7/32 inches. |
| 15/16 inch. | 1¼ inches. |
| 31/32 inch. | 1 9/32 inches. |
| 1 inch. | 1 5/16 inches. |
| 1 1/32 inches. | 1 11/32 inches. |
| 1 1/16 inches. | 1⅜ inches. |
| 1 3/32 inches. | 1½ inches. |

AMERICAN-EGYPTIAN COTTON

| | |
|---|---|
| 1⅜ inches. | 1 9/16 inches. |
| 1 7/16 inches. | 1⅝ inches. |
| 1½ inches. | 1¾ inches. |

Tentative standards for preparation of American upland long-staple cotton:

Strict Middling A Preparation.
Strict Middling B Preparation.
Strict Middling C Preparation.
Middling A Preparation.
Middling B Preparation.
Middling C Preparation.
Strict Low Middling A Preparation.
Strict Low Middling B Preparation.
Strict Low Middling C Preparation.

Standards for grades of American-Egyptian Pima cotton:

Grade No. 1.
Grade No. 1½.
Grade No. 2.
Grade No. 2½.
Grade No. 3.
Grade No. 3½.
Grade No. 4.
Grade No. 4½.
Grade No. 5.

Standards for grades of American-Egyptian SXP cotton:

Grade No. 1.
Grade No. 1½.
Grade No. 2.
Grade No. 2½.
Grade No. 3.
Grade No. 3½.
Grade No. 4.
Grade No. 4½.
Grade No. 5.

Standards for grades of Sea Island cotton, as follows:

Grade No. 1.
Grade No. 2.
Grade No. 3.
Grade No. 4.
Grade No. 5.
Grade No. 6.

Standards for lengths of staple of Sea Island cotton, as follows:

| | |
|---|---|
| 1½ inches. | 1⅝ inches. |
| 1 9/16 inches. | 1¾ inches. |

(b) Each applicant for practical forms of the official cotton standards shall be upon a blank furnished or approved by the Administration, shall be signed by the applicant, and shall be accompanied by certified check, draft, postoffice money order, or express money order, payable to the "Treasurer of the United States," in an amount sufficient to cover the cost of the forms requested, and shall incorporate the following conditions:

(1) That no practical form of any of the official cotton standards or of the tentative standards for the preparation of long-staple cotton shall be considered or used as representing such standards after the date of its cancelation in accordance with this section or in any event after the expiration of 18 months following the date of its certification: *Provided*, That sets of practical forms stored, protected, and preserved in accordance with certain agreements for the adoption of universal standards may be used for such periods as may be prescribed in such agreements.

(2) That said practical forms and the protographs accompanying them shall be subject to inspection on any business day, between the hours of 9 a. m. and 4 p. m., by the Secretary or by an officer or agent of the Department of Agriculture authorized by the Administrator.

(3) That the signature of the Secretary certifying to any practical form, or any photograph of any type or sample of said practical form accompanying the same, or both, may be canceled if it be found, upon such inspection, either that any of said forms for any reason misrepresents the official cotton standards or that any such photograph has been altered or mutilated.

7. In § 28.404 *Sampling, analysis, and certification of samples and grades* delete the words "Director of Marketing Services, War Food Administration," and substitute therefor the word "Administrator."

8. Revise paragraphs (b) and (c) of § 28.901 *Definitions* to read as follows:

(b) "Administrator" means the Administrator of the Production and Marketing Administration of the United States Department of Agriculture, or any officer or employee of the Administration to whom the Administrator has heretofore lawfully delegated, or to whom the Administrator may hereafter lawfully delegate, the authority to act in his stead.

(c) "Administration" means the Production and Marketing Administration of the Department of Agriculture.

(42 Stat. 1517, 44 Stat. 1372; 7 U. S. C. 51 et seq., 471 et seq.)

Done at Washington, D. C., this 28th day of December 1948.

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

[F. R. Doc. 48-11469; Filed, Dec. 30, 1948; 8:55 a. m.]

## Chapter VII—Production and Marketing Administration (Agricultural Adjustment)

[Tobacco 13 (1949) Part 1, Supplement 1]

### PART 725—BURLEY AND FLUE-CURED TOBACCO

#### MARKETING QUOTA REGULATIONS FOR 1949-50 MARKETING YEAR

The Marketing Quota Regulations, Burley and Flue-cured Tobacco, 1949-50 Marketing Year, are amended by adding the following new section:

§ 725.28 *Application for review.* Any producer who is dissatisfied with the farm acreage allotment and marketing quota established for his farm, may, within fifteen days after mailing of the official notice of farm acreage allotment and marketing quota, file application with the county committee to have such allotment reviewed by a review committee. The procedures governing the review of farm acreage allotments and marketing quotas are contained in regulations issued by the Secretary (7 CFR 711) which are available at the office of the county committee. (52 Stat. 38, 47, 63, 66; 53 Stat. 1261; 54 Stat. 392; 56 Stat. 51; 57 Stat. 387; 58 Stat. 136; 60 Stat. 21; 7 U. S. C. 1301 (b), 1313, 1375, 1363)

Done at Washington, D. C., this 28th day of December 1948. Witness my hand and the seal of the Department of Agriculture.

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

[F. R. Doc. 48-11486; Filed, Dec. 30, 1948; 8:54 a. m.]

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[Tobacco 12 (1949) Part I, Supplement 1]

### PART 726—FIRE-CURED AND DARK AIR-CURED TOBACCO

#### MARKETING QUOTA REGULATIONS FOR 1949-50 MARKETING YEAR

The Marketing Quota Regulations, Fire-cured and Dark Air-cured Tobacco, 1949-50 Marketing Year, are amended by adding the following new section:

§ 726.28 *Application for review.* Any producer who is dissatisfied with the farm acreage allotment and marketing quota established for his farm, may, within fifteen days after mailing of the official notice of farm acreage allotment and marketing quota, file application with the county committee to have such allotment reviewed by a review committee. The procedures governing the review of farm acreage allotments and marketing quotas are contained in regulations issued by the Secretary (7 CFR 711) which are available at the office of the county committee. (52 Stat. 38, 47, 63, 66; 53 Stat. 1261; 54 Stat. 392; 56 Stat. 51; 57 Stat. 387; 58 Stat. 136; 60 Stat. 21; 7 U. S. C. 1301 (b), 1313, 1375, 1363)

Done at Washington, D. C. this 28th day of December 1948. Witness my hand

and the seal of the Department of Agriculture.

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

[F. R. Doc. 48-11466; Filed, Dec. 30, 1948; 8:54 a. m.]

## Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders)

### PART 904—MILK IN THE GREATER BOSTON, MASS., MARKETING AREA

#### ORDER AMENDING ORDER, AS AMENDED, REGULATING HANDLING

§ 904.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary to and in addition to the findings and determinations made in connection with the issuance of this order and of each of the previously issued amendments thereto; 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 Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure, as amended, governing the formation of marketing agreements and orders (7 CFR, Supps. 900.1 et seq.) public hearings were held upon certain proposed amendments to the tentatively approved marketing agreement and to the order, as amended, regulating the handling of milk in the Greater Boston, Massachusetts, marketing area. Upon the basis of the evidence introduced at such hearings and the record thereof, it is found that:

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

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order, as amended and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quality of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which hearings have been held.

(b) *Additional findings.* (1) It is hereby found that a pro rata assessment on handlers at a rate not to exceed 3 cents per hundredweight with respect to all receipts by handlers from producers and receipts of outside milk during the month will provide the funds necessary for the maintenance and functions of the market administrator in the administration of this order and such assessment is approved.

(2) It is necessary to make the present amendments to the said order, as amended, effective not later than January 1, 1949 to reflect current marketing conditions. Any further delay in the effective date of this order, as amended, and as hereby further amended, will seriously disrupt the orderly marketing of milk for the Greater Boston, Massachusetts, marketing area. The changes effected by this order, amending the order, as amended, do not require of persons affected substantial or extensive preparation prior to the effective date. In view of the foregoing, it is impracticable, unnecessary, and contrary to the public interest to delay the effective date of this order for 30 days after its publication (sec. 4 (c), Administrative Procedure Act, Pub. Law 404, 79th Cong., 60 Stat. 237).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the milk covered by this order, amending the order, as amended, which is marketed within the Greater Boston, Massachusetts, marketing area) of more than 50 percent of the milk which is marketed within the said marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the Greater Boston, Massachusetts, marketing area, and it is hereby further determined that:

(1) The refusal of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of the order amending the order, as amended, is the only practicable means pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the Greater Boston, Massachusetts, marketing area;

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers, who during the determined representative period (August 1948) were engaged in the production of milk for sale in the Greater Boston, Massachusetts, marketing area.

*Order relative to handling.* It is therefore ordered that on and after the effective date hereof, the handling of milk in the Greater Boston, Massachusetts, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and the aforesaid order, as amended, is hereby further amended as follows:

1. Delete all provisions of the order relating to "Segregated Dairy Farmers" in the following manner:

a. Delete § 904.1 (b) (5).

b. Renumber the present subparagraph (6) of § 904.1 (b) as (5), and delete therefrom the phrase "except a segregated dairy farmer."

c. Renumber the present subparagraph (7) of § 904.1 (b) as (6), and delete therefrom the phrase "except a segregated dairy farmer."

d. Renumber the present subparagraphs (8) through (13) of § 904.1 (b) as (7) through (12), respectively, and in the present subparagraph (11) delete the closing phrase "or segregated dairy farmers."

e. In § 904.4 (d) (1) delete the phrase "his receipts from segregated dairy farmers and."

2. In § 904.4 (a) (1) delete the words "section 16" and substitute therefor the words "sections 16C and 16G."

3. In § 904.6 (f) change the period at the end of the sentence to a comma, and add the following: "and the quantities of milk and milk products on hand at the end of the month."

4. Delete § 904.7 (b) and substitute the following:

(b) *Class II prices.* For Class II milk received from producers, each pool handler shall pay, in the manner set forth in § 904.9 and subject to the differentials and adjustments applicable pursuant to this section, not less than the price per hundredweight determined for each month pursuant to this paragraph.

(1) Subject to paragraph (d) (3) of this section, subtract 52.5 cents from the weighted average price per 40-quart can of 40 percent bottling quality cream, f. o. b. Boston, as reported by the United States Department of Agriculture for the month during which such milk is received, and divide the remainder by 33.48.

(2) For any month for which no cream price as described in subparagraph (1) of this paragraph is reported, multiply by 1.4 the average price reported for such month by the United States Department of Agriculture for U. S. Grade A (U. S. 92-score) butter at wholesale in the Chicago market, and subject to paragraph (d) (4) of this section, subtract 1.57 cents from the result.

(3) Multiply by 3.7 the amount determined pursuant to subparagraph (1) or (2) of this paragraph, whichever is applicable.

(4) Using the midpoint in any range as one price, compute the average of the prices per pound of roller process nonfat dry milk solids suitable for human consumption, in barrels, in carlots, as published during the month by the United States Department of Agriculture for New York City, subtract one-half cent, and multiply the remainder by 7.5.

(5) Add the results obtained in subparagraphs (3) and (4) of this paragraph, and from the sum subtract the amount shown below for the applicable month. The result is the Class II price per hundredweight for milk received from producers at plants located in the 201–210 railroad freight mileage zone.

| Month: | Amount (cents) |
|---|---|
| January and February | 57.5 |
| March and April | 69.5 |
| May and June | 75.5 |
| July | 69.5 |
| August and September | 63.5 |
| October, November, and December | 57.5 |

5. Delete § 904.7 (c) and substitute the following:

(c) *Zone price differentials.* The minimum prices determined pursuant to paragraphs (a) and (b) of this section shall be subject to differentials based upon the zone location of the plant at which the milk was received from producers. For each country plant, the zone shall be determined in accordance with the railroad freight mileage distance to Boston from the railroad shipping point for such plant. Each city plant, regardless of such railroad freight mileage distance, shall be considered to be in the "City Plant" zone. The applicable zone differentials shall be those set forth in the following table, as adjusted pursuant to the provisions of paragraph (d) of this section.

DIFFERENTIALS FOR DETERMINATION OF ZONE PRICES

| A Zone (miles) | B Class I price differentials | C Class II price differentials |
|---|---|---|
| | *Cents per cwt.* | *Cents per cwt.* |
| City plant | +52.0 | +38.1 |
| 41–50 | +14.5 | +4.2 |
| 51–60 | +13.5 | +4.0 |
| 61–70 | +13.0 | +3.7 |
| 71–80 | +11.5 | +3.5 |
| 81–90 | +11.0 | +3.2 |
| 91–100 | +10.5 | +3.0 |
| 101–110 | +10.5 | +2.9 |
| 111–120 | +9.0 | +2.6 |
| 121–130 | +9.0 | +2.4 |
| 131–140 | +8.0 | +2.1 |
| 141–150 | +5.5 | +1.6 |
| 151–160 | +4.0 | +1.3 |
| 161–170 | +4.0 | +1.2 |
| 171–180 | +1.5 | +.6 |
| 181–190 | +1.5 | +.4 |
| 191–200 | 0 | +.1 |
| 201–210 | (1) | (1) |
| 211–220 | −4.0 | −.6 |
| 221–230 | −4.5 | −.7 |
| 231–240 | −5.5 | −.9 |
| 241–250 | −5.5 | −.9 |
| 251–260 | −6.5 | −1.2 |
| 261–270 | −7.0 | −1.3 |
| 271–280 | −7.5 | −1.5 |
| 281–290 | −8.5 | −1.6 |
| 291–300 | −9.5 | −1.8 |
| 301–310 | −13.0 | −2.3 |
| 311–320 | −13.0 | −2.4 |
| 321–330 | −14.0 | −2.5 |
| 331–340 | −14.0 | −2.8 |
| 341–350 | −15.0 | −2.8 |
| 351–360 | −15.0 | −3.0 |
| 361–370 | −15.0 | −3.1 |
| 371–380 | −15.5 | −3.3 |
| 381–390 | −15.5 | −3.4 |
| 391 and over | −15.5 | −3.5 |

[1] No differential.

6. Renumber § 904.7 (d) as § 904.7 (e) and insert the following:

(d) *Automatic changes in zone price differentials and other price factors.* In case the rail tariff for the transportation of milk in carlots in tank cars or for the transportation of cream in 40-quart cans in carlots of 100–199 cans, as published in New England Joint Tariff—M No. 5 and supplements thereto or revisions thereof, is increased or decreased, the zone price differentials set forth in the table in paragraph (c) of this section, and other price factors set forth in paragraph (b) of this section and in § 904.9 (d), shall be correspondingly increased or decreased in the manner and to the extent provided in this paragraph. Such adjustments shall be effective beginning with the first complete month in which the changes in rail tariffs apply. For the purpose of this paragraph, it shall be considered that the rail tariff applicable to city plants is zero.

(1) If such rail tariff on milk is changed, the differentials set forth in Column B of the table and the city plant differential in Column C shall be adjusted to the extent of any change in the difference between the rail tariff for mileage distances of 201–210 miles and for the other applicable distances. Such adjustments shall be made to the nearest one-half cent per hundredweight in Column B, and to the nearest one-tenth cent per hundredweight in Column C.

(2) If such rail tariff on cream is changed, the country plant zone differentials set forth in Column C of the table shall be adjusted to the extent of any change in the difference between the rail tariff for mileage distances of 201–210 miles and for the other applicable distances, divided by 9.05. Such adjustments shall be made to the nearest one-tenth cent per hundredweight.

(3) If such rail tariff on cream is changed, the rail tariff rate on cream for mileage distances of 201–210 miles times 1.03 and adjusted to the nearest one-half cent shall be used in place of 52.5 cents specified in paragraph (b) (1) of this section and in § 904.9 (d) (1).

(4) If such rail tariff on cream is changed, the amount computed pursuant to subparagraph (3) of this paragraph divided by 33.48 shall be used in place of 1.57 cents specified in paragraph (b) (2) of this section and in § 904.9 (d) (2).

7. In § 904.7 (e) as renumbered delete subparagraph (2) and substitute the following:

(2) Deduct 8.4 cents from the value determined pursuant to paragraph (b) (1) or (b) (2) of this section, whichever is applicable. Subtract from the remainder the amount determined pursuant to subparagraph (1) of this paragraph. The result is the butter and cheese differential.

8. Renumber the present paragraphs (e) through (g) of § 904.7 as (f) through (h), respectively.

9. In § 904.8 (a) (3) change the reference from "§ 904.7 (d)" to "§ 904.7 (e)."

10. In § 904.9 (c) delete the words "pursuant to subparagraph (2) of paragraph (b)," and substitute therefor the words "pursuant to paragraph (b) (2) or (g)."

11. Delete § 904.9 (d) and substitute the following:

(d) *Butterfat differential.* In making the payments to each producer for milk received from him, each pool handler shall add for each one-tenth of 1 percent average butterfat content above 3.7 percent, or deduct for each one-tenth of 1 percent average butterfat content below 3.7 percent, an amount per hundredweight calculated by the market administrator in the following manner:

(1) Subject to § 904.7 (d) (3), subtract 52.5 cents from the weighted average price per 40-quart can of 40 percent bottling quality cream, f. o. b. Boston, as reported by the United States Department of Agriculture for the period between the 16th day of the preceding month and the 15th day inclusive of the month during which such milk is delivered, and divide the remainder by 334.8.

(2) If the cream price described in subparagraph (1) of this paragraph is not reported for such period, multiply by 1.4 the average price reported for that period by the United States Department of Agriculture for U. S. Grade A (U. S. 92-score) butter at wholesale in the Chicago market, and subject to § 904.7 (d) (4) subtract 1.57 cents from the result and divide the remainder by 10.

12. In § 904.9 (e), after the words "§ 904.7 (c)" add the words "as adjusted by § 904.7 (d)."

13. In § 904.11 delete the figures "2.5" and substitute therefor the figure "3."

(48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; sec. 102, Reorg. Plan 1 of 1947, 12 F. R. 4534)

Issued at Washington, D. C., this 28th day of December 1948 to be effective on and after the 1st day of January 1949.

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

[F. R. Doc. 48–11462; Filed, Dec. 30, 1948; 8:53 a. m.]

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## PART 961—MILK IN THE PHILADELPHIA, PENNSYLVANIA, MARKETING AREA

### ORDER, AMENDING ORDER, AS AMENDED, REGULATING HANDLING

§ 961.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary to and in addition to the findings and determinations made in connection with the issuance of this order and of each of the previously issued amendments thereto; 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 Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR, Supps. 900.1 et seq.), a public hearing was held upon a proposed amendment to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Philadelphia, Pennsylvania, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order, as amended and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended and as hereby further amended, regulates the handling of milk in the same manner and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which hearings have been held.

(b) *Additional findings.* It is necessary to make effective promptly the present amendment to the said order, as amended, to reflect current marketing conditions, and to insure the production of an adequate future supply of milk. Any delay beyond January 1, 1949, in the effective date of this order, as amended and as hereby further amended, will seriously threaten the supply of milk for the Philadelphia, Pennsylvania, marketing area and will disrupt orderly marketing. The changes effected by this order, amending the order, as amended, do not require substantial or extensive preparation by persons affected prior to the effective date. The time intervening between the date of issuance of this amending order and its effective date affords persons affected a reasonable time to prepare for its effective date. In view of the foregoing, it is impracticable, unnecessary, and contrary to the public interest to delay the effective date of this amending order for 30 days after its publication. (Sec. 4 (c), Administrative Procedure Act, Pub. Law 404, 79th Cong., 60 Stat. 237)

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the milk covered by this order, as amended, and as hereby further amended) of more than 50 percent of the volume of milk covered by the aforesaid order, as amended and as hereby further amended, which is marketed within the the Philadelphia, Pennsylvania, marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area; and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order, further amending the said order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order, further amending the said order, as amended, is approved or favored by at least two-thirds of the producers who, during October 1948 (said month having been determined to be a representative period), were engaged in the production of milk for sale in the said marketing area.

*Order relative to handling.* It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Philadelphia, Pennsylvania, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and the aforesaid order, as amended, is hereby further amended as follows:

In § 961.4 (a) (1) delete the proviso *"And provided further,* That the price shall be at least $5.90 for each of the months of August and September 1948, and at least $6.30 for each of the months of October, November and December 1948" and substitute, *"And provided further,* That the price shall be at least $5.90 per hundredweight for each of the months of January, February and March 1949, and at least $5.50 per hundredweight for each of the months of April, May and June 1949."

(48 Stat. 31, 670, 675; 49 Stat. 750, 50 Stat. 246; 7 U. S. C. 601 et seq.; sec. 102, Reorg. Plan 1 of 1947, 12 F. R. 4534)

Issued at Washington, D. C., this 28th day of December 1948, to be effective on and after the first day of January 1949.

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

[F. R. Doc. 48-11464; Filed, Dec. 30, 1948; 8:53 a. m.]

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## PART 974—MILK IN THE COLUMBUS, OHIO, MARKETING AREA

### ORDER AMENDING ORDER, AS AMENDED, REGULATING HANDLING

§ 974.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary to and in addition to the findings and determinations made in connection with the issuance of this order and of each of the previously issued amendments thereto; 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 Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR, Supps., 900.1 et seq.; 12 F. R. 1159, 4904), a public hearing was held upon certain proposed amendments to the tentatively approved marketing agreement and to the order, as amended, regulating the handling of milk in the Columbus, Ohio, milk marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8e of the act are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for such milk, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which hearings have been held.

(b) *Additional findings.* It is necessary to make effective promptly the present amendments to the said order, as amended, to reflect current marketing conditions, and to insure the production of an adequate supply of milk. Any further delay in the effective date of this order, as amended, and as hereby further amended, will seriously threaten the supply of milk for the Columbus, Ohio, marketing area and will disrupt orderly marketing. The changes effected by this order, amending the order, as amended, do not require of persons affected substantial or extensive preparation prior to the effective date. In view of the foregoing, it is impracticable, unnecessary and contrary to the public interest to delay the effective date of this order for 30 days after its publication (Sec. 4 (c), Administrative Procedure Act, Pub. Law 404, 79th Cong., 60 Stat. 237).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the milk covered by this order, as amended) of more than 50 percent of the volume of milk covered by the aforesaid order, as amended and as hereby further amended, which is marketed within the Columbus, Ohio, marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area; and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said marketing agreement

tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order, further amending the said order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order further amending the said order, as amended, is approved or favored by at least two-thirds of the producers who, during September 1948 (said month having been determined to be a representative period) were engaged in the production of milk for sale in the said marketing area.

*Order relative to handling.* It is therefore ordered, That on and after the effective date hereof the handling of milk in the Columbus, Ohio, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and the aforesaid order, as amended, is hereby further amended as follows:

1. Delete from § 974.5 (b) the second proviso contained therein and substitute therefor the following: "*And provided further,* That from the effective date of this amendment through January, 1949, the prices per hundredweight for skim milk and butterfat in Class I milk shall not be less than $1.301 and $96.99, respectively, and in Class II milk not less than $1.231 and $91.78, respectively; and for February, 1949, such prices for skim milk and butterfat in Class I milk shall not be less than $1.24 and $92.40, respectively, and in Class II milk not less than $1.17 and $87.19, respectively."

(48 Stat. 31, 670, 675; 49 Stat. 750; 50 Stat. 246; 7 U. S. C. 601 et seq.; sec. 102, Reorg. Plan 1 of 1947; 12 F. R. 4534)

Issued at Washington, D. C. this 28th day of December, 1948, to be effective January 1, 1949.

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

[F. R. Doc. 48-11465; Filed, Dec. 30, 1948; 8:54 a. m.]

# TITLE 8—ALIENS AND NATIONALITY

## Chapter I—Immigration and Naturalization Service, Department of Justice

### Subchapter B—Immigration Regulations

### PART 125—STUDENTS

QUALIFICATIONS NECESSARY FOR SCHOOLS, COLLEGES, ACADEMIES, SEMINARIES, OR UNIVERSITIES TO BE APPROVED AS INSTITUTIONS OF LEARNING FOR IMMIGRANT STUDENTS

DECEMBER 3, 1948.

Reference is made to the notice of proposed rule making which was published in the FEDERAL REGISTER of September 21, 1948 (13 F. R. 5494), pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) and in which there were stated in full the terms of a proposed amendment of the rule (8 CFR 125.16) relating to the qualifications necessary for schools, colleges, academies, seminaries, or universities to be approved as institutions of learning for immigrant students. Representations which have been received concerning the proposal have been considered. The rule as stated below is hereby adopted. The provisions of the adopted rule are the same as those stated in the notice of proposed rule making except that as a result of representations received, a category of schools, colleges, academies, seminaries, or universities which may be approved as institutions of learning for immigrant students was added and is identified in the adopted rule as "(2)".

Section 125.16, *Schools; petition for approval,* Chapter I, Title 8 of the Code of Federal Regulations, is amended by deleting the last sentence and inserting in its stead the following two sentences: "If the Attorney General is satisfied that such school, college, academy, seminary, or university has been established for at least two years immediately preceding the filing of the petition herein required; that it is a bona fide institution of learning; that it possesses the necessary facilities and is otherwise qualified for the instruction of immigrant students in recognized courses in the field of secondary education and qualifies graduates for acceptance to accredited colleges or institutions; and in the field of higher education that it possesses the necessary facilities and is otherwise qualified for the instruction of immigrant students and (1) confers upon graduates recognized bachelor, master, doctor, or professional and divinity degrees, or (2) does not confer such degrees but its academic credits are recognized by and transferable to an approved school, college, academy, seminary, or university which does confer such degrees, he may approve such school, college, academy, seminary, or university as a school for immigrant students. Approval previously granted to a school, college, academy, seminary, or university that does not fulfill the foregoing conditions may be revoked by the Attorney General upon notice in writing to such school that the revocation will be effective not less than 30 days following delivery of the notice."

The rule stated above shall become effective on the thirty-first day following the date of publication in the FEDERAL REGISTER.

The basis for the rule prescribed above is a determination that the privilege of coming to the United States as a nonquota immigrant student should be limited to aliens who are coming to attend schools giving academic courses and that aliens coming temporarily for other types of training should be considered as temporary visitors for business and admitted as such under the provisions of Part 119, Chapter I, Title 8 of the Code of Federal Regulations. The general purpose of this rule is to make available to interested persons and institutions of learning a statement of the qualifications necessary for institutions of learning to be approved for immigrant students.

(Sec. 23, 39 Stat. 892, sec. 24, 43 Stat. 166, sec. 37 (a), 54 Stat. 675, sec. 1, 54 Stat. 1238; 8 U. S. C. 102, 222, 458)

WATSON B. MILLER,
*Commissioner of Immigration and Naturalization.*

Approved: December 21, 1948.

TOM C. CLARK,
*Attorney General.*

[F. R. Doc. 48-11455; Filed, Dec. 30, 1948; 8:51 a. m.]

# TITLE 9—ANIMALS AND ANIMAL PRODUCTS

## Chapter I—Bureau of Animal Industry, Department of Agriculture

### Subchapter E—Viruses, Serums, Toxins, and Analogous Products; Organisms and Vectors

[B. A. I. Order 331]

REVISION OF RULES AND REGULATIONS RELATING TO VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS, AND TO CERTAIN ORGANISMS AND VECTORS

On November 20, 1948, a notice of rule making was published in the FEDERAL REGISTER (F. R. Doc. 48-10166; 13 F. R. 6848) regarding the proposed revision of the regulations relating to viruses, serums, toxins, and analogous products, and certain organisms and vectors (9 CFR, Cum., 1945, and 1947 Supps., Parts 101-122) under the Virus-Serum-Toxin Act of March 4, 1913 (21 U. S. C. 151-158) and section 2 of the act of February 2, 1903, as amended (21 U. S. C. 111). After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice, pursuant to the authority conferred in said Virus-Serum-Toxin Act and said section 2 of the act of February 2, 1903, the following regulations are hereby promulgated.

### PART 101—GENERAL PROVISIONS

§ 101.1 *Definitions.* The following words, when used in the regulations in Parts 101 through 122 of this subchapter, shall be construed, respectively, to mean:

(a) *Virus-Serum-Toxin Act.* The act of Congress of March 4, 1913, 37 Stat. 832-833, 21 U. S. C. 151-158.

(b) *Regulations.* The provisions in Parts 101 through 122 of this subchapter.

(c) *Biological products.* All viruses, serums, toxins, and analogous products, such as antitoxins, vaccines, tuberculins, malleins, live microorganisms, killed microorganisms, and products of microorganisms, intended for use in the treatment of domestic animals, including the diagnosis or detection of diseases of such animals.

(d) *Organisms.* All cultures or collections of organisms or their derivatives, which may introduce or disseminate any contagious or infectious disease of animals (including poultry).

(e) *Vectors.* All animals (including poultry) such as mice, pigeons, guinea pigs, rats, ferrets, rabbits, chickens, dogs, and the like, which have been treated or inoculated with organisms, or which are diseased or infected with any contagious,

infectious, or communicable disease of animals or poultry or which have been exposed to any such disease.

(f) *Domestic animals.* Domestic animals, including poultry.

(g) *Department.* The United States Department of Agriculture.

(h) *Secretary.* The Secretary of the Department or any officer or employee of the Department to whom authority has heretofore lawfully been delegated, or may hereafter lawfully be delegated, to act in his stead.

(i) *Bureau.* The Bureau of Animal Industry of the Department.

(j) *Chief.* The Chief of the Bureau or any officer or employee of the Bureau to whom authority has heretofore lawfully been delegated, or may hereafter lawfully be delegated, to act in his stead.

(k) *Division.* The Virus-Serum Control Division of the Bureau.

(l) *Officer in charge of the Division.* The official in charge of the Division or any officer or employee of the Division to whom authority has heretofore lawfully been delegated, or may hereafter lawfully be delegated, to act in his stead.

(m) *Inspector.* Any officer or employee of the Bureau who is authorized by the Chief to do any inspection work of the Division.

(n) *Veterinary inspector.* A graduate of a veterinary college accredited by the Civil Service Commission, who is duly appointed and assigned for duty in the Division as a veterinary virus-serum inspector or veterinarian.

(o) *Virus-serum inspector.* A layman appointed and trained to assist a veterinary inspector in the performance of his duties.

(p) *Person.* Any individual, firm, partnership, corporation, company, society, association, or other organized group of any of the foregoing, or any agent, officer, or employee of any thereof.

(q) *Licensed establishment.* An establishment operated by a person holding an unexpired, unsuspended, and unrevoked license issued by the Secretary for the preparation of any biological product under the regulations.

(r) *Licensee.* A person to whom a license to manufacture biological products has been issued under the regulations.

(s) *Permittee.* A person to whom a permit to import or transport biological products or organisms or vectors has been issued under the regulations.

(t) *Official station.* One or more licensed establishments included under a single supervisory unit.

(u) *Inspector in charge.* The veterinary inspector who is assigned by the Chief to supervise and perform official work at an official station and who reports directly to the Chief.

(v) *Veterinary inspection.* An examination made by a veterinary inspector, assisted as needed by a virus-serum inspector, to determine the fitness of animals, establishments, facilities, and procedures used in connection with the preparation of biological products under the regulations.

(w) *Hog-cholera virus.* The clear serum, plasma, or defibrinated blood derived from pigs sick of hog cholera and free from other communicable disease or diseases.

(x) *Hyperimmunizing virus.* Virus prepared for injecting into immune hogs in the production of anti-hog-cholera serum.

(y) *Inoculating virus.* Virus prepared for injecting into pigs in the production of hog-cholera virus.

(z) *Simultaneous virus.* Virus prepared for injection along with anti-hog-cholera serum in the immunization of hogs against hog cholera.

(aa) *Anti-hog-cholera serum.* The clear serum, plasma, or other derivatives of hyperimmune blood containing the protective substances derived from immune hogs which have been hyperimmunized by intravenous injection with hog-cholera virus. Such serum shall consist of not less than 88 percent of true serum and not more than 12 percent of such solutions as are required for clarification of the blood and preservation of the serum. The completed product shall represent not more than 83 percent of the defibrinated hyperimmune blood or not more than 80.51 percent of the whole hyperimmune blood used in its preparation.

(bb) *Immediate or true container.* The unit, bottle, vial, ampul, tube, or other receptacle in which any biological product is customarily distributed.

(cc) *Batch.* The quantity of a biological product thoroughly mixed in a single container and properly identified. (For special definition of "batch" as used in § 119.23, see § 119.23 (a) (10) of this chapter.)

(dd) *Serial number.* The number given each batch of a biological product by the manufacturer to identify the batch with his records of production thereof.

(ee) *Expiration date.* The date placed upon labels affixed to or used in connection with immediate or true containers of biological products by manufacturers thereof to indicate the limit of time during which the manufacturer estimates said products will retain their full strength or potency, when properly stored and handled.

(ff) *"U. S. Released."* Term used in marking a biological product to show that it has been prepared and tested in accordance with the regulations and has been found not to be worthless, contaminated, dangerous, or harmful.

(gg) *Day.* Time elapsing between any regular working hour of one day and any regular working hour of the following day.

(hh) "Bureau lock." A Bureau lock or seal or both as the inspector in charge may require.

See also other definitions in § 119.23 of this chapter.

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## PART 102—LICENSES AND PERMITS TO IMPORT BIOLOGICAL PRODUCTS

LICENSES



IMPORT PERMITS FOR BIOLOGICAL PRODUCTS



SUSPENSION OR REVOCATION OF LICENSES AND PERMITS; NOTICES RE DANGEROUS PRODUCTS



ASSIGNMENT OF INSPECTORS AND FACILITIES



LICENSES

§ 102.1 *Licenses required.* Every person operating an establishment in the United States in which any biological product is prepared for sale, barter, or exchange in the District of Columbia or in any Territory of, or place under the jurisdiction of, the United States, or for shipment or delivery for shipment from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, shall hold an unexpired, unsuspended, and unrevoked license issued by the Secretary, and shall have inspection as provided by the regulations.

§ 102.2 *Biological products; preparing and handling.* All biological products produced in each licensed establishment shall be prepared, handled, stored, marked, received for transportation, and transported as required by the regulations.

§ 102.3 *License application.* (a) The operator of each establishment of the kind specified in § 102.1 shall make application in writing to the Secretary for a license. When a person conducts more than one establishment, a separate application shall be made for a license for each establishment. Whenever subsidiaries are to operate in an establishment for which license application is made, the applicant shall apply for permission for such subsidiaries to operate in the establishment and furnish therewith a complete statement regarding the relationship between the applicant and the subsidiaries. Blank forms of application will be furnished upon request to the Bureau of Animal Industry, Washington, D. C.

(b) Triplicate copies of plans, properly drawn to scale, and of specifications, including plumbing, drainage, and sewage disposal of establishments, together with information regarding all claims to be made on labels and in advertising matter to be used in connection with or relating to all biological products prepared therein, shall accompany the application for a license, unless such plans, specifications, and information have already been furnished.

(c) In case of change of ownership, operation, or location of an establishment while an application is pending, or after a license has been issued, a new application shall be made.

§ 102.4 *Licenses; issuance, number, and form.* (a) Before a license will be issued by the Secretary for any establishment, an inspection shall be made to determine whether the condition, equipment, facilities, and the like, of the establishment, and its methods of preparing, handling, and storing biological products are in conformity with the requirements of the regulations. A license will not be issued unless (1) in the opinion of the Chief, the condition of the establishment and the methods of preparation of biological products are such as reasonably to insure that the products will accomplish the object for which they are intended, and that they are not worthless, contaminated, dangerous, or harmful, (2) the establishment is to be operated under the direct supervision of a person competent, in the opinion of the Chief, by education and experience, to handle all matters pertaining to the disease involved and the preparation and testing of the biological products named in the application, and (3) written assurance is filed with the Bureau that the products for which the license is to be issued will not be so advertised as to mislead or deceive the purchaser and that the packages or containers in which the same are to be marketed will not bear any statement, design, or device which is false or misleading in any particular.

(b) Licenses shall be numbered and shall be in the following form:

UNITED STATES VETERINARY LICENSE NO. _____

BIOLOGICAL PRODUCTS

*Washington, D. C.,* _____

This is to certify that, pursuant to the terms of the act of Congress approved March 4, 1913 (37 Stat. 832), governing the preparation, sale, barter, exchange, shipment, and importation of viruses, serums, toxins, and analogous products intended for use in the treatment of domestic animals, _____ is hereby licensed to maintain at _____ an establishment for the preparation of _____.

This license is subject to termination as provided in the regulations made under the authority contained in said act, and to suspension or revocation if the licensee violates or fails to comply with said act or the regulations made thereunder.

_____
*Secretary of Agriculture*

Countersigned:

_____
*Chief, Bureau of Animal Industry*

(c) Two or more licenses may bear the same number when they are issued for establishments under the same ownership or control, provided a serial letter is added in each case to identify each license and the products produced thereunder.

(d) When a license is issued for an establishment it shall not apply to more than one person at the same location, except that subsidiaries of the licensee, when named in the license, may operate thereunder at the establishment named. The licensee with its subsidiaries will be held responsible for all operations conducted in the licensed establishment.

(e) As of November 1 of each year or whenever requested by the Chief, each licensee shall submit, through the office of the inspector in charge, a list of biological products with all their forms which are to be continued in production. Should the licensee discontinue production of some of the biological products named in his licenses, he shall return to the Division for termination all outstanding licenses covering such products, with a list of products with all their forms which he will continue to produce. Whenever a number of licenses issued at different times are outstanding they shall be returned to the Chief at his request for consolidation.

(f) Every license outstanding on the effective date of the regulations which is in conflict therewith shall be returned for termination, with an application for a new license.

§ 102.5 *Biological products; preparation by another licensee.* No biological products authorized to be prepared in a licensed establishment shall be prepared in whole or in part by any other licensed establishment unless authorized in advance by the Chief.

§ 102.6 *Separation of establishments.* Each licensed establishment shall be separate and distinct from any unlicensed establishment in which any biological product is prepared or handled.

§ 102.7 *Special licenses.* Special licenses may be issued in particular cases for preparation of biological products for experimental or trial use in the treatment of domestic animals, under such conditions as may be imposed by the Chief and provided that safeguards ample in the opinion of the Chief are set up to protect the public and the livestock industry. Applicants for such licenses shall furnish all information required by the regulations and shall also agree to distribute the product only for such conditional, experimental, or trial use as may be authorized in the license.

§ 102.8 *Instructions to licensee; products not prepared under license.* When a license is issued, the inspector in charge shall furnish the licensee with a copy of the regulations. If the licensee, at the time the license is issued, has in the establishment any biological products which have not theretofore been prepared, and the containers of which have not theretofore been marked, in compliance with the regulations, the identity of the products shall be maintained, and they shall not be shipped or delivered for shipment from one State or Territory or the District of Columbia to another State or Territory or the District of Columbia, or otherwise dealt with as products prepared under the regulations. The licensee shall adopt and enforce all necessary measures and shall comply with all such directions as the Chief may prescribe for carrying out the regulations. It shall be the responsibility of the licensee, irrespective of Bureau supervision, so to prepare and test each biological product, as set forth in the regulations, that it will not be worthless, contaminated, dangerous, or harmful.

IMPORT PERMITS FOR BIOLOGICAL PRODUCTS

§ 102.26 *Import permits required.* Each person importing biological products shall hold an unexpired, unsuspended, and unrevoked permit issued by the Secretary.

§ 102.27 *Application for import permit; requirements.* (a) Each person desiring to import biological products shall make application in writing to the Secretary for a permit. The application shall specify the port or ports of entry at which the imported products will be cleared through the customs. Blank forms of application will be furnished upon request addressed to the Bureau of Animal Industry, Washington, D. C.

(b) Each application for a permit shall be accompanied by the affidavit of the actual manufacturer presented before an American consular officer, giving the name of the country, and the city, town or other location, where the biological products named therein are prepared, stating that said products are not worthless, contaminated, dangerous, or harmful, and stating whether the products were derived from animals, and, if so derived, the name of the species, and that such animals have not been exposed to any infectious or contagious disease, except as may have been essential in the preparation of the products and as specified in the affidavit.

(c) Each application for a permit shall be accompanied by the written consent of the actual manufacturer that properly accredited employees of the Department shall have the privilege of inspecting, without previous notification, and at such times as may be demanded by the aforesaid employees, all parts of the establishment at which such biological products were prepared, all processes of preparation, and all records relative to the preparation of such products.

(d) Each application for a permit shall be accompanied by information regarding all claims to be made on labels and in advertising matter used in connection with or related to the biological products to be imported, and a description of the methods of producing and testing the products used by the manufacturer. A permit will not be issued for the importation of any biological product unless written assurance is furnished that the product will not be so advertised as to mislead or deceive the purchaser, and that the package or container in which the same is intended to be sold, bartered, exchanged, shipped, or imported will bear or contain no statement, design, or device which is false or misleading in any particular, and unless the product meets the applicable requirements of the regulations in Part 112 of this chapter.

§ 102.28 *Import permits; number, form, and termination.* Permits shall be numbered and shall be in the following form:

UNITED STATES VETERINARY PERMIT NO. _____

BIOLOGICAL PRODUCTS

*Washington, D. C.,* _____

This is to certify that, pursuant to the terms of the act of Congress approved March 4, 1913 (37 Stat. 832), governing the preparation, sale, barter, exchange, shipment, and importation of viruses, serums, toxins, and analogous products intended for use in the treatment of domestic animals, _____ _____, State of _____, is hereby authorized, so far as the jurisdiction of the United States Department of Agriculture is concerned, to import _____ manufactured by _____, of _____, into the United States through the port of _____ during the calendar year of _____.

This permit is subject to suspension or revocation if the permittee violates or fails to comply with said act or the regulations made thereunder.

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*Secretary of Agriculture*

Countersigned:

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*Chief, Bureau of Animal Industry*

Each permit shall terminate at the end of the calendar year for which it is issued.

SUSPENSION OR REVOCATION OF LICENSES AND PERMITS, AND NOTICES RE DANGEROUS PRODUCTS

§ 102.51 *Suspension or revocation.* (a) A license or permit issued under the Virus-Serum-Toxin Act may be formally suspended or revoked after opportunity for hearing has been accorded the licensee or permittee as provided in Part 123 of this chapter, if the Secretary is satisfied that the license or permit is being used to facilitate or effect the preparation, sale, barter, exchange, shipment, or importation contrary to said act of any worthless, contaminated, dangerous, or harmful biological product. Such use may be found to exist if:

(1) The construction of the establishment in which the biological product is prepared is defective, or the establishment is not conducted as required by the regulations;

(2) The methods of preparation of the product are faulty, or the product contains impurities or lacks potency;

(3) The product is so labeled or advertised as to mislead or deceive the purchaser in any particular;

(4) The licensee or permittee has violated or failed to comply with an provision of the Virus-Serum-Toxin Act or the regulations;

(5) The license or permit is otherwise used to facilitate or effect the preparation, sale, barter, exchange, shipment, or importation, contrary to the Virus-Serum-Toxin Act, of any worthless, contaminated, dangerous, or harmful biological product.

(b) In case of wilfulness or where the public health, interest, or safety so requires, however, the Secretary may without hearing informally suspend such license or permit upon the grounds set forth in paragraph (a) of this section pending determination of formal proceedings under Part 123 of this chapter for suspension or revocation of the license or permit.

§ 102.52 *Notices re dangerous biological products.* If at any time it appears that the preparation, sale, barter, exchange, shipment, or importation, as provided in the Virus-Serum-Toxin Act, of any biological product by any person holding a license or permit may be dangerous in the treatment of domestic animals, the Secretary may without hearing notify the licensee or permittee, and pending determination of formal proceedings instituted under Part 123 of this chapter for suspension or revocation of the license or permit insofar as it authorizes the manufacture or importation of the particular product, no person so notified shall thereafter so prepare, sell, barter, exchange, ship, deliver for shipment, or import such product.

ASSIGNMENT OF INSPECTORS AND FACILITIES

§ 102.76 *Inspections of licensed establishments.* (a) Any inspector shall be permitted to enter any establishment licensed under the regulations at any hour during the day or night, and such inspector shall be permitted to inspect, without previous notification, the entire premises of the establishment, including all buildings, compartments, and other places, all biological products, and organisms and vectors in the establishment, and all equipment, such as chemicals, instruments, apparatus, and the like, and the methods used in the manufacture of, and all records maintained relative to, biological products at such establishment.

(b) Each inspector will be furnished with a numbered official badge, which he shall not allow to leave his possession. This badge shall be sufficient identification to entitle him to admittance at all regular entrances and to all parts of the licensed establishment and premises and to any place at any time for the purpose of making an inspection pursuant to paragraph (a) of this section.

§ 102.77 *Facilities.* When required by the Chief or the Inspector in charge, the following facilities, and such others as may be essential to efficient conduct of inspection, shall be provided in each licensed establishment.

(a) Satisfactory pens, equipment, and assistance for conducting tests required in accordance with the regulations in this subchapter;

(b) The following special facilities in establishments producing anti-hog-cholera serum and hog-cholera virus:

(1) Separate laboratory rooms for serum and virus,

(2) A separate room in which animals shall be washed and cleaned,

(3) A separate room in which animals shall be finally prepared for bleeding or hyperimmunizing,

(4) A separate room or adequate facilities for conducting autopsies,

(5) A separate room for preparation and mixing of biological products,

(6) A separate room for washing and sterilizing equipment,

(7) Clean cloths, which shall be kept damp when in use, to be used for covering virus pigs and final bleeders during all operations incident to the collection of blood, and

(8) Dust screens for all outside doors, openings, and unsealed windows;

(c) Suitable rooms and compartments in such places, and containers, and the like, in such numbers as may be necessary for holding biological products: *Provided,* That such rooms and compartments, and containers, and the like shall be capable of being secured under locks or seals furnished by the Bureau, and the keys of said locks shall not leave the custody of the inspectors;

(d) Suitable containers satisfactorily equipped for thoroughly mixing batches of all biological products; and

(e) Automatic recording thermometers or gages equipped for locking or sealing as provided in paragraph (c) of this section, and other thermometers which will register temperatures accurately and satisfactorily for use as required by the regulations.

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## PART 108—SANITATION AT LICENSED ESTABLISHMENTS

Sec.



§ 108.1 *Remodeling and additions; plans and specifications.* Triplicate copies of plans properly drawn to scale, and of specifications, including plumbing and drainage, for remodeling licensed establishments and for new structures at licensed establishments shall be submitted to the Chief in advance of construction.

§ 108.2 *Stables and premises.* Stables or other premises for animals used in the production or testing of biological products at licensed establishments shall be properly ventilated and lighted, appropriately drained and guttered, and kept in sanitary condition.

§ 108.3 *Segregation of animals.* Animals infected with or exposed to any dangerous, infectious, contagious, or communicable disease shall be effectively segregated at licensed establishments.

§ 108.4 *Location of licensed establishments.* (a) Licensed establishments shall be so located and so constructed that disease will not spread therefrom, and suitable arrangements shall be made for the disposal of all refuse.

(b) Direct communication to licensed establishments shall not be maintained from public stockyards, abattoir pens, or other places in which animals are received or held for any purpose.

§ 108.5 *Precautions.* All biological products prepared at licensed establishments shall be prepared, handled, and distributed under the Virus-Serum-Toxin Act with due sanitary precautions, and all such biological products to be shipped or delivered under said act shall be securely packed.

§ 108.6 *Construction.* The floors, walls, ceilings, partitions, posts, doors, and all other parts of all structures at licensed establishments shall be of such material, construction, and finish as can be readily and thoroughly cleaned.

§ 108.7 *Dangerous organisms and products.* Rooms or compartments separate from the remainder of the estabment shall be provided at licensed establishments for preparing, handling, and storing virulent or dangerous organisms and products.

§ 108.8 *Light and ventilation.* All rooms and compartments at licensed establishments shall have abundant light and sufficient ventilation to insure sanitary and hygienic conditions.

§ 108.9 *Dressing rooms and other facilities.* (a) Each licensed establishment shall have dressing and toilet rooms and urinals sufficient in number, ample in size, conveniently located, properly ventilated, and meeting all requirements of the regulations as to sanitary construction and equipment. These rooms and facilties shall be separate from rooms and compartments in which any biological product is prepared, handled or stored.

(b) Each licensed establishment shall have modern lavatory accommodations, including running hot and cold water, soap, towels, and the like. These shall be so located in the establishments as to make them readily accessible to all persons handling biological products.

§ 108.10 *Drainage and plumbing.* There shall be an efficient drainage and plumbing system for each licensed establishment and premises thereof, and all drains and gutters shall be properly installed with approved traps and vents.

§ 108.11 *Water supply.* The supply of hot and cold water at licensed establishments shall be ample and clean. Adequate facilities shall be provided for the distribution of water in each establishment and for the washing of all containers, machinery, instruments, other equipment, and animals used in the preparation, handling, or storing of any biological product.

§ 108.12 *Rooms and equipment.* All rooms, compartments, and other places used in connection with the preparation, handling, or storing of any biological product at licensed establishments shall be of such material, construction, and design as can be readily and thoroughly cleaned. All containers, instruments, and other equipment shall be cleaned and sterilized and so handled thereafter as to afford protection from contamination. Containers, instruments, and other apparatus and equipment used for preparing, handling, or storing virulent or dangerous organisms or products shall not be used for handling, preparing, or storing other forms of biological products.

§ 108.13 *Hands and clothing.* (a) All employees of licensed establishments who handle biological products shall keep their hands and clothing clean. The hands of such employees shall not come in contact with any biological product or with any part of sterilized containers, instruments, or other equipment which may come in contact with such products.

(b) Caps, gowns, and other outer clothing worn by persons while handling any biological product shall be of clean, white material whenever practicable. All persons, immediately before entering the operating or laboratory rooms of a licensed establishment, shall change their outer clothing or effectively cover the same with gowns or other satisfactory garments.

§ 108.14 *Outer premises.* The outer premises of licensed establishments, embracing docks, driveways, approaches, yards, pens, chutes, and alleys, shall be drained properly and kept in a clean and orderly condition. No nuisance shall be allowed in any licensed establishment or on its premises.

§ 108.15 *Flies and other vermin.* Every practicable precaution shall be taken to keep licensed establishments free of flies, rats, mice, and other vermin. The accumulation, on the premises of an establishment, of any material in which flies or other vermin may breed is forbidden.

§ 108.16 *Carcasses, refuse materials, and biological products.* All parts of the carcasses of animals producing viruses, all other dead animals and parts and refuse, all materials unsatisfactory for production purposes, all biological products unsatisfactory for marketing, and all worthless, contaminated, dangerous, or harmful biological products, shall be incinerated or otherwise disposed of by licensees as may be required by the Chief.

§ 108.17 *Smoking or expectorating, etc.* Such practices as smoking in laboratories or expectorating on the floors of any room, compartment, or place in which biological products are prepared, handled, or stored at licensed establishments are prohibited.

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## PART 109—STERILIZATION AT LICENSED ESTABLISHMENTS

Sec.
109.1 Equipment and the like.
109.2 Sterilizers.

§ 109.1 *Equipment and the like.* (a) All containers, instruments, and other apparatus and equipment, before being used in preparing, handling, or storing biological products, at a licensed establishment, except as otherwise prescribed herein, shall be thoroughly sterilized by live steam at a temperature of at least 120° C. for not less than one-half hour, or by dry heat at a temperature of at least 160° C. for not less than one hour. If for any reason such methods of sterilization are impracticable, then a process known to be equally efficacious in destroying microorganisms and their spores may be substituted after approval by the Chief.

(b) Instruments which are found to be damaged by exposure to the degree of heat prescribed in this section, after having been thoroughly cleaned, may be sterilized by boiling for not less than 15 minutes, provided apparatus satisfactory to the inspector in charge is furnished for this purpose.

§ 109.2 *Sterilizers.* Steam and dry-heat sterilizers used in connection with the production of anti-hog-cholera serum and hog-cholera virus at licensed establishments shall be equipped with automatic temperature-recording gages. Charts used on these gages shall be available at all times for examination by inspectors.

## PART 112—LABELS AND SAMPLES

### LABELS

Sec.
112.1 Containers.
112.2 Required and permitted information.
112.3 Reference to distributors.
112.4 Review and approval of labels and other material.

### SAMPLES

112.26 Collection and handling of samples.
112.27 Selection, marking, and holding by licensee.

### LABELS

§ 112.1 *Containers.* (a) Each immediate or true container of biological products prepared at a licensed establishment or imported by a licensee or permittee, in compliance with the regulations and found not to be worthless, contaminated, dangerous, or harmful, shall be labeled as provided in this part.

(b) No container of any biological product which has not been so prepared and found not to be worthless, contaminated, dangerous, or harmful shall bear such a label, except that containers of anti-hog-cholera serum and hog-cholera virus prepared at licensed establishments, and such other products of such establishments as the Chief may permit, may be labeled before the products are released for marketing; *Provided,* Anti-hog-cholera serum and hog-cholera virus labeling is done under the direct supervision of an inspector and the products immediately thereafter are placed under Bureau lock, where they are held until released for marketing. No person shall have access to the compartment in which such labeled products are held under such lock except in the immediate presence of an inspector.

(c) No person shall apply or affix, or cause to be applied or affixed, any label, stamp, or mark to any biological product prepared or received in a licensed establishment or imported except in compliance with the regulations. Suitable tags or labels of a distinct design shall be used for identifying all biological products while in course of preparation at licensed establishments.

§ 112.2 *Required and permitted information.* (a) Labels of biological products prepared at licensed establishments or imported shall include the following:

(1) The true name of the product contained in the package, which name shall be identical with that shown in the license or permit under which the product is prepared or imported and shall be so lettered and placed as to give equal prominence to each word composing it;

(2) The name and address of the licensee or permittee: *Provided,* That when the licensee has more than one establishment, one street address only shall be given, although the general location of each licensed establishment in such case may be stated;

(3) The license or permit number assigned by the Department which shall be shown in one of the following forms, respectively: "U. S. Veterinary License No. ____," or "U. S. Vet. License No. ____"; or "U. S. Veterinary Permit No. ____," or "U. S. Vet. Permit No. ____";

(4) A serial number by which the product can be identified with the manufacturer's records of preparation;

(5) A permitted expiration date affixed before the product is removed from the manufacturer's establishment;

(6) A dosage table and full instructions for the proper use of the product or a statement in the case of very small labels as to where such information is to be found;

(7) The quantity of the contents of each immediate or true container in cubic centimeters, units, grams, or milligrams;

(8) Instructions to protect the product from light and keep it at a temperature of not over 45° F.: *Provided,* That all labels, circulars, and the like for Brucella abortus vaccine and rabies vaccine shall include a warning against freezing and instructions to keep the product under refrigeration at 35° to 45° F.;

(9) In the case of multiple-dose containers, a warning that all of the product should be used at the time the container is first opened;

(10) A statement, in the case of subcutaneous tuberculin, indicating the quantity of Koch's old tuberculin (K. O. T.) in each cubic centimeter, disk, or the like of the product, and recommendations regarding the minimum dose to be administered: *Provided,* That this dose for subcutaneous use shall be not less than the equivalent of 0.5 gram K. O. T.;

(11) The notice "Caution—Burn this container and all unused contents" in the case of biological products composed of viable or dangerous organisms or viruses; which notice shall be prominently placed and lettered and affixed to the immediate or true container of such products; and

(12) All other similar information required by the Chief.

(b) Labels of biological products prepared at licensed establishments or imported may also include any other statement which is not false or misleading.

(c) Labels of biological products prepared at licensed establishments or imported shall not include any statement, design, or device which is false or misleading in any particular or may otherwise deceive the purchaser.

§ 112.3 *Reference to distributors.* When any biological product is to be distributed under the Virus-Serum-Toxin Act by any person other than the one holding a license to produce, or a permit to import, such product, and the name and address of the distributing person are to appear on the labels of the containers thereof a statement shall be made on the labels indicating that such person is the distributor of the biological product. The name and address of the distributor shall not appear in any form or manner indicating that he is the producer of the product or operating under the license or permit shown on the label. The terms "distributor," "distributors," "distributed by," or equivalent terms may be used if prominently and properly placed and lettered, in connection with the name and address of the distributing person: *Provided,* The same are not so used as to be either false or misleading. Reference to the distributing person shall be made by name and address only.

§ 112.4 *Review and approval of labels and other material.* (a) Except as otherwise provided in this section, quadruplicate copies of all labels, circulars, and enclosures distributed with biological products prepared by licensed establishments or imported shall be submitted to the Chief for review and approval before they are placed in use. For the convenience and guidance of licensees and permittees, sketches or proofs of new labels and the like may be submitted in triplicate to the Chief for review and approval, and in this case the preparation of finished labels and the like shall be deferred until copies of such sketches or proofs are returned to the licensee or permittee.

(b) Tags, stickers, and the like used to identify products or materials during process of production or testing, if not false or deceptive, may be used by licensees with the permission of the inspector in charge.

(c) The inspector in charge may permit the use by licensees of approved labels and the like which have been modified as follows:

(1) When all features of the label are proportionately enlarged and the general arrangement including colors remains the same; or

(2) When the label is translated into a foreign language without other material change.

(d) As of February 1 of each year or oftener on request by the Chief, licensees shall submit to him, through the office of the inspector in charge, lists of labels and the like which they will continue in actual use. Each shall be properly identified by date of approval, name of product, and number if used.

SAMPLES

§ 112.26 *Collection and handling of samples.* (a) Samples of biological products shall be collected only by authorized officers, agents, or employees of the Department.

(b) Samples may be purchased in the open market, and the marks, brands, or tags upon the package or wrapper thereof shall be noted. The collector shall note the names of the vendor and agent of the vendor who made the sale, together with the date of purchase. The collector shall select representative samples.

(c) All samples or parts of samples shall be sealed by the collector and marked for identification and future reference.

§ 112.27 *Selection, marking, and holding by licensee.* (a) Representative samples of each batch of every biological product except anti-hog-cholera serum, hog-cholera vaccine, and hog-cholera virus shall be selected at random from packages finished for marketing, by designated laboratory employees in each licensed establishment. Each sample shall (1) consist of two or more containers and the package (or packages) shall be sealed, dated, and initialed when taken; (2) be adequate in quantity for appropriate examination and testing; (3) be truly representative of the batch which is to be marketed and be in the true containers; and (4) be held by the licensee at least 6 months after the latest expiration date stated on the labels.

(b) A special compartment or the equivalent shall be set aside by the licensee for the exclusive holding of these samples under refrigeration at 35° to 45° F. The samples shall be stored systematically for ready reference and procurement if and when required.

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PART 114—MISCELLANEOUS REQUIREMENTS FOR LICENSED ESTABLISHMENTS

Sec.



§ 114.1 *Composition of products.* Organisms or viruses used in the production at licensed establishments of bacterins, vaccines, toxins, and the like shall be derived from the causative agents of the diseases or conditions against which the products are to be used, and shall be free from the causative agents of other diseases or conditions.

§ 114.2 *Methods.* (a) All biological products shall be prepared, handled, stored, marked, treated, and tested by licensees in accordance with methods described in the licensees' outlines provided for under this section, unless other methods are prescribed by the Chief in which case such other method shall be used.

(b) An outline, describing fully the entire process of preparing, handling, storing, marking, treating, and testing each biological product except anti-hog-cholera serum and hog-cholera virus, shall be submitted by each licensee to the Division. Tests that are applicable and necessary to prevent the marketing of an unsatisfactory product shall be made by the licensee. Such tests include sterility, safety, and potency tests and tests for determining agglutination and complement fixation titer, and the like. Each outline shall clearly state a definite expiration date for the product and on what it is based. Each outline to which no objections are made by the Officer in Charge of the Division will be stamped, with the date filed, and copies of such outlines will be returned to the licensee. An outline may be followed only after such action has been taken. An outline so processed must be followed by the licensee unless and until amended in the same manner or the licensee is directed to discontinue following such outline because of objections made to it at any time by the Officer in Charge of the Division. When such objections are made, unless the licensee modifies his outline to meet them, the Officer in Charge of the Division shall notify the Chief who may, after affording opportunity for hearing to the licensee, prescribe the method of preparing, handling, storing, marking, treating, or testing the par-

ticular product to be observed by the licensee. Pending such action by the Chief, the licensee may continue to use such outline except that where the public health, interest, or safety so requires, the Officer in Charge may upon notice to the licensee, suspend immediately approval of the outline and thereupon the licensee shall not use such outline in the production of biological products under the Virus-Serum-Toxin Act unless and until subsequent notice of withdrawal of such suspension is given to the licensee.

§ 114.3 *Serums, equine and bovine.* (a) Equine and bovine serums produced at licensed establishments shall be derived from the blood of healthy animals. No serum-producing animal shall be given antigen containing Brucella organisms or their derivatives without approval of the Chief. Detailed records relative to any tests on the animals and to the antigens used in treating serum-producing animals shall be maintained by the licensee.

(b) Serum and aggressin of equine origin produced at licensed establishments shall be heated at 58.5°C. for 60 minutes, with a tolerance of 0.5° above and below that temperature, by methods prescribed in this section, and serum of bovine origin shall be heated in like manner for 30 minutes. Serum shall contain no preservative at the time of heating.

(c) Serum heated as provided in paragraph (b) of this section, shall be cooled immediately thereafter to 15° C. or lower, and thus held until it is properly preserved. It shall be preserved, mixed, and tested by methods described in the licensee's outline.

(d) Units of equine serum heated as provided in paragraph (b) of this section, may be tested for toxicity on one or more horses by injecting, intravenously, each of the test horses with at least 100 cc. of a representative sample thereof. Should the test horses show a reaction due to the serum injected, the product shall not be marketed unless and until the toxic fraction is removed or is shown to be harmless.

(e) Bulbs and other parts of recording thermometers at licensed establishments which are to be placed within heating containers, when not in actual use shall be submerged in a 5-percent phenol solution.

(f) Accurate thermometers at licensed establishments shall be used at frequent intervals to check temperatures of the serum as registered by recording thermometers.

(g) Licensees shall keep detailed records relative to each unit of serum as pasteurized and each batch of serum as prepared for marketing. Recording thermometer charts must bear full information concerning the serum heated and tests made of the equipment.

(h) Metal serum containers, each having a capacity of approximately 50 liters, shall be used in licensed establishments. During the heating process these containers shall be surrounded by a separate water jacket or equivalent so that the entire container, including its lid, is submerged at least 2 inches beneath the surface of the water. Filling must be done at a point which is below the surface of the water at the time of heating. Each serum container shall be equipped with a motor-driven agitator and a separate automatic recording thermometer, and shall have a lid attached to the container so as to withstand approximately 15 pounds' pressure without leakage, when submerged in water.

(i) The water bath shall have an automatic temperature control to limit the temperature of the water to a maximum of 62° C., an automatic recording thermometer, an indicating thermometer set in a fixed position, and circulating mechanism adequate to insure equal temperatures throughout the bath. The heating unit for the bath shall be separate from the serum-container jacket.

(j) All pasteurizing equipment must be acceptable to the Bureau and meet all necessary tests.

§ 114.4 *Brucella cultures.* Only those cultures of Brucella abortus organisms known to be acceptable to the Bureau shall be used in preparing Brucella abortus vaccine in licensed establishments. Cultures for this purpose will be supplied by the Bureau upon request. Cultures of Brucella suis must not be admitted to or handled in licensed establishments without approval of the Chief.

§ 114.5 *Brucella abortus vaccine; marketing and use.* (a) Licensees' production outlines for Brucella abortus vaccine shall specify, among other things, the minimum number of viable Brucella abortus organisms per cubic centimeter that shall be present in the product until the end of the period of use indicated by the expiration date. The expiration date for the liquid form of this vaccine shall not exceed 3 months from the date of production (harvesting). The liquid form of this product shall be marketed only in single-dose vials of resistant glass of low alkalinity and uniform stability having a capacity of approximately 8 cc. All other glass containers used in preparation of the product shall be of like resistance. Each vial of liquid vaccine for subcutaneous injection shall contain 6 cc. of vaccine (plus or minus 0.25 cc.).

(b) Freshly prepared Brucella abortus vaccine shall contain, when subjected to testing, not less than 60 billion viable Brucella abortus organisms per dose. The vaccine also shall contain not less than 30 billion viable Brucella abortus organisms per dose until the end of the period of use as indicated by the expiration date recorded on all labels used on or in connection with each immediate or true container of the same mixture or batch. Licensees may recommend the vaccine for the immunization of bovine animals over 4 months of age if they are not more than 4 months in pregnancy.

§ 114.6 *Fowl-pox vaccine and laryngotracheitis vaccine.* Licensed establishments shall test each batch of fowl-pox vaccine, including pigeon pox, and laryngotracheitis vaccine as provided in this section to determine whether it is free from the causative agents of extraneous diseases. No batch of these products shall exceed 200 grams.

(a) *Fowl-pox vaccine.* For testing each batch of 200 grams or less of fowl-pox vaccine, 12 healthy cockerels or other suitable young chickens of the same source shall be made available at the same time. This group shall have been immunized for at least 21 days with fowl-pox vaccine, previously tested and found satisfactory.

(1) Three of the test birds selected shall be injected subcutaneously with 10 times the field dose of the vaccine to be tested. The vaccine as tested shall be prepared exactly as the product is to be used in the field. This group should serve to indicate whether the product is free from viruses or septicemic diseases.

(2) Three of the test birds selected shall be injected intratracheally with 10 times the field dose of the vaccine to be tested. The vaccine as tested shall be prepared exactly as the product is to be used in the field. This group should serve to indicate whether the product is free from the virus of laryngotracheitis and similar diseases.

(3) Three of the test birds selected shall be injected intranasally with 0.2 cc. of the vaccine prepared exactly as the product is to be used in the field. This group should serve to indicate whether the product is free from the virus of coryza and similar diseases.

(4) The three remaining birds selected shall be isolated and held as controls under observation for at least 21 days.

(5) All the treated birds shall be observed daily for at least 21 days. All the test birds that succumb shall be subjected to a careful post mortem examination by a competent veterinarian. The product shall be withheld from the market until it and the test birds are shown to be free of the causative agents of any extraneous disease.

(b) *Laryngotracheitis vaccine.* For testing each batch of 200 grams or less of laryngotracheitis vaccine, 12 healthy cockerels or other suitable young chickens of the same source shall be made available at the same time. This group shall have been immunized for at least 14 days with laryngotracheitis vaccine previously tested and found satisfactory.

(1) Three of the test birds selected shall be injected subcutaneously with 10 times the field dose of the vaccine to be tested. The vaccine as tested shall be prepared exactly as the product is to be used in the field.

(2) Three of the test birds selected shall be treated by applying at least 10 times the field dose of the vaccine to be tested to a scarified area of at least 1 square centimeter on the comb of each bird. The vaccine as tested shall be prepared exactly as the product is to be used in the field.

(3) Three of the test birds selected shall be injected intranasally with 0.2 cc. of the vaccine to be tested. The vaccine as tested shall be prepared exactly as the product is to be used in the field.

(4) The three remaining birds selected shall be isolated and held as controls under observation for at least 21 days.

(5) All the treated birds shall be observed daily for at least 21 days. All the test birds that succumb shall be subjected to a post mortem examination by a competent veterinarian. The product shall be withheld from the market until it and the test birds are shown to be

free of the causative agents of any extraneous diseases. No bird shall be used more than once in making tests, and only healthy birds shall be removed from the premises.

(c) Each batch of fowl-pox and laryngotracheitis vaccine shall be tested by the licensee for protective value.

§ 114.7 *Rabies vaccine.* Licensees producing rabies vaccine shall adhere to the following requirements pertaining to the preparation and testing of this product for safety and potency:

(a) The fixed virus of rabies material shall be treated with phenol or by other means permitted by the Chief to render it safe without materially reducing the antigenicity of the vaccine.

(b) Rabies vaccine shall be collected in batches and mixed thoroughly in a single container. The product in the completed batch shall consist not less than 20 percent of fixed virus material unless otherwise authorized by the Chief.

(c) Safety tests shall be made by injecting subdurally laboratory animals with a representative sample of rabies vaccine. Each batch not in excess of 100,000 cc. completed for marketing shall be tested by thus injecting each of not less than two rabbits with not less than 0.2 cc. and each of not less than five mice with 0.03 cc. for each 20,000 cc. or fraction thereof. The test animals shall be held under observation for at least 14 days.

(d) Each batch of completed vaccine not in excess of 100,000 cc. shall be tested by the licensee for protective value. Each batch to be marketed shall show a protective titer of at least 1,000 m. l. d. when tested on suitable mice against the permitted standard challenge virus.

(e) Rabies vaccine, prepared for marketing, which contains the living virus of rabies or which is worthless, contaminated, dangerous, or harmful, shall not be marketed and shall be destroyed under the provisions of § 108.16 of this chapter.

§ 114.8 *Tetanus antitoxin.* (a) All containers of tetanus antitoxin prepared by licensees for marketing in the United States shall contain not less than 1,500 units and be labeled to recommend not less than this quantity as a minimum prophylactic dose.

(b) When tetanus antitoxin is prepared by licensees for export, 500 units may be recommended on the label as a minimum prophylactic dose provided the labeling clearly indicates that the product is for export. There shall be printed conspicuously on each label the word "export," with the name and address of the distributor located in the foreign country.

(c) The immunity unit for measuring the strength of tetanus antitoxin shall be 10 times the least quantity of antitetanic serum necessary to save the life of a 350-gm. guinea pig for 96 hours against the dose of standard toxin permitted under the regulations.

§ 114.9 *Mixing biological products.* Each batch of biological product, when in liquid form, shall be mixed thoroughly in a single container and be constantly agitated during bottling operations at licensed establishments. Serial numbers in sequence, with any other markings that may be necessary for ready identification of the batch, shall be applied to identify it with the records of preparation and labeling.

§ 114.10 *Phenol determination.* As an aid in meeting requirements for the preservation of anti-hog-cholera serum and hog-chlorea virus with phenol, employees of the Division trained in making the field phenol test will instruct licensed-establishment employees fully in the technique of making this test. A general description and directions for making the field phenol test known as the "P–2 Test" are available on application to the Division. The necessary reagents for such use will be supplied by the Bureau through inspectors in charge on request. Licensees shall use the field phenol test on all batches of preserving solutions and hog-cholera virus. Division inspectors will make such check tests as may be warranted.

§ 114.11 *Temperature and light.* Biological products at licensed establishments shall be protected at all times against light and detrimental temperatures. Furthermore, such products, after completion, shall be kept under refrigeration at 35° to 45° F.

§ 114.12 *Bureau tests.* Whenever deemed necessary, a licensee may be required by the inspector in charge to withhold biological products from the market until representative samples have been tested by the Bureau and the batches concerned released by the Bureau for marketing. These samples shall be taken as authorized by the Bureau.

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## PART 115—REINSPECTION

§ 115.1 *Reinspection.* All biological products, the containers of which bear United States veterinary license numbers or United States veterinary permit numbers or other marks required by these regulations may be inspected at any time or place. If, as a result of such inspection, it appears that any such product, even those prepared in a licensed establishment or imported under permit issued by the Secretary, is worthless, contaminated, dangerous, or harmful, the Secretary shall give notice thereof to the manufacturer or importer and to any jobbers, wholesalers, dealers, or other persons known to have any of such product in their possession. Unless and until the Secretary shall otherwise direct, no persons so notified shall thereafter sell, barter, or exchange any such product in any place under the jurisdiction of the United States or ship or deliver for shipment any such product from any State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia. However, failure to receive such notice shall not excuse any person from compliance with the Virus-Serum-Toxin Act.

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## PART 116—RECORDS AND REPORTS

RECORDS



REPORTS



RECORDS

§ 116.1 *Maintenance of records.* Permanent, detailed records of the results of tests for purity and potency and of the methods of preservation of each batch of biological products shall be kept by each licensee. Biological products prepared in foreign countries shall be eligible for importation into the United States only if the foreign manufacturer of such products also maintains such records. Permanent, detailed records in form satisfactory to the Chief shall be maintained by each licensee, each distributor, and each importer, showing the sale, shipment, or other disposition made of the biological products handled by such person.

§ 116.2 *Special record requirements.* Licensees preparing anti-hog-cholera serum and hog-cholera virus shall observe the following requirements:

(a) *Work sheets—(1) Virus pigs.* Work sheets for virus pigs shall show the tag number, date of admission to the premises, date of inoculation, and serial number and dose of virus used. Such work sheets shall show the temperature and physical condition of each pig when this is required by the regulations. They shall also show whether the virus collected from each pig was used in hyperimmunizing virus, simultaneous virus, or inoculating virus, or was destroyed. In the case of pigs intended for the production of simultaneous virus, the work sheet shall be prepared by the licensee in triplicate and the second carbon copy shall be furnished the inspector on the date of inoculation, except when the group is not designated as containing simultaneous virus pigs until the third day after the date of inoculation. In the latter case the work sheet shall be prepared in triplicate on the third day after inoculation to show the tag number and other information required by the regulations for each pig in the group and the second carbon copy shall then be furnished to the inspector. In any case, when the original and first carbon copies are completed, the first carbon copy shall be delivered to the inspector. All groups of pigs from which simultaneous virus will be selected shall be held in pens separate from other pigs.

(2) *Hyperimmunization of immune hogs.* Work sheets for hyperimmunization of immune hogs shall show the temperature and the tag number of each animal, actual weight at time of hyperimmunization, and the serial number and dose of virus injected. The net quantity injected into each group of animals and the number of the group to which each animal belongs also shall be recorded. This work sheet shall be prepared in duplicate, and the carbon copy shall be furnished to the inspector.

(3) *Bleeding of hyperimmune hogs.* Work sheets for bleeding of hyperimmunized hogs shall show the group number of the hogs, the temperature and tag number of each animal, and the class of

bleeding. The work sheet shall be prepared in duplicate and furnished to the inspector in advance of actual bleeding of the animals shown thereon. Upon receipt of the work sheet, the inspector shall check it with his records, and if he finds that the animals shown thereon are eligible for bleeding he shall supervise the taking and recording of their temperatures. The temperature of each animal shall be recorded on the work sheet by an employee of the licensed establishment. The inspector shall indicate on the work sheet those animals that are rejected, return the original copy to the licensee, and retain the duplicate.

(4) *Serum preparation.* Work sheets for the clarification of anti-hog-cholera serum shall show the number of the group to which the hogs belong, and the class and total number of bleedings involved, with the information required in this subparagraph relating to each working unit, as defined in § 119.23 (a) (3) of this chapter. The information relating to the working unit shall include the total quantity of whole or defibrinated blood used and the total quantity of clarifying solutions. The quantity of each clarifying solution shall be recorded separately. The quantity of serum recovered (gross), the total quantity of preserving solution used, and the total quantity of preserved serum shall be recorded separately for each group. The quantity of preserved serum contained in each storage container and the number of the container shall be shown on the work sheet. This work sheet shall be prepared in quadruplicate and three carbon copies shall be furnished to the inspector.

(5) *Work sheets, specimens.* A sample form of the work sheets used in licensed establishments in connection with virus pigs, the hyperimmunization of immune hogs, the bleeding of hyperimmune hogs, and the preparation of anti-hog-cholera serum shall be filed with the Division. A statement shall accompany each form showing in detail the manner in which it will be prepared and used.

(b) *Permanent records.* (1) Licensees shall maintain all permanent production records in ink or the equivalent. These records shall include a record of all pigs, used to produce hog-cholera virus. The information on this record shall be substantially the same as that shown on the work sheets as provided in paragraph (a) of this section, and in addition it shall include the date on which each pig was killed and the serial number of the batch of virus produced. Such records shall contain information as to the total quantity in each batch of hyperimmunizing, simultaneous, or inoculating virus produced. All such records shall clearly show the particular animal or group of animals from which each batch of the product is derived. The quantity collected and the total quantity after phenolization shall be separately recorded.

(2) Records showing the hyperimmunization of immune hogs and the bleeding of hyperimmune hogs shall be maintained in permanent form.

(3) Charts of the automatic temperature-recording thermometers used in connection with the heating and cooling of anti-hog-cholera serum shall be filed as a part of the Bureau station records.

(4) Complete records of the preparation and mixing of all virus and serum into batches and the bottling, testing, and labeling thereof shall be maintained as permanent records.

(5) Work sheets prepared like those used by inspectors will be deemed to meet the requirements of this part. Work sheets shall be filed by licensed establishments for reference, and if they are made in ink or the equivalent and otherwise are satisfactory they will be accepted as the permanent records.

§ 116.3 *Completion of records.* Records required by this part must be completed by the licensee before any portion of a batch of any product may be marketed.

REPORTS

§ 116.10 *Inspection.* Reports of the work of inspection carried on in licensed establishments shall be prepared and forwarded to the Division by the inspector in charge in such form and manner as may be required by the Chief.

§ 116.11 *Licensees to furnish information.* Each licensee shall furnish inspectors with accurate information needed by them for making their reports pursuant to § 116.10 and shall also submit such reports as may be required by the Chief.

§ 116.12 *Charts.* Each licensee shall furnish the Division, through the inspector in charge, copies of charts of all tests made of each batch of anti-hemorrhagic-septicemia serum, anti-swine-erysipelas serum, anti-encephalomyelitis serum, encephalomyelitis vaccine, and rabies vaccine and charts for such other products as may be required by the Chief before any of the batch is marketed.

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## PART 117—ANIMALS

Sec.



§ 117.1 *Opportunity to range in contact.* All cattle, hogs, sheep, and goats, except animals admitted by certificate as provided in § 117.6, offered for admission to the premises of licensed establishments shall be afforded opportunity to range in contact with other animals as prescribed in the regulations.

§ 117.2 *Contact pens.* Licensees shall provide suitable pens to be known as contact pens through which all hogs, cattle, sheep, and goats shall pass before they shall be admitted to other parts of the premises of a licensed establishment, except that animals admitted under certificate as provided in § 117.6 need not pass through such pens.

§ 117.3 *Contact calves.* (a) Licensees shall provide healthy calves in thrifty condition, ranging from 3 to 12 months of age, and weighing less than 650 pounds for use as contact animals in contact pens. They shall be referred to as contact calves.

(b) Each contact calf shall have its left ear pierced with a hole not less than three-fourths inch in diameter and shall have a serially numbered metal tag attached to its right ear.

§ 117.4 *Time held in contact.* (a) Except as otherwise provided in § 117.6, each lot of 200 or less sheep or goats and each lot of 20 or less cattle at licensed establishments shall be held in the contact pens for at least 2 days in contact with not less than 2 contact calves, and each animal shall be allowed free range and contact with said contact calves and the other animals in the lot.

(b) Except as otherwise provided in § 117.6, each lot of 200 or less hogs at licensed establishments shall be held in the contact pens for at least 1 day in contact with not less than 2 contact calves, except that in the case of pigs used in testing the potency and purity of anti-hog-cholera serum, 6 hours will be sufficient. Each animal shall be allowed free range and contact with said contact calves and the other animals in the lot. Hogs immune to hog cholera may be removed from the contact pens for hyperimmunization at any time while being held as aforesaid: *Provided,* They are returned to said pens immediately after this operation.

§ 117.5 *Contact calves; holding and removal.* (a) All surviving contact calves shall be held in the contact pens of licensed establishments for at least 1 month from date of admission to contact pens as contact calves.

(b) Removal of contact calves from contact pens shall be so arranged that one animal of each group of 2 will be replaced at the expiration of 1 month and the other at the expiration of 2 months.

(c) Removal of contact calves from contact pens shall be so accomplished that the animals furnished for the purpose may be used for the maximum time permitted by the preceding paragraphs of this section. A contact calf shall not be used as such more than once, but may be used for testing simultaneous virus after release as a contact animal. Contact calves shall be segregated from incoming animals for 14 days immediately before removal from the premises.

(d) Contact calves shall be subjected to thorough veterinary inspection as frequently as may be practicable in order to detect evidence of vesicular disease or other diseases. Whenever any animals on the premises show evidence of being affected with vesicular disease, rinderpest, or any other highly communicable disease, immediate and proper steps shall be taken by the licensee and the inspector in charge to prevent further dissemination of disease and to notify the Chief of the situation. In these circumstances the pen group or section group of ani-

mals shall be regarded as a unit for disposal and no attempt made to separate such group in any way unless and until a positive diagnosis is made and a definite plan of disposal agreed upon. Whenever presence of any of these conditions is suspected, removal of animal products shall be suspended and full report made to the Bureau by telephone, telegram, or air mail.

§ 117.6 *Certificates.* (a) Animals admitted to the premises of any licensed establishment which produces anti-hog-cholera serum and hog-cholera virus and which procures no animals from public stockyards, abattoir pens, or similar places need not be held in contact with contact calves as provided in § 117.2 if (1) the animals are for use in the production of anti-hog-cholera serum or hog-cholera virus, and (2) the licensee furnishes to the inspector in charge at the licensed establishment a certificate as provided for in paragraph (c) of this section.

(b) Pigs for special tests authorized by the Chief admitted to the premises of any licensed establishment need not be held in contact with contact calves as provided in § 117.2 if the pigs are handled as prescribed by the Chief and if the licensee furnishes to the inspector in charge at the licensed establishment a certificate as provided for in paragraph (c) of this section.

(c) Each certificate provided for in paragraphs (a) and (b) shall be signed by an authorized representative of the licensed establishment, and shall be in the following form:

_____, 19____

This is to certify that _____ (specify number and kind of animals) which are offered for admission to the licensed establishment of the _____ Co. are from the farm or premises of _____, in the State of _____, County of _____, Township of _____, and to the best of our knowledge and belief were on said farm or premises at least 21 days prior to this date, and were not exposed to any infectious, contagious, or communicable disease, and no new stock was brought onto said farm or premises during that time. The said animals have not been in or transported through any public stockyards, abattoir pens, or similar places, nor have they been exposed to any infectious, contagious, or communicable disease since their removal from said farm or premises.

(Signed) _____ Co.,
Per _____

§ 117.7 *Examination and identification.* (a) All animals presented for admission to the premises of establishments licensed to prepare anti-hog-cholera serum or hog-cholera virus shall be subjected to veterinary inspection as soon as practicable after they are received in order to determine their physical condition. No such animal shall be removed from contact pens at such establishments without veterinary inspection and permission of the supervising inspector.

(b) After examination as provided in paragraph (a) of this section, if the animals are permitted to remain upon the premises of the licensed establishment and to enter the holding pens of the establishment, they shall be given serially numbered metal tags, either prior to or at the time of inoculation or hyperimmunization.

(c) All tags used for the identification of animals shall be attached to the ears of the animals in a manner satisfactory to the inspector in charge. The tags so attached shall be the means of assisting in identifying the animals as long as they remain on the premises.

(d) All tags which are used to identify animals shall be furnished and attached by the licensee, and when said tags are not in use they shall be held under Bureau lock: *Provided*, That, when required by the Chief, tags furnished by the Division shall be used.

(e) The left ear of each animal used in testing the purity and potency of biological products shall, if of sufficient size, be pierced, when the test is begun, with a hole of not less than three-fourths inch in diameter, except that when pigs or calves are used in testing hog-cholera virus for purity as prescribed in the regulations, their right ears shall be pierced as aforesaid. Animals bearing marks of the above-precribed character shall not be presented for use in testing the purity and potency of biological products, except that contact calves and serum-treated pigs in anti-hog-cholera serum tests, after release as prescribed in the regulations, may be used, once for testing hog-cholera virus for purity, provided they are healthy and their right ears then are pierced as aforesaid. Furthermore, animals with either ear removed or so mutilated as to prevent the detection of these identifying marks shall not be used in any test, if the missing or mutilated ears are needed to determine the suitability of the animals for test purposes as described herein.

§ 117.8 *Treatment.* (a) Animals used in the production or testing of biological products at licensed establishments shall not be treated with biological products other than those which are incidental to the preparation and testing of the products prepared from or tested on said animals, except with the approval of and in such manner as may be prescribed by the Chief.

(b) Contact calves shall not be immunized against diseases to which they are susceptible, with the exception of hemorrhagic septicemia. Such calves, if permitted by the inspectors in charge, may be treated with hemorrhagic-septicemia bacterin and anti-hemorrhagic-septicemia serum.

§ 117.9 *Hyperimmune hogs; time range with contact calves.* (a) If in any specific case hyperimmune hogs are the only production animals held upon the premises of a licensed establishment, they shall be caused to range in contact with calves in the manner prescribed in § 117.2 for a period of at least 10 days prior to their being subjected to carotid or final bleeding. All animals with which hyperimmune hogs have been held in contact as provided in this section shall be held on the premises of the licensed establishment and under the observation of inspectors for at least 14 days after the hyperimmune hogs have been killed.

(b) If at any time hyperimmune hogs are subjected to tail bleeding only, those surviving shall be held under the supervision of inspectors for at least 14 days after the last tail bleeding, but subsequently shall be killed and subjected to post mortem examination as provided by the regulations.

§ 117.10 *Removal of animals.* Hogs, cattle, sheep, or goats shall not be removed from the premises of establishments licensed to produce anti-hog-cholera serum or hog-cholera virus without the written permission of the inspector in charge. Removal of animals from the premises of licensed establishments will be permitted by the inspector in charge under the following conditions, provided it is accomplished in such a manner as will preclude the dissemination of disease:

(a) Animals that are not in a healthy condition as determined by veterinary inspection, except when affected with a communicable disease, may be removed from licensed establishments for immediate slaughter in an abattoir operated under Federal inspection pursuant to the Meat Inspection Act (21 U. S. C. and Sup. 71 et seq.) if they are transported thereto by truck, wagon, or similar means, and not by rail: *Provided*, They are properly marked for identification and the inspector in charge of meat inspection is given due notice in advance. If such an abattoir is not accessible, the slaughter of said animals may be conducted in any convenient nonfederally inspected establishment provided the licensee signifies willingness in writing to dispose of the carcasses in compliance with the Meat Inspection Act and under the provisions of the meat inspection regulations (9 CFR, Chapter I, Subchapter A, as amended), and veterinary inspection as directed by the inspector in charge.

(b) Hogs that are in a healthy condition as determined by veterinary inspection may be removed from licensed establishments provided they are or have been treated or vaccinated and disinfected as prescribed in the regulations. Such hogs need not be treated or vaccinated or disinfected when removed for immediate slaughter at an abattoir operated under Federal inspection pursuant to the Meat Inspection Act (21 U. S. C. and Sup. 71 et seq.) or when removed to a public stockyard from which no hogs are permitted to be removed, without treatment or vaccination and disinfection under supervision of a Federal inspector, for purposes other than immediate slaughter. When hogs are removed to abattoirs or public stockyards without treatment or vaccination and disinfection as aforesaid, the licensee shall furnish the Bureau with a certificate from the consignee of the animals at the abattoir or public stockyards showing their slaughter therein or receipt thereby, respectively. If the animals are not disinfected, they shall not be transported by rail or driven over public highways which are not traversed by animals from stockyards or similar places.

(c) Calves that are in a healthy condition as determined by veterinary in-

spection may be removed from licensed establishments after disinfection as described in § 117.12 (a). When removed to an abattoir without passing through stockyards or over public highways which are not traversed by animals from public stockyards or similar places, the animals need not be so disinfected, provided the licensee furnishes the inspector in charge a statement from the consignee of the animals certifying that the animals will be slaughtered in an abattoir named in the certificate.

(d) Pigs which survive inoculation and exposure to hog-cholera virus for the production of hog-cholera virus, and surviving control pigs in tests of anti-hog-cholera serum, may be removed from licensed establishments not earlier than 14 days subsequent to the time of inoculation and exposure as aforesaid, provided they are healthy, as determined by veterinary inspection, are treated as described in § 117.11 and are disinfected as set forth in § 117.12, except that when removed for immediate slaughter or to public stockyards or to feed lots approved by the Chief, said animals need not be so treated or disinfected. Other surviving pigs in tests of anti-hog-cholera serum and hog-cholera virus may be removed at the conclusion of the test period, subject to the conditions prescribed in this paragraph.

(e) Hyperimmune hogs or those similarly treated may be removed from licensed establishments not earlier than 14 days subsequent to the time of hyperimmunization or inoculation: *Provided,* They are healthy, as determined by veterinary inspection, and are disinfected as prescribed in § 117.12, except that when removed for immediate slaughter or to public stockyards they may be removed on or after the 11th calendar day and need not be so disinfected.

§ 117.11 *Hogs; treatment prior to removal.* All hogs which require treatment or vaccination as provided in § 117.10 shall be treated with either serum alone or by the simultaneous-inoculation method, as follows:

(a) When serum alone is used, it shall have been prepared and released for marketing at an establishment holding a license from the Secretary and the dose employed shall conform to that required by the regulations.

(b) When the simultaneous-inoculation method is used, the serum and virus used shall have been prepared at an establishment holding a license from the Secretary and the doses shall be not less than those required by the regulations. After receiving this treatment they shall be held under the supervision of an inspector for a period of at least 14 days.

§ 117.12 *Disinfection before removal.* All animals which require disinfection as provided in § 117.10 shall be treated as follows:

(a) The feet, legs, and soiled portions of the body of calves to be removed from the licensed establishments shall be cleaned and disinfected with a 2 percent aqueous solution of cresol compound, U. S. P., or substitute therefor approved by the Chief and the animals shall then be held in noninfectious pens on the premises of the establishment until they are dry before being loaded for transportation.

(b) Hogs shall be disinfected in a 2-percent aqueous solution of cresol compound, U. S. P., or substitute therefor approved by the Chief, and shall be held in noninfectious pens on the premises for at least 3 hours before being loaded for transportation, and after disinfection they shall not be exposed to infectious pens, chutes, and the like. Hogs transported in trucks, wagons, or by similar means may be removed as soon after disinfection as they are observed by the inspector to be dry.

§ 117.13 *Other requirements.* All animals used in licensed establishments in the preparation or testing of veterinary biological products shall meet such requirements consistent with the regulations in this subchapter as may be prescribed by the Chief to prevent the preparation and sale of any worthless, contaminated, dangerous, or harmful biological products.

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## PART 118—HOG-CHOLERA VIRUS

### GENERAL REQUIREMENTS

Sec.



### HYPERIMMUNIZING VIRUS



### SIMULTANEOUS VIRUS



### GENERAL REQUIREMENTS

§ 118.1 *Supervision.* No operations incident to the production of hog-cholera virus in a licensed establishment shall be conducted without the knowledge or supervision of an inspector. The licensee shall notify the inspector in charge or his assistant a reasonable time in advance whenever any operations, including overtime work, are to be conducted in the licensed establishment.

§ 118.2 *Temperatures and inspection.* Pigs which are used in the production of hog-cholera virus at a licensed establishment shall be healthy, and the temperature of each animal shall be accurately taken and permanently recorded by the licensee immediately before inoculation when in the opinion of the inspector in charge this is necessary to determine the health of the animals. Each animal shall be subjected to thorough veterinary inspection immediately prior to inoculation. Temperatures of all pigs shall be accurately taken and recorded by the licensee each day subsequent to the fourth day after inoculation and at such other times as the inspector in charge may require. The temperatures of pigs that are slow or visibly sick on any working day shall be taken and recorded in like manner.

§ 118.3 *Inoculation virus.* Pigs for the production of inoculation virus at a licensed establishment shall weigh not less than 40 pounds nor more than 125 pounds each and shall be inoculated only with highly virulent hog-cholera virus. No hog-cholera virus shall be used for inoculating pigs for the production of inoculating virus, hyperimmunizing virus, or simultaneous virus for inoculating pigs in serum tests, unless it has been produced not more than 60 days prior to use and since its completion has been held only in containers of the borosilicate or equal type. These containers shall be of high resistance and low alkalinity, shall be properly marked for identification, shall be guaranteed by the manufacturer to be acceptable to the Bureau, and shall meet the tests developed by the Bureau for determining these qualities. Other virus may be made suitable for inoculation purposes only by passing it through pigs as prescribed in § 121.3 of this chapter. Virus derived from these pigs may be used for hyperimmunization if the animals react as prescribed in § 118.4.

§ 118.4 *Bleeding.* Pigs from which blood is to be collected for the production of hog-cholera virus at a licensed establishment shall be bled only after they have had veterinary inspection and have manifested well-marked and increasingly grave symptoms of hog-cholera only, attended with progressively abnormal temperatures common to the acute type of this disease, and have been released by the inspector.

§ 118.5 *Post mortem examinations.* All pigs from which simultaneous virus is derived at licensed establishments shall be subjected to post mortem veterinary inspection. Post mortem examination of hyperimmunizing virus pigs shall be made by trained and competent employees of the licensee. However, in all cases the examinations will be conducted under veterinary inspection, and the inspector shall observe the examination of as many pigs as possible.

§ 118.6 *Recording of symptoms.* A properly applied and recorded "slow" mark on a day preceding a Sunday or holiday may be regarded as equivalent to visible sickness provided the temperature of each slow pig is taken and recorded and provided the temperature is markedly abnormal. In other circumstances the slow mark should not be regarded as equivalent to visible sickness,

but should be regarded as a mark applicable to that transitional stage between normal behavior and distinct visible sickness.

§ 118.7 *Autopsies.* Autopsies shall be conducted at licensed establishments on a sufficient number of virus pigs that succumb to obtain all possible information as to the cause of death. Licensed-establishment employees shall perform the labor incident to these examinations under the supervision of an inspector.

§ 118.8 *Early visible sickness; disposition.* Pigs that become visibly sick within 3 days after they have been examined for admission to the premises of a licensed establishment as prescribed by § 117.7 of this chapter, or within 4 days when the third day falls on a Sunday or holiday, must be rejected and either shall be destroyed or handled as prescribed by § 117.10 of this chapter.

§ 118.9 *Defibrination and chilling.* All virus shall be defibrinated promptly after collection at a licensed establishment and immediately thereafter chilled and maintained at a temperature of not to exceed 45° F.

§ 118.10 *Disposition of virus when condition unsatisfactory.* (a) Virus derived from pigs which on post mortem examination do not show lesions sufficient for the inspector to make a positive diagnosis of hog cholera, when considered with the ante mortem behavior of the animal, or from pigs which are found to be affected with any other infectious, contagious, or communicable disease or in such condition as to render the virus contaminated, shall be destroyed as provided in § 108.16 of this chapter under the supervision of an inspector. Virus passed by the inspectors may be destroyed as aforesaid at the discretion of the licensee.

(b) Virus derived from pigs which are found to be affected with tuberculosis shall not be marketed but shall be destroyed, as provided in § 108.16 of this chapter, under the supervision of an inspector, unless the lesions are slight or localized and are calcified or encapsulated.

(c) Samples of blood from pigs which on post mortem examination show evidence of concurrent affection with other disease, except highly communicable diseases referred to in § 117.5 of this chapter, together with well-defined lesions of hog cholera, may be released by the inspector to the licensee for bacteriological examination. Blood free from highly communicable diseases as aforesaid which is deemed satisfactory by the licensee after bacteriological examination may be used for hyperimmunizing purposes.

§ 118.11 *Removal of hog-cholera virus.* Hog-cholera virus shall not be removed from the premises of a licensed establishment unless the virus has been prepared and handled in accordance with the provisions of the regulations.

§ 118.12 *Filling and labeling containers.* No immediate or true container of hog-cholera virus shall be filled in whole or in part, and no label shall be affixed to such container, except under the supervision of an inspector.

HYPERIMMUNIZING VIRUS

§ 118.25 *Inoculations for hyperimmunizing virus.* For use in the production of hyperimmunizing virus, licensees shall inoculate healthy young pigs weighing not more than 160 pounds each with at least 2 cc. of highly virulent hog-cholera virus: *Provided,* That when hog cholera from pen infection is manifested by the animals after the fourth day subsequent to admission to the premises of the licensed establishment, they need not be so inoculated.

§ 118.26 *Requirements for hyperimmunizing virus.* Hyperimmunizing virus shall be collected at licensed establishments only from pigs which are observed on veterinary inspection to be visibly sick with hog cholera and which manifest well-marked and increasingly grave symptoms thereof attended with progressively abnormal temperatures common to the acute type of this disease.

SIMULTANEOUS VIRUS

§ 118.30 *Inoculations for simultaneous virus.* For use in the production of simultaneous virus, licensees shall inoculate young healthy pigs of good quality with at least 2 cc. each of highly virulent virus. Such pigs when inoculated shall weigh not less than 40 pounds nor more than 125 pounds.

(b) Pigs which are eligible only for the production of hyperimmunizing virus shall be inoculated and held in separate pens from those to be used for simultaneous virus. Such separation shall be made on or before the third day after inoculation and such pigs held thereafter in separate pens until released by the inspector.

§ 118.31 *Sickness and records thereof.* Simultaneous virus shall not be collected at licensed establishments from pigs which become visibly sick on or before the third day, or subsequent to the seventh day, after the time of inoculation. The physical condition of all pigs from which simultaneous virus is to be collected shall be recorded daily on and after the third day subsequent to inoculation.

§ 118.32 *Requirements for simultaneous virus, etc.* (a) Simultaneous virus and other hog-cholera virus intended for the inoculation of pigs for any purpose shall be collected at licensed establishments only from pigs which are observed by an inspector to be visibly sick with hog cholera within 7 days after the time of inoculation and which manifest well-marked and increasingly grave symptoms of hog cholera attended with progressively abnormal temperatures common to the acute type of this disease.

(b) Simultaneous virus shall be prepared in licensed establishments in batches of not to exceed 50,000 cc. The defibrinated blood in each batch shall not exceed 45,000 cc. and shall be mixed thoroughly in a single container before phenolization. All simultaneous virus shall be constantly agitated during the bottling operation.

§ 118.33 *Samples of simultaneous virus.* The following representative samples of simultaneous virus shall be taken at licensed establishments and properly identified by an inspector: (a) At time of mixing but before phenolization, (1) "purity test sample" of not less than 30 cc. in a single container, (2) "test sample A" of not less than 5 cc. in a single container; (b) After mixing and phenolization, (1) "phenol test sample" of not less than 30 cc. in one container, (2) one reserve sample of 30 cc. to be forwarded to the Bureau in event the pigeon or mouse test is unsatisfactory and to be returned to the licensee if tests of the sample are satisfactory, (3) "test sample B" of not less than 5 cc. in a single container; (c) At time of bottling, a "stock sample" of at least 30 cc. in one container. All "A" and "B" test samples shall be held at approximately 75° F. under Bureau lock until used. All other samples shall be held under Bureau lock at 35° to 45° F.

§ 118.34 *Phenolization.* Simultaneous virus blood which has been thoroughly mixed after withdrawal of the purity test sample and test sample A shall have added to it a sufficient quantity of a 5-percent solution of phenol so that the virus will contain one-half of 1-percent phenol by volume. This phenolization must be accomplished with accuracy and in a manner which will prevent undesirable changes in the product.

§ 118.35 *Holding of simultaneous virus.* Simultaneous virus which has been mixed and phenolized at licensed establishments as provided in the regulations, together with the virus-stock sample, shall be held under Bureau lock as provided under § 102.77 (c) of this chapter until the tests required by the regulations have been completed and have shown the virus to be free from contamination: *Provided,* That simultaneous virus which will not reach its destination before tests are concluded or which is exported to a foreign country may be released prior to the conclusion of said tests.

§ 118.36 *Disposition of samples of simultaneous virus.* At least one container of the stock sample of simultaneous virus shall be held at the licensed establishment unopened in the manner provided in § 102.77 (c) of this chapter for at least 3 months after the latest expiration date shown upon the labels affixed to the immediate or true containers of the product corresponding to the sample.

§ 118.37 *Test animals.* Two healthy calves, with mouths free from abrasions, as described in § 117.3 of this chapter, or three healthy pigs immunized by the simultaneous treatment against hog cholera for at least 14 days, shall be furnished for intravenous injection with the purity test sample. These animals shall be given veterinary inspection immediately before the test is begun. All animals used for the testing of simultaneous virus shall be injected only under the supervision of an inspector and shall be marked as provided in the regulations. All test animals shall be given veterinary

inspection as frequently as practicable during the test period to determine whether any symptoms or lesions of a vesicular or other disease develop.

§ 118.38 *Purity test of simultaneous virus.* Each of the animals selected for testing the purity of simultaneous virus at licensed establishments shall be injected with 15 cc. of the purity-test sample into either the auricular or the jugular vein within 1 day after the first virus in the batch is collected.

§ 118.39 *Holding test animals.* Animals inoculated for the purpose of determining the purity of simultaneous virus at licensed establishments as provided in § 118.38 shall be held under the observation of a Division employee at least 7 days. Should foot-and-mouth disease appear in the United States the said animals shall be held under the observation of inspectors for at least 10 days.

§ 118.40 *Test and retest.* If none of the animals which are treated with hog-cholera virus as prescribed in § 118.38 manifests symptoms of any infectious, contagious, or communicable disease, or if only one animal develops hog cholera, the test will be declared "satisfactory for purity," and the product released for marketing; *Provided,* It is otherwise satisfactory under the provisions of the regulations. Should any of the animals in the test succumb or should more than one develop hog cholera, another test may be made as in the first instance, except that not less than 15 cc. of the phenolized virus shall be used for the inoculation of each animal.

§ 118.41 *Swine erysipelas.* Representative samples of each batch or serial of simultaneous virus shall be tested at licensed establishments as follows to determine its freedom from swine erysipelas (Erysipelothrix rhusiopathiae):

(a) Within 1 day after the first virus in the batch is collected, at least 1 cc. of test sample A shall be injected intramuscularly into each of three or more young pigeons or 0.2 cc. of such sample shall be injected subcutaneously into each of five or more suitable mice susceptible to swine erysipelas. These test animals and birds shall be held under the observation of an inspector for 10 or more days after being injected with the virus under test.

(b) Three or more days after phenolization of the batch of virus, at least 1 cc. of test sample B shall be injected intramuscularly into each of three or more young pigeons or 0.2 cc. of such sample shall be injected subcutaneously into each of five or more suitable mice susceptible to swine erysipelas. These test animals and birds shall be held under the observation of an inspector for 7 or more days after being injected with the virus under test.

(c) If all test animals or birds injected with test sample A survive for 10 days or more, and all test animals or birds injected with test sample B survive for 7 days or more, after injection, the batch or serial represented by the samples may be marketed if it otherwise conforms to the requirements of the regulations.

(d) Should any of the inoculated animals or birds die during the test, the product shall not be released for marketing and the reserve 30-cc. sample shall be forwarded to the Bureau.

(e) All animals or birds, after being once used in the tests provided in this section shall be killed and their carcasses destroyed by incineration or tanking as provided in § 108.16 of this chapter. All virus blood and simultaneous virus which are contaminated with Erysipelothrix rhusiopathiae shall also be destroyed in like manner.

§ 118.42 *Marking "U. S. Released."* Each immediate or true container of simultaneous hog-cholera virus produced at licensed establishments which has been tested and found not to be worthless, contaminated, dangerous, or harmful, may have a cap affixed which, if approved by the Chief, may bear the words "U. S. Released." These caps shall be affixed to the aforesaid containers only under the supervision of an inspector and shall be held under Bureau lock except when needed for this purpose. No simultaneous virus shall be released for marketing unless and until all information required by the regulations has been affixed to the containers thereof under supervision of an inspector. All simultaneous virus on which the expiration date has expired shall be destroyed as prescribed in § 108.16 of this chapter.

§ 118.43 *Expiration date.* The expiration date placed on the label of each immediate or true container of simultaneous virus produced at licensed establishments shall be one of the following:

(a) A date within 90 days after the first blood in the batch was collected: *Provided,* That the simultaneous virus is stored and marketed in containers acceptable to the Bureau;

(b) A date within 120 days after the first blood in the batch was collected when the product is marketed in containers described in § 118.3 and is to be exported to a foreign country and the containers thereof are labeled distinctively.

§ 118.45 *Minimum dosage and use.* Labels affixed to or used in connection with each immediate or true container of simultaneous virus produced at licensed establishments shall bear a dosage table in which the doses recommended are not less than those appearing in the following table:

| *Weight:* | *Minimum dose (cc.)* |
|---|---|
| Pigs weighing 45 pounds or less | 1 |
| Pigs weighing more than 45 pounds | 2 |

Each label shall bear instructions to use the virus only with anti-hog-cholera serum.

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## PART 119—ANTI-HOG-CHOLERA SERUM

### GENERAL REQUIREMENTS



### HYPERIMMUNE HOGS



### ANTI-HOG-CHOLERA SERUM PREPARATION PROCEDURE



### TESTING ANTI-HOG-CHOLERA SERUM



### GENERAL REQUIREMENTS

§ 119.1 *Supervision of production of anti-hog-cholera serum.* No operation incident to the production of anti-hog-cholera serum at a licensed establishment shall be conducted without the knowledge or supervision of an inspector. The licensee shall notify the inspector in charge or the supervising inspector a reasonable time in advance whenever any such operations, including overtime work, are to be conducted in the licensed establishment.

§ 119.2 *Production principle.* Pigs that develop hog cholera of a well-marked and progressive type attended with progressively abnormal temperatures produce hog-cholera virus of high virulence, and when hogs properly immunized against hog cholera for a sufficient length of time are injected intravenously with massive quantities of such virus their blood serum possesses superior protective properties against hog cholera. Therefore, these facts should form the basis of all methods of producing anti-hog-cholera serum and hog-cholera virus as well as of all the regulations governing their production.

### HYPERIMMUNE HOGS

§ 119.3 *Required period of immunity.* Anti-hog-cholera serum shall be derived at licensed establishments only from hyper-immune hogs which have been immune to hog cholera for at least 90 days prior to hyperimmunization.

§ 119.4 *Health, weight, and temperature when hyperimmunized.* Hogs

which are used to produce anti-hog-cholera serum at licensed establishments shall be healthy at the time of hyperimmunization, and this fact shall be determined by a thorough veterinary inspection. The temperature and weight of each animal in a given group shall be determined and recorded accurately by the licensee before hyperimmunization of the group.

§ 119.5 *Dosage of virus.* All hogs which are used to produce anti-hog-cholera serum at licensed establishments shall receive, for hyperimmunization, a single intravenous injection of at least 5 cc. of hog-cholera virus for each pound of the animal's weight when injected.

§ 119.6 *Temperatures before bleeding.* The temperatures of the hogs in each group or lot used to produce anti-hog-cholera serum at licensed establishments shall be determined under normal handling conditions and recorded accurately by the licensee either on the afternoon before, or on the day of, bleeding and at such other times as the inspector may require. There shall be provided clean, light quarters equipped with a satisfactory chute and all other facilities for expediting temperature taking and veterinary inspection.

§ 119.7 *Inspection before bleeding.* All hogs which are used to produce anti-hog-cholera serum at licensed establishments shall be subjected to a thorough veterinary inspection before each bleeding. Groups containing any hogs that are lame or otherwise suspected of being affected with a vesicular disease shall be given special examination for vesicles and the like after thorough cleansing of their feet, including examination of the coronary bands, snouts, and lips. Only those hogs which are found to have a temperature of less than 104° F. and are free from any infectious, contagious, or communicable diseases or other abnormal conditions shall be bled for serum. No hyperimmune hog in a lot or group of like origin having a significant number of high temperatures or showing other abnormalities indicative of an infectious or communicable disease shall be subjected to bleeding until such conditions of the lot or group as a whole no longer exist.

§ 119.8 *Bleeding and examination.* (a) Anti-hog-cholera serum shall be derived at licensed establishments only from hyperimmune hogs which have been subjected to not more than four successive bleedings, except that additional bleedings may be authorized by the Chief in emergencies. The first bleeding shall take place not earlier than the eleventh day after hyperimmunization; subsequent bleedings shall not take place more frequently than once in 7 days; and the last bleeding shall be made on a date not later than 40 days after hyperimmunization: *Provided,* That, in emergencies, final bleeding may be deferred when specifically authorized by the Chief.

(b) Autopsies shall be performed at licensed establishments on hyperimmune hogs that succumb in order to obtain, if possible, information as to the cause of death. Employees of the licensed establishment, under the supervision of an inspector, shall perform the labor incident to these examinations.

(c) Anti-hog-cholera serum derived at licensed establishments from final bleedings shall be kept separate from other serum until it has been determined by post mortem examination that the hog from which the serum is derived was not so affected with any infectious, contagious, or communicable disease or in such condition as to render the serum worthless, contaminated, dangerous, or harmful.

§ 119.9 *Constitutional symptoms.* Anti-hog-cholera serum derived at licensed establishments from hogs which, after hyperimmunization, manifest symptoms indicative of an affection of a constitutional character other than those usually observed immediately following hyperimmunization shall not be mixed with other serum, unless after due consideration of the prevailing conditions, this action is permitted by a veterinary inspector. Such serum, if collected only from hogs as prescribed in § 119.8, may be prepared separately and tested as prescribed in the regulations and if, as a result of these tests, the product is found satisfactory, it may be marketed. Otherwise, the serum shall be destroyed as provided in § 108.16 of this chapter under the supervision of an inspector.

§ 119.10 *Post mortem examination.* (a) All hogs from which anti-hog-cholera serum is derived at licensed establishments shall be subjected, after final bleeding, to a thorough post mortem examination by an inspector. If, as a result of such inspection, it is found that any hog is so affected with any infectious, contagious, or communicable disease or is in such condition as to render the serum worthless, contaminated, dangerous, or harmful, the serum collected from such hog shall be destroyed by the licensee, as provided in § 108.16 of this chapter under the supervision of an inspector.

(b) If serum-producing hogs at a licensed establishment become exhausted as a result of tail bleeding, dressing of the animals may be permitted provided they are given veterinary inspection immediately before throat bleeding and provided the animals bleed properly. The carcasses of such hogs may be dressed for food if disposition thereof is made in accordance with the meat inspection regulations (9 CFR Chapter I, Subchapter A, as amended). The blood of such animals may be used for serum if the tail and throat bleeding operations are such that no more time elapses between tail bleeding and throat bleeding than is necessary for removing the animals from the tail-bleeding station and restraining them at a regular throat-bleeding station.

ANTI-HOG-CHOLERA SERUM PREPARATION PROCEDURE

§ 119.20 *Heating; time and conditions.* All anti-hog-cholera serum produced at licensed establishments shall be heated under the supervision of an inspector in such a manner as to subject the product and the entire container thereof to a temperature of 58.5° C. for 30 minutes with a tolerance of 0.5° above and below that temperature, by methods prescribed by the Chief.

§ 119.21 *Heating containers.* Metal containers of a capacity not to exceed 50 liters shall be used in heating anti-hog-cholera serum at licensed establishments. Such containers shall be equipped with satisfactory agitators, and facilities for cooling and preserving the product shall also be provided. All serum shall be handled prior to heating so that practically all "foam" is eliminated before beginning the heating process and shall be properly agitated while being heated, cooled, and preserved. Each container of serum at time of heating shall be so submerged that the water line in the bath will be at least 2 inches above the upper surface of the lid. No container or other equipment intended for heating, cooling, preserving, and storing serum shall be used unless it is acceptable to the inspector in charge.

§ 119.22 *Heating and cooling; instructions.* The temperature of the bath in which serum is heated at licensed establishments shall not be permitted to exceed 62° C. The temperature of the serum shall be reduced as rapidly as possible to 15° C. or lower after heating. The temperatures of the serum and the water in the bath shall be accurately determined and recorded by the use of automatic recording thermometers. A separate recording thermometer shall be used for each container of serum during the heating and cooling operations. Such parts of heating and cooling equipment as it may be necessary to seal to insure that actual temperatures of the product and the water bath are properly recorded shall be sealed effectively by an inspector. Bulbs and other parts of thermometers which are placed within the serum container shall be submerged in a 5-percent phenol solution, or substitute permitted by the Chief, at all times when not in use for taking temperatures.

§ 119.23 *Instructions for preparation of anti-hog-cholera serum*—(a) *Definitions.* When used in this section, the following terms shall be construed to have the meanings hereby assigned.

(1) *Group number.* The number used to identify a group of hyperimmune hogs not in excess of 175, the blood of which is clarified and identified as one lot or as a fraction of a lot.

(2) *Class of bleeding.* The bleedings of hyperimmune hogs. First, second, third, and throat or carotid bleedings shall be identified by the letters A, B, C, and D, respectively.

(3) *Working unit.* The net quantity of hyperimmune blood in each container used as a basis of clarification.

(4) *Preserved serum.* True serum and permitted clarifying solutions recovered in the centrifugation of hyperimmune blood, preserved in compliance with the regulations.

(5) *Completed serum.* A combination of the different classes of preserved serum mixed in batches in such propor-

tions as will equalize the potency of said classes.

(6) *Finished serum.* Completed serum which is bottled, tested, and fully labeled for marketing.

(7) *Number.* The number of hyperimmunes in any group, subjected to bleeding, to supply blood of a given class.

(8) *Weight.* The total weight, at the time of hyperimmunization, of all the hogs in the group that are bled in each class.

(9) *Lot number.* The identification number of the preserved serum produced from blood collected from one or more groups consisting of a total of not more than 175 hyperimmune hogs.

(10) *Batch.* Preserved serum mixed in a single container as required by the regulations.

(11) *Division rate.* The proportion which the total quantity of preserved serum of each class of bleedings bears to the total quantity in a lot.

(12) *Remainder.* The unused preserved serum of all classes remaining after one or more batches have been prepared from a lot.

(b) *General provisions.* (1) The composition of each lot of anti-hog-cholera serum shall be recorded by the licensee on a form acceptable to the Chief.

(2) The average yield of blood per pound for each class of bleedings shall be entered in the hyperimmune record in connection with the weight for the class.

(3) The quantity of blood treated with clarifying solutions in a single container shall not exceed 25,000 cc. All clarifying solutions shall be added to the working unit.

(4) All of the preserved anti-hog-cholera serum produced from the blood collected from a given group of hogs shall be placed in the same lot.

(c) *Rules and factors for computing yields of anti-hog-cholera serum.* The following rules and factors shall be used by licensed establishments in computing yields of anti-hog-cholera serum. When defibrinated hyperimmune blood is used, the total quantities in the lot shall constitute the basis for making the following computations.

(1) To find the quantity of true serum in the lot, subtract the sum of the quantities of clarifying solutions and preserving solution from the total quantity of preserved serum.

(2) To find the percentage of true serum recovered from the defibrinated blood, divide the total quantity of true serum by the total quantity of defibrinated blood used.

(3) To find the maximum production permissible when the true serum recovered represents 73.04 percent or less of the defibrinated blood used, divide the total quantity of true serum by 0.88.

(4) To find the maximum production permissible when the true serum recovered represents more than 73.04 percent of the defibrinated blood, multiply the total quantity of defibrinated blood used by 0.83. In determining the concentration of phenol solution to be selected in preserving "Serum recovered (gross)" prepared from defibrinated blood, the following table shall be used:

| Serum recovered (gross) compared with defibrinated blood | True serum recovered compared with defibrinated blood | Preserving solutions (phenol) required |
|---|---|---|
| *Percent* | *Percent* | *Percent* |
| 77.4666 | 73.4666 | 7.5 |
| 78.85 | 74.85 | 10 |
| 82.0459 | 78.0459 | 50 |

The figures in such table show the maximum yields that may be preserved with the different solutions without exceeding 83 percent of the defibrinated blood used, provided the clarifying solutions are exactly 4 percent of this blood. The figures for "Serum recovered (gross)" will vary as the clarifying solutions are permitted to vary from 4 percent.

(5) To find the division rates for the different classes of bleedings, divide the preserved serum in each class by the total quantity of preserved serum in the lot. Each rate shall be expressed as a decimal fraction and contain either three or six figures. A division rate of three figures may only be used, provided the last three of six figures are regarded as 1 and added to the third figure when they represent 501, or more and disregarded when they represent 500, or less. For example, 0.195501 shall be recorded and used as 0.196 and 0.184500 shall be recorded and used as 0.184.

(6) To find the percentage of true serum in the completed serum of a lot, divide the total net quantity of true serum used by the total quantity of preserved serum mixed.

(7) To find the percentage of completed serum as compared with the total quantity of defibrinated blood, divide the total quantity of completed serum by the total quantity of defibrinated blood used.

(8) To find the total weight of hyperimmune hogs used or bled, find the combined weights taken at the time of hyperimmunization for the hogs actually bled for each class of bleedings.

(9) To find the yield of defibrinated blood per pound of hyperimmune hogs, divide the total quantity of defibrinated blood collected from each class of bleedings of hyperimmune hogs by the total weight of the animals bled. The sum of these results for all bleedings combined will represent the yield of defibrinated blood per pound.

(10) To find the yield of completed serum per pound of hyperimmune hogs, divide the total quantity of completed serum by the total pounds of hyperimmune hogs used.

(d) *Preparing batches.* The following instructions shall be observed by licensed establishments in preparing batches of anti-hog-cholera serum:

(1) When not more than one batch of completed serum is to be prepared from the lot: Determine the net quantity of preserved serum mixed and the loss in handling.

(2) When two or more batches not to exceed 300,000 cc. each of completed serum equal or approximately equal in size are to be prepared from the lot: Divide the quantity of preserved serum of each class of bleedings in the lot by the number of batches that are to be prepared. The quotient will show the quantity of preserved serum of each class required for each batch. Proceed in the preparation of each batch as outlined in this section.

(3) When one or more batches of completed serum and a remainder are to be prepared from the lot: Determine the quantity of preserved serum of each class of bleedings required to make a batch of approximately 300,000 cc. of completed serum, and multiply the total quantity of preserved serum required by the division rate for each class. The results will show the quantity of preserved serum of each class required. Proceed with the preparation of the batch as outlined in this section. Proceed with the preparation of as many additional batches approximating 300,000 cc. each as may be possible from the lot as outlined in this section. The unused portions of a lot when they aggregate less than 300,000 cc. may be mixed together and tested and marketed as a batch, or shall be identified as "Remainder of Lot No. ____" and be made a part of the next batch mixed.

(4) When more than one batch of completed serum is to be prepared from the lot and a remainder is to be used: Determine the quantity of preserved serum of each class required to make a fraction of a batch of completed serum which, when added to the remainder, will approximate 300,000 cc., by subtracting from 300,000 cc., the quantity of preserved serum derived from the remainder. The difference will show the theoretical quantity of preserved serum that may be added to the remainder to make a batch of approximately 300,000 cc. of completed serum. Proceed with the preparation of the fraction of the batch as outlined in this section. Add the remainder to the completed fraction of the batch to find the quantity of completed serum in the batch. Proceed with the preparation of as many additional batches approximating 300,000 cc. each as may be possible from the lot as outlined in this section.

(5) When only one batch of completed serum is to be prepared from the lot and a remainder is to be used: Prepare the fractional part of the batch as outlined in this section. Add the remainder to the fraction to find the quantity of completed serum in the batch.

(6) Batches larger than 300,000 cc.: Such batches shall be prepared by mixing in a single container all preserved serum derived from one or more properly identified whole groups totaling not more than 175 hogs.

§ 119.24 *Batches; determination of quantity.* Anti-hog-cholera serum which is to constitute a batch or portion thereof may be strained into a single container, after which the quantity should be accurately determined.

§ 119.25 *Phenolization.* (a) Anti-hog-cholera serum produced at licensed establishments shall have added thereto a sufficient quantity of a 7½ percent solution of phenol to make the completed serum consist one-half of 1 percent of phenol by volume: *Provided,* That either

a 10 percent phenol solution or a solution containing equal parts by weight of phenol and ether may be used when yields or methods require this as a means to keep the total quantity of serum produced from a given quantity of blood within requirements of the regulations. When a 10 percent phenol solution is used, at least 10 percent of its volume shall be glycerin.

(b) To preserve serum properly, the following procedure shall be observed:

(1) When a 7.5 percent solution is used, divide the quantity of serum by 14.

(2) When a 10 percent solution is used, divide the quantity of serum by 19.

(3) When the phenol-ether solution, mentioned above, is used, divide the quantity of serum by 86.

(c) Phenolization of anti-hog-cholera serum must be accomplished with accuracy, and in a manner which will prevent the occurrence of undesirable changes in the product. In every case the concentration and quantity of each solution used in preserving the serum shall be recorded by the licensee.

§ 119.26 *Mixing and holding.* Anti-hog-cholera serum, prior to testing, at licensed establishments shall be thoroughly mixed in a single container into batches of not more than 300,000 cc. composed of proper proportions of the different classes of bleedings as provided in the regulations: *Provided, however,* That larger batches may be prepared by mixing in a single container all serum derived from one or more properly identified whole groups of hyperimmune hogs totaling not more than 175 hogs. Until the serum is released by an inspector, it shall be held under Bureau lock except when being processed.

§ 119.27 *Samples.* After a batch of anti-hog-cholera serum is thoroughly mixed in a single container, at a licensed establishment, a representative sample consisting of at least 300 cc. shall be collected in three containers of not less than 100 cc. each, to be known as the "serum test sample." This sample shall be taken, properly labeled, marked by an inspector, and held under Bureau lock. One of the three containers shall be marked "stock sample" and held under Bureau lock for at least 6 months after the latest expiration date shown on the labels affixed to the immediate or true containers of the serum of which this sample is a part.

§ 119.28 *Disposition of samples.* Unused samples of anti-hog-cholera serum prepared at licensed establishments on which the expiration date has passed 6 months previously may be labeled and marked in the regular manner, provided this procedure is approved by the inspector in charge and the serum is at that time tested and found satisfactory for potency and purity, and such labeling and marking is done within 3 years after the oldest serum in the batch is collected. When these conditions are not met, and it is desired to market the serum, the samples shall be mixed and assigned a serial number. This mixture may be tested alone or it may be mixed with other untested serum and tested as prescribed in the regulations: *Provided,* That the samples shall not constitute more than 50 percent of the serum contained in the final mixture. The expiration date to be affixed to the containers of mixtures of unused samples shall not exceed 1 year from the date of conclusion of a satisfactory test for potency.

TESTING ANTI-HOG-CHOLERA SERUM

§ 119.50 *Tests required.* All anti-hog-cholera serum produced at licensed establishments shall be tested for purity and potency as prescribed by the regulations. Special tests may be authorized by the Chief under § 114.2 of this chapter.

§ 119.51 *Test pigs.* Licensees shall furnish all pigs used in testing anti-hog-cholera serum. Eight healthy pigs, susceptible to hog cholera and weighing not less than 40 pounds nor more than 90 pounds each, shall be used for testing each batch of serum consisting of 300,000 cc. or less. Batches consisting of more than 300,000 cc. shall be tested on 11 healthy pigs in lieu of 8. The inspector supervising the test shall indicate the pigs which shall receive anti-hog-cholera serum with hog-cholera virus and those which shall receive the virus only.

§ 119.52 *Dosage in tests.* Each pig furnished at licensed establishments for testing anti-hog-cholera serum shall be injected with 2 cc. of hog-cholera virus. Three pigs in each test shall receive no serum and shall serve as controls. The remaining pigs in the test shall receive 15 cc. each of the serum to be tested. The virus and serum injections shall be made simultaneously, the virus being injected in the left axillary space, and the serum in the right. Each of the pigs in the test shall be injected with virus of the same serial number, the virus to be selected and administered by an inspector.

§ 119.53 *Handling test pigs.* All surviving pigs used for testing a batch of serum at a licensed establishment shall be subjected to the same conditions throughout the test period and shall be held in a single pen or inclosure throughout this period, except that when it is evident that a particular serum test will be declared "no test" or "unsatisfactory for potency," the test pigs, with the permission of the supervising inspector, may be removed from the original test pen and placed with other pigs of the same class in a common pen for the purpose of releasing pen space for other tests.

§ 119.54 *Observation and holding period; test pigs.* The period for holding surviving pigs under the observation of an inspector, at licensed establishments, while being used for testing the potency and purity of anti-hog-cholera serum as described in the regulations, shall be not less than 14 days immediately following their inoculation for this purpose and as much longer as the inspector in charge deems necessary to render proper judgment on the results of the tests. Such pigs shall not be removed from the test unless and until released by the supervising inspector, who will permit their removal only after they have served their purpose in the prescribed tests.

§ 119.55 *Temperatures; test pigs.* The temperature of each pig used in a test of anti-hog-cholera serum at licensed establishments shall be taken and recorded shortly before such test is started. Temperatures of control pigs and "slow" or sick serum-treated pigs in serum tests, except known "unsatisfactory tests" and "no tests," shall be taken and recorded daily throughout the test period on regular work days and such other days as the inspector in charge may direct when it appears desirable for proper disposition of the test. When pigs in tests do not manifest "slowness" or symptoms of sickness, their temperatures need not be taken except when required by the inspector in charge to determine more accurately the physical condition of the animals under observation.

§ 119.56 *Virus required.* Simultaneous virus or its equivalent, as described in § 118.3 of this chapter, in sufficient quantities to meet the needs shall be furnished by licensed establishments for use as the inspector in charge may deem advisable for inoculating pigs in serum tests. Hog-cholera virus furnished by the Bureau shall be used in inoculating pigs in tests whenever the inspector in charge deems this procedure advisable, and whenever conditions in previous tests of any batch of serum have indicated some deficiency in either the virus or serum used.

§ 119.57 *Principle for judging results of tests.* The following principle and the rules in § 119.58 are to be used as guides in judging the results of serum tests at licensed establishments:

It is practically impossible in many cases to differentiate accurately between hog cholera, pneumonia, and other conditions affecting hogs without the aid of an autopsy as well as laboratory techniques and experiments to determine the causative agent responsible for the condition. Therefore, when healthy pigs are selected for testing anti-hog-cholera serum any abnormal condition in the pigs subsequent to their inoculation shall be regarded as due either to the virus used or, in serum-treated pigs, to the fact that the serum does not protect, unless the condition is definitely known or can be shown to be due to some other cause.

§ 119.58 *Rules for judging results of test.* The following rules shall apply at licensed establishments in judging anti-hog-cholera serum tests described in the regulations.

(a) *Control pigs.* The purpose of control pigs in serum tests is to furnish information as to the virulence of the virus used for inoculating the animals and to indicate whether the pigs furnished are susceptible to hog cholera. As an aid in determining the fulfillment of this purpose the following conditions shall obtain:

(1) At least two of the control pigs shall become visibly sick of hog cholera subsequent to the third day of the test period or the fourth day, if the third day falls on a Sunday or holiday, and within 7 days after the test is begun.

(2) At least two of the control pigs which become sick as described in sub-

paragraph (1) of this paragraph shall manifest well-marked and increasingly grave symptoms of hog cholera attended with progressively abnormal temperatures common to the acute type of this disease.

(3) At least two of the control pigs which become sick as described in subparagraphs (1) and (2) of this paragraph shall show lesions upon post mortem examination sufficient for the inspector to make a positive diagnosis of hog cholera, when considered with the ante mortem behavior of these animals.

(b) *Test; conditions under which serum to be declared "satisfactory for potency."* Serum will be declared "satisfactory for potency" when at least two of the control pigs react as described in paragraph (a) of this section and either of the following conditions obtains:

(1) All the serum-treated pigs remain well throughout the test period.

(2) One or more of the serum-treated pigs become visibly sick after the time of inoculation and all fully recover before the test animals are released by the inspector. Such sick pigs, however, will not be regarded as fully recovered until they have been in an apparently normal condition for at least 3 consecutive days.

(c) *Test; conditions under which serum to be declared "unsatisfactory for potency."* Serum will be declared "unsatisfactory for potency" when at least two of the control pigs react as described in paragraph (a) of this section and the following condition obtains:

One or more of the serum-treated pigs become visibly sick subsequent to the third day after the time of inoculation, or the fourth day, if the third day falls on a Sunday or holiday, and fail to recover fully before the test animals are released by the supervising inspector.

(d) *Test; conditions under which serum to be declared "no test for potency."* Serum will be declared "no test for potency" when any one of the following conditions obtains, but such action will not prevent a retest under the provisions of the regulations:

(1) One or more of the serum-treated pigs become visibly sick on or before the third day after the time of inoculation, or the fourth day, if the third days falls on a Sunday or holiday, and fail to recover within the test period.

(2) Two or more of the control pigs become visibly sick on or before the third day after the time of inoculation, or the fourth day, if the third day falls on a Sunday or holiday.

(3) Two or more of the control pigs do not manifest symptoms of hog cholera as described in paragraph (a) of this section.

(4) Two or more of the control pigs do not show lesions of hog cholera upon post mortem examination as described in paragraph (a) of this section.

(5) Two or more of the control pigs manifest symptoms of hog cholera within 7 days as described in paragraph (a) of this section but do not become sick to the degree described in said paragraph.

(6) Any of the serum-treated pigs develop, during the test period, symptoms of any infectious, contagious, or communicable disease (other than hog cholera) which is not caused by the serum used.

(7) A condition obtains in any of the test pigs which is not otherwise covered in this section.

(e) *Test; when serum to be declared "satisfactory for purity."* Serum will be declared "satisfactory for purity" when the following condition obtains:

Not more than one of the serum-treated pigs in a test develops an abscess at the site of the serum injection and no symptoms of any infectious, contagious, or communicable disease other than hog cholera are manifested by any of the animals in the test.

(f) *Test; conditions under which serum to be declared "unsatisfactory for purity."* Serum will be declared "unsatisfactory for purity" when either of the following conditions obtains:

(1) Abscesses which are not definitely known to be due to causes other than the serum used develop at the sites of the serum injections in more than one of the serum-treated pigs.

(2) During the test period any of the serum-treated test pigs develop symptoms of any infectious, contagious, or comunicable disease (other than hog cholera) which is due to the serum used.

(g) *Test; conditions under which serum to be declared "no test for purity."* Serum will be declared "no test for purity" when any one of the following conditions obtains, but such action will not prevent a retest under the provisions of the regulations.

(1) Two or more of the serum-treated pigs succumb within 14 days after the time of inoculation.

(2) Any of the serum-treated pigs develop, during the test period, symptoms of any infectious, contagious, or communicable disease (other than hog cholera) which is not caused by the serum used.

(3) A condition obtains in any of the test pigs which is not otherwise covered in this section.

§ 119.59 *Retests when serum found "unsatisfactory for potency."* When a test of anti-hog-cholera serum, prepared at a licensed establishment, has shown it to be "unsatisfactory for potency," the serum may be tested again as prescribed in § 119.51. Should this retest show the serum to be "unsatisfactory for potency" it may be so retested again, and if still found "unsatisfactory for potency" the serum shall be destroyed or otherwise disposed of as prescribed by the Chief.

§ 119.60 *Tests for purity.* Should abscesses develop at the sites of the serum inoculations in any of the pigs used at licensed establishments for testing serum as provided in this part, the following rules shall apply:

(a) Judgment of the results of tests made on pigs to determine the potency of anti-hog-cholera serum will be rendered irrespective of conditions found which are regarded as an index to the purity of the product.

(b) If anti-hog-cholera serum upon testing is declared "satisfactory for purity," and it is found necessary to subject the batch of serum to a retest to determine its potency, judgment concerning the purity of the product shall be based on the first test unless evidence is found subsequent to such test which indicates that the serum is contaminated.

§ 119.61 *Retests for purity.* (a) When anti-hog-cholera serum prepared at a licensed establishment has once been found "unsatisfactory for purity," as defined in § 119.58, it may be tested again for purity on eight pigs, provided each pig receives a single injection, in the axillary space, of at least 20 cc. of the product.

(b) When anti-hog-cholera serum produced at a licensed establishment has twice been found "unsatisfactory for purity," as defined in § 119.58, but is "satisfactory for potency," as provided in § 119.58, it may be tested again to ascertain whether it is contaminated with pus-producing organisms by treating 50 hogs on the premises of the licensed establishment. The serum shall be administered under the supervision of an inspector, and each hog treated shall receive a single injection, in the axillary space, of not less than 25 cc. of the product to be tested. Serum tested as provided in this paragraph shall be destroyed or otherwise disposed of or used as prescribed by the Chief.

§ 119.62 *Purity test animals; holding period.* Animals used for testing serum as provided in § 119.61 at licensed establishments shall be held under the supervision of an inspector for at least 14 days, and be carefully examined at the sites of inoculations to determine whether the serum has caused abscess formation.

§ 119.63 *Minimum dosage.* When anti-hog-cholera serum produced at licensed establishments, upon testing as provided in the regulations, is found "satisfactory for potency" and "satisfactory for purity," the product may be marketed if it is recommended for use in doses not less than those appearing in the following table:

| Weight: | *Minimum dose (cc.)* |
|---|---|
| Sucking pigs | 16 |
| Pigs 20 to 40 pounds | 24 |
| Pigs 40 to 90 pounds | 28 |
| Pigs 90 to 120 pounds | 36 |
| Hogs 120 to 150 pounds | 44 |
| Hogs 150 to 180 pounds | 52 |
| Hogs 180 pounds and over | 60 |

§ 119.64 *Marking anti-hog-cholera serum "U. S. Released."* Each immediate or true container of anti-hog-cholera serum produced at a licensed establishment, and which has been tested and found not to be worthless, contaminated, dangerous, or harmful may have a cap affixed which, if approved by the Chief, may bear the words "U. S. Released." These caps shall be affixed to the aforesaid containers only under the supervision of an inspector and shall be held under Bureau lock except when needed for this purpose.

§ 119.65 *Expiration date.* The expiration date shown on labels of anti-hog-cholera serum produced at licensed establishments shall not exceed 3 years

from the date on which the first serum of the batch is collected, except as provided in § 119.66.

§ 119.66 *Extension of expiration date.* Should the expiration date of any batch of anti-hog-cholera serum produced at licensed establishments expire before the serum is used, the serum may be retested, and if found "satisfactory for potency" and "satisfactory for purity," as defined in § 119.58 (b) and (e), the expiration date may be extended for 1 year from the date of conclusion of the retest for potency. Should a batch of anti-hog-cholera serum not be found "satisfactory for potency" or "satisfactory for purity" before the expiration of 3 years from the date of collection of the oldest serum in the batch, or should it not be so found in time to allow it to be used before the expiration of said 3 years, the expiration date will be limited to 6 months from the date of conclusion of a satisfactory test for potency.

§ 119.67 *Requirements for filling and labeling.* No immediate or true container of anti-hog-cholera serum shall be filled in whole or in part, and no label shall be affixed to such a container at licensed establishments, except under the supervision of an inspector.

§ 119.68 *Conditions for release and removal.* Anti-hog-cholera serum shall not be removed from the premises of a licensed establishment unless it has been prepared as required by the regulations, and no such serum shall be released for marketing unless and until all the information required by the regulations has been affixed to the containers thereof under the supervision of an inspector.

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PART 121 — ADMISSION OF BIOLOGICAL PRODUCTS AND MATERIALS TO LICENSED ESTABLISHMENTS

Sec.
121.1 Requirements re admission of biological products, etc., to licensed establishments.
121.2 Bureau virus and serum.
121.3 Virus from outbreaks.
121.4 Transportation between licensed establishments.

§ 121.1 *Requirements re admission of biological products, etc., to licensed establishments.* Except as specifically authorized by the regulations, no biological product which has not been prepared, handled, stored, and marked in accordance with the regulations and no biological product which is worthless, contaminated, dangerous, or harmful shall be brought onto the premises of any licensed establishment.

§ 121.2 *Bureau virus and serum.* Hog-cholera virus and anti-hog-cholera serum prepared by the Bureau will be admitted to licensed establishments for use as prescribed in the regulations or as may be approved by the Chief.

§ 121.3 *Virus from outbreaks.* Hog-cholera virus procured from outbreaks of hog cholera on farms that are free from other communicable diseases will be admitted to licensed establishments by the inspector in charge when requested by the licensee for use in propagating a new strain of virus for inoculating purposes. Before such virus is used in the production of simultaneous virus or hyperimmunizing virus, it shall be injected into pigs weighing from 40 to 90 pounds to determine whether the purity and virulence of the product are satisfactory. The virus shall be passed through pigs as provided in the regulations until its virulence and purity are satisfactory; otherwise, the product shall be destroyed as provided in § 108.16 of this chapter.

§ 121.4 *Transportation between licensed establishments.* Anti-hog-cholera serum and hog-cholera virus, spleens, and other organs, collected in licensed establishments, and suitable for use under the regulations, may be transported from one licensed establishment to another or between units of the same establishment provided these products are properly packed. Such products and materials must be packed or iced so that a proper temperature will be maintained during transportation. The containers shall be sealed by an authorized inspector, and such seals shall be broken only by such an inspector at the point of destination; otherwise, the products and materials shall be refused admission at the licensed establishment to which transported.

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PART 122—ORGANISMS AND VECTORS

Sec.
122.1 Permits required.
122.2 Application for permits.
122.3 Suspension or revocation of permits.

§ 122.1 *Permits required.* No organisms or vectors shall be imported into the United States or transported from one State or Territory or the District of Columbia to another State or Territory or the District of Columbia without a permit issued by the Secretary and in compliance with the terms thereof: *Provided,* That no permit shall be required under this section for importation of organisms for which an import permit has been issued pursuant to Part 102 of this chapter or for transportation of organisms produced at establishments licensed under Part 102 of this chapter. As a condition of issuance of permits under this section, the permittee shall agree in writing to observe the safeguards prescribed by the Chief for public protection with respect to the particular importation or transportation. Permits shall be numbered and shall be in the following form:

UNITED STATES VETERINARY PERMIT NO. _____

ORGANISMS OR VECTORS

*Washington, D. C.* _____

Under authority of Act of Congress approved February 2, 1903 (32 Stat. 792, 21 U. S. C. 111) and Act of Congress approved March 4, 1913 (37 Stat. 832–833, 21 U. S. C. 151–158), _____ is hereby authorized, so far as the jurisdiction of the Department of Agriculture is concerned, to (import or transport) _____ from _____ to _____ via _____.

This permit is issued under authority contained in § 122.1, Subchapter E, Chapter I, Title 9 CFR, and on the basis of the signed agreement of the permittee to use the organisms and their derivatives, or vectors, only for the purpose specified therein, and to dispose of them as directed by the U. S. Bureau of Animal Industry.

_____
*Secretary of Agriculture*

Countersigned:

_____
*Chief, Bureau of Animal Industry*

§ 122.2 *Application for permit.* The Secretary may issue, at his discretion, a permit as specified in § 122.1 when proper safeguards are set up as provided in § 122.1 to protect the public. Application for such a permit shall be made in advance of shipment, and each permit shall specify the name and address of the consignee, the true name and character of each of the organisms or vectors involved, and the use to which each will be put.

§ 122.3 *Suspension or revocation of permits.* (a) Any permit for the importation or transportation of organisms or vectors issued under this part may be formally suspended or revoked after opportunity for hearing has been accorded the permittee, as provided in Part 123 of this chapter, if the Secretary finds that the permittee has failed to observe the safeguards and instructions prescribed by the Chief with respect to the particular importation or transportation or that such importation or transportation for any other reason may result in the introduction or dissemination from a foreign country into the United States, or from one State, Territory or the District of Columbia to another, of the contagion of any contagious, infectious or communicable disease of animals (including poultry).

(b) In cases of wilfulness or where the public health, interest or safety so requires, however, the Secretary may without hearing informally suspend such a permit upon the grounds set forth in paragraph (a) of this section, pending determination of formal proceedings under Part 123 of this chapter for suspension or revocation of the permit.

*Effective date.* The foregoing regulations shall become effective March 1, 1949.

(37 Stat. 832, sec. 2, 32 Stat. 792; 21 U. S. C. 151–158, 111)

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PART 123—RULES OF PRACTICE

Sec.
123.1 Definitions.
123.2 Proceedings to which rules apply.
123.3 Procedure prior to institution of formal proceedings.
123.4 Stipulations and consent orders.
123.5 Order to show cause.
123.6 Answer.
123.7 Motions and requests.
123.8 Examiners.
123.9 Prehearing conferences.
123.10 Oral hearing before examiner.
123.11 Depositions.
123.12 The examiner's report.
123.13 The shortened procedure.
123.14 Transmittal of record.
123.15 Argument before Secretary.
123.16 Preparation and issuance of order.
123.17 Applications for reopening hearings; for rehearings or reargument of proceedings; or for reconsideration of orders.
123.18 Hearings before Secretary.

Sec.
123.19 Filing; service; extensions of time; additional time for filing; and computation of time.

AUTHORITY: §§ 123.1 to 123.19 issued under 37 Stat. 832, sec. 2, 32 Stat. 792; 21 U. S. C. 151–158, 111.

§ 123.1 *Definitions.* The following words, when used in the rules in this part, shall be construed, respectively, to mean:

(a) *Virus-Serum-Toxin Act.* The act of Congress of March 4, 1913, 37 Stat. 832–833, 21 U. S. C. 151–158.

(b) *Section 2 of the act of February 2, 1903.* Section 2 of the act of Congress of February 2, 1903, 32 Stat. 791, as amended, 21 U. S. C. 111.

(c) *Regulations.* The provisions in Parts 101 through 122 of this subchapter.

(d) *Department.* The United States Department of Agriculture.

(e) *Bureau.* The Bureau of Animal Industry of the Department.

(f) *Division.* The Virus-Serum Control Division of the Bureau.

(g) *Secretary.* The Secretary of the Department or any other officer or employee of the Department to whom authority has heretofore lawfully been delegated, or may hereafter lawfully be delegated, to act in his stead.

(h) *Chief.* The Chief of the Bureau or any other officer or employee of the Bureau to whom authority has heretofore lawfully been delegated, or may hereafter lawfully be delegated, to act in his stead.

(i) *Licensee.* A person to whom a license to manufacture biological products has been issued under the regulations.

(j) *Permittee.* A person to whom a permit to import or transport biological products or organisms or vectors has been issued under the regulations.

(k) *Hearing clerk.* The Hearing clerk, United States Department of Agriculture, Washington, D. C.

(l) *Examiner.* Any examiner in the Office of Hearing Examiners, United States Department of Agriculture.

(m) *Complainant.* The party upon whose order to show cause a formal proceeding is instituted.

(n) *Respondent.* The party proceeded against.

(o) *Hearing.* That part of a proceeding under the rules in this part which involves the submission of evidence, either orally or in writing.

(p) *Examiner's report.* The examiner's report to the Secretary, including the examiner's proposed (1) findings of fact and conclusions with respect to all material issues of fact, law, or discretion, as well as the reasons or basis therefor, (2) order, and (3) rulings on findings, conclusions, and orders submitted by the parties.

(q) *Biological products.* All viruses, serums, toxins, and analogous products, such as antitoxins, vaccines, tuberculins, malleins, live microorganisms, killed microorganisms, and products of microorganisms, intended for use in the treatment of domestic animals, including the diagnosis or detection of diseases of such animals.

(r) *Organisms.* All cultures or collections of organisms or their derivatives, which may introduce or disseminate any contagious or infectious disease of animals (including poultry).

(s) *Vectors.* All animals (including poultry), such as mice, pigeons, guinea pigs, rats, ferrets, rabbits, chickens, dogs, and the like, which have been treated or inoculated with organisms, or which are diseased or infected with any contagious, infectious, or communicable disease of animals or poultry or which have been exposed to any such disease.

§ 123.2 *Proceedings to which rules apply.* The rules of practice in this part shall apply to formal proceedings for the suspension or revocation of licenses or permits under the regulations and, in so far as appropriate, to proceedings against a representative of any party under § 123.10 (c) (1).

§ 123.3 *Procedure prior to institution of formal proceedings.* In all cases except those involving wilfulness or in which the public health, interest, or safety otherwise requires, prior to the institution of a formal proceeding under this part, the Chief, in an effort to effect an amicable or informal adjustment of the matter, shall give written notice to the licensee, permitee, or other person involved, of the facts or conduct which appear to warrant institution of such a proceeding and shall afford such person an opportunity, within a reasonable time fixed by the Chief, to demonstrate or achieve compliance with the applicable requirements of the Virus-Serum-Toxin Act, section 2 of the act of February 2, 1903, and the regulations. In any case in which compliance is demonstrated or achieved, no formal proceeding shall be instituted.

§ 123.4 *Stipulations and consent orders*—(a) *Stipulation of compliance.* At any time prior to the issuance of the order to show cause in any proceeding, the Secretary, in his discretion, may enter into a stipulation with the prospective respondent, whereby the latter admits the material facts and agrees to discontinue the acts or practices complained of. Such stipulations shall be admissible as evidence of such acts and practices in any subsequent proceeding against such person before the Secretary.

(b) *Consent order.* At any time after the issuance of the order to show cause and prior to the hearing in any proceeding, the Secretary, in his discretion, may allow the respondent to consent to an order. Upon a record composed of the order to show cause and a stipulation made for the record by the respondent consenting to the order and admitting at least those facts necessary to the Secretary's jurisdiction, the Secretary may enter the order consented to by the respondent, which shall have the same force and effect as an order made after oral hearing.

§ 123.5 *Order to show cause*—(a) *Filing, service, and contents.* If a case is not disposed of under the procedure described in § 123.3 or § 123.4 (a), the Chief may institute formal proceedings by filing an order to show cause, in triplicate, with the hearing clerk, who promptly shall serve a true copy thereof upon the respondent, as provided in § 123.19 (b). The order to show cause shall be addressed to the respondent, shall state briefly and clearly the allegations of fact which constitute a basis for the proceeding, and the legal authority and jurisdiction under which the proceeding is instituted, and shall specify with particularity the matters in issue. The order to show cause shall not include charges, implied charges, or requirements phrased generally in the words of the Virus-Serum-Toxin Act or the Act of February 2, 1903, but such acts may be identified and quoted or used in preliminary recitals.

(b) *Amendments.* At any time prior to the close of the hearing, the order to show cause may be amended, but, in case of an amendment adding new provisions, the hearing shall, at the request of the respondent, be adjourned for a period not exceeding 15 days. Amendments subsequent to the first amendment or subsequent to the filing of an answer by the respondent may be made only with leave of the examiner or with the written consent of the adverse party.

(c) *Docketing.* Each proceeding immediately following its institution shall be assigned a docket number by the hearing clerk, and thereafter the proceeding shall be referred to by such number.

§ 123.6 *Answer*—(a) *Filing and service.* Within 20 days after service of the order to show cause, the respondent shall file, in triplicate, with the hearing clerk, an answer, signed by the respondent or his attorney: *Provided,* That the Secretary may order that the hearing be held without answer or other pleading. The answer shall be served upon the complainant, and any other party of record, in the manner provided in § 123.19 (b).

(b) *Contents; failure to file answer.* (1) The answer shall (i) contain a statement of the facts which constitute the grounds of defense, and shall specifically admit, deny, or explain each of the allegations of the order to show cause unless respondent is without knowledge, in which case the answer shall so state; or (ii) state that the respondent admits all of the allegations of the order to show cause. The answer may contain a waiver of hearing.

(2) Failure to file an answer to or plead specifically to any allegation of the order to show cause shall constitute an admission of such allegation.

(c) *Admission of facts.* The admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the order to show cause shall constitute a waiver of hearing. Upon such admission of facts, the examiner, without further investigation or hearing, shall prepare his report, in which he shall adopt as his proposed findings of fact the material facts alleged in the order to show cause. Unless the parties have waived service of the examiner's report, it shall be served upon them in the manner provided in § 123.19 (b). The parties shall be given an opportunity to file exceptions to the report, to file briefs in support of such exceptions, and to make oral argument thereon before the Secretary. Any request to make oral argument before the Secretary must be filed in the manner and within the time provided in § 123.15.

§ 123.7 *Motions and requests.* Any motion will be entertained except a motion to dismiss on the pleadings. All motions and requests shall be filed in triplicate with the Hearing Clerk, except that those made during the course of an oral hearing may be filed with the examiner or may be stated orally and made a part of the transcript. The examiner is authorized to rule upon all motions and requests filed or made prior to the filing of his report with the Hearing Clerk as hereinafter provided. The Secretary will rule upon all motions and requests filed after that time. The submission of any motion, request, objection, or other question to the Secretary prior to the time when the examiner's report is filed with the Hearing Clerk shall be in the discretion of the examiner.

§ 123.8 *Examiners*—(a) *Assignment.* No examiner shall be assigned to serve in any proceeding who (1) has any pecuniary interest in any matter or business involved in the proceeding, (2) is related within the third degree by blood or marriage to any party to the proceeding, or (3) has participated in the investigation preceding the institution of the proceeding, or in the determination that it should be instituted, or in the preparation of the order to show cause, or in the development of the evidence to be introduced therein.

(b) *Disqualification.* (1) Any party may file with the hearing clerk a timely affidavit of disqualification of the examiner, which shall set forth with particularity the grounds of alleged disqualification. After such investigation or hearing as the Secretary shall deem necessary, he may find the affidavit without merit or may direct that another examiner be assigned to the proceeding. Where the affidavit is found without merit, the affidavit, any record made thereon, and the finding and order of the Secretary shall be made a part of the record.

(2) An examiner shall ask to be withdrawn from any proceeding in which he deems himself disqualified for any reason.

(c) *Conduct.* The examiner shall conduct the proceeding in a fair and impartial manner, and save to the extent required for the disposition of ex parte matters as authorized by law, he shall not consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate.

(d) *Powers.* Subject to review by the Secretary as provided elsewhere in this part, the examiner, in any proceeding assigned to him, shall have power to: (1) Rule upon motions and requests; (2) set the time and place of hearing, adjourn the hearing from time to time and change the time and place of hearing; (3) administer oaths and affirmations and take affidavits; (4) examine witnesses and receive evidence; (5) take or order, under the facsimile signature of the Secretary, the taking of, depositions; (6) admit or exclude evidence; (7) hear oral argument on facts or law; and (8) do all acts and take all measures necessary for the maintenance of order and the efficient conduct of the proceeding.

(e) *Who may act in absence of the examiner.* In case of the absence of the examiner or his inability to act, the powers and duties to be performed by him under this Part in connection with a proceeding assigned to him may, without abatement of the proceeding unless otherwise directed by the Secretary, be assigned to any other examiner.

§ 123.9 *Prehearing conferences.* In any proceeding in which it appears that such procedure will expedite the proceeding, the examiner, at any time prior to the commencement of the oral hearing, may request the parties or their counsel to appear at a conference before him to consider (a) the simplification of issues; (b) the necessity or desirability of amendments to pleadings; (c) the possibility of obtaining stipulations of fact and of documents which will avoid unnecessary proof; (d) the limitation of the number of expert or other witnesses; and (e) such other matters as may expedite and aid in the disposition of the proceeding. No transcript of such conference shall be made, but the examiner shall prepare and file for the record a written summary of the action taken at the conference, which shall incorporate any written stipulations or agreements made by the parties at the conference or as a result of the conference. If the circumstances are such that a conference is impracticable, the examiner may request the parties to correspond with him for the purpose of accomplishing any of the objects set forth in this section. The examiner shall forward copies of letters and documents to the parties as the circumstances require. Correspondence in such negotiations shall not be a part of the record, but the examiner shall submit a written summary for the record if any action is taken.

§ 123.10 *Oral hearing before examiner*—(a) *Request for oral hearing.* Any party may request an oral hearing on the facts by including such request in the order to show cause or the answer or by a separate request in writing filed with the hearing clerk. Failure to request an oral hearing within the time allowed for the filing of the answer shall constitute a waiver of such hearing, and the party so failing to request an oral hearing will be deemed to have agreed that the proceeding may be decided upon a record formed under the shortened procedure provided in § 123.13. Waiver of oral hearing shall not be deemed to be a waiver of the right to make oral argument before the Secretary upon exceptions to the examiner's report. Such argument will be allowed in accordance with the provisions of § 123.15.

(b) *Time and place.* If and when the proceeding has reached the stage where an oral hearing is to be held, the examiner, giving careful consideration to the convenience of the parties, shall set a time and place for hearing and shall file with the hearing clerk a notice stating the time and place of hearing. If any change in the time or place of the hearing is made, the examiner shall file with the hearing clerk a notice of such change, which notice shall be served upon the parties, unless the change is made during an oral hearing and made a part of the transcript.

(c) *Appearances*—(1) *Representation.* In any proceeding under the regulations, the parties may appear in person or by counsel or other representative. The Chief, if represented by counsel, shall be represented by an attorney assigned by the Solicitor of the Department. Persons who appear as counsel or in any other representative capacity at a hearing must conform to the standards of ethical conduct required of practitioners before the courts of the United States. Whenever the Secretary finds, after notice and opportunity for hearing, that a person, who is acting or has acted as counsel or other representative for another person in any proceeding before the Secretary, is unfit to act as such counsel or other representative, he will order that such person be precluded from acting as counsel or other representative in any proceeding under this Part. The procedure in such case will be governed by the applicable provisions of the rules of practice in this Part.

(2) *Failure to appear.* (i) If any party to the proceeding, after being duly notified, fails to appear at the hearing, he shall be deemed to have waived the right to an oral hearing in the proceeding. In the event that a party appears at the hearing and no party appears for the opposing side, the party who is present shall have an election whether to present his evidence, in whole or in part, in the form of affidavits or by oral testimony before the examiner.

(ii) Failure to appear at a hearing shall not be deemed to be a waiver of the right to be served with a copy of the examiner's report and to file exceptions and make oral argument before the Secretary with respect thereto, in the manner provided hereinafter.

(d) *Order of proceeding.* Except as may be determined otherwise by the examiner, the complainant shall proceed first at the hearing.

(e) *Evidence*—(1) *In general.* (i) The testimony of witnesses at a hearing shall be upon oath or affirmation and subject to cross-examination.

(ii) Any witness may, in the discretion of the examiner, be examined separately and apart from all other witnesses except those who may be parties to the proceeding.

(iii) The examiner shall exclude evidence which is immaterial, irrelevant, or unduly repetitious, or which is not of the sort upon which responsible persons are accustomed to rely.

(2) *Objections.* (i) If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination, he shall state briefly the grounds of such objection, whereupon an automatic exception will follow if the objection is overruled by the examiner. The transcript shall not include argument or debate thereon except as ordered by the examiner. The ruling of the examiner on any objection shall be a part of the transcript.

(ii) Only objections made before the examiner may subsequently be relied upon in the proceeding.

(3) *Depositions.* The deposition of any witness shall be admitted, in the manner provided in and subject to the provisions of § 123.11.

(4) *Affidavits.* Except as is otherwise provided in the rules in this Part, affidavits may be admitted only if the evidence is otherwise admissible and the parties agree that affidavits may be used.

(5) *Proof of documents.* A true copy of every written entry in the records of the Department, made by an officer or employee thereof in the course of his official duty, and relevant to the issues involved in the hearing, shall be admissible as prima facie evidence of the facts stated therein, without the production of such officer or employee.

(6) *Exhibits.* Except where the examiner finds that the furnishing of copies is impracticable, a copy of each exhibit, in addition to the original, shall be filed with the examiner for the use of each other party to the proceeding. The examiner shall advise the parties as to the exact number of copies which will be required to be filed and shall make and have noted on the record the proper distribution of the copies.

(7) *Official notice.* Official notice will be taken of such matters as are judicially noticed by the courts of the United States and of any other matter of technical or scientific fact of established character: *Provided,* That the parties shall be given adequate notice, at the hearing or by reference in the examiner's report or tentative order or otherwise, of matters so noticed, and shall be given adequate opportunity to show that such facts are erroneously noticed.

(8) *Offer of proof.* Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the transcript. The offer of proof shall consist of a brief statement describing the evidence to be offered. If the evidence consists of a brief oral statement or of an exhibit, it shall be inserted into the transcript in toto. In such event, it shall be considered a part of the transcript if the Secretary decides that the examiner's ruling in excluding the evidence was erroneous. The examiner shall not allow the insertion of such evidence in toto if the taking of such evidence will consume a considerable length of time at the hearing. In the latter event, if the Secretary decides that the examiner's ruling in excluding the evidence was erroneous, the hearing shall be reopened to permit the taking of such evidence.

(f) *Oral argument before examiner.* Oral argument before the examiner shall be allowed unless the examiner finds that the denial of such argument will not deprive the parties of an adequate opportunity for oral argument subsequently in the proceeding. Such argument may be limited by the examiner to any extent that he finds necessary for the expeditious disposition of the proceeding.

(g) *Transcript.* (1) During the period in which the proceeding has an active status in the Department, a copy of the transcript will be kept at the local office of the Division nearest to the place where the respondent resides or has his principal place of business. If there are two or more respondents and they are located in different localities, the copy of the transcript shall be kept at the local office of the Division nearest to the place where the hearing was held. This copy will be available for examination during official hours of business at the local office, but it shall remain the property of the Department and may not be removed from said office.

(2) Parties to the proceeding who desire a copy of the transcript of the hearing may place orders at the close of the hearing with the reporter, who will furnish and deliver such copies direct to the purchaser upon payment therefor at the rate per page provided by the contract between the reporter and the Department for such reporting service.

§ 123.11 *Depositions*—(a) *Application for taking deposition.* Upon the application of a party to the proceeding, the examiner, at any time after the filing of the order to show cause, may authorize under the facsimile signature of the Secretary, the taking of testimony by deposition. The application shall be in writing and shall be filed with the hearing clerk and shall set forth: (1) the name and address of the proposed deponent; (2) the name and address of the person (referred to hereinafter in this section as the "officer"), qualified under the rules in this part to take depositions, before whom the proposed examination is to be made; (3) the proposed time and place of the examination, which shall be at least 15 days after the date of the mailing of the application; and (4) the reasons why such deposition should be taken.

(b) *Examiner's authorization for taking deposition.* If the examiner is satisfied that good cause for taking the deposition is present, he may authorize its taking. The authorization shall be filed with the hearing clerk and shall be served upon the parties and shall state: (1) the time and place of the examination (which shall not be less than 10 days after the filing of the authorization); (2) the name of the officer before whom the examination is to be made; and (3) the name of the deponent. The officer and the time and place need not be the same as those suggested in the application.

(c) *Qualifications of officer.* The deposition shall be made before the examiner, or before an officer authorized by the law of the United States or by the law of the place of the examination to administer oaths, or before an officer authorized by the Secretary to administer oaths. No deposition shall be made before an officer who is a relative (within the third degree by blood or marriage), employee, attorney, or counsel of any party, or who is a relative (within the third degree by blood or marriage), or employee of any attorney or counsel for any party or who is financially interested in the result of the proceeding: *Provided, however,* That an officer who is an employee of the Department and is not a relative of any such party, attorney, or counsel may take depositions in any proceeding under the regulations.

(d) *Procedure on examination.* (1) The deponent shall be examined under oath or affirmation and shall be subject to cross-examination. The testimony of the deponent shall be recorded by the officer or by some person under his direction and in his presence. In lieu of oral cross-examination, parties may transmit written cross-interrogatories to the officer prior to the examination, and the officer shall propound such cross-interrogatories to the deponent.

(2) The applicant must arrange for the examination of the witness either by oral examination or by written interrogatories. If it is found by the examiner, upon the protest of a party to the proceeding, that such party has his residence and his place of business more than 100 miles from the place of the examination and that it would constitute an undue hardship upon such party to be represented at the examination, the applicant will be required to conduct the examination by means of interrogatories. When the examination is conducted by means of interrogatories, copies of the interrogatories shall be served upon the other parties to the proceeding at least five days prior to the date set for the examination, and the other parties shall be afforded an opportunity to file with the officer cross-interrogatories at any time prior to the time of the examination.

(e) *Signature by witness.* The transcript of the deposition shall be read to or by the deponent, unless such reading is waived by the parties and the deponent. Any changes which the deponent wishes to make shall be entered upon the deposition by the officer, with a statement of the reasons given by the deponent for such changes. The deposition shall be signed by the deponent, unless the parties by stipulation waive such signing, or unless the deponent is ill or cannot be found or refuses to sign. If the deponent does not sign, the officer shall sign and shall state on the record the reason why the deponent did not sign. In such case the deposition shall be as valid as though signed by the deponent, unless the examiner finds that the reason given by the deponent for his refusal to sign requires rejection of the deposition in whole or in part.

(f) *Certification by officer.* The officer shall certify on the deposition that the deponent was duly sworn by him and that the deposition is a true record of the deponent's testimony. He shall then securely seal the deposition, together with two copies thereof, in an envelope and mail the same by registered mail to the hearing clerk.

(g) *Use of depositions.* A deposition taken in accord with the provisions of this part, or in accord with the provisions of the rules of Civil Procedure of the courts of the United States, may be used in a proceeding under the rules in this part if the examiner finds that the evidence is otherwise admissible and (1) that the witness is dead; or (2) that the witness is at a greater distance than 100 miles from the place of hearing, unless it appears that the absence of the witness was procured by the party offering the deposition; or (3) that the witness is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or (4) that the party offering the deposition has endeavored but has been unable to procure the attendance of the witness; or (5), in any event,

upon application and notice that such exceptional circumstances exist as to make it desirable, in the interests of justice and with due regard to the importance of presenting the testimony orally before the examiner, to allow the deposition to be used. If any part of a deposition is put in evidence by a party, any other party may require the production of the remainder, or any other portion, of the deposition.

§ 123.12 *The examiner's report*—(a) *Filing the transcript of evidence.* As soon as practicable after the close of the hearing, the reporter shall transmit to the hearing clerk the original of the transcript of the testimony and the original exhibits introduced in evidence at the hearing and as many copies of the transcript as may be required by the Division. Upon receipt of the copies of the transcript, the Department will send a copy to the appropriate local office, as provided in § 123.10 (g), and will advise each party to the proceeding as to the date on which the transcript was filed with the hearing clerk. At the same time the reporter sends the transcript and copies thereof to the hearing clerk, he shall also transmit a copy of the transcript to each party who shall have filed an application therefor as provided in § 123.10 (g).

(b) *Proposed findings of fact, conclusions and order.* Within 10 days after receipt of notice that the transcript has been filed, each party may file with the hearing clerk proposed findings of fact, conclusions, and order, based solely on the record, and a brief in support thereof.

(c) *Examiner's report.* The examiner, within a reasonable time after the termination of the period allowed for the filing of proposed findings of fact, conclusions, and orders, and briefs in support thereof, shall prepare upon the basis of the record and shall file with the Hearing Clerk, his report, a copy of which shall be served upon each of the parties.

(d) *Exceptions.* Within 20 days after receipt of the examiner's report, the parties may file exceptions to the report. Any party who desires to take exceptions to any matter set out in the report shall transmit his exceptions in writing to the Hearing Clerk, referring to the relevant pages of the transcript, and suggesting a corrected finding of fact, conclusion, or order. Within the same period of time, each party shall transmit to the Hearing Clerk a brief statement in writing concerning each of the objections taken to the action of the examiner at the hearing, as set out in § 123.10, upon which the party wishes to rely, referring, where relevant, to the pages of the transcript. A party, if he files exceptions or a statement of objections, shall state in writing whether he desires to make an oral argument thereon before the Secretary; otherwise, he shall be deemed to have waived such oral argument.

§ 123.13 *The shortened procedure*—(a) *Consent of parties.* Whenever it appears to the examiner who is assigned to a proceeding that the proceeding can be more expeditiously handled under the informal procedure provided for in this section, he shall suggest to the parties that they consent to the use of such procedure. Except where oral hearing has been waived by failure to request it in proper time or otherwise, parties are free to consent to such procedure if they choose; declination of consent will not affect or prejudice the rights or interests of any party. A party, if he has not waived oral hearing, may consent to the use of the shortened procedure on the condition that the statements of fact be submitted in the form of depositions rather than affidavits. In such case, if the other parties agree, depositions shall be required to be filed in lieu of affidavits. If any party who has not waived oral hearing does not consent to the use of the shortened procedure, the proceeding will be set for oral hearing. The request that the shortened procedure be used need not originate with the examiner; any party may address a request to the examiner, asking that the shortened procedure be used. The examiner, in his suggestion to the parties, will set a short period of time in which the parties may indicate their consent to the shortened procedure; at the end of that period the examiner will notify the parties that the shortened procedure will or will not be used. All requests, suggestions, and notices mentioned in this section shall be filed with the hearing clerk.

(b) *Complainant's opening statement.* Within 20 days after receipt of notice that the shortened procedure will be used, the complainant shall file with the hearing clerk, in triplicate, in support of the order to show cause, an opening statement of the facts. A copy of such document shall be served promptly by the hearing clerk upon the respondent.

(c) *Respondent's answering statement.* Within 20 days after receipt of the complainant's opening statement, the respondent may file with the hearing clerk, in triplicate, in support of his answer, an answering statement of the facts. A copy of the answering statement shall be served promptly by the hearing clerk upon the complainant.

(d) *Complainant's statement in reply.* Within 10 days after receipt of the answering statement, the complainant may file with the hearing clerk, in triplicate, a statement in reply, which shall be confined strictly to replying to the facts and arguments set forth in the answering statement.

(e) *Contents of statements.* As used in this section, the term "statement" includes (1) statements of fact, signed and sworn to by persons having knowledge of those facts; (2) any documents filed as a part of the proof of the alleged facts (which documents shall be properly identified by verified statements in the statement filed or otherwise authenticated in such a manner that they would be admissible in evidence at an oral hearing under the rules of practice in this part); and (3) briefs containing arguments to sustain the contentions of the party submitting the statement. When practicable, the documents which constitute the record of any transaction in dispute should be made a part of the statement.

(f) *Verification.* Any facts stated in the statement must be sworn to (before a person legally authorized to administer oaths or before a person designated by the Secretary for the purpose) by a person who states in the affidavit that he has actual knowledge of the facts. Except under unusual circumstances, which shall be set forth in the affidavit, any such person shall be one who would appear as a witness if an oral hearing were held. The original of each document must show the signature, capacity, and impression seal (if the officer is required by law to have a seal) of the officer administering the oath and the date thereof. Copies must bear a notation that the original shows the data required in this respect. If a party elects to do so, he may file his statement of facts in the form of depositions rather than affidavits. Depositions filed under the shortened procedure, whether filed as a result of a requirement in the consent to the shortened procedure or voluntarily, shall conform to the provisions set forth in this section.

(g) *Stipulations.* In addition to or in lieu of such statements, the parties may file with the hearing clerk stipulations of fact signed by the parties or their representatives. Such stipulations shall become a part of the record. The stipulations must be filed with the hearing clerk within 20 days after notice that the shortened procedure will be used; or, if the complainant's opening statement is filed, within 20 days after the filing of such statement; or, if an answering statement is filed within 15 days after the filing thereof; or, if a statement in reply is filed, within 15 days after the filing thereof.

(h) *Waiver of right to file.* Failure to file, within the time prescribed, any statement or stipulation required or authorized under this section shall constitute a waiver of the right to file such statement or stipulation. In such case, the examiner may prepare his report and the Secretary may make his final determination upon the evidence contained in the record at the time of such failure to file, except that no determination, other than dismissal of the proceeding, shall be made if the complainant fails to file an opening statement of the facts.

(i) *Examiner's report under the shortened procedure.* Except as otherwise may be directed by the examiner, the filing of the complainant's statement in reply will conclude the presentation of evidence. The examiner will thereupon file with the hearing clerk a notice that the parties may file proposed findings of fact, conclusions, and orders within 10 days after service of such notice. Upon the expiration of the period set for the filing of proposed findings, conclusions, and orders, the examiner will prepare his report, and the same procedure shall be followed thereafter as in proceedings where an oral hearing has been held.

(j) *Assignment for oral hearing.* At the request of any party or upon the examiner's own motion, the proceeding shall be set for oral hearing at any stage of the proceeding prior to the filing of the examiner's report: *Provided*, That, where the party making such request has

waived oral hearing by failure to request it in proper time, it is provided in § 123.10, the assignment for oral hearing shall be in the discretion of the examiner.

§ 123.14 *Transmittal of record.* The hearing clerk, immediately following the period allowed for the filing of exceptions, shall transmit to the Secretary the record of the proceeding. Such record shall include: the pleadings; motions and requests filed, and rulings thereon; the transcript of the testimony taken at the hearing, together with the exhibits filed therein; any statements filed under the shortened procedure; any documents or papers filed in connection with prehearing conferences; such proposed findings of fact, conclusions, and orders, and briefs in support thereof, as may have been filed in connection with the hearing; the examiner's report; and such exceptions, statements of objections, and briefs in support thereof as may have been filed in the proceeding.

§ 123.15 *Argument before Secretary*—(a) *Oral argument.* Unless a party has included in his exceptions a request for oral argument before the Secretary or has filed a separate request for oral argument prior to the expiration of the last date for filing such exceptions, he shall be deemed to have waived his right to such oral argument.

(b) *Briefs.* The parties may file written briefs either in addition to oral argument or in lieu thereof.

(c) *Scope of argument.* Except where the Secretary determines that argument on additional issues would be helpful, argument, whether oral or on brief, shall be limited to the issues raised by the exceptions and statement of objections. If the Secretary determines that additional issues should be argued, counsel for the parties shall be given reasonable notice of such determination, so as to permit preparation of adequate argument on all the issues to be argued.

§ 123.16 *Preparation and issuance of order*—(a) *Preparation of order.* As soon as practicable after the receipt of the record from the hearing clerk, or, in case oral argument was had, as soon as practicable thereafter, the Secretary, upon the basis of and after due consideration of the record, shall prepare his order in the proceeding which shall include findings, conclusions, order, and rulings on motions, exceptions, statements of objections, and proposed findings, conclusions, and orders submitted by the parties not theretofore ruled upon. If an oral argument was held, the order shall be prepared by and shall be issued over the signature of the official who heard such oral argument, unless the parties shall consent to a different arrangement. At no stage of the proceeding between its institution and the issuance of the order shall the Secretary discuss ex parte the merits of the proceeding with any person who is connected with the proceeding in an advocative or in an investigative capacity, or with any representative of such person: *Provided,* That the Secretary may discuss the merits of the case with such a person if all parties to the proceeding, or their representatives, have been given an opportunity to be present. Any memorandum or other communication addressed to the Secretary, during the pendency of the proceeding, and relating to the merits thereof, by, or on behalf of, any party shall be regarded as argument made in the proceeding and shall be filed with the hearing clerk, who shall serve a copy thereof upon the opposite party to the proceeding, and opportunity will be given the opposite party to file a reply thereto

(b) *Issuance of order.* The order, prepared as described in paragraph (a) of this section, shall be issued and served upon the parties as the final order in the proceeding without further procedure: *Provided,* That, if the terms of the order differ substantially from those proposed in the report of the examiner, the Secretary may, if he deems it advisable to do so, direct that a copy of the order be served upon the parties as a tentative order; and, in such event, opportunity shall be given the parties to file exceptions thereto and written arguments or briefs in support of such exceptions. In such case, if no exceptions are filed within 20 days following the service of the tentative order, it shall be issued and served as the final order in the proceeding.

§ 123.17 *Applications for reopening hearings; for rehearings or reargument of proceedings; or for reconsideration of orders*—(a) *Petition requisite*—(1) *Filing; service.* An application for reopening the hearing to take further evidence, or for rehearing or reargument of the proceeding, or for reconsideration of the order, must be made by petition to the Secretary filed with the hearing clerk, who immediately shall notify and serve a copy thereof upon the other party to the proceeding. Every such petition must state specifically the grounds relied upon.

(2) *Petitions to reopen hearings.* A petition to reopen a hearing to take further evidence may be filed at any time prior to the issuance of the final order. Every such petition shall state briefly the nature and purpose of the evidence to be adduced, shall show that such evidence is not merely cumulative, and shall set forth a good reason why such evidence was not adduced at the hearing. Every such petition shall be served by the hearing clerk on the other parties to the proceeding.

(3) *Petitions to rehear or reargue proceedings or to reconsider orders.* A petition to rehear or reargue the proceeding or to reconsider the order must be filed within 15 days after the date of the service of the order. Every such petition must state specifically the matters claimed to have been erroneously decided and alleged errors must be briefly stated.

(b) *Procedure for disposition of petitions.* Within 20 days following the service of any petition provided for in this section, the other party to the proceeding shall file with the hearing clerk an answer thereto. As soon as practicable thereafter, the Secretary shall announce his decision whether to grant or to deny the petition. Unless the Secretary shall determine otherwise, operation of the order shall not be stayed pending the decision to grant or to deny the petition. In the event that any such petition is granted by the Secretary, the applicable rules of practice, as set out elsewhere herein, shall be followed. A person filing a petition under this section shall be regarded as the complainant, although he shall be referred to as the complainant or respondent, depending upon his designation in the original proceeding.

§ 123.18 *Hearings before Secretary.* The Secretary may act in the place and stead of an examiner in any proceeding hereunder. When he so acts, the hearing clerk shall transmit the record to the Secretary at the expiration of the period provided for the filing of proposed findings of fact, conclusions, and orders, and the Secretary shall thereupon, after due consideration of the record, issue his final order in the proceeding: *Provided,* That he may issue a tentative order, in which event the parties shall be afforded an opportunity to file exceptions before the issuance of the final order.

§ 123.19 *Filing; service; extensions of time; additional time for filing; and computation of time*—(a) *Filing; number of copies.* Except as is provided otherwise herein, all documents or papers required or authorized by the rules in this part to be filed with the hearing clerk shall be filed in duplicate: *Provided,* That, where there are more than two parties to the proceeding, a sufficient number of copies shall be filed so as to provide for service upon all the parties to the proceeding. Any document or paper, required or authorized under the rules in this part to be filed with the hearing clerk, shall, during the course of an oral hearing, be filed with the examiner.

(b) *Service; proof of service.* Copies of all such documents or papers shall be served upon the parties by the hearing clerk, by the examiner, or by some other employee of the Department, or by a United States Marshal or his deputy. Service shall be made either (1) by delivering a copy of the document or paper to the individual to be served or to a member of the partnership to be served or to the president, secretary, or other executive officer or any director of the corporation, organization, or association to be served, or to the attorney or agent of record of such individual, partnership, corporation, organization, or association; or (2) by leaving a copy of the document or paper at the principal office or place of business of such individual, partnership, corporation, organization, or association, or of his or its attorney or agent of record; or (3) by registering and mailing a copy of the document or paper, addressed to such individual, partnership, corporation, organization, or association, or to his or its attorney or agent of record, at his or its last known residence or principal office or place of business. Proof of service hereunder shall be made by the affidavit of the person who actually made the service: *Provided,* That, if the service be made by registered mail, as outlined in (3) above, proof of service shall be made by the return post-office receipt. The affidavit and post-office receipt contemplated herein shall be filed with the

hearing clerk, and the fact of filing thereof shall be noted on the docket of the proceeding.

(c) *Extensions of time.* The time for the filing of any document or paper required or authorized under the rules in this part to be filed may be extended by the examiner (before the examiner's report is filed) or by the Secretary (after the examiner's report is filed), if request for such extension of time is made prior to or on the final date allowed for such filing, and if, in the judgment of the examiner or the Secretary, as the case may be, after notice to and consideration of the views of the other party, there is good reason for the extension.

(d) *Effective date of filing.* Any document or paper required or authorized under the rules in this part to be filed shall be deemed to be filed at the time when it reaches the Department of Agriculture in Washington, D. C.

(e) *Additional time for filing.* The time for the filing of any document or paper required or authorized under the rules in this part to be filed shall be five days longer when the party resides or has his or its principal place of business at any place west of 104° west longitude.

(f) *Computation of time.* Sundays and holidays shall be included in computing the time allowed for the filing of any document or paper: *Provided*, That, when such time expires on a Sunday or legal holiday, such period shall be extended to include the next following business day.

*Effective date.* The foregoing rules of practice shall become effective March 1, 1949.

*Notice of supersedure.* The foregoing rules and regulations which are designated as B. A. I. Order No. 381, as of March 1, 1949 shall supersede the rules and regulations contained 9 CFR, Cum., 1945 and 1947 Supps., Parts 101–122, designated as B. A. I. Order No. 276, as amended and supplemented.

(37 Stat. 832, sec. 2, 32 Stat. 792; 21 U. S. C. 151–158–111)

Done at Washington, D. C., this 28th day of December 1948. Witness my hand and the seal of the United States Department of Agriculture.

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

[F. R. Doc. 48-11470; Filed, Dec. 30, 1948; 8:55 a. m.]

# TITLE 14—CIVIL AVIATION

## Chapter II—Civil Aeronautics Administration

PART 400—ORGANIZATION OF THE CIVIL AERONAUTICS ADMINISTRATION

DISCONTINUANCE OF CODIFICATION

In order to conform Chapter II of Title 14 to the scope and style of the Code of Federal Regulations, 1949 Edition, authorized and directed by Executive Order 9930 of February 4, 1948 (13 F. R. 519), the codification of Part 400 is hereby discontinued. Future amendments to this material will appear in the Notices section of the FEDERAL REGISTER.

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

Approved:

CHARLES SAWYER,
*Secretary of Commerce.*

[F. R. Doc. 48-11425; Filed, Dec. 30, 1948; 8:46 a. m.]

# TITLE 15—COMMERCE AND FOREIGN TRADE

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

[Allocations Reg. 2, Revocation of Direction 4]

PART 336—REGULATIONS APPLICABLE TO OPERATIONS OF THE ALLOCATIONS AND EXPORT PRIORITIES SYSTEM

USE AND EFFECT OF SYMBOL CXN ON CERTAIN EXPORT ORDERS FOR NITROGENOUS FERTILIZER MATERIALS (1947–48 PROGRAM)

Direction 4, as amended May 7, 1948, to Allocations Regulation 2, is hereby revoked.

This revocation does not effect any liabilities incurred for violation of this regulation or of actions taken by the Office of Materials Distribution or the Office of Domestic Commerce under the Direction.

(56 Stat. 177, as amended, 61 Stat. 321, Pub. Law 427, 80th Cong.; 50 U. S. C. App. and Sup. 631 et seq.; E. O. 9841, April 23, 1947, 12 F. R. 2645, Materials Control Regulation 1, as amended, 13 F. R. 2516)

Issued this 27th day of December 1948.

OFFICE OF DOMESTIC COMMERCE,
RAYMOND S. HOOVER,
*Issuance Officer.*

[F. R. Doc. 48-11422; Filed, Dec. 30, 1948; 8:45 a. m.]

# TITLE 16—COMMERCIAL PRACTICES

## Chapter I—Federal Trade Commission

[File No. 21-412]

PART 179—TRADE PAMPHLET BINDING INDUSTRY OF THE NEW YORK CITY TRADE AREA

PROMULGATION OF TRADE PRACTICE RULES

At a regular session of the Federal Trade Commission held at its office in the city of Washington, D. C., on the 28th day of December, 1948.

Due proceedings having been held under the trade practice conference procedure in pursuance of the act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), and other provisions of law administered by the Commission;

*It is now ordered*, That the trade practice rules of Group I, as hereinafter set forth, which have been approved by the Commission in this proceeding, be promulgated as of December 31, 1948.

*Statement by the Commission.* Trade practice rules for the above-entitled industry are promulgated by the Federal Trade Commission and are hereinbelow set forth.

The rules are established as a means of bringing about the elimination and prevention of unfair trade practices in the interest of the industry and the public.

Members of the industry are the persons, firms, corporations, and organizations engaged, in the New York City trade area, in the business of binding pamphlets, books, magazines, circulars, periodicals, etc.; in furnishing the materials and supplies used in such binding; and in distributing the bound products, pursuant to customers' orders, to various parts of the United States. The total volume of business of the industry is approximately $14,000,000 a year.

The trade practice conference proceedings under which the rules have been approved were instituted upon application from members of the industry. A general industry conference was held in New York City at which proposals for rules were received and given consideration. Thereafter, a draft of proposed rules in appropriate form was made available by the Commission upon public notice whereby all interested or affected parties were afforded opportunity to present their views, including such pertinent information, suggestions or objections as they might desire to offer, and to be heard in the premises. Accordingly, public hearing was held in Washington, D. C., on December 14, 1948, and all matters presented, or otherwise received in the proceedings, were duly considered.

Thereupon, and in consideration of the entire matter final action was taken by the Commission whereby it approved the trade practice rules hereinafter appearing in Group I. Such rules become operative thirty (30) days after date of promulgation.

These rules promulgated by the Commission are designed to foster and promote the maintenance of fair competitive conditions in the interest of protecting industry, trade, and the public. It is to this end, and to the exclusion of any act or practice which suppresses competition, restrains trade, fixes or controls price through combination or agreement, or which otherwise injures, destroys, or prevents competition, that the rules are to be applied.

GROUP I

Sec.
179.0 General statement.
179.1 Procurement of competitors' confidential information by unfair means and wrongful use thereof.
179.2 Discrimination.
179.3 Commercial bribery.
179.4 Defamation of competitors.
179.5 Transactions below cost.
179.6 Enticing away employees of competitors.
179.7 Inducing breach of contract.

AUTHORITY: §§ 179.0 to 179.7 issued under 38 Stat. 717, as amended, 15 U. S. C. 41, et seq.

GROUP I

§ 179.0 *General statement.* The unfair trade practices embraced in §§ 179.0 to 179.7 herein are considered to be un-

fair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation, or other organization subject to its jurisdiction, of such unlawful practices in commerce.

§ 179.1 *Procurement of competitors' confidential information by unfair means and wrongful use thereof.* It is an unfair trade practice for any member of the industry to obtain information concerning the business of a competitor by bribery of an employee or agent of such competitor, by false or misleading statements or representations, by the impersonation of one in authority, or by any other unfair means, and to use the information so obtained in such manner as to injure said competitor in his business or to suppress competition or unreasonably restrain trade. [Rule 1]

§ 179.2 *Discrimination*—(a) *Prohibited discriminatory prices, or rebates, refunds, discounts, credits, etc., which effect unlawful price discrimination.* It is an unfair trade practice for any member of the industry engaged in commerce,[1] in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other form of price differential, where such rebate, refund, discount, credit, or other form of price differential, effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce,[1] and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce,[1] or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided, however,*

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States;

(2) That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

(3) That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce[1] from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing herein contained shall prevent price changes from time to time where made in response to changing conditions affecting either (i) the market for the goods concerned, or (ii) the marketability of the goods, such as, but not limited to, actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) *Prohibited brokerage and commissions.* It is an unfair trade practice for any member of the industry engaged in commerce,[1] in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for, or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.* It is an unfair trade practice for any member of the industry engaged in commerce[1] to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(d) *Prohibited discriminatory services or facilities.* It is an unfair trade practice for any member of the industry to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(e) *Inducing or receiving an illegal discrimination in price.* It is an unfair trade practice for any member of the industry engaged in commerce,[1] in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by the foregoing provisions of this section.

(f) *Purchases by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit.* The foregoing provisions of this section relate to practices within the purview of the Robinson-Patman Antidiscrimination Act, which act and the application thereunder of this section are subject to the limitations expressed in the amendment to such Robinson-Patman Antidiscrimination Act, which amendment was approved May 26, 1938, and reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That nothing in the Act approved June 19, 1936 (Public, Numbered 692, Seventy-fourth Congress, second session), known as the Robinson-Patman Antidiscrimination Act, shall apply to purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit. (52 Stat. 446; United States Code, 1940 Edition, Title 15, sec. 13c)

(g) *Purchases by U. S. Government; applicability of Robinson-Patman Antidiscrimination Act to same.* In an opinion submitted to the Secretary of War under date of December 28, 1936, the U. S. Attorney-General advised that the Robinson-Patman Antidiscrimination Act "is not applicable to Government contracts for supplies." (39 Opinions, Attorney-General 539.) [Rule 2]

§ 179.3 *Commercial bribery.* It is an unfair trade practice for any member of the industry, directly or indirectly, to give, or offer to give, or permit or cause to be given, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase material and binding service from the maker of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors. [Rule 3]

§ 179.4 *Defamation of competitors.* The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade or quality of their work, or of their business methods, values, credit terms, or policies, or in any other respect, is an unfair trade practice. [Rule 4]

§ 179.5 *Transactions below cost.* The practice of selling materials and service below the seller's cost, when pursued with wrongful intent of thereby injuring a competitor and where the effect of such practice is to unreasonably restrain trade, tend to create a monopoly, or substantially lessen competition, is an unfair trade practice.

This section is not to be construed as prohibiting all transactions below cost, but only such selling below the seller's cost as is resorted to and pursued as a monopolistic practice with the wrongful intent referred to and coupled with the effect of unreasonably restraining trade, tending to create a monopoly, or substantially lessening competition.

The costs referred to in the section are actual costs of the respective seller and not some other figure or average costs in the industry determined by an industry cost survey or otherwise. [Rule 5]

§ 179.6 *Enticing away employees of competitors.* Wilfully enticing away the employees of competitors, with the purpose and effect of thereby hampering or injuring competitors in their business

[1] As here used, the word "commerce" means trade or commerce among the several States and Territories, including the District of Columbia, in accordance with the full scope of the definition of such term found in section 1 of the Clayton Act (38 Stat. 739; 15 U. S. C. sec. 12).

and destroying or substantially lessening competition, is an unfair trade practice.

NOTE: Nothing in this section shall be construed as prohibiting employees or agents from seeking more favorable employment.

[Rule 6]

§ 179.7 *Inducing breach of contract.* Inducing or attempting to induce the breach of existing lawful contracts between competitors and their customers or their suppliers by any false or deceptive means whatsoever, or interfering with or obstructing the performance of any such contractual duties or services by any such means, with the purpose and effect of unduly hampering, injuring, or prejudicing competitors in their business, is an unfair trade practice. [Rule 7]

Promulgated and issued by the Federal Trade Commission December 31, 1948.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 48-11457; Filed, Dec. 30, 1948; 8:52 a. m.]

## TITLE 17—COMMODITY AND SECURITIES EXCHANGES

### Chapter II—Securities and Exchange Commission

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

REGISTRATION AND REPORTING RULES AND RULES OF GENERAL APPLICATION

The Securities and Exchange Commission has heretofore published proposals with respect to certain amendments to those portions of the General Rules and Regulations under the Securities Exchange Act of 1934 dealing with the registration of securities on national securities exchanges and the filing of annual and other reports pursuant to the act. The Commission has now duly considered all comments and suggestions received in connection with the proposed amendments and is taking action in regard thereto as hereinafter set forth. Certain other minor amendments of a formal character are also being adopted. The Commission finds the action hereinafter specified is necessary or appropriate in the public interest and for the protection of investors and necessary to carry out the provisions of the act. Such action is taken pursuant to the Securities Exchange Act of 1934, particularly sections 12, 13, 15 (d) and 23 (a) thereof.

1. Paragraph (a) (4) of § 240.01 (Rule X-1) is amended to read as set forth below. The purpose of the amendment is to include in the term "rules and regulations" the various forms adopted under the act and the instructions thereto.

§ 240.01 *References to rules and regulations and to the act, or to portions thereof.* (a) * * *

(4) The term "rules and regulations" refers to all rules and regulations adopted by the Commission pursuant to the act, including the forms for registration and reports and the accompanying instructions thereto.



2. Section 240.02 (Rule X-2) as heretofore in effect is revised to read as set forth below. Rule X-2 has become obsolete because the subject matter of the rule has been covered elsewhere in the Commission's rules and regulations. The revised X-2 brings into the General Rules and Regulations a new rule with respect to the business hours of the Commission. The text of the revised rule is as follows:

§ 240.02 *Business hours of the Commission.* The principal office of the Commission at Washington, D. C., is open each day except Saturdays and holidays from 9:00 a. m. to 5:30 p. m. Eastern Standard Time or Eastern Daylight Saving Time whichever is currently in effect in Washington.

3. Section 240.03 (Rule X-3) is amended to read as hereinbelow set forth. The purpose of the amendment is to delete the reference to Philadelphia, Pennsylvania as the location of the Commission's principal office, and substitute therefor a reference to Washington, D. C.

§ 240.03 *Filing of material with the Commission.* All papers required to be filed with the Commission pursuant to the act or the rules and regulations thereunder shall be filed at its principal office in Washington, D. C. Material may be filed by delivery to the Commission, through the mails or otherwise. The date on which papers are actually received by the Commission shall be the date of filing thereof if all of the requirements with respect to the filing have been complied with.

4. Section 240.12a-1 (Rule X-12A-1) which provides a temporary exemption from section 12 (a) for certain securities of banks is amended so as to provide that the exemption shall continue to and including the 120th day after filing of applications on a form specifically prescribed for such securities shall be authorized. The change is purely formal in character and involves no change of substance in the nature or scope of the exemption.

§ 240.12a-1 *Temporary exemption from section 12 (a) of certain securities of banks.* (a) The following securities of banks shall be exempt from the operation of section 12 (a) to and including the one hundred and twentieth day after the adoption of a form specifically prescribed for such securities: (1) Securities as to which temporary registration expired on June 30, 1935; (2) securities of the same issuer heretofore or hereafter issued in exchange for, or resulting from a modification of, any securities exempted from the operation of section 12 (a) of the act by this rule; and (3) additional shares of common stock, heretofore or hereafter issued, if common stock of the same issuer and of the same class is exempted from the operation of section 12 (a) by this section.

(b) Sections 240.7c 2-1 and 240.10b-1 (Rules X-7C2-1 and X-10B-1) shall be applicable to all securities exempted from the operation of section 12 (a) by this section.

5. The following rules as heretofore in effect are hereby rescinded: Sections 240.12b-1 to 240.12b-10 (Rules X-12B-1 to X-12B-10), inclusive; 240.12d1-1 (Rule X-12D1-1); 240.13a-1 to 240.13a-10 (Rules X-13A-1 to X-13A-10), inclusive; 240.13b-1 (Rule X-13B-1); 240.15d-1 to 240.15d-6 (Rules X-15D-1 to X-15D-6) inclusive. The reason for the rescission of these sections is that new rules covering the same subject matter are being adopted hereinbelow.

6. The following new rules and regulations are hereby adopted:

Regulation X-12B which is comprised of §§ 240.12b-1 to 240.12b-36 inclusive.

Regulation X-12D1 which is comprised of §§ 240.12d1-1 to 240.12d1-5, inclusive.

Regulation X-13A which is comprised of §§ 240.13a-1 to 240.13a-13, inclusive.

Section 240.13b-1 (Rule X-13B-1).

Regulation X-15D which is comprised of §§ 240.15d-1 to 240.15d-13, inclusive.

The purpose of the above-mentioned rules and regulations is to clarify and bring up to date the Commission's rules and regulations under the Act governing registration and reporting. The revision deletes certain obsolete rules and integrates into the general rules and regulations certain general requirements heretofore contained in the several forms with respect to the preparation, content and filing of applications for registration and annual and other reports.

The text of the above-mentioned rules and regulations is set forth below.

The Commission finds that the action taken in parts 1, 2, 3, and 4 above is formal in character and involves no substantive change in the rights and duties of any person, and that prior notice of such amendments need not be published pursuant to section 4 (a) of the Administrative Procedure Act.

(Secs. 12, 13, 48 Stat. 892, 894, sec. 15 (d), 49 Stat. 1379, sec. 23 (a), 48 Stat. 901; 15 U. S. C. 78l, 78m, 78o, 78w)

The foregoing action shall become effective January 17, 1949.

By the Commission.

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

DECEMBER 27, 1948.

§ 240.12b *Applications and reports.*

GENERAL

§ 240.12b-1 *Scope of regulation.* The rules contained in §§ 240.12b to 240.12b-36, inclusive, shall govern all applications for registration pursuant to section 12 of the act and reports pursuant to sections 13 and 15 (d) of the act, including all amendments to such applications and reports, except that any provision in a form covering the same subject matter as any such rule shall be controlling.

§ 240.12b-2 *Definitions.* Unless the context otherwise requires, the following terms, when used in the rules contained in §§ 240.12b to 240.12b-36, inclusive, or in §§ 240.13a to 240.13b-1, inclusive, or §§ 240.15d to 240.15d-13, inclusive, or in the forms for applications and reports pursuant to section 12, 13 or 15 (d) of the act, shall have the respective meanings indicated in this section:

(a) *Affiliate.* An "affiliate" of, or a person "affiliated" with, a specified per-

son, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(b) *Amount.* The term "amount," when used in regard to securities, means the principal amount if relating to evidences of indebtedness, the number of shares if relating to shares, and the number of units if relating to any other kind of security.

(c) *Associate.* The term "associate" used to indicate a relationship with any person, means (1) any corporation or organization (other than the registrant or a majority-owned subsidiary of the registrant) of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities, (2) any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity, and (3) any relative or spouse of such person having the same home as such person.

(d) *Certified.* The term "certified", when used in regard to financial statements, means certified by an independent public or independent certified public accountant or accountants.

(e) *Charter.* The term "charter" includes articles of incorporation, declarations of trusts, articles of association or partnership, or any similar instrument, as amended, effecting (either with or without filing with any governmental agency) the organization or creation of an incorporated or unincorporated person.

(f) *Control.* The term "control" (including the terms "controlling", "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(g) *Employee.* The term "employee" does not include a director, trustee, or officer.

(h) *Fiscal year.* The term "fiscal year" means the annual accounting period or, if no closing date has been adopted, the calendar year ending on December 31.

(i) *Majority-owned subsidiary.* The term "majority-owned subsidiary" means a subsidiary more than fifty percent of whose outstanding securities representing the right, other than as affected by events of default, to vote for the election of directors, is owned by the subsidiary's parent and/or one or more of the parent's other majority-owned subsidiaries.

(j) *Material.* The term "material", when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which an average prudent investor ought reasonably to be informed before buying or selling the security registered.

(k) *Parent.* A "parent" of a specified person is an affiliate controlling such person directly, or indirectly through one or more intermediaries.

(l) *Predecessor.* The term "predecessor" means a person the major portion of the business and assets of which another person acquired in a single succession or in a series of related successions in each of which the acquiring person acquired the major portion of the business and assets of the acquired person.

(m) *Previously filed or reported.* The terms "previously filed" and "previously reported" mean previously filed with, or reported in, an application under section 12 of the act or in a report under section 13 of the act, except that when used in regard to a report under section 15 (d) of the act, the terms mean previously filed with or reported in a report under that section or in a registration statement under the Securities Act of 1933.

(n) *Principal underwriter.* The term "principal underwriter" means an underwriter in privity of contract with the issuer of the securities as to which he is underwriter.

(o) *Promoter.* The term "promoter" includes:

(1) Any person who, acting alone or in conjunction with one or more other persons, directly or indirectly takes initiative in founding and organizing the business or enterprise of an issuer.

(2) Any person who, in connection with the founding and organizing of the business or enterprise of an issuer, directly or indirectly receives in consideration of services or property or both services and property 10 percent or more of any class of securities of the issuer or 10 percent or more of the proceeds from the sale of any class of such securities. However, a person who receives such securities or proceeds either solely as underwriting commissions or solely in consideration of property shall not be deemed a promoter within the meaning of this paragraph if such person does not otherwise take part in founding and organizing the enterprise.

(p) *Registrant.* The term "registrant" means an issuer of securities with respect to which an application or a report is being filed.

(q) *Share.* The term "share" means a share of stock in a corporation or unit of interest in an unincorporated person.

(r) *Significant subsidiary.* The term "significant subsidiary" means a subsidiary meeting any one of the following conditions:

(1) The assets of the subsidiary, or the investments in and advances to the subsidiary by its parent and the parent's other subsidiaries, if any, exceed 15 percent of the assets of the parent and its subsidiaries on a consolidated basis.

(2) The sales and operating revenues of the subsidiary exceed 15 percent of the sales and operating revenues of its parent and the parent's subsidiaries on a consolidated basis.

(3) The subsidiary is the parent of one or more subsidiaries and, together with such subsidiaries would, if considered in the aggregate, constitute a significant subsidiary.

(s) *Subsidiary.* A "subsidiary" of a specified person is an affiliate controlled by such person directly, or indirectly through one or more intermediaries. (See also "majority-owned subsidiary," "significant subsidiary," and "totally-held subsidiary.")

(t) *Succession.* The term "succession" means the direct acquisition of the assets comprising a going business, whether by merger, consolidation, purchase, or other direct transfer. The term does not include the acquisition of control of a business unless followed by the direct acquisition of its assets. The terms "succeed" and "successor" have meanings correlative to the foregoing.

(u) *Totally-held subsidiary.* The term "totally-held subsidiary" means a subsidiary (1) substantially all of whose outstanding securities are owned by its parent and/or the parent's other totally-held subsidiaries, and (2) which is not indebted to any person other than its parent and/or the parent's totally-held subsidiaries in an amount which is material in relation to the particular subsidiary, excepting indebtedness incurred in the ordinary course of business which is not overdue and which matures within one year from the date of its creation, whether evidenced by securities or not.

§ 240.12b–3 *Title of securities.* Wherever the title of securities is required to be stated there shall be given such information as will indicate the type and general character of the securities, including the following:

(a) In the case of shares, the par or stated value, if any; the rate of dividends, if fixed, and whether cumulative or noncumulative; a brief indication of the preference, if any; and if convertible, a statement to that effect.

(b) In the case of funded debt, the rate of interest; the date of maturity, or if the issue matures serially, a brief indication of the serial maturities, such as "maturing serially from 1950 to 1960"; if the payment of principal or interest is contingent, an appropriate indication of such contingency; a brief indication of the priority of the issue; and if convertible, a statement to that effect.

(c) In the case of any other kind of security, appropriate information of comparable character.

§ 240.12b–4 *Interpretation of requirements.* Unless the context clearly shows otherwise:

(a) The forms require information only as to the registrant.

(b) Whenever any fixed period of time in the past is indicated, such period shall be computed from the date of filing.

(c) Whenever words relate to the future, they have reference solely to present intention.

(d) Any words indicating the holder of a position or office include persons, by whatever titles designated, whose duties are those ordinarily performed by holders of such positions or offices.

§ 240.12b–5 *Determination of affiliates of banks.* In determining whether a person is an "affiliate" or "parent" of a bank or whether a bank is a "subsidiary" or "majority-owner subsidiary" of a person, within the meaning of those terms as defined in § 240.12b–2, voting securities of the bank held by a corporation all of the stock of which is directly owned by the United States Government shall not be taken into consideration.

FORMAL REQUIREMENTS

§ 240.12b–10 *Requirements as to proper form.* Every application or report shall be on the form prescribed therefor by the Commission, as in effect on the date of filing. Any application or report shall be deemed to be filed on the proper form unless objection to the form is made by the Commission within thirty days after the date of filing.

§ 240.12b–11 *Number of copies; signatures; binding.* (a) Four complete copies of each application or report including exhibits and all other papers and documents filed as a part thereof shall be filed with the Commission. At least one complete copy of each application shall be filed with each exchange on which the securities covered thereby are being registered. At least one complete copy of each report under section 13 of the act shall be filed with each exchange on which the registrant has securities listed and registered. If the application or report is typewritten, one of the copies filed with the Commission shall be a "ribbon" copy.

(b) At least one copy of each application or report filed with the Commission and one copy thereof filed with each exchange shall be manually signed in the manner prescribed by the appropriate form. If the application or report is typewritten, the ribbon copy shall be signed. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the application or report.

(c) Each copy of an application or report filed with the Commission or with an exchange shall be bound in one or more parts. Copies filed with the Commission shall be bound without stiff covers. The binding shall be made on the left-hand side and in such manner as to leave the reading matter legible.

§ 240.12b–12 *Requirements as to paper, printing and language.* (a) Applications and reports shall be filed on good quality, unglazed, white paper 8½ x 13 inches in size, insofar as practicable. However, tables, charts, maps, and financial statements may be on larger paper if folded to that size.

(b) All papers and documents filed as a part of an application or report shall, insofar as practicable, be printed, mimeographed or typewritten. All such material shall be clear, easily readable, and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

(c) The body of all printed applications and reports shall be in type at least as legible as ten-point leaded type, except that to the extent necessary for convenient presentation financial statements and notes may be in type at least as legible as eight-point leaded type.

(d) Applications and reports shall be in the English language. If any exhibit or other paper or document filed with an application or report is in a foreign language, it shall be accompanied by a translation into the English language.

§ 240.12b–13 *Preparation of application or report.* The application or report shall contain the numbers and captions of all items of the appropriate form, but the text of the items may be omitted provided the answers thereto are so prepared as to indicate to the reader the coverage of the items without the necessity of his referring to the text of the items or instructions thereto. However, where any item requires information to be given in tabular form, it shall be given in substantially the tabular form specified in the item. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted from the application or report. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

§ 240.12b–14 *Riders; inserts.* Riders shall not be used. If the application or report is typed on a printed form, and the space provided for the answer to any given item is insufficient, reference shall be made in such space to a full insert page or pages on which the item number and caption and the complete answer are given.

§ 240.12b–15 *Amendments.* All amendments shall be filed under cover of Form 8 and shall comply with all pertinent requirements applicable to applications and reports. Amendments shall be filed separately for each separate application or report amended. Amendments to an application may be filed either before or after registration becomes effective.

GENERAL REQUIREMENTS AS TO CONTENTS

§ 240.12b–20 *Additional information.* In addition to the information expressly required to be included in an application or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

§ 240.12b–21 *Information unknown or not available.* Information required need be given only insofar as it is known or reasonably available to the registrant. If any required information is unknown and not reasonably available to the registrant, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the registrant, the information may be omitted, subject to the following conditions.

(a) The registrant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof.

(b) The registrant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

§ 240.12b–22 *Disclaimer of control.* If the existence of control is open to reasonable doubt in any instance, the registrant may disclaim the existence of control and any admission thereof; in such case, however, the registrant shall state the material facts pertinent to the possible existence of control.

§ 240.12b–23 *Incorporation by reference.* (a) Matter contained in any part of an application or report, other than exhibits, may be incorporated by reference in answer or partial answer to any item of the application or report. Matter contained in an exhibit may be so incorporated to the extent permitted in § 240.12b–24. An application for registration of additional securities of the registrant (whether of the same or a different class) on the same exchange may incorporate by reference any item contained in any application pursuant to which such prior registration is effective.

(b) Any financial statements filed with the Commission pursuant to any act administered by the Commission may be incorporated by reference in an application or report, filed with the Commission by the same or any other person, if it substantially conforms to the requirements of the form on which the application or report is filed. Any financial statement filed with an exchange pursuant to the act may be incorporated by reference in any application or report filed with the exchange by the same or any other person, if it substantially conforms to the requirements of the form on which the application or report is filed. If any financial statement filed with the Commission is incorporated by reference in copies of an application or report filed with the Commission pursuant to section 12 or 13 of the act, copies of the financial statement may be filed with the exchange in lieu of the corresponding financial statement required by the form on which the application or report is filed.

(c) Material incorporated by reference shall be clearly identified in the reference. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the application or report where the information is required. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

§ 240.12b–24 *Summaries or outlines of documents.* Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made, in succinct and condensed form, as to the most important provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular items, sections, or paragraphs of any exhibit and may be qualified in its entirety by such reference. Matter contained in an exhibit may be incorporated by reference in answer to an item only to the extent permitted by this section.

§ 240.12b–25 *Extension of time for furnishing information.* If it is impractical to furnish any required information, document or report at the time it is required to be filed, the registrant may

file with the Commission as a separate document an application (a) identifying the information, document or report in question, (b) stating why the filing thereof at the time required is impracticable, and (c) requesting an extension of time for filing the information, document or report to a specified date not more than 60 days after the date it would otherwise have to be filed. The application shall be deemed granted unless the Commission, within 10 days after receipt thereof, shall enter an order denying the application.

EXHIBITS

§ 240.12b–30 *Additional exhibits.* The registrant may file such exhibits as it may desire, in addition to those required by the appropriate form. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer.

§ 240.12b–31 *Omission of substantially identical documents.* In any case where two or more indentures, contracts, franchises, or other documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, the registrant need file a copy of only one of such documents, with a schedule identifying the other documents omitted and setting forth the material details in which such documents differ from the document of which a copy is filed. The Commission may at any time in its discretion require the filing of copies of any documents so omitted.

§ 240.12b–32 *Incorporation of exhibits by reference.* (a) Any document or part thereof filed with the Commission pursuant to any act administered by the Commission may be incorporated by reference as an exhibit to any application or report filed with the Commission by the same or any other person. Any document or part thereof filed with an exchange pursuant to the act may be incorporated by reference as an exhibit to any application or report filed with the exchange by the same or any other person.

(b) If any modification has occurred in the text of any document incorporated by reference since the filing thereof, the registrant shall file with the reference a statement containing the text of any such modification and the date thereof.

SPECIAL PROVISIONS

§ 240.12b–35 *Use of registration statement under Securities Act of 1933.* (a) Any issuer which has a registration statement effective under the Securities Act of 1933 and not subject to any proceeding under section 8 (d) of that act or to an order entered thereunder may file an application for registration of securities on an exchange consisting of the following:

(1) The registration statement and all amendments thereto filed under the Securities Act of 1933, including financial statements and exhibits, or a composite of such statement as amended; *Provided*, That any financial statements or exhibits not called for by the appropriate application form may be omitted.

(2) A description of the securities being registered, as required by the appropriate application form, unless they are of the same class as those registered under the statement referred to in subparagraph (1) of this paragraph.

(3) If the amount of securities of any class being registered differs from the amount of securities of the same class registered under the statement referred to in subparagraph (1) of this paragraph, a statement explaining the difference.

(4) Any financial statements or exhibits required by the appropriate application form which are not contained in the statement referred to in subparagraph (1) of this paragraph.

(b) The application shall be filed under cover of the facing sheet of the appropriate application form and shall be signed in accordance with the requirements of such form. Except as otherwise provided in this section, all pertinent rules relating to the preparation and filing of applications shall apply. The following statement shall appear on the facing sheet of the application or on a page immediately following the facing sheet:

This application, filed pursuant to § 240.12b–35 consists of a registration statement under the Securities Act of 1933 which became effective (insert date) and the following additional information and documents: (List such additional information and documents if any).

(c) If the registrant has no securities listed and registered on the particular exchange and the application is filed more than 120 days after the end of one or more fiscal years of the registrant following the last fiscal year for which certified financial statements were included in the registration statement referred to in paragraph (a) (1) of this section, the application shall also include as an exhibit an annual report for each such fiscal year on the form appropriate for annual reports pursuant to section 13 of the act. If the registrant has filed annual reports for such fiscal years pursuant to section 15 (d) of the act, it may file with the application copies of the reports filed pursuant to that section, in lieu of the reports referred to in the preceding sentence.

(d) In copies of the application filed with the Commission the registrant may incorporate by reference the registration statement referred to in paragraph (a) (1) of this section or the annual reports required by paragraph (c) of this section which are on file with the Commission. If such registration statement or any such annual report incorporates by reference any financial statements or exhibits required by the appropriate form which are on file with the Commission but are not on file with the exchange, copies of the application filed with the exchange shall include copies of such financial statements or exhibits.

§ 240.12b–36 *Use of financial statements filed under other acts.* Where copies of certified financial statements filed under other acts administered by the Commission are filed with an application or report, the accountants' certificate shall be manually signed or manually signed copies of the certificate shall be filed with the financial statements. Where such financial statements are incorporated by reference in an application or report, the written consent of the accountant to such incorporation by reference shall be filed with the application or report. Such consent shall be dated and signed manually.

§ 240.12d1 *Certification by exchanges.*

§ 240.12d1–1 *Requirements as to certification.* (a) Certification that a security has been approved by an exchange for listing and registration or for listing and registration upon notice of issuance shall be made by the governing committee or other corresponding authority of the exchange.

(b) The certification shall specify (1) the approval of the exchange for listing and registration or for listing and registration upon notice of issuance; (2) the title of the security and the amount so approved; (3) the date for filing with the exchange of the application for registration and of any amendments thereto; and (4) any conditions imposed on such certification. Any conditions so imposed shall be removed by the filing of an amended certification at the earliest practicable date.

(c) The certification may be made by telegram but in such case shall be confirmed in writing. All certifications in writing and all amendments thereto shall be filed with the Commission in triplicate and at least one copy shall be manually signed by the appropriate exchange authority.

§ 240.12d1–2 *Date of receipt of certification by Commission.* The date of receipt by the Commission of the certification of the exchange approving a security for listing and registration or for listing and registration upon notice of issuance shall be the later of the following dates: (a) the date on which the certification is actually received by the Commission or (b) the date on which the application for registration to which the certification relates is actually received by the Commission.

§ 240.12d1–3 *Operation of certification on subsequent amendments.* If an amendment to an application for registration of a security is filed with the exchange and with the Commission after the receipt by the Commission of the certification of the exchange approving the security for listing and registration, or for listing and registration upon notice of issuance, the certification, unless withdrawn, shall be deemed made with reference to the application as amended.

§ 240.12d1–4 *Withdrawal of certification.* An exchange may, by notice to the Commission, withdraw its certification as to all or any part of the issued securities covered thereby prior to the time that registration of such issued securities becomes effective and as to all or any part of the unissued securities covered thereby prior to the time of issuance thereof.

§ 240.12d1–5 *Reports as to securities registered upon notice of issuance.* Every exchange upon which the registration of any class of securities is to be-

come effective upon notice of issuance shall report to the Commission, promptly after the close of each calendar month, or at such other periods as the Commission may designate, the amount of securities of such class listed and registered and the amount to become listed and registered upon notice of issuance, as of the close of the period covered by the report.

§ 240.13a *Reports of issuers of listed securities.*

ANNUAL REPORTS

§ 240.13a–1 *Requirement of annual reports.* Every issuer having securities listed and registered on a national securities exchange shall file an annual report for each fiscal year after the last full fiscal year for which financial statements were filed in its application for registration. Registrants on Form 8–B shall file an annual report for each fiscal year beginning on or after the date as of which the succession occurred. The report shall be filed within 120 days after the close of the fiscal year or within such other period as may be specified in the appropriate form.

§ 240.13a–2 *Annual reports of predecessors.* Every issuer having securities listed and registered pursuant to an application on Form 8–B shall file an annual report pursuant to § 240.13a–1 for each of its predecessors which had securities listed and registered on a national securities exchange, covering the last full fiscal year of the predecessor prior to the registrant's succession, unless such report has been filed by the predecessor. Such annual report shall contain the information that would be required if filed by the predecessor.

§ 240.13a–3 *Reports in case of new registration* (a) Notwithstanding § 240.13a–1, any registrant which has filed, within the period prescribed for filing an annual report pursuant to that section:

(1) A registration statement under the Securities Act of 1933 which has become effective and is not subject to any proceeding under section 8 (d) of that act or to an order entered thereunder, or

(2) An application for registration of securities on an exchange which has become effective and is not subject to any proceeding under section 19 (a) (2) of the Securities Exchange Act of 1934 or to an order thereunder,

may file as its annual report pursuant to § 240.13a–1 copies of the registration statement or application in lieu of an annual report on the appropriate annual report form if the statement or application covers the fiscal period that would be covered by a report on the appropriate annual report form and contains all of the information, including financial statements and exhibits, required by the appropriate annual report form.

(b) The report shall be filed under cover of the facing sheet of the appropriate annual report form and shall be signed in accordance with the requirements of that form. The following statement shall appear on the facing sheet of the annual report or on the page immediately following the facing sheet:

This annual report, filed pursuant to § 240.13a–3, consists of the information and documents contained in the registration statement (or application for registration) on Form _____, filed by the registrant on _____, 19____, as amended under dates of _____.

(c) Any financial statements or exhibits included in the registration statement or application which are not required by the appropriate annual report form may be omitted.

(d) If any registration statement included in the annual report incorporates by reference any financial statements or exhibits required by the appropriate annual report form which are on file with the Commission but are not on file with the exchange, the copies of the annual report filed with the exchange shall include copies of such financial statements or exhibits.

(e) Copies of the report filed with the Commission may incorporate the registration statement or application by reference. If a report consists of an application, copies of the report filed with any exchange with which the application was filed may incorporate the application by reference.

§ 240.13a–4 *Incorporation of information contained in a prospectus.* Any registrant which has filed with the Commission pursuant to § 230.424 of this chapter under the Securities Act of 1933 copies of a prospectus meeting the requirements of section 10 of that act may incorporate in its annual report pursuant to § 240.13a–1 any information, including financial statements, contained in the prospectus, provided a copy of the prospectus is filed as an exhibit to the annual report.

OTHER REPORTS

§ 240.13a–10 *Interim reports.* (a) Every issuer which changes its fiscal closing date after the last fiscal year for which financial statements were filed in its application for registration shall file a report covering the resulting interim period not more than 120 days after the close of the interim period or after the date of the determination to change the fiscal closing date, whichever is later.

(b) Every issuer having securities registered pursuant to an application on Form 8–B shall file an interim report for the period, if any, between the close of the fiscal year covered by the last annual report of its predecessor or predecessors and the beginning of the first fiscal year of the registrant subsequent to the succession. The report shall be filed within 120 days after the close of the period. It shall include information regarding the predecessor or predecessors from the close of the most recent fiscal year prior to the succession as if such predecessor or predecessors were the registrant. The financial statements filed with the report shall give effect to the operations of, and transactions by the predecessor or predecessors during the period as if they were the registrant. A statement that effect has been given to such operations and transactions shall be made in a note or otherwise. Separate financial statements for the predecessor or predecessors need not be filed.

(c) A report pursuant to this section shall be filed on the form appropriate for annual reports of the issuer and shall clearly indicate the period covered. If the report covers an interim period of less than 6 months, the financial statements filed therewith need not be certified but, if they are not certified, the issuer shall file with its next annual report certified financial statements covering the interim period.

(d) Notwithstanding the foregoing, a separate report need not be filed for any period of less than 3 months if the annual report of the issuer or predecessor for the preceding fiscal year or the annual report of the issuer for the succeeding fiscal year covers the interim period as well as the fiscal year. In such case balance sheets need be furnished only as of the close of the interim period but all other financial statements, including balance sheet schedules, shall be filed separately for both periods.

§ 240.13a–11 *Current reports on Form 8–K.* (a) Except as provided in paragraph (b) of this section, every registrant subject to § 240.13a–1 shall file a current report on Form 8–K within ten days after the close of any month during which any of the events specified in that form occurs, unless substantially the same information as that required by Form 8–K has been previously reported by the registrant.

(b) This section shall not apply to issuers having securities registered on a national securities exchange pursuant to an application on Form 18, 19, 20 or 21, or to investment companies required to file quarterly reports pursuant to § 240.13a–12.

§ 240.13a–12 *Quarterly reports of investment companies.* Every investment company registered under the Investment Company Act of 1940 which has securities listed and registered on a national securities exchange and for which a quarterly report form is prescribed shall file a quarterly report, on the appropriate form prescribed therefor, for each fiscal quarter for which it is required to file a quarterly report pursuant to section 30 (b) (1) of the Investment Company Act of 1940.

§ 240.13a–13 *Quarterly reports of other companies.* (a) Each issuer which is required to file annual reports on Form 10–K, 11–K or U–5K or to file a report on one of such forms as Part II of Form 16–K, shall file quarterly reports on Form 8–K containing the information called for by Item 11 of that form. Issuers heretofore subject to § 240.13a–6 (b) shall file such a report for each fiscal quarter subsequent to the latest fiscal quarter for which a report was filed pursuant to that section. Other issuers subject to this section shall file such a report for each fiscal quarter following the latest fiscal year for which financial statements were filed in the issuer's application for registration. Such reports shall be filed not more than 45 days after the end of the fiscal quarter for which they are filed.

(b) This section shall not apply to any insurance company, investment company, common carrier, public utility or any company primarily engaged in

the production and sale of raw cane sugar or other seasonal single-crop agricultural commodity.

§ 240.13b–1 *Carriers and other persons subject to federal regulation.* (a) If a person's methods of accounting are prescribed under any law of the United States or any rules and regulations thereunder, the requirements imposed by such law or rules and regulations shall supersede the requirements prescribed by the rules and regulations of the Commission with respect to the same subject matter, insofar as the latter are inconsistent with the former.

(b) Carriers reporting under section 20 of the Interstate Commerce Act, as amended, and carriers required by any other law of the United States to make reports of the same general character as those required under section 20, may file duplicate copies of the reports filed pursuant to such acts in lieu of any reports, information or documents required by the rules and regulations of the Commission in regard to the same subject matter.

§ 240.15d *Reports of registrants under the Securities Act of 1933.*

ANNUAL REPORTS

§ 240.15d–1 *Requirement of annual reports.* Every registrant under the Securities Act of 1933 which is currently required to file supplementary and periodic information, documents and reports pursuant to section 15 (d) of the Securities Exchange Act of 1934 shall file an annual report for each fiscal year after the last full fiscal year for which certified financial statements were contained in its registration statement at the time such statement became effective. The report shall be filed within 120 days after the close of the fiscal year or within such other period as may be specified in the appropriate annual report form.

§ 240.15d–2 *Special financial report.* (a) If the registration statement of any issuer subject to § 240.15d–1 contained uncertified financial statements for the most recent full fiscal year for which financial statements were included therein, the registrant shall, within 120 days after the effective date of the registration statement, file a special report furnishing certified financial statements for such most recent fiscal year meeting the requirements of the form appropriate for annual reports of the registrant.

(b) The report shall be filed under cover of the facing sheet of the form appropriate for annual reports of the registrant, shall indicate on the facing sheet that it contains only financial statements for the fiscal year in question, and shall be signed in accordance with the requirements of the annual report form.

§ 240.15d–3 *Reports in case of new registration.* (a) Notwithstanding the provisions of § 240.15d–1, any registrant which has filed a registration statement under the Securities Act of 1933, within the period prescribed for filing an annual report pursuant to § 240.15d–1 may incorporate the registration statement by reference in its annual report in lieu of furnishing the information and documents otherwise called for by the appropriate annual report form, if the registration statement:

(1) Has become effective and is not subject to any proceeding under section 8 (d) of the Securities Act of 1933, or to an order entered thereunder; and

(2) Covers the fiscal period that would be covered by a report on the appropriate annual report form and contains all of the information, including financial statements and exhibits, required by the appropriate annual report form.

(b) Any registrant which would be entitled to file an annual report in accordance with this section except for the fact that the registration statement does not contain financial statements meeting the requirements of the appropriate annual report form, may nevertheless avail itself of the provisions of this section if financial statements meeting the requirements of the appropriate annual report form are otherwise filed as a part of the report.

§ 240.15d–4 *Incorporation of information contained in a prospectus.* Any registrant which has filed with the Commission pursuant to § 230.424 of this chapter under the Securities Act of 1933 copies of a prospectus meeting the requirements of section 10 of that act may incorporate in its annual report pursuant to § 240.15d–1 any information, including financial statements, contained in the prospectus, provided a copy of the prospectus is filed as an exhibit to the annual report.

OTHER REPORTS

§ 240.15d–10 *Interim reports.* (a) Every issuer which changes its fiscal closing date after the last fiscal year for which certified financial statements were filed in its registration statement shall file a report covering the resulting interim period not more than 120 days after the close of the interim period or after the date of the determination to change the fiscal closing date, whichever is later.

(b) A report pursuant to this section shall be filed on the form appropriate for annual reports of the issuer and shall clearly indicate the period covered. If the report covers an interim period of less than 6 months, the financial statements filed therewith need not be certified but, if they are not certified, the issuer shall file with its next annual report certified financial statements covering the interim period.

(c) Notwithstanding the foregoing, a separate report need not be filed for any period of less than 3 months if the annual report of the issuer for either its preceding or succeeding fiscal year covers the interim period as well as the fiscal year. In such case balance sheets need be furnished only as of the close of the entire period but all other financial statements, including balance sheet schedules, shall be filed separately for both the fiscal year and the interim period.

§ 240.15d–11 *Current reports on Form 8–K.* (a) Except as provided in paragraph (b) of this section, every registrant subject to § 240.15d–1 shall file a current report on Form 8–K within ten days after the close of any month during which any of the events specified in that form occurs, unless substantially the same information as that required by Form 8–K has been previously reported by the registrant.

(b) This section shall not apply to foreign governments or political subdivisions thereof; foreign private issuers other than Canadian, Cuban, Mexican or Philippine issuers; issuers of American certificates against foreign issues; or to investment companies required to file quarterly reports pursuant to § 240.15d–12.

§ 240.15d–12 *Quarterly reports of investment companies.* Every investment company registered under the Investment Company Act of 1940 which is subject to § 240.15d–1 and for which a quarterly report form is prescribed shall file a quarterly report, on the appropriate form prescribed therefor, for each fiscal quarter for which it is required to file a quarterly report pursuant to section 30 (b) (1) of the Investment Company Act of 1940.

§ 240.15d–13 *Quarterly reports of other companies.* (a) Each issuer which is required to file annual reports on Form 1–MD or U5–MD shall file quarterly reports on Form 8–K containing the information called for by item 11 of that form. Issuers subject to this rule shall file such a report for each fiscal quarter following the latest fiscal year for which annual reports were filed in the issuer's registration statement or for each fiscal quarter ending after the effective date of this section, whichever is later. Such reports shall be filed not more than 45 days after the end of the fiscal quarter for which they are filed.

(b) This section does not apply to foreign governments or political subdivisions thereof, foreign private issuers other than Canadian, Cuban, Mexican, or Philippine issuers; issuers of American certificates against foreign issues; or to any insurance company, investment company, common carrier, public utility company or any company primarily engaged in the production and sale of raw cane sugar or other seasonal, single-crop, agricultural commodity.

[F. R. Doc. 48–11447; Filed, Dec. 30, 1948; 8:50 a. m.]

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# TITLE 20—EMPLOYEES' BENEFITS

## Chapter III—Social Security Administration (Old-Age and Survivors Insurance), Federal Security Agency

[Reg. 1, as Amended]

### PART 401—DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION

Regulation No. 1, as amended (20 CFR, Cum. Sup., 401.1 et seq.), is further amended to read as follows:

Sec.
401.1 Prohibition against disclosure.
401.2 Authority for refusal to disclose.
401.3 Information which may be disclosed and to whom.
401.4 Definitions.

AUTHORITY: §§ 401.1 to 401.4 issued under sec. 1102, 49 Stat. 647, secs. 205 (a), 1106,

53 Stat. 1368, 1398; 42 U. S. C. 405 (a), 1302, 1306; sec. 4, Reorg. Plan No. 2 of 1946, 11 F. R. 7873; 45 CFR, 1946 Supp. 1.21.

§ 401.1 *Prohibition against disclosure.* No disclosure of any return or portion of a return (including information returns or other written statements) filed with the Commissioner of Internal Revenue under Title VIII of the Social Security Act or the Federal Insurance Contributions Act or under regulations made under authority thereof, which has been transmitted to the Federal Security Agency by the Commissioner of Internal Revenue, or of any file, record, report, or other paper or any information, obtained at any time by the Agency or by any officer or employee of the Agency, which in any way relates to, or is necessary to, or is used in or in connection with, the administration of the old-age and survivors insurance program conducted pursuant to Title II of the Social Security Act, shall be made directly or indirectly except as hereinafter authorized by this regulation or as otherwise expressly authorized by the Commissioner for Social Security.

§ 401.2 *Authority for refusal to disclose.* Any request or demand for any such file, record, report, or other paper, or information, disclosure of which is forbidden by this part, shall be declined upon authority of the provisions of section 1106 of the Social Security Act, and this part prescribed thereunder. If any member, officer, or employee of the Agency is sought to be required, by subpena or other compulsory process, to produce such file, report, or other paper, or give such information, he shall respectfully decline to present such file, record, report, or other paper, or divulge such information, basing his refusal upon the provisions of law, and this part prescribed thereunder.

§ 401.3 *Information which may be disclosed and to whom.* Disclosure of any such file, record, report, or other paper, or information, is hereby authorized in the following cases and for the following purposes:

(a) As to matters directly concerning any claimant or prospective claimant for benefits or payments under Title II of the Social Security Act, to such claimant or prospective claimant or his duly authorized representative; or upon authorization by such claimant or prospective claimant, or his duly authorized representative, to others or to the public, when consistent with the proper and efficient administration of the act. However, statements of wage information may be furnished in such summary form as may be administratively deemed appropriate to the conduct of the old-age and survivors insurance program under Title II; any request for wage information which is not reasonably necessary for a Title II purpose may be refused.

(b) After death of an individual and when efficient administration permits such disclosure, any information relating to the individual may be furnished to a surviving relative or to the legal representative of the estate of the individual, and available information concerning the fact, date, or circumstances of death of the individual may be disclosed to any person, upon written request stating the purpose thereof, where such disclosure is considered not detrimental to the individual or to his estate.

(c) To the employer or former employer of an individual, the social security account number of the individual, and a copy of a coverage or wage determination relating to the individual, or a summary thereof setting forth the conclusions reached and the reasons therefor, if services for or wages paid by such employer or former employer are the subject of the determination. Any other information originally supplied by an employer may be furnished to him, upon written request stating the purpose thereof, when efficient administration permits.

(d) To any officer or employee of the Treasury Department, or of the Department of Justice, of the United States, lawfully charged with the administration of Titles II, VIII, or IX of the Social Security Act, the Federal Insurance Contributions Act, or the Federal Unemployment Tax Act, or any Federal income tax law, for the purpose of such administration only.

(e) To any officer or employee of an agency of the Federal Government or a State Government lawfully charged with the administration of a Federal or State unemployment compensation law or contribution or tax levied in connection therewith, for the purpose of such administration only.

(f) To any officer or employee of an agency of the Federal Government lawfully charged with the administration of a law providing for public assistance, or work relief, or pension, or retirement, or other benefit payments, only for the purpose of the proper administration of such law, or of the Social Security Act.

(g) To any officer or employee of an agency of a State Government lawfully charged with the administration of a program receiving aid under the Vocational Rehabilitation Act or Title I, IV, V, or X of the Social Security Act, information regarding benefits paid or entitlement to benefits under Title II of the Social Security Act and, if it has been determined, the date of birth of a recipient or applicant, where such information is necessary to enable the agency to determine the eligibility of or the amount of benefits or services due such recipient or applicant.

(h) To a Federal, State, municipal, or hospital official upon written request stating that he has the name or social security account number of a deceased or insane person or a person suffering from amnesia or who is unconscious or in a state equivalent thereto, but cannot establish such person's identity, such identifying data as is available relative to such person which may be determined by the proper officer of the Agency to be necessary to assist the requesting officer or agency to make the required identification.

(i) To any officer, agency, establishment, or department of the Federal Government, charged with the duty of conducting an investigation or prosecution, for the purpose of such an investigation or prosecution involving:

(1) An inquiry to determine whether there has been a violation of any provision of the Social Security Act, the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, or any Federal income tax law, or of any regulation or procedure in effect thereunder, provided such violation is punishable as a crime under any of such laws or under any other Federal statute imposing criminal penalties; or

(2) An inquiry to determine whether any action of a member, officer, or employee of the Agency relating to the administration of the Social Security Act was attempted or effected with intent to defraud the United States; or

(3) An inquiry with respect to an alleged theft, forgery, alteration, unlawful negotiation, or destruction of a check issued for a benefit under Title II of the Social Security Act; or

(4) Until the date of termination of World War II, an inquiry relating to the commission of an act of espionage or sabotage inimical to the national security: *Provided*, That such information shall be disclosed only to the Federal Bureau of Investigation of the Department of Justice and only upon written certification by a central office official thereof that the information requested is required in an investigation of major importance.

(j) Any record or information may be disclosed when such disclosure is necessary in connection with any claim or other proceeding under the Social Security Act and is necessary for the proper performance of the duties of any officer or employee of the Agency.

(k) Nothing contained in this part shall preclude the disclosure of statistical data or other similar information not relating to any particular person.

(l) The Commissioner may from time to time prescribe instructions as to the manner of disclosure of the foregoing information.

(m) Disclosure of any return, file, record, report, or other paper or information, not relating or necessary to, or used in or in connection with, the administration of the old-age and survivors insurance program conducted pursuant to title II of the Social Security Act, shall not be subject to the limitation on disclosure in section 1106 of the act and shall be made only in accordance with policies prescribed by the Commissioner.

§ 401.4 *Definitions.* As used in this part the term:

(a) "Claimant" includes a person who files application on his own behalf or as guardian of an infant or legal representative of an incompetent, or on whose behalf some other person files application, for monthly benefits or a lump-sum death payment;

(b) "Prospective claimant" includes a living wage earner, the legal representative of an incompetent wage earner, the guardian of an infant, the next of kin of a deceased wage earner, any other person who is equitably entitled, by reason of having paid, in whole or part, the burial expenses of the deceased wage earner, or the legal representative of such next of kin or equitably entitled person;

(c) "Authorized representative" includes any individual authorized by the claimant or prospective claimant to request or receive information or to act on behalf of the claimant or prospective claimant;

(d) "Legal representative" includes any individual appointed by a court or otherwise authorized by law to act on behalf of a claimant or a prospective claimant;

(e) "Date of termination of World War II" means the date after July 25, 1947, proclaimed by the President as the date of such termination, or the date after July 25, 1947, specified in a concurrent resolution of the two houses of Congress as the date of such termination, whichever is the earlier.

[SEAL] A. J. ALTMEYER,
*Commissioner for Social Security.*

Approved: December 27, 1948.

OSCAR R. EWING,
*Federal Security Administrator.*

[F. R. Doc. 48-11432; Filed, Dec. 30, 1948; 8:47 a. m.]

# TITLE 25—INDIANS

## Chapter I—Office of Indian Affairs, Department of the Interior

PART 130—OPERATION AND MAINTENANCE CHARGES

CROW INDIAN IRRIGATION PROJECT, MONTANA

*Correction*

Federal Register Doc. No. 48-11192, appearing at page 8291, of the issue for Friday, December 24, 1948, inadvertently appeared under the Rules and Regulations section. This document should appear under the Proposed Rule Making section.

# TITLE 26—INTERNAL REVENUE

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

### Subchapter A—Income and Excess Profits Taxes

[T. D. 5680]

PART 29—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1941

CLAIMS FOR REFUND

PARAGRAPH 1. Section 29.322-3 of Regulations 111, as amended by Treasury Decision 5425, approved December 29, 1944 (26 CFR 29.322-3), is further amended as follows:

(A) By inserting the word "short" immediately before "Form 1040A" wherever it appears therein.

(B) By inserting immediately after "Form W-2 (Rev.)" wherever it appears therein the following: "or Employee's Optional Form 1040A".

(C) By striking out the eighth sentence of the second paragraph reading: "An 'amended return', so-called, shall not be considered a claim for refund or credit."

Because the amendments made by this Treasury decision are either of a technical nature or merely relieve taxpayers from a limitation applicable under existing regulations, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under section (4) (a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section (4) (c) of said act.

(53 Stat. 32; 26 U. S. C., 62)

[SEAL] FRED S. MARTIN,
*Acting Commissioner of Internal Revenue.*

Approved: December 24, 1948.

THOMAS J. LYNCH,
*Secretary of the Treasury.*

[F. R. Doc. 48-11458; Filed, Dec. 30, 1948; 8:52 a. m.]

# TITLE 31—MONEY AND FINANCE: TREASURY

## Subtitle A—Office of the Secretary of the Treasury

PART 1—CENTRAL OFFICE PROCEDURES

PART 2—BUREAUS, DIVISIONS, AND OFFICES DEALING LARGELY WITH THE PUBLIC

PART 9—DISCLOSURE OF OFFICIAL INFORMATION

ORGANIZATION AND PROCEDURE

1. The statements respecting the organization of the Office of the Secretary, and Bureaus, Divisions, and Offices performing chiefly staff and service functions, appearing under Subpart A of Part 1, with the exception of § 1.26, are hereby withdrawn from the codified portion of the FEDERAL REGISTER. Any amendments to or new material with respect to these statements will appear hereafter in the Notices section of the FEDERAL REGISTER.

2. Section 1.26, Subpart B of Part 1, and Part 9 are consolidated and reconstituted Part 1 (§§ 1.1, 1.2, 1.3, 1.4, 1.5, 1.10, and 1.11), and as consolidated and reconstituted are amended to read as follows:

SUBPART A—DISCLOSURE OF OFFICIAL INFORMATION AND TESTIMONY IN COURT

Sec.
1.1 Treasury records or other official documents not to be withdrawn.
1.2 Rules governing access to final opinions or orders, to rules and to official records.
1.3 Testimony or the production of documents in court.
1.4 Regulations not applicable to official requests.
1.5 Waiver of regulations.

SUBPART B—PAYMENTS UNDER JUDGMENTS AND PRIVATE RELIEF ACTS

1.10 Judgments against the United States.
1.11 Payment of sums appropriated in private relief acts.

AUTHORITY: §§ 1.1 to 1.11 issued under R. S. 161; 5 U. S. C. 22.

SUBPART A—DISCLOSURE OF OFFICIAL INFORMATION AND TESTIMONY IN COURT

§ 1.1 *Treasury records or other official documents not to be withdrawn.* No record, claim, account, document, or other official instrument in writing, or any exhibit attached, or pertaining thereto, shall be withdrawn from the files of the Department by, or furnished to, any person not an officer or employee of the Department.

§ 1.2 *Rules governing access to final opinions or orders, to rules and to official records*—(a) *Availability of final opinions or orders and rules.* Except as hereinafter stated, all final opinions or orders in the adjudication of cases and all rules (other than those relating solely to the internal management of the Treasury Department) issued by the Office of the Secretary of the Treasury (including the Offices of the Under Secretary, the Assistant Secretaries, the Fiscal Assistant Secretary, the Assistants and Special Assistants to the Secretary, and the Administrative Assistant to the Secretary) are made available to public inspection at the Treasury Department, Washington 25, D. C. This provision shall not apply, however, to final opinions or orders which are not cited as precedents and which contain information held confidential for one or more of the good causes set forth in paragraph (e) of this section. In view of the nature of their functions, the Office of the General Counsel, the Bureau of Engraving and Printing, the Office of International Finance, the Division of Personnel, the Office of the Technical Staff, the Division of Tax Research, the Office of Administrative Services, the United States Savings Bonds Division, the Office of the Tax Legislative Counsel, and the Office of the Chief Coordinator, Treasury Enforcement Agencies, do not issue any final opinions or orders in the adjudication of cases; nor do they issue any rules (other than those relating solely to the internal management of the Treasury Department).

(b) *Requests for final opinions or orders and rules.* Requests to examine the final opinions or orders and rules hereby made available for public inspection shall be addressed to the Administrative Assistant to the Secretary, Treasury Department, Washington 25, D. C. Copies of documents made available for public inspection may, in proper cases, be furnished on request.

(c) *Availability of official records.* Except as to official records relating solely to the internal management of the Treasury Department and except as to official records held confidential for one or more of the good causes set forth in paragraph (e) of this section, all matters of official record in the files of the Office of the Secretary of the Treasury (including the Offices of the Under Secretary, the Assistant Secretaries, the Fiscal Assistant Secretary, the Assistants and Special Assistants to the Secretary, and the Administrative Assistant to the Secretary), the Office of the General Counsel, the Bureau of Engraving and Printing, the Office of International Finance, the Division of Personnel, the Office of the Technical staff, the Division of Tax Research, the Office of Administrative Services, the United States Savings Bonds Division, the Office of the Tax Legislative Counsel, and the Office of the Chief Coordinator, Treasury Enforcement Agencies, are made available to persons properly and directly concerned.

(d) *Classification of official records.* The official records made available by paragraph (c) of this section to persons properly and directly concerned may be classified as pertaining to the collection of taxes and the administration of the

internal revenue laws, the collection of customs duties and the enforcement of the customs laws, national banks, public debt, the coinage and printing of money, the procurement of Government supplies, finance, the Coast Guard, the disbursement of Government funds, savings bonds, gold, silver, banking, and other monetary matters, both domestic and international, and all other functions of the Treasury Department. In view of the many functions of the bureaus, divisions, and offices in question and in view of the numerous types of official records which are kept in connection with the performance of these functions, it is not practicable to list herein all types of official records in the files of these offices.

(e) *Confidential official records.* For one or more of the following good causes, certain information in the official records of the bureaus, divisions, and offices enumerated in paragraph (c) of this section is held confidential, and is not available to the public: (1) The information has been submitted in confidence to the Treasury Department; (2) the information relates to a financial matter or some other type of transaction between the Government and an individual or corporation, the disclosure of which would be prejudicial to the individual or corporation involved (such as by aiding a competitor) without furthering the public interest; (3) for security reasons, such as protection against counterfeiting; (4) the information pertains to negotiations with foreign countries, which information, because of its nature or because of an agreement between this Government and the foreign countries concerned, is required to be held confidential; (5) the material is made confidential by law, such as tax returns; or (6) the disclosure of the information would clearly be inimical to the public interest.

(f) *Application for information.* All requests for information contained in the official records of the bureaus, divisions, and offices enumerated in paragraph (c) of this section shall be addressed to the Administrative Assistant to the Secretary, Treasury Department, Washington 25, D. C. The request shall clearly state the information desired and must set forth the interest of the applicant in the subject matter and the purpose for which the information is desired. If the applicant is an agent or attorney acting for another, he will attach to the application evidence of his authority to act for his principal. If such evidence is satisfactory, such agent or attorney will be given access to any record to which his principal would be given access.

(g) *Determination of application for information.* The determination as to whether the information requested is available for disclosure in any particular case will be made by the Administrative Assistant to the Secretary (or the Secretary of the Treasury, the Under Secretary, an Assistant Secretary, the Fiscal Assistant Secretary, or the General Counsel). As a general rule, the request for information will be determined on the basis of the nature of the interest of the person making the request and the character of the information desired. If in a particular case the Administrative Assistant to the Secretary (or the Secretary of the Treasury, the Under Secretary, an Assistant Secretary, the Fiscal Assistant Secretary, or the General Counsel) determines that a request for information must be refused, prompt notice of the refusal will be given to the applicant, together with a simple statement of the grounds for such refusal.

(h) *Manner in which information is available.* Whenever the Administrative Assistant to the Secretary (or the Secretary of the Treasury, the Under Secretary, an Assistant Secretary, the Fiscal Assistant Secretary, or the General Counsel) determines that a matter of official record is available for disclosure in a particular case, a copy of said official record will be furnished the party requesting the same, or the officer passing upon the request may, in his discretion, allow a personal inspection of the official record in question at the place where the document is normally kept. A reasonable fee may, in the discretion of the Administrative Assistant to the Secretary (or the Secretary of the Treasury, the Under Secretary, an Assistant to the Secretary, the Fiscal Assistant Secretary, or the General Counsel), be charged for furnishing copies of official records or other documents.

§ 1.3 *Testimony or the production of documents in court.* (a) Treasury Department officers and employees are prohibited from testifying in court or otherwise with respect to information obtained as a result of their official capacities, and are prohibited from furnishing official documents in compliance with subpoenas duces tecum, without the prior approval of the Secretary, the Under Secretary, an Assistant Secretary, the Administrative Assistant to the Secretary, or the head of the Bureau, Office, or Division of the Department in which such officer or employee is employed. In cases where the giving of testimony is desired, an affidavit by the litigant or his attorney, setting forth the interest of the litigant and the information with respect to which the testimony of such officer or employee is desired, must be submitted before permission to testify will be granted. Permission to testify will, in all cases, be limited to the information set forth in the affidavit, or to such portions thereof as may be deemed proper.

(b) Where approval to testify or to furnish documents in compliance with a subpoena is not given, the person to whom it is directed shall if possible appear in court and respectfully state his inability to comply in full with the subpoena, relying for his action upon this section.

(c) This section shall not apply to any case in which a Bureau, Division, or Office of the Department has inconsistent regulations.

§ 1.4 *Regulations not applicable to official requests.* Sections 1.1 to 1.3 shall not be applicable to official requests of other governmental agencies or officers thereof acting in their official capacities, unless it appears that compliance therewith would be in violation of law, or inimical to the public interest. Cases of doubt should be referred for decision to the Secretary, the Under Secretary, an Assistant Secretary, or the Administrative Assistant to the Secretary.

§ 1.5 *Waiver of regulations.* The provisions of §§ 1.1 to 1.3 may be waived in proper cases by the Secretary, the Under Secretary, or an Assistant Secretary.

SUBPART B—PAYMENTS UNDER JUDGMENTS AND PRIVATE RELIEF ACTS

§ 1.10 *Judgments against the United States.* Persons securing money judgments against the United States in the Court of Claims are required, in order to secure payment, to file transcripts of such judgments with the Secretary of the Treasury for certification to the Congress for appropriation (see 28 U. S. C. 2518). Following receipt of an application on the part of the claimant for payment of the amount appropriated by the Congress, the General Accounting Office transmits to the Treasury Department a certificate of settlement. Payment is then made to the claimant by check drawn in the office of the Treasurer of the United States. A similar procedure applies with respect to judgments obtained in the Federal district courts, except that papers pertaining to such judgments are filed with the Secretary of the Treasury by the Department of Justice instead of by the claimant.

§ 1.11 *Payment of sums appropriated in private relief acts.* Prior to receipt of a certificate of settlement from the General Accounting Office, the Treasury Department takes no action with respect to payment of appropriations provided by the Congress in private relief bills. After receipt of the certificate of settlement, a check is drawn in the office of the Treasurer of the United States and mailed to the beneficiary.

3. Part 2 of this subtitle is revoked.

[SEAL] E. H. FOLEY, Jr.,
*Acting Secretary of the Treasury.*

[F. R. Doc. 48-11459; Filed, Dec. 30, 1948; 8:52 a. m.]

## Chapter I—Monetary Offices, Department of the Treasury

EDITORIAL CHANGES INCIDENT TO PUBLICATION OF CODE OF FEDERAL REGULATIONS, 1949 EDITION

*Correction*

The original of Federal Register Document 48-11274 appearing at page 8328 of the issue for Saturday, December 25, 1948, has been corrected so that amendatory paragraph 2 reads as follows:

2. Parts 70, 71, 72, 76, 77, 78 and 79 are revoked.

# TITLE 33—NAVIGATION AND NAVIGABLE WATERS

## Chapter I—Coast Guard, Department of the Treasury

### Subchapter A—General

[CGFR 48-72]

MISCELLANEOUS AMENDMENTS

The following amendments to the regulations are prescribed and shall become

effective upon publication of this document in the FEDERAL REGISTER:

PART 1—GENERAL PROVISIONS

Part 1 is revised to effect editorial changes in order to conform to the scope and style of the Code of Federal Regulations, 1949 Edition, as prescribed by the regulations of the Administrative Committee of the Federal Register and approved by the President effective October 12, 1948 (13 F. R. 5929), to revise the regulation concerning rule making, and to change the title of Part 1. Future statements of organization of the United States Coast Guard, and amendments thereof, will be published in the Notices section of the FEDERAL REGISTER. Therefore, Part 1, as revised, reads as follows:

SUBPART 1.01—DELEGATION OF AUTHORITY



SUBPART 1.05—RULE MAKING



SUBPART 1.10—OFFICIAL RECORDS AND DOCUMENTS



AUTHORITY: §§ 1.01–1 to 1.10–20 issued under sec. 8, 18 Stat. 127 and sec. 2, 23 Stat 118, as amended, secs. 101, 103, Reorganization Plan No. 3 of 1946, 11 F. R. 7875; 14 U. S. C. 92, 46 U. S. C. 1, 2. Statutes giving special authority are cited to text in parentheses.

SUBPART 1.01—DELEGATION OF AUTHORITY

§ 1.01–1 *District Commander.* Final authority for the performance within the confines of his district of the functions of the Coast Guard, which in general terms are maritime law enforcement, saving and protecting life and property, safeguarding navigation on the high seas and navigable waters of the United States, and readiness for military operations, is delegated to the District Commander by the Commandant. In turn delegations of final authority run from the District Commander to commanding officers of units under the District Commander for the performance of the functions of law enforcement, patrol of marine regattas and parades, and the saving of life and property which come within the scope of their activities.

§ 1.01–20 *Officer in Charge, Marine Inspection.* (a) Final authority is vested in the Officer in Charge, Marine Inspection, for the performance, within the area of his jurisdiction, of the following functions: inspection of vessels in order to determine that they comply with the applicable laws, rules, and regulations relating to safe construction, equipment, manning, and operation and that they are in a seaworthy condition for the services in which they are operated; shipyard and factory inspections; the investigation of marine casualties and accidents; the licensing, certificating, shipment and discharge of seamen; the investigating and initiating of action in cases of misconduct, negligence, or incompetence of merchant marine officers or seamen; and the enforcement of vessel inspection, navigation, and seamen's laws in general. Specific procedures for appealing the decisions of the Officer in Charge, Marine Inspection, or of his subordinates are set forth in Parts 1 to 4 of Title 46.

(b) This officer is also delegated authority to prescribe distinctive lights for ferryboats operated by different companies as provided by §§ 80.15, 90.18, and 95.14 of this title.

§ 1.01–30 *Captain of the Port.* (a) Captains of the Port and their representatives have been delegated authority to enforce the regulations concerning anchorages and the movements of vessels within their assigned areas.

(b) The Representative of the Captain of the Port at Saulte Ste. Marie, Michigan, is in charge of the St. Mary's River Patrol, and has authority to control the routing of traffic through the dredged channels contingent upon the physical conditions at the time, as provided in Part 92 of this title.

(c) Under authority conferred by 14 U. S. C. 45, any commissioned, warrant, or petty officer of the United States Coast Guard may assist in discharging the duties of the captain of the port in any port or adjacent navigable waters of the United States. They will do so under the supervision and general direction of the cognizant captain of the port, or representative of the captain of the port, if there be one for the locality involved.

SUBPART 1.05—RULE MAKING

§ 1.05–1 *General.* The rule making authority regarding activities under the cognizance of the United States Coast Guard is specifically set forth in the various statutes authorizing such regulations. Generally, the regulations may be issued by the Secretary of the Treasury; the Commandant, U. S. Coast Guard, and approved by the Secretary of the Treasury; or the Commandant, U. S. Coast Guard. These regulations are set forth in Chapter I, of Title 31, Chapter I of this title, and Chapter I of Title 46.

§ 1.05–5 *Notices of proposed rule making.* (a) Whenever proposed changes in or additions to regulations relating to Coast Guard activities come within the scope of section 4 of the Administrative Procedure Act or are required by the provisions of a particular statute under which the authority to promulgate such regulations is given, notice of intention to consider enacting or amending rules and regulations or granting or withdrawing approvals of equipment for use on vessels will be published in the FEDERAL REGISTER, and will be distributed to interested parties for review and comment, upon request. Publication of the notice will be made approximately 30 days, or more if possible, before either the hearing or the final date for submission of comments, except that in certain cases circumstances may make it necessary to give less than 30 days notice.

(b) Copies of the notice of proposed rule making or the full text of proposed regulations or type approvals of equipment will be distributed to interested parties for review and comment, so long as such copies are available. The notice will state where copies are available for inspection purposes only.

§ 1.05–10 *Hearings.* (a) When required by the provisions of the particular statute under which the proposed regulations are to be promulgated, a public hearing shall be held in accordance with the notice of proposed rule making unless an emergency exists or it is contrary to the public interest to hold such a hearing.

(b) When the proposed regulations regarding activities under the cognizance of the United States Coast Guard may be of such scope and future effect that it would be in the public interest and would tend to promote safety of life and property at sea, a public hearing may also be held to allow for the orderly presentation of comments, suggestions, and recommendations. (R. S. 4405, 4417a, and 4472, as amended, and Public Law 544, 80th Cong.; 46 U. S. C. 170, 375, 391a)

§ 1.05–15 *Hearings by Merchant Marine Council.* (a) The Merchant Marine Council conducts public hearings concerning proposed regulations authorized by the navigation and vessel inspection laws and matters relating to type approvals of equipment, when meeting in regular sessions in March and September, and at other times in special sessions when called by the Commandant, U. S. Coast Guard. Comments on the proposed regulations may be presented orally or in writing at the hearing or in writing before the hearing, as specified in the notice.

(b) During the interval between meetings of the Council, changes in regulations of an emergent nature and type approvals of equipment will be considered by the Committee of the Council. (R. S. 4405, 4417a, and 4472, as amended, and Public Law 544, 80th Cong.; 46 U. S. C. 170, 375, 391a)

§ 1.05–20 *Hearings by Coast Guard officers.* Hearings to consider proposed regulations having general applicability, other than those described in § 1.05–15, will be held by the Chief of that Office of Coast Guard Headquarters which is charged with general responsibility for enforcement of such requirements.

§ 1.05–25 *Hearing on regulations having only local applicability.* When proposed regulations have only local applicability, hearings, whenever practicable, will be held in the locality to which such regulations apply by an officer designated by the Commandant, U. S. Coast Guard.

§ 1.05–30 *Final action.* After the hearing or after the final date when comments may be submitted in accordance with the notice of proposed rule making, the Merchant Marine Council or officer designated in the notice will consider all comments, suggestions, arguments, and recommendations submitted

and will forward to the Commandant, U. S. Coast Guard, appropriate recommendations regarding the proposed regulations. Thereafter, final action will be determined by the Commandant or the Secretary of the Treasury. Any changes or new regulations will be published in the FEDERAL REGISTER. The effective date for such regulations will not be less than 30 days after date of publications of such regulations, except in those cases where a benefit is granted, a restriction removed, or for good cause the effective date should be made otherwise.

SUBPART 1.10—OFFICIAL RECORDS AND DOCUMENTS

§ 1.10–1 *Access to records and documents.* Official records and documents, except those classified as confidential by reason of military necessity or for other good cause, will be made available for examination by persons who have legitimate and valid reasons for seeking access to such records. Because of the nature of some records, examination in certain cases will be permitted only in the presence of a responsible officer or employee of the U. S. Coast Guard. Within the discretion of the responsible officer, and without unduly interfering with the activities of the office concerned, certain records may be copied or duplicated at the labor and expense of the person requesting a copy of the records. If extra copies were made by the Coast Guard and are readily available, the officer responsible may furnish such copies to persons establishing a legitimate and valid need for them.

§ 1.10–5 *Final opinions or orders.* Final opinions or orders in the adjudication of cases relating to the U. S. Coast Guard are made available to public inspection except those not cited as precedents or held confidential. Final opinions or orders which are cited as precedents but which contain confidential information will be made available in abstract form showing the principles relied upon without revealing the confidential facts.

§ 1.10–10 *Rules* The rules issued or coming within the jurisdiction of the Coast Guard which apply to the public are usually published in Chapter I of this title or Chapter I of Title 46. They are available for inspection at Coast Guard Headquarters and Coast Guard district offices. Rules issued by a field officer and applicable to a specific locality are available for inspection at the office issuing the rule.

§ 1.10–15 *Records at Coast Guard Headquarters.* There are retained on file at Coast Guard Headquarters the following types of official records, access to which may be had by a person establishing legitimate and valid interest in the particular record on request to the Commandant, U. S. Coast Guard, who will refer the matter to the chief of the division responsible for the files: Records of boards of investigation of claims or marine casualties and accidents except the opinions, conclusions, and recommendations; records of boards of review of discharges, dismissals, or retiring boards; shipping articles; central records of merchant seamen; deeds or leases of property held by the U. S. Coast Guard; contracts; changes in regulations; opinions and orders of the Commandant, U. S. Coast Guard.

§ 1.10–20 *Records at field offices.* There are retained on file at each field office the records of matters in which final actions have been taken by them under delegated authority. Access to any particular record may be had by a person establishing a legitimate and valid interest in the particular record on request to the appropriate field officer responsible for the records. In any case where the field officer doubts the right of the person to see the record, such field officer will refer the matter to the Commandant, U. S. Coast Guard, by letter or dispatch for decision.

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PART 8—REGULATIONS, UNITED STATES COAST GUARD RESERVE

The Women's Reserve having been disestablished, the following listed sections are cancelled:

§ 8.10101 *Purpose.*

§ 8.10102 *Composition, organization and administration.*

§ 8.10103 *Duties.*

§ 8.10104 *Procurement.*

§ 8.10105 *Qualifications.*

§ 8.10106 *Uniforms and equipment.*

§ 8.10107 *Disability and death benefits.*

§ 8.10108 *Subject to laws.*

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PART 20—PROCEDURES APPLICABLE TO THE PUBLIC

Part 20 is cancelled. (Procedures applicable to the public are included with other regulations applicable to a particular subject in an appropriate part of this chapter or in Parts 1 to 4 of Title 46.

Dated: December 27, 1948.

[SEAL] MERLIN O'NEILL,
*Rear Admiral, U. S. Coast Guard,*
*Acting Commandant.*

Approved:

E. H. FOLEY, Jr.,
*Acting Secretary of the Treasury.*

[F. R. Doc. 48-11450; Filed, Dec. 30, 1948; 8:52 a. m.]

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**Subchapter A—General**

[CGFR 48-69]

PART 13—DECORATIONS, MEDALS, RIBBONS AND SIMILAR DEVICES

UNIFORM REQUIREMENTS IN AWARDING MEDALS OF HONOR

The purpose of the following regulations is to effectuate uniform requirements in the awarding of medals of honor to recipients for the saving or attempting to save life from the perils of the sea.

By virtue of the authority vested in me as Secretary of the Treasury by R. S. 161; the acts of June 20, 1874, June 18, 1878, May 4, 1882, and January 21, 1897, as amended (5 U. S. C. 22; 14 U. S. C. 193–196) Treasury Department Circular No. 46, dated April 14, 1900, is hereby cancelled and the following regulations are prescribed which shall become effective on publication of this document in the FEDERAL REGISTER.

SUBPART 13.01—GOLD AND SILVER LIFE-SAVING MEDALS, BARS, AND MINIATURES

Sec.



AUTHORITY: §§ 13.01–1 to 13.01–50 issued under R. S. 161, 18 Stat. 127, 20 Stat. 165, 22 Stat. 57, 29 Stat. 494; 5 U. S. C. 22, 14 U. S. C. 193–196)

SUBPART 13.01—GOLD AND SILVER LIFE-SAVING MEDALS, BARS, AND MINIATURES

§ 13.01–1 *General.* Medals of honor, designated as the Gold Life-Saving Medal and the Silver Life-Saving Medal may be awarded by the Secretary of the Treasury under the statutes cited and the regulations in this subpart, to persons saving or attempting to save life from the perils of the sea, from shipwreck or from drowning.

§ 13.01–5 *Definitions.* As used in the statutes cited and in the regulations in this subpart, (a) "perils of the sea" include all perils on water caused by the sea or which are such by reason of the sea; whenever, wherever and in whatever way human life is directly imperilled by the sea is a peril of the sea.

(b) The "shipwrecked" include persons whose lives are endangered by perils of the sea as well as those who are, strictly speaking, no longer in danger from the sea, that peril already having passed, but who are in imminent danger and in great need of succor or rescue, as e. g., being adrift in an open boat or stranded on some barren coast without food or water, where, without succor or rescue, they would die of starvation, thirst, or exposure.

(c) "In waters over which the United States has jurisdiction" embrace any waters over which the United States has jurisdiction whether because of its power to regulate interstate and foreign commerce, or otherwise. Furthermore, saving, or attempting to save, life in small inland streams, ponds or pools or in waters wholly within the confines of one State and over which the United States does not have jurisdiction, does not entitle the rescuer to the award of a medal.

(d) "Upon any American vessel" pertains to any rescue by, or of, persons belonging on, or attached to, such a vessel.

§ 13.01–10 *Gold Life-Saving Medal.* The Gold Life-Saving Medals may be awarded to those persons who endanger their lives by extreme and heroic daring in saving, or endeavoring to save, life

from perils of the sea, from shipwreck or from drowning, in waters over which the United States has jurisdiction, or upon any American vessel.

§ 13.01–15 *Description of the Gold Life-Saving Medal.* (a) The Gold Life-Saving Medal is 99.9 percent pure gold, and consists of a pendant suspended by a swivel from the head of an eagle attached to a silk grogram ribbon 1 and 3/8ths inches in width, composed of a 3/16ths of an inch red stripe, a 1/32d of an inch white stripe, a 15/16ths of an inch gold stripe, a 1/32d of an inch white stripe, and a 3/16ths of an inch red stripe. The pendant is 1 and 7/16ths inches in diameter and 3/32ds of an inch in thickness. There appear, on the obverse side of the pendant, three men in a boat in a heavy sea; one is rescuing a person clinging to a spar at the end of which is a block and line; another is standing, prepared to heave a line; a third is rowing; in the distance, to the left, is the wreck of a vessel; the whole is encircled by the words: "United States of America", in the upper half, and "Act of Congress, June 20, 1874", in the lower half. On the reverse side of the pendant there appears, in the center, a monument surmounted by an American eagle; the figure of a woman stands, to the left, holding in her left hand an oak wreath, and, with her right hand, preparing to inscribe the name of the recipient on the monument; to the right are grouped a mast, a yard with a sail, an anchor, a sextant, and a laurel branch; the whole is encircled by the words: "In testimony of heroic deeds in saving life from the perils of the sea".

(b) *Engraving.* Before presentation, the recipient's name shall be inscribed on the "monument", on the reverse of the medal.

§ 13.01–20 *Silver Life-Saving Medal.* The Silver Life-Saving Medals may be awarded to those persons who endanger their lives by action not sufficiently deserving of the gold medal, in saving or endeavoring to save lives from the perils of the sea, in waters over which the United States has jurisdiction, or upon any American vessel; or making such signal exertions in rescuing and succoring the shipwrecked and saving persons from drowning, in waters over which the United States has jurisdiction, or upon any American vessel, as, in the opinion of the Secretary of the Treasury, shall merit such recognition.

§ 13.01–25 *Description of Silver Life-Saving Medal.* (a) The Silver Life-Saving Medal is 99 percent pure silver and consists of a pendant suspended by a swivel from the head of an eagle attached to a silk grogram ribbon 1 and 3/8ths inches in width, composed of a 3/16ths of an inch blue stripe, a 1/32d of an inch white stripe, a 15/16ths of an inch silver gray stripe, a 1/32d of an inch white stripe, and a 3/16ths of an inch blue stripe. The pendant is 1 and 7/16ths inches in diameter and 3/32ds of an inch in thickness. On the obverse side of the pendant there appears the figure of a woman hovering over a man struggling in a heavy sea and extending to him one end of a long scarf; the whole is encircled by the words: "United States of America", in the upper half, and "Act of Congress, June 20, 1874", in the lower half. On the reverse there appears a laurel wreath encircled by the words: "In testimony of heroic deeds in saving life from the perils of the sea".

(b) *Engraving.* Before presentation, the recipient's name shall be inscribed inside the laurel wreath, on the reverse of the medal.

§ 13.01–30 *Gold and silver bars.* For each subsequent act that would entitle a person to a Life-Saving Medal of the same class as one already awarded, he shall receive, in lieu of the medal, a bar so fitted that it can be attached to the medal, or to the bars, previously awarded.

§ 13.01–35 *Description of the gold and silver bars.* (a) The bar is plain and horizontal, composed of the same metal as the medal previously awarded recipient, and is 1 5/8ths inches long by 3/16ths of an inch wide with a flowing ribbon draped over the left end and passing in back and appearing beneath the bar. The part of the ribbon showing beneath the bar bears the inscription "Act of Congress May 4th, 1882", in raised block letters. The bar and ribbon are in folds of a spray of laurel with the leaves showing above and beneath.

(b) *Engraving.* Before presentation, the recipient's name shall be inscribed on the obverse of the bar.

§ 13.01–40 *Applications and recommendations.* Applications and recommendations for the award of a Life-Saving Medal may be filed by or in behalf of the person making or attempting a rescue under circumstances contemplated by these regulations. The administrative details pertaining to the award of Life-Saving Medals are under the jurisdiction of the Commandant, U. S. Coast Guard. Applications or recommendations for awarding of medals or requests for information pertaining thereto should be addressed to the Commandant, U. S. Coast Guard, Washington 25, D. C. Such application must include:

(a) Satisfactory evidence of the services performed, in the form of affidavits, made by eyewitnesses of good repute and standing, testifying of their own knowledge. The opinion of witnesses that the person for whom an award is sought imperilled his or her own life or made signal exertions is not sufficient but the affidavits must set forth in detail all facts and occurrences tending to show clearly in what manner and to what extent life was risked or signal exertions made so that the Secretary of the Treasury may judge for himself as to the degree of merit involved.

(b) The precise locality, whether within the waters over which the United States has jurisdiction or upon an American vessel, the date, time of day, nature of the weather, condition of the sea, the names of all persons present when practicable, the names of all persons rendering assistance, and all pertinent circumstances and data, showing the precise nature and degree of the risk involved, should be stated.

(c) The affidavits should be made before an officer duly authorized to administer oaths, and if taken before an officer without an official seal, his official character must be certified by the proper officer of a court of record under the seal thereof.

(d) The aforementioned affidavits must be accompanied by a certificate showing the affiants to be credible persons, certified by some United States officer, such as a judge or clerk of a United States Court, district attorney, collector of customs or a postmaster.

(e) A creditability certificate shall not be required if the affiant is an officer or employee of the Federal Government, or a member of the military forces of the United States: *Provided*, That the affiant shall show, below his or her signature on the affidavit, the title or status of the affiant as such officer or employee, or as such member of the military forces.

§ 13.01–45 *Miniature medals and bars.* (a) Miniature Gold and Silver Life-Saving Medals and bars are replicas of the Life-Saving Medals and bars, to be worn on civilian clothing. Such miniatures are not furnished by the Government.

(b) Miniature medals and bars may be procured from sources authorized by the Commandant, U. S. Coast Guard, to furnish same to persons who produce original documentary evidence of having been awarded the medal or bar for which a miniature replica is desired.

§ 13.01–50 *Replacement of medals.* The Gold or Silver Life-Saving Medal or bar will be replaced at cost to the applicant upon submitting a statement in affidavit form of having been awarded a medal or bar and the circumstances involving loss of same.

[SEAL] E. H. FOLEY, Jr.,
*Acting Secretary of the Treasury.*

DECEMBER 27, 1948.

[F. R. Doc. 48–11449; Filed, Dec. 30, 1948; 8:50 a. m.]

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## Subchapter B—Military Personnel

[CGFR 48–73]

### MISCELLANEOUS AMENDMENTS

The following amendments to the regulations are prescribed and shall become effective upon publication of this document in the FEDERAL REGISTER.

### PART 30—APPOINTMENTS OF OFFICERS

To eliminate obsolete material, the following listed sections are cancelled: §§ 30.25 Appointment as ensign, 30.30 Term of cadetship, 30.35 Appointment as constructor, 30.40 Qualifications for appointment as constructor, 30.45 Application for appointment as constructor, 30.50 Examination of applicants, 30.55 Examination subjects, 30.60 Probationary appointments.

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### PART 40—CADETS OF THE COAST GUARD

Section 40.2 is amended to add information concerning applications so that this section, as amended, reads as follows (added material formerly published in Part 20 of this chapter):

§ 40.2 *Applications.* The Coast Guard is interested in receiving applications for cadetship from all young men who feel that they meet the requirements outlined in the regulations in this part. Any young man who recognizes in himself no serious deficiency and who is sincerely interested in a Coast Guard career is encouraged to make application. A pamphlet "Regulations Governing Appointments to Cadet in the U. S. Coast Guard," together with the required application forms, may be obtained from the Commandant, U. S. Coast Guard; Superintendent, U. S. Coast Guard Academy; all Coast Guard District Offices, and all Coast Guard Recruiting Stations. (Sec. 2, 34 Stat. 452, and Sec. 8, 18 Stat. 127, as amended; 14 U. S. C. 15, 92)

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PART 45—ENLISTMENTS

1. Section 45.10 *Original enlistments* is amended by changing the reference at the end from "33 CFR 4.34" to "§ 45.45".

2. Part 45 is amended by adding §§ 45.02, 45.06, 45.07, 45.55, 45.56, 45.57 and 45.60, which read as follows (these sections to be inserted between sections in existence) (added material formerly published in Part 20 of this chapter):

§ 45.02 *Applications.* Any person desiring to enlist in the Coast Guard should apply at a Coast Guard Recruiting Station. Inquiry concerning the location of recruiting stations may be addressed to the Commandant, U. S. Coast Guard, Washington, D. C., to any Coast Guard district commander, or to any other Coast Guard unit. If there is a Coast Guard unit in a particular locality, it will usually be listed in the local telephone directory. In processing an application for enlistment, the Coast Guard determines the mental, moral, and physical fitness of the applicant through reference to local police files, character references, employers, school authorities, and physical examination.

§ 45.06 *Enlistment contract.* Two copies of Coast Guard Form 2500 will be prepared by an enlisting officer for enlistment or reenlistment in the regular establishment of the Coast Guard or Coast Guard Reserve. The original of this form will be sent to the Commandant, U. S. Coast Guard, Washington, D. C., and the copy will accompany the jacket of the particular man.

§ 45.07 *Special enlistment contract.* Two copies of Coast Guard Form 2500B are prepared by the enlisting officer for enlistment in the Special Temporary Establishment of the Coast Guard. The original of this form will be sent to the Commandant, United States Coast Guard, Washington, D. C., and the copy will accompany the jacket of the particular man.

§ 45.55 *Application for certificate in lieu of discharge.* A person whose Discharge Certificate has been lost or destroyed without privity or procurement on his part, may make application for a certificate in lieu of discharge on Coast Guard Form 9552, which form may be obtained from the Commandant, U. S. Coast Guard. This application should be sent to the Commandant, where the application will receive consideration and either be accepted or rejected and the applicant so notified.

§ 45.56 *Certificate in lieu of discharge (yellow).* In case the applicant had received a discharge under other than honorable conditions, and should affirmative action be taken on the application for certificate in lieu of discharge, the Commandant will issue the applicant a certificate in lieu of discharge (yellow), Coast Guard Form 9553A.

§ 45.57 *Certificate in lieu of discharge (white).* In case the applicant had received a discharge under honorable conditions, and in case affirmative action is taken on the application for certificate in lieu of discharge, the Commandant will issue a certificate in lieu of discharge (white), Coast Guard Form 9553.

§ 45.60 *Desertion.* (a) Coast Guard Form 2840, Declaration and Reward for Deserter from the U. S. Coast Guard will be prepared and issued by Coast Guard Headquarters and comanding officers of vessels and stations outside the continental United States after a man has been declared a deserter. A copy of this form will be sent to the chief of police of the city given as the home address of the deserter and to the chief of police or police officials in the cities adjacent to the port in which absence occurred. A copy of this form should be presented when delivering the man described on the form.

(b) Coast Guard Form 2842, Notification of Return of a Deserter, will be prepared and issued by Coast Guard Headquarters upon the receipt of information that a deserter, for whom a reward for apprehension has been offered as provided in paragraph (a) of this section, has returned or has been apprehended. This form will be sent to the chief of police of the city given as the home address of the deserter, to the chief of police or police officials in the cities adjacent to the port in which absence occurred, and such others as may be necessary. (Sec. 5, 34 Stat. 201, as amended; 14 U. S. C. 147)

(Sec. 8, 18 Stat. 127, sec. 1, 34 Stat. 200, as amended, sec. 6, 43 Stat. 106; 14 U. S. C. 35, 92, 206. Special statutes cited to text in parentheses)

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PART 48—MILITARY DISCIPLINE

Part 48 is added for the purpose of incorporating regulations concerning military discipline reading as follows (formerly published in Part 20 of this chapter):

Sec.
48.01 Punishment of offenses.
48.05 Courts and procedures.
48.10 Counsel.

AUTHORITY: §§ 48.01 to 48.10 issued under sec. 3, 34 Stat. 200, as amended; 14 U. S. C. 143.

§ 48.01 *Punishment of offenses.* Offenses against military discipline are punishable by Coast Guard courts under the jurisdiction set forth in 14 U. S. C. Chapter 5.

§ 48.05 *Courts and procedures.* The regulations governing the composition of Coast Guard courts and court martial trials and procedures are contained in the publication known as "Coast Guard Courts and Boards, 1935." Access to this publication may be had at any Coast Guard office or unit.

§ 48.10 *Counsel.* The accused or the defendant before a Coast Guard court has the right to be represented by counsel. This right may be exercised at the time of arrest, the service of charges, or at any subsequent stage of the proceedings. A commissioned officer, cadet, warrant officer, or petty officer may appear as counsel for the accused, or the accused may employ civilian counsel for his defense if he so desires.

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PART 50—COAST GUARD RETIRING REVIEW BOARD

1. Section 50.05 *Action by the board* is amended by changing "Secretary of the Navy" in the last sentence of paragraph (d) to "Secretary of the Treasury."

2. Part 50 is amended by adding § 50.6 which reads as follows (formerly published in Part 20 of this chapter):

§ 50.6 *Notification of final action.* The officer requesting the interview will be notified by letter of the final action taken in the case. (Sec. 302, 58 Stat. 287; 38 U. S. C. 693i)

Dated: December 27, 1948.

[SEAL] E. H. FOLEY, Jr.,
*Acting Secretary of the Treasury.*

[F. R. Doc. 48-11451; Filed, Dec. 30, 1948; 8:51 a. m.]

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[CGFR 48-74]

LIGHTS FOR BARGES, CANAL BOATS, SCOWS, RAFTS, AND OTHER NONDESCRIPT VESSELS

A notice regarding proposed changes in the lights for barges, canal boats, scows, and other nondescript vessels while on certain inland waters and for rafts when towed on certain inland waters and western rivers was published in the FEDERAL REGISTER dated December 7, 1948 (13 F. R. 7433), and a public hearing was held by the Merchant Marine Council on December 20, 1948, at Washington, D. C.

The purpose of these amendments is to change the requirements for lights for barges, canal boats, scows, and other nondescript vessels when being towed by steam vessels on the Gulf Intracoastal Waterway and adjacent waters, including rivers crossing that waterway, to be the same as for similar vessels when being towed by steam vessels on western rivers, as well as to prescribe lights for rafts when being towed on all inland waters along the Atlantic, Gulf, and Pacific Coasts and western rivers, in accordance with a petition submitted by operators of vessels on the Gulf Intracoastal Waterway.

These amendments are to be effective on and after January 1, 1949, because the requirements of Public Law 544, approved May 21, 1948, become effective on that date and these regulations are promulgated pursuant thereto. It is im-

practicable and contrary to public interest to postpone the effective date of these amendments. The other amendments to 33 CFR 80.16 (formerly 312.16) and 95.37 (formerly 332.37) to bring them into agreement with Public Law 544 were published in the FEDERAL REGISTER dated November 3, 1948 (13 F. R. 6477–6481), to be effective on and after January 1, 1949.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by R. S. 4405, as amended, and section 101 of Reorganization Plan No. 3 of 1946, 46 U. S. C. 1, 375, as well as the statutes cited with the regulations below, the following amendments to the regulations are prescribed:

**Subchapter D—Navigation Requirements for Certain Inland Waters**

PART 80—PILOT RULES FOR INLAND WATERS

1. Section 80.16 (formerly 312.16) is amended to read as follows:

§ 80.16 *Lights for barges, canal boats, scows and other nondescript vessels on certain inland waters on the Atlantic and Pacific Coasts.* (a) On the harbors, rivers, and other inland waters of the United States except the Great Lakes and their connecting and tributary waters as far east as Montreal, the Mississippi River above the Huey Long Bridge with all of its tributaries and their tributaries, the Red River of the North, the Mobile River above Choctaw Point with its tributaries and their tributaries, the Atchafalaya River above its junction with the Plaquemine-Morgan City alternate waterway, and the waters hereinafter described in §§ 80.16a and 80.17, barges, canal boats, scows, and other vessels of nondescript type not otherwise provided for, when being towed by steam vessels, shall carry lights as set forth in this section.

(b) Barges and canal boats towing astern of steam vessels, when towing singly, or what is known as tandem towing, shall each carry a green light on the starboard side and a red light on the port side, and a white light on the stern, except that the last vessel of such tow shall carry two lights on her stern, athwartship, horizontal to each other, not less than 5 feet apart, and not less than 4 feet above the deck house, and so placed as to show all around the horizon. A tow of one such vessel shall be lighted as the last vessel of a tow.

(c) When two or more boats are abreast, the colored lights shall be carried at the outer sides of the bows of the outside boats. Each of the outside boats in last tier of a hawser tow shall carry a white light on her stern.

(d) The white light required to be carried on stern of a barge or canal boat carrying red and green side lights except the last vessel in a tow shall be carried in a lantern so constructed that it shall show an unbroken light over an arc of the horizon of 12 points of the compass, namely, for 6 points from right aft on each side of the vessel, and shall be of such a character as to be visible on a dark night with a clear atmosphere at a distance of at least 2 miles.

(e) Barges, canal boats or scows towing alongside a steam vessel shall, if the deck, deck houses, or cargo of the barge, canal boat or scow be so high above water as to obscure the side lights of the towing steamer when being towed on the starboard side of the steamer, carry a green light upon the starboard side; and when towed on the port side of the steamer, a red light on the port side of the barge, canal boat, or scow; and if there is more than one barge, canal boat or scow abreast, the colored lights shall be displayed from the outer side of the outside barges, canal boats or scows.

(f) Barges, canal boats or scows shall, when being propelled by pushing ahead of a steam vessel, display a red light on the port bow and a green light on the starboard bow of the head barge, canal boat or scow, carried at a height sufficiently above the superstructure of the barge, canal boat or scow as to permit said side lights to be visible; and if there is more than one barge, canal boat or scow abreast, the colored lights shall be displayed from the outer side of the outside barges, canal boats or scows.

(g) The colored side lights referred to in this section shall be fitted with inboard screens so as to prevent them from being seen across the bow, and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least 2 miles, and so constructed as to show a uniform and unbroken light over an arc of the horizon of 10 points of the compass, and so fixed as to throw the light from right ahead to 2 points abaft the beam on either side. The minimum size of glass globes shall not be less than 6 inches in diameter and 5 inches high in the clear.

(h) Scows not otherwise provided for in this section on waters described in paragraph (a) of this section shall carry a white light at each end of each scow, except that when such scows are massed in tiers, two or more abreast, each of the outside scows shall carry a white light on its outer bow, and the outside scows in the last tier shall each carry, in addition, a white light on the outer part of the stern. The white light shall be carried not less than 8 feet above the surface of the water, and shall be so placed as to show an unbroken light all around the horizon, and shall be of such a character as to be visible on a dark night with a clear atmosphere at a distance of at least 5 miles. (R. S. 4233A, sec. 2, 30 Stat. 102, 38 Stat. 381, as amended, 33 U. S. C. 157, 178, Pub. Law 544, 80th Cong.)

2. Part 80 is amended by adding new §§ 80.16a and 80.16b, reading as follows:

§ 80.16a *Lights for barges, canal boats, scows and other nondescript vessels on certain inland waters on the Gulf Coast and the Gulf Intracoastal Waterway.* (a) On the Gulf Intracoastal Waterway and on other inland waters connected therewith or with the Gulf of Mexico from the Rio Grande, Texas, to Cape Sable (East Cape), Florida, barges, canal boats, scows, and other vessels of nondescript type not otherwise provided for, when being towed by steam vessels shall carry lights as set forth in this section.

(b) When one or more barges, canal boats, scows, or other vessels of nondescript type not otherwise provided for are being towed by pushing ahead of a steam vessel; such tow shall be lighted by an amber light at the extreme forward end of the tow and at the centerline of the tow, or as near the centerline as it is practicable to carry such light; and a green light on the starboard side and a red light on the port side, so placed that they mark the tow at its maximum projection to starboard and port, respectively.

(c) When being towed alongside a steam vessel on the starboard side, a barge, canal boat, scow, or other vessel of nondescript type not otherwise provided for shall have a green light on the starboard bow, and when being towed alongside on the port side, a red light on the port bow.

(d) When being towed on either side of a steam vessel, two or more abreast, only outboard barges, scows, canal boats, or other vessels of nondescript type not otherwise provided for shall carry the appropriate side lights.

(e) When being towed singly or in tandem on a hawser behind a steam vessel, each barge, canal boat, scow, or other vessel of nondescript type not otherwise provided for shall carry a white light at each end.

(f) When being towed in tiers, two or more abreast, each of the outside barges, canal boats, scows, or other vessels of nondescript type not otherwise provided for shall carry a white light on its outer bow, and in addition each of the outside boats in the last tier shall carry a white light on the outer part of the stern.

(g) When one or more barges, canal boats, scows, or other vessels of nondescript type not otherwise provided for are moored to the bank or dock in or near a fairway, such tow shall carry two white lights not less than four feet above the surface of the water, as follows: On a single moored barge, canal boat, scow, or other vessel of nondescript type not otherwise provided for, a light at each outboard or channelward corner; on barges, canal boats, scows, or other vessels of nondescript type not otherwise provided for when moored in a group formation, a light on the upstream outboard or channelward corner of the outer upstream boat and a light on the downstream outboard or channelward corner of the outer downstream boat, and in addition any boat projecting toward or into the channel from such group formation shall have two white lights similarly placed on its outboard or channelward corners.

(h) The colored side lights described herein must be fitted with inboard screens so as to prevent them from being seen more than half a point across the bow, of such a character as to be visible on a dark night with a clear atmosphere at a distance of at least three miles, so constructed as to show a uniform and unbroken light over an arc of the horizon of ten points of the compass, and so fixed as to throw the light from right ahead to two points abaft the beam on either side.

(i) The amber light shall show an unbroken light over an arc of the horizon of 20 points of the compass, so fixed as to throw the light 10 points on each side, namely, from right ahead to 2

points abaft the beam on either side and shall be of such a character as to be visible at a distance of at least 3 miles.

(j) All lights described herein shall be carried at least eight feet above the surface of the water and at approximately the same height, except as provided in paragraph (g) of this section.

(k) The white lights described herein shall be so constructed as to show all around the horizon and shall be visible a distance of at least 2 miles. (R. S. 4233A, sec. 2, 30 Stat. 102, 38 Stat. 381, as amended, 33 U. S. C. 157, 178, Pub. Law 544, 80th Cong.)

§ 80.16b *Lights for barges, canal boats, scows, and other nondescript vessels temporarily operating on waters requiring different lights.* Nothing in §§ 80.16, 80.16a, or 80.17 shall be construed as compelling barges, canal boats, scows, or other vessels of nondescript type not otherwise provided for, being towed by steam vessels, when passing through any waters coming within the scope of any regulations where lights for such boats are different from those of the waters whereon such boats are usually employed, to change their lights from those required on the waters on which their trip begins or terminates; but should such boats engage in local employment on waters requiring different lights from those where they are customarily employed, they shall comply with the local rules where employed. (R. S. 4233A, sec. 2, 30 Stat. 102, 38 Stat. 381, as amended, 33 U. S. C. 157, 178, Pub. Law 544, 80th Cong.)

3. Section 80.32 (formerly 312.32) is amended to read as follows:

§ 80.32 *Lights for rafts and other water craft operating by hand power, horsepower, or current.* (a) Any vessel, except rafts and rowing boats under oars, navigating by hand power, horsepower, or by the current of the river, shall carry one white light forward, not less than 8 feet above the surface of the water.

(b) Rafts propelled by hand power or by the current of the river, or when being towed, or which shall be anchored or moored in or near a channel or fairway, shall carry white lights, as follows:

(1) Rafts of one crib and not more than two in length shall carry one white light.

(2) Rafts of three or more cribs in length and one crib in width shall carry one white light at each end of the raft.

(3) Rafts of more than one crib abreast shall carry one white light on each outside corner of the raft, making four lights in all.

(c) The white lights required by this section for rafts and other water craft shall be carried, from sunset to sunrise, in a lantern so fixed and constructed as to show a clear, uniform, and unbroken light, visible all around the horizon, and of such intensity as to be visible on a dark night with a clear atmosphere at a distance of at least 1 mile. The lights for rafts shall be suspended from poles of such height that the lights shall not be less than 8 feet above the surface of the water. (R. S. 4233A, Art. 9 (d), 30 Stat. 98; 33 U. S. C. 178; Pub. Law 544, 80th Cong.)

**Subchapter F—Navigation Requirements for Western Rivers**

PART 95—PILOT RULES FOR WESTERN RIVERS

Section 95.37 (b) (formerly 332.37 (b)) is amended to read as follows:

§ 95.37 *Lights for rafts and other craft.* * * *

(b) Rafts propelled by hand power or by the current of the river, or when being towed, or which shall be anchored or moored in or near a channel or fairway, shall carry white lights, as follows:

(1) Rafts of one crib and not more than two in length shall carry one white light.

(2) Rafts of three or more cribs in length and one crib in width shall carry one white light at each end of the raft.

(3) Rafts of more than one crib abreast shall carry one white light on each outside corner of the raft, making four lights in all. (R. S. 4405, as amended; 46 U. S. C. 375; sec. 101, Reorg. Plan 3 of 1946, 11 F. R. 7875)

Dated: December 24, 1948.

[SEAL] J. F. FARLEY,
*Admiral, U. S. Coast Guard, Commandant.*

[F. R. Doc. 48-11452; Filed, Dec. 30, 1948; 8:51 a. m.]

# TITLE 36—PARKS, FORESTS, AND MEMORIALS

## Chapter I—National Park Service, Department of the Interior

PART 3—NATIONAL CAPITAL PARK REGULATIONS

POLICY GOVERNING ISSUANCE OF PERMITS FOR PUBLIC MEETINGS

The National Capital Park regulations are amended by adding, immediately after § 3.22, the following paragraph:

§ 3.22a *Policy governing the issuance of permits for public meetings.* (a) In passing upon requests for permits to speak or meet in such park areas, it is expected that the Superintendent will adhere to established departmental policy to exclude absolutely from his consideration any agreement or disagreement with the political or economic views of the proposed speaker. Permits should not be granted, however, in the case of any assemblage which will bring clear and present danger of strife, riot or disorder or which will violate the criminal laws relating to sedition, lewdness or other matters prohibited by law.

(b) For political meetings, the National Capital Parks will furnish no services or facilities beyond those existing on the site, except that the sponsors of the meeting may provide additional services and facilities at their own expense, subject to approval by the Superintendent. The same policy will apply with respect to entertainment programs and to patriotic and civic meetings for which an admission fee is charged or at which funds will be solicited or collected.

(c) In the case of civic and patriotic assemblages, and athletic and entertainment programs which are presented as a public service, where no admission is charged and no funds will be solicited or collected, the National Capital Parks office may, within the limits of appropriations, furnish necessary platforms, chairs, music stands, lighting and other equipment as are available and the services of operational employees. At such ceremonial gatherings or events of community interest as the annual Independence Day Celebration at the Monument Grounds, the President's Cup Regatta, and the Cherry Blossom Festival, the National Capital Parks may, despite the fact that charges are made by participating organizations for seats or admission, furnish services and such available equipment as will not in turn be rented to those who attend the affair. (Sec. 3, 39 Stat. 535, as amended, 16 U. S. C. 3)

Issued this 11th day of December 1948.

J. A. KRUG,
*Secretary of the Interior.*

[F. R. Doc. 48-11430; Filed, Dec. 30, 1948; 8:47 a. m.]

# TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

## Chapter I—Veterans' Administration

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

MISCELLANEOUS AMENDMENTS

1. Sections 21.340, 21.342, 21.343, and 21.344 of Subpart B are amended as follows:

§ 21.340 *Introduction.* Pursuant to the provisions of paragraph 6, Part VIII, Veterans Regulation 1 (a), as amended, (38 U. S. C. ch. 12), a veteran, while enrolled in and pursuing a course of education or training under Part VIII, may be granted leave of absence where such leave will not materially interfere with the veteran's progress in his course. The provisions of §§ 21.341 through 21.344 pertain solely to leave of absence for Part VIII enrollees pursuing courses at training on-the-job establishments or at schools other than institutions of higher learning. They do not apply in any particular to enrollees pursuing courses at institutions of higher learning or to enrollees in institutional on-farm courses. The policy governing leave of absence for enrollees in institutions of higher learning is set forth in § 21.346. The policy governing leave of absence for enrollees in institutional on-farm training is set forth in § 21.347.

§ 21.342 *Granting of accrued leave.* (a) Enrollees will not be required to apply for and obtain advance approval from the Veterans' Administration for leave. Enrollees will be informed that absence from training is a matter between the veteran and the school or establishment, that approval for all absence must be obtained from the appropriate official of the training institution, that the enrollee is entitled only to that leave which the school or establishment grants under its standards and practices and that, upon completion of the veteran's course, unused leave accumulated to his credit may be authorized immediately after completion of the course if applied for by the veteran before the

end of his course (see § 21.341). Schools and establishments will be informed that they are authorized to grant leave according to the standards and practices of the school or establishment.

(b) An enrollee may be carried in leave status for an aggregate period not to exceed the amount of leave accumulated to his credit and in no case to exceed 30 days in each 12 successive months of enrolled status beginning on the date of the veteran's commencement of his training. Enrollees pursuing school courses and desiring leave at the end of a school year must apply for such leave at least 30 days before the end of the school year.

§ 21.343 *Granting of advance leave.* Upon application by an enrollee the manager is authorized to approve leave of absence in excess of the veteran's accrued leave: *Provided*, That such leave is required by reason of personal illness, illness in the enrollee's immediate family, or other compelling conditions beyond the control of the enrollee, and when denial of such leave would result in undue hardship to the veteran: *And provided further*, That the aggregate amount of leave granted shall not exceed 30 days in each 12 successive months of enrolled status beginning on the date of the veteran's commencement of his training. Extreme caution should be observed in approving advanced leave since a monetary recovery may be necessary in the case of an enrollee who discontinued training at a time when his leave account is overdrawn.

§ 21.344 *Charging of leave.* (a) Leave will be charged on the basis of absences reported by the training institution.

(b) An absence covering a period of less than the standard school week or workweek of the establishment will be charged against leave at the rate of 1 day for each school or working day of absence from the institution. An absence covering a period of 1 calendar week or more will be charged at the rate of 5 days for each seven consecutive days of absence, including Saturday and Sunday. No charge against leave will be made for absences on regular holidays. Regular holidays are those days within a period of training on which the school or training establishment grants total exemption from attendance to all students or enrollees in the same course. For enrollees pursuing courses in schools, this will include school holidays and short intermissions between terms or periods of instruction within the ordinary school year (not vacation periods between school years): *Provided*, That the veteran was enrolled for the 2 successive terms.

(c) In the case of a veteran in training on-the-job, where the veteran actually reports for training, but training is not available on that day or after reporting becomes unavailable because of inclement weather in which training could not be carried on or for any other equally compelling reason, any such day or fraction of day of training lost will be excused without reference to leave and without deduction from subsistence allowance so long as that day or fraction thereof is credited by the training establishment toward completion of the course of training.

2. Sections 21.345 and 21.348 are cancelled.

(Secs. 1, 2, 46 Stat. 1016, 57 Stat. 43, secs. 300, 1500, 1501, 1502, 1503, Title II, 58 Stat. 286, 287, 291, 300, 301, secs. 5, 6, 7, 10, 11 (a), 59 Stat. 542, 624, 626, 631, secs. 1, 2, 3, 60 Stat. 124, 934; 38 U. S. C. 11, 11a, 693g, 697, 697a, b, c, f, g, 701, ch. 12 notes, secs. 1, 2, 3, Pub. Laws 115, 239, 338, 377, 411, 512, 80th Cong.)

[SEAL] O. W. CLARK,
*Executive Assistant Administrator.*

[F. R. Doc. 48-11454; Filed, Dec. 30, 1948; 8:51 a. m.]

# TITLE 43—PUBLIC LANDS: INTERIOR

## Chapter I—Bureau of Land Management, Department of Interior

### Appendix—Public Land Orders

[Public Land Order 540]

ALASKA

WITHDRAWAL OF PUBLIC LANDS IN AID OF CONTEMPLATED LEGISLATION

By virtue of the authority contained in the act of June 25, 1910 (36 Stat. 847), as amended by the act of August 24, 1912 (37 Stat. 497, 43 U. S. C. 141-143), and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

The following described lands situated along the Kenai River in Alaska are hereby withdrawn from settlement, location, sale and entry in aid of contemplated legislation authorizing use of the land for dock and landing sites or other public purposes:

SEWARD MERIDIAN

T. 5 N., R. 8 W.,
Sec. 7, Lots 5 and 10;
T. 5 N., R. 10 W.,
Sec. 32, Lots 6 and 8.

The areas described aggregate 141.51 acres.

C. GIRARD DAVIDSON,
*Assistant Secretary of the Interior.*

DECEMBER 21, 1948.

[F. R. Doc. 48-11427; Filed, Dec. 30, 1948; 8:46 a. m.]

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[Public Land Order 541]

ALASKA

RESERVING CERTAIN PUBLIC LANDS AS AIR-NAVIGATION SITE WITHDRAWAL NO. 243, AND REVOKING, IN WHOLE OR IN PART, EXECUTIVE ORDERS OF DECEMBER 31, 1898, NOVEMBER 21, 1902, AND NOVEMBER 27, 1905, RESPECTIVELY

By virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, and section 4 of the act of May 24, 1928, c. 728, 45 Stat. 729 (49 U. S. C. 214), it is ordered as follows:

Subject to valid existing rights, the tracts of public land described below by metes and bounds are hereby withdrawn from all forms of appropriation under the public-land laws and reserved for the use of the Civil Aeronautics Administration, Department of Commerce, in the maintenance of air-navigation facilities, the reservation to be known as Air-Navigation Site Withdrawal No. 243:

TRACT NO. 1

Beginning at a point from which corner No. 1 M. C. U. S. Survey No. 2716, Tract A, in latitude 59°13' N., longitude 135°26' W., bears N. 25°26' W. 4,260.7 feet.

Thence by metes and bounds:

S. 57°40' East, 829.0 feet; S. 57°40' South, 3,000.0 feet; S. 57°40' West, 1,400.0 feet; S. 57°40' North, 2,500.0 feet; N. 45°00' West, 1,055.0 feet; N. 45°00' North, 1,150.0 feet; N. 45°00' East 750.0 feet; S. 36°10' East, 1,180.0 feet; to the point of beginning.

The area described contains 140.9 acres.

TRACT NO 2

A right of way 100 feet wide for an access roadway and power line, the center line of which is described as follows:

Beginning at a point on the west boundary of Tract No. 1, from which the northwest corner of said Tract No. 1 bears North 632 feet.

Thence by metes and bounds:

N. 29°04' West, 441.6 feet; N. 36°35' West, 330.0 feet, to the south boundary of U. S. Survey No. 2716, Tract A.

It is intended that these lands shall be returned to the administration of the Department of the Interior, when they are no longer needed by the Department of Commerce for the purpose for which they are reserved.

The Executive orders of December 31, 1898, and November 21, 1902, reserving certain public lands at Haines, Alaska, for military purposes, as modified by Executive Order No. 1067 of April 23, 1909, are hereby revoked so far as they affect the above-described lands.

The Executive order of November 27, 1905, reserving certain lands for the purpose of water supply to Fort William H. Seward, as modified by said Executive Order No. 1067 of April 23, 1909, is hereby revoked.

This order shall become effective as to the lands released from said Executive order of November 27, 1905, as modified, at 10:00 a. m. on February 23, 1949. At that time, subject to valid existing rights, such lands shall be opened to settlement under the homestead laws only, and to that form of appropriation only by qualified veterans of World War II for whose service recognition is granted by the act of September 27, 1944 (58 Stat. 747), as amended May 31, 1947 (61 Stat. 123, 43 U. S. C. sec. 279), and by other qualified persons entitled to credit for service under the said act. Commencing at 10 a. m. on May 24, 1949, any of such lands not settled upon by veterans and other persons entitled to credit for service shall become subject to settlement and other forms of appropriation by the public generally in accordance with the appropriate laws and regulations.

Inquiries concerning these lands shall be addressed to the District Land Office at Anchorage, Alaska.

The lands restored by this order, which are unsurveyed, are described as follows:

WATER RESERVE

Beginning at a point on the west shore of Chilkat Inlet, marked by a hole drilled in the south end of a granite boulder, the exposed portion of which is approximately 2 feet wide

and 4 feet long; which point bears S. 47°53' W. 11,043 feet from the granite monument on the east shore of said Inlet, marked Cor. "3" of the Main Reserve; and from which the U. S. C. & G. monument on Pyramid Island bears S. 10°5' E;

Thence meandering northwesterly along the high-tide line to a hole drilled in the south end of a detached rock, which is approximately 15 feet wide, 30 feet long and 16 feet high, and bearing N. 48°12' W., 8,578 feet from the point of beginning; S. 41°7' W. to the summit of the ridge determining the boundary line of the watershed tributary to the stream flowing into Chilkat Inlet about 3 miles northwesterly from Pyramid Harbor;

Thence following said boundary line in a westerly, southerly, easterly, and northerly direction to its intersection with a line bearing S. 54°09' W. from the point of beginning; N. 54°09' E. to the point of beginning.

The area described contains approximately 2,000 acres.

The lands are, in general, rough and mountainous. The soil is rocky but supports a fair stand of hemlock and spruce.

J. A. KRUG,
*Secretary of the Interior.*

DECEMBER 22, 1948.

[F. R. Doc. 48-11429; Filed, Dec. 30, 1948; 8:47 a. m.]

# TITLE 44—PUBLIC PROPERTY AND WORKS

## Chapter VIII—United States Philippine War Damage Commission

EDITORIAL CHANGES INCIDENT TO PUBLICATION OF CODE OF FEDERAL REGULATIONS, 1949 EDITION

In order to conform Chapter VIII of Title 44 to the scope and style of the Code of Federal Regulations, 1949 Edition, as prescribed by the regulations of the Administrative Committee of the Federal Register and approved by the President effective October 12, 1948 (13 F. R. 5929), the chapter is revised to read as follows: The codification of former Part 801, Organization, is discontinued. Future amendments to the material will appear in the Notices section of the FEDERAL REGISTER. Subpart A of Part 802, which is to be excluded from the Code of Federal Regulations, 1949 edition, does not appear in this revision.

PART 801—PUBLIC PROPERTY CLAIMS

Sec.
801.1 Requisites for filing.
801.2 Conditions of payment.

§ 801.1 *Requisites for filing*—(a) *Claimants.* Under Title III, section 304, of the act, the Commission will receive claims to compensate the Commonwealth, of the Republic of the Philippines, the provincial governments, chartered cities, municipalities, and corporations wholly owned by the Commonwealth or the Republic of the Philippines for physical loss of or damage to public property in the Philippines occurring after December 7, 1941 (Philippine time), and before October 1, 1945, as a result of the perils listed in section 102 (a) of the act. (Perils are the same as for private property claims.)

(b) *Prescribed form.* All claims for loss of or damage to public property must be submitted on Form Nos. 200 and 200-A in order to receive consideration.

(c) *Preparation.* Claim forms must be prepared to indicate the time and place of damage to or destruction of public property, the legal identity of the applicant and its ownership of the property which was damaged or destroyed, the amount of damage or destruction in detail, a statement of the extent to which the property has been repaired or reconstructed, and a statement as to whether the claimant has received surplus property to compensate for the damage or destruction, as provided for in Title II of the act.

(d) *Place of filing.* Public property claims must be filed with the Commission at its principal office in Manila. (Sec. 101 (c), 60 Stat. 128; 50 U. S. C. App., 1751 (c))

§ 801.2 *Conditions of payment.* Payment of public property claims will be subject to the following conditions:

(a) To the fullest extent practicable, the Commission will require that any lost or damaged property for which it decides to pay compensation shall be rebuilt, replaced, or repaired before payment of money is actually made.

(b) The Commission will, in proper cases, pay benefits to the Philippine Government, but may, at its discretion, request the Federal Works Agency or the Corps of Engineers of the United States Army to undertake, after consultation with the Philippine Government, the rebuilding, repair, or replacement of property for which the Commission awards compensation, and may transfer to such agency or Corps of Engineers the funds necessary to pay for the work requested.

(c) The Commission may make partial payment of claims as the rebuilding or repair of the property progresses.

(d) The Commission will make no payments for lands, easements, and rights-of-way necessary for any public project, or for property transferred or work done by any other agency of the United States.

(e) Payment will be made as arranged between the Commission and the public claimant.

(f) Advance of funds may be made when the Commission determines that it is practicable to do so. (Sec. 101 (c), 60 Stat. 128; 50 U. S. C. App., 1751 (c))

PART 803—RULES OF PROCEDURE

SUBPART A—GENERAL

Sec.
803.1 Rule making.
803.2 Exercise of power.
803.3 Quorum.
803.4 Suspension of rules.
803.5 Investigations.
803.6 Right of interested parties.
803.7 Representation before the Commission.

SUBPART B—EMPLOYMENT

803.15 Employment; United States and Philippine citizens.
803.16 Prohibitions.

SUBPART C—APPEALS

803.25 Right to appeal.
803.26 Application for hearing.
803.27 Designation of Hearing Officer.
803.28 Preliminary determinations.
803.29 Oral hearing not requested.
803.30 Oral hearing requested.
803.31 Amendments in claim forms on appeal.
803.32 New or additional evidence on appeal.
803.33 Conduct of oral hearing.
803.34 Final determinations.
803.35 Appeals requested by claimants outside Manila.

AUTHORITY: §§ 803.1 to 803.35 issued under sec. 101 (c), 60 Stat. 128; 50 U. S. C. App., 1751 (c).

SUBPART A—GENERAL

§ 803.1 *Rule making.* Public notice and procedure with respect to rule making, as required by the Administrative Procedure Act (Pub. Law 404, 79th Cong.) as amended, are impracticable and unnecessary for the reason that the activities of the Commission are conducted outside the continental limits of the United States. The Commission will, however, hold hearings on problems of general interest to claimants, and will give appropriate notice thereof.

§ 803.2 *Exercise of power.* The Commission may meet and exercise all its powers at any place, and may designate any of its members or any duly authorized agent or agents to perform any functions which may be delegated by law.

§ 803.3 *Quorum.* Two of the Commissioners in office shall constitute a quorum.

§ 803.4 *Suspension of rules.* In an emergency, or when in the judgment of the Commission public interest requires it, the Commission may modify or suspend any of its rules of practice and procedure, except such details of procedure as are expressly required by law. Whenever feasible, public notice of such suspension will be given.

§ 803.5 *Investigations.* In the process of making investigations, the Commission or its representatives shall have the right to make such inquiry as may be necessary to determine the true facts. The claimant shall give the Commission the privilege of investigation from confidential sources and, where necessary, will request such confidential sources to furnish all necessary information to the Commission or its representatives. If, upon specific request, the claimant shall fail to give such permission, or any necessary instructions, the Commission will have the right to reject the claim.

§ 803.6 *Right of interested parties.* Claimants, interested parties, or representatives of any corporation, association, or other organization, who desire to be heard by the Commission with respect to its rules, regulations, or policy determinations, may, at the discretion of the Commission, be accorded a hearing by filing a request in writing (in sextuplicate) with the Secretary of the Commission, stating therein the reasons for such request.

§ 803.7 *Representation before the Commission.* Any claimant or interested party who wishes a hearing before the Commission on appeal of claims or otherwise may appear on his own behalf or be represented by any person of his own choosing: *Provided, however,* That any representative who is guilty of any

violation of the act or other wrongful conduct may be denied the right to represent claimants or other interested parties before the Commission. Before such right is denied, the Commission will accord the accused representative a hearing, except where the wrongful acts are admitted.

SUBPART B—EMPLOYMENT

§ 803.15 *Employment; United States and Philippine citizens.* It is the policy of the Commission to employ only United States and Philippine citizens. The Commission will employ citizens of the Philippines on a basis which will reflect a prevailing wage for similar work in the Philippines.

§ 803.16 *Prohibitions.* (a) All employees of the Commission are prohibited from accepting any gifts or remuneration for any assistance which may be provided to claimants or others in connection with preparing, servicing, or obtaining payment for claims filed with the Commission. The violation of this prohibition will lead to the discharge of such employee and any further action which existing laws permit.

(b) No former employee of the Commission shall be permitted to assist claimants for compensation or to appear before the Commission on behalf of claimants for a period of 2 years after termination of his employment with the Commission, unless the Commission shall find in each individual case that the public interest will not suffer if an exemption from this rule is made.

SUBPART C—APPEALS

§ 803.25 *Right to appeal.* Pursuant to section 113 of the act and § 802.6 of this chapter, any claimant whose claim is denied, or is approved for less than the full allowable amount of said claim, shall be entitled to a hearing before the Commission or its representatives with respect to such claim, under the terms and conditions set forth herein.

§ 803.26 *Application for hearing.* Within 90 days after the Commission's records show that a notice of denial of a claim, or approval for lesser amount than claimed has been posted by the Commission, the claimant, if a hearing is desired, and as conditions precedent to the granting of such hearing, shall return to the Commission any check issued by the Commission as payment or partial payment on his said claim, shall inform the Commission, in writing, and shall set forth in such request his reasons in full for requesting the hearing, including any statement of the law or facts upon which the claimant relies. If, for good cause shown in the request, the claimant is unable to furnish such statement within the aforesaid 90 days, and shall have returned the check with his request, the claimant may request additional time, and the Commission may extend the time for such period as in its discretion appears to be reasonable. In his initial request the claimant shall state whether he desires to make an oral presentation to the Commission or its representatives; and in the absence of such request, the Commission will assume that the hearing shall be confined to a review of the claim, evidence in support thereof, and any additional information the Commission or its representatives may obtain, in order to arrive at a just conclusion.

§ 803.27 *Designation of Hearing Officer.* Except in those instances in which the Commission determines that any individual member of the Commission or the Commission as a whole shall conduct a hearing, or make such review, the Commission, through the General Counsel, will designate as its representative any lawyer in the Office of the General Counsel to make the initial review or conduct the oral hearing. No lawyer so appointed shall have had any previous connection with the processing of the claim, or shall be biased in any way for or against the claimant. Any claimant shall have a full opportunity to make his oral presentation.

§ 803.28 *Preliminary determinations.* Upon assignment of a case, the Hearing Officer will determine whether the character of the information submitted by the claimant, both as to law and fact, is in proper form for consideration as an appeal. If the information submitted by the claimant complies with the requirements herein specified, the appeal will then fall into one of two categories: (a) Appeals in which no oral hearing has been requested; and (b) appeals in which an oral hearing has been requested.

§ 803.29 *Oral hearing not requested—*(a) *Responsibility of Hearing Officer.* In cases in which no oral hearing is requested, the Hearing Officer will:

(1) Conduct such investigation as he deems necessary to determine all facts pertinent to the claim;

(2) Request the claimant to confer with him at the Commission offices if, in the opinion of the Hearing Officer, an interview with the claimant may be of assistance in determining his appeal; and

(3) Review, in cases where a previous investigation has been conducted in the initial processing and examination, the record of the claim and additional evidence submitted by the claimant in his written notice of appeal.

(b) *Findings entered by Hearing Officer.* After making a review, the Hearing Officer will enter one of the following findings:

(1) That the amount of the claim shall remain unchanged as originally approved;

(2) That the amount of the claim as originally approved shall be increased, in which case the amount of the increase will be indicated;

(3) That the amount of the claim as originally approved shall be reduced, in which case the amount of the reduction will be indicated; or

(4) That the entire claim shall be rejected in toto.

§ 803.30 *Oral hearing requested.* A clerk in the Office of the General Counsel designated as Control Clerk will maintain a current and accurate Oral Hearing Docket in calendar form indicating (a) the name of the appellant; (b) the date, time, and place of the hearing; and (c) the name of the Hearing Officer assigned to hear the case. Claimant will be notified of the date, time, and place of any oral hearing.

§ 803.31 *Amendments in claim forms on appeal.* A claimant may, by leave of the Hearing Officer, alter or amend his claim form as to matters which are purely formal. Amendments or alterations affecting the facts required to be stated in the claim form, so as to change the essence or substance of the original claim, will not be permitted: *Provided, however,* That in case of insufficiency or omission of essential facts in the claim form, an amendment which supplies an omission therein may be allowed at the discretion of the Hearing Officer, with the approval of the Assistant General Counsel for appeals.

§ 803.32 *New or additional evidence appeal.* A claimant will be allowed on appeal to present new or additional evidence which is consistent with or interpretative of the facts appearing in the original claim form and which, if disclosed in the initial investigation, would have warranted the allowance of the claim. However, the claimant will not be permitted to present new or additional evidence which substantially varies or contradicts the material facts appearing in the original claim form, except for one or more of the following causes materially affecting the substantial rights of the claimant:

(a) Honest mistake of fact or law, or error induced by fraud or misrepresentation of a third party, or caused by lack of knowledge in preparing the claim form, or excusable negligence which ordinary prudence could not have guarded against and by reason of which a claimant may have been impaired in his rights; and

(b) Newly discovered evidence which the claimant could not with reasonable diligence have discovered and produced in the initial investigation or examination of his claim and which, if presented, would probably alter the result.

§ 803.33 *Conduct or oral hearing.* The Hearing Officer will preside at and conduct oral hearings. He has authority to administer oaths and affirmations in the hearing. The order of hearing will be as follows:

(a) The claimant-appellant shall make a statement of his ground or grounds of appeal set forth in his written notice of appeal.

(b) The claimant-appellant shall then offer relevant evidence in support of his ground or grounds of appeal. The claimant shall have the burden of proof. Claimant and all witnesses shall testify under oath. The Hearing Officer will rule upon offers of proof and receive relevant evidence, and will reject irrelevant, immaterial, or unduly repetitious evidence, and will dispose of procedural requests or similar matters. The Hearing Officer may interrogate or cross-examine the claimant's witnesses, or the claimant himself.

(c) Evidence in addition to that introduced by the claimant which, in the opinion of the Hearing Officer may be relevant in reaching a decision on the

appeal, may be presented provided such evidence, oral or documentary, is competent and material pursuant to the rules and regulations in this part.

(d) The claimant may, if he so elects, introduce rebuttal evidence in his behalf.

(e) When the evidence is concluded, the claimant or his representative may, in furtherance of his appeal, make his argument.

(f) Where testimony has been transcribed, a copy of the transcript of testimony may be obtained by the claimant upon payment of the reasonable cost thereof.

At the completion of the hearing, the findings and procedures will be in the same manner as that prescribed for cases in which no oral hearings are held.

§ 803.34 *Final determinations.* Final determinations will be made as follows:

(a) *Claims not exceeding $500.* The General Counsel has authority to make final determinations in cases wherein the amount claimed does not exceed $500.

(b) *Claims exceeding $500.* Cases exceeding $500 must be submitted to the Commission for determination.

§ 803.35 *Appeals requested by claimants outside Manila.* Notice of appeals requested by claimants residing in outlying provinces and in the United States shall be forwarded to the Manila Office by the branch offices and the Washington Office for processing if filed in such offices. The procedure will be the same as set forth herein where no oral hearing is requested. In cases in which an oral hearing is requested, a Hearing Officer will be sent from the Manila Office to hold hearings at a branch office at such time as a sufficient number of appeals have accumulated. A Hearing Officer will hold oral hearings in the Washington Office, Washington, D. C., at stated times, when a sufficient number of appeals have accumulated.

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## PART 804—POLICY DETERMINATION

SUBPART A—GENERAL

Sec.
804.1 Employment.
804.2 Affidavits.

SUBPART B—PRIVATE PROPERTY CLAIMS

804.20 Power of attorney.
804.21 Interest of claimants.
804.22 Priority of claims.
804.23 Filing of adjusted, corrected, or supplemental claims.
804.24 Payments.
804.25 Reinvestment.

SUBPART C—PUBLIC PROPERTY CLAIMS

804.50 Priority of claims.
804.51 Amount approved.

AUTHORITY: §§ 804.1 to 804.51, inclusive, issued under sec. 101 (c), 60 Stat. 128; 50 U. S. C. App., 1751 (c).

SUBPART A—GENERAL

§ 804.1 *Employment*—(a) *Ineligibility.* The Commission will not employ (1) any person who was employed by the Japanese Government or any agency of that Government, or any person employed by any Japanese firm during the period of occupation; or (2) any person who held a position involving the formulation of policies in the Philippine Puppet Government which operated during the Japanese occupation. Persons occupying secondary and lesser positions will not be employed unless they are given a clear record in writing by the Counter Intelligence Corps of the U. S. Army.

(b) *Political activities.* All employees of the Commission as a condition precedent to their continued employment with the Commission are prohibited from taking any active part in political management or in political campaigns. All such employees shall retain the right to vote as they choose and to express their opinions on all political subjects and candidates.

§ 804.2 *Affidavits.* The Commission will consider affidavits filed with the Commission as privileged documents.

SUBPART B—PRIVATE PROPERTY CLAIMS

§ 804.20 *Power of attorney.* (a) All private claimants must sign and swear to the contents of the Commission's claim forms in person, except where the claim form must be executed through agents or representatives as in the cases of corporations, other legal entities, estates, or guardianships. Exceptions to the foregoing will be made only where good cause is shown in writing and approved by the Commission.

(b) In order to identify claimants for purposes of investigations and in order to see that funds paid are properly reinvested in the Philippines, the Commission will forward check payments to claimants at their normal residential mailing addresses, and will require that such addresses appear on the claim forms.

§ 804.21 *Interest of claimants*—(a) *Mortgagors and mortgagees.* Both mortgagors and mortgagees may file claims for adjudication as their interests may appear, as the Commission can not attempt to make payments except to claimants.

(b) *Consignors and consignees.* In the case of consignors and consignees, each should file a claim for subsequent determination by the Commission in the light of each existing contract.

(c) *Undivided or joint interest.* Where claimants are owners of undivided or joint interest in property, the Commission will look to individuals as claimants and not the property as a unit, so that each claimant in such interest shall file a claim separately, including therein his portion of such undivided or joint interest as a part of his various personal interests on the basis of which he may claim for loss or damage.

(d) *Claimant entitled to make only one claim.* The Commission will recognize each claimant, whether a natural person or legal entity, such as a corporation, as having one claim and as being required to file one claim for the loss of or damage to all property or properties legally owned by him and subject to compensation under the act, including his undivided share of any joint interests. Regardless of the manner in which claims are actually filed, the necessary facts will be developed in each case, to consolidate all property rights of a claimant into one claim for appropriate adjudication in accordance with the foregoing policy.

§ 804.22 *Priority of claims.* The Office of Chief Examiner, in the adjudication of private property claims, will be governed by the following priorities:

(a) Hospitals privately owned or owned by religious organizations;

(b) Non-public schools of general educational nature;

(c) Public utilities, especially in the fields of communication, transportation, gas, and light;

(d) Manufacturing and processing plants such as sugar mills, decorticating plants, rope factories, coconut-oil mills, desiccated coconut factories, cigar and cigarette factories, rice mills, and others capable of providing employment.

Preference is not intended between the above listed categories.

§ 804.23 *Filing of adjusted, corrected, or supplemental claims.* (a) The Commission requires that claims shall be complete at the time of filing not later than February 29, 1948. Claimants shall have the right to file adjusted or corrected claims any time until and including February 29, 1948, providing that such corrections or adjustments are not made to correct false or fraudulent statements in the original claim.

(b) The Commission will accept during the filing period supplemental claims submitted either before or after settlement of the original claim. The Chief Examiner, in the adjudication of such supplemental claims, will consider those which contain items and evidence which could not have been submitted in the original claim.

§ 804.24 *Payments.* (a) All payments on private property claims will be made solely in Philippine pesos regardless of the country in which the claimant is domiciled.

(b) The Commission will not authorize payment for nationals of countries which have adopted reciprocal war damage legislation covering their home territories but not foreign possessions or territories.

§ 804.25 *Reinvestment.* The Commission has determined that the following shall be considered reinvestments, and the Commission may require proof that any funds paid to claimants have been so used:

(a) Investment in any type of property similar to that which was destroyed, regardless of its location in the Philippines;

(b) Purchase of other types of real or personal property in the Philippines for business, agricultural, or residential purposes;

(c) The acquisition or purchase of tools or equipment in the Philippines to enable the claimant to earn a livelihood;

(d) Investment in securities of the Republic of the Philippines or any agency or political subdivision thereof, purchased in the Philippines or from any agency or representative of the Republic of the Philippines in foreign countries;

(e) The purchase in the Philippines of the capital stock or bonds of organizations, or any partnership interest in organizations, engaged in business, production, or exploitation of natural resources in the Philippines; and

(f) Any other investment in the Philippines made with the approval of the Commission.

SUBPART C—PUBLIC PROPERTY CLAIMS

§ 804.50 *Priority of claims.* Pursuant to authorization under section 304 of the act, the Commission, after consultation with the Philippine Government, and after taking into account the importance of various projects to the reconstruction and rehabilitation of the economy of the Philippines, has established the following priority for claims for which compensation will be awarded or property rebuilt, repaired or replaced, subject to the availability of funds for payment of such claims:

(a) Hospitals and dispensaries;

(b) Waterworks and irrigation systems;

(c) Schools;

(d) National government buildings;

(e) Provincial and municipal government buildings;

(f) Government corporations.

The Commission will determine the order in which claimants within each classification will be paid.

§ 804.51 *Amount approved.* In considering approval of public property claims, it is the policy of the Commission to approve such claims in amounts which will result in the construction or creation of a usable facility or a usable unit.

Approved: December 24, 1948.

VERNON E. MOORE,
*Director, Washington Office.*

[F. R. Doc. 48-11433; Filed, Dec. 30, 1948; 8:48 a. m.]

## TITLE 45—PUBLIC WELFARE

### Chapter III—Bureau of Federal Credit Unions, Social Security Administration, Federal Security Agency

NOTICE OF ADOPTION AND PROMULGATION OF REGULATIONS

Notice having been published in the FEDERAL REGISTER, on December 2, 1948 (13 F. R. 7359), that the Director of the Bureau of Federal Credit Unions, with the approval of the Commissioner for Social Security and the Federal Security Administrator, proposed to prescribe certain regulations in lieu of the present regulations of the Bureau of Federal Credit Unions (45 CFR, Ch. IV) and that prior to the official adoption of the proposed regulations consideration would be given to any data, views, or arguments pertaining thereto submitted to the Director of the Bureau of Federal Credit Unions, Federal Security Agency, Federal Security Building, Washington 25, D. C., within a period of 15 days from the date of publication of the notice in the FEDERAL REGISTER, and the regulations proposed to be adopted having been set forth in the FEDERAL REGISTER beginning at page 7359 (13 F. R. 7359), and the 15-day period having elapsed and no data, view, or arguments pertaining to the proposed regulations having been submitted, the proposed regulations as printed in the FEDERAL REGISTER (13 F. R. 7359) are hereby adopted and promulgated effective 30 days after the date of publication of this document in the FEDERAL REGISTER.

Dated: December 21, 1948.

[SEAL] J. E. BLOMGREN,
*Acting Director,*
*Bureau of Federal Credit Unions.*
A. J. ALTMEYER,
*Commissioner for Social Security.*

Dated: December 27, 1948.

OSCAR W. EWING,
*Federal Security Administrator.*

PART 301—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

Sec.



AUTHORITY §§ 301.1 to 301.18 issued under sec. 16 (a), 48 Stat. 1221, sec. 2, 62 Stat. 1221; 12 U. S. C. 1766 (a), and note.

§ 301.1 *Organization of Federal credit unions.* (a) Persons desiring to form a Federal credit union shall submit in duplicate on forms prescribed by the Bureau of Federal Credit Unions, Social Security Administration, Federal Security Agency, a proposed organization certificate (Form FCU 503B). The certificate shall be subscribed to before an officer competent to administer oaths by not less than 7 natural persons who have a common bond of occupation, or association, or are within a well defined neighborhood, community, or rural district, and shall specifically state:

(1) The proposed name of the association.

(2) The location of the proposed Federal credit union and the territory in which it will operate.

(3) The names and addresses of the subscribers to the certificate and the number of shares subscribed by each.

(4) The par value of the shares, which shall be $5 each.

(5) The proposed field of membership, specified in detail.

(6) The term of the existence of the corporation, which may be perpetual.

(7) The fact that the certificate is made to enable such persons to avail themselves of the advantages of the Federal Credit Union Act, as amended.

Copies of the form of organization certificate may be obtained from the Washington Office of the Bureau of Federal Credit Unions or from any of its Regional Offices.

(b) The proposed organization certificates shall be submitted to the Regional Supervisor of the Bureau of Federal Credit Unions for the region in which the principal office of the proposed Federal credit union is to be located together with a check or money order payable to the Treasurer of the United States in the amount of $25.00 in payment of the investigation fee of $20.00 and charter fee of $5.00. The Regional Office will investigate and make recommendations as to whether the proposed organization certificate conforms to the Federal Credit Union Act, as amended; as to the general character and fitness of the subscribers thereto; and as to the economic advisability of establishing the proposed credit union. The report and recommendation of the Regional Supervisor shall be forwarded to the Division of Supervision of the Bureau of Federal Credit Unions in Washington, D. C. The Division of Supervision shall consider the proposed organization certificate and the recommendations of the Regional Supervisor and shall make recommendations to the Director of the Bureau of Federal Credit Unions who shall approve or disapprove the proposed organization certificate. The organization certificate, if approved, shall be the charter of the Federal credit union. If the organization certificate is disapproved, the incorporators shall be notified of the basis for such action and the charter fee of $5.00 shall be returned to them. Under no circumstances shall the investigation fee of $20.00 be returned.

§ 301.2 *Mergers and conversions of Federal credit unions.* On approval of the Director of the Bureau of Federal Credit Unions a Federal credit union may merge with one or more Federal credit unions or convert to State charter. A Federal credit union contemplating such action shall communicate in writing with the Regional Office of the Bureau of Federal Credit Unions for the region in which the Federal credit union's principal office is located and request instructions. After receiving full information concerning the proposed merger or conversion and reasons therefor, and where proper, an investigation by a representative of the Bureau of Federal Credit Unions, and on approval of the Director of the Bureau of Federal Credit Unions, suitable instructions shall be furnished by the Bureau and shall be binding upon the officials of the Federal credit union or the Federal credit unions concerned. In the preparation of such instructions consideration shall be given to the circumstances in each case, including pertinent State laws in conversions.

§ 301.3 *Standard form of bylaws.* At the time of submitting an organization certificate to the Regional Supervisor, the incorporators shall submit a proposed draft of bylaws which shall contain the following provisions:

FCU 503c
11/48

BYLAWS

---------- FEDERAL CREDIT UNION

ARTICLE I—NAME; PURPOSES

SECTION 1. The name of this credit union shall be "---------- ---------- Federal Credit Union."

SEC. 2. The purpose of this credit union is to promote thrift among its members, by affording them an opportunity for accumulating their savings; and to create for them a source of credit for providence or productive purposes.

ARTICLE II—QUALIFICATIONS FOR MEMBERSHIP

SECTION 1. The field of membership shall be limited to those having the following common bond of association, occupation, or residence: ----------

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SEC. 2. Each application for membership must be in writing and must be presented to the board of directors for action at a regular or special meeting thereof.

SEC. 3. An applicant shall not be admitted to membership except by the affirmative vote of a majority of the directors present at the meeting at which the application is acted upon; and shall not become a member or entitled to any of the rights or privileges of a member until he shall have qualified by paying an entrance fee of 25 cents and shall have subscribed for at least one share of this credit union and paid at least the first installment thereon, as required in section 1 of article III of these bylaws.

SEC. 4. A member who withdraws all his shareholdings thereby ceases to be a member.

SEC. 5. Subject to the conditions herein contained, a member who leaves the field of membership of this credit union may retain his membership therein but may not borrow therefrom in excess of his shareholdings.

ARTICLE III—CAPITAL AND LIABILITY

SECTION 1. The par value of each share shall be $5. Subscriptions to shares are payable at the time of subscription, or in equal installments at the rate of 25 cents per month on each share so subscribed; but on any day when installments are due and payable any number of installments may be paid in advance.

SEC. 2. The maximum amount of shares which may be held by any one member shall be established from time to time by resolution of the board of directors.

SEC. 3. A member failing to pay any installment on shares when due may be required by the board of directors to pay a fine amounting to 1 cent per full week on each $2 or fraction thereof of the installment or installments in arrears: *Provided, however,* That in no case shall such fine be less than 5 cents.

SEC. 4. Shares may be transferred only from one member to another, by written instrument in such form as the board of directors may prescribe and upon the payment to this credit union of a fee of 25 cents for each such transfer.

SEC. 5. Money paid in on shares, or installments of shares, may be withdrawn as in these bylaws provided on any day when payment for shares may be made; but the board of directors shall have the right, at any time, to require members to give 60 days' notice in intention to withdraw the whole or any part of the amounts so paid in by them: *Provided,* That no member may withdraw any shareholdings below the amount of his total liability to the credit union as borrower, endorser, comaker, or guarantor without the written approval of the credit committee.

ARTICLE IV—RECEIPTING FOR MONEY—PASSBOOKS

SECTION 1. Money paid in or paid out on account of shares, loans, interest, fees, or fines shall be evidenced by entries in the member's passbook. Every entry in the passbook shall identify the person receiving or paying out, on behalf of this credit union, the money represented thereby. No money shall be received from or paid to a member unless the passbook is presented and the proper entry made therein, except money received from members under a payroll-deduction plan or under a machine-bookkeeping system approved by the Bureau of Federal Credit Unions, Federal Security Agency.

SEC. 2. If a passbook is lost or stolen, immediate notice of such fact must be given to the treasurer, and written application must be made for the payment of the amount due the member as represented by said passbook or for the issuance of a duplicate passbook. The board of directors may require the filing of an adequate bond to indemnify this credit union against any loss or losses resulting from the issuance of such duplicate passbook.

ARTICLE V—MEETINGS OF MEMBERS

SECTION 1. The annual meeting of the members shall be held during January of each year in the county in which the office of this credit union is situated, at such time and place as the board of directors shall designate.

SEC. 2. At least 7 days before the date of any annual or special meeting of the members, the clerk shall cause written notice thereof to be handed to each member in person, or mailed to each member at his address as the same appears on the records of this credit union: *Provided, however,* That any meeting of the members, whether annual or special, may be held without prior notice, at any place or time, if all the members entitled to vote thereat who are not present at such meeting shall in writing waive notice thereof, before, during, or after the meeting.

SEC. 3. Special meetings of the members may be called by the president (or by the supervisory committee as in these bylaws provided); and shall be called by the president on the written request of not fewer than 10 members.

SEC. 4. The order of business at annual meetings of members shall be:

(a) Ascertainment that a quorum is present.
(b) Reading and approval (or correction) of the minutes of the last meeting.
(c) Report of directors.
(d) Report of the treasurer.
(e) Report of the credit committee.
(f) Report of the supervisory committee.
(g) Unfinished business.
(h) New business other than elections.
(i) Elections.
(j) Adjournment.

The members assembled at any annual meeting may suspend the above order of business upon a two-thirds vote of the members present at the meeting.

SEC. 5. Except as hereinafter provided, at annual or special meetings 15 members shall constitute a quorum. If no quorum is present, an adjournment may be taken to a date not fewer than 7 nor more than 15 days thereafter; and the members present at any such adjourned meeting shall constitute a quorum, regardless of the number of members present. The same notice shall be given for the adjourned meeting as is prescribed in section 2 of this article for the original meeting, and such notice shall be given not fewer than 5 days previous to the date of the meeting as fixed in the adjournment.

ARTICLE VI—ELECTIONS

SECTION 1. At least 30 days prior to each annual meeting, the president shall appoint a nominating committee of 3 members. It shall be the duty of the nominating committee to nominate at the annual meeting one member for each vacancy for which elections are being held.

SEC. 2. After the nominations of the nominating committee have been placed before the members, the president shall call for nominations from the floor. When nominations are closed, tellers shall be appointed by the president, ballots shall be distributed, the vote shall be taken and tallied by the tellers, and the results announced. All elections shall be determined by plurality vote, and shall be by ballot except where there is only one nominee for the office.

SEC. 3. Nominations shall be in the following order:

(a) Nominations for directors.
(b) Nominations for credit committee members.
(c) Nominations for supervisory committee members.

Elections may be by separate ballots following the same order as the above nominations or, if preferred, may be by one ballot for all offices.

SEC. 4. No member shall be entitled to vote by proxy, but a member other than a natural person may vote through an agent designated in writing for the purpose. A trustee, or other person acting in a representative capacity, shall not, as such, be entitled to vote.

SEC. 5. Irrespective of the number of shares held by him, no member shall have more than one vote.

SEC. 6. Within 10 days after their election the names and the addresses of all persons elected to office shall be forwarded to the Bureau of Federal Credit Unions, Federal Security Agency, in such manner as may be required by said Bureau.

ARTICLE VII—BOARD OF DIRECTORS

SECTION 1. The board of directors shall consist of ---------- members, all of whom shall be members of this credit union.

SEC. 2. At the first annual meeting, or at any annual meeting following a change in the number of members constituting the board of directors, a bare majority of the directors shall be elected for a term of 1 year, and the others for a term of 2 years. Whenever the number of members on the board of directors is increased by amendment to the bylaws, one-half of such additional members shall be elected at the first annual meeting following the approval of the amendment for 1 year, and one-half for 2 years. Thereafter the term of office for directors shall be for 2 years and until the election and qualification of their respective successors.

SEC. 3. Any vacancy on the board of directors or credit committee shall be filled by vote of a majority of the remaining directors; but the member so elected shall hold office only until the qualification of a director or committee member who shall be elected at the next annual meeting of the members of this credit union to complete the unexpired term.

SEC. 4. Regular meetings of the board of directors shall be held during the ---------- week of each month. The president, or in his absence the vice president, may call a special meeting of the board of directors at any time; and shall do so upon the written request of any 3 directors. The time and place of regular meetings of the board of directors shall be fixed by the board. The president, or in his absence the vice president, shall fix the time and place of special meetings, unless the board, by resolution, prescribes otherwise. Notice of all meetings of the board of directors shall be given in such manner as the board of directors may from time to time, by resolution, prescribe.

SEC. 5. The board of directors shall have the general direction and control of the affairs of this credit union. In addition to

the duties customarily performed by boards of directors, the board of directors shall:

(a) Act upon all applications for membership.

(b) From time to time fix the amount and character of, and approve, surety bonds required of any persons handling or having custody of funds, and may authorize the payment of the premium or premiums therefor, by this credit union.

(c) Recommend the declaration of dividends.

(d) Fill vacancies in the board of directors and in the credit committee, as provided in section 3 of article VII of these bylaws.

(e) Employ, fix the compensation, and prescribe the duties of such employees as may, in the discretion of the board of directors, be necessary.

(f) Determine from time to time the maximum number of shares that may be held by any member.

(g) Determine from time to time the interest rates on loans and the maximum amount that may be loaned, with or without security, to any member within the limitations prescribed by law. When, by action of the board of directors, the interest rates on future loans are reduced, similar action may be taken with regard to interest rates on unpaid balances of existing loans.

(h) Authorize and supervise investments of this credit union other than loans to members.

(i) Designate the depository or depositories for the funds of this credit union.

(j) Authorize borrowings and discounting operations on behalf of this credit union within the limitations prescribed by the Federal Credit Union Act, as amended, and any regulations issued thereunder by the Bureau of Federal Credit Unions, Federal Security Agency.

(k) Supervise the collection of loans to members and authorize, when necessary, the charge-off of uncollectible loans.

(l) If deemed necessary or advisable, adopt a common seal and alter the same.

SEC. 6. A majority of the number of directors specified by the bylaws shall constitute a quorum for the transaction of business at any meeting thereof; but fewer than a quorum may adjourn from time to time until a quoroum is in attendance. Written notice of an adjourned meeting need not be given the directors.

SEC. 7. If a director or a credit committee member fails to attend regular meetings of the board of directors or credit committee for 3 consecutive months, or otherwise fails to perform any of the duties devolving upon him as a director or a credit committee member, his office may be declared vacant by the board of directors and the vacancy filled as herein provided.

### ARTICLE VIII—OFFICERS AND THEIR DUTIES

SECTION 1. The officers of this credit union shall be a president, a vice president, a treasurer, and a clerk, all of whom shall be elected by the board of directors and from their number. The offices of treasurer and clerk only may be held by the same person. Unless sooner removed as herein provided, the officers elected at the first meeting of the board of directors shall hold office until the first meeting of the board of directors following the first annual meeting of the members and until the election and qualification of their respective successors.

SEC. 2. Officers elected at the first meeting of the board of directors following the annual meeting of the members shall hold office for a term of 1 year and until the election and qualification of their respective successors: *Provided, however,* That any person elected to fill a vacancy caused by the death, resignation, or removal of an officer shall be elected by the board of directors to serve only during the unexpired portion of the term of such officer and until his successor is duly elected and qualified.

SEC. 3. The president shall preside at all meetings of the members and at all meetings of the board of directors; shall countersign all notes of this credit union and all checks, drafts, and other orders for the disbursement of its funds; and shall perform such other duties as customarily appertain to the office of president or as he may be directed to perform by resolution of the board of directors not inconsistent with the provisions of law or these bylaws.

SEC. 4. The vice president shall have and exercise all the powers, authority, and duties of the president during the absence of the latter or his inability to act.

SEC. 5. The treasurer shall be the general manager of this credit union under the control and direction of the board of directors. Before entering upon his duties, he shall give a proper bond with good and sufficient surety, in amount to be determined by the board of directors as herein provided, conditioned upon the faithful performance of his duties. Subject to such limitations and control as may be imposed by the board of directors, the treasurer shall have custody of all funds, securities, valuable papers, and other assets of this credit union. He shall sign all checks, drafts, notes, and other obligations of this credit union. He shall provide and maintain full and complete records of all the assets and liabilities of this credit union. Within 7 days after the close of each month, he shall prepare and submit to the board of directors a financial statement showing the condition of this credit union as of the close of business on the last business day of such month, and shall promptly post a copy of such monthly financial statement in a conspicuous place in the office of this credit union, where it shall remain posted until replaced by the financial statement for the next succeeding month. He shall prepare and forward to the Bureau of Federal Credit Unions such financial reports as said Bureau may require. The treasurer may be compensated for his services to such extent as may be determined by the members at any annual or special meeting thereof.

SEC. 6. The board of directors may appoint an assistant treasurer and authorize him, under the direction of the treasurer, to perform any of the duties devolving on the treasurer, including the signing of checks. He may also act as treasurer during the absence of the treasurer or in the event of his inability to act. Where this authorization is made, the assistant treasurer shall give a proper bond with good and sufficient surety, in amount to be determined by the board of directors, conditioned upon the faithful performance of his duties.

SEC. 7. The clerk shall prepare and maintain full and correct records of all meetings of the members and of the board of directors. He shall give or cause to be given, in the manner prescribed in these bylaws, proper notice of all meetings of the members, and shall perform such other duties as he may be directed to perform by resolution of the board of directors not inconsistent with the provisions of law or of these bylaws.

### ARTICLE IX—CREDIT COMMITTEE

SECTION 1. The credit committee shall consist of _____ members, all of whom shall be members of this credit union.

SEC. 2. At the first annual meeting, or at any annual meeting following a change in the number of members constituting the credit committee, a bare majority of the committee shall be elected for a term of 1 year, and the other for a term of 2 years. Whenever the number of members on the credit committee is increased by amendment to the bylaws, one-half of such additional members shall be elected at the first annual meeting following the approval of the amendment for 1 year, and one-half for 2 years. Thereafter the term of office for committee members shall be for 2 years and until the election and qualification of their respective successors.

SEC. 3. The credit committee members shall choose from their number a chairman and a secretary. The secretary of the credit committee shall prepare and maintain full and correct records of all action taken by it. The offices of chairman and secretary may be held by the same person.

SEC. 4. The credit committee shall hold such meetings as the business of this credit union may require, and not less frequently than once a month. Notice of such meetings shall be given to members of the committee in such manner as the committee members may from time to time, by resolution, prescribe.

SEC. 5. The credit committee shall inquire carefully into the character and financial condition of each applicant for a loan and his sureties, if any, to ascertain their ability to repay fully and promptly the obligations incurred by them and to determine whether the loan sought is for a provident or productive purpose and will be of profitable benefit to the borrower. The credit committee shall endeavor diligently to assist applicants in solving their financial problems.

SEC. 6. No loan shall be made unless approved by a majority of the entire committee and by all the members of the committee who are present at the meeting at which the application is considered.

SEC. 7. Subject to the limits imposed by law and these bylaws and the instructions of the board of directors, the credit committee shall determine the security, if any, which shall be required for each loan and the terms upon which it shall be repaid. When there are pending more loan applications than can be granted with the funds available, preference shall be given, in all cases, to the applications for smaller loans if the need and credit factors are nearly equal.

### ARTICLE X—SUPERVISORY COMMITTEE

SECTION 1. The supervisory committee shall consist of three members, none of whom shall be directors, and all of whom shall be members of this credit union. At the first annual meeting, one member shall be elected for a term of 1 year, and two members for terms of 2 years. Thereafter, all committee members shall be elected for terms of 2 years. Any vacancy in the membership of the supervisory committee of this credit union shall be filled by a vote of the remaining members, but the member so elected shall hold office only until the qualification of the member who shall be elected at the next annual meeting of the members of this credit union to complete the unexpired term.

SEC. 2. The supervisory committee members shall choose from among their number a chairman and a secretary. The secretary of the supervisory committee shall maintain and have custody of full and correct records of all action taken by it. The offices of chairman and secretary may be held by the same person.

SEC. 3. The supervisory committee shall make, at least quarterly, an examination of the affairs of this credit union (including an audit of its books), and shall make a written report thereof to the board of directors; and shall make an annual audit and a written report on the condition and affairs of this credit union to be submitted to the members at each annual meeting. It shall prepare and forward to the Bureau of Federal Credit Unions, Federal Security Agency, such reports as said Bureau may require.

SEC. 4. The supervisory committee shall cause the passbooks and accounts of all members to be verified with the records of the treasurer from time to time and not less frequently than once every 2 years.

SEC. 5. By unanimous vote the supervisory committee may suspend until the next meeting of the members any director, officer, or

member of the credit committee. In the event of any such suspension, the supervisory committee shall call a special meeting of the members to act on said suspension within 7 days thereof. The notice of any such special meeting shall state the purpose for which it is to be held.

SEC. 6. By the affirmative vote of a majority of its members, the supervisory committee may call a special meeting of the members to consider any violation of the provisions of the Federal Credit Union Act (including any amendments thereto), or of the charter or the bylaws of this credit union, or to consider any practice of this credit union which the committee deems to be unsafe or unauthorized. Notice of any such special meeting shall be given in the manner elsewhere herein provided for the giving of notice of special meetings of the members.

ARTICLE XI—ORGANIZATION MEETING

SECTION 1. On receipt of the approved organization certificate, the subscribers thereto shall convene for the purpose of nominating and electing a board of directors, a credit committee, and a supervisory committee.

SEC. 2. The subscribers shall elect a chairman and a secretary for the meeting. The subscribers shall then elect from their number, or from those eligible to become members of this credit union, a board of directors, a credit committee, and a supervisory committee, all to hold office until the first annual meeting of the members and until the election and qualification of their respective successors. If not already a member, every person elected under this section must qualify within 30 days by becoming a member. If any person elected as a director or committee member does not qualify as a member within 30 days of such an election, his office shall automatically become vacant and shall be filled in accordance with the provisions of these bylaws pertaining to the filling of vacancies.

SEC. 3. Following the elections held under the provisions of the preceding section, the directors shall retire from the meeting, and elect the officers, who shall hold office until the first annual meeting and until the election and qualification of their respective successors.

ARTICLE XII—LOANS TO MEMBERS

SECTION 1. Except as otherwise provided in article XV, section 5 of these bylaws, loans shall be restricted to members, and shall be made for provident or productive purposes only.

SEC. 2. Rates of interest shall be fixed from time to time by the board of directors, and shall in no case exceed 1 percent per month on unpaid balances, inclusive of all charges incidental to making the loan.

SEC. 3. No loan shall be made to a director, an officer, a committee member, or to a member who has left the field of membership in excess of the amount of his shareholding in this credit union. No director, officer, or committee member shall act as endorser or guarantor for borrowers from this credit union.

SEC. 4. A borrower may repay his loan prior to maturity, in whole or in part, on any business day.

SEC. 5. Applications for loans shall be on forms prepared and furnished by the credit committee and shall in each case set forth the purpose for which the loan is desired, the security (if any), and such other data as may be required.

SEC. 6. No loan shall be made to members in excess of the limitations imposed in section 11 (d) of the Federal Credit Union Act, as amended.

SEC. 7. All applications for loans and the reports of the credit committee thereon shall be filed as permanent records of this credit union.

SEC. 8. Any member whose loan is delinquent for a period of 1 week or more shall, unless excused for cause by the board of directors, pay a fine at a rate not to exceed 1 cent per month on each $5 or fraction thereof computed on the remaining unpaid balance of the delinquent loan from the date of the last principal payment, or from the date of disbursement if no principal payments have been made: *Provided, however,* That in no case shall such fine be less than 5 cents. The board of directors may take such steps toward making collection of delinquent loans, interest, or fines, as may, in its judgment, be advisable.

ARTICLE XIII—RESERVES

SECTION 1. All entrance and transfer fees and fines, and 20 percent of the net earnings of each year (before the declaration of any dividend) shall be set aside as a reserve against possible bad loans, which shall not be distributed except in case of final liquidation.

ARTICLE XIV—DIVIDENDS

SECTION 1. At the annual meeting only, on recommendation of the board of directors, a dividend may be declared from the net earnings remaining after the setting aside of 20 percent thereof for the reserve for bad loans. Any such dividend shall be paid only on shares fully paid up before December 1, and outstanding on December 31, of the preceding year. In the case of any share which became fully paid up during such year and prior to December 1 thereof, the holder shall be entitled to receive a proportional part of said dividend calculated from the first day of the month following such payment in full.

SEC. 2. No dividend shall be authorized or paid at a rate in excess of 6 percent per annum.

SEC. 3. A member shall be deemed to have one fully paid share for each $5 paid in, regardless of the number of shares for which he has subscribed.

ARTICLE XV—DEPOSIT AND DISBURSEMENT OF FUNDS—INVESTMENTS

SECTION 1. The funds of this credit union shall be deposited only in national banks, or in State banks, trust companies, or mutual savings companies operating in accordance with the laws of the State or States in which this credit union does business; and except with the specific written permission of the Bureau of Federal Credit Unions, shall not be deposited in, or permitted to remain in, any institution the deposits of which are not insured by the Federal Deposit Insurance Corporation.

SEC. 2. All funds of this credit union, except those mentioned in sections 3 and 4 of this article, shall be deposited in such qualified depository or depositories as the board of directors may from time to time by resolution designate; and shall be so deposited within 48 hours of their receipt: *Provided, however,* That receipts in the aggregate of $100 or less need not be deposited more often than once each week.

SEC. 3. All disbursements of funds of this credit union shall be made by checks signed by the treasurer, or a duly authorized assistant treasurer, and countersigned by the president, or, in his absence or inability to serve, by the vice president: *Provided, however,* That the board of directors may by resolution provide for the establishment and replenishment, at least annually, of a petty cash fund of not exceeding $10 for postage, and for defraying other expense items of this credit union in amounts of less than $1.

SEC. 4. A cash fund for the purpose of making change may be established by the board of directors by resolution, in an amount not to exceed $100. On all cash funds in excess of $100, however, the board of directors shall obtain the written permission of the Bureau of Federal Credit Unions, Federal Security Agency.

SEC. 5. The funds of this credit union shall be invested only in:

(a) Loans exclusively to members.

(b) Obligations of the United States of America, or in securities fully guaranteed thereby as to both principal and interest.

(c) Loans to other credit unions in the total amount not exceeding 25 percent of this credit union's paid-in and unimpaired capital and surplus, in accordance with rules and regulations prescribed by the Bureau of Federal Credit Unions, Federal Security Agency.

(d) Shares or accounts of federal savings and loan associations.

(e) Any other manner authorized by the Federal Credit Union Act, as amended.

ARTICLE XVI—EXPULSION AND WITHDRAWAL

SECTION 1. A member may be expelled only in the manner provided by law. Expulsion or withdrawal shall not operate to relieve a member of any liability to this credit union. All amounts paid in on shares by expelled or withdrawing members, prior to their expulsion or withdrawal, shall be paid to them in the order of their withdrawal or expulsion, but only as funds become available and only after deducting therefrom any amounts due from such members to this credit union.

ARTICLE XVII—MINORS

SECTION 1. Shares may be issued in the name of a minor, or in trust therefor. When shares are so issued in trust, the trustee must be a member of this credit union in his own right, and the name of the beneficiary must be stated.

ARTICLE XVIII—DEFINITION OF TERMS

SECTION 1. When used in these bylaws the terms:

(a) "Net earnings," for a given period, shall mean the balance remaining after deducting from the gross income of this credit union actually received during such period all expenses paid or payable during such period, and any losses sustained therein (as determined by the board of directors) for which no specific reserve has been set aside. Amounts set aside during such period as a reserve for bad loans shall not be deemed items of expense.

(b) "Paid in and unimpaired capital", as of a given date, shall mean the balance of the paid-in shares account as of such date, less any losses that may have been incurred for which there is no reserve or which have not been charged against undivided profits or surplus.

(c) "Surplus", as of a given date, shall mean the credit balance of the undivided profits account on such date, after all losses have been provided for and net earnings or net losses have been added thereto or deducted therefrom, as the case may be. Reserves for bad loans shall not be considered as a part of the surplus.

ARTICLE XIX—GENERAL

SECTION 1. All power, authority, duties, and functions of the members, directors, officers, and employees of this credit union, pursuant to the provisions of these bylaws, shall be exercised in strict conformity with the applicable provisions of law and regulations issued thereunder, and of the charter and the bylaws of this credit union.

SEC. 2. The officers, directors, members of committees, and employees of this credit union shall hold in strictest confidence all transactions of this credit union with its members and all information respecting their personal affairs.

SEC. 3. Notwithstanding any other provisions of these bylaws, any director, committee member, officer, or employee of this credit union may be removed from office by the affirmative vote of two-thirds of the mem-

bers present at a special meeting called for the purpose, but only after an opportunity has been given him to be heard.

SEC. 4. When any officer is absent, disqualified, or otherwise unable to perform the duties of his office, the board of directors may by resolution designate another member of this credit union to act temporarily in his place. The board of directors may also, by resolution, designate another member or members of this credit union to act on the credit committee when necessary in order to obtain a quorum.

SEC. 5. No director, committee member, officer, agent, or employee of this credit union shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting his pecuniary interest or the pecuniary interests of any corporation, partnership, or association (other than this credit union) in which he is directly or indirectly interested. In the event of the disqualification of any director respecting any matter presented to the board of directors for deliberation or determination, such director shall withdraw from such deliberation or determination; and in such event the remaining qualified directors present at the meeting, if constituting a quorum with the disqualified director or directors, may exercise with respect to this matter, by majority vote, all the powers of the board of directors. In the event of the disqualification of any member of the credit committee or the supervisory committee, such committee member shall withdraw from such deliberation or determination.

SEC. 6. Copies of the organization papers of this credit union, its bylaws, and any amendments thereto, shall be preserved in a place of safekeeping. Returns of nominations and elections and precedings of all regular and special meetings of the members and directors shall be recorded in the minute books of this credit union. The minutes of the meetings of the members, the board of directors, and the committees shall be signed by their respective chairmen or presiding officers and by the persons who serve as secretaries of such meetings.

SEC. 7. All books of account and other records of this credit union shall at all times be available to the directors and committee members of this credit union, and to any duly authorized representative of the United States Government, upon presentation of the proper credentials.

ARTICLE XX—AMENDMENTS TO BYLAWS AND CHARTER

SECTION 1. Amendments to these bylaws may be adopted and amendments to the charter requested by the affirmative vote of two-thirds of the members of the board of directors at any duly held meeting thereof if the members of the board of directors have been given 7 days' notice of said meeting and the notice has contained a copy of the proposed amendment or amendments. No amendment to these bylaws or to the charter shall become effective, however, until approved in writing by the Director, Bureau of Federal Credit Unions, Federal Security Agency.

Specimen copies of the standard form of bylaws (FCU 503–C) may be obtained from the Regional or Washington Offices of the Bureau of Federal Credit Unions.

§ 301.4 *Amendment of bylaws and charter.* Amendments to the bylaws of a Federal credit union may be adopted and amendments to the charter requested by the affirmative vote of two-thirds of the members of the board of directors of the Federal credit union at any duly held meeting thereof if the members of the board of directors have been given 7 days' notice of said meeting and the notice has contained a copy of the proposed amendment or amendments. No amendment to the bylaws or to the charter shall become effective, however, until approved in writing by the Bureau of Federal Credit Unions.

§ 301.5 *Other applications.* (a) Except as otherwise provided by rule or regulation of the Bureau of Federal Credit Unions all applications, requests, and submittals regarding Federal credit unions, for which no form of application has been prescribed by the Bureau of Federal Credit Unions, shall be in writing, signed by the applicant or his duly authorized agent, and should contain a statement of the action requested, the reasons and facts relied upon as the basis for such requested action, and the applicant's interest in the matter. The application, request, or submittal shall be addressed to the Regional Supervisor for the region of the Bureau of Federal Credit Unions in which the Federal credit union's principal office is located or to the Division of Supervision in Washington, D. C. The applicant shall furnish such other pertinent information as may be required by the Director of the Bureau of Federal Credit Unions.

(b) Unless otherwise provided in the regulations in this part, all applications regarding Federal credit union matters (including amendments to charter and bylaws of Federal credit unions and matters involving Federal credit unions in liquidation) shall be investigated and reviewed by the Regional Supervisor for the region of the Bureau of Federal Credit Unions in which the principal office of the Federal credit union concerned is located. The report and recommendations of the Regional Supervisor as to the application shall be transmited to the Division of Supervision in Washington, D. C., which shall review and make recommendations to the Director of the Bureau of Federal Credit Unions. Notice of the action of the Director of the Bureau of Federal Credit Unions shall be promptly transmitted to the applicant together with a statement as to the basis for the action.

§ 301.6 *Fee for supervision.* During December of each year each Federal credit union shall pay to the Bureau of Federal Credit Unions a fee of $10 for the cost of supervision: *Provided, however,* That no such annual fee shall be payable by a Federal credit union for the fractional part of the first calendar year during which it is formed. Checks in payment of such fees shall be made payable to the Treasurer of the United States and shall be forwarded to the Regional Office of the Bureau of Federal Credit Unions for the region in which the Federal credit union maintains its principal office.

§ 301.7 *Fee for examination.* Each Federal credit union shall pay to the Bureau of Federal Credit Unions a fee for each examination. The fee shall be assessed at 25 cents per hundred dollars of the Federal credit union's assets as of the effective date of the examination or the cost of making the examination computed at $25.72 per examiner day, whichever is lower: *Provided, however,* That the minimum fee for each examination shall be $2.50. The check in payment of such fee shall be made payable to the Treasurer of the United States and the check shall be delivered to the examiner at the completion of the examination.

§ 301.8 *Fee for final examination.* At the completion of voluntry or involuntary liquidation of a Federal credit union or of the conversion of a Federal credit union to State charter, and prior to dissolution, each such Federal credit union shall be examined by the Bureau of Federal Credit Unions. For such final examination the Federal credit union shall pay a fee computed at 25 cents per $100 of the Federal credit union's assets as of the effective date of the final examination: *Provided, however,* That the minimum fee for each final examination shall be $2.50.

§ 301.9 *Loans by Federal credit unions to other credit unions.* On authorization of its board of directors, a Federal credit union may invest its funds in loans to other credit unions in the total amount not exceeding 25% of its paid-in and unimpaired capital and surplus. The term of such loans shall not exceed one year and the rate of interest shall not exceed 6% per annum. Prior to making the loan, the Federal credit union shall require the borrowing credit union to furnish the following:

(a) A current financial and statistical report;

(b) A copy of the latest supervisory committee's audit report;

(c) A certified copy of the resolution of the board of directors authorizing such borrowing; and

(d) A certificate from the clerk of the credit union that the persons negotiating the loan and executing the note are officers of the credit union and are authorized to act in its behalf.

§ 301.10 *Establishment of cash funds for making change.* The board of directors of a Federal credit union may establish a cash fund in an amount not to exceed $100 for the purpose of making change. On all cash funds in excess of $100, except temporary funds which are deposited within the time limit specified in the bylaws of the Federal credit union for making deposits of receipts, the board of directors shall obtain prior written permission of the Regional Supervisor of the region of the Bureau of Federal Credit Unions in which the Federal credit union's principal office is located.

§ 301.11 *Election report.* Each operating Federal credit union shall file annually in triplicate with the Regional Supervisor of the region of the Bureau of Federal Credit Unions in which the principal office of the Federal credit union is located, within 10 days after the election of officials, a report setting forth the names and addresses of its officials. Copies of the standard form of report prescribed by the Bureau of Federal Credit Unions (Form FCU 2) may be obtained from the Regional Office of the Bureau of Federal Credit Unions or from

the Division of Supervision in Washington, D. C.

§ 301.12 *Supervisory committee audit report.* The supervisory committee of every Federal credit union shall audit the affairs of its credit union as of the last day of March, June, September, and December of each year and shall promptly make a report of the audit to the board of directors of the Federal credit union. This report shall be on Form FCU 110 prescribed by the Bureau of Federal Credit Unions. The supervisory committee shall also submit a report on this form for the periods ending June 30 and December 31 of each year to the Regional Supervisor for the region of the Bureau of Federal Credit Unions in which the principal office of the Federal credit union is located, not later than July 31 and January 31, respectively. Copies of Form FCU 110 may be obtained from the Regional Office of the Bureau of Federal Credit Unions or from the Division of Supervision in Washington, D. C.

§ 301.13 *Financial and statistical report.* Each Federal credit union shall file within 15 days of June 30 a financial and statistical report on Form FCU 109 as of June 30 each year with the Regional Supervisor of the region of the Bureau of Federal Credit Unions in which the Federal credit union maintains its principal office. The Director of the Bureau of Federal Credit Unions may require a Federal credit union to file monthly financial and statistical reports on Form FCU 109 more frequently if in the judgment of the Director the condition of the Federal credit union so requires. Sample copies of this form may be obtained from the Regional Office of the Bureau of Federal Credit Unions or from the Division of Supervision in Washington, D. C. A similar report on Form FCU 521 made as of December 31 each year shall be filed by every operating Federal credit union within 15 days following said date with the Regional Office of the Bureau of Federal Credit Unions. Form FCU 521 is furnished to all Federal credit unions by and may be obtained from the Bureau of Federal Credit Unions.

§ 301.14 *Manual of accounting procedure for Federal credit unions.* (a) The Bureau of Federal Credit Unions has promulgated for use by Federal credit unions the Manual of Accounting Procedure for Federal Credit Unions (Form FCU 544). A copy of this manual is furnished to each Federal credit union at the time the approved organization certificate is submitted to the incorporators by the Bureau of Federal Credit Unions. This manual specifies the type of records to be maintained and the accounting forms to be used by each Federal credit union. Variations in prescribed accounting records may be approved by the Director of the Bureau of Federal Credit Unions on presentation of convincing evidence of convenience or advantage. The Federal credit union shall obtain such approval prior to adopting a revision. On receipt of a request in writing from a Federal credit union the Regional Office of the Bureau of Federal Credit Unions for the region in which the Federal credit union's principal office is located shall furnish information and instructions concerning proposed variation in the prescribed accounting forms and records.

(b) The following standard accounting records are prescribed for use by Federal credit unions:

Application for Membership (Form FCU 200).
Bank Reconcilement (Form FCU 108).
Cash Received Voucher (Form FCU 105).
Dividend Work Sheet and Payment Record (Form FCU 112).
Extension Agreement (Form FCU 115).
Financial and Statistical Report (Form FCU 109).
General Ledger (Form FCU 102).
Individual Share and Loan Ledger (Form FCU 103).
Individual Share and Loan Ledger (Optional Forms FCU 103A, 103B, 103C, 103D, 103E, and 103F).
Joint Share Account Agreement (Form FCU 123).
Journal and Cash Record (Form FCU 101).
Journal Voucher (Form FCU 106A).
Loans Transfer Summary (Forms FCU 105C).
Member's Passbook (Form FCU 107).
Member's Passbook (Optional Forms FCU 107A, 107B, 107C, 107D, and 107E).
Note and Pledge of Shares (Form FCU 201).
Record of Cash Received from Sales of U. S. Savings Bonds (Form FCU 120).
Schedule of Delinquent Loans (Form FCU 118).

§ 301.15 *Credit Committee Handbook.* The Bureau of Federal Credit Unions has promulgated a manual of instructions for credit committees of Federal credit unions called "Credit Committee Handbook" (Form FCU 548). A copy of this handbook is furnished to each Federal credit union at the time the approved organization certificate is submitted to the incorporators by the Bureau of Federal Credit Unions.

§ 301.16 *Manual of procedure for supervisory committees of Federal credit unions.* The Bureau of Federal Credit Unions has promulgated a manual of procedure for supervisory committees of Federal credit unions (Form FCU 545). A copy of this manual is furnished to each Federal credit union at the time the approved organization certificate is submitted to the incorporators by the Bureau of Federal Credit Unions.

§ 301.17 *Handbook for Federal credit unions.* The Bureau of Federal Credit Unions has promulgated a manual of instructions for directors and officers of Federal credit unions called "Handbook for Federal Credit Unions" (Form FCU 543). A copy of this handbook is furnished to each Federal credit union at the time the approved organization certificate is submitted to the incorporators by the Bureau of Federal Credit Unions.

§ 301.18 *Petitions.* Any interested person may petition the Director of the Bureau of Federal Credit Unions for the issuance, amendment, or repeal of any rule by submitting such petition in writing together with a complete and concise statement of the petitioner's interest in the subject matter and the reasons why the petition shall be granted. Such petition shall be submitted to the Bureau of Federal Credit Unions in Washington, D. C.

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## PART 310—VOLUNTARY LIQUIDATION OF FEDERAL CREDIT UNIONS

Sec.
310.1 Approval of liquidation.
310.2 Transaction of business during liquidation.
310.3 Notice to members of liquidation.
310.4 Notice of liquidation to creditors.
310.5 Reports and schedules at commencement of liquidation.
310.6 Reports during period of liquidation.
310.7 Request for final examination and distribution of assets.
310.8 Final examination.
310.9 Distribution of assets.
310.10 Certificate of dissolution.
310.11 Further instructions and assistance.

AUTHORITY: §§ 310.1 to 310.11 issued under sec. 16 (a), 48 Stat. 1221, sec. 2, 62 Stat. 1221; 12 U. S. C. 1766 (a), 1751 and note.

§ 310.1 *Approval of liquidation.* A Federal credit union may go into voluntary liquidation on approval of two-thirds of its members in writing or by vote at a regular meeting of the members or a special meeting called for that purpose. Where authorization for liquidation is to be obtained at a meeting of members, notice in writing shall be given to each member at least seven days before such meeting and within 10 days after said meeting a copy of the notice shall be forwarded to the Regional Office of the Bureau of Federal Credit Unions for the region in which the Federal credit union's principal office is located together with a transcript of the minutes of the meeting duly certified by the president and clerk of the Federal credit union. If voluntary liquidation is authorized by members in writing, two-thirds of the members must execute a Liquidation Request (Form FCU 61) and an officer or director of the Federal credit union shall certify to the Regional Supervisor of the region of the Bureau of Federal Credit Unions in which the Federal credit union's principal office is located that at least two-thirds of the members have executed the Liquidation Request and shall forward such signed request to said Regional Office.

§ 310.2 *Transaction of business during liquidation.* Immediately on decision by the board of directors of a Federal credit union to seek approval of members for liquidation, withdrawal of shares and granting of loans shall be suspended pending action by members on the proposal to liquidate, and, on approval by members of such proposal, withdrawal of shares and the making of loans shall be permanently discontinued.

§ 310.3 *Notice to members of liquidation.* When voluntary liquidation of a Federal credit union has been decided on by its board of directors, a notice of proposed liquidation must be given to each member together with a request that the member furnish his passbook or confirm in writing the shares held by him in the Federal credit union and the loans owed by him to the Federal credit union.

§ 310.4 *Notice of liquidation to creditors.* On approval of the members of a Federal credit union of a proposal to liquidate, the board of directors of the

Federal credit union shall immediately cause to be prepared and mailed to all creditors a notice of liquidation and to present claims to the Federal credit union within ninety days.

§ 310.5 *Reports and schedules at commencement of liquidation.* At the commencement of voluntary liquidation of a Federal credit union the officer or agent conducting the liquidation must file with the Regional Supervisor for the region of the Bureau of Federal Credit Unions wherein the Federal credit union is located a financial and statistical report on Form FCU 109 and a schedule of the shares held by members and loans outstanding on Form FCU 61a, both of which shall be as of the date the board of directors reached the decision to seek approval of members for liquidation.

§ 310.6 *Reports during period of liquidation.* A Federal credit union in the process of voluntary liquidation shall forward monthly to the Regional Office of the Bureau of Federal Credit Unions for the region wherein the Federal credit union is located a copy of the financial and statistical report on Form FCU 109 within ten days after the close of each month.

§ 310.7 *Request for final examination and distribution of assets.* A Federal credit union in voluntary liquidation shall not make any distribution of funds to members until after final examination has been made by the Bureau of Federal Credit Unions and the proposed distribution to members has been approved by the examiner for the Bureau who shall make the final examination, unless otherwise expressly authorized by the Bureau of Federal Credit Unions. After all assets of the Federal credit union in voluntary liquidation have been converted to cash or found to be worthless and all loans and debts owing to it have been collected or found to be uncollectible, the Federal credit union may file with the Regional Office of the Bureau of Federal Credit Unions a request for final examination and for approval of distribution to members. There shall be forwarded to the said Regional Office together with said request for final examination and distribution of assets the following information: Financial and statistical report after the books are closed prior to final distribution (Form FCU 109); bank reconciliation showing that the cash in the credit union's bank account is in agreement with the cash as shown on its books after proper adjustments (Form FCU 108); statement indicating the number of passbooks on signed confirmations that have been submitted by the members and are in possession of the Federal credit union. The statement should also indicate where the records are located in order that the examiner may make the final examination.

§ 310.8 *Final examination.* As soon as possible after receipt of request for final examination from a Federal credit union in voluntary liquidation, the Regional Supervisor shall assign a Federal credit union examiner to supervise the completion of the liquidation and to make the final examination. Under the guidance of the Federal credit union examiner, the official of the Federal credit union or the agent conducting the liquidation will compute the final distribution to members. A check in payment of the examination fee as computed and billed by the examiner pursuant to the provisions of § 301.8 of this chapter shall be drawn by the Federal credit union payable to the Treasurer of the United States and delivered to the examiner.

§ 310.9 *Distribution of assets.* (a) Checks shall then be drawn for the amounts to be distributed to each member who has submitted a passbook or a confirmation of his balance and entries shall be made in the members' passbooks on hand to reflect the dividend paid on members' shares. The members' passbooks shall be retained with the books and records of the Federal credit union.

(b) A schedule shall be prepared by the Federal credit union showing the name of each member who has not submitted his passbook or a confirmation in support of his claim. The schedule shall contain, in addition to the name, the total original amount of each claim, any additions to or deductions from this amount and the final balance which has not been paid. The original membership application (signature card) of each member listed on said schedule shall be attached thereto. A certified check, payable to the Treasurer of the United States, in an amount equal to the total claims listed on said schedule shall be drawn by the Federal credit union and the schedule and check shall be delivered to the examiner for the Bureau of Federal Credit Unions upon completion of the examination. The Bureau will deposit said funds in a special account with the Chief Disbursing Officer of the Treasury of the United States where they will be held for the account of the Director of the Bureau of Federal Credit Unions as trustee for the individuals named on said schedule. Such individuals or any person claiming on their behalf may submit to the Bureau their respective claim for such funds.

(c) Instructions concerning the disposition of cancelled and returned checks and bank statements following the final distribution shall be furnished by the examiner.

(d) The charter, official bylaws, permit to operate, and other records of the Federal credit union requested by the examiner shall be delivered to the examiner at the completion of the examination.

§ 310.10 *Certificate of dissolution.* After the final examination of a Federal credit union in voluntary liquidation and the final distribution of its assets to members have been made, the officer or agent conducting the liquidation must sign, under oath, a Certificate of Dissolution on Form FCU 61d stating that all the liabilities of the Federal credit union have been paid and that its assets have been equitably distributed to its members. Such certificate must be delivered to the examiner at the completion of the final examination. On proof that distribution has been made, and within one year after receipt of the report of final examination and the signed Certificate of Dissolution, the Director of the Bureau of Federal Credit Unions shall cancel the charter of the credit union concerned.

§ 310.11 *Further instructions and assistance.* Further detailed instructions, information, and assistance pertaining to voluntary liquidations may be obtained from the Washington or Regional Offices of the Bureau of Federal Credit Unions.

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## PART 315—INVOLUNTARY LIQUIDATION OF FEDERAL CREDIT UNIONS

Sec.



AUTHORITY: §§ 315.1 to 315.6 issued under sec. 16 (a), 48 Stat. 1221, sec. 2, 62 Stat. 1221; 12 U. S. C. 1766 (a), 1751 and note.

§ 315.1 *Basis for involuntary liquidation.* The charter of any Federal credit union may be suspended or revoked, the Federal credit union placed in involuntary liquidation and a liquidating agent therefor appointed upon the finding by the Director of the Bureau of Federal Credit Unions that the organization is bankrupt, or insolvent, or has violated any provisions of its charter, its bylaws, the Federal Credit Union Act, as amended, or any regulation issued by the Bureau of Federal Credit Unions, or that such suspension or revocation and liquidation is in the best interests of the membership of the Federal credit union concerned.

§ 315.2 *Suspension or revocation of charter.* Except as is otherwise provided for by the regulations in this part, the Director of the Bureau of Federal Credit Unions, before suspending or revoking the charter of a Federal credit union and placing the Federal credit union in liquidation, may cause to be served on the Federal credit union concerned a notice of intention to suspend or revoke the charter, a statement of the reasons for such proposed action and an order directing the Federal credit union concerned to show cause why its charter should not be suspended or revoked. Service of the order to show cause shall be either by mail addressed to the Federal credit union concerned at the last address of its principal office as shown by the records of the Bureau of Federal Credit Unions or by delivery to any officer or member of the board of directors of the Federal credit union. The order shall be returnable at the Regional Office of the Bureau of Federal Credit Unions for the region in which the principal office of the Federal credit union concerned is located. No oral hearing shall be held on such order to show cause, but the Federal credit union concerned may file with the said Regional Office, within the period of time specified in the order to show cause, a statement in writing setting forth the grounds and reasons why its charter should not be suspended or revoked. This statement shall be accompanied by a certified copy of a resolution of the board of directors of the Federal credit union concerned authoriz-

ing the filing of the statement. If no statement is received within the period of time specified in the order, or if the proffered reasons why the charter should not be suspended or revoked are found to be insufficient by the Director of the Bureau of Federal Credit Unions, the Director may order that the charter be suspended or revoked and may order the Federal credit union placed in involuntary liquidation. If the Federal credit union is ordered to be liquidated, the Director shall designate the liquidating agent in the order directing the liquidation. A copy of the order directing the suspension or revocation and, where proper, of the order directing the involuntary liquidation and of the appointment of a liquidating agent and a statement of the findings on which the order is based shall be served on the Federal credit union concerned. Such service shall be either by mail addressed to the Federal credit union concerned at the last address of its principal office as shown by the records of the Bureau of Federal Credit Unions or by delivery to any officer or member of the board of directors of the Federal credit union concerned.

§ 315.3 *Order directing involuntary liquidation.* In the event that the Director of the Bureau of Federal Credit Unions does not order the Federal credit union placed in involuntary liquidation at the time he orders its charter suspended or revoked (see § 315.2), the Director may, at any time prior to the cancellation of the suspension or the annulment of the revocation, order the Federal credit union concerned to show cause why it should not be placed in involuntary liquidation. Service of the order to show cause shall be either by mail addressed to the Federal credit union concerned at the last address of its principal office as shown by the records of the Bureau of Federal Credit Unions or by delivery to any officer or member of the board of directors of the Federal credit union concerned. The order shall be returnable at the Regional office of the Bureau of Federal Credit Unions for the region in which the principal office of the Federal credit union concerned is located. No oral hearing shall be held on such order to show cause, but the Federal credit union concerned may file with the said Regional Office within the period of time specified in the order to show cause, a statement in writing setting forth the grounds and reasons why it should not be placed in involuntary liquidation. This statement shall be accompanied by a certified copy of a resolution of the board of directors of the Federal credit union concerned authorizing the filing of the statement. If no statement is received within the period of time specified in the order, or if the proffered reasons why the Federal credit union should not be placed in involuntary liquidation are found to be insufficient by the Director of the Bureau of Federal Credit Unions, the Director may order that the Federal credit union be placed in involuntary liquidation and may appoint a liquidating agent. A copy of the order directing the involuntary liquidation and appointment of a liquidating agent and a statement of the findings on which the order is based shall be served on the Federal credit union concerned. Such service shall be either by mail addressed to the Federal credit union concerned at the last address of its principal office as shown by the records of the Bureau of Federal Credit Unions or by delivery to any officer or member of the board of directors of the Federal credit union.

§ 315.4 *Immediate suspension or liquidation.* In any case where the Director of the Bureau of Federal Credit Unions shall find that a Federal credit union is insolvent or that the interests of its members require immediate action or that the issuance of the order to show cause provided for in §§ 315.2 and 315.3 will not serve any purpose, the Director may order the suspension or revocation of the charter and the involuntary liquidation of the Federal credit union and the appointment of a liquidating agent therefor without prior notice to the Federal credit union of such action and without the prior issuance of the order to show cause provided for in §§ 315.2 or 315.3.

§ 315.5 *Involuntary liquidation and appointment of liquidating agent.* On receipt of a copy of the order placing the Federal credit union in involuntary liquidation, the officers and directors of the Federal credit union concerned shall deliver to the liquidating agent possession and control of all books, records, assets and property of every description of the Federal credit union, and the liquidating agent shall proceed to convert said assets to cash, collect all debts due to said Federal credit union and to wind up its affairs in accordance with the provisions of section 16 of the Federal Credit Union Act, as amended (12 U. S. C. 1766) and the instructions and procedures issued to said liquidating agent by the Regional Office of the Bureau of Federal Credit Unions for the region in which the principal office of the Federal credit union in liquidation is located.

§ 315.6 *Cancellation of charter.* On the completion of the liquidation and certification by the liquidating agent that the distribution of the assets of the Federal credit union has been made and that the liquidation has been completed, the Director of the Bureau of Federal Credit Unions shall cancel the charter of the Federal credit union concerned.

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## PART 320—DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION

Sec.
320.1 Definitions.
320.2 Inspection of final opinions, orders, and rules.
320.3 Availability of official records and information.
320.4 Information which may be disclosed and to whom.
320.5 Place to apply for disclosure.
320.6 Authority or refusal to disclose.

AUTHORITY: §§ 320.1 to 320.6 issued under sec. 16 (a), 48 Stat. 1221; sec. 2, 62 Stat. 1221; 12 U. S. C. 1776 (a), 1751 and note.

§ 320.1 *Definitions.* As used in the regulations in this part, the term person includes a natural person, guardian, trust or estate, partnership, corporation, or joint stock company; the term state includes the several states and Alaska, Hawaii, Puerto Rico, District of Columbia, and the Panama Canal Zone. The terms records and information include all files, documents, reports, books, accounts, opinions, orders, and records, and all information obtained at any time by the Bureau of Federal Credit Unions or by any officer or employee of the Federal Security Agency in the course of discharging the official duties of the Bureau.

§ 320.2 *Inspection of final opinions, orders and rules.* All final opinions or orders in the adjudication of cases and all rules issued by the Bureau of Federal Credit Unions in the administration of the Federal Credit Union Act, as amended (12 U. S. C. 1751 et seq.), not relating to matters of internal management, are available for public inspection at the offices of the Bureau of Federal Credit Unions, Social Security Administration, Federal Security Agency, Washington 25, D. C., or at the appropriate Regional Office of the Bureau of Federal Credit Unions, except, those opinions and orders or parts thereof, which the Director, Bureau of Federal Credit Unions, may, for good cause, declare to be confidential, in which event such opinion or order or part thereof, will not be cited as a precedent. The provisions of §§ 320.4, 320.5 and 320.6 shall govern the disclosure of any opinion or order, or part thereof, declared confidential by the Director.

§ 320.3 *Availability of official records and information.* All records and information of the Bureau of Federal Credit Unions, except rules issued in the administration of the Federal Credit Union Act, as amended, and opinions and orders in the adjudication of cases, are hereby declared to be confidential and no disclosure of any such records or information shall be made directly or indirectly except as hereinafter authorized by the regulations in this part.

§ 320.4 *Information which may be disclosed and to whom.* Disclosure of any records or information of the Bureau of Federal Credit Unions declared to be confidential is hereby authorized only in the following cases and for the following purposes:

(a) To any instrumentality of the United States Government where the records or information is required by such instrumentality in its course of discharging its official duties, provided that the Director, Bureau of Federal Credit Unions, finds that such disclosure is not contrary to the public interest or to any applicable Federal law, rule, regulation, or directive of the Executive branch of the Federal Government.

(b) To the proper Federal or State law enforcement and prosecuting authorities, provided that: (1) Such records or information relate to a violation of a Federal or State criminal law and, (2) such disclosure is not contrary to any Federal law, rule, regulation or directive of the Executive branch of the Federal Govern-

ment. When the Bureau of Federal Credit Unions obtains knowledge of the commission of a crime involving a Federal credit union, the Bureau may report such facts as it may have concerning the commission of the crime to the appropriate Federal or State authorities.

(c) To any person properly and directly concerned upon a verified written application by such person showing substantial interest in the said record or information: *Provided*, That the Director, Bureau of Federal Credit Unions, finds that such disclosure is not contrary to the public interest or to any Federal law, rule, regulation or directive of the Executive branch of the Federal Government.

(d) To any Federal credit union: *Provided*, That (1) such records or information pertain solely to the affairs of the said Federal credit union, and (2) the records or information are not designated as "confidential" by the Bureau of Federal Credit Unions.

§ 320.5 *Place to apply for disclosure.* Applications for disclosure of records or information shall be addressed to the Bureau of Federal Credit Unions, Social Security Administration, Federal Security Agency, Washington 25, D. C.

§ 320.6 *Authority for refusal to disclose.* Any request or demand for records or information, the disclosure of which is forbidden by the regulations in this part, shall be declined upon authority of the regulations in this part. If any officer or employee of the Bureau of Federal Credit Unions or of the Social Security Administration or of the Federal Security Agency, is sought to be required, by subpoena or other compulsory process, to produce such record, or give such information, he shall respectfully decline to present such record or to divulge such information, basing his refusal on the regulations in this part.

[F. R. Doc. 48-11431; Filed, Dec. 30, 1948; 8:47 a. m.]

# TITLE 47—TELECOMMUNICATION

## Chapter I—Federal Communications Commission

### PART 12—AMATEUR RADIO SERVICE

#### AMENDMENT OF APPENDIX

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 15th day of December 1948;

The Commission having under consideration the necessity of amending the Appendix to Part 12 of the rules and regulations to reflect the closing of the engineering sub-office in Cleveland, Ohio; and

It appearing, that in view of the nature of the proposed amendment, publication of notice of proposed rule making pursuant to section 4 (a) of the Administrative Procedure Act is unnecessary; and

It further appearing, that authority for the proposed amendment is contained in section 4 (i) and 303 (r) of the Communications Act of 1934, as amended;

*It is ordered*, That, effective Dec. 31, 1948, the Appendix to Part 12 of the Commission's rules and regulations be, and it is hereby, amended by deleting the words "Sub-office, 541 Federal Building, Clevelond 14, Ohio." from the list of Radio Districts, by deleting the words "Cleveland, Ohio" from paragraph two of the Appendix and by inserting the words "Cleveland, Ohio" in the "Quarterly Examinations."

(Sec. 4 (i) 48 Stat. 1066, sec. 6 (b), 50 Stat. 191; 47 U. S. C. 154 (i), 303 (r))

Released: December 17, 1948.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
*Secretary.*

[F. R. Doc. 48-11460; Filed, Dec. 30, 1948; 8:52 a. m.]

# TITLE 50—WILDLIFE

## Chapter I—Fish and Wildlife Service, Department of the Interior

### Subchapter C—Management of Wildlife Conservation Areas

#### ADDITION OF REGULATIONS

To conform to the structure of Title 50—Wildlife (13 F. R. 7432), Parts 19 and 21 are added as follows:

### PART 19—FISH CULTURAL STATIONS

#### SUBPART A—PROTECTION OF FISHES

Sec.
19.1 Fishing.
19.2 Hunting and trapping.
19.3 Scientific specimens.
19.4 Recreation; public use.
19.5 Introduction of extralimital wildlife.
19.6 Injurious objects.
19.7 Protection of spawning fish.

#### SUBPART B—ACCESS; TEMPORARY USE

19.21 Access.
19.22 Scientific study; photography.
19.23 Bathing.
19.24 Skating.
19.25 Boating.
19.26 Picnics and general recreation.

#### SUBPART C—TAKING OF WILDLIFE

PUBLIC FISHING

19.31 Authorization.
19.32 Fishery research.
19.33 State fishing laws.
19.34 Fishing licenses and permits.
19.35 Temporary restrictions.

PUBLIC HUNTING

19.41 Authorization.
19.42 State hunting laws.
19.43 Hunting licenses and permits.
19.44 State cooperation.
19.45 Weapons.

SCIENTIFIC SPECIMENS

19.51 Scientific specimens.

PUBLIC TRAPPING

19.61 Authorization.
19.62 State trapping laws.
19.63 Trapping licenses and permits.
19.64 Suspension of privileges.

AUTHORITY: §§ 19.1 to 19.64 issued under R. S. 161, sec. 4, 60 Stat. 1080; 5 U. S. C. 22, 16 U. S. C. 664; Reorg. Plan II of 1939, 4 F. R. 2731; Reorg. Plan III of 1940, 5 F. R. 2107.

CROSS REFERENCE: For other regulations applying to Fish Cultural Stations see Parts 1, 16, and 18 of this title.

#### SUBPART A—PROTECTION OF FISHES

§ 19.1 *Fishing.* The fundamental purpose of Fish Cultural Stations is the propagation of fish and other aquatic animal life for distribution. Fishing or the taking therein in any manner or by any means of any such fish or aquatic animal life is prohibited except as may be authorized in this subchapter.

§ 19.2 *Hunting and trapping.* Fish Cultural Stations are managed for the protection of all species of wildlife. Hunting, trapping, or taking therein in any manner or by any means of any such wildlife is prohibited except as may be authorized in this subchapter.

§ 19.3 *Scientific specimens.* Inasmuch as Fish Cultural Stations are designed to protect all beneficial species of birds, mammals, fishes, and other aquatic animal life, the taking of scientific specimens of such animals will not be permitted except as may be authorized in this subchapter.

§ 19.4 *Recreation; public use.* Recreation and other public use will not be permitted in Fish Cultural Stations except on such areas and during such periods as will not interfere with the operation of such stations.

§ 19.5 *Introduction of extralimital wildlife.* Live mamals, birds, fishes, crustaceans, mollusks, frogs, snakes, turtles, alligators or other amphibians and reptiles, and vegetation, including aquatic plants, taken elsewhere shall not be introduced, liberated, or placed in any station except under specific authorization of the Regional Director.

§ 19.6 *Injurious objects.* The removal of injurious animal life or other harmful objects in any station and the disposition thereof in accordance with law and regulations and orders of the Secretary shall be made by or under the direction of the Regional Director.

§ 19.7 *Protection of spawning fish.* Spawning fish, or fish that are making preparation to spawn, that are in ponds, raceways, streams, lakes, traps and below traps, ladders, fish screens, fishways, and racks shall not be disturbed in areas set aside for such purposes. The officer in charge shall post such areas to exclude the public therefrom during such periods of the year as such officer determines to be essential for the operation of the station.

#### SUBPART B—ACCESS; TEMPORARY USE

§ 19.21 *Access.* Fish Cultural Stations shall be open to the public during business hours except that the officer in charge may by suitable posting close any area or subject such area to limited use.

§ 19.22 *Scientific study; photography.* The officer in charge may authorize persons to enter stations for scientific study, for amateur photography, or for other minor purposes if in his judgment such use is not inconsistent with the objects for which the station is operated.

§ 19.23 *Bathing.* Bathing or swimming is prohibited in stations except in posted areas where the Regional Director determines that such bathing or

swimming will not interfere with the purpose or operation of the station.

§ 19.24 *Skating.* Ice skating is prohibited in stations except in posted areas where the Regional Director determines that such skating will not interfere with the purpose or operation of the station.

§ 19.25 *Boating.* The use of boats or floating devices of any description is prohibited in all stations except where the Regional Director determines that the use of or the docking of such craft will not interfere with the operation of a station. No boat or other floating craft may be used at any station without a permit from or the permission of the Regional Director or the officer in charge.

§ 19.26 *Picnics and general recreation.* A permit is not required for access to and use of any station area for the purpose of picnicking and recreation, which is designated by the Director, Regional Director, or officer in charge by posting as being proper for such purpose.

SUBPART C—TAKING OF WILDLIFE

PUBLIC FISHING

§ 19.31 *Authorization.* The Regional Director may allow fishing in such areas of Fish Cultural Stations as are not being utilized for the propagation and distribution of fish or other aquatic animal life under such conditions, limits, and restrictions as the Regional Director may determine to be necessary to prevent interference with the operation of the station. Such areas as may be opened to public fishing and such conditions, limits, and restrictions as may apply will be suitably posted by the officer in charge.

§ 19.32 *Fishery research.* The Regional Director may permit fishing in waters being utilized for the propagation of fish or other aquatic animal life in accordance with § 19.31 only when it is necessary to collect data by fishing that are required for scientific or experimental purposes.

§ 19.33 *State fishing laws.* Each person fishing in any station shall comply with the applicable State laws and regulations.

§ 19.34 *Fishing licenses and permits.* Each person authorized to fish in any station shall possess and shall exhibit upon request of any authorized Federal or State Officer whatever license, if any, is required by State law or regulation and a Federal permit issued by the officer in charge if the Regional Director shall require such permit.

§ 19.35 *Temporary restrictions.* The officer in charge may temporarily suspend fishing in all or part of any station area by suitable posting when, in his judgment, such action is necessary for the protection of migratory waterfowl, wildlife concentrations, fishes and other aquatic animal life, food and cover plantings for wildlife, or for the carrying out of official operations in such area or areas.

PUBLIC HUNTING

§ 19.41 *Authorization.* The Regional Director may authorize the hunting of game birds and game mammals in accordance with the provisions of applicable Federal and State laws under such conditions and within such areas of Fish Cultural Stations as in his determination is compatible with sound wildlife management. Such areas and such conditions will be suitably posted by the officer in charge.

§ 19.42 *State hunting laws.* Each person hunting in any station area shall comply with the applicable State laws and regulations.

§ 19.43 *Hunting licenses and permits.* Each person authorized to hunt in any station area shall possess and shall exhibit upon request of any authorized Federal or State Officer whatever license, if any, is required by State law or regulation and a Federal permit issued by the officer in charge if the Regional Director shall require such permit.

§ 19.44 *State cooperation.* State cooperation may be enlisted in the regulation, management, and operation of public shooting areas, the details of which shall be mutually agreed upon by the Regional Director and the head of the State Game Department and the State may promulgate such regulations as may be necessary for such regulation, management, and operation. In the event such State regulations are issued, compliance therewith shall be a requisite to lawful entry for the purpose of hunting.

§ 19.45 *Weapons.* Each person hunting in any station area shall use for such purpose only such weapons as are authorized by State law or regulation, and the Regional Director may further restrict the weapons that may be used for such hunting.

SCIENTIFIC SPECIMENS

§ 19.51 *Scientific specimens.* Specimens of plant and animal life or other natural objects, including the nests and eggs of birds, may be taken on any station for scientific, exhibition, restocking, or propagating purposes under special permit issued by the Director, but no such permit shall be deemed to authorize the taking, possession, transportation, or sale of any wildlife, or of the nests or eggs of birds, contrary to State law.

TRAPPING

§ 19.61 *Authorization.* The Regional Director may authorize the trapping of fur animals in accordance with the provisions of applicable Federal and State laws under such conditions and within such station areas as in his determination is compatible with sound wildlife management.

§ 19.62 *State trapping laws.* Each person trapping in any station area shall comply with the applicable State laws and regulations.

§ 19.63 *Trapping licenses and permits.* Each person trapping in any station area shall possess and shall exhibit upon request to any authorized Federal or State Officer whatever license, if any, is required by State law or regulation and a Federal permit issued by the officer in charge unless the Regional Director shall authorize trapping without such permit.

§ 19.64 *Suspension of privileges.* The officer in charge may suspend public trapping in all or part of any station area when, in his judgment, such action is necessary for the protection of migratory waterfowl, wildlife concentrations, fur animal populations, food and cover plantings for wildlife, or for the carrying out of official operations on such area or areas. Each trapper affected by such suspension shall be notified in writing mailed to the address furnished by such trapper at least three days prior to the effective date of such suspension.

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## PART 21—NATIONAL WILDLIFE REFUGES

SUBPART A—PROTECTION OF WILDLIFE

Sec.
21.1 Hunting.
21.2 Fishing.
21.3 Trapping.
21.4 Scientific specimens.
21.5 Recreation; public use.
21.6 Introduction of extralimital wildlife.
21.7 Injurious objects.

OIL AND GAS OPERATIONS

21.11 Applicability.
21.12 Operating requirements.
21.13 Pollution.
21.14 Oil field brine.
21.15 Prohibited acts.
21.16 Coordination of activities.

SUBPART B—ACCESS; TEMPORARY USE

21.21 Scientific study; photography.
21.22 Bathing.
21.23 Skating.
21.24 Boating.
21.25 Picnics and general recreation.

SUBPART C—TAKING OF WILDLIFE

PUBLIC HUNTING

21.31 Authorization.
21.32 State hunting laws.
21.33 Hunting licenses and permits.
21.34 State cooperation.
21.35 Weapons.

PUBLIC FISHING

21.41 Authorization.
21.42 State fishing laws.
21.43 Fishing licenses and permits.
21.44 Temporary restrictions.
21.45 Migratory Bird Conservation Act Refuges.

PUBLIC TRAPPING

21.51 Authorization.
21.52 State trapping laws.
21.53 Trapping licenses and permits.
21.54 Suspension of privileges.

SCIENTIFIC SPECIMENS

21.61 Scientific specimens.

SUBPART D—SURPLUS ANIMALS AND PRODUCTS

21.71 Provisions applying.
21.72 Hiring of piece-work employes.

AUTHORITY: §§ 21.1 to 21.72 issued under secs. 3, 5, 6, 7, 43 Stat. 650, sec. 5, 45 Stat. 448, sec. 10, 45 Stat. 1224, sec. 401, 49 Stat. 383, sec. 4, 60 Stat. 1080; 16 U. S. C. 664, 690d, 715i, s, 723, 725, 726; Reorg. Plan II of 1939, 4 F. R. 2731; Reorg. Plan III of 1940, 5 F. R. 2107.

CROSS REFERENCE: For other regulations on National Wildlife Refuges see Parts 1, 16, and 18 of this title.

SUBPART A—PROTECTION OF WILDLIFE

§ 21.1 *Hunting.* The fundamental purpose of National Wildlife Refuges is to give protection to all species of wildlife. Hunting or taking thereon in any manner or by any means of any such

wildlife is prohibited except as may be prescribed by law or as may be authorized in this part.

§ 21.2 *Fishing.* Fishing, both sport and commercial, in general interferes with the management of wildlife on National Wildlife Refuges and particularly so on refuges managed primarily for migratory waterfowl when such waterfowl frequent these refuges during the nesting, migrating, and wintering periods. Fishing is therefore prohibited except on areas designated by Federal statutes and except on areas designated by the Director pursuant to Subpart C.

§ 21.3 *Trapping.* Fur animals, including predatory species, are useful in the manipulation of wildlife habitat and in the management of wildlife populations. The trapping of such fur animals or of any other mammals or birds is prohibited except as may be authorized in this subchapter.

§ 21.4 *Scientific specimens.* Inasmuch as all National Wildlife Refuges are designed to provide sanctuary for all beneficial species of birds and mammals, the taking of scientific specimens of such birds and mammals will not be permitted except as may be authorized in this subchapter.

§ 21.5 *Recreation; public use.* The attractiveness of any sanctuary for wildlife is contingent upon the freedom from disturbance of such areas. Recreational and other public use normally constitute disturbances to wildlife and will not be permitted except as may be authorized in this part.

§ 21.6 *Introduction of extralimital wildlife.* Live mammals, birds, fishes, frogs, snakes, turtles, alligators, or other amphibians and reptiles taken elsewhere shall not be introduced, liberated, or placed in any refuge except under specific authorization of the Director.

§ 21.7 *Injurious objects.* The removal of injurious animal life or other harmful objects in any refuge and the disposition thereof in accordance with law and regulations and orders of the Secretary shall be made by or under direction of the Director.

OIL AND GAS OPERATIONS

§ 21.11 *Applicability.* Sections 21.11 through 21.15 govern the prospecting or drilling for oil, gas, or other minerals and the production of such minerals under reservations contained in conveyances to the United States of lands for national wildlife refuge purposes, and shall apply only in those instances where the reservation of rights specify operations thereunder are to be carried on subject to regulations by the Secretary of the Interior. Any leases made by such grantor, its successors or assigns after the adoption of these regulations shall specifically refer to these regulations.

§ 21.12 *Operating requirements.* The latest and most approved methods shall be used by the grantor, its successors or assigns in all operations, including but not limited to the exploration or drilling for, the development of, and the transportation or removal of mineral resources including oil, and to the control of abandoned wells taken out of production. In any operation or in the erection of housing facilities or other structures on the refuge, paramount consideration shall be given to minimizing human occupancy and to the preservation of natural features and natural conditions.

§ 21.13 *Pollution.* The latest and most improved methods and devices shall be used to prevent oil, field brine, or other oil field contamination from causing pollution or contamination, or otherwise damaging the lands for the purpose for which they were acquired. All equipment used by the grantor, its successors or assigns which might engender such pollution or contamination (such as pumps, valves, hose, hose connections, tanks, and pipe lines) must be designed and maintained to prevent leakage or waste, and any inevitable waste must be so confined as to prevent escape that might otherwise occur as a result of rains or high water.

§ 21.14 *Oil field brine.* Suitable provision must be made for the removal of oil field brine from the area, by pipe line or any other approved method, so as not to contaminate the lands or the water in the ponds or lakes now created or that may hereafter be created. In the event such damage arises to the lands or water, or lands and water, within the limits of the area covered by the mineral reservation, the Secretary of the Interior will be the sole authority in determining the extent of the damage immediately apparent or that reasonably may be anticipated from the leakage or waste of oil, or oil field brine and other field contamination.

§ 21.15 *Prohibited acts.* The grantor, its successors and assigns, agents and employees, shall not knowingly disturb, damage, or destroy any notice, sign board, fence, building, ditch, dam, dike, embankment, flume, spillway, or other improvements or property of the United States within or beyond the limits of the area covered by the mineral reservation and all such property so damaged or destroyed may be replaced at the option of the Secretary of the Interior by the United States at the cost of the grantor or by the grantor. The grantor, its successors and assigns, agents and employees may not take any bird, nest, or egg thereof on the area granted, or any other wildlife species except by written permission of the Secretary or the Director.

§ 21.16 *Coordination of activities.* The paramount purpose of the Government in acquiring refuge areas is the creation of sanctuaries for, and the protection of wildlife thereon and the grantor and all parties in interest under its mineral reservation are required to conform to, and be governed by the rules and regulations pertaining to the protection of wildlife duly issued by the Secretary or the Director, except that such regulations shall not restrain the exercise and use by the grantor, its successors and assigns, of the right set out in its mineral reservation, under the general supervision of the Director or his representatives.

SUBPART B—ACCESS: TEMPORARY USE

§ 21.21 *Scientific study; photography.* The officer in charge may issue permits without charge for entry into refuge areas for scientific study, for amateur photography, or for other minor purposes if in his judgment such use is not inconsistent with the objects for which the refuge was established.

§ 21.22 *Bathing.* Bathing or swimming is prohibited in all refuge areas except in posted areas where the Regional Director determines that such bathing or swimming will not interfere with the purpose or operation of the refuge.

§ 21.23 *Skating.* Ice skating is prohibited in all refuge areas except in posted areas where the Regional Director determines that such skating will not interfere with the purpose or operation of the refuge.

§ 21.24 *Boating.* The use of boats or floating devices of any description is prohibited in all refuge areas, provided that the Director may authorize such use in connection with fishing, hunting, or other recreational activities, whenever he determines that it is not inconsistent with the objects for which the refuge was established.

§ 21.25 *Picnics and general recreation.* A permit is not required for access to and use of any refuge area for the purpose of picnicking and recreation which is designated by the Director, Regional Director, or officer in charge by posting as being proper for such purpose.

SUBPART C—TAKING OF WILDLIFE

PUBLIC HUNTING

§ 21.31 *Authorization.* The Director may by regulation authorize the hunting of game birds and game mammals in accordance with the provisions of applicable Federal and State laws under such conditions and within such refuge areas as in his determination is compatible with sound wildlife management.

§ 21.32 *State hunting laws.* Each person hunting in any refuge area shall comply with the applicable State laws and regulations.

§ 21.33 *Hunting licenses and permits.* Each person hunting in any refuge area shall possess and shall exhibit upon request to any authorized Federal or State Officer whatever license, if any, is required by State law or regulation and a Federal permit issued by the Officer in charge unless the Director shall authorize hunting without such Federal permit.

§ 21.34 *State cooperation.* State cooperation may be enlisted in the regulation, management, and operation of public shooting areas, the details of which shall be mutually agreed upon by the Director or Regional Director and the head of the State Game Department, and the State may promulgate such regulations as may be necessary for such regulation, management, and operation. In the event such State regulations are issued, compliance therewith shall be a requisite to lawful entry for the purpose of hunting.

§ 21.35 *Weapons.* Each person hunting in any refuge area shall use for the purpose only such weapons as are authorized by Federal and State laws or regulations, and the Director may further restrict the weapons which may be used for such hunting.

PUBLIC FISHING

§ 21.41 *Authorization.* The Director may allow fishing in such refuge areas as he may designate for the purpose under such legally authorized conditions, limits, and restrictions as the Director may impose by regulation or as may otherwise be imposed by this part.

§ 21.42 *State fishing laws.* Each person fishing in any refuge area shall comply with the applicable State laws and regulations.

§ 21.43 *Fishing licenses and permits.* Each person fishing in any refuge area shall possess and shall exhibit upon request to any authorized Federal or State officer whatever license, if any, is required by State law or regulation and a Federal permit issued by the officer in charge if the Director by regulation shall require such permit.

§ 21.44 *Temporary restrictions.* The officer in charge may temporarily suspend fishing in all or parts of any refuge area by suitable posting when, in his judgment, such action is necessary for the protection of migratory waterfowl, wildlife concentrations, fishes and other aquatic animal life, food and cover plantings for wildlife, or for the carrying out of official operations in such area or areas.

§ 21.45 *Migratory Bird Conservation Act Refuges.* Fishing is permitted in any refuge required under the Migratory Bird Conservation Act to the extent and during such periods as, in the determination of the Director, will not interfere with the purpose for which the refuge was established.

PUBLIC TRAPPING

§ 21.51 *Authorization.* The Director may authorize the trapping of fur animals in accordance with the provisions of applicable Federal and State laws and under such conditions and within such refuge areas as in his determination is compatible with sound wildlife management.

§ 21.52 *State trapping laws.* Each person trapping in any refuge area shall comply with the applicable State laws and regulations.

§ 21.53 *Trapping licenses and permits.* Each person trapping in any refuge area shall possess and shall exhibit upon request to any authorized Federal or State officer whatever license, if any, is required by State law or regulation and a Federal permit issued by the officer in charge, unless the Director shall authorize trapping without such permit.

§ 21.54 *Suspension of privileges.* The officer in charge may suspend trapping in all or part of any refuge area by the issuance of reasonable notice to that effect when, in his judgment, such action is necessary for the protection of migratory waterfowl, wildlife concentrations, fur animal populations, food and cover plantings for wildlife, or for the carrying out of official operations on such area or areas.

SCIENTIFIC SPECIMENS

§ 21.61 *Scientific specimens.* Specimens of plant and animal life or other natural objects, including the nests and eggs of birds, may be taken in any refuge for scientific, exhibition, restocking, or propagating purposes under special permit issued by the Secretary and countersigned by the Director, but no such permit shall be deemed to authorize the taking, possession, transportation, or sale of any wildlife, or of the nests or eggs of birds, contrary to State law.

SUBPART D—SURPLUS ANIMALS AND PRODUCTS

§ 21.71 *Provisions applying.* The provisions of Subpart F apply to the taking and disposition of surplus animals and products on national wildlife refuges.

§ 21.72 *Hiring of piece-work employees.* In accordance with regulations governing the employment of persons, there may be employed, for the purpose of disposing of the fur animals taken on national wildlife refuges, and paid from receipts, such inspectors, assistant inspectors, fur handlers, and laborers as may be necessary in the discretion of the Director to supervise and inspect all trapping operations, and to skin, dry, stretch, pack, ship, and sell or otherwise dispose of all fur animal skins and carcasses. The compensation of inspectors, assistant inspectors, fur handlers, and laborers may be fixed on an hourly, daily, monthly, or annual basis at such rates as are determined under the usual departmental procedure to be consistent with the duties and responsibilities of the respective positions.

Dated: December 28, 1948.

J. A. KRUG,
*Secretary of the Interior.*

[F. R. Doc. 48-11472; Filed, Dec. 30, 1948; 8:55 a. m.]

ADDITION OF REGULATIONS

To conform to the structure of Title 50—Wildlife established by order dated November 30, 1948 (13 F. R. 7432), Parts 22 and 23 are added as follows:

PART 22—COOPERATIVE REFUGES

Sec.
22.1 Provisions applying.
22.2 State cooperation.

§ 22.1 *Provisions applying.* Within the limits of authorization by law and subject to prior rights that may apply, the provisions of Parts 18 and 21 of this subchapter shall govern the administration and management of the lands within cooperative refuges. (60 Stat. 1080; 16 U. S. C. 664)

§ 22.2 *State cooperation.* State cooperation may be enlisted in the regulation, management, and operation of Cooperative Refuges, the details of which shall be mutually agreed upon by the Director or Regional Director and the head of the State game department, and the State may promulgate such regulations as may be necessary for its participation in such regulation, management, and operation. In the event such State regulations are issued, compliance therewith shall be a requisite to lawful entry. (60 Stat. 1080; 16 U. S. C. 664)

PART 23—WILDLIFE MANAGEMENT AREAS

Sec.
23.1 State laws and regulations.
23.2 Federal provisions applying.

§ 23.1 *State laws and regulations.* Federal lands within wildlife management areas are managed and operated by the conservation departments of the States within which such areas are situated. In the administration by such State departments they may apply State laws and regulations. (Sec. 10, 45 Stat. 1224, sec. 401, 49 Stat. 383, 60 Stat. 1080; 16 U. S. C. 715i, s, 664; Reorg. Plan II of 1939, 4 F. R. 2731; Reorg. Plan III of 1940, 5 F. R. 2107)

§ 23.2 *Federal provisions applying.* In the absence of an applicable State law or regulation, or in the event an agreement for the management of a wildlife conservation area is cancelled or revoked, the provisions of Parts 18 and 21 of this subchapter shall apply. (Sec. 10, 45 Stat. 1224, sec. 401, 49 Stat. 383, 60 Stat. 1080; 16 U. S. C. 715i, s, 664; Reorg. Plan II of 1939, 4 F. R. 2731; Reorg. Plan III of 1940, 5 F. R. 2107)

Dated: December 28, 1948.

J. A. KRUG,
*Secretary of the Interior.*

[F. R. Doc. 48-11471; Filed, Dec. 30, 1948; 8:55 a. m.]

# PROPOSED RULE MAKING

## DEPARTMENT OF THE INTERIOR

### Office of Indian Affairs

### [25 CFR, Part 130]

COLORADO RIVER INDIAN IRRIGATION PROJECT, ARIZONA

OPERATION AND MAINTENANCE CHARGES

DECEMBER 24, 1948.

Pursuant to section 4 (a) of the Administrative Procedure Act of June 11, 1946, (60 Stat. 239), and the acts of Congress, approved August 1, 1914, (38 Stat. 583), and March 7, 1928, (45 Stat. 210, 25 U. S. C. 387, 1940 ed.), and by virtue of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs, September 14, 1946, (11 F. R. 10297), notice is hereby given of intention to amend §§ 130.6, 130.7a, and 130.8, of Title 25, CFR, effective for the irrigation season 1949, and thereafter until further notice as follows:

§ 130.6 *Charges.* Pursuant to the provisions of the acts of Congress approved August 1, 1914 and March 7, 1928 (38 Stat. 583, 45 Stat. 210; 25 U. S. C. 385, 387), the annual basic charge against the land to which water can be delivered under the Colorado River Indian irrigation project in Arizona, for the operation and maintenance of that project, is hereby fixed until further notice at $5.00 per acre per annum for the delivery of not to exceed four acre feet of water per acre per annum, except that when, with the approval of the Superintendent, certain alkali tracts are planted to rice with a view of reclaiming the lands, a quantity of water reasonably sufficient to carry away alkali salts may be furnished to any such tracts of land for not more than two successive years at a rate of $5.00 per acre per annum, *Provided however,* That the owners of the Indian lands that are not under lease to non-Indian lessees and whose lands are located within the boundaries of Townships 8 and 9 North, Ranges 20 and 21 West, S. & G. R. B. M., commonly known as the old portion of the project, shall be required to make only a partial cash payment of $2.50 per acre per annum until such time as in the opinion of the Superintendent these lands are subjugated to the standards now being followed in the development of new lands in other parts of the project. The remaining unpaid part of the $5.00 basic assessments in such cases shall stand as a first lien against the land until paid. The foregoing charges shall become effective for the irrigation season of 1949 and continue in effect thereafter until further notice.

§ 130.7a *Charges for stock water.* For stock water delivered through the project canal and lateral system to residents using reservation lands for stock purposes only, a charge of $2.00 shall be made for each filling of a stock water tank.

§ 130.8 *Time of payments.* The basic water charge fixed in § 130.6 shall become due on March 1 of each year and shall be payable on or before that date each year, except that in cases of Indians who have been in possession of lands under tribal permit or assignment less than six months on said date, the payment shall become due the first day of July following; except further that where Indian lands, upon which the annual assessment has not been paid for any particular year, are leased effective July 1 of such year to terminate June 30 of a subsequent calendar year, and containing provisions that the lessee shall pay the operation and maintenance assessments, only one-half of the assessment shall be collected from the lessee for the remainder of the calendar year during which the lease is made and shall be payable on or before the effective date of the lease. For the last six months of the term of such a lease one-half of the annual assessment shall be paid on or before March 1, preceding the expiration of the lease.

Interested persons are hereby given an opportunity to participate in preparing the proposed amendments by submitting their views and data or arguments in writing to the Commissioner of Indian Affairs, Department of the Interior, Washington 25, D. C., within 30 days from the date of the publication of this notice of intention in the daily issue of the FEDERAL REGISTER.

WILLIAM ZIMMERMAN, Jr.,
*Acting Commissioner.*

[F. R. Doc. 48-11426; Filed, Dec. 20, 1948; 8:46 a. m.]

# NOTICES

## DEPARTMENT OF THE TREASURY

### United States Coast Guard

[CGFR 48-70]

APPROVAL OF EQUIPMENT

By virtue of the authority vested in me, as Commandant, United States Coast Guard, by R. S. 4405, 4491, as amended; 46 U. S. C. 375, 489; and section 101 of Reorganization Plan No. 3 of 1946 (11 F. R. 7875), as well as the additional authorities cited with specific items below, the following approvals of equipment are prescribed and shall be effective for a period of five years from date of publication in the FEDERAL REGISTER unless sooner canceled or suspended by proper authority:

BUOYANT CUSHIONS, STANDARD

NOTE: Cushions are for use on motorboats of classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.007/75/0, Standard kapok buoyant cushion, U. S. C. G. Specification 160.007, manufactured by Hirsch-Weis Canvas Products Co., 3121 Northeast Sandy Boulevard, Portland 12, Oreg.

Approval No. 160.007/76/0, Standard kapok buoyant cushion, U. S. C. G. Specification 160.007, manufactured by Helendon Bedding, Inc., 730 West Lexington Street, Baltimore 1, Md.

(54 Stat. 164, 166; 46 U. S. C. 526e, 526p; 46 CFR 25.4-1, 28.4-8)

NOZZLES, WATER SPRAY (FIXED TYPE)

Approval No. 160.025/11/0, Model L-11 A, water spray nozzle, Dwg. No. S-120 dated April 18, 1941, rev. January 18, 1944, and Dwg. No. S-121 dated April 18, 1941, rev. November 3, 1943, manufactured by Rockwood Sprinkler Corp., Worcester, Mass.

(R. S. 4417a, 4426, 49 Stat. 1544, 54 Stat. 1028, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 404, 463a, 50 U. S. C. 1275; 46 CFR 34.3-11, 61.14)

LIFEBOATS

Approval No. 160.035/29/1, 28.0'x10.0' x4.0' steel, hand-propelled lifeboat, 67-person capacity, identified by Construction and Arrangement Dwgs. No. G-246-D dated May 1, 1946, and revised August 13, 1946, and No. G-410 dated May 28, 1948, and revised September 16, 1948, manufactured by C. C. Galbraith & Son, Inc., 99 Park Place, New York, N. Y. (Supersedes Approval No. 160.-035/29/0 published in the FEDERAL REGISTER July 31, 1947.)

(R. S. 4417a, 4426, 4481, 4488, 4492, 35 Stat. 428, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 396, 404, 474, 481, 490, 1333, 50 U. S. C. 1275; 46 CFR 37.1-1, 59.13, 76.16, 94.15, 113.10)

AUTOMATIC FLOATING ELECTRIC WATER LIGHTS

Approval No. 161.001/1/1, Light (water), electric, floating, automatic (with bracket for mounting), Dwg. No. 1000 dated July 16, 1948, Alt. 2, manufactured by Sea Light Engineering Co., P. O. Box 409, Silver Spring, Md. (Supersedes Approval No. 161.001/1/0 published in the FEDERAL REGISTER of October 2, 1948.)

(R. S. 4417a, 4426, 4488, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 404, 481, 1333, 50 U. S. C. 1275; 46 CFR 33.3-6, 33.3-8, 33.7-1, 37.9-1, 59.52, 59.54b, 59.56, 60.45, 60.47b, 60.49, 76.43, 76.43a, 76.43b, 76.53, 94.53, 113.46)

BOILERS, POWER

Approval No. 162.002/63/1, Titusville Fire Tube Boiler, Scotch Marine dry back type, welded construction, Dwgs. No. E–7487–B revised November 15, 1948, and No. E–7485–C revised November 26, 1948, approved for type design only, manufactured by The Titusville Iron Works Co., Division of Struthers-Wells Corp., 1938 Reed Street, Titusville, Pa. (Supersedes Approval No. 162.002/63/0 published in the FEDERAL REGISTER of July 31, 1947.)

(R. S. 4417a, 4418, 4433, 4434, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 392, 411, 412, 1333, 50 U. S. C. 1275; 46 CFR Part 52)

BOILERS, HEATING

Approval No. 162.003/76/0, Model No. 350A, cast iron hot water heating boiler, maximum working pressure 15 pounds per square inch, manufactured by Werner Foundry, Inc., Lansdale, Pa.

Approval No. 162.003/77/0, Model No. 16, cast iron hot water heating boiler, maximum working pressure 15 pounds per square inch, manufactured by Werner Foundry, Inc., Lansdale, Pa.

(R. S. 4417a, 4418, 4426, 4433, 4434, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 392, 404, 411, 412, 1333, 50 U. S. C. 1275; 46 CFR Part 52)

DECK COVERING

Approval No. 164.006/5/0, "CEL–O–CRETE," magnesite type deck covering identical to that described in National Bureau of Standards Test Report No. TG 3610–1232, FR 1806, dated October 30, 1940, approved for use without other insulating material as meeting Class A–60 requirements in a 1¾ inch thickness, manufactured by Johns-Manville Sales Corp., 1617 Pennsylvania Blvd., Philadelphia 3, Pa. (Supersedes and reinstates terminated approval of the same number published in the FEDERAL REGISTER of July 31, 1947.)

(R. S. 4417a, 4426, 49 Stat. 1384, 1544, 54 Stat. 346, 1028, and sec. 5 (e), 55 Stat. 244, as amended, 46 U. S. C. 367, 369, 391a, 404, 463a, 1333, 50 U. S. C. 1275; 46 CFR 146.006)

Dated: December 24, 1948.

[SEAL] J. F. FARLEY,
*Admiral, U. S. Coast Guard,*
*Commandant.*

[F. R. Doc. 48–11453; Filed, Dec. 30, 1948; 8:51 a. m.]

# DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

ALASKA

NOTICE FOR FILING OBJECTIONS TO PUBLIC LAND ORDER 540[1] WITHDRAWING PUBLIC LANDS IN AID OF CONTEMPLATED LEGISLATION

For a period of 60 days from the date of publication of the above entitled order, persons having cause to object to the terms thereof may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, whether or not a hearing is held, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

C. GIRARD DAVIDSON,
*Assistant Secretary of the Interior.*

DECEMBER 21, 1948.

[F. R. Doc. 48–11428; Filed, Dec. 30, 1948; 8:46 a. m.]

[1] See F. R. Doc. 48–11427, title 43, chapter I, appendix, *supra*.

# DEPARTMENT OF AGRICULTURE

## Office of the Secretary

DESIGNATION OF FOREST SERVICE AS AGENCY WITHIN DEPARTMENT OF AGRICULTURE TO ADMINISTER, PROTECT AND MANAGE CERTAIN LANDS IN PUERTO RICO

ADMINISTRATIVE ORDER

By virtue of and pursuant to the authority vested in me by Title III of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 (50 Stat. 522, 525), and Executive Order No. 7908, dated June 9, 1938, all lands in the Territory of Puerto Rico which have been transferred by Executive Order No. 10018 of November 15, 1948 (13 F. R. 6745), from the control and jurisdiction of the Secretary of the Interior to the control and jurisdiction of the Secretary of Agriculture, are hereby entrusted to the Forest Service of the Department of Agriculture for protection, administration and management, under the rules and regulations applicable to national forest lands insofar as consistent with the powers and authority vested in the Secretary of Agriculture by the aforesaid Executive order and Title III of the Bankhead-Jones Farm Tenant Act, until the future status of said lands is established by law or by Presidential Proclamation.

The rules and regulations providing for the protection, occupancy, use and administration of the national forests, as hitherto approved by the Secretary or Acting Secretary of Agriculture and now effective in relation to national forest land, are herewith adopted and promulgated as rules and regulations for the protection, occupancy, use and administration of the above described lands insofar as is practical and consistent with the acts of Congress under which said lands were or are being acquired.

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

DECEMBER 28, 1948.

[F. R. Doc. 48–11463; Filed, Dec. 30, 1948; 8:53 a. m.]

# DEPARTMENT OF COMMERCE

## Office of International Trade

[Case No. 39]

OCEANIC EXPRESS CO.

ORDER SUSPENDING LICENSE PRIVILEGES

This proceeding was instituted on October 1, 1948 by the transmission of a charging letter to the above named respondent, wherein the Office of International Trade charged respondent with having violated section 6 of the act of July 2, 1940 (54 Stat. 714), as amended, and the regulations promulgated thereunder, by filing certain applications, to which numbers 1181444, 1130180, 1141960 and 1137649 were assigned, for export licenses to make multiple shipments of certain gift parcels on behalf of specific donors in the United States to specific donees in Greece, which applications were false and fraudulent in that, contrary to the representations made therein by respondent, the lists of donors submitted as parts thereof were false and misleading in material respects, and were known to be so by respondent.

It appears that John Rentzeperis, the sole proprietor of respondent Oceanic Express Company, after receiving the above-mentioned charging letter and upon being confronted with the evidence available to the Office of International Trade in support of such charges, submitted to the Office of International Trade, with the advice of counsel and through such counsel, a statement to the effect that he is the sole proprietor of respondent Oceanic Express Company, that he does not desire to contest the charges made in said charging letter of October 1, 1948, that he waives all right to a hearing on such charges, and that he consents to the entry of an order revoking all outstanding export licenses issued to him or his company and denying to him and his company the right to obtain or use, or to participate directly or indirectly in obtaining or using export licenses, including general licenses, for a period of six months from the date of such order, and, further, that such order shall extend to any firm, corporation, or other business organization in which said John Rentzeperis or respondent shall have a controlling interest or with which said John Rentzeperis shall hold a position of responsibility.

It further appears that said statement submitted by John Rentzeperis together with the report of the investigation conducted and evidence secured in the matter by the Office of International Trade, have been submitted for review to the Compliance Commissioner for the Office of International Trade and that he has found that such evidence shows that a substantial number of the donors listed in the above-mentioned license applications were falsely listed, that respondent thus violated the provisions of section 6 of the act of July 2, 1940 (54 Stat. 714), as amended, and that the proposed suspension of license privileges for a period of six months is reasonable. The Compliance Commissioner has accordingly recommended that the consent of John Rentzeperis and his company to such sus-

pension of license privileges be approved and that such suspension be ordered.

The findings and recommendations of the Compliance Commissioner have been carefully considered, together with the investigation report, the evidence collected, and the record in this matter, and it appears that such findings are reasonable and that such recommendations should be adopted. Now, therefore, it is ordered, as follows:

(1) All unexpired export licenses issued to John Rentzeperis or respondent Oceanic Express Company are hereby revoked and shall be returned at once to the Office of International Trade for cancellation.

(2) John Rentzeperis and respondent Oceanic Express Company are hereby denied the privilege of obtaining or using or participating directly or indirectly in the obtaining or using of export licenses, including general licenses, for a period of six months from the date of this order.

(3) Such denial of export license privileges shall extend not only to said John Rentzeperis and said respondent Oceanic Express Company but also to any firm, corporation or other business organization in which either of said parties shall have a controlling interest or with which said John Rentzeperis shall hold a position of responsibility.

Dated: December 23, 1948.

JOHN W. EVANS,
*Director, Commodities Division.*

[F. R. Doc. 48-11424; Filed, Dec. 30, 1948; 8:46 a. m.]

## FEDERAL COMMUNICATIONS COMMISSION

AMENDMENT TO STATEMENT OF ORGANIZATION

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 15th day of December, 1948;

The Commission having under consideration the necessity of amending its Statement of Organization to reflect the closing of the engineering sub-office in Cleveland, Ohio; and

It appearing, that in view of the nature of the proposed amendment, publication of notice of proposed rule making pursuant to section 4 (a) of the Administrative Procedure Act is unnecessary; and

It further appearing, that authority for the proposed amendment is contained in section 4 (i) and 303 (r) of the Communications Act of 1934, as amended and section 3 (a) (1) of the Administrative Procedure Act;

*It is ordered*, That, effective Dec. 31, 1948, § 0.40 of the Commission's statement of organization be, and it is hereby, amended by deleting the words "Sub-office, 541 Federal Building, Cleveland 14, Ohio."

Released: December 17, 1948.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
*Secretary.*

[F. R. Doc. 48-11461; Filed, Dec. 30, 1948; 8:53 a. m.]

## FEDERAL POWER COMMISSION

[Docket No. E-6107]

ARIZONA EDISON CO., INC.

NOTICE OF ORDER FURTHER MODIFYING ORDER DETERMINING EMERGENCY AND GRANTING EXEMPTION FOR USE OF INTERCONNECTIONS

DECEMBER 27, 1948.

Notice is hereby given that, on December 21, 1948, the Federal Power Commission issued its order entered December 20, 1948, modifying order determining emergency and granting exemption for use of interconnections in the above-designated matter.

[SEAL] J. H. GUTRIDE,
*Acting Secretary.*

[F. R. Doc. 48-11434; Filed, Dec. 30, 1948; 8:48 a. m.]

[Docket No. E-6166]

PUBLIC UTILITY DISTRICT NO. 1 OF CLALLAM COUNTY, WASHINGTON

NOTICE OF FINDING OF COMMISSION

DECEMBER 27, 1948.

Notice is hereby given that, on December 21, 1948, the Federal Power Commission issued its finding entered December 20, 1948, in the above-designated matter, that the interests of interstate or foreign commerce will not be affected by the proposed construction of a hydroelectric project on Hoh River in Jefferson County, Washington.

[SEAL] J. H. GUTRIDE,
*Acting Secretary.*

[F. R. Doc. 48-11435; Filed, Dec. 30, 1948; 8:48 a. m.]

[Docket No. E-6181]

MONTANA-DAKOTA UTILITIES CO.

NOTICE OF ORDER AUTHORIZING ISSUANCE OF BONDS

DECEMBER 27, 1948.

Notice is hereby given that, on December 24, 1948, the Federal Power Commission issued its order entered December 24, 1948, authorizing issuance of bonds in the above-designated matter.

[SEAL] J. H. GUTRIDE,
*Acting Secretary.*

[F. R. Doc. 48-11436; Filed, Dec. 30, 1948; 8:48 a. m.]

[Docket No. G-462]

MISSISSIPPI RIVER FUEL CORP., ET AL.

NOTICE OF ORDER AMENDING AND MODIFYING, IN PART, ORDER REDUCING RATES

DECEMBER 27, 1948.

Notice is hereby given that, on December 23, 1948, the Federal Power Commission issued its order entered December 21, 1948, amending and modifying, in part, order reducing rates in the above-designated matter.

[SEAL] J. H. GUTRIDE,
*Acting Secretary.*

[F. R. Doc. 48-11437; Filed, Dec. 30, 1948; 8:48 a. m.]

[Docket No. G-1058]

PANHANDLE EASTERN PIPE LINE CO.

NOTICE OF ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

DECEMBER 27, 1948.

Notice is hereby given that, on December 21, 1948, the Federal Power Commission issued its order entered December 20, 1948, issuing certificate of public convenience and necessity in the above-designated matter.

[SEAL] J. H. GUTRIDE,
*Acting Secretary.*

[F. R. Doc. 48-11438; Filed, Dec. 30, 1948; 8:48 a. m.]

[Docket No. IT-6098]

PENNSYLVANIA POWER & LIGHT CO.

NOTICE OF ORDER AMENDING ORDER OF DECEMBER 26, 1947, AND DENYING APPLICATION FOR MODIFICATION

DECEMBER 27, 1948.

Notice is hereby given that, on December 23, 1948, the Federal Power Commission issued its order entered December 21, 1948, amending order of December 26, 1947 (13 F. R. 46) and denying application for modification in the above-designated matter.

[SEAL] J. H. GUTRIDE,
*Acting Secretary.*

[F. R. Doc. 48-11439; Filed, Dec. 30, 1948; 8:48 a. m.]

[Project No. 375]

IRA BOYD HUMPHREYS AND ALBERT E. HUMPHREYS

NOTICE OF ORDER DISMISSING APPLICATION FOR TRANSFER OF LICENSE AND AUTHORIZING ISSUANCE OF NEW LICENSE (MINOR)

DECEMBER 27, 1948.

Notice is hereby given that, on December 22, 1948, the Federal Power Commission issued its order entered December 20, 1948, dismissing application for transfer of license and authorizing issuance of new license (minor) in the above-designated matter.

[SEAL] J. H. GUTRIDE,
*Acting Secretary.*

[F. R. Doc. 48-11440; Filed, Dec. 30, 1948; 8:48 a. m.]

[Project No. 1938]

ERNEST W. SAWYER

NOTICE OF ORDER FURTHER EXTENDING TIME FOR COMPLETION OF CONSTRUCTION

DECEMBER 27, 1948.

Notice is hereby given that, on December 22, 1948, the Federal Power Commission issued its order entered December 20, 1948, extending time to December 3, 1949, for completion of construction in the above-designated matter.

[SEAL] J. H. GUTRIDE,
*Acting Secretary.*

[F. R. Doc. 48-11441; Filed Dec. 30, 1948; 8:49 a. m.]

## FEDERAL SECURITY AGENCY

ORGANIZATION AND DELEGATIONS OF FINAL AUTHORITY

Sections 1 to 7 and 20 to 23 (formerly designated as 45 CFR, Part 1) are hereby amended to read as follows:

Sec.
1. In general.
2. Office of Administration.
3. Office of General Counsel.
4. Office of Federal-State Relations.
5. Office of Inter-Agency and International Relations.
6. Office of Research.
7. Office of Publications and Reports.
8. Division of Field Services.
9. Regional Directors.
20. Public Health Service.
21. Social Security Administration.
22. Office of Education.
23. Office of Special Services.
24. Saint Elizabeths Hospital.

SECTION 1. *In general.* The Federal Security Agency is under the supervision and direction of the Federal Security Administrator. In the absence or disability of the Administrator, or in the event of a vacancy in that office the Assistant Federal Security Administrator acts as the Administrator. During the absence of both those officers, the Assistant Administrator for Program is authorized to exercise the powers of the Administrator with respect to all matters with which he can legally deal and to serve as Acting Administrator.

The Agency is composed of the Office of the Administrator, the following staff offices: Office of Administration, Office of the General Counsel, Office of Federal-State Relations, Office of Inter-Agency and International Relations, Office of Research, Office of Publications and Reports, Division of Field Services, Regional Directors, and the following constituent organizations and their components, to wit:

Public Health Service:
- Office of the Surgeon General.
- Bureau of Medical Services.
- Bureau of State Services.
- National Institutes of Health.

Social Security Administration:
- Bureau of Old-Age and Survivors Insurance.
- Bureau of Employment Security.
- Bureau of Public Assistance.
- Children's Bureau.
- Bureau of Federal Credit Unions.

Office of Education.

Office of Special Services:
- Bureau of Employees' Compensation.
- Employees' Compensation Appeals Board.
- Food and Drug Administration.
- Office of Vocational Rehabilitation.

Saint Elizabeths Hospital.

The Officers of the American Printing House for the Blind, Columbia Institution for the Deaf, and Howard University report to the Administrator in all matters relating to Federal administration.

SEC. 2. *Office of Administration.* The Office of Administration is under the supervision and direction of the Executive Assistant and is responsible for the administrative management activities of the Federal Security Agency. It formulates, prescribes and issues all necessary orders to coordinate the administrative management activities of the Agency. The Executive Assistant is authorized to make contracts for personal services, supplies and equipment. This Office is composed of the following divisions:

(a) *Division of Budget and Finance.* The Division of Budget and Finance is under the supervision and direction of the Budget Officer. It establishes standards and prescribes procedures for and supervises the preparation and justifications of budget estimates, exercises general direction over functions of the Federal Security Agency in connection with appropriations and fiscal matters, and maintains liaison with other Government establishments in matters relating to budgets, appropriations and finance. The Budget Officer is authorized to make contracts for personal services, supplies and equipment.

(b) *Division of Library Services.* The Division of Library Services is under the supervision of the Librarian and is responsible for the operation of all libraries maintained throughout the Federal Security Agency, the establishment of uniform methods of operation, and for representing the Agency with respect to library matters on all Government, inter-Agency and other library committees.

(c) *Division of Personnel Management.* The Division of Personnel Management is under the supervision and direction of the Director of Personnel. It is responsible for the development and establishment of standards and procedures to be followed in the conduct of personnel matters within the Federal Security Agency, for general direction, review and coordination of the Agency's functions in connection with personnel and for the conduct of the personnel operations of the Staff Offices of the Agency. It maintains liaison with other Government agencies or establishments in matters relating to personnel.

(d) *Division of Service Operations.* The Division of Service Operations is under the supervision and direction of the Director of Service Operations and is responsible for the review, coordination and general direction of the procurement, travel and other service operations of the Federal Security Agency, including the development and establishment of standards and procedures. It conducts the service operations of the Staff Offices of the Agency. The Division maintains liaison with other Government agencies and establishments in matters relating to service operations. The Director and Deputy Director of Service Operations are authorized to make contracts for personal services, supplies and equipment. The authority of the constituent organizations of the Agency to contract is set forth under their respective headings.

(e) *Division of Administrative Planning.* The Division of Administrative Planning is under the supervision and direction of the Director of Administrative Planning and is responsible for organization planning and for elimination of duplication, for simplification of method, and for standardization of procedure within the Federal Security Agency.

SEC. 3. *Office of the General Counsel.* The Office of the General Counsel is under the direction and control of the General Counsel. It renders legal advice to the Federal Security Administrator, to the Staff Offices, Regional Directors and constituent organizations of the Federal Security Agency and to the heads thereof, and is responsible for all legal activities of the Agency. It represents the Agency in litigation when direct representation is authorized by law and maintains liaison with other Government agencies and establishments in legal matters. The Office of the General Counsel is composed of a departmental staff located in Washington, D. C., and Baltimore, Maryland, and a regional staff under the direction of regional attorneys, whose offices are located in the respective Regional Headquarters of the Agency. (See section 9 for the location of the Regional Headquarters.)

SEC. 4. *Office of Federal-State Relations.* The Office of Federal-State Relations is under the supervision and direction of the Director of Federal-State Relations. The Office is responsible for developing and recommending to the Federal Security Administrator plans and procedures whereby the Administrator can best effectuate section 10 of Reorganization Plan No. 2 of 1946. The Office is composed of:

(a) *Division of State Merit System Services.* The Division of State Merit System Services is responsible for assisting State agencies administering grant-in-aid programs under the Federal Security Agency in attaining conformity with merit system requirements under Federal law and in achieving maximum economy and efficiency in the operation of personnel programs. It develops standards and gives to State agencies technical assistance in formulating merit system rules and regulations, in establishing merit system organizations, in developing and maintaining classification and compensation plans, in establishing and operating State-wide merit system examination programs, and in installing personnel procedures. It reviews operations of State merit systems from the standpoint of continuing compliance with the requirements of Federal law.

(b) *Division of State Grant-in-Aid Audit.* The Division of State Grant-in-Aid Audit collaborates with the program bureaus and offices in the development and interpretation of fiscal policies and standards relating to grants-in-aid made by the Federal Security Agency. It makes audits of grants made to State agencies or other organizations by the Agency, and reviews audit reports transmitted from the field to determine the technical adequacy and efficiency of the audits, submitting such reports to program operators, explaining or supporting findings in reports. It recommends changes in audit procedures and new policies, standards or revisions, is responsible for the management and supervision of the field audit staff, and advises regional and State officials on accounting, auditing and fiscal matters relating to grants-in-aid.

SEC. 5. *Office of Inter-Agency and International Relations.* The Office of Inter-Agency and International Relations is under the supervision and direction

of the Director of Inter-Agency and International Relations. It is responsible for the establishment and coordination of Federal Security Agency relationships with other Federal agencies, international agencies and organized groups concerned with health, education, welfare, social insurance and related programs. The Director formulates and integrates Agency policies, acts as liaison with representatives of foreign governments, advises Federal Security Administrator on opportunities for study and exchange of experience, information, interchange of students and personnel with foreign governments and the effect of policies and programs of governmental and other agencies upon those of the Agency.

SEC. 6. *Office of Research.* The Office of Research is under the supervision and direction of the Director of Research. It keeps the Assistant Administrator for Program informed on research activities of the Federal Security Agency and similar activities carried on by other Federal agencies, State and local agencies and other organizations making studies relating to health, social security, education, and other subjects of interest to the Agency. In addition the Office of Research studies research programs, prepares digests of research, reports on research in progress, cooperates with constituent organizations of the Agency in the development of plans for the coordination of efficient research activities, prevents duplication and obtains schedules and cost statements for completion of research projects from the constituent organizations of the Agency. Moreover it cooperates with the Office of Publications and Reports in reviewing for content and policy research projects prepared in the Agency for publication, makes recommendations on budget estimates for research activities of the Agency, reviews statistical forms, conducts special research as may be directed and utilizes facilities of the constituent organizations when required for cooperative research.

SEC. 7. *Office of Publications and Reports.* The Office of Publications and Reports is under the supervision and direction of the Director of Publications and Reports. It coordinates and exercises functional supervision over informational services and all other activities of the Federal Security Agency related to publications, public reports and informational matters, analyzes activities for conformance with Federal requirements for the gathering and dissemination of material for public information on health, education, social security, welfare, and other Agency programs, determines the extent to which dissemination of such information can be met with available funds and establishes methods of maintaining effective distribution systems. Furthermore it prescribes procedures for planning, production, clearance, release and distribution of materials, reports, publications, manuscripts, etc., and maintains liaison with other agencies and non-governmental groups in matters pertaining to public reporting functions of the Agency.

SEC. 8. *Division of Field Services.* The Division of Field Services is under the supervision and direction of the Director of Field Services. It is responsible to the Federal Security Administrator for the organization, integration and evaluation of all field activities of the Federal Security Agency.

SEC. 9. *Regional Directors.* The Federal Security Agency Regional Directors represent the Federal Security Administrator in their respective Regions. They are charged with the responsibility of carrying out Agency policies and of providing leadership, coordination, evaluation, and general administrative supervision of the activities of all representatives located in the Regional Offices. Field activities of the Agency which do not operate out of a Regional Office are subject to general review and consultation by the Regional Director particularly with reference to public and intergovernmental relations. The Agency maintains ten Regional Offices located as follows:

*Region, Regional Headquarters and States Covered*

I. Boston, Mass.: Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island.

II. New York, N. Y.: New York, Pennsylvania, New Jersey, Delaware.

III. Washington, D. C.: Maryland, District of Columbia, West Virginia, Virginia, North Carolina.

IV. Cleveland, Ohio: Michigan, Ohio, Kentucky.

V. Chicago, Ill.: Minnesota, Wisconsin, Illinois, Indiana.

VI. Atlanta, Ga.: Tennessee, Mississippi, Alabama, Florida, South Carolina, Georgia.

VII. Kansas City, Mo.: North Dakota, South Dakota, Nebraska, Kansas, Iowa, Missouri.

VIII. Dallas, Tex.: Louisiana, Arkansas, Texas, Oklahoma, New Mexico.

IX. Denver, Colo.: Montana, Idaho, Wyoming, Utah, Colorado.

X. San Francisco, Calif.: Washington, Oregon, California, Nevada, Arizona.

Offices are also maintained in Alaska and Hawaii.

SEC. 20. *Public Health Service.* The Public Health Service is administered by the Surgeon General of the Public Health Service under the supervision and direction of the Federal Security Administrator. The Service consists of the Office of the Surgeon General, National Institutes of Health, Bureau of Medical Services and Bureau of State Services. By Federal Security Agency order the Surgeon General supervises and directs the activities of Freedmen's Hospital. Descriptions of the organization and functions of the Public Health Service and of Freedmen's Hospital are set forth under the headings of the Public Health Service and Freedmen's Hospital, respectively.

SEC. 21. *Social Security Administration.* The Social Security Administration is under the supervision and direction of the Commissioner for Social Security. The Deputy Commissioner assists the Commissioner in the performance of all his duties and acts for him in his absence. The Commissioner for Social Security makes and publishes rules and regulations necessary for the efficient administration of the functions which have been delegated to him by the Administrator. He is also responsible for making studies and recommendations as to the most effective methods of providing economic security through social insurance. The Administration includes the Office of the Commissioner, the Appeals Council, and five operating bureaus, namely, Bureau of Old-Age and Survivors Insurance, Bureau of Employment Security including the U. S. Employment Service, Bureau of Public Assistance, Children's Bureau, and Bureau of Federal Credit Unions. A description of the organization of these operating bureaus and functions of the Commissioner for Social Security in relation thereto and to the Appeals Council is set forth under their respective headings.

SEC. 22. *Office of Education.* The Office of Education is managed by the Commissioner of Education under the supervision and direction of the Federal Security Administrator. A description of the organization and functions of the Office of Education is set forth under the heading Office of Education.

SEC. 23. *Office of Special Services.* The Office of Special Services is under the supervision and direction of the Commissioner for Special Services who is responsible to the Federal Security Administrator for the proper and efficient discharge of all the duties, powers and functions assigned to or exercised by the Bureau of Employees' Compensation, Employees' Compensation Appeals Board, Food and Drug Administration, and Office of Vocational Rehabilitation. In addition to supervision and direction the Commissioner is responsible for preparing regulations and standards required in connection with the operation of the constituents listed for the Federal Security Administrator's approval. Description of the organization and functions of these constituents are set forth under their respective headings.

SEC. 24. *Saint Elizabeths Hospital.* Saint Elizabeths Hospital, Washington, D. C., is a constituent organization of the Federal Security Agency operating under the general supervision of the Superintendent of Saint Elizabeths Hospital, who is responsible to the Federal Security Administrator for the proper discharge of all duties and functions of the Hospital. A description of the organization and functions of Saint Elizabeths Hospital is set forth under the heading Saint Elizabeths Hospital.

[SEAL] OSCAR R. EWING,
*Administrator.*

DECEMBER 22, 1948.

[F. R. Doc. 48-11483; Filed, Dec. 30, 1948; 8:56 a. m.]

## SECURITIES AND EXCHANGE COMMISSION

[File Nos. 70-2015, 70-2016]

JERSEY CENTRAL POWER & LIGHT CO. AND GENERAL PUBLIC UTILITIES CORP.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 23d day of December 1948.

Notice is hereby given that General Public Utilities Corporation ("GPU"), a registered holding company, has filed a declaration, and its subsidiary, Jersey Central Power & Light Company ("Jersey Central"), has filed an application-declaration, as amended, with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("act"). Applicants-declarants have designated sections 6 (b) and 12 (b) of the act and Rules U-45 and U-50 promulgated thereunder as applicable to the proposed transactions.

Notice is further given that any interested person may, not later than January 10, 1949, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest, and the issues of fact or law raised by said filings which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after January 10, 1949, said application-declaration, as amended, and declaration, as filed or as further amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof.

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

GPU will make a cash capital contribution to Jersey Central of $1,000,000. Jersey Central will credit the $1,000,000 to capital surplus and employ such funds for construction of facilities subsequent to October 31, 1948.

Jersey Central will issue and sell, pursuant to the competitive bidding requirements of Rule U-50, $3,500,000 principal amount of First Mortgage Bonds, ------% Series, due December 1, 1978. The proceeds of the sale of the bonds, other than premium, if any, and accrued interest, will be deposited with the indenture trustee and withdrawn from time to time against the net bondable value of property additions as permitted by the terms of the existing indenture.

As soon as practicable after the completion of the financing, Jersey Central will increase the par value of the 1,053,770 outstanding shares of its common stock from $1 per share to $10 per share by the transfer to its common stock account of $9,483,930 from its capital surplus account.

Applicants-declarants state that the issue and sale by Jersey Central of the $3,500,000 principal amount of First Mortgage Bonds and the increase in the par value of its shares of common stock are subject to the jurisdiction of the Board of Public Utility Commissioners of the State of New Jersey and that a copy of the order of that board will be filed as an amendment.

Applicants-declarants request that this Commission enter its order at the earliest date practicable.

By the Commission.

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

[F. R. Doc. 48-11442; Filed, Dec. 30, 1948; 8:49 a. m.]

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[File No. 70-2017]

KINGS COUNTY LIGHTING CO.

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 23d day of December 1948.

Kings County Lighting Company, a subsidiary of Long Island Lighting Company, a registered holding company, having filed a declaration, as amended, pursuant to sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("act"), with respect to the following transaction.

Declarant proposes to issue and sell for cash at principal amount to a commercial bank an unsecured note in the principal amount of $500,000 which will bear interest at the rate of 2¾% per annum and will mature June 1, 1949. The proceeds of the sale of the note are to be used for the company's construction requirements.

Such declaration, as amended, having been duly filed, and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act, and the Commission not having received a request for hearing with respect to said declaration, as amended, within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding that no adverse findings are necessary with respect to the declaration, as amended, and deeming it appropriate in the public interest and in the interest of investors and consumers that said declaration, as amended, be permitted to become effective, and deeming it appropriate to grant the request of declarant that the order become effective at the earliest date possible:

*It is hereby ordered,* Pursuant to Rule U-23 and the applicable provisions of the act and subject to the terms and conditions prescribed in Rule U-24, that the declaration, as amended, be, and the same hereby is permitted to become effective forthwith.

By the Commission.

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

[F. R. Doc. 48-11443; Filed, Dec. 30, 1948; 8:49 a. m.]

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[File Nos. 59-11, 59-17, 54-25]

THE UNITED LIGHT AND RAILWAYS CO. ET AL.

ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 24th day of December A. D. 1948.

In the matter of the United Light and Railways Company, American Light & Traction Company, et al.; File Nos. 59-11, 59-17, and 54-25.

American Light & Traction Company ("American Light"), a registered holding company, having filed an application-declaration and amendments thereto, pursuant to the Public Utility Holding Company Act of 1935 ("act") proposing an accounting reorganization with respect to the following transactions:

By order dated December 30, 1947, the Commission approved a plan filed by American Light and its parent, The United Light and Railways Company, pursuant to section 11 (e) of the act which plan provided, among other things, for the disposition by American Light during the year 1948 through sales and dividend distributions of all of its holdings of common stock of The Detroit Edison Company, an offer by American Light to purchase at $33 per share plus accrued dividends its outstanding preferred stock, and the distribution in kind by American Light to its stockholders of the common stock of Madison Gas and Electric Company, and the Commission in said order of December 30, 1947, reserved jurisdiction, among other things, with respect to all accounting entries in connection with the plan, the consummation thereof, and the transactions incident thereto. Consummation of such transactions would require substantial charges to earned surplus account and would result in an earned surplus deficit.

In order to make provision for such charges American Light proposes to establish reserves as at January 2, 1948, by charges to earned surplus, in an aggregate amount sufficient to provide for all charges required to be made in connection with the plan including a provision for contingencies. The proposed reserves will aggregate $35,053,940 and will be for the following purposes and in the following amounts:

| | |
|---|---|
| Dividends declared on common stock during 1948 | $3,362,664 |
| Dividends declared on preferred stock during 1948 | 603,365 |
| Losses on sales of common stock of The Detroit Edison Co. | 22,824,572 |
| Excess of purchase price of preferred stock retired over par value thereof plus accrued dividends | 4,368,806 |
| Distribution of the common stock of Madison Gas & Electric Co. | 3,144,533 |
| Contingencies, including fees and expenses in connection with the consummation of the plan | 750,000 |
| | 35,053,940 |

As part of the accounting reorganization American Light also proposes to create by a charge to earned surplus as of January 2, 1948, a reserve in the amount of $4,520,394 equal to the net difference between the carrying value (cost) of its investments in subsidiaries (other than Madison Gas and Electric Company which was disposed of on December 8, 1948) and the underlying book value of such investments as at January 2, 1948. It is also proposed that this reserve shall be subject to adjustment from

time to time by charges or credits to paid-in surplus to reflect adjustments in the underlying book value of investments in subsidiaries resulting from adjustments in the accounts of such subsidiaries for items which were inherent therein at January 2, 1948. American Light has agreed to give the Commission fifteen days prior written notice of any such adjustments.

The establishment of the above reserves will exhaust the entire earned surplus of American Light existing at December 31, 1947 in the amount of $21,630,812 and will result in an earned surplus deficit of $17,943,522 which American Light proposes to eliminate by transfer to paid-in surplus account. Paid-in surplus in the amount of $18,621,001 will be reduced to $677,479 as at January 2, 1948. Upon completion of all transactions contemplated by the plan, any balances in the reserves for transactions contemplated by the plan will be transferred to paid-in surplus account. It is also proposed that the earned surplus of the subsidiaries of American Light at January 2, 1948 be transferred to the paid-in surplus account in consolidated statements.

Said application-declaration having been filed on November 15, 1948, and an amendment thereto having been filed on December 20, 1948 and notice of the filing of said application-declaration having been given in the manner prescribed in Rule U-23 and the Commission not having received a request for a hearing with respect to said application-declaration within the period specified, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to the application-declaration, as amended, that the accounting entries proposed to be made in connection with the accounting reorganization conform to sound accounting practices and to the requirements of the Uniform System of Accounts for Public Utility Holding Companies promulgated under the act and that the requirements of the applicable provisions of the act and the rules promulgated thereunder are satisfied, and observing no basis for making adverse findings thereunder, and deeming it appropriate in the public interest and in the interest of investors and consumers that said application-declaration be granted and permitted to become effective and further deeming it appropriate to grant the request for acceleration of the entry and the effective date of the Commission's order:

*It is hereby ordered*, Subject to the terms and conditions prescribed in Rule U-24 and pursuant to provisions of Rule U-23 and the applicable provisions of the act, that the application-declaration, as amended, be, and the same hereby is, approved and permitted to become effective forthwith.

*It is further ordered*, That the juridition reserved in our order of December 30, 1947, over accounting entries be, and the same hereby is, continued.

By the Commission.

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

[F. R. Doc. 48-11444; Filed, Dec. 30, 1948; 8:49 a. m.]

[File No. 54-173]

## PHILADELPHIA CO. AND STANDARD GAS AND ELECTRIC CO.

### NOTICE OF FILING OF PLAN AND NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 23d day of December 1948.

Notice is hereby given that an application has been filed by Standard Gas and Electric Company ("Standard"), a registered holding company and a subsidiary of Standard Power and Light Corporation, also a registered holding company, pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935 ("act"), seeking approval of a plan for simplification of the capital structure of Philadelphia Company ("Philadelphia"), a registered holding company and a subsidiary of Standard. All interested parties are referred to said plan, which is on file in the office of the Commission, for a description of the transactions therein proposed which are hereinafter summarized.

Philadelphia's outstanding securities as of September 30, 1948, were as follows:

| | *Principal amount, par value or stated value* |
|---|---|
| 4¼% collateral trust sinking fund bonds, due July 1, 1961 ("bonds") | $33,861,000 |
| 2⅝% collateral trust serial notes, due serially to July 1, 1951 ("serial notes") | 3,600,000 |
| Preferred five percent stock (non-cumulative — $10 par value—1,580 shares) ("5% preferred stock") | 15,800 |
| Six percent cumulative preferred stock (par value $50—491,140 shares) ("6% preferred stock") | 24,557,000 |
| $6 cumulative preference stock (without par value—100,000 shares) ("$6 preference stock") | 10,000,000 |
| $5 cumulative preference stock (without par value—53,868 shares) ("$5 preference stock") | 5,386,800 |
| Common stock (without par value), 5,190,652 full shares plus 200 11/12 shares of scrip outstanding (excluding treasury stock), stated on Philadelphia's books at | 37,633,684 |

The bonds are presently redeemable at 103⅞% of the principal amount thereof plus accrued interest to the date of redemption, and the Serial Notes are redeemable as to $1,200,000 principal amount thereof at 100⅛% of their principal amount, and as to the remaining $2,400,000 principal amount, at their principal amount, in both cases plus accrued interest.

The 5% preferred stock has first preference as to current dividends, but on liquidation is entitled to participate only after the holders of other series of preferred and preference stocks have received their liquidation preferences. The 6% preferred stock is junior to the 5% preferred stock as to dividends, but on liquidation is entitled to $50 per share plus accrued dividends in preference to the 5% preferred stock and the $6 and $5 preference stocks. The $6 and $5 preference stocks have equal preference as to dividends, ahead of the common stock but junior to the 5% and 6% preferred stocks, and on liquidation are equally entitled to $100 per share plus accrued dividends after the 6% preferred stock but before the 5% preferred stock and common stock. Both the 5% and 6% preferred stocks are non-callable. The $6 and $5 preference stocks are callable at $110 per share plus accrued dividends.

In addition to its own securities, Philadelphia has guaranteed various obligations of its subsidiary, Pittsburgh Railways Company, and the latter's underlier companies. Philadelphia also has guaranteed the payment of cumulative dividends to the extent of 4% per annum on the 6% cumulative preferred stock of The Consolidated Gas Company of the City of Pittsburgh ("consolidated preferred stock"), an inactive company, which ceased to do business in 1919 and has no assets or income, and of which Philadelphia owns securities representing 71% of the voting power. There is outstanding $1,729,800 aggregate par value of such stock, represented by 34,596 shares of the par value of $50 per share (excluding 5,404 shares owned by Philadelphia). Such stock is not redeemable. Philadelphia has treated its guaranty of dividends on the Consolidated preferred stock as a continuing obligation to pay annually 4% of the par value thereof.

Incidental and prior to consummation of the plan, Standard proposes to cause Philadelphia's public utility subsidiary, Duquesne Light Company ("Duquesne") to file a declaration under section 7 of the act so as to reclassify its presently outstanding 2,152,828 shares of no-par value common stock, all of which is owned by Philadelphia, into 1,985,595 shares of $1 dividend preference common stock ("preference common stock") and 5,190,853 shares of new common stock, both without par value, which will have the same aggregate stated value as the presently outstanding common stock. Duquesne will issue all such preference common stock and new common stock to Philadelphia in exchange for Duquesne's presently outstanding common stock.

The preference common stock will be subject to the prior rights of Duquesne's 5% cumulative first preferred stock and will have preference over its common stock as to, and be limited to, cumulative dividends of $1 per share per annum. The preference common stock will be convertible at the option of the holder into 1.2 shares of new Duquesne common stock during the first three years after the effective date of the plan, 1.1 shares of such common stock during the next three years, and 1 share of such common stock during the following three years, after which nine-year period the conversion privilege will terminate. After termination of the conversion privilege the preference common stock will be redeemable, in whole or in part, at the option of Duquesne, at $23 per share plus accrued and unpaid dividends. The preference common stock will have equal voting rights with the new common stock. Upon liquidation the preference common stock will have a preference as

to any accrued and unpaid dividends and after such payment will participate on a share for share basis with the new common stock in the remaining assets.

The plan contemplates the redemption by Philadelphia of its outstanding bonds and serial notes. Philadelphia will borrow from banks or other institutions an amount sufficient, with such other funds of Philadelphia as may be then available for the purpose, to pay principal and redemption premium on such securities. The exact amount of such loans, if any, their maturity and interest rate and the institutions from which the same are to be obtained, will be determined later and will be the subject of future application to the Commission under the applicable sections of the act.

After exchanging its present holdings of Duquesne common stock and procuring the necessary funds as above described, Philadelphia will:

(1) Redeem, at their respective call prices, all of its outstanding bonds and serial notes;

(2) Retire its $10 par value 5% preferred stock by delivery in exchange therefor of the sum of $11 per share in cash, plus cash in an amount equal to dividends accrued and unpaid on such stock to the effective date of the plan;

(3) Retire its 6% preferred stock and $5 and $6 preference stocks by delivery in exchange therefor of shares of Duquesne preference common stock at the respective ratios of 2.5 shares of preference common stock for each share of 6% preferred stock, 4.8 shares for each share of $6 preference stock, and 4.0 shares for each share of $5 preference stock, plus, in each case, cash in an amount equal to dividends accrued and unpaid to the effective date of the plan on the stock to be retired, and plus also, in the case of the $5 preference stock, cash in the amount of $8 per share; and

(4) Retire the 34,596 shares of publicly held Consolidated preferred stock by delivery in exchange therefor of 1.8 shares of Duquesne preference common stock for each share of Consolidated preferred stock plus cash in an amount equal to the guaranteed dividends accrued and unpaid by Philadelphia, to the effective date of the plan.

Scrip will be issued in lieu of fractional shares of preference common stock but the holders thereof will not be entitled to any rights as stockholders of Duquesne. Such scrip may be sold or combined with additional scrip and exchanged for full shares of preference common stock.

On the effective date of the plan, Philadelphia will deposit, with an agent, the preference common stock and cash necessary to make the above described exchanges. After five years from the date of deposit no more exchanges will be permitted and all of the rights of the holders of securities to be exchanged as above described will cease. Any preference common stock or cash remaining with the agent will be turned over to Duquesne.

Philadelphia will pay such fees and expenses in connection with the plan or proceedings in respect thereto as the Commission may award, allow or allocate, other than certain fees and expenses in connection with the issuance of the preference common stock, which shall be paid by Duquesne.

Consummation of the plan is subject to certain conditions among which are the obtaining of all necessary approvals from regulatory agencies having jurisdiction, the securing of satisfactory tax rulings, and the entry by an appropriate court of a decree or order to enforce and carry out the terms of the plan.

The Commission being required by the provisions of section 11 (e) of the act, before approving any plan submitted thereunder, to find after notice and opportunity for hearing that the plan, as submitted or as modified, is necessary to effectuate the provisions of subsection (b) of section 11, and is fair and equitable to the persons affected thereby; and it appearing appropriate that notice be given and a hearing held with respect to said plan, and that said plan shall not become effective except pursuant to further order of the Commission:

*It is ordered*, That a hearing on said plan be held on the 15th day of February, 1949, at 10:00 a. m., e. s. t., in the offices of the Securities and Exchange Commission, 425 Second Street NW., Washington, D. C. On such date the hearing room clerk in Room 101 will designate the room in which such hearing will be held.

*It is further ordered*, That Harold B. Teegarden, or any other officer or officers of this Commission designated by it for that purpose, shall preside at such hearing. The officer so designated to preside at such hearing is hereby authorized to exercise all power granted to the Commission under section 18 (c) of the act and to a hearing officer under the Commission's rules of practice.

*It is further ordered*, That any person desiring to be heard in connection with these proceedings or proposing to intervene herein shall file with the Secretary of the Commission, on or before February 8, 1949, his request or application therefor as provided by Rule XVII of the Commission's rules of practice.

The Division of Public Utilities of the Commission having advised the Commission that it has made a preliminary examination of the plan and that, upon the basis thereof, the following matters and questions are presented for consideration without prejudice to its specifying additional matters and questions upon further examination:

(1) Whether the plan, as submitted or as hereafter amended, is necessary to effectuate the provisions of section 11 (b) of the act;

(2) Whether the plan as submitted or as hereafter modified is fair and equitable to the holders of the outstanding securities of Philadelphia and to all other persons whose interests in or whose claims against Philadelphia Company by reason of holdings of securities or otherwise may be affected thereby;

(3) Whether the incurring of bank loans by Philadelphia is necessary to effectuate the provisions of section 11 (b) of the act, and whether such loans would meet the applicable standards of the act including section 7 thereof;

(4) Whether the proposed issuance by Duquesne of Preference Common Stock would meet the applicable standards of the act including the standards of section 11 and section 7 thereof;

(5) Whether the fees, expenses and other remuneration which may be claimed in connection with the plan and transactions incident thereto are for necessary services and are reasonable in amount, and whether the proposed allocation thereof is appropriate;

(6) Whether the accounting treatment to be accorded the proposed transactions is proper and in conformity with sound accounting principles and the Commission's Uniform System of Accounts for Public Utility Holding Companies;

(7) Whether and to what extent the plan and amendments thereto, if any, should be modified, or terms and conditions imposed, to ensure adequate protection of the public interest and the interests of investors and consumers and to prevent circumvention of the act and the rules and regulations promulgated thereunder;

*It is further ordered*, That particular attention be directed at said hearing to the foregoing matters and questions.

*It is further ordered*, That the Secretary of the Commission shall serve a copy of this notice and order by registered mail on Standard Power and Light Corporation, Standard Gas and Electric Company, Philadelphia Company, Duquesne Light Company, The Consolidated Gas Company of the City of Pittsburgh, Pittsburgh Railways Company, Mount Oliver Incline Railway Company, The South Side Passenger Railroad Company, The Suburban Rapid Transit Street Railway Company, Monongahela Street Railway Company, Pittsburgh and Birmingham Passenger Railroad Company, Pittsburgh and Birmingham Traction Company, Pittsburgh Incline Plane Company, Guaranty Trust Company of New York, The Pennsylvania Public Utility Commission, The Federal Power Commission, and the City of Pittsburgh, Pennsylvania, and that notice of said hearing shall be given to all other persons by general release of this Commission which shall be distributed to the press and mailed to persons on the mailing list for releases under the act, and that further notice shall be given to all persons by publication of this notice and order in the FEDERAL REGISTER.

*It is further ordered*, That Standard Gas and Electric Company shall give further notice of this hearing to the holders of the preferred and common stocks of Philadelphia Company and to the holders of the Preferred Stock of The Consolidated Gas Company of the City of Pittsburgh (insofar as to identity of such security holders is known or available), by mailing to each of said persons a copy of this notice and order for hearing, to his last known address, at least 15 days prior to the date of this hearing.

By the Commission.

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

[F. R. Doc. 48-11445; Filed, Dec. 30, 1948; 8:49 a. m.]

[File No. 70-2013]

MISSOURI POWER & LIGHT CO. AND GASCONADE POWER CO.

ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 23d day of December 1948.

Missouri Power & Light Company ("Missouri"), a subsidiary of North American Light & Power Company, a registered holding company, and Missouri's subsidiary, Gasconade Power Company ("Gasconade"), have filed a joint application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("act"), particularly sections 9, 10 and 12 thereof and Rules U-20, U-23, U-42 and U-45 promulgated thereunder, with respect to the following proposed transactions:

Missouri, pursuant to authority from this Commission (Holding Company Act Release No. 8486) and from the Public Service Commission of the State of Missouri, acquired from Central States Edison, Inc., on October 1, 1948, all of the outstanding capital stock (954 shares of common capital stock) of Gasconade and obligations of Gasconade to Central States Edison, Inc., in the aggregate amount of $542,639.36, in contemplation of the acquisition of the physical properties and assets and the dissolution of Gasconade. Since the acquisition by Missouri of said capital stock and obligations of Gasconade, Missouri has loaned $50,000 to Gasconade for financing the current construction program of that company, making the total indebtedness of Gasconade to Missouri $592,639.36 plus such interest as has accrued thereon.

The applicants-declarants propose that Missouri cancel all of said indebtedness of Gasconade and discharge it from such obligations, including such interest thereon as has accrued, as a capital contribution to Gasconade and that, thereupon, Gasconade be voluntarily dissolved and liquidated under the laws of the State of Missouri, the State of its incorporation, and its assets, after the payment of current liabilities, be distributed in kind to Missouri as the sole stockholder of Gasconade.

The Public Service Commission of the State of Missouri has issued an order authorizing the transactions proposed by applicants-declarants. By the terms of said order, however, the authority to consummate the proposed transactions expires if not exercised by December 31, 1948.

Said application-declaration having been duly filed and notice of said filing having been duly given in the form and manner prescribed by Rule U-23, and the Commission not having received a request for hearing with respect to said application-declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said application-declaration that the requirements of the applicable provisions of the act and the rules promulgated thereunder are satisfied and that it is not necessary to impose any terms or conditions, and the Commission deeming it appropriate in the public interest and in the interest of investors and consumers that said application-declaration be granted and permitted to become effective forthwith:

*It is hereby ordered*, pursuant to Rule U-23 and the applicable provisions of the act, and subject to the terms and conditions prescribed by Rule U-24, that the application-declaration be, and the same hereby is, granted and permitted to become effective forthwith.

By the Commission.

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

[F. R. Doc. 48-11446; Filed, Dec. 30, 1948; 8:50 a. m.]

PART II

# FEDERAL REGISTER

VOLUME 13 NUMBER 255

Washington, Friday, December 31, 1948

## TITLE 3—THE PRESIDENT

### EXECUTIVE ORDER 10024

RESTORATION OF LANDS TO LOCATION AND ENTRY UNDER THE MINING LAWS OF THE UNITED STATES

CALIFORNIA

By virtue of the authority vested in me by section 2 of the act of May 29, 1928, 45 Stat. 958, and upon the recommendation of the Secretary of Agriculture and the Secretary of the Interior, it is ordered as follows:

Subject to valid existing rights and to the provisions of existing withdrawals, the following-described land is hereby opened to location and entry under the mining laws of the United States:

SAN BERNARDINO MERIDIAN

T. 4 N., R. 14 W.,
Sec. 15, N½

The area described contains 320 acres.

This order shall not become effective to change the status of the land until 10:00 a. m. on the thirty-fifth day after the date of this order, at which time the land shall, subject to the provisions of this order, become subject to disposal under the mining laws of the United States.

HARRY S. TRUMAN

THE WHITE HOUSE,
*December 30, 1948.*

[F. R. Doc. 48-11548; Filed, Dec. 30, 1948; 3:23 p. m.]

### EXECUTIVE ORDER 10025

DESIGNATING PUBLIC INTERNATIONAL ORGANIZATIONS ENTITLED TO ENJOY CERTAIN PRIVILEGES, EXEMPTIONS, AND IMMUNITIES

By virtue of the authority vested in me by section 1 of the International Organizations Immunities Act, approved December 29, 1945 (59 Stat. 669), and having found that the United States participates in the following-named international organizations pursuant to a treaty or under the authority of an act of Congress authorizing such participation or making an appropriation therefor, I hereby designate such organizations as public international organizations entitled to enjoy the privileges, exemptions, and immunities conferred by the said International Organizations Immunities Act:

World Health Organization
Caribbean Commission

The designation of the above-named organizations as public international organizations within the meaning of the said International Organizations Immunities Act is not intended to abridge in any respect privileges, exemptions, and immunities which such organizations may have acquired or may acquire by treaty or Congressional action.

This order supplements Executive Orders 9698 of February 19, 1946, 9751 of July 11, 1946, 9823 of January 24, 1947, 9863 of May 31, 1947, 9887 of August 22, 1947, 9911 of December 19, 1947, and 9972 of June 25, 1948.

HARRY S. TRUMAN

THE WHITE HOUSE,
*December 30, 1948.*

[F. R. Doc. 48-11549; Filed, Dec. 30, 1948; 3:23 p. m.]

*This issue is divided into two parts with separate tables of contents and codification guides. Part I consists of documents submitted in regular course for publication on December 31. Part II consists of documents on which a waiver of time requirements was made in order to permit inclusion in the Code of Federal Regulations, 1949 Edition.*

## TITLE 5—ADMINISTRATIVE PERSONNEL

### Chapter II—The Loyalty Review Board

REVISION OF CHAPTER

Chapter II is revised and amended to read as follows:

Part
200 Statement of the Loyalty Review Board.
210 The operations of the Loyalty Review Board.
220 Directives to the departments and agencies; cases of incumbent and excepted employees and excepted applicants.

(Continued on p. 9364)

## CONTENTS

### THE PRESIDENT



### EXECUTIVE AGENCIES

## CONTENTS—Continued



## CODIFICATION GUIDE

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

## CODIFICATION GUIDE—Con.

## CODIFICATION GUIDE—Con.



Part
230 Directives to the regional loyalty boards; cases of applicants and appointees in the competitive service.

### PART 200—STATEMENT OF THE LOYALTY REVIEW BOARD

§ 200.1 *General statement governing the Loyalty Review Board, loyalty boards of the departments and agencies, and regional loyalty boards of the Civil Service Commission.* The President and the Congress deem it possible that there are present in the service of our Government, employees who are disloyal to the country. The President has, therefore, under Congressional authority, directed that a searching investigation be made to ascertain the facts, and has directed the appointment of a Loyalty Review Board to supervise all inquiries into the loyalty of Government employees, and applicants for employment.

The President accordingly issued Executive Order 9835 to assure: (a) "that persons employed in the Federal service be of complete and unswerving loyalty to the United States"; (b) that the United States afford "maximum protection against infiltration of disloyal persons into the ranks of its employees"; and, at the same time that (c) there be given equal protection to the loyal employees of the United States "from unfounded accusations of disloyalty."

Advocacy of whatever change in the form of government or the economic system of the United States, or both, however far-reaching such change may be, is not disloyalty, unless that advocacy is coupled with the advocacy or approval, either singly or in concert with others, of the use of unconstitutional means to effect such change.

In a statement to the press, the President of the United States, on November 14, 1947, said with reference to membership in one or more of the organizations then still to be designated by the Attorney General as totalitarian, fascist, communist or subversive:

> Membership in an organization is simply one piece of evidence which may or may not be helpful in arriving at a conclusion as to the action which is to be taken in a particular case.

The Attorney General expressed a similar view in the letter of December 4, 1947 to the Loyalty Review Board in which he so designated certain organizations.

The probative value of evidence of past or present membership in, affiliation with or sympathetic association with, any one or more of the organizations so designated by the Attorney General can be fairly evaluated only after determining, so far as possible, the character of the organization, the period, nature and duration of the association, whether the employee or applicant was aware of the subversive character of the organization at the time of such association, and the nature of his activities in connection with such organization.

The welfare of the civil service, upon the wisdom, imagination and morale of which the security of the United States is dependent, requires that all employees and all who may aspire to become employees of the Government should not only be, but feel, free to join, affiliate or associate with, support or oppose any organization, liberal or conservative, which is not disloyal.

Persons holding beliefs calling for a change in our form of government through the use of force or other unconstitutional means, who indicate these beliefs by association or conduct, and persons who demonstrate that their allegiance is primarily to some foreign power or influence, and that they desire to overthrow our Government, have no constitutional or moral right to remain in, or enter upon the service of our Nation, which must, now as always, rely for its security upon the loyalty of its civil servants.

No person has an inherent or constitutional right to public employment; public employment is a privilege, not a right.

PART 210—THE OPERATIONS OF THE LOYALTY REVIEW BOARD



AUTHORITY: §§ 210.1 to 210.15 issued under E. O. 9835, Mar. 21, 1947, 12 F. R. 1935, 3 CFR 1947 Supp.

§ 210.1 *The Loyalty Review Board.* This Board shall be known as the Loyalty Review Board, and any reference to "the Board" herein shall mean such Loyalty Review Board.

§ 210.2 *Membership.* The Board shall be made up of members thereof who have heretofore been duly appointed, together with such additional members as the U. S. Civil Service Commission may from time to time select and appoint.

§ 210.3 *Officers.* The officers of this Board shall consist of a chairman, two vice-chairmen, and an executive secretary.

§ 210.4 *Duties of officers*—(a) *The chairman.* The chairman shall perform all of the duties usually pertaining to the office of chairman, including presiding at board meetings, supervising the administrative work of the board and conducting its correspondence. He shall be authorized to call special meetings of the board, and he shall call such meetings upon the written request of five members of the board. The time and place of such meetings shall be fixed by the chairman. The chairman shall constitute such panels of the board as may be necessary to conduct hearings, and to make post-audits and reviews pursuant to § 210.14, and is authorized to appoint from time to time an executive committee of not less than five nor more than seven members of the board, and such other committees as may be required to handle the work of the board. The chairman may request either vice-chairman to assume the duties of the chairman in event of the absence of the chairman or his inability to act. All public announcements by or on behalf of the board shall be made by the chairman.

(b) *The vice-chairman.* The duties of the vice-chairman, when acting in the place of the chairman, shall be the same as the duties of the chairman.

(c) *The executive secretary.* (1) The executive committee may select cases for post-audit or review, and between meetings of the board may take any other action which the board might take, which, in their opinion, does not admit of delay, except that amendments shall be made to these regulations, and to the directives to the departments and agencies, and to the regional loyalty boards only when authorized by vote of the board.

(2) The executive secretary shall perform all of the duties customarily performed by an executive secretary. He shall have immediate charge of all of the administrative duties of the Board under the direction of the chairman and shall have general responsibility for advising and assisting the Board members and exercising executive direction over the staff.

§ 210.5 *Quorum.* A majority of all of the members of the Board shall constitute a quorum of the Board. A stenographic record, whenever possible, shall be kept of the transactions of the Board in its meetings.

§ 210.6 *Authority and responsibility of the Board.* The Board shall have the authority and responsibility.

(a) To review cases involving loyalty and to act on appeals and to make such advisory recommendations with respect thereto to Departments and Agencies as the Board shall duly approve.

(b) To make rules and regulations, not inconsistent with the provisions of the Executive Order, deemed necessary to implement statutes and executive orders relating to employee loyalty.

(c) To advise all Departments and Agencies on all problems relating to employee loyalty.

(d) To disseminate information pertinent to the employee loyalty program.

(e) To coordinate the employee loyalty policies and procedures of the several Departments and Agencies and of the Regional Loyalty Boards of the Civil Service Commission.

(f) To make reports and to submit recommendations to the Civil Service Commission.

§ 210.7 *Definitions.* The following terms shall have the following meanings:

(a) *Applicant.* A person who has applied for a position in the competitive service but has not entered on duty.

(b) *Appointee.* A person who received a conditional appointment (see § 2.112 of Civil Service Commission regulations) in the competitive service on or after October 1, 1947, in connection with which appointment the condition has not expired or been removed by Commission action. This category includes persons who receive competitive appointments by inter-agency transfer or by conversion.

(c) *Excepted applicant.* A person who has applied for a position excepted from the competitive service but has not entered on duty.

(d) *Excepted employee.* A person appointed at any time to a position excepted from the competitive service.

(e) *Incumbent employee.* (1) A person who was appointed in the competitive service prior to October 1, 1947, and who has not received, in addition, a conditional appointment on or after October 1, 1947 (see definition of appointee in paragraph (b) of this section); and (2) a person in connection with whose conditional appointment (see § 2.112 of Civil Service Commission regulations) on or after October 1, 1947, the condition has expired or been removed by Commission action.

(f) *Preference eligible.* An employee entitled to the benefits of section 14 of the Veterans' Preference Act of 1944.

(g) *Complete file.* All reports of investigation or other inquiry, all charges and interrogatories, all transcripts of hearings and exhibits, all memoranda analyzing the evidence or setting forth conclusions, findings, recommendations, determinations, decisions, or other actions in cases and all affidavits, supporting documents, correspondence or memoranda in connection with the investigation, determination, decision and closing of any case or cases.

§ 210.8 *Panels of the Board.* Unless otherwise ordered by the Board, all hearings shall be held by panels of the Board, the decisions of which shall be the decisions of the Board. Such panels of the Board shall consist of not less than three members designated by the chairman. The chairman shall designate the Board member who shall be the presiding member, and it shall be the duty of such presiding member to make due report to the Board of all acts and proceedings of the said panel.

§ 210.9 *Action on appeals*—(a) *Circumstances under which appeal may be considered.* The Board shall not consider any appeal until the appellant shall have exhausted all of his administrative remedies below.

(b) *Notice to regional board or agency.* The Board shall notify the Regional Loyalty Board or the employing Department or Agency of all appeals, and thereupon the Regional Loyalty Board or the head of the employing Department or Agency shall furnish to the Board the complete file of the case in triplicate, except exhibits not furnished in triplicate by the Federal Bureau of Investigation, unless otherwise ordered by the Board.

(c) *Time of appeal.* No appeal shall be considered by the Board or a panel of the Board unless such appeal is filed with the Board within twenty calendar days after the receipt of the notice by the appellant of the final decision below by the head of the Department or Agency or the Regional Loyalty Board, in the case of persons living within the continental limits of the United States, and within thirty calendar days in case of persons living outside the continental limits of the United States.

(d) *Presentation of evidence.* An appellant must submit all his evidence in hearings below, and a decision must be had thereon before this Board or a panel of the Board will consider any appeal. Cases on appeal shall be heard upon the complete file and on briefs submitted and oral arguments made by, or on behalf of the appellant, if desired, but the panel shall have the right, in its discretion, in exceptional cases, to permit additional evidence to be directly presented to it in connection with a hearing of a particular appeal; and in such a case may question any person testifying before it or invite others to testify to the extent deemed advisable.

(e) *Time and place of hearing.* When an appellant is granted a hearing, the executive secretary, in consultation with the presiding member of the panel, will set a time and place for the hearing

as convenient to the appellant as circumstances reasonably permit and will make the necessary arrangements for such hearing.

(f) *Further evidence.* If a panel of the Board, either before, during or after hearing an appeal, is of the opinion that further evidence should be taken or amplification of the record should be made below, it may remand the case for reconsideration and for the taking of such further evidence as it may direct.

(g) *Review of decision of panel.* No review by this Board of a decision of a panel will be permitted except upon the concurrence of a majority of all the members of the Board.

§ 210.10 *Attendance at hearings.* (a) All Board or panel hearings shall be private except that the appellant and one attorney or representative of his choosing may be present at the hearing. A witness who is heard by a panel may be present only while testifying. Arguments either by or on behalf of the appellant may be made before the panel under such limitations as it may impose.

(b) Upon the decision of an appeal by a panel, the decision of the panel, together with the complete file involved in the case, shall be transmitted to the executive secretary and by him transmitted to the proper officials below.

§ 210.11 *Grounds for determination of disloyalty*—(a) *Standard.* The standard for the refusal of employment or the removal from employment in an Executive Department or Agency on grounds relating to loyalty shall be that, on all the evidence, reasonable grounds exist for belief that the person involved is disloyal to the Government of the United States. The panel shall reach its decision on consideration of the complete file, arguments, brief and testimony presented to it.

(b) *Activities and associations.* Among the activities and associations of an applicant or employee which may be considered in connection with the determination of disloyalty may be one or more of the following:

(1) Sabotage, espionage, or attempts or preparations therefor, or knowingly associating with spies or saboteurs;

(2) Treason or sedition or advocacy thereof;

(3) Advocacy of revolution or force or violence to alter the constitutional form of government of the United States;

(4) Intentional, unauthorized disclosure to any person under circumstances which may indicate disloyalty to the United States, of documents or information of a confidential or non-public character obtained by the person making the disclosure as a result of his employment by the Government of the United States, or prior to his employment;

(5) Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States;

(6) Membership in, affiliation with or sympathetic association with any foreign or domestic organization, association, movement, group or combination of persons, designated by the Attorney General as totalitarian, fascist, communist, or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or as seeking to alter the form of government of the United States by unconstitutional means.

Such membership, affiliation or sympathetic association is simply one piece of evidence which may or may not be helpful in arriving at a conclusion as to the action which is to be taken in a particular case. The organizations so designated by the Attorney General are listed in Appendix A.

However, the Attorney General has designated certain organizations (see Appendix A) as being within the scope of section 9A of the Hatch Act, which section makes it unlawful for any employee of the Federal Government to have membership in any political party or organization which advocates the overthrow of our constitutional form of government in the United States. He has also designated certain organizations (see Appendix A), in accordance with section 3 of Part III of Executive Order 9835, as organizations which seek to alter the form of government of the United States by unconstitutional means.

The Loyalty Review Board has considered the language used in the Hatch Act, in the Executive order, and in the various appropriation acts which forbid payment of salary or wages to any person who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States by force or violence, and has determined that the language from each source has a common meaning and that such language should be similarly construed and applied in the adjudication of cases arising under Executive Order 9835.

Therefore, in accord with the designations of the Attorney General, present membership in any of the organizations designated by the Attorney General as being within the scope of section 9A of the Hatch Act or as seeking to alter the form of government of the United States by unconstitutional means, or present advocacy by an individual of the overthrow of the Government of the United States by force or violence, for the purpose of adjudicating cases under Executive Order 9835, should be considered as bringing the case within the purview of section 9A of the Hatch Act and the various appropriation acts noted above; and, if in the consideration of a case a Loyalty Board finds as a fact that an employee or an applicant is a member of such an organization, or that he advocates the overthrow of the Government of the United States by force or violence, then the removal of the employee, or the refusal of employment to the applicant, is mandatory.

§ 210.12 *Admissibility of evidence.* Strict legal rules of evidence shall not be applied at hearings, but reasonable bounds shall be maintained as to competency, relevancy and materiality.

§ 210.13 *Requirement of oath or affirmation.* Testimony shall be given under oath or affirmation.

§ 210.14 *Post-audit and review of files.* (a) The Board, or an Executive Committee of the Board shall, as deemed necessary from time to time, cause post-audits to be made of the files on loyalty cases decided by the employing Department or Agency, or by a Regional Loyalty Board.

(b) The Board, or an Executive Committee of the Board, shall have the right, in its discretion, to call up for review any determination or decision made by any Department or Agency Loyalty Board or Regional Loyalty Board, or by any head of an employing Department or Agency, even though no appeal has been taken. Any such review shall be made by a panel of the Board, and the panel, whether or not a hearing has been held in the case, may affirm the determination or decision, or remand the case to the head of the Agency concerned for hearing, with appropriate instructions or for such further action or procedure as the panel may determine. In exceptional cases, if in the judgment of the Board or of an Executive Committee of the Board, public interest requires it, the panel may hold a new hearing in the case and after such hearing, affirm or reverse the determination or decision.

§ 210.15 *Reports.* The Board shall, from time to time, call upon the Departments and Agencies for such reports as it may deem necessary or desirable in connection with the loyalty program.

APPENDIX A—LIST OF ORGANIZATIONS DESIGNATED BY THE ATTORNEY GENERAL PURSUANT TO EXECUTIVE ORDER NO. 9835

After the issuance of Executive Order No. 9835 by the President, the Department of Justice compiled all available data with respect to the type of organization to be dealt with under that order. The investigative reports of the Federal Bureau of Investigation concerning such organizations were correlated. Memoranda on each such organization were prepared by attorneys of the Department. The list of organizations contained herein has been certified to the Board by the Attorney General on the basis of recommendations of attorneys of the Department as reviewed by the Solicitor General, the Assistant Attorneys General, and the Assistant Solicitor General, and subsequent careful study of all by the Attorney General.

In connection with the designation of these organizations, the Attorney General has pointed out, as the President had done previously, that it is entirely possible that many persons belonging to such organizations may be loyal to the United States; that membership in, affiliation with, or sympathetic association with, any organization designated is simply one piece of evidence which may or may not be helpful in arriving at a conclusion as to the action which is to be taken in a particular case. "Guilt by association" has never been one of the principles of our American jurisprudence. We must be satisfied that reasonable grounds exist for concluding that an individual is disloyal. That must be the guide.

The organizations named herein do not represent a complete or final compilation. For example, a number of small and local organizations are not listed. As to many organzations not named, the presently available information is insufficient to warrant a final determination as to their character. Others, presently innocuous, may become the victims of dangerous infiltrating forces and, as a consequence, become proper subjects for designation. New organizations may

come into existence whose purposes and activities are in conflict with loyalty to the United States. From time to time, therefore, as contemplated and directed by the Executive order, there will be furnished to the Board the names of organizations and groups as to which the information received by the Department of Justice, resulting from continued investigation, indicates similar designations are required.

The names of the organizations listed below were transmitted by the Attorney General to the Loyalty Review Board on November 24, 1947, and the Loyalty Review Board disseminated such information to all departments and agencies on December 4, 1947. The first group is reported as having been previously named as subversive by the Department of Justice and as having been previously disseminated among the Government agencies for use in connection with consideration of employee loyalty under Executive Order No. 9300, issued February 5, 1943, entitled "Establishing the Interdepartmental Committee to Consider Cases of Subversive Activity on the Part of Federal Employees," and under other relevant authority. Such list included the following organizations:

American League Against War and Fascism.
American Patriots, Inc.
American Peace Mobilization.
American Youth Congress.
Association of German Nationals (Reichsdeutsche Vereinigung).
Black Dragon Society.
Central Japanese Association, (Beikoku Chuo Nipponjin Kai).
Central Japanese Association of Southern California.
The Central Organization of the German-American National Alliance (Deutsche-Amerikanische Einheitsfront).
Communist Party of U. S. A.
Congress of American Revolutionary Writers.
Dai Nippon Butoku Kai (Military Virtue Society of Japan or Military Art Society of Japan).
Dante Alighieri Society (between 1935 and 1940).
Federation of Italian War Veterans in the U. S. A., Inc. (Associazione Nazionale Combattenti Italiani, Federazione degli Stati Uniti d'America).
Friends of the New Germany (Freunde des Neuen Deutschlands).
German-American Bund (Amerikadeutscher Volksbund).
German-American Vocational League (Deutsche-Amerikanische Berufsgemeinschaft).
Heimuska Kai, also known as Nokubei Heieki Gimusha Kai, Zaibei Nihonjin, Heiyaku Gimusha Kai, and Zaibei Heimusha Kai (Japanese Residing in America Military Conscripts Association).
Hinode Kai (Imperial Japanese Reservists).
Hinomaru Kai (Rising Sun Flag Society—a group of Japanese War Veterans).
Hokubei Zaigo Shoke Dan (North American Reserve Officers Association).
Japanese Association of America.
Japanese Overseas Central Society (Kaigai Dobo Chuo Kai).
Japanese Overseas Convention, Tokyo, Japan 1940.
Japanese Protective Association (Recruiting Organization).
Jikyoku Iin Kai (Current Affairs Association).
Kibei Seinen Kai (Association of U. S. Citizens of Japanese Ancestry who have returned to America after studying in Japan).
Kyffhaeuser, also known as Kyffhaeuser League (Kyffhaeuser Bund), Kyffhaeuser Fellowship (Kyffhaeuser Kameradschaft).
Kyffhaeuser War Relief (Kyffhaeuser Kreigshilfswerk).
Lictor Society (Italian Black Shirts).
Mario Morgantini Circle.
Michigan Federation for Constitutional Liberties.
Nanka Teikoku Gunyudan (Imperial Military Friends Group or Southern California War Veterans).
National Committee for the Defense of Political Prisoners.
National Federation for Constitutional Liberties.
National Negro Congress.
Nichibei Kogyo Kaisha (The Great Jujii Theatre).
Northwest Japanese Association.
Protestant War Veterans of the U. S., Inc.
Sakura Kai (Patriotic Society, or Cherry Association—composed of veterans of Russo-Japanese War).
Shinto Temples.
Silver Shirt Legion of America.
Sokoku Kai (Fatherland Society).
Suiko Sha (Reserve Officers Association, Los Angeles).
Washington Book Shop Association.
Washington Committee for Democratic Action.
Workers Alliance.

Under Part III, section 3, of Executive Order No. 9835, the following additional organizations are designated:

American Polish Labor Council.
American Youth for Democracy.
Armenian Progressive League of America.
Civil Rights Congress and its affiliated organizations including: Civil Rights Congress for Texas. Veterans Against Discrimination of Civil Rights Congress of New York.
The Columbians.
Communist Party, U. S. A., formerly Communist Political Association, and its affiliates and committees, including: Citizens Committee of the Upper West Side (New York City). Committee to Aid the Fighting South. Dennis Defense Committee. Labor Research Association, Inc. Southern Negro Youth Congress. United May Day Committee. United Negro and Allied Veterans of America.
Connecticut State Youth Conference.
Council on African Affairs.
Hollywood Writers Mobilization for Defense.
Hungarian-American Council for Democracy.
International Workers Order, including People's Radio Foundations, Inc.
Joint Anti-Fascist Refugee Committee.
Ku Klux Klan.
Macedonian-American People's League.
National Committee to Win the Peace.
National Council of American-Soviet Friendship.
Nature Friends of America (since 1935).
New Committee for Publications.
Photo League (New York City).
Proletarian Party of America.
Revolutionary Workers League.
Socialist Workers Party, including American Committee for European Workers' Relief.
Veterans of the Abraham Lincoln Brigade.
Workers Party, including socialist Youth League.

Attention is also directed to certain organizations which are operated as schools. While the Attorney General is not of the view that any institution of learning, devoted to the advancement of knowledge, is subversive, it appears that these organizations are adjuncts of the Communist Party. They are as follows:

Abraham Lincoln School, Chicago, Illinois.
George Washington Carver School, New York City.
Jefferson School of Social Science, New York City.
Ohio School of Social Sciences.
Philadelphia School of Social Science and Art.
Samuel Adams School, Boston, Massachusetts.
School of Jewish Studies, New York City.
Seattle Labor School, Seattle, Washington.
Tom Paine School of Social Science, Philadelphia, Pa.
Tom Paine School of Westchester, New York.
Walt Whitman School of Social Science, Newark, New Jersey.

The names of the organizations listed below were transmitted by the Attorney General to the Loyalty Review Board on May 27, 1948, and the Loyalty Review Board disseminated such information to all departments and agencies on May 28, 1948:

American Association for Reconstruction in Yugoslavia, Inc.
American Committee for Protection of Foreign Born.
American Committee for Yugoslav Relief, Inc.
The American Council for a Democratic Greece, formerly known as the Greek American Council; Greek American Committee for National Unity.
American Croatian Congress.
American League for Peace and Democracy, successor to American League Against War and Fascism and predecessor of American Peace Mobilization, both included in my letter of November 24, 1947.
American Russian Institute (of San Francisco).
American Slav Congress.
Ausland-Organization der NSDAP, Overseas Branch of Nazi Party.
California Labor School, Inc., 216 Market Street, San Francisco, California.
Central Council of American Women of Croatian Descent, also known as Central Council of American Croatian Women, National Council of Croatian Women.
The Citizens Protective League.
Civil Rights Congress of Michigan (see following paragraph).
Civil Rights Congress, Milwaukee Chapter (see following paragraph).
Congress of American Women.
Council for Pan-American Democracy.
Friends of the Soviet Union and its successor American Council of Soviet Relations, both predecessors of the National Council of American Soviet Friendship, included in my letter of November 24, 1947.
The German-American Republican League.
International Labor Defense.
Jewish Peoples Committee.
League of American Writers.
National Council of Americans of Croatian Descent.
Negro Labor Victory Committee.
The Peace Movement of Ethiopia.
Peoples Educational Association (incorporated under name Los Angeles Educational Association, Inc.) also known as Peoples Educational Center, Peoples University, People's School.
People's Institute of Applied Religion.
Serbian Vidovdan Council.
Slovenian-American National Council.
United Committee of South Slavic Americans.
United Harlem Tenants and Consumers Organization.
Wisconsin Conference on Social Legislation.
Young Communist League.

The Attorney General states further that among the organizations included in his letter of November 24, 1947, as originally having been named by Attorney General Biddle as within Executive Order 9300 or the Hatch Act, was the Michigan Federation for Constitutional Liberties. The correct name of the organization designated was the Michigan Civil Rights Federation which has been succeeded by and now operates as the Michigan Chapter of the Civil Rights Congress. The Civil Rights Congress, which was designated by the Attorney General in his letter of November 24, has chapters in

several States and localities. Illustrative of these are the Civil Rights Congress of Michigan and the Civil Rights Congress, Milwaukee Chapter, listed above. Inasmuch as these various State and local subdivisions of the Civil Rights Congress are integral parts of the national organization, the designation of the parent body is intended to include all its branches.

In a letter received by the Loyalty Review Board on May 27, 1948, and disseminated to all departments and agencies on June 2, 1948, the Attorney General ruled that in view of the legislative history of section 9A of the Hatch Act, and of the action heretofore taken by executive agencies, the Loyalty Review Board should consider the Communist Party and the German-American Bund (the latter being now defunct) as organizations within the scope of that section.

The Attorney General stated that from the legislative history preceding passage of section 9A, it is clear that it was the intention of the Congress to exclude from Government employment members of "the Communist, Fascist, or German Bund parties" (84 Cong. Rec. 9635, 9638). Illustrations of like congressional policies are found not only in the Selective Training and Service Act of 1940 (section 8 (i), 54 Stat. 885, 892), but also in the acts of June 26, 1940, 54 Stat. 611, c. 432, section 15 (f); July 1, 1941, 55 Stat. 396, c. 266, section 10 (f); and July 2, 1942, 56 Stat. 634, c. 479, section 9 (f). The latter acts provide that:

"No alien, no Communist, and no member of any Nazi Bund Organization shall be given employment or continued in employment on any work project prosecuted under the appropriations contained in this joint resolution. * * *"

The congressional intention was further expressed in Public Law 135, 77th Congress, approved June 28, 1941, which provided funds for the Federal Bureau of Investigation on the following terms:

"At least $100,000 shall be available exclusively to investigate the employees of every department, agency, and independent establishment of the Federal Government who are members of subversive organizations or advocate the overthrow of the Federal Government, and report its findings to Congress."

Following the passage of Public Law 135, instructions were promptly given by the Department of Justice to the Federal Bureau of Investigation as to the carrying out of its functions under the act. The Bureau was directed to consider members of the Communist Party and of the German American Bund as being subversive. This was entirely in accord with the legislative history of Public Law 135. (See 87 Cong. Rec. 3025 ff.) Later, when the Interdepartmental Committee on Employee Loyalty was established under Executive Order 9300, dated February 5, 1943, the policies adopted by that Committee were of like nature. The Civil Service Commission's regulations reflected similar policies. Section 3 of Regulation II of the Commission's War Service Regulations provided for disqualification for appointment where there was "reasonable doubt as to the loyalty to the Government of the United States." The policies of the Civil Service Commission with respect to loyalty, and as to the disqualifying effect of membership in the Communist Party or the Bund, are described at length in a statement which appears in 89 Congressional Record, 10254–10255. See, also, the statement of Commissioner Flemming on December 9, 1943. (Hearings before the Subcommittee of the Committee on Appropriations, House of Representatives, 78th Cong., 2d sess., Independent Offices Appropriation Bill for 1945, pp. 1083–1087).

The Attorney General stated it has thus been the intention of the legislative branch, reinforced by positive action on the part of the Executive Branch, to bar from government service persons having membership in the Communist Party or the German American Bund. Enforcement of the Hatch Act was based upon the combined authority of the legislative and executive branches—the power of the Congress over appropriations and the organization of the government on the one hand, and the authority of the President on the other hand to appoint and dismiss officers and employees of the Executive Branch. In the latter connection, the following excerpt from the opinion of the court in "Friedman v. Schwellenbach" is pertinent:

"The United States has the right to employ such persons as it deems necessary to aid in carrying on the public business. It has the right to prescribe the qualifications of its employees and to attach conditions to their employment. The War Service Regulation which permits the removal from federal service of one concerning whose loyalty to the government the Civil Service Commission entertains a reasonable doubt undoubtedly was reasonable and proper and the making of it was well within the scope of the authority conferred on the Commission by the Act and the two executive orders. We are not concerned here with the question as to whether Friedman was in fact disloyal. Under the regulation he could be removed from service if the Commission had a reasonable doubt as to his loyalty." Friedman v. Schwellenbach, 159 F. 2d 22, cert. denied 330 U. S. 838.

The Attorney General stated the duty of dismissing an employee belonging to an organization of the character described in section 9A of the Hatch Act has rested on the appointing authorities at all times subsequent to the passage of the act. This duty is parallel to that imposed by paragraph 1 of Part II of Executive Order 9835, which makes the head of each department or agency "personally responsible to assure that disloyal civilian officers or employees are not retained." In Hatch Act cases, as in other cases, the Executive order leaves ultimate responsibility with the appointing officers, placing in the Loyalty Review Board the power to make "advisory recommendations" to them. (Part III, par. 1 (a).) All the cases in which the Board may be called upon to render advisory opinions to the various departments and agencies of the Government are essentially loyalty cases. In all such cases any relevant statute must, of course, be taken into consideration by the Board, and the Board's action must be consistent with the statutory requirements. If in the consideration of a case the Board finds as a fact that an employee is a member of an organization proscribed by the Hatch Act, the Board must recognize in its recommendations to the agency that the dismissal of the employee is mandatory.

The Attorney General stated further that when in the consideration of cases which may come before the Loyalty Review Board, a determination is made by the Board as to whether section 9A of the Hatch Act is applicable, such a determination does not include power by the Board to review the designations of organizations made by the Attorney General upon authority of Executive Order 9835. In any case in which the dismissal of an appellant employee has been predicated upon a finding of membership in the organizations designated herein, the function of the Board is to determine whether or not the employee was accorded all the procedural rights and privileges to which he was entitled and whether there was evidence to support the finding of the agency board. If the answers to both of these questions are in the affirmative, the provisions of the Hatch Act come into operation and the Board's advisory opinion must necessarily affirm the dismissal.

The Attorney General stated that in all other cases arising under Executive Order 9835, in which dismissals are predicated upon organizational memberships, in addition to reviewing the record with respect to procedural steps the Board is invested with discretion to determine whether or not, upon all the evidence, reasonable grounds exist for belief that the person involved is disloyal to the Government of the United States. This determination will serve as the basis for the Board's recommendation for dismissal or retention, as the case may be.

By letter of September 17, 1948, which was disseminated to all departments and agencies on September 21, 1948, the Attorney General furnished the Loyalty Review Board with a consolidated list containing the names of all of the organizations previously designated by him as within Executive Order 9835, segregated according to the classifications enumerated in section 3, Part III, on the basis of dominant characteristics. This list is set out below.

The Attorney General stated that section 3, Part III, of Executive Order 9835 sets forth six classifications of organizations within its contemplation. The language of Part V, section 2f, is substantially identical. Applying the elementary rule of statutory construction, each of these classifications must be taken to be independent and mutually exclusive of the others. It may well be that a designated organization, by reason of origin, leadership, control, purposes, policies or activities, alone or in combination, may fall within more than one of the specified classifications. In such cases a reasonable interpretation of the Executive Order would seem to require that designation be predicated upon its dominant characteristics rather than extended to include all other classifications possible on the basis of what may be subordinate attributes of the group. In classifying the designated organizations the Attorney General has been guided by this policy. Accordingly, it should not be assumed that an organization's dominant characteristic is its only characteristic.

TOTALITARIAN

Black Dragon Society.

Central Japanese Association (Beikoku Chuo Nipponjin Kai).

Central Japanese Association of Southern California.

Dai Nippon Butoku Kai (Military Virtue Society of Japan or Military Art Society of Japan).

Heimuska Kai, also known as Nokubei Heieki Gimusha Kai, Zaibei Nihonjin, Heiyaku Gimusha Kai, and Zaibei Heimusha Kai (Japanese Residing in America Military Conscripts Association).

Hinode Kai (Imperial Japanese Reservists).

Hinomaru Kai (Rising Sun Flag Society—a group of Japanese War Veterans).

Hokubei Zaigo Shoke Dan (North American Reserve Officers Association).

Japanese Association of America.

Japanese Overseas Central Society (Kaigai Dobo Chuo Kai).

Japanese Overseas Convention, Tokyo, Japan, 1940.

Japanese Protective Association (Recruiting Organization).

Jikyoku Iin Kai (Current Affairs Association).

Kibei Seinen Kai (Association of U. S. Citizens of Japanese Ancestry who have returned to America after studying in Japan).

Nanka Teikoku Gunyudan (Imperial Military Friends Group or Southern California War Veterans).

Nichibei Kogyo Kaisha (The Great Fujii Theatre).

Northwest Japanese Association.

Peace Movement of Ethiopia.

Sakura Kai (Patriotic Society, or Cherry Association—composed of veterans of Russo-Japanese War).

Shinto Temples.

Sokoku Kai (Fatherland Society).

Suiko Sha (Reserve Officers Association, Los Angeles).

FASCIST

American Patriots, Inc.
Ausland-Organization der NSDAP, Overseas Branch of Nazi Party.
Association of German Nationals (Reichsdeutsche Vereinigung).
Central Organization of the German-American National Alliance (Deutsche-Amerikanische Einheitsfront).
Citizens Protective League.
Dante Alighieri Society (between 1935 and 1940).
Federation of Italian War Veterans in the U. S. A., Inc. (Associazione Nazionale Conbattenti Italiani, Federazione degli Stati Uniti d'America).
Friends of the New Germany (Freunde des Neuen Deutschlands).
German - American Bund (Amerikadeutscher Volksbund).
German-American Republican League.
German-American Vocational League (Deutsche - Amerikanische Berufsgemeinschaft).
Kyffhaeuser, also known as Kyffhaeuser League (Kyffhaeuser Bund), Kyffhaeuser Fellowship (Kyffhaeuser Kameradschaft).
Kyffhaeuser War Relief (Kyffhaeuser Kriegshilfswerk).
Lictor Society (Italian Black Shirts).
Mario Morgantini Circle.

COMMUNIST

Abraham Lincoln School, Chicago, Illinois.
American League Against War and Fascism.
American Association for Reconstruction in Yugoslavia, Inc.
American Committee for European Workers' Relief.
American Committee for Protection of Foreign Born.
American Committee for Yugoslav Relief, Inc.
American Council for a Democratic Greece.
American Council on Soviet Relations.
American Croatian Congress.
American League for Peace and Democracy.
American Peace Mobilization.
American Polish Labor Council.
American Russian Institute (of San Francisco).
American Slav Congress.
American Youth Congress.
American Youth for Democracy.
Armenian Progressive League of America.
California Labor School, Inc., 216 Market Street, San Francisco, California.
Central Council of American Women of Croatian Descent, a/k/a Central Council of American Croatian Women, National Council of Croatian Women.
Citizens Committee of the Upper West Side (New York City).
Civil Rights Congress and its affiliates.
Committee to Aid the Fighting South.
Communist Party, U. S. A.
Communist Political Association.
Connecticut State Youth Conference.
Congress of American Revolutionary Writers.
Congress of American Women.
Council on African Affairs.
Council for Pan-American Democracy.
Dennis Defense Committee.
Friends of the Soviet Union.
George Washington Carver School, New York City.
Hollywood Writers Mobilization for Defense.
Hungarian-American Council for Democracy.
International Labor Defense.
International Workers Order, including People's Radio Foundation, Inc.
Jefferson School of Social Science, New York City.
Jewish Peoples Committee.
Joint Anti-Fascist Refugee Committee.
Labor Research Association, Inc.
League of American Writers.
Macedonian-American People's League.
Michigan Civil Rights Federation.
National Committee for the Defense of Political Prisoners.
National Committee to Win the Peace.
National Council of Americans of Croatian Descent.
National Council of American-Soviet Friendship.
National Federation for Constitutional Liberties.
National Negro Congress.
Nature Friends of America (since 1935).
Negro Labor Victory Committee.
New Committee for Publications.
Ohio School of Social Sciences.
People's Educational Association.
People's Institute of Applied Religion.
People's Radio Foundation, Inc.
Philadelphia School of Social Science and Art.
Photo League (New York City).
Proletarian Party of America.
Revolutionary Workers League.
Samuel Adams School, Boston, Mass.
School of Jewish Studies, New York City.
Seattle Labor School, Seattle, Wash.
Serbian Vidovdan Council.
Slovenian-American National Council.
Socialist Workers Party, including American Committee for European Workers' Relief.
Socialist Youth League.
Southern Negro Youth Congress.
Tom Paine School of Social Science, Philadelphia, Pa.
Tom Paine School of Westchester, N. Y.
United Committee of South Slavic Americans.
United Harlem Tenants and Consumers Organization.
United May Day Committee.
United Negro and Allied Veterans of America.
Veterans of the Abraham Lincoln Brigade.
Walt Whitman School of Social Science, Newark, N. J.
Washington Bookshop Association.
Washington Committee for Democratic Action.
Wisconsin Conference on Social Legislation.
Workers Alliance.
Workers Party, including Socialist Youth League.
Young Communist League.

SUBVERSIVE

Communist Party, U. S. A.
Communist Political Association.
German-American Bund.
Socialist Workers Party.
Workers Party.
Young Communist League.

ORGANIZATIONS WHICH HAVE "ADOPTED A POLICY OF ADVOCATING OR APPROVING THE COMMISSION OF ACTS OF FORCE AND VIOLENCE TO DENY OTHERS THEIR RIGHTS UNDER THE CONSTITUTION OF THE UNITED STATES"

Columbians.
Ku Klux Klan.
Protestant War Veterans of the United States.
Silver Shirt Legion of America.

ORGANIZATIONS WHICH "SEEK TO ALTER THE FORM OF GOVERNMENT OF THE UNITED STATES BY UNCONSTITUTIONAL MEANS"

Communist Party, U. S. A.
Communist Political Association.
Socialist Workers Party.
Workers Party.
Young Communist League.

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## PART 220—DIRECTIVES TO THE DEPARTMENTS AND AGENCIES; CASES OF INCUMBENT AND EXCEPTED EMPLOYEES AND EXCEPTED APPLICANTS

Sec.
220.1 Directive I; general instructions.
220.2 Directive II; initial consideration of loyalty cases.
220.3 Directive III; manner of conducting hearings before agency loyalty boards.
220.4 Directive IV; determinations, appeals, and advisory recommendations.
220.5 Directive V; appeals to the Loyalty Review Board.
220.6 Directive VI; records, files and reports.

AUTHORITY: §§ 220.1 to 220.6, inclusive, issued under E. O. 9835, Mar. 21, 1947, 12 F. R. 1935, 3 CFR 1947 Supp.

§ 220.1 *Directive I; general instructions*—(a) *Establishment of department and agency loyalty boards.* In accordance with Executive Order 9835 the head of each department and agency shall establish a department or agency loyalty board, each of which shall be composed of not less than three impartial persons of the department or agency concerned, whose duties it shall be to adjudicate loyalty cases involving incumbent and excepted employees and excepted applicants.

In performing their duties, the members of the boards should avoid the attitude of the prosecutor and should always bear in mind and make clear to all concerned that the proceedings are in the nature of an investigation and not of a prosecution.

(Hereafter the word "agency" shall be construed as including departments, commissions, board and corporations as well as agencies.)

(b) *Issuance of procedural instructions.* The head of each agency shall prescribe procedures for the adjudication of loyalty cases on incumbent and excepted employees and excepted applicants within the agency which shall be consistent with the Executive order and the directives herein contained, and shall be submitted to the Loyalty Review Board for its approval.

The procedures shall be introduced with the following statement:

> The regulations and directives duly promulgated by and under the authority of the Loyalty Review Board in accord with the provisions of Executive Order 9835, as set forth in Title 5, Chapter II, of the Code of Federal Regulations, constitute the basic and controlling regulations, to govern all loyalty adjudication procedures in ---------- (name of department or agency).
>
> The following statement of procedures is therefore promulgated in accordance therewith.

(c) *Suspension and removal.* In order to obtain uniformity and coordination of policies and procedures among the several agencies and to afford equal treatment to veterans and non-veterans, employing agencies should not suspend any employee until after a determination of an unfavorable nature (subsequent to the serving of a notice of proposed removal action and reply, if any, and hearing, if held) has been made by a board, except in cases where the circumstances are such that the retention of the employee in an active duty status may be detrimental to the interests of the Government. In such exceptional cases the employee may be temporarily assigned to duties in which this condition would not exist, or placed on annual leave, provided he has sufficient leave to his credit to cover the required period, placed on leave without pay with his consent, or suspended.

In affecting suspension of persons covered by Public Law 623, 80th Congress, the procedure relating to suspension set forth in § 9.102 of the Civil Service Commission regulations (Chapter I of this title) or, in cases of preference eligibles, in § 22.2, shall be observed. In cases in which initial consideration indicates that suspension may be warranted, the notice of such proposed suspension may be included in the notice of proposed removal action.

If the determination made by the agency board is that removal action is warranted under the authority of section 9A of the Hatch Act or of provisions in the various appropriation acts that forbids payment of funds to any person who advocates or who belongs to an organization which advocates the overthrow of our constitutional form of government by force or violence, the employee shall be suspended immediately.

In the further interest of uniformity of policies and procedures and equality of treatment of employees, no employee who pursues his appeal diligently shall be removed until the Loyalty Review Board makes its determination. Such employees may ,however, be carried in a suspended status until such determination is made.

(d) *Resignation after adverse adjudication.* In cases not seriously threatening national security, a board, with the approval of the head of the agency, after hearing and determination of an unfavorable nature, if mitigating circumstances are found, may permit resignation instead of recommending suspension or removal. In case of such resignation, immediate notice shall be given to the Civil Service Commission, accompanied by the complete file of the case.

§ 220.2 *Directive II; initial consideration of loyalty cases*—(a) *Standard; activities and associations.* The standard for the refusal of employment or the removal from employment in an executive department or agency on grounds relating to loyalty under Executive Order 9835 shall be that, on all the evidence, reasonable grounds exist for belief that the person involved is disloyal to the Government of the United States. The decision shall be reached after consideration of the complete file, arguments, briefs and testimony presented.

Among the activities and associations of an applicant or employee which may be considered in connection with the determination of disloyalty may be one or more of the following:

(1) Sabotage, espionage, or attempts or preparations therefor, or knowingly associating with spies or saboteurs;

(2) Treason or sedition or advocacy thereof;

(3) Advocacy of revolution or force or violence to alter the constitutional form of government of the United States;

(4) Intentional, unauthorized disclosure to any person under circumstances which may indicate disloyalty to the United States, of documents or information of a confidential or non-public character obtained by the person making the disclosure as a result of his employment by the Government of the United States, or prior to his employment;

(5) Performing or attempting to perform his duties or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States;

(6) Membership in, affiliation with or sympathetic association with any foreign or domestic organization, association, movement, group or combination of persons, designated by the Attorney General as totalitarian, fascist, communist, or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or as seeking to alter the form of government of the United States by unconstitutional means.

Such membership, affiliation or sympathetic association is simply one piece of evidence which may or may not be helpful in arriving at a conclusion as to the action which is to be taken in a particular case. The organizations so designated by the Attorney General are listed in Appendix A to Part 210 of this chapter.

However, the Attorney General has designated certain organizations (see Appendix A to Part 210) as being within the scope of section 9A of the Hatch Act, which section makes it unlawful for any employee of the Federal Government to have membership in any political party or organization which advocates the overthrow of our constitutional form of government in the United States. He has also designated certain organizations (see Appendix A to Part 210), in accordance with section 3, Part III of Executive Order 9835, as organizations which seek to alter the form of government of the United States by unconstitutional means.

The Loyalty Review Board has considered the language used in the Hatch Act, in the Executive order, and in the various appropriation acts which forbid payment of salary or wages to any person who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States by force or violence, and has determined that the language from each source has a common meaning and that such language should be similarly construed and applied in the adjudication of cases arising under Executive Order 9835.

Therefore, in accord with the designations of the Attorney General, present membership in any of the organizations designated by the Attorney General as being within the scope of section 9A of the Hatch Act or as seeking to alter the form of government of the United States by unconstitutional means, or present advocacy by an individual of the overthrow of the Government of the United States by force or violence, for the purpose of adjudicating cases under Executive Order 9835, should be considered as bringing the case within the purview of section 9A of the Hatch Act and the various appropriation acts noted above; and, if in the consideration of a case a loyalty board finds as a fact that an employee or an applicant is a member of such an organization, or that he advocates the overthrow of the Government of the United States by force or violence, then the removal of the employee, or the refusal of employment to the applicant, is mandatory. (See § 210.1 (c) of this chapter.)

Insofar as an individual's membership in, affiliation with or sympathetic association with organizations is concerned, all loyalty boards shall confine their consideration to organizations on the Attorney General's list.

However, activity of alleged disloyal nature on the part of an individual that occurs within or in connection with an organization not on the Attorney General's list may be the proper subject of a charge or interrogatory, and such activity may be given consideration in the determination made by the Board, as may also any alleged disloyal activity on the part of an individual not connected with any organization.

An organization not on the Attorney General's list may be properly referred to in notices of charges or interrogatories only with the clear understanding and a statement that reference to such organization is solely for the purpose of identifying, in detail, the informative facts relating to the time, the place, and in what connection the alleged activity of the individual occurred. Disloyal activities on the part of an individual are not privileged because they have occurred in connection with an organization not on the Attorney General's list.

(b) *Responsibility for consideration of loyalty cases.* All cases in which a report of a loyalty investigation is received shall be referred for consideration to an agency loyalty board consisting of not less than three persons, which shall take action on every case so referred. (See, however, Loyalty Review Board Memorandum No. 15 of July 23, 1948, to all executive departments and agencies, for procedures for the adjudication of loyalty cases of persons appointed to hearing examiner positions under the Administrative Procedure Act.)

It is advisable that the head of the agency provide for each hearing before its board, a representative of the agency (a legal officer, if practicable), who, subject to the direction of the board, will assist in the preparation of the charges and in the presentation of the case to the board. Such representative should be thoroughly familiar with the case in order that he may competently prepare and present the issues involved, examine or cross-examine witnesses, advise the board members as to the presence or absence of information in the case, and otherwise assist the board in developing the facts necessary to a just determination.

(c) *Securing additional information.* The board shall examine the report of investigation and may request further investigation if such action appears to be necessary. Whenever practicable, such request shall be specific as to the additional information required.

If the board deems it advisable or necessary to obtain information or clarification of certain matters from an individual whose case is before the board prior to reaching a conclusion as to whether

the case should be closed favorably, whether charges should be made, or further investigation should be requested from the Federal Bureau of Investigation, the individual may be given the opportunity, if he so desires, to answer questions by written interrogatories issued by the board, but not otherwise.

(d) *Initial consideration; determination without hearing.* The board shall consider the reports of investigation in the light of the standard as set forth in § 210.1 of this chapter and shall determine whether such reports warrant a finding clearly favorable to the individual or appear to call for further processing of the case with a view to possible removal action.

If the board reaches a clearly favorable conclusion, it shall so determine and notify the appropriate authority so that proper action may be taken.

If the board determines that such reports do not warrant a finding clearly favorable to the individual, the procedures set forth herein shall be followed.

(e) *Action in cases of excepted applicants where initial consideration indicates that a finding of refusal of employment may be warranted.* In all cases of excepted applicants in which the evidence indicates that refusal of employment may be warranted, the board shall serve the applicant with a written interrogatory stating the nature of the evidence against him in factual detail, setting forth with particularity the facts and circumstances involved, so far as security considerations permit, in order to enable the applicant to submit his answer, defense or explanation. The interrogatory and a covering letter shall state:

(1) The nature of the evidence against the applicant in factual detail, setting forth with particularity the facts and circumstances so far as security considerations permit, in order to enable the applicant to submit his answer, defense or explanation.

(2) His right to reply to the interrogatory in writing, under oath or affirmation, within ten (10) calendar days of the date of receipt by him of the interrogatory.

(3) His right to have an administrative hearing on the issues before the agency loyalty board, upon his request.

(4) His right to appear before such board personally, to be represented by counsel or representative of his own choosing, and to present evidence in his behalf.

After giving the excepted applicant the foregoing interrogatory and letter, the board shall proceed in accordance with the provisions of paragraph (h) of this section and Directives III, IV and V (§§ 220.3, 220.4 and 220.5).

(f) *Action in cases of incumbent and excepted employees where initial consideration indicates that a finding of removal may be warranted.* In all cases in which the evidence indicates that removal action may be warranted, the board shall serve the incumbent or excepted employee with a notice in writing stating the charges against him in factual detail, setting forth with particularity the facts and circumstances relating to the charges so far as security considerations will permit, in order to enable the employee to submit his answer, defense or explanation, and of the proposed removal action. This notice shall be given to the employee at least thirty calendar days in advance of the effective date of the proposed removal action, except as provided in § 22.2 (a) (2) of Civil Service Commission regulations (Chapter I of this title). The notice shall give the employee the information set forth in paragraph (g) of this section.

(g) *Contents of notice of proposed removal action.* The notice of proposed removal action required in paragraph (f) of this section shall state to the employee:

(1) The charges against him in factual detail, setting forth with particularity the facts and circumstances relating to the charges so far as security considerations will permit, in order to enable the employee to submit his answer, defense or explanation.

(2) His right to answer the charges in writing, under oath or affirmation, within a specified reasonable period of time, not less than ten (10) calendar days from the date of the receipt by the employee of the notice.

(3) His right to have an administrative hearing on the charges before a loyalty board in the agency, upon his request.

(4) His right to appear before such board personally, to be represented by counsel or representative of his own choosing, and to present evidence in his behalf.

(5) The work and pay status in which he will be carried during the period of the notice or until the determination of the agency loyalty board.

(6) The fact that the proposed removal action will not become effective in less than thirty (30) calendar days from the date of receipt by the employee of the notice.

(7) The authority or authorities (Executive Order 9835 and any applicable statutes, such as section 9A of the Hatch Act and/or section 14 of the Veterans' Preference Act of 1944) under which the notice is being sent.

(h) *Determination of case after notice.* After giving an excepted applicant an interrogatory or an incumbent or excepted employee a notice of charges, the board shall proceed as follows:

(1) If the individual does not reply within the time specified by the agency, the board shall consider the case on the complete file, make its determination and notify the appropriate authority so that proper action may be taken. However, no inference or presumption should be assumed by the board because of the failure or refusal of an individual to reply to an interrogatory or notice of charges. Despite his failure or refusal to reply, the board shall furnish the individual a notice of the time and place when the board proposes to consider his case, in order that the individual and his counsel or representative may appear if he so desires.

(2) If the individual does not reply but if he or his counsel or representative requests a hearing before the board, he shall be granted such.

(3) If the individual answers in writing but does not request a hearing, the board shall then consider the case on the complete file (including such answer), make its determination and notify the appropriate authority so that proper action may be taken.

(4) If the individual requests a hearing before the board, a time and place for such hearing shall be set by the board, as convenient to him as circumstances permit, and he shall be allowed a reasonable time to assemble his witnesses and prepare his defense. This hearing shall be conducted in accordance with the provisions of Directive III (§ 220.3).

§ 220.3 *Directive III; manner of conducting hearings before agency loyalty boards*—(a) *In general.* Hearings before the boards shall be conducted in an orderly manner and in a serious, business-like atmosphere of dignity and decorum. The conduct of the board members shall be characterized by fairness, impartiality and cooperativeness.

It is recommended that the hearings begin with the reading of the letter of charges and interrogatories, if any. The applicant or employee shall thereupon be informed of his right to participate in the hearing, be represented by counsel and present witnesses in his behalf .

(b) *Admissibility of evidence.* Strict legal rules of evidence shall not be applied at the hearings, but reasonable bounds shall be maintained as to competency, relevancy and materiality.

(c) *Requirement of oath or affirmation.* Testimony shall be given under oath or affirmation.

(d) *Presentation of evidence.* Both the Government and the applicant or employee may introduce such evidence as the board may deem proper in the particular case.

The board shall take into consideration the fact that the applicant or employee may have been handicapped in his defense by the non-disclosure to him of confidential information or by the lack of opportunity to cross-examine persons constituting such sources of information.

(e) *Recording of testimony.* Testimony at the hearing shall be recorded and transcribed and shall be made a permanent part of the record in the case. The transcript shall include a copy of the charges and of the interrogatories, if any. Whenever possible, the testimony shall be taken verbatim and shall be transcribed. The applicant or employee personally or by his counsel or representative shall be entitled to inspect the transcript and, upon request, shall be furnished with a copy of the transcript.

In cases in which it is not practicable to record the testimony verbatim, the board shall make suitable notes of the relevant portions of the testimony. At the conclusion of the hearing, these notes shall be summarized and when agreed to in writing by all parties concerned, the summary shall constitute part or all, as the case may be, of the transcript of the hearing. If the members of the board and the applicant or employee cannot agree on the summary, the summary prepared by the board and

such written exceptions thereto as the applicant or employee may seasonably file with the board shall constitute all or part, as the case may be, of the transcript, and such summary and exceptions shall be considered in connection with the making of the determination.

Reporting of testimony given at hearings shall be done by a person or persons designated by the board. No other transcripts shall be made.

(f) *Attendance at hearings.* Hearings shall be private. Attendance shall be limited to representatives of the agency who are directly connected with the adjudication of the case, representatives of the Loyalty Review Board, and the incumbent or excepted employee or excepted applicant concerned, his counsel or representative, and the witness who is testifying.

(g) *Determination after hearing.* After the incumbent or excepted employee or excepted applicant has been given a hearing by the board, the board shall promptly make its determination, and notify the appropriate authority so that proper action may be taken.

§ 220.4 *Directive IV; determinations, appeals and advisory recommendations*—(a) *Records of determinations.* The determination by the board shall be made in writing and shall be signed by the members of the board. It shall state merely the action taken and shall be made a permanent part of the file in every case.

(b) *Appeals to heads of departments and agencies.* When the board has reached a determination after charges have been made, the board or the appropriate officer shall serve a notice to that effect in writing on the applicant or employee. If the determination is unfavorable, the notice shall also inform the individual that he has a right to appeal from the board's action to the head of the employing agency, or to such person or persons as may be designated by such head, and shall inform him of the procedure to be followed in making the appeal. A specified reasonable period of time, not less than ten calendar days from the date of receipt by the individual of the notice of the determination, shall be allowed him to appeal.

If he does not appeal from the determination, the board shall transmit its determination to the appropriate authority.

All persons in whose case an unfavorable determination has been made under Executive Order 9835, whether covered by section 14 of the Veterans' Preference Act or not, shall be assured the right of appeal to the head of the agency or to such person or persons as may be designated by such head, from the adverse determination of the board. This right is in addition to, and not in lieu of, the rights accorded to preference eligibles under the provisions of section 14 of the Veterans' Preference Act.

(c) *Hearing before agency head.* The head of the employing agency or such person or persons as he may designate, shall have the right, in hearing such appeal, to fix the scope and extent of such hearing but, in all cases, the applicant or employee shall have the right to be present with his attorney or representative and to be heard therein. In all such hearings, the provisions of Directive III (§ 220.3) shall govern, so far as practicable within the scope of the hearing as fixed by the head of the employing agency.

(b) *Legal effect of advisory recommendations.* The President expects that loyalty policies, procedures, and standards will be uniformly applied in the adjudication of loyalty cases by the several agencies, and the responsibility for coordinating the program and assuring uniformity has been placed in the Loyalty Review Board. The recommendations of the Civil Service Commission in cases of employees covered by section 14 of the Veterans' Preference Act of 1944 are mandatory, and the loyalty of persons not covered by section 14 should be judged by the same standards. Therefore, if uniformity is to be attained it is necessary that the head of an agency follow the recommendation of the Loyalty Review Board in all cases.

(c) *Record on appeal to Loyalty Review Board.* When an appeal is made to the Loyalty Review Board the employing agency shall furnish said board the complete file of the case in triplicate, except exhibits not furnished to the agency in triplicate by the Federal Bureau of Investigation, unless otherwise ordered by said board. The complete file shall contain all reports of investigation or other inquiry, all charges and interrogatories, all transcripts of hearings and exhibits, all memoranda analyzing the evidence or setting forth conclusions, findings, recommendations, determinations, decisions, or other actions in cases and all affidavits, supporting documents, correspondence or memoranda in connection with the investigation, determination, decision and closing of any case or cases.

§ 220.5 *Directive V; appeals to the Loyalty Review Board*—(a) *Who may appeal.* Any incumbent or excepted employee or excepted applicant including veterans covered by section 14 of the Veterans' Preference Act of 1944, veterans not so covered, and non-veterans, may appeal from an unfavorable determination by the head of the agency. The appeal of an employee covered by section 14 of the Veterans' Preference Act of 1944 to the Civil Service Commission will be heard by the Loyalty Review Board.

(b) *Time limit.* In an incumbent or excepted employee or excepted applicant elects to appeal to the Loyalty Review Board of the Civil Service Commission, the appeal must be filed in writing within twenty calendar days after the receipt of the notice by the individual involved of the final decision by the head of the agency in the case of persons living within the continental limits of the United States, and within thirty calendar days in the case of persons living outside the continental limits of the United States.

(c) *Where appeals may be filed.* All notices of appeals shall be sent to the Loyalty Review Board, U. S. Civil Service Commission, Washington 25, D. C.

(d) *Notification to agency.* If an individual sends notice of an appeal to the Loyalty Review Board of the Civil Service Commission, he shall forthwith give notice thereof to the head of the agency.

§ 220.6 *Directive VI; records, files and reports*—(a) *Instructions.* The following instructions are issued to enable the Loyalty Review Board to carry out its responsibilities for coordinating the employee loyalty policies and procedures of the several agencies and making reports and submitting recommendations to the Civil Service Commission.

(1) The agencies shall maintain at Washington, D. C., or other location of the central office of the agency, a complete record of all loyalty cases under Executive Order 9835, in such fashion that such records can be made available to representatives of the Loyalty Review Board for inspection and review in connection with the work of that Board.

(2) When cases are closed, the agencies shall maintain at Washington, D. C., or other location of the central office of the agency, the complete files in all cases adjudicated under Executive Order 9835, in such fashion that these files can be made available to representatives of the Loyalty Review Board for inspection and review in connection with the work of that Board.

(3) Agencies having the power of summary removal shall maintain at Washington, D. C., or other location of the central office of the agency, such records as will enable the agency to furnish the Loyalty Review Board, upon request, complete statistics regarding actions taken under the power of summary removal.

(4) The agencies shall furnish such reports as may be required from time to time by the Loyalty Review Board.

(b) *Safeguarding confidential information.* It shall be the duty and responsibility of the heads of the several agencies, and of persons designated by them, to insure the physical security of all files of loyalty cases. No persons other than the head of the agency or persons designated by him shall have access to the contents of the files, including reports of investigations.

Confidential sources of information and the identity of confidential witnesses referred to in the reports shall not be disclosed to any person not officially connected with the adjudication of the case.

(c) *Procedure in cases of separation, withdrawal, transfer, conversion or furlough*—(1) *Separation or withdrawal.* The complete files in cases of incumbent or excepted employees who are separated from the Federal service before a final decision is reached in their cases, or in cases of excepted applicants who withdraw their applications, shall be sent forthwith by registered mail to the Loyalty Review Board, U. S. Civil Service Commission, Washington 25, D. C., with a statement as to the nature of, date, and reason for separation. This category of cases does not include separation during continuous service to allow appointment by transfer in another agency (see subparagraph (2) of this para-

graph) and does not include persons on furlough in a reduction in force (see subparagraph (4) of this paragraph).

(2) *Transfer.* The complete files in cases of incumbent or excepted employees who transfer on or after October 1, 1947, to other agencies before decisions are reached in their cases shall be sent by registered mail to the Chief, Central Office Investigations Division, U. S. Civil Service Commission, Washington 25, D. C., with a statement as to the effective date and agency to which transferred.

In cases of inter-agency transfer after a final decision favorable to the individual has been made, the losing agency shall inform the gaining agency that the case of the person involved has been satisfactorily processed under Executive Order 9835.

(3) *Conversion.* The complete files in cases of incumbent or excepted employees whose appointments are converted on or after October 1, 1947, to competitive appointments (see § 2.112 of Civil Service Commission regulations, Chapter I of this title) before decisions are reached in their cases shall be sent to the Chief, Central Office Investigations Division, U. S. Civil Service Commission, Washington 25, D. C., provided the agency has not initiated adjudicative action. If adjudicative action has been initiated, the agency shall continue to process the case in accordance with these directives and after completion of adjudication shall forward the complete file to the Loyalty Review Board.

(4) *Furlough.* Agencies shall process to completion cases of incumbent and excepted employees who are in a furlough or leave-without-pay status, including furlough in a reduction in force, except when the circumstances are such that adjudicative action cannot be taken and except in cases of military furlough in which it is necessary or desirable to issue interrogatories or notices of proposed removal action. In such exceptional cases, the complete files shall be sent to the Loyalty Review Board, accompanied by a statement as to the effective date of the furlough and the reason the agency is not adjudicating the case. If and when the employee returns to duty, it is the responsibility of the employing agency to obtain the file from the Civil Service Commission and to adjudicate the case.

(d) *Notification to individual.* In every case in which an interrogatory or a notice of proposed removal action has been sent, the individual concerned shall be informed of the final decision in his case. In any case in which an interrogatory or a notice of proposed removal action has not been sent, the head of the agency may, in his discretion, provide that the individual concerned be informed of the final decision in his case. However, in no case shall notification of a favorable decision be given until the agency receives from the Loyalty Review Board of the Civil Service Commission a notice that the case has been post-audited and the favorable determination found to be in accordance with the directives of the Loyalty Review Board.

## PART 230—DIRECTIVES TO THE REGIONAL LOYALTY BOARDS; CASES OF APPLICANTS AND APPOINTEES IN THE COMPETITIVE SERVICE

Sec.



AUTHORITY: §§ 230.1 to 230.6 issued under E. O. 9835, Mar. 21, 1947, 12 F. R. 1935, 3 CFR 1947 Supp.

§ 230.1 *Directive I; general instructions*—(a) *Establishment of commission regional loyalty boards.* In accordance with Executive Order 9835, the United States Civil Service Commission shall establish in each of its regional offices a regional loyalty board of not less than three impartial persons, who shall be appointed officers or employees of the Commission, whose duties it shall be to adjudicate loyalty cases involving applicants for and appointees to positions in the competitive service.

In performing their duties, the members of the board should avoid the attitude of the prosecutor and should always bear in mind and make clear to all concerned that the proceedings are in the nature of an investigation and not of a prosecution.

The officers of each board shall consist of a chairman and a vice-chairman to be selected by the United States Civil Service Commission, and an executive secretary.

The chairman shall perform all the duties usually pertaining to the office of chairman, including presiding at board meetings, supervising the administrative work of the board, and conducting its correspondence. He shall be authorized to call special meetings of the board when, in his judgment, such meetings are necessary, and shall call such meetings at the written request of three members or a majority of the board, whichever is less. The time and place of such meetings shall be fixed by the chairman. The chairman shall constitute such panels of the board as may be necessary or desirable to conduct the hearings and is authorized to appoint such committees as from time to time may be required to handle the work of the board. The chairman may request the vice chairman to assume the duties of the chairman in event of the absence of the chairman or his inability to act.

The duties of the vice chairman, when acting in the place of the chairman, shall be the same as the duties of the chairman.

The executive secretary shall perform all the duties customarily performed by an executive secretary. He shall have immediate charge of all of the administrative duties of the board under the direction of the chairman and shall have general responsibility for advising and assisting the board members and exercising executive direction over the staff.

Unless otherwise ordered by the board, all hearings shall be held by panels of the board, the decisions of which shall be the decisions of the board. Such panels of the board shall consist of not less than three members designated by the chairman. The chairman shall designate the board member who shall be the presiding member and it shall be the duty of such presiding member to make due report to the board of all acts and proceedings of the said panel.

(b) *Safeguarding confidential information.* Confidential sources of information and the identity of confidential witnesses referred to in the reports shall not be disclosed to any person not officially connected with the adjudication of the case.

(c) *Issuance of procedural instructions.* The boards shall operate under the directives herein contained.

(d) *Suspension and separation.* In order to obtain uniformity of policies and procedures of the boards of the United States Civil Service Commission and to afford equal treatment to all persons, no board shall cause the suspension of an appointee until after a determination of an unfavorable nature (subsequent to the serving of an interrogatory and reply, if any, and hearing, if held) has been made by the board.

If the determination of the board is one of ineligibility, the agency shall be instructed to suspend the employee immediately pending appeal to the Loyalty Review Board. The procedural requirements of § 9.102 and § 22.2 of Commission regulations do not apply to instructions by the Commission under § 5.4 of Rule V for suspension or separation (Chapter I of this title).

In the further interest of uniformity of policies and procedures and equality of treatment of employees, no appointee who pursues his appeal diligently shall be separated until the Loyalty Review Board makes its determination.

(e) *Resignation after adverse adjudication.* In cases not seriously threatening national security, a board, after hearing and determination of an unfavorable nature, if mitigating circumstances are found, may permit resignation instead of recommending suspension or removal. In case of such resignation, immediate notice shall be forwarded to the Loyalty Review Board, accompanied by the complete file of the case.

(f) *Notice by regional loyalty board and right to appeal.* All applicants for and appointees to the competitive service against whom action is taken under Executive Order 9835, shall be assured the rights of a hearing before a board, notice thereof, and appeal to the Loyalty Review Board, in accordance with the provisions of these Directives.

§ 230.2 *Directive II; initial consideration of loyalty cases*—(a) *Standard; activities and associations.* The standard for the refusal of employment or the removal from employment in an executive department or agency on grounds relating to loyalty under Executive Order 9835 shall be that, on all the evidence, reasonable grounds exist for belief that the person involved is disloyal to the Government of the United

States. The decision shall be reached on consideration of the complete file, arguments, briefs, and testimony presented.

Among the activities and associations of an applicant or employee which may be considered in connection with the determination of disloyalty may be one or more of the following:

(1) Sabotage, espionage, or attempts or preparations therefor, or knowingly associating with spies or saboteurs.

(2) Treason or sedition or advocacy thereof.

(3) Advocacy of revolution or force or violence to alter the constitutional form of government of the United States.

(4) Intentional, unauthorized disclosure to any person under circumstances which may indicate disloyalty to the United States, of documents or information of a confidential or non-public character obtained by the person making the disclosure as a result of his employment by the Government of the United States, or prior to his employment.

(5) Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

(6) Membership in, affiliation with or sympathetic association with any foreign or domestic organization, association, movement, group or combination of persons, designated by the Attorney General as totalitarian, fascist, communist, or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or as seeking to alter the form of the United States Government by unconstitutional means.

Such membership, affiliation, or sympathetic association is simply one piece of evidence which may or may not be helpful in arriving at a conclusion as to the action which is to be taken in a particular case. The organizations so designated by the Attorney General are listed in Appendix A to Part 210 of this chapter.

However, the Attorney General has designated certain organizations (see Appendix A) as being within the scope of section 9A of the Hatch Act, which section makes it unlawful for any employee of the Federal Government to have membership in any political party or organization which advocates the overthrow of our constitutional form of government in the United States. He has also designated certain organizations (see Appendix A), in accordance with section 3, Part III of Executive Order 9835, as organizations which seek to alter the form of Government of the United States by unconstitutional means.

The Loyalty Review Board has considered the language used in the Hatch Act, in the Executive Order, and in the various appropriation acts which forbid payment of salary or wages to any person who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States by force or violence, and has determined that the language from each source has a common meaning and that such language should be similarly construed and applied in the adjudication of cases arising under Executive Order 9835.

Therefore, in accord with the designations of the Attorney General, present membership in any of the organizations designated by the Attorney General as being within the scope of section 9A of the Hatch Act or as seeking to alter the form of government of the United States by unconstitutional means, or present advocacy by an individual of the overthrow of the Government of the United States by force or violence, for the purpose of adjudicating cases under Executive Order 9835, should be considered as bringing the case within the purview of section 9A of the Hatch Act and the various appropriation acts noted above; and, if in the consideration of a case a Loyalty Board finds as a fact that an employee or an applicant is a member of such an organization, or that he advocates the overthrow of the Government of the United States by force or violence, then the removal of the employee, or the refusal of employment to the applicant, is mandatory. (See "Suspension and Separation" of Directive I, § 230.1 (d)).

Insofar as an individual's membership in, affiliation with or sympathetic association with organizations is concerned, all loyalty boards shall confine their consideration to organizations on the Attorney General's list.

However, activity of alleged disloyal nature on the part of an individual that occurs within or in connection with an organization not on the Attorney General's list may be the proper subject of a charge or interrogatory, and such activity may be given consideration in the determination made by the board, as may also any alleged disloyal activity on the part of an individual not connected with any organization.

An organization not on the Attorney General's list may be properly referred to in notices of charges or interrogatories only with the clear understanding and a statement that reference to such organization is solely for the purpose of identifying, in detail, the informative facts relating to the time, the place, and in what connection the alleged activity of the individual occurred. Disloyal activities on the part of an individual are not privileged because they have occurred in connection with an organization not on the Attorney General's list.

(b) *Responsibility for consideration of loyalty cases.* All cases in which a report of a loyalty investigation is received shall be referred for consideration to a panel of not less than three persons, which shall take action on every case so referred.

It is advisable that each board provide for each hearing before it a member of its staff with legal training if practicable, who, subject to the direction of the board, will assist in the presentation of the case to the board or panel. Such person should be thoroughly familiar with the case in order that he may competently present the issues involved, examine or cross-examine witnesses, advise the board members as to the presence or absence of information in the case, and otherwise assist the board in developing the facts necessary to a just determination.

(c) *Securing additional information.* The board shall examine the report of investigation and may request further investigation if such action appears to be necessary. Any such request shall be specific as to the additional information required, whenever practicable.

If the board deems it advisable or necessary to obtain information or clarification of certain matters from an individual whose case is before the board, prior to reaching a conclusion as to whether the case should be closed favorably, whether charges should be made, or further investigation should be requested from the Federal Bureau of Investigation, the individual may be given the opportunity, if he so desires, to answer questions by written interrogatories issued by the board, but not otherwise.

(d) *Initial consideration: determination without hearing.* The board shall consider the reports of investigation in the light of the standard as set forth above and shall determine whether such reports warrant a finding clearly favorable to the individual or appear to call for further processing of the case with a view to possible rating of ineligibility.

If the board reaches a clearly favorable conclusion, it shall rate the applicant or appointee eligible, and so inform the employing Agency.

If the board determines that the reports do not warrant a finding clearly favorable to the individual, the procedures set forth herein shall be followed.

(e) *Action where initial consideration indicates that a finding of ineligibility may be warranted.* In all cases in which the evidence indicates that a finding of ineligibility may be warranted, the board shall serve the individual with a written interrogatory stating the nature of the evidence against him in factual detail, setting forth with particularity the facts and circumstances involved, so far as security considerations permit, in order to enable the applicant or appointee to submit his answer, defense, or explanation.

(f) *Contents of interrogatory and covering letter.* The interrogatory and the covering leter, requested above, shall state:

(1) The nature of the evidence against him in factual detail, setting forth with particularity the facts and circumstances so far as security considerations permit in order to enable the applicant or appointee to submit his answer, defense or explanation.

(2) His right to reply to the interrogatory in writing, under oath or affirmation, within ten (10) calendar days of the date of receipt by him of the interrogatory.

(3) His right to have an administrative hearing on the issues before the regional loyalty board, upon his request.

(4) His right to appear before such board personally, to be represented by counsel or representative of his own choosing, and to present evidence in his behalf.

(g) *Determination of case after interrogatory.* After an interrogatory has

been sent, the board shall proceed as follows:

(1) If the applicant or appointee does not reply to the interrogatory within the time specified, the board shall then decide the case on the complete file. However, no inference or presumption should be assumed by the board because of the failure or refusal of an individual to reply to an interrogatory. Despite his failure or refusal to reply, the board shall furnish the individual a notice of the time and place when the board proposed to consider his case, in order that the individual and his counsel or representative may appear if he so desires.

(2) If the applicant or appointee does not reply to the interrogatory but if he or his counsel or representative requests a hearing before the board, he shall be granted such.

(3) If the applicant or appointee answers the interrogatory in writing but does not request a hearing, the board shall then consider the case on the complete file (including such answer) and make a determination of eligibility or ineligibility.

(4) If the applicant or appointee requests a hearing before the board, a time and place for such hearing shall be set by the board, as convenient to the individual as circumstances permit, and he shall be allowed a reasonable time to assemble his witnesses and prepare his defense. This hearing shall be conducted in accordance with the provisions of Directive III (§ 230.3).

§ 230.3 *Directive III; manner of conducting hearings before regional loyalty boards*—(a) *In general.* Hearings before the board and panels shall be conducted in an orderly manner and in a serious, businesslike atmosphere of dignity and decorum. The conduct of the members shall be characterized by fairness, impartiality and cooperativeness.

It is recommended that the hearings begin with the reading of the interrogatory. The applicant or appointee shall thereupon be informed of his right to participate in the hearing, be represented by counsel and present witnesses in his behalf.

(b) *Admissibility of evidence.* Strict legal rules of evidence shall not be applied at the hearings, but reasonable bounds shall be maintained as to competency, relevancy, and materiality.

(c) *Requirement of oath or affirmation.* Testimony shall be given under oath or affirmation.

(d) *Presentation of evidence.* Both the Government and the applicant or appointee may introduce such evidence as the board or panel may deem proper in the particular case.

The board or panel shall take into consideration the fact that the individual may have been handicapped in his defense by the non-disclosure to him of confidential information or by the lack of opportunity to cross-examine persons constituting such sources of information.

(e) *Recording of testimony.* Testimony at the hearing shall be recorded and transcribed and shall be made a permanent part of the record in the case. The transcript shall include a copy of the interrogatories. Whenever possible, the testimony shall be taken verbatim and shall be transcribed. The employee personally or by his counsel or representative shall be entitled to inspect the transcript and, upon request, shall be furnished with a copy of the transcript.

In cases in which it is not practicable to record the testimony verbatim, the board shall make suitable notes of the relevant portions of the testimony. At the conclusion of the hearing, these notes shall be summarized and when agreed to in writing by all parties concerned, the summary shall constitute part or all, as the case may be, of the transcript of the hearing. If the members of the board and the applicant or appointee cannot agree on the summary, the summary prepared by the board and such written exceptions thereto as the applicant or appointee may seasonably file with the board shall constitute all or part, as the case may be, of the transcript and such summary and exceptions shall be considered in connection with the making of the decision.

Reporting of testimony given at hearings shall be done by a person or persons designated by the board. No other transcripts shall be made.

(f) *Attendance at hearings.* Hearings shall be private. Attendance shall be limited to the applicant or appointee, his counsel or representative, and the witness who is testifying.

(g) *Decision after hearing.* After the applicant or appointee has been given a hearing, the board shall promptly make its decision.

§ 230.4 *Directive IV; records of decisions and appeals*—(a) *Records of decisions.* The decision by the board shall be made in writing and shall be signed by the members of the board or panel. It shall state merely the action taken and shall be made a permanent part of the file in every case.

(b) *Notification.* If the board rates an *applicant* ineligible, his application will be cancelled, and the applicant will be notified by letter of the rating action, the cancellation and debarment, if any.

If the board rates an appointee ineligible, the employing department or agency will be informed by letter of the rating action, including debarment, if any, and will be instructed to suspend the appointee immediately pending appeal to the Loyalty Review Board and to separate him if he does not appeal. The appointee will be furnished a copy of the letter to the department or agency.

In case an applicant or appointee is found ineligible, the letter of notification will inform the individual concerned that he may appeal from the action of the board to the Loyalty Review Board within twenty calendar days from the date of receipt by the applicant or appointee of the notice of the decision of ineligibility, in the case of a person living within the continental limits of the United States, and within thirty calendar days in the case of a person living outside the continental limits of the United States. He shall also be informed of the procedure to be followed in taking the appeal.

(c) *Record on appeal to Loyalty Review Board.* When an appeal is made to the Loyalty Review Board, the complete file of the case in triplicate shall be furnished to that Board, except exhibits not furnished in triplicate by the Federal Bureau of Investigation, unless otherwise ordered by it.

The complete file shall contain all reports of investigation or other inquiry, all interrogatories, all transcripts of hearings and exhibits, all memoranda analyzing the evidence or setting forth conclusions, findings, recommendations, determinations, decisions, or other actions in cases, and all affidavits, supporting documents, correspondence or memoranda in connection with the investigation, determination, decision and closing of any case or cases.

§ 230.5 *Directive V; appeals to the Loyalty Review Board*—(a) *Who may appeal.* Any applicant or appointee may appeal from a decision of ineligibility made by a board.

(b) *Time limit.* If an applicant or appointee elects to appeal to the Loyalty Review Board, the appeal must be filed in writing within twenty calendar days of the receipt by the applicant or appointee of his notice of the adverse decision of the board, in the case of a person living within the continental limits of the United States and within thirty calendar days in the case of persons living outside the continental limits of the United States.

(c) *Where appeals may be filed.* Notice of appeals of applicants or appointees shall be sent to the Loyalty Review Board, United States Civil Service Commission, Washington 25, D. C.

(d) *Notification to employing department or agency.* If an appointee sends notice of an appeal to the Loyalty Review Board, he shall forthwith give notice thereof to the head of the employing agency.

§ 230.6 *Directive VI; records, files and reports*—(a) *In general.* The following instructions are issued to enable the Loyalty Review Board, to carry out its responsibilities for coordinating the loyalty policies and procedures of the several Departments and Agencies and the Regional Loyalty Boards and making reports and submitting recommendations to the Civil Service Commission.

The boards shall maintain a complete record of all loyalty cases in such fashion that such records can be made available to representatives of the Loyalty Review Board for inspection and review in connection with the work of the board.

The boards shall submit reports as requested to the Loyalty Review Board.

(b) *Procedure in cases of separation, withdrawal and furlough.* If an appointee resigns or otherwise voluntarily separates himself from the service, or an applicant states he is no longer interested in Federal employment, at any stage of adjudication prior to decision by a regional loyalty board, adjudication shall not be completed except in cases of former appointees who have eligibilities and are actively seeking further Federal employment.

The regional loyalty boards shall close such incompletely adjudicated cases of persons who voluntarily separate them-

selves or withdraw by "flagging" (noting unresolved question of loyalty) their names and, if the individual's action occurred after issuance of interrogatories, by cancelling any known applications or eligibilities.

If an appointee is involuntarily separated from the Federal service, the Regional Loyalty Boards shall not complete adjudication unless the individual has an eligibility and is actively seeking further Federal employment or is under consideration for appointment in the competitive service.

If an appointee is in a furlough or leave-without-pay status, including furlough in a reduction in force, the regional loyalty boards shall proceed with adjudication, except when the circumstances are such that adjudicative action cannot be taken and except in cases of military furlough in which it is necessary or desirable to issue interrogatories. In such exceptional cases the boards shall "flag" the names of the individuals involved and shall request the employing agency to inform the regional board if the appointee returns to duty.

Adopted December 17, 1947; revised through December 17, 1948.

THE LOYALTY REVIEW BOARD,
U. S. CIVIL SERVICE COMMISSION.
AARON J. BRUMBAUGH,
*Acting Chairman,*
*Loyalty Review Board.*

[F. R. Doc. 48-11494; Filed Dec. 30, 1948; 8:57 a. m.]

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# TITLE 6—AGRICULTURAL CREDIT

## Chapter III—Farmers Home Administration, Department of Agriculture

REORGANIZATION AND REVISION OF CHAPTER

1. In order to conform Chapter III of Title 6 to the scope and style of the Code of Federal Regulations, 1949 Edition, as prescribed by the regulations of the Administrative Committe of the Federal Register and approved by the President effective October 12, 1948 (13 F. R. 5929), the codification of material heretofore contained in the following sections of this chapter is hereby discontinued:

§ 300.1 except subparagraphs (c) (6) and (c) (7) (6 CFR, 1946 Supp.; 6 CFR, 1947 Supp.; 13 F. R. 6232, 6901).
§ 300.15 (6 CFR, 1945 Supp.).
§ 300.17 (6 CFR, 1947 Supp.; 13 F. R. 6194).
§ 300.20 (13 F. R. 3513).
§ 300.21 (6 CFR, 1947 Supp.).
§ 300.22 (6 CFR, 1947 Supp.).
§ 300.23 (13 F. R. 3779).

Future amendments to descriptions of organization and functions and notices relating to delegations of final authority not included in regulations will appear in the Notices section of the FEDERAL REGISTER.

2. The following sections of this chapter are hereby revoked:

§ 300.1a (6 CFR, 1946 Supp.; 6 CFR, 1947 Supp.; 13 F. R. 3621).
§ 300.2 (6 CFR, Cum. Supp.).
§ 300.4 (6 CFR, Cum. Supp.).
§ 300.5 (6 CFR, Cum. Supp.).
§ 300.6 (6 CFR, Cum. Supp.).
§ 300.7 (6 CFR, Cum. Supp.).
§ 300.8 (6 CFR, Cum. Supp.).
§ 300.10 (6 CFR, 1943 Supp.).
§ 300.11 (6 CFR, 1944 Supp.).
§ 300.14 (6 CFR, 1944 Supp.).
§ 300.16 (6 CFR, 1945 Supp.).
§ 353.0 (6 CFR, Cum. Supp.; 6 CFR, 1943 Supp.).
§ 353.11 (6 CFR, Cum. Supp.).
§ 353.21 except paragraph (d) (6 CFR, Cum. Supp.; 6 CFR, 1946 Supp.).
§ 360.11 (6 CFR, Cum. Supp.).
§ 361.11 (6 CFR, Cum. Supp.).

3. For the purpose of effecting a more logical arrangement of subject matter and incorporating current changes in these regulations, effective December 22, 1948, the remaining text of this chapter, with the exception of §§ 352.61, 353.1 and 353.21 (d) and the temporary rule of February 27, 1947, contained in the note in Part 353, is reorganized and amended to read as set forth in the attached document. The material heretofore contained in §§ 352.61 (6 CFR, 1947 Supp.), 353.1 (6 CFR, 1946 Supp.), and 353.21 (d) (6 CFR, 1946 Supp.) and the temporary rule contained in the note in Part 353 (6 CFR, 1947 Supp.; 13 F. R. 6194), is no longer subject to codification as the liquidation of project properties has been generally completed.

[SEAL] DILLARD B. LASSETER,
*Administrator,*
*Farmers Home Administration.*

DECEMBER 29, 1948.

Approved: December 30, 1948.

I. W. DUGGAN,
*Acting Secretary of Agriculture.*

SUBCHAPTER A—ADMINISTRATION

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SUBCHAPTER E—ACCOUNT SERVICING

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### Subchapter A—Administration

PART 300—PROGRAM AUTHORIZATIONS GIVEN TO ADMINISTRATOR

Sec.
300.1 General program authorizations.
300.2 Extension of program authorizations to the Virgin Islands.
300.3 Authorization for 1948 flood loan program.
300.4 Authority of Administrator to redelegate; authority of Acting Administrator.

§ 300.1 *General program authorizations.* Effective November 1, 1946, there shall be transferred to the Farmers Home Administration, to be exercised by the Administrator thereof, all the authorities, powers, functions, and duties vested in the Secretary of Agriculture under the provisions of the Farmers Home Administration Act of 1946, 60 Stat. 1062, and by virtue of the transfer agreements with the various State Rural Rehabilitation Corporations; all functions relating to the sale of land pursuant to section 43 of the act of July 22, 1937, 50 Stat. 530; and all authorities, powers, functions, and duties with respect to the Water Facilities Program remaining on October 31, 1946, in the Farm Security Administration, or the Administrator thereof. Subject to the approval of the Secretary of Agriculture, the Administrator of the Farmers Home Administration may issue rules and regulations necessary for the proper exercise of the authorities and powers and for the performance of the functions and duties herein transferred.

(R. S. 161, Sec. 41 (i), 60 Stat. 1066, secs. 5, 6 (3), 50 Stat. 870; 5 U. S. C. 22, 7 U. S. C. 1015 (i), 16 U. S. C. 590v, 590w (3)) [Derivation: par. 2, Order, Sec. Agric., Oct. 14, 1946, 11 F. R. 12520]

§ 300.2 *Extension of program authorizations to the Virgin Islands.* Effective October 30, 1947, the authorities, powers, functions, and duties vested in the Secretary of Agriculture by the act of July 26, 1947, 61 Stat. 493, insofar as said act extends the provisions of the Bankhead-Jones Farm Tenant Act, as amended, to the Virgin Islands, are hereby transferred to the Farmers Home Administration, to be exercised by the Administrator thereof in accordance with the provisions of the order of "Consummation of Transfers Necessitated by the Farmers Home Administration Act of 1946, and Provision for Certain Interim Authorities" issued by the Secretary of Agriculture, on October 14, 1946; 11 F. R. 12520.

(Sec. 41 (i), 60 Stat. 1066; 7 U. S. C. 1015 (i)) [Derivation: Order, Acting Sec. Agric., Oct. 30, 1947, 12 F. R. 7137]

§ 300.3 *Authorization for 1948 Flood Loan Program.* Effective July 9, 1948, all authorities, powers, functions, and duties vested in the Secretary of Agriculture by Public Law 785, 80th Congress (62 Stat. 1038), with respect to providing assistance to farmers whose property was destroyed or damaged by floods in 1948, are hereby transferred to the Farmers Home Administration, to be exercised by the Administrator thereof. Subject to the approval of the Secretary of Agri-

culture, the Administrator of the Farmers Home Administration may issue rules and regulations necessary for the proper exercise of the authorities and powers and for the performance of the functions and duties herein transferred.

(R. S. 161, 62 Stat. 1038; 5 U. S. C. 22) [Derivation: pars. 1 and 2, Order, Sec. Agric., July 9, 1948, 13 F. R. 4147]

§ 300.4 *Authority of Administrator to redelegate; authority of Acting Administrator.* In his discretion, the Administrator of the Farmers Home Administration may redelegate, upon such terms and conditions as he may prescribe, the powers and authorities conferred upon him. In his absence, or in the event of his disability, such powers and authorities may be exercised by the Acting Administrator.

(R. S. 161, Sec. 41 (i), 60 Stat. 1066, secs. 5, 6 (3), 50 Stat. 870; 5 U. S. C. 22, 7 U. S. C. 1015 (i), 16 U. S. C. 590v, 590w (3)) [Derivation: par. 5, Order, Sec. Agric., Oct. 14, 1946, 11 F. R 12520; Order, Acting Sec. Agric., Oct. 30, 1947, 12 F. R. 7137; par. 3, Order, Sec. Agric., July 9, 1948, 13 F. R. 4147]

## PART 301—PROGRAM AUTHORIZATIONS GIVEN TO FIELD OFFICIALS

Sec.

301.1 Program authorizations given to State Directors; ratification of certain instruments.

301.2 Program authorizations given to Area Supervisor for the Territory of Hawaii.

301.3 Program authorization given to Farmers Home Administration Representative in the Virgin Islands.

AUTHORITY: §§ 301.1 to 301.3 issued under pars. 2 and 5, Order, Sec. Agric., Oct. 14, 1946, 11 F. R. 12520; Order, Acting Sec. Agric., Oct. 30, 1947, 12 F. R. 7137; Order, Sec. Agric., July 9, 1948, 13 F. R. 4147, with the exception that the Order dated Oct. 30, 1947 (12 F. R. 7137) is not applicable to § 301.2.

§ 301.1 *Program authorizations given to State Directors; ratification of certain instruments.* (a) Each State Director of the Farmers Home Administration is hereby authorized, within the area of his jurisdiction, on behalf of the United States of America and the Secretary of Agriculture:

(1) To approve loans, and make commitments to and insure mortgages, incident to the programs of the Farmers Home Administration, including, but not limited to, the approval of options, the approval of the assignment, and the designation of assignees, of options; the approval and acceptance of security, including determinations that outstanding interests in security property are not objectionable and the obtaining of severance and subordination agreements; the endorsement of bonds and notes in connection with the insurance of mortgages; and the execution of necessary documents.

(2) To do and perform all acts necessary for the servicing, reviewing, collection, and enforcement of payment of indebtedness, now or hereafter administered or serviced by the Farmers Home Administration, including indebtedness contracted through the Resettlement Administration, the Farm Security Administration, the Emergency Crop and Feed Loan Offices of the Farm Credit Administration, State rural rehabilitation corporations, defense relocation corporations, land leasing and purchasing associations, and other similar associations, corporations, and agencies. This authority shall include, but shall not be limited to, the cancellation, compromise, liquidation, and adjustment of indebtedness, including the modification of contracts and other instruments; authority to require further security; authority to declare entire indebtedness due and payable; the administrative determinations preparatory to initiation of foreclosure proceedings; the appointment and designation of substitute trustees in deeds of trust and representatives of the United States and the Secretary of Agriculture to foreclose under the power of sale in real estate mortgages; the designation of persons to bid at foreclosure sales on behalf of the United States and the Secretary of Agriculture; taking possession of, and the acquisition of, real and personal property; the approval of the transfer to third persons of security property; the repair, maintenance, and operation of security property, including the granting of leases and the execution of caretaker agreements; the execution and filing of proofs of claim; the execution and delivery of, or consent to, suspensions and releases of assignments of income from mortgaged property, partial and full releases of security, waivers of liens, subordination agreements, satisfactions, and other documents; consent to the assignment, partial or full release, or satisfaction of insured mortgages; authority to enter into agreements to purchase nondelinquent insured mortgages; and the issuance, publication, and service of notices and other instruments.

(3) To lease, sell or otherwise dispose of real and personal property now held or hereafter acquired by the Farmers Home Administration, including the granting of Revocable Licenses covering rights-of-way which are determined by the State Director to be of benefit to the public in general or to the Government. Incident to this authority, the State Director is authorized to make determinations required or authorized by law and to execute and deliver contracts, leases, deeds and other instruments.

(4) To execute certificates of satisfaction and proof of loss on insurance contracts.

(5) To file and record instruments.

(6) To do and perform all other acts necessary for the proper administration of the programs of the Farmers Home Administration.

(b) All acts hereby authorized to be performed by a State Director shall be performed in accordance with the provisions of applicable laws.

(c) In the absence of the State Director, the authority hereby delegated to him may be exercised by the Acting State Director.

(d) All deeds, releases, subordination agreements, and other instruments affecting title to real property heretofore executed by officials or employees of the Farmers Home Administration, or the Farm Security Administration or the Resettlement Administration, incident to the administration of programs now under the jurisdiction of said Farmers Home Administration are hereby confirmed and approved. The acceptance and approval of conveyances of real property on behalf of the United States by such officials and employees likewise are approved.

(e) This section shall not be construed to revoke or modify any delegation of authority to the Administrator or Acting Administrator of the Farmers Home Administration or any redelegation of authority, instruction, procedure, or regulation heretofore issued, and every such delegation, redelegation, instruction, procedure, or regulation is hereby continued in full force and effect, unless otherwise revoked or modified.

[Derivation: Order, Admin., Aug. 20, 1948, approved, Sec. Agric., Aug. 31, 1948, 13 F. R. 5139]

§ 301.2 *Program authorizations given to Area Supervisor for the Territory of Hawaii.* (a) The Area Supervisor for the Territory of Hawaii is authorized to exercise all authorities vested in the position of State Field Representative.

(b) The State Director having jurisdiction over the Territory of Hawaii is authorized to redelegate to the position of the Area Supervisor for the Territory of Hawaii any and all of the authorities vested in said State Director, pursuant to any section of this chapter, except any function of the State Director the redelegation of which is specifically prohibited.

(c) Authorities under direct delegations to the said State Director from Government officials outside the Farmers Home Administration and special delegations to him by name (rather than by position) may not be redelegated under this authority.

[Derivation: Order, Admin., Aug. 22, 1947, approved, Acting Sec. Agric., Sept. 4, 1947, 12 F. R. 5974]

§ 301.3 *Program authorization given to Farmers Home Administration Representative in the Virgin Islands.* The Farmers Home Administration Representative in the Virgin Islands of the United States is hereby authorized to execute releases and satisfactions of real estate security instruments now held or hereafter acquired by the United States of America or the Secretary of Agriculture and administered through the Farmers Home Administration, upon receipt of payment in full of the indebtedness secured thereby.

[Derivation: Order, Admin., July 29, 1948, 13 F. R. 4472]

## PART 302—METHOD OF DELEGATION OF AUTHORITY

Sec.

302.1 General.

302.2 Limitations on authority of delegates.

302.3 Responsibility of delegating officials.

302.4 Authority of supervisors.

AUTHORITY: §§ 302.1 to 302.4 issued under pars. 2 and 5, Order, Sec. Agric., Oct. 14, 1946, 11 F. R. 12520; Order, Acting Sec. Agric., Oct. 30, 1947, 12 F. R. 7137; Order, Sec. Agric., July 9, 1948, 13 F. R. 4147.

DERIVATION: §§ 302.1 to 302.4 contained in FHA Instruction 022.1.

§ 302.1 *General.* A statement in a Farmers Home Administration procedural issuance directing or permitting an employee, referred to by functional title, to perform an act will constitute authority for the employee to perform the act.

§ 302.2 *Limitations on authority of delegates.* Any authority delegated or redelegated to an employee will be exercised subject to, and in full compliance with, (a) the limitations, conditions, and requirements of the instrument by which the authority is delegated or redelegated, and (b) such direction and supervision as may be consistent therewith.

§ 302.3 *Responsibility of delegating officials.* Delegating officials retain full responsibility for supervising and directing subordinates (and have the right to review the actions of such subordinates) in the exercise of delegated authorities.

§ 302.4 *Authority of supervisors.* All Farmers Home Administration employees are automatically delegated the same authority as is delegated to their respective subordinates, and are responsible for supervising such subordinates in the proper exercise of such authorities, except:

(a) When authority is delegated directly to such subordinates by authorized Governmental officials outside the Farmers Home Administration.

(b) When acts must be performed by certain officials or employees under applicable laws and departmental regulations.

(c) When fiscal transactions and instruments are required by applicable laws, rules and regulations to be approved by immediate supervisors or other specific officials.

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## PART 303—METHOD OF DESIGNATION OF ACTING OFFICIALS

Sec.
303.1 General.
303.2 Authorities.
303.3 Authority of acting officials.

AUTHORITY: §§ 303.1 to 303.3 issued under pars. 2 and 5, Order, Sec. Agric., Oct. 14, 1946, 11 F. R. 12520; Order, Acting Sec. Agric., Oct. 30, 1947, 12 F. R. 7137; Order, Sec. Agric., July 9, 1948, 13 F. R. 4147.

DERIVATION: §§ 303.1 to 303.3 contained in FHA Instruction 022.2.

§ 303.1 *General.* Officials of the Farmers Home Administration listed in § 303.2 are authorized to designate subordinate employees to serve in an acting capacity in the positions of such officials and positions under the supervision of such officials when the regular incumbents thereof are temporarily absent from duty or from their normal headquarters, provided: (a) The employees so designated are qualified and, if performance of such duties require bonding, are properly bonded, and (b) the duration of the absence and the nature of the duties to be performed during such absence will warrant the designation.

§ 303.2 *Authorities.* The following officials are authorized to designate acting officials for positions as indicated:

(a) *National Office.* (1) The Administrator will designate the Acting Administrator, and acting officials for any other position on his immediate staff.

(2) The head of each National Office division is authorized to designate an acting division head and acting officials for any other position within his division.

(b) *Area Finance Offices.* (1) The Area Finance Manager is authorized to designate an Acting Area Finance Manager, acting chiefs of the Fiscal and Administrative Services divisions of the Area Finance Office, and acting officials for any other position on the immediate staff of the Area Finance Manager.

(2) The chiefs of the Fiscal and Administrative Services divisions in the Area Finance Office are authorized to designate acting officials for any subordinate position in their respective divisions.

(c) *Field offices of the Examination Division.* (1) The Chief of the Examination Division in the National Office is authorized to designate Acting Area and Acting Resident Examination Officers of the Examination Division.

(2) Except for the positions designated in subparagraph (1) of this paragraph, the Area and Resident Examination Officers are authorized to designate an acting official for any position connected with the respective Area or Resident Examination Offices.

(d) *State offices.* The State Director is authorized to designate an Acting State Director, and acting officials for any other position under his jurisdiction.

§ 303.3 *Authority of acting officials—* (a) *Extent of authority.* The employee designated to act in a position will have all rights, privileges, duties, and powers delegated to the position of the regular incumbent, including the authority to execute documents incident thereto. This will not include authorities delegated or redelegated to the regular incumbent of the position by special delegation or redelegation (delegations to individuals by name).

(b) *Signature of acting official.* Documents executed by acting officials in their acting capacity will be signed in their own names, using their temporary titles; for example, "Acting State Director" or "Acting County Supervisor".

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### Subchapter B—Farm Ownership Loans

AUTHORITY: §§ 311.1 to 337.5, except §§ 311.6, 311.7, 311.30 and 311.31, issued under pars. 2 and 5, Order, Sec. Agric., Oct. 14, 1946, 11 F. R. 12520; Order, Acting Sec. Agric., Oct. 30, 1947, 12 F. R. 7137. §§ 311.6, 311.7, 311.30 and 311.31 issued under sec. 41 (i), 50 Stat. 529, 60 Stat. 1066; 7 U. S. C. 1015 (i). Statutory provisions interpreted or applied are cited in parentheses at the end of affected sections, with the exception that when statutory provisions interpreted or applied relate generally to an entire subpart, citations are given in the heading of such subpart.

## PART 311—BASIC REGULATIONS

### SUBPART A—GENERAL

Sec.
311.1 General.
311.2 Restrictions on loans.
311.3 Disabled veterans.
311.4 Additional limitations for farm enlargement and farm development loans.
311.5 Terms of loans.
311.6 Side agreements prohibited.
311.7 Loan funds impressed with trust.

### SUBPART B—LOAN LIMITATIONS

Sec.
311.21 General.
311.22 Average value.
311.23 Investment limit.
311.24 Fair and reasonable value of farm.
311.25 Total investment in farm.
311.26 Application of average values and investment limits.
311.27 Limit on amount of insured loan.
311.28 Action by Administrator regarding total investment in farm greater than $12,000 if county average value exceeds $12,000.
311.29 Farm situated in more than one county.
311.30 Average values of farms and investment limits.
311.31 Territorial subdivisions in Alaska, Puerto Rico, and the Virgin Islands.

### SUBPART C—PURPOSES OF FARM OWNERSHIP LOANS

311.41 General.
311.42 Source of funds.
311.43 Types of loans.
311.44 Farm Ownership loans to Disabled Veterans.

### SUBPART A—GENERAL

DERIVATION: §§ 311.1 to 311.5 contained in FHA Instruction 401.1. §§ 311.6 and 311.7 contained in Order, Sec. Agric., Jan. 31, 1942, 7 F. R. 685.

§ 311.1 *General.* (a) The word "farm" as used in procedure relating to Farm Ownership loans includes the land, buildings, fences, water appurtenances, and other improvement items generally considered a part of the real estate. Funds for such items, as needed, should be provided in Farm Ownership loans. In some States, certain improvement items or appurtenances which ordinarily would be considered a part of the real estate may, by agreement between the owner of the land and the person furnishing or using such appurtenances, remain personal property. Such an agreement would be binding on a Farm Ownership borrower who purchases the land. In all cases where funds are included in a Farm Ownership loan to purchase such improvements or appurtenances, the County Supervisor, with the advice of the representative of the Office of the Solicitor, will ascertain that such appurtenances are free from any liens or encumbrances and are covered adequately by the first mortgage (deed of trust) to be taken on the real property.

(b) When a Farm Ownership applicant has funds of his own to apply toward the purchase, enlargement, or development of a farm, such funds will be deposited in a supervised bank account as soon as possible but not later than the time the Farm Ownership loan funds are deposited. Such funds will not be held back for making additional and unapproved expenditures.

(c) Any existing liens on a farm which is to be enlarged or developed will be paid off with the proceeds of a Farm Enlargement or Farm Development loan, so that there will be no liens on the farm other than the first mortgage (deed of trust) securing the loan.

(d) Except as otherwise authorized by the Administrator, arrangements will not be made with sellers to construct new or repair old buildings in order to comply with the anticipated needs of Farm Ownership applicants. Construction work

will be financed with the proceeds of Farm Ownership loans and will be subject to established Farm Ownership regulations.

(e) Each Farm Ownership applicant will be advised that, if at any time it shall appear that he is able to refinance his loan with a responsible cooperative or private credit source at a rate of interest not in excess of five percent (5%) per annum, and on terms for loans for similar periods of time and purposes prevailing in the area in which the loan is to be made, he must, upon request of the Government, apply for and accept such refinancing.

(f) There may be included in each Farm Ownership loan a service fee in an amount sufficient to pay for (1) recordation of the deed and mortgage (deed of trust), (2) any portion of the expense of title examination and title insurance chargeable to the borrower, (3) bank charges for handling deposits in connection with the loan, (4) an appraisal fee of twenty dollars ($20) for an insured loan borrower, and (5) other expenses necessary in connection with the acquisition of the land and the closing of the loan. A sum of five dollars ($5) will be added to the sum of these charges to cover possible underestimates.

(g) Promptly after completion of the planned expenditures, any remaining balance of a Farm Ownership loan will be applied on the borrower's Farm Ownership loan account as a refund.

(h) No Farm Ownership loan will be made unless it has been determined, after representation by the applicant on Form FHA–5, "Loan Voucher," for a direct loan, or on Form FHA–359, "Borrower-Insurer-Lender Triple Agreement," for an insured loan, and certification to such effect by the County Committee on Form FHA–491, "County Committee Certification," that credit sufficient in amount to finance the actual needs of the applicant is not available to him, at a rate of interest not exceeding five percent (5%) per annum and on terms prevailing in the community, in or near which the applicant resides for loans of similar size and character from commercial banks, cooperative lending agencies, or from any other responsible source.

(Secs. 1 (a), 3 (a), 12 (a), 12 (c) (3), 12 (d), 44 (a) (3), 44 (b), 44 (c), 60 Stat. 1072, 1074, 1076, 1068, 1069; 7 U. S. C. 1001 (a), 1003 (a), 1005b (a), 1005b (c) (3), 1005b (d), 1018 (a) (3), 1018 (b), 1018 (c))

§ 311.2 *Restrictions on loans.* Farm Ownership loans will not be made to:

(a) Any corporation, partnership, or cooperative association.

(b) Carry on any operations in collective farming or cooperative farming.

(c) Carry on any Government land-purchase or land-leasing program, or to organize, promote, or manage homestead associations, land-purchasing associations, or cooperative land-purchasing for colonies of rehabilitants and tenant purchasers.

(d) Purchase or refinance indebtedness against machinery, tools, equipment, livestock, and similar items legally not considered real property. A Production and Subsistence loan will not be made to pay the principal or interest or a mortgage insurance charge on a Farm Ownership loan.

(e) Finance any farm development not located on the property covered by the mortgage (deed of trust).

(f) Pay real property insurance premiums.

(g) Pay mortgage insurance charges on insured loans.

(h) Purchase a building located on an outside tract to be moved to a Farm Ownership farm, unless an exception is made in a particular case by the State Director. Such an exception will be granted by the State Director only upon condition that the building purchased is, in the opinion of the representative of the Office of the Solicitor, released properly from any liens or mortgages outstanding against the property on which it is located, and the further condition that it definitely is more advantageous to the borrower to purchase and move a building to a Farm Ownership farm than it is to construct or repair a building on the Farm Ownership farm.

(Secs. 1 (a), 3 (a), 44 (a) (1) and (4), 44 (b), 60 Stat. 1072, 1074, 1068, 1069; 7 U. S. C. 1001 (a), 1003 (a), 1018 (a) (1) and (4), 1018 (b))

§ 311.3 *Disabled veterans.* No Farm Ownership loan will be made to a disabled veteran with a pensionable disability to enable him to acquire, enlarge, or improve a farm which is less than an efficient family-type farm unless the unit as acquired, enlarged, or improved is of sufficient size and character to meet the farming capabilities of such a veteran and will afford him an income which, together with his pension, will enable him to meet his living and operating expenses and repay the loan.

(Sec. 1 (c), 60 Stat. 1073; 7 U. S. C. 1001 (c))

§ 311.4 *Additional limitations for farm enlargement and farm development loans.* (a) No farm enlargement or farm development loan will be made if the indebtedness to be refinanced plus the costs incident to such refinancing exceeds the determination by the County Committee of the value less planned improvements of the applicant's unit.

(b) With the exception of Farm Development loans to disabled veterans as provided in § 311.3, no Farm Development loan will be made except for improving a farm of such size that it can be developed into an efficient family-type farm and for refinancing such indebtedness as is necessary against such a farm.

(Secs. 1 (a), 1 (c), 44 (b), 60 Stat. 1072, 1073, 1069; 7 U. S. C. 1001 (a), 1001 (c), 1018 (b))

§ 311.5 *Terms of loans*—(a) *Amortization period.* Farm Ownership loans will be amortized over a period not to exceed forty years.

(b) *Interest rates.* (1) For direct Farm Ownership loans, the interest rates per annum on the unpaid principal are as follows:

(i) Three percent (3%) on loans approved prior to November 1, 1946.

(ii) Three and one-half percent (3½%) on loans approved subsequent to October 31, 1946, and prior to June 19, 1948.

(iii) Four percent (4%) on loans approved subsequent to June 18, 1948.

(2) For insured Farm Ownership loans, the interest rates per annum on the unpaid principal are as follows:

(i) Two and one-half percent (2½%) on loans approved prior to June 19, 1948.

(ii) Three percent (3%) on loans approved subsequent to June 18, 1948.

(c) *Mortgage insurance charge.* Each insured loan borrower must pay a mortgage insurance charge in addition to principal and interest payments on his loan.

(1) Each insured loan borrower whose loan was approved subsequent to June 18, 1948, must pay on the date of loan closing an initial mortgage insurance charge, computed at the rate of one percent (1%) of the principal obligation of the mortgage, covering the period from the date of loan closing to the next March 31.

(2) Each insured loan borrower whose loan was approved subsequent to June 18, 1948, or who executed Form FHA–362, "Supplementary Agreement," (for loans approved prior to June 19, 1948), must pay an annual mortgage insurance charge of one percent (1%) of the actual principal obligation remaining unpaid as of March 31 each year. The first annual mortgage insurance charge will be computed on the basis of the principal obligation remaining unpaid as of the March 31 on which the first installment on the note is due, and must be paid on or before the following March 31. Each succeeding annual mortgage insurance charge will be computed on the basis of the principal obligation remaining unpaid as of March 31 each year thereafter, and must be paid on or before the following March 31. Annual mortgage insurance charges shall continue until the mortgage is paid in full or the mortgaged property is acquired by the Government, or until the contract of insurance is otherwise terminated.

(3) Prior to the first April 1 following the date of loan closing, each insured loan borrower whose loan was approved prior to June 19, 1948, and who has not executed Form FHA–362, must pay a mortgage insurance charge covering the period from the first anniversary date of his note to the date on which the second installment on his note becomes due. The charge for this proportionate part of a year will be computed on the basis of one percent (1%) of the entire principal obligation less any amount of principal required to be paid on or before the first installment date.

(4) Prior to each April 1 thereafter during the life of the loan, each insured loan borrower whose loan was approved prior to June 19, 1948, and who has not executed Form FHA–362, must pay a mortgage insurance charge covering the succeeding twelve (12) month period. This annual charge will be equal to one percent (1%) of the principal obligation of his mortgage that would remain unpaid on the next installment date if the borrower should pay exactly in accordance with the installment payments specified in his note.

(d) *Security instrument.* Farm Ownership loans will be secured by a first mortgage (deed of trust) on the farm. The mortgage (deed of trust) securing the debt will specify the terms and conditions under which the funds were advanced to the borrower. In addition to the repayment period and the interest rate, as indicated in paragraphs (a) and (b) of this section, such instruments will provide, among other conditions, that:

(1) The borrower will repay the unpaid balance of the loan, with interest, in installments based upon prescribed amortization schedules.

(2) The borrower will keep the property insured against loss by fire or other casualty, and will pay taxes, assessments, and other charges against the farm to the proper taxing authorities.

(3) The borrower personally and continuously will use the property as a farm and for no other purpose.

(4) The farm will be maintained in good condition; waste and exhaustion of the property will be prevented; required repairs will be made; and farming conservation practices as prescribed by the Secretary of Agriculture will be carried out.

(5) Final payment on the loan will not be accepted in less than five (5) years, without written consent of the Farmers Home Administration. If an insured loan is paid in full in less than five (5) years, the borrower may be required to pay an additional charge equal to the annual mortgage insurance charge for the year in which the loan is repaid in full.

(6) The entire amount due on the loan, for violation of certain agreements, may be declared immediately due and payable. The Secretary of Agriculture may require assignment to the Government of the insured mortgage of a borrower who violates certain agreements.

(7) The borrower will apply for and accept a refinancing loan from a responsible cooperative or private credit source, if at any time it shall appear to the Secretary of Agriculture that the borrower is able to obtain such a loan at a rate of interest not in excess of five percent (5%) per annum and on terms for loans for similar periods of time and purposes prevailing in the area in which the loan is made.

(8) Each insured loan borrower will pay to the Farmers Home Administration, as collection agent for the Mortgagee, amounts payable to the Mortgagee under the mortgage.

(9) The holder of an insured mortgage will accept the benefits of the insurance furnished by the Government in lieu of any right of foreclosure which the Mortgagee may have against the mortgaged property and any right to a deficiency judgment against the Mortgagee on account of the mortgage.

(e) *Sale of nondelinquent insured mortgages to the Government.* Any holder of an insured mortgage approved subsequent to June 18, 1948, and any previously approved mortgage for which Form FHA–362 has been executed, may, at his option, within a period of one year beginning after the expiration of seven (7) years from the date of the mortgage, have the mortgage purchased by the Government even though the mortgage is not then in default. If the holder exercises such option, the Government will purchase the mortgage and pay the holder in cash an amount equal to the value of the mortgage. For such purpose, the value of the mortgage will be determined by adding to the then outstanding unpaid principal, the amount of any unpaid interest and the unpaid amount of any advances made by a holder for property insurance premiums, taxes, assessments, water charges, and other payments in discharge of liens which are prior to the mortgage. If the holder of the mortgage does not exercise the above-mentioned option, he may accept any new agreement which may be offered by the Government to purchase the mortgage, or the holder may retain the mortgage until it is paid in full, refinanced, or assigned to another lender.

(Secs. 3 (b) (2), 50 Stat. 523, secs. 3 (a), 3 (b), 12 (c) (4), (6) and (7), 12 (e) (1), 13 (d), 44 (b), 60 Stat. 1074, 1076, 1078, 1069, secs. 1, 2, 3 and 5, Pub. Law 720, 80th Cong. (62 Stat. 534, 535); 7 U. S. C. 1003 (a), 1003 (b), 1005b (c) (4), (6) and (7), 1005b (e) (1), 1005c (d), 1018 (b))

§ 311.6 *Side agreements prohibited.* The full purchase price of all farms purchased in connection with the Farm Ownership program must be named in the option between prospective borrowers and their vendors. Side agreements between prospective borrowers and their vendors upon a purchase price greater or less than the option price shall not be permitted. Agreements to give second mortgages, mortgages on chattels, mortgages on other property, or other liens, notes, or the payment of any cash consideration, other than the cash consideration named in the option price, are included within this prohibition, but it is not to be construed as limited to the side agreements herein specified. Such action shall be deemed grounds for the cancellation of the loan, or for declaring the amount unpaid immediately due and payable, or for the cancellation of the side agreement, regardless of its nature, and for the return to the prospective borrower, by the vendor, of any amount paid in pursuance to the side agreement. (See also § 321.24 of this chapter.)

(Sec. 44 (b), 60 Stat. 1069; 7 U. S. C. 1018 (b))

§ 311.7 *Loan funds impressed with trust.* The proceeds of loans made pursuant to Title I of the Bankhead-Jones Farm Tenant Act, as amended, shall be impressed with a trust for the purposes for which loans may be made under that Title, and may be used only for the purposes stated in the application therefor, and such trust shall continue, and the proceeds shall be free from garnishment, attachment, or the levy of an execution, until such proceeds have been used by the borrower for such purposes. Failure of the borrower to use the proceeds of such loans for such purposes, and in accordance with the purposes stated in the application therefor, shall be deemed grounds for the cancellation of the loan or for declaring the amount unpaid immediately due and payable.

(Sec. 44 (b), 60 Stat. 1069; 7 U. S. C. 1018 (b))

## SUBPART B—LOAN LIMITATIONS

DERIVATION: §§ 311.21 to 311.29 contained in FHA Instruction 401.2. § 311.30 contained in several Orders of the Secretary or Acting Secretary of Agriculture codified in 6 CFR, 1946 Supp., 364.11, and 6 CFR, 1947 Supp., 364.11, and Orders of the Secretary or Acting Secretary of Agriculture published in 13 F. R. 611, 2155, 3293, 4249, 6901, and 8127. § 311.31 contained in Order, Acting Sec. Agric., Aug. 22, 1947, 12 F. R. 5767; Order, Acting Sec. Agric., Oct. 19, 1948, 13 F. R. 6232; Order, Acting Sec. Agric., Nov. 19, 1948, 13 F. R. 6901.

§ 311.21 *General.* The Secretary of Agriculture has determined average values and investment limits for most of the counties and parishes in the United States, its territories and possessions, in accordance with the Bankhead-Jones Farm Tenant Act, as amended. Direct or insured Farm Ownership loans will not be made in any county, parish, or locality until such determinations have been made for the county, parish, or locality (see § 311.30).

(Secs. 3 (a), 44 (b), 60 Stat. 1074, 1069; 7 U. S. C. 1003 (a), 1018 (b))

§ 311.22 *Average value.* The "average value" for a county, parish, or locality means the average value, as determined by the Secretary of Agriculture for the purposes of title I of the Bankhead-Jones Farm Tenant Act, as amended, of efficient family-type farm-management units situated in the county, parish, or locality.

(Sec. 3 (a), 60 Stat. 1074; 7 U. S. C. 1003 (a))

§ 311.23 *Investment limit.* The "investment limit" for a county, parish, or locality is the amount to which the total investment of a Farm Ownership applicant in a farm is limited, unless the Administrator authorizes a greater total investment as provided in § 311.28. The total investment of a Farm Ownership applicant in a farm will be computed in accordance with § 311.25.

(Sec. 44 (b), 60 Stat. 1069; 7 U. S. C. 1018 (b))

§ 311.24 *Fair and reasonable value of farm.* The fair and reasonable value of a farm is determined by the County Committee in accordance with §§ 321.41 to 321.43 of this chapter, and is the amount certified by the Committee (on Form FHA–491, "County Committee Certification," or on Form FHA–499, "Recertification by County Committee") to be the fair and reasonable value of the farm, based upon its normal earning capacity, after contemplated improvements are made.

(Sec. 2 (b), 60 Stat. 1074; 7 U. S. C. 1002 (b))

§ 311.25 *Total investment in farm.* The computation of the total investment of a Farm Ownership applicant in a farm depends upon the type of Farm Ownership financial assistance for which application is made. In computing total investment, the cost of property insurance, or the initial mortgage insurance charge is not included.

(a) For an initial direct or insured Farm Ownership loan (Tenant Purchase, Farm Enlargement, and Farm Development), the applicant's total investment in the farm will consist of the sum of the following items:

(1) The purchase price of all land or interests in land to be acquired by the applicant.

(2) The amount necessary for all planned repairs and improvements, both immediate and deferred.

(3) The amount of any necessary fees and expenses incident to making and closing the loan which are required to be paid by the applicant, whether included in the Farm Ownership loan as a service fee or paid by the applicant from personal funds.

(4) In the case of a Farm Enlargement or a Farm Development loan:

(i) The value, as determined by the County Committee (on Form FHA–493, "Value of Applicant's Unit"), of the applicant's equity in the tract of land owned by the applicant which is to be enlarged or improved.

(ii) The amount necessary to refinance indebtedness against the tract of land owned by the applicant which is to be enlarged or improved, or to pay the balance due on a purchase contract covering such land.

(5) If a Tenant Purchase loan involves a tract of land in which the applicant owns an undivided fractional interest, by reason of inheritance or otherwise, and the applicant is to purchase the interests of the other heirs or joint owners (see § 316.4 of this chapter):

(i) The value of the applicant's interest in the tract.

(ii) The amount necessary to satisfy the applicant's share of liens or encumbrances against the tract.

(b) For a subsequent direct Farm Ownership loan (see §§ 333.1 to 333.11 of this chapter) not in connection with the voluntary transfer of a farm or the sale of land by the Farmers Home Administration, the applicant's total investment in the farm will consist of the sum of the following items:

(1) The unpaid amount of the applicant's Farm Ownership indebtedness.

(2) The amount of the requested subsequent loan, except such part, if any, of the requested subsequent loan as will be used for refinancing outstanding Farm Ownership indebtedness.

(3) The amount of any necessary fees and expenses incident to making and closing the subsequent loan which are required to be paid by the applicant and which are not included in the subsequent loan as a service fee.

(4) Any other amounts which will be paid by the applicant from personal funds in connection with accomplishing the purposes of the subsequent loan.

(5) The value, as determined by the County Committee (on Form FHA–493, "Value of Applicant's Unit"), of the applicant's equity in land owned by him.

(c) For a sale by the Farmers Home Administration of a family-type farm on terms and in a manner consistent with title I of the Bankhead-Jones Farm Tenant Act, as amended (see §§ 372.81 to 372.84 of this chapter), the applicant's total investment in the farm will be computed in a manner consistent with the computation of total investment for an initial Tenant Purchase loan.

(d) For a voluntary transfer of a farm which secures a direct Farm Ownership loan (see §§ 372.21 to 372.27 of this chapter), if a subsequent loan is requested in connection with the transfer, the applicant's total investment in the farm will be computed as in the case of an initial Tenant Purchase loan. If no subsequent loan is requested, the investment limit and the average value do not apply in connection with the transfer of a family-type farm.

(e) Each case involving a type of Farm Ownership financial assistance not described in this section will be referred to the Administrator for specific instructions.

(Sec. 44 (b), 60 Stat. 1069; 7 U. S. C. 1018 (b))

§ 311.26 *Application of average values and investment limits.* No direct (initial or subsequent) or insured Farm Ownership loan for the acquisition, enlargement, or development of any farm, and no credit sale by the Farmers Home Administration of a farm on title I terms, will be approved:

(a) If the fair and reasonable value of the farm, as certified by the County Committee, exceeds the applicable average value, or

(b) If the applicant's total investment in the farm will exceed either:

(1) The investment limit (in the absence of authority from the Administrator as provided in § 311.28 of this chapter, or

(2) The fair and reasonable value of the farm, as certified by the County Committee.

(Secs. 3 (a), 43 (b), 44 (b), 51, 60 Stat. 1074, 1067, 1069, 1070; 7 U. S. C. 1003 (a), 1017 (b), 1018 (b), 1025)

§ 311.27 *Limit on amount of insured loan.* In addition to the limitations contained in § 311.26, no insured Farm Ownership loan for the acquisition, enlargement, or development of any farm will be approved in an amount which exceeds either:

(a) Ninety percent (90%) of the fair and reasonable value of the farm, as certified by the County Committee, or

(b) Ninety percent (90%) of the applicant's total investment in the farm, if such investment is less than the certified value.

(Sec. 12 (c) (5), 60 Stat. 1076; 7 U. S. C. 1005b (c) (5))

§ 311.28 *Action by Administrator regarding total investment in farm greater than $12,000 if county average value exceeds $12,000.* In a county where the average value exceeds $12,000, each case involving a proposed total investment in a farm greater than $12,000 may be submitted to the Administrator by the State Director for consideration and determination in conformity with this paragraph. Each request for action under this section shall be accompanied by a detailed statement of the circumstances necessitating the request, together with the original loan docket and the recommendations of the County Supervisor, the County Committee, and the State Field Representative. Pending determination by the Administrator, no commitment, or statement which might be interpreted as a commitment, shall be made as to whether a total investment in the farm greater than $12,000 will be approved. The Administrator may approve a total investment in the farm greater than $12,000: *Provided,* That all of the following conditions are satisfied:

(a) The applicant's total investment in the farm will not exceed the fair and reasonable value of the farm, as certified by the County Committee.

(b) The fair and reasonable value of the farm, as certified by the County Committee, does not exceed the average value, as determined by the Secretary.

(c) The Administrator determines that it is not possible for the applicant to acquire, enlarge, or improve the farm and make it an efficient family-type farm-management unit with a total investment of $12,000 or less.

(d) The Administrator determines that the proposed loan will be an unusually sound investment and is safely within the applicant's ability to repay as evidenced by one or more of the following factors:

(1) The proposed total investment is substantially less than the normal earning capacity value of the farm.

(2) The applicant has assets or debt paying ability greater than the minimum required for a Farm Ownership loan.

(3) The applicant has clearly established managerial ability or farming experience superior to the minimum required for a Farm Ownership loan.

(4) The proposed farm and home plan indicates debt paying ability substantially in excess of that shown in the earning capacity report.

(Sec. 44 (b), 60 Stat. 1069; 7 U. S. C. 1018 (b))

§ 311.29 *Farm situated in more than one county.* For the purposes of this subpart, if a farm lies in more than one county, parish, or locality, it will be deemed to be located in the county, parish, or locality in which the residence building of the farm is located or is to be constructed.

§ 311.30 *Average values of farms and investment*[1] *limits.* Loans under Title I of the Bankhead-Jones Farm Tenant Act, as amended, may not be made for the acquisition, enlargement, or improvement of farms which have a value, as acquired, enlarged, or improved, in excess of the average value of efficient family-type farm-management units, as determined by the Secretary, in the county, parish, or locality where the farm is located. For the purposes of Title I of the Bankhead-Jones Farm Tenant Act, as amended, investment limits and such average values of efficient family-type farm-management units are determined as follows:

[1] The term "investment limit" was adopted in lieu of the term "loan limit," in connection with the Farm Ownership Program under title I and the related provisions of title IV of the Bankhead-Jones Farm Tenant Act, as amended. Order, Acting Sec. Agric., Oct. 19, 1948, 13 F. R. 6194)

| County | Average value | Investment limit |
|---|---|---|
| **ALABAMA** | | |
| Autauga | $5,500 | $5,500 |
| Baldwin | 8,000 | 8,000 |
| Barbour | 6,500 | 6,500 |
| Bibb | 8,000 | 8,000 |
| Blount | 7,700 | 7,700 |
| Bullock | 6,500 | 6,500 |
| Butler | 6,500 | 6,500 |
| Calhoun | 8,500 | 8,500 |
| Chambers | 6,000 | 6,000 |
| Cherokee | 8,500 | 8,500 |
| Chilton | 6,000 | 6,000 |
| Choctaw | 5,000 | 5,000 |
| Clarke | 5,000 | 5,000 |
| Clay | 6,500 | 6,500 |
| Cleburne | 6,000 | 6,000 |
| Coffee | 7,000 | 7,000 |
| Colbert | 9,000 | 9,000 |
| Conecuh | 7,000 | 7,000 |
| Coosa | 5,000 | 5,000 |
| Covington | 7,000 | 7,000 |
| Crenshaw | 6,000 | 6,000 |
| Cullman | 7,500 | 7,500 |
| Dale | 7,700 | 7,700 |
| Dallas | 9,500 | 9,500 |
| De Kalb | 8,000 | 8,000 |
| Elmore | 6,500 | 6,500 |
| Escambia | 7,500 | 7,500 |
| Etowah | 9,000 | 9,000 |
| Fayette | 6,500 | 6,500 |
| Franklin | 7,000 | 7,000 |
| Geneva | 8,000 | 8,000 |
| Greene | 10,000 | 10,000 |
| Hale | 10,000 | 10,000 |
| Henry | 8,000 | 8,000 |
| Houston | 8,000 | 8,000 |
| Jackson | 7,500 | 7,500 |
| Jefferson | 7,000 | 7,000 |
| Lamar | 6,500 | 6,500 |
| Lauderdale | 8,500 | 8,500 |
| Lawrence | 8,500 | 8,500 |
| Lee | 5,500 | 5,500 |
| Limestone | 9,000 | 9,000 |
| Lowndes | 9,000 | 9,000 |
| Macon | 6,000 | 6,000 |
| Madison | 10,000 | 10,000 |
| Marengo | 10,000 | 10,000 |
| Marion | 6,500 | 6,500 |
| Marshall | 8,000 | 8,000 |
| Mobile | 7,500 | 7,500 |
| Monroe | 7,500 | 7,500 |
| Montgomery | 11,000 | 11,000 |
| Morgan | 7,500 | 7,500 |
| Perry | 9,000 | 9,000 |
| Pickens | 6,500 | 6,500 |
| Pike | 6,500 | 6,500 |
| Randolph | 6,500 | 6,500 |
| Russell | 6,000 | 6,000 |
| St. Clair | 6,500 | 6,500 |
| Shelby | 6,500 | 6,500 |
| Sumter | 10,000 | 10,000 |
| Talladega | 7,800 | 7,800 |
| Tallapoosa | 6,000 | 6,000 |
| Tuscaloosa | 7,000 | 7,000 |
| Walker | 6,500 | 6,500 |
| Washington | 4,500 | 4,500 |
| Wilcox | 9,500 | 9,500 |
| Winston | 6,500 | 6,500 |
| **ARIZONA** | | |
| Apache | 11,000 | 11,000 |
| Cochise | 15,000 | 12,000 |
| Coconino | 10,000 | 10,000 |
| Gila | 25,000 | 12,000 |
| Graham | 27,500 | 12,000 |
| Greenlee | 16,000 | 12,000 |
| Maricopa | 25,000 | 12,000 |
| Mohave | 15,000 | 12,000 |
| Navajo | 11,000 | 11,000 |
| Pima | 20,000 | 12,000 |
| Pinal | 20,000 | 12,000 |
| Santa Cruz | 20,000 | 12,000 |
| Yavapai | 15,000 | 12,000 |
| Yuma | 23,000 | 12,000 |
| **ARKANSAS** | | |
| Arkansas | 15,500 | 12,000 |
| Ashley | 7,500 | 7,500 |
| Baxter | 5,000 | 5,000 |
| Benton | 7,200 | 7,200 |
| Boone | 6,000 | 6,000 |
| Bradley | 6,000 | 6,000 |
| Calhoun | 6,000 | 6,000 |
| Carroll | 6,000 | 6,000 |
| Chicot | 8,000 | 8,000 |
| Clark | 6,500 | 6,500 |
| Clay | 8,500 | 8,500 |
| Cleburne | 5,000 | 5,000 |
| Cleveland | 5,500 | 5,500 |
| Columbia | 6,500 | 6,500 |
| Conway | 6,500 | 6,500 |
| Craighead | 8,500 | 8,500 |
| Crawford | 7,000 | 7,000 |
| Crittenden | 9,000 | 9,000 |
| Cross | 8,500 | 8,500 |
| Dallas | 5,500 | 5,500 |
| Desha | 8,000 | 8,000 |
| Drew | 7,500 | 7,500 |
| Faulkner | 6,500 | 6,500 |
| **ARKANSAS—continued** | | |
| Franklin | $6,500 | $6,500 |
| Fulton | 6,000 | 6,000 |
| Garland | 5,000 | 5,000 |
| Grant | 5,000 | 5,000 |
| Greene | 8,500 | 8,500 |
| Hempstead | 6,500 | 6,500 |
| Hot Spring | 5,000 | 5,000 |
| Howard | 7,000 | 7,000 |
| Independence | 8,000 | 8,000 |
| Izard | 5,500 | 5,500 |
| Jackson | 8,000 | 8,000 |
| Jefferson | 8,500 | 8,500 |
| Johnson | 6,500 | 6,500 |
| Lafayette | 8,000 | 8,000 |
| Lawrence | 8,000 | 8,000 |
| Lee | 8,500 | 8,500 |
| Lincoln | 7,500 | 7,500 |
| Little River | 8,000 | 8,000 |
| Logan | 6,500 | 6,500 |
| Lonoke | 8,500 | 8,500 |
| Madison | 5,500 | 5,500 |
| Marion | 5,000 | 5,000 |
| Miller | 8,000 | 8,000 |
| Mississippi | 9,000 | 9,000 |
| Monroe | 8,500 | 8,500 |
| Montgomery | 5,000 | 5,000 |
| Nevada | 6,500 | 6,500 |
| Newton | 5,000 | 5,000 |
| Ouachita | 6,000 | 6,000 |
| Perry | 5,000 | 5,000 |
| Phillips | 8,500 | 8,500 |
| Pike | 7,000 | 7,000 |
| Poinsett | 8,500 | 8,500 |
| Polk | 5,000 | 5,000 |
| Pope | 6,500 | 6,500 |
| Prairie | 12,000 | 12,000 |
| Pulaski | 8,500 | 8,500 |
| Randolph | 8,000 | 8,000 |
| Saint Francis | 8,500 | 8,500 |
| Saline | 5,000 | 5,000 |
| Scott | 5,000 | 5,000 |
| Searcy | 5,500 | 5,500 |
| Sebastian | 6,500 | 6,500 |
| Sevier | 6,000 | 6,000 |
| Sharp | 5,750 | 5,750 |
| Stone | 5,000 | 5,000 |
| Union | 6,250 | 6,250 |
| Van Buren | 5,000 | 5,000 |
| Washington | 7,200 | 7,200 |
| White | 6,000 | 6,000 |
| Woodruff | 8,000 | 8,000 |
| Yell | 6,500 | 6,500 |
| **CALIFORNIA** | | |
| Alameda | 17,500 | 12,000 |
| Amador | 17,500 | 12,000 |
| Butte | 17,500 | 12,000 |
| Calaveras | 17,500 | 12,000 |
| Colusa | 17,500 | 12,000 |
| Contra Costa | 17,500 | 12,000 |
| Del Norte | 17,500 | 12,000 |
| Eldorado | 15,000 | 12,000 |
| Fresno | 19,000 | 12,000 |
| Glenn | 17,500 | 12,000 |
| Humboldt | 17,500 | 12,000 |
| Imperial | 18,000 | 12,000 |
| Kern | 20,000 | 12,000 |
| Kings | 18,500 | 12,000 |
| Lake | 17,500 | 12,000 |
| Lassen | 17,500 | 12,000 |
| Los Angeles | 30,000 | 12,000 |
| Madera | 19,000 | 12,000 |
| Mariposa | 15,000 | 12,000 |
| Mendocino | 17,500 | 12,000 |
| Merced | 18,000 | 12,000 |
| Modoc | 17,500 | 12,000 |
| Monterey | 17,500 | 12,000 |
| Napa | 17,500 | 12,000 |
| Nevada | 15,000 | 12,000 |
| Orange | 25,000 | 12,000 |
| Placer | 17,500 | 12,000 |
| Riverside | 20,000 | 12,000 |
| Sacramento | 17,500 | 12,000 |
| San Benito | 17,500 | 12,000 |
| San Bernardino | 25,000 | 12,000 |
| San Diego | 17,000 | 12,000 |
| San Joaquin | 17,500 | 12,000 |
| San Luis Obispo | 20,000 | 12,000 |
| San Mateo | 17,500 | 12,000 |
| Santa Barbara | 23,000 | 12,000 |
| Santa Clara | 17,500 | 12,000 |
| Santa Cruz | 17,500 | 12,000 |
| Shasta | 17,500 | 12,000 |
| Sierra | 17,500 | 12,000 |
| Siskiyou | 17,500 | 12,000 |
| Solano | 17,500 | 12,000 |
| Sonoma | 17,500 | 12,000 |
| Stanislaus | 17,500 | 12,000 |
| Sutter | 17,500 | 12,000 |
| Tehama | 17,500 | 12,000 |
| Trinity | 10,500 | 10,500 |
| Tulare | 19,000 | 12,000 |
| Tuolumne | 17,500 | 12,000 |
| Ventura | 27,000 | 12,000 |
| Yolo | 17,500 | 12,000 |
| Yuba | 17,500 | 12,000 |
| **COLORADO** | | |
| Adams | $14,000 | $12,000 |
| Alamosa | 14,000 | 12,000 |
| Arapahoe | 14,000 | 12,000 |
| Archuleta | 12,000 | 12,000 |
| Baca | 12,000 | 12,000 |
| Bent | 13,000 | 12,000 |
| Boulder | 13,000 | 12,000 |
| Chaffee | 14,000 | 12,000 |
| Cheyenne | 12,000 | 12,000 |
| Conejos | 12,000 | 12,000 |
| Costilla | 12,000 | 12,000 |
| Crowley | 12,000 | 12,000 |
| Custer | 12,000 | 12,000 |
| Delta | 14,000 | 12,000 |
| Dolores | 14,000 | 12,000 |
| Douglas | 13,000 | 12,000 |
| Eagle | 16,000 | 12,000 |
| Elbert | 15,000 | 12,000 |
| El Paso | 12,000 | 12,000 |
| Fremont | 12,000 | 12,000 |
| Garfield | 15,000 | 12,000 |
| Grand | 18,000 | 12,000 |
| Gunnison | 16,000 | 12,000 |
| Huerfano | 12,000 | 12,000 |
| Jefferson | 14,500 | 12,000 |
| Kiowa | 12,000 | 12,000 |
| Kit Carson | 12,000 | 12,000 |
| Lake | 15,000 | 12,000 |
| La Plata | 14,000 | 12,000 |
| Larimer | 14,000 | 12,000 |
| Las Animas | 13,000 | 12,000 |
| Lincoln | 15,000 | 12,000 |
| Logan | 14,000 | 12,000 |
| Mesa | 14,000 | 12,000 |
| Moffat | 13,000 | 12,000 |
| Montezuma | 14,000 | 12,000 |
| Montrose | 14,000 | 12,000 |
| Morgan | 14,000 | 12,000 |
| Otero | 12,000 | 12,000 |
| Ouray | 12,000 | 12,000 |
| Park | 18,000 | 12,000 |
| Phillips | 14,000 | 12,000 |
| Prowers | 12,000 | 12,000 |
| Pueblo | 15,000 | 12,000 |
| Rio Blanco | 15,000 | 12,000 |
| Rio Grande | 15,000 | 12,000 |
| Routt | 14,000 | 12,000 |
| Saguache | 15,000 | 12,000 |
| San Miguel | 12,000 | 12,000 |
| Sedgwick | 14,000 | 12,000 |
| Teller | 12,000 | 12,000 |
| Washington | 13,500 | 12,000 |
| Weld | 14,000 | 12,000 |
| Yuma | 13,500 | 12,000 |
| **CONNECTICUT** | | |
| Fairfield | 20,000 | 12,000 |
| Hartford | 18,000 | 12,000 |
| Litchfield | 15,000 | 12,000 |
| Middlesex | 15,000 | 12,000 |
| New Haven | 16,000 | 12,000 |
| New London | 12,000 | 12,000 |
| Tolland | 15,000 | 12,000 |
| Windham | 12,000 | 12,000 |
| **DELAWARE** | | |
| Kent | 10,000 | 10,000 |
| New Castle | 12,000 | 12,000 |
| Sussex | 10,000 | 10,000 |
| **FLORIDA** | | |
| Alachua | 8,000 | 8,000 |
| Baker | 6,000 | 6,000 |
| Bay | 6,500 | 6,500 |
| Bradford | 7,000 | 7,000 |
| Brevard | 7,000 | 7,000 |
| Broward | 10,000 | 10,000 |
| Calhoun | 7,500 | 7,500 |
| Citrus | 6,000 | 6,000 |
| Clay | 7,500 | 7,500 |
| Columbia | 7,500 | 7,500 |
| Dade | 10,000 | 10,000 |
| De Soto | 7,500 | 7,500 |
| Dixie | 7,000 | 7,000 |
| Duval | 10,000 | 10,000 |
| Escambia | 8,000 | 8,000 |
| Flagler | 8,000 | 8,000 |
| Gadsden | 10,000 | 10,000 |
| Gilchrist | 7,000 | 7,000 |
| Glades | 7,500 | 7,500 |
| Hamilton | 8,000 | 8,000 |
| Hardee | 9,000 | 9,000 |
| Hendry | 7,500 | 7,500 |
| Hernando | 7,000 | 7,000 |
| Hillsborough | 10,000 | 10,000 |
| Holmes | 7,500 | 7,500 |
| Indian River | 9,000 | 9,000 |
| Jackson | 10,000 | 10,000 |
| Jefferson | 8,000 | 8,000 |
| Lafayette | 6,000 | 6,000 |
| Lake | 8,000 | 8,000 |
| Lee | 7,500 | 7,500 |
| Leon | 10,000 | 10,000 |
| Levy | 7,000 | 7,000 |
| Liberty | 6,000 | 6,000 |
| Madison | 8,000 | 8,000 |

| County | Average value | Investment limit |
|---|---|---|
| FLORIDA—continued | | |
| Manatee | $8,500 | $8,500 |
| Marion | 8,000 | 8,000 |
| Martin | 7,500 | 7,500 |
| Nassau | 5,000 | 5,000 |
| Okaloosa | 7,000 | 7,000 |
| Okeechobee | 7,500 | 7,500 |
| Orange | 8,000 | 8,000 |
| Osceola | 7,000 | 7,000 |
| Palm Beach | 10,000 | 10,000 |
| Pasco | 7,000 | 7,000 |
| Polk | 10,000 | 10,000 |
| Putnam | 8,000 | 8,000 |
| Saint Johns | 10,000 | 10,000 |
| Saint Lucie | 9,000 | 9,000 |
| Santa Rosa | 8,000 | 8,000 |
| Sarasota | 8,500 | 8,500 |
| Seminole | 8,500 | 8,500 |
| Sumter | 6,000 | 6,000 |
| Suwannee | 8,000 | 8,000 |
| Taylor | 5,000 | 5,000 |
| Union | 7,000 | 7,000 |
| Volusia | 7,500 | 7,500 |
| Wakulla | 6,000 | 6,000 |
| Walton | 7,000 | 7,000 |
| Washington | 7,500 | 7,500 |
| GEORGIA | | |
| Appling | 6,500 | 6,500 |
| Atkinson | 6,000 | 6,000 |
| Bacon | 6,500 | 6,500 |
| Baker | 4,500 | 4,500 |
| Baldwin | 5,500 | 5,500 |
| Banks | 4,500 | 4,500 |
| Barrow | 6,000 | 6,000 |
| Bartow | 6,000 | 6,000 |
| Ben Hill | 7,000 | 7,000 |
| Berrien | 7,500 | 7,500 |
| Bibb | 6,000 | 6,000 |
| Bleckley | 5,290 | 5,290 |
| Brantley | 5,000 | 5,000 |
| Brooks | 7,500 | 7,500 |
| Bulloch | 7,500 | 7,500 |
| Burke | 6,500 | 6,500 |
| Butts | 6,250 | 6,250 |
| Calhoun | 5,000 | 5,000 |
| Candler | 6,500 | 6,500 |
| Carroll | 5,000 | 5,000 |
| Catoosa | 7,000 | 7,000 |
| Chattooga | 6,000 | 6,000 |
| Cherokee | 6,000 | 6,000 |
| Clarke | 5,000 | 5,000 |
| Clay | 5,500 | 5,500 |
| Clayton | 6,000 | 6,000 |
| Cobb | 6,000 | 6,000 |
| Coffee | 7,000 | 7,000 |
| Colquitt | 8,500 | 8,500 |
| Columbia | 6,000 | 6,000 |
| Cook | 8,500 | 8,500 |
| Coweta | 5,250 | 5,250 |
| Crawford | 5,000 | 5,000 |
| Crisp | 6,000 | 6,000 |
| Dade | 7,000 | 7,000 |
| Dawson | 4,500 | 4,500 |
| Decatur | 6,500 | 6,500 |
| De Kalb | 5,000 | 5,000 |
| Dodge | 5,000 | 5,000 |
| Dooly | 6,000 | 6,000 |
| Dougherty | 5,500 | 5,500 |
| Douglas | 5,000 | 5,000 |
| Early | 6,000 | 6,000 |
| Echols | 4,500 | 4,500 |
| Effingham | 4,800 | 4,800 |
| Elbert | 6,000 | 6,000 |
| Emanuel | 6,397 | 6,397 |
| Evans | 6,500 | 6,500 |
| Fannin | 5,000 | 5,000 |
| Fayette | 5,000 | 5,000 |
| Floyd | 6,000 | 6,000 |
| Forsyth | 5,000 | 5,000 |
| Franklin | 6,000 | 6,000 |
| Fulton | 7,000 | 7,000 |
| Gilmer | 5,000 | 5,000 |
| Glascock | 5,000 | 5,000 |
| Gordon | 6,000 | 6,000 |
| Grady | 7,166 | 7,166 |
| Greene | 6,000 | 6,000 |
| Gwinnett | 6,000 | 6,000 |
| Habersham | 4,500 | 4,500 |
| Hall | 5,000 | 5,000 |
| Hancock | 5,000 | 5,000 |
| Haralson | 4,800 | 4,800 |
| Harris | 4,500 | 4,500 |
| Hart | 7,000 | 7,000 |
| Heard | 5,000 | 5,000 |
| Henry | 6,000 | 6,000 |
| Houston | 6,000 | 6,000 |
| Irwin | 7,500 | 7,500 |
| Jackson | 5,500 | 5,500 |
| Jasper | 6,000 | 6,000 |
| Jeff Davis | 6,000 | 6,000 |
| Jefferson | 6,000 | 6,000 |
| Jenkins | 6,000 | 6,000 |
| Johnson | 6,000 | 6,000 |
| Jones | 5,000 | 5,000 |
| Lamar | 6,000 | 6,000 |
| Lanier | 6,975 | 6,975 |
| Laurens | 6,000 | 6,000 |
| Lee | $5,000 | $5,000 |
| Lincoln | 5,000 | 5,000 |
| Long | 6,000 | 6,000 |
| Lowndes | 8,500 | 8,500 |
| Lumpkin | 5,000 | 5,000 |
| McDuffie | 6,000 | 6,000 |
| Macon | 6,500 | 6,500 |
| Madison | 6,000 | 6,000 |
| Marion | 4,500 | 4,500 |
| Meriwether | 6,000 | 6,000 |
| Miller | 6,000 | 6,000 |
| Mitchell | 7,000 | 7,000 |
| Monroe | 7,500 | 7,500 |
| Montgomery | 6,000 | 6,000 |
| Morgan | 7,000 | 7,000 |
| Murray | 4,800 | 4,800 |
| Newton | 6,000 | 6,000 |
| Oconee | 6,000 | 6,000 |
| Oglethorpe | 6,000 | 6,000 |
| Paulding | 5,500 | 5,500 |
| Peach | 7,000 | 7,000 |
| Pickens | 5,000 | 5,000 |
| Pierce | 7,000 | 7,000 |
| Pike | 6,000 | 6,000 |
| Polk | 6,275 | 6,275 |
| Pulaski | 4,920 | 4,920 |
| Putnam | 6,000 | 6,000 |
| Quitman | 5,000 | 5,000 |
| Rabun | 7,500 | 7,500 |
| Randolph | 6,000 | 6,000 |
| Richmond | 6,500 | 6,500 |
| Rockdale | 5,000 | 5,000 |
| Schley | 5,000 | 5,000 |
| Screven | 6,000 | 6,000 |
| Seminole | 6,000 | 6,000 |
| Spalding | 5,000 | 5,000 |
| Stephens | 5,000 | 5,000 |
| Stewart | 5,000 | 5,000 |
| Sumter | 6,000 | 6,000 |
| Talbot | 5,000 | 5,000 |
| Taliaferro | 6,000 | 6,000 |
| Tattnall | 7,000 | 7,000 |
| Taylor | 6,160 | 6,160 |
| Telfair | 6,000 | 6,000 |
| Terrell | 6,500 | 6,500 |
| Thomas | 7,500 | 7,500 |
| Tift | 7,500 | 7,500 |
| Toombs | 7,500 | 7,500 |
| Towns | 6,050 | 6,050 |
| Treutlen | 5,000 | 5,000 |
| Troup | 5,000 | 5,000 |
| Turner | 6,000 | 6,000 |
| Twiggs | 5,000 | 5,000 |
| Union | 8,150 | 8,150 |
| Upson | 5,000 | 5,000 |
| Walker | 6,800 | 6,800 |
| Walton | 6,500 | 6,500 |
| Ware | 7,000 | 7,000 |
| Warren | 6,000 | 6,000 |
| Washington | 6,000 | 6,000 |
| Wayne | 6,000 | 6,000 |
| Webster | 5,000 | 5,000 |
| Wheeler | 5,000 | 5,000 |
| White | 4,900 | 4,900 |
| Whitfield | 6,000 | 6,000 |
| Wilcox | 6,000 | 6,000 |
| Wilkes | 6,000 | 6,000 |
| Wilkinson | 5,000 | 5,000 |
| Worth | 7,500 | 7,500 |
| IDAHO | | |
| Ada | 16,000 | 12,000 |
| Adams | 13,000 | 12,000 |
| Bannock | 12,000 | 12,000 |
| Bear Lake | 13,000 | 12,000 |
| Benewah | 10,000 | 10,000 |
| Bingham | 13,500 | 12,000 |
| Blaine | 12,135 | 12,000 |
| Boise | 12,000 | 12,000 |
| Bonner | 11,500 | 11,500 |
| Bonneville | 14,000 | 12,000 |
| Boundary | 14,000 | 12,000 |
| Butte | 11,000 | 11,000 |
| Camas | 12,000 | 12,000 |
| Canyon | 14,000 | 12,000 |
| Caribou | 12,000 | 12,000 |
| Cassia | 15,000 | 12,000 |
| Clark | 13,600 | 12,000 |
| Clearwater | 10,000 | 10,000 |
| Custer | 15,000 | 12,000 |
| Elmore | 12,000 | 12,000 |
| Franklin | 13,500 | 12,000 |
| Fremont | 14,000 | 12,000 |
| Gem | 14,000 | 12,000 |
| Gooding | 12,000 | 12,000 |
| Idaho | 13,000 | 12,000 |
| Jefferson | 13,000 | 12,000 |
| Jerome | 16,000 | 12,000 |
| Kootenai | 10,000 | 10,000 |
| Latah | 13,500 | 12,000 |
| Lemhi | 15,000 | 12,000 |
| Lewis | 15,000 | 12,000 |
| Lincoln | 11,930 | 11,930 |
| Madison | 15,000 | 12,000 |
| Minidoka | 14,000 | 12,000 |
| Nez Perce | 13,500 | 12,000 |
| Oneida | 15,000 | 12,000 |
| Owyhee | 13,500 | 12,000 |
| Payette | $12,000 | $12,000 |
| Power | 12,000 | 12,000 |
| Shoshone | 10,000 | 10,000 |
| Teton | 13,500 | 12,000 |
| Twin Falls | 19,000 | 12,000 |
| Valley | 14,000 | 12,000 |
| Washington | 13,000 | 12,000 |
| ILLINOIS | | |
| Adams | 16,000 | 12,000 |
| Alexander | 7,000 | 7,000 |
| Bond | 8,000 | 8,000 |
| Boone | 18,000 | 12,000 |
| Brown | 12,000 | 12,000 |
| Bureau | 18,000 | 12,000 |
| Calhoun | 8,500 | 8,500 |
| Carroll | 16,000 | 12,000 |
| Cass | 14,000 | 12,000 |
| Champaign | 20,000 | 12,000 |
| Christian | 15,000 | 12,000 |
| Clark | 9,000 | 9,000 |
| Clay | 8,000 | 8,000 |
| Clinton | 9,000 | 9,000 |
| Coles | 14,000 | 12,000 |
| Cook | 20,000 | 12,000 |
| Crawford | 12,000 | 12,000 |
| Cumberland | 9,000 | 9,000 |
| De Kalb | 18,000 | 12,000 |
| De Witt | 20,000 | 12,000 |
| Douglas | 18,000 | 12,000 |
| Du Page | 20,000 | 12,000 |
| Edgar | 14,000 | 12,000 |
| Edwards | 10,000 | 10,000 |
| Effingham | 9,000 | 9,000 |
| Fayette | 8,000 | 8,000 |
| Ford | 18,000 | 12,000 |
| Franklin | 8,000 | 8,000 |
| Fulton | 14,000 | 12,000 |
| Gallatin | 10,000 | 10,000 |
| Greene | 13,000 | 12,000 |
| Grundy | 16,000 | 12,000 |
| Hamilton | 8,000 | 8,000 |
| Hancock | 16,000 | 12,000 |
| Hardin | 7,000 | 7,000 |
| Henderson | 18,000 | 12,000 |
| Henry | 18,000 | 12,000 |
| Iroquois | 16,000 | 12,000 |
| Jackson | 9,000 | 9,000 |
| Jasper | 8,500 | 8,500 |
| Jefferson | 8,000 | 8,000 |
| Jersey | 10,500 | 10,500 |
| Jo Daviess | 12,000 | 12,000 |
| Johnson | 7,000 | 7,000 |
| Kane | 18,000 | 12,000 |
| Kankakee | 15,000 | 12,000 |
| Kendall | 16,000 | 12,000 |
| Knox | 18,000 | 12,000 |
| Lake | 17,000 | 12,000 |
| La Salle | 18,000 | 12,000 |
| Lawrence | 12,000 | 12,000 |
| Lee | 16,000 | 12,000 |
| Livingston | 18,000 | 12,000 |
| Logan | 21,000 | 12,000 |
| McDonough | 16,000 | 12,000 |
| McHenry | 17,500 | 12,000 |
| McLean | 18,000 | 12,000 |
| Macon | 20,000 | 12,000 |
| Macoupin | 12,000 | 12,000 |
| Madison | 12,000 | 12,000 |
| Marion | 8,000 | 8,000 |
| Marshall | 16,000 | 12,000 |
| Mason | 13,000 | 12,000 |
| Massac | 7,000 | 7,000 |
| Menard | 15,000 | 12,000 |
| Mercer | 17,000 | 12,000 |
| Monroe | 11,200 | 11,200 |
| Montgomery | 12,500 | 12,000 |
| Morgan | 16,000 | 12,000 |
| Moultrie | 20,000 | 12,000 |
| Ogle | 16,500 | 12,000 |
| Peoria | 15,000 | 12,000 |
| Perry | 8,000 | 8,000 |
| Piatt | 21,000 | 12,000 |
| Pike | 12,500 | 12,000 |
| Pope | 7,000 | 7,000 |
| Pulaski | 7,000 | 7,000 |
| Putnam | 14,000 | 12,000 |
| Randolph | 11,500 | 11,500 |
| Richland | 8,000 | 8,000 |
| Rock Island | 16,500 | 12,000 |
| Saint Clair | 12,500 | 12,000 |
| Saline | 9,000 | 9,000 |
| Sangamon | 18,000 | 12,000 |
| Schuyler | 12,000 | 12,000 |
| Scott | 14,000 | 12,000 |
| Shelby | 14,000 | 12,000 |
| Stark | 16,000 | 12,000 |
| Stephenson | 14,000 | 12,000 |
| Tazewell | 15,000 | 12,000 |
| Union | 7,200 | 7,200 |
| Vermilion | 16,000 | 12,000 |
| Wabash | 12,000 | 12,000 |
| Warren | 20,000 | 12,000 |
| Washington | 10,000 | 10,000 |
| Wayne | 8,000 | 8,000 |
| White | 9,000 | 9,000 |
| Whiteside | 16,000 | 12,000 |
| Will | 16,000 | 12,000 |

| County | Average value | Investment limit |
|---|---|---|
| ILLINOIS—continued | | |
| Williamson | $8,000 | $8,000 |
| Winnebago | 16,000 | 12,000 |
| Woodford | 20,000 | 12,000 |
| INDIANA | | |
| Adams | 12,000 | 12,000 |
| Allen | 14,000 | 12,000 |
| Bartholomew | 13,000 | 12,000 |
| Benton | 20,000 | 12,000 |
| Blackford | 12,700 | 12,000 |
| Boone | 14,000 | 12,000 |
| Brown | 8,000 | 8,000 |
| Carroll | 15,000 | 12,000 |
| Cass | 15,000 | 12,000 |
| Clark | 9,500 | 9,500 |
| Clay | 10,000 | 10,000 |
| Clinton | 15,000 | 12,000 |
| Crawford | 7,000 | 7,000 |
| Daviess | 13,000 | 12,000 |
| Dearborn | 8,000 | 8,000 |
| Decatur | 13,500 | 12,000 |
| De Kalb | 12,000 | 12,000 |
| Delaware | 15,000 | 12,000 |
| Dubois | 9,000 | 9,000 |
| Elkhart | 12,000 | 12,000 |
| Fayette | 13,000 | 12,000 |
| Floyd | 9,000 | 9,000 |
| Fountain | 12,000 | 12,000 |
| Franklin | 9,000 | 9,000 |
| Fulton | 12,000 | 12,000 |
| Gibson | 12,000 | 12,000 |
| Grant | 15,000 | 12,000 |
| Greene | 10,000 | 10,000 |
| Hamilton | 15,000 | 12,000 |
| Hancock | 15,000 | 12,000 |
| Harrison | 8,500 | 8,500 |
| Hendricks | 15,000 | 12,000 |
| Henry | 14,000 | 12,000 |
| Howard | 15,000 | 12,000 |
| Huntington | 13,000 | 12,000 |
| Jackson | 12,000 | 12,000 |
| Jasper | 16,000 | 12,000 |
| Jay | 10,500 | 10,500 |
| Jefferson | 8,500 | 8,500 |
| Jennings | 8,000 | 8,000 |
| Johnson | 14,000 | 12,000 |
| Knox | 14,000 | 12,000 |
| Kosciusko | 11,500 | 11,500 |
| Lagrange | 11,000 | 11,000 |
| Lake | 16,000 | 12,000 |
| La Porte | 14,000 | 12,000 |
| Lawrence | 10,000 | 10,000 |
| Madison | 15,000 | 12,000 |
| Marion | 14,000 | 12,000 |
| Marshall | 12,000 | 12,000 |
| Martin | 8,000 | 8,000 |
| Miami | 14,000 | 12,000 |
| Monroe | 10,000 | 10,000 |
| Montgomery | 13,500 | 12,000 |
| Morgan | 12,000 | 12,000 |
| Newton | 18,000 | 12,000 |
| Noble | 11,500 | 11,500 |
| Ohio | 8,000 | 8,000 |
| Orange | 9,000 | 9,000 |
| Owen | 9,000 | 9,000 |
| Parke | 12,000 | 12,000 |
| Perry | 9,500 | 9,500 |
| Pike | 10,200 | 10,200 |
| Porter | 14,000 | 12,000 |
| Posey | 12,000 | 12,000 |
| Pulaski | 12,000 | 12,000 |
| Putnam | 10,000 | 10,000 |
| Randolph | 13,000 | 12,000 |
| Ripley | 8,500 | 8,500 |
| Rush | 15,000 | 12,000 |
| Saint Joseph | 12,000 | 12,000 |
| Scott | 9,000 | 9,000 |
| Shelby | 13,500 | 12,000 |
| Spencer | 10,000 | 10,000 |
| Starke | 12,000 | 12,000 |
| Steuben | 10,500 | 10,500 |
| Sullivan | 10,000 | 10,000 |
| Switzerland | 8,000 | 8,000 |
| Tippecanoe | 15,000 | 12,000 |
| Tipton | 15,000 | 12,000 |
| Union | 14,000 | 12,000 |
| Vanderburgh | 12,000 | 12,000 |
| Vermillion | 12,000 | 12,000 |
| Vigo | 10,000 | 10,000 |
| Wabash | 14,000 | 12,000 |
| Warren | 15,000 | 12,000 |
| Warrick | 9,000 | 9,000 |
| Washington | 9,000 | 9,000 |
| Wayne | 13,000 | 12,000 |
| Wells | 11,000 | 11,000 |
| White | 15,000 | 12,000 |
| Whitley | 11,000 | 11,000 |
| IOWA | | |
| Adair | 13,500 | 12,000 |
| Adams | 13,000 | 12,000 |
| Allamakee | 12,500 | 12,000 |
| Appanoose | 9,500 | 9,500 |
| Audubon | 15,000 | 12,000 |
| Benton | 19,000 | 12,000 |
| Black Hawk | $17,000 | $12,000 |
| Boone | 18,000 | 12,000 |
| Bremer | 14,000 | 12,000 |
| Buchanan | 14,000 | 12,000 |
| Buena Vista | 19,500 | 12,000 |
| Butler | 15,500 | 12,000 |
| Calhoun | 21,000 | 12,000 |
| Carroll | 18,000 | 12,000 |
| Cass | 15,000 | 12,000 |
| Cedar | 18,000 | 12,000 |
| Cerro Gordo | 17,000 | 12,000 |
| Cherokee | 18,500 | 12,000 |
| Chickasaw | 12,500 | 12,000 |
| Clarke | 11,000 | 11,000 |
| Clay | 19,500 | 12,000 |
| Clayton | 14,000 | 12,000 |
| Clinton | 15,000 | 12,000 |
| Crawford | 15,500 | 12,000 |
| Dallas | 16,000 | 12,000 |
| Davis | 9,500 | 9,500 |
| Decatur | 10,000 | 10,000 |
| Delaware | 15,000 | 12,000 |
| Des Moines | 14,000 | 12,000 |
| Dickinson | 17,000 | 12,000 |
| Dubuque | 14,500 | 12,000 |
| Emmet | 17,500 | 12,000 |
| Fayette | 13,000 | 12,000 |
| Floyd | 15,500 | 12,000 |
| Franklin | 18,000 | 12,000 |
| Fremont | 17,000 | 12,000 |
| Greene | 19,000 | 12,000 |
| Grundy | 21,000 | 12,000 |
| Guthrie | 14,000 | 12,000 |
| Hamilton | 19,500 | 12,000 |
| Hancock | 18,000 | 12,000 |
| Hardin | 18,500 | 12,000 |
| Harrison | 13,500 | 12,000 |
| Henry | 14,000 | 12,000 |
| Howard | 10,000 | 10,000 |
| Humboldt | 21,000 | 12,000 |
| Ida | 17,500 | 12,000 |
| Iowa | 16,000 | 12,000 |
| Jackson | 14,000 | 12,000 |
| Jasper | 14,000 | 12,000 |
| Jefferson | 13,000 | 12,000 |
| Johnson | 16,000 | 12,000 |
| Jones | 15,000 | 12,000 |
| Keokuk | 14,000 | 12,000 |
| Kossuth | 18,500 | 12,000 |
| Lee | 12,000 | 12,000 |
| Linn | 15,000 | 12,000 |
| Louisa | 14,500 | 12,000 |
| Lucas | 10,000 | 10,000 |
| Lyon | 18,000 | 12,000 |
| Madison | 13,500 | 12,000 |
| Mahaska | 15,000 | 12,000 |
| Marion | 12,500 | 12,000 |
| Marshall | 18,000 | 12,000 |
| Mills | 17,000 | 12,000 |
| Mitchell | 15,500 | 12,000 |
| Monona | 15,000 | 12,000 |
| Monroe | 9,500 | 9,500 |
| Montgomery | 15,500 | 12,000 |
| Muscatine | 16,000 | 12,000 |
| O'Brien | 21,000 | 12,000 |
| Osceola | 17,500 | 12,000 |
| Page | 15,000 | 12,000 |
| Palo Alto | 18,000 | 12,000 |
| Plymouth | 16,500 | 12,000 |
| Pocahontas | 21,000 | 12,000 |
| Polk | 16,000 | 12,000 |
| Pottawattamie | 16,000 | 12,000 |
| Poweshiek | 16,000 | 12,000 |
| Ringgold | 11,500 | 11,500 |
| Sac | 19,000 | 12,000 |
| Scott | 18,000 | 12,000 |
| Shelby | 16,500 | 12,000 |
| Sioux | 18,500 | 12,000 |
| Story | 18,500 | 12,000 |
| Tama | 17,000 | 12,000 |
| Taylor | 13,000 | 12,000 |
| Union | 12,000 | 12,000 |
| Van Buren | 9,500 | 9,500 |
| Wapello | 11,000 | 11,000 |
| Warren | 13,500 | 12,000 |
| Washington | 16,000 | 12,000 |
| Wayne | 11,000 | 11,000 |
| Webster | 19,000 | 12,000 |
| Winnebago | 16,000 | 12,000 |
| Winneshiek | 13,000 | 12,000 |
| Woodbury | 14,000 | 12,000 |
| Worth | 14,500 | 12,000 |
| Wright | 19,500 | 12,000 |
| KANSAS | | |
| Allen | 10,000 | 10,000 |
| Anderson | 11,200 | 11,200 |
| Atchison | 14,000 | 12,000 |
| Barber | 18,000 | 12,000 |
| Barton | 20,000 | 12,000 |
| Bourbon | 10,000 | 10,000 |
| Brown | 14,000 | 12,000 |
| Butler | 16,000 | 12,000 |
| Chase | 13,200 | 12,000 |
| Chautauqua | 10,000 | 10,000 |
| Cherokee | 10,000 | 10,000 |
| Cheyenne | $20,000 | $12,000 |
| Clark | 20,000 | 12,000 |
| Clay | 13,375 | 12,000 |
| Cloud | 12,000 | 12,000 |
| Coffey | 10,000 | 10,000 |
| Comanche | 18,000 | 12,000 |
| Cowley | 20,000 | 12,000 |
| Crawford | 10,000 | 10,000 |
| Decatur | 15,000 | 12,000 |
| Dickinson | 15,000 | 12,000 |
| Doniphan | 15,000 | 12,000 |
| Douglas | 12,000 | 12,000 |
| Edwards | 16,000 | 12,000 |
| Elk | 10,000 | 10,000 |
| Ellis | 15,000 | 12,000 |
| Ellsworth | 12,000 | 12,000 |
| Finney | 20,000 | 12,000 |
| Ford | 20,000 | 12,000 |
| Franklin | 12,000 | 12,000 |
| Geary | 12,000 | 12,000 |
| Gove | 13,500 | 12,000 |
| Graham | 12,000 | 12,000 |
| Grant | 17,000 | 12,000 |
| Gray | 20,000 | 12,000 |
| Greeley | 18,000 | 12,000 |
| Greenwood | 10,000 | 10,000 |
| Hamilton | 20,000 | 12,000 |
| Harper | 18,000 | 12,000 |
| Harvey | 12,000 | 12,000 |
| Haskell | 20,000 | 12,000 |
| Hodgeman | 15,143 | 12,000 |
| Jackson | 10,000 | 10,000 |
| Jefferson | 10,500 | 10,500 |
| Jewell | 12,000 | 12,000 |
| Johnson | 15,000 | 12,000 |
| Kearny | 20,000 | 12,000 |
| Kingman | 19,200 | 12,000 |
| Kiowa | 14,500 | 12,000 |
| Labette | 10,000 | 10,000 |
| Lane | 15,143 | 12,000 |
| Leavenworth | 12,000 | 12,000 |
| Lincoln | 12,800 | 12,000 |
| Linn | 10,000 | 10,000 |
| Logan | 12,000 | 12,000 |
| Lyon | 12,000 | 12,000 |
| McPherson | 16,650 | 12,000 |
| Marion | 12,500 | 12,000 |
| Marshall | 11,500 | 11,500 |
| Meade | 20,000 | 12,000 |
| Miami | 12,000 | 12,000 |
| Mitchell | 15,000 | 12,000 |
| Montgomery | 12,000 | 12,000 |
| Morris | 15,000 | 12,000 |
| Morton | 17,000 | 12,000 |
| Nemaha | 12,000 | 12,000 |
| Neosho | 10,000 | 10,000 |
| Ness | 14,857 | 12,000 |
| Norton | 12,000 | 12,000 |
| Osage | 15,000 | 12,000 |
| Osborne | 15,000 | 12,000 |
| Ottowa | 14,400 | 12,000 |
| Pawnee | 20,000 | 12,000 |
| Phillips | 10,000 | 10,000 |
| Pottawatomie | 12,000 | 12,000 |
| Pratt | 15,000 | 12,000 |
| Rawlins | 20,000 | 12,000 |
| Reno | 19,750 | 12,000 |
| Republic | 12,000 | 12,000 |
| Rice | 15,600 | 12,000 |
| Riley | 12,000 | 12,000 |
| Rooks | 13,000 | 12,000 |
| Rush | 15,600 | 12,000 |
| Russell | 15,000 | 12,000 |
| Saline | 15,000 | 12,000 |
| Scott | 20,000 | 12,000 |
| Sedgwick | 15,600 | 12,000 |
| Seward | 20,000 | 12,000 |
| Shawnee | 12,000 | 12,000 |
| Sheridan | 15,000 | 12,000 |
| Sherman | 20,000 | 12,000 |
| Smith | 9,100 | 9,100 |
| Stafford | 20,000 | 12,000 |
| Stanton | 17,357 | 12,000 |
| Stevens | 17,500 | 12,000 |
| Sumner | 20,000 | 12,000 |
| Thomas | 20,000 | 12,000 |
| Trego | 14,857 | 12,000 |
| Wabaunsee | 14,250 | 12,000 |
| Wallace | 15,000 | 12,000 |
| Washington | 12,000 | 12,000 |
| Wichita | 20,000 | 12,000 |
| Wilson | 11,796 | 11,796 |
| Woodson | 12,000 | 12,000 |
| Wyandotte | 15,000 | 12,000 |
| KENTUCKY | | |
| Adair | 10,000 | 10,000 |
| Allen | 10,000 | 10,000 |
| Anderson | 11,500 | 11,500 |
| Ballard | 10,500 | 10,500 |
| Barren | 11,000 | 11,000 |
| Bath | 12,000 | 12,000 |
| Bell | 10,500 | 10,500 |
| Boone | 14,000 | 12,000 |
| Bourbon | 19,600 | 12,000 |
| Boyle | 14,500 | 12,000 |

| County | Average value | Investment limit |
|---|---|---|
| KENTUCKY—continued | | |
| Bracken | $12,500 | $12,000 |
| Breathitt | 9,500 | 9,500 |
| Breckinridge | 10,500 | 10,500 |
| Bullitt | 11,000 | 11,000 |
| Butler | 10,000 | 10,000 |
| Caldwell | 11,000 | 11,000 |
| Calloway | 10,500 | 10,500 |
| Campbell | 13,500 | 12,000 |
| Carlisle | 10,500 | 10,500 |
| Carroll | 11,500 | 11,500 |
| Carter | 11,000 | 11,000 |
| Casey | 10,000 | 10,000 |
| Christian | 12,000 | 12,000 |
| Clark | 16,500 | 12,000 |
| Clay | 10,000 | 10,000 |
| Clinton | 10,500 | 10,500 |
| Crittenden | 10,500 | 10,500 |
| Cumberland | 11,000 | 11,000 |
| Daviess | 13,000 | 12,000 |
| Edmonson | 10,000 | 10,000 |
| Elliott | 9,500 | 9,500 |
| Estill | 10,000 | 10,000 |
| Fayette | 21,000 | 12,000 |
| Fleming | 12,000 | 12,000 |
| Franklin | 13,500 | 12,000 |
| Fulton | 11,500 | 11,500 |
| Gallatin | 11,500 | 11,500 |
| Garrard | 12,500 | 12,000 |
| Grant | 12,500 | 12,000 |
| Graves | 10,500 | 10,500 |
| Grayson | 10,000 | 10,000 |
| Green | 10,500 | 10,500 |
| Greenup | 11,000 | 11,000 |
| Hancock | 10,500 | 10,500 |
| Hardin | 11,500 | 11,500 |
| Harrison | 14,000 | 12,000 |
| Hart | 11,000 | 11,000 |
| Henderson | 12,500 | 12,000 |
| Henry | 13,500 | 12,000 |
| Hickman | 10,500 | 10,500 |
| Hopkins | 10,500 | 10,500 |
| Jackson | 9,500 | 9,500 |
| Jefferson | 17,500 | 12,000 |
| Jessamine | 17,500 | 12,000 |
| Johnson | 10,500 | 10,500 |
| Kenton | 14,500 | 12,000 |
| Knott | 9,500 | 9,500 |
| Knox | 10,500 | 10,500 |
| Larue | 11,000 | 11,000 |
| Laurel | 10,500 | 10,500 |
| Lawrence | 10,500 | 10,500 |
| Lee | 10,000 | 10,000 |
| Leslie | 9,500 | 9,500 |
| Letcher | 9,500 | 9,500 |
| Lewis | 10,500 | 10,500 |
| Lincoln | 12,000 | 12,000 |
| Livingston | 10,500 | 10,500 |
| Logan | 11,500 | 11,500 |
| Lyon | 10,500 | 10,500 |
| McCracken | 10,500 | 10,500 |
| McCreary | 9,500 | 9,500 |
| McLean | 10,500 | 10,500 |
| Madison | 13,000 | 12,000 |
| Magoffin | 10,000 | 10,000 |
| Marion | 12,000 | 12,000 |
| Marshall | 10,500 | 10,500 |
| Martin | 9,500 | 9,500 |
| Mason | 14,000 | 12,000 |
| Meade | 11,500 | 11,500 |
| Menifee | 9,500 | 9,500 |
| Mercer | 14,000 | 12,000 |
| Metcalfe | 10,000 | 10,000 |
| Monroe | 10,000 | 10,000 |
| Montgomery | 14,500 | 12,000 |
| Morgan | 10,500 | 10,500 |
| Muhlenberg | 10,500 | 10,500 |
| Nelson | 12,000 | 12,000 |
| Nicholas | 13,000 | 12,000 |
| Ohio | 10,500 | 10,500 |
| Oldham | 13,500 | 12,000 |
| Owen | 12,000 | 12,000 |
| Owsley | 9,500 | 9,500 |
| Pendleton | 11,500 | 11,500 |
| Perry | 9,500 | 9,500 |
| Pike | 10,500 | 10,500 |
| Powell | 10,500 | 10,500 |
| Pulaski | 10,500 | 10,500 |
| Robertson | 10,500 | 10,500 |
| Rockcastle | 10,500 | 10,500 |
| Rowan | 10,000 | 10,000 |
| Russell | 10,500 | 10,500 |
| Scott | 16,500 | 12,000 |
| Shelby | 14,500 | 12,000 |
| Simpson | 11,500 | 11,500 |
| Spencer | 11,500 | 11,500 |
| Taylor | 11,000 | 11,000 |
| Todd | 11,500 | 11,500 |
| Trigg | 10,500 | 10,500 |
| Trimble | 10,500 | 10,500 |
| Union | 12,000 | 12,000 |
| Warren | 12,000 | 12,000 |
| Washington | 11,500 | 11,500 |
| Wayne | 11,500 | 11,500 |
| Webster | 10,500 | 10,500 |
| Whitley | 10,500 | 10,500 |
| Wolfe | 9,500 | 9,500 |
| Woodford | 18,000 | 12,000 |

| Parish | Average value | Investment limit |
|---|---|---|
| LOUISIANA | | |
| Acadia | $12,500 | $12,000 |
| Allen | 10,000 | 10,000 |
| Ascension | 7,500 | 7,500 |
| Assumption | 8,000 | 8,000 |
| Avoyelles | 10,500 | 10,500 |
| Beauregard | 7,000 | 7,000 |
| Bienville | 7,000 | 7,000 |
| Bossier | 9,000 | 9,000 |
| Caddo | 10,000 | 10,000 |
| Calcasieu | 11,500 | 11,500 |
| Caldwell | 8,000 | 8,000 |
| Cameron | 8,000 | 8,000 |
| Catahoula | 6,500 | 6,500 |
| Claiborne | 7,500 | 7,500 |
| Concordia | 8,000 | 8,000 |
| De Soto | 8,000 | 8,000 |
| East Baton Rouge | 8,000 | 8,000 |
| East Carroll | 10,000 | 10,000 |
| East Feliciana | 6,250 | 6,250 |
| Evangeline | 10,000 | 10,000 |
| Franklin | 7,500 | 7,500 |
| Grant | 8,000 | 8,000 |
| Iberia | 9,000 | 9,000 |
| Iberville | 10,000 | 10,000 |
| Jackson | 7,000 | 7,000 |
| Jefferson | 12,000 | 12,000 |
| Jefferson Davis | 14,400 | 12,000 |
| Lafayette | 10,000 | 10,000 |
| Lafourche | 10,000 | 10,000 |
| La Salle | 6,000 | 6,000 |
| Lincoln | 8,000 | 8,000 |
| Livingston | 7,500 | 7,500 |
| Madison | 10,000 | 10,000 |
| Morehouse | 10,000 | 10,000 |
| Natchitoches | 10,000 | 10,000 |
| Orleans | 12,000 | 12,000 |
| Ouachita | 10,000 | 10,000 |
| Plaquemines | 9,000 | 9,000 |
| Pointe Coupee | 9,000 | 9,000 |
| Rapides | 10,000 | 10,000 |
| Red River | 9,000 | 9,000 |
| Richland | 10,000 | 10,000 |
| Sabine | 6,500 | 6,500 |
| Saint Bernard | 12,000 | 12,000 |
| Saint Charles | 10,000 | 10,000 |
| Saint Helena | 6,000 | 6,000 |
| Saint James | 10,000 | 10,000 |
| Saint John the Baptist | 10,000 | 10,000 |
| Saint Landry | 10,000 | 10,000 |
| Saint Martin | 10,000 | 10,000 |
| Saint Mary | 10,150 | 10,150 |
| Saint Tammany | 6,500 | 6,500 |
| Tangipahoa | 7,500 | 7,500 |
| Tensas | 10,000 | 10,000 |
| Terrebonne | 10,000 | 10,000 |
| Union | 7,500 | 7,500 |
| Vermilion | 12,000 | 12,000 |
| Vernon | 6,000 | 6,000 |
| Washington | 7,500 | 7,500 |
| Webster | 7,500 | 7,500 |
| West Baton Rouge | 10,000 | 10,000 |
| West Carroll | 9,000 | 9,000 |
| West Feliciana | 7,000 | 7,000 |
| Winn | 7,000 | 7,000 |

| County | Average value | Investment limit |
|---|---|---|
| MAINE | | |
| Androscoggin | 8,500 | 8,500 |
| Aroostook | 12,000 | 12,000 |
| Cumberland | 10,000 | 10,000 |
| Franklin | 10,000 | 10,000 |
| Hancock | 8,000 | 8,000 |
| Kennebec | 8,500 | 8,500 |
| Knox | 7,000 | 7,000 |
| Lincoln | 7,000 | 7,000 |
| Oxford | 8,500 | 8,500 |
| Penobscot | 8,000 | 8,000 |
| Piscataquis | 8,000 | 8,000 |
| Sagadahoc | 7,000 | 7,000 |
| Somerset | 8,000 | 8,000 |
| Waldo | 8,500 | 8,500 |
| Washington | 6,000 | 6,000 |
| York | 10,000 | 10,000 |
| MARYLAND | | |
| Allegany | 10,000 | 10,000 |
| Anne Arundel | 10,500 | 10,500 |
| Baltimore | 14,000 | 12,000 |
| Calvert | 9,500 | 9,500 |
| Caroline | 8,500 | 8,500 |
| Carroll | 11,900 | 11,900 |
| Cecil | 11,500 | 11,500 |
| Charles | 11,006 | 11,000 |
| Dorchester | 10,000 | 10,000 |
| Frederick | 12,000 | 12,000 |
| Garrett | 8,000 | 8,000 |
| Harford | 12,000 | 12,000 |
| Howard | 13,200 | 12,000 |
| Kent | 13,000 | 12,000 |
| Montgomery | 12,000 | 12,000 |
| Prince Georges | 12,250 | 12,000 |
| Queen Annes | 12,000 | 12,000 |
| Saint Marys | 10,076 | 10,000 |
| Somerset | 8,500 | 8,500 |

| County | Average value | Investment limit |
|---|---|---|
| MARYLAND—continued | | |
| Talbot | $15,000 | $12,000 |
| Washington | 12,000 | 12,000 |
| Wicomico | 8,500 | 8,500 |
| Worcester | 8,500 | 8,500 |
| MASSACHUSETTS | | |
| Barnstable | 10,000 | 10,000 |
| Berkshire | 10,000 | 10,000 |
| Bristol | 12,000 | 12,000 |
| Essex | 12,000 | 12,000 |
| Franklin | 10,000 | 10,000 |
| Hampden | 10,000 | 10,000 |
| Hampshire | 10,000 | 10,000 |
| Middlesex | 12,000 | 12,000 |
| Norfolk | 12,000 | 12,000 |
| Plymouth | 12,000 | 12,000 |
| Worcester | 11,250 | 11,250 |
| MICHIGAN | | |
| Alcona | 10,000 | 10,000 |
| Alger | 7,500 | 7,500 |
| Allegan | 12,000 | 12,000 |
| Alpena | 9,500 | 9,500 |
| Antrim | 9,000 | 9,000 |
| Arenac | 9,000 | 9,000 |
| Baraga | 6,000 | 6,000 |
| Barry | 12,000 | 12,000 |
| Bay | 12,000 | 12,000 |
| Benzie | 9,000 | 9,000 |
| Berrian | 13,000 | 12,000 |
| Branch | 13,500 | 12,000 |
| Calhoun | 11,000 | 11,000 |
| Cass | 12,000 | 12,000 |
| Charlevoix | 10,000 | 10,000 |
| Cheboygan | 8,000 | 8,000 |
| Chippewa | 8,000 | 8,000 |
| Clare | 10,000 | 10,000 |
| Clinton | 12,000 | 12,000 |
| Crawford | 8,000 | 8,000 |
| Delta | 8,000 | 8,000 |
| Dickinson | 7,000 | 7,000 |
| Eaton | 12,000 | 12,000 |
| Emmet | 10,000 | 10,000 |
| Genesee | 13,000 | 12,000 |
| Gladwin | 10,000 | 10,000 |
| Gogebic | 6,500 | 6,500 |
| Grand Traverse | 12,000 | 12,000 |
| Gratiot | 12,000 | 12,000 |
| Hillsdale | 12,000 | 12,000 |
| Houghton | 8,000 | 8,000 |
| Huron | 13,000 | 12,000 |
| Ingham | 12,000 | 12,000 |
| Ionia | 12,000 | 12,000 |
| Iosco | 9,500 | 9,500 |
| Iron | 6,500 | 6,500 |
| Isabella | 12,000 | 12,000 |
| Jackson | 11,000 | 11,000 |
| Kalamazoo | 12,000 | 12,000 |
| Kalkaska | 9,800 | 9,800 |
| Kent | 12,000 | 12,000 |
| Keweenaw | 6,000 | 6,000 |
| Lake | 9,500 | 9,500 |
| Lapeer | 13,000 | 12,000 |
| Leelanau | 13,000 | 12,000 |
| Lenawee | 13,000 | 12,000 |
| Livingston | 13,000 | 12,000 |
| Luce | 8,000 | 8,000 |
| Mackinac | 8,000 | 8,000 |
| Macomb | 12,500 | 12,000 |
| Manistee | 10,000 | 10,000 |
| Marquette | 7,500 | 7,500 |
| Mason | 11,200 | 11,200 |
| Mecosta | 11,250 | 11,250 |
| Menominee | 8,000 | 8,000 |
| Midland | 12,000 | 12,000 |
| Missaukee | 10,000 | 10,000 |
| Monroe | 13,000 | 12,000 |
| Montcalm | 12,000 | 12,000 |
| Montmorency | 9,250 | 9,250 |
| Muskegon | 11,000 | 11,000 |
| Newaygo | 12,000 | 12,000 |
| Oakland | 15,000 | 12,000 |
| Oceana | 12,000 | 12,000 |
| Ogemaw | 10,000 | 10,000 |
| Ontonagon | 6,000 | 6,000 |
| Osceola | 10,500 | 10,500 |
| Oscoda | 9,000 | 9,000 |
| Otsego | 10,000 | 10,000 |
| Ottawa | 12,000 | 12,000 |
| Presque Isle | 10,500 | 10,500 |
| Roscommon | 9,500 | 9,500 |
| Saginaw | 12,000 | 12,000 |
| Sanilac | 13,000 | 12,000 |
| Schoolcraft | 7,500 | 7,500 |
| Shiawassee | 12,000 | 12,000 |
| St. Clair | 12,000 | 12,000 |
| St. Joseph | 13,000 | 12,000 |
| Tuscola | 13,000 | 12,000 |
| Van Buren | 13,000 | 12,000 |
| Washtenaw | 13,000 | 12,000 |
| Wayne | 15,000 | 12,000 |
| Wexford | 10,000 | 10,000 |
| MINNESOTA | | |
| Aitkin | 5,000 | 5,000 |
| Anoka | 7,500 | 7,500 |

| County | Average value | Investment limit |
|---|---|---|
| MINNESOTA—continued | | |
| Becker | $7,500 | $7,500 |
| Beltrami | 4,500 | 4,500 |
| Benton | 7,200 | 7,200 |
| Big Stone | 12,000 | 12,000 |
| Blue Earth | 15,000 | 12,000 |
| Brown | 14,400 | 12,000 |
| Carlton | 6,000 | 6,000 |
| Carver | 15,000 | 12,000 |
| Cass | 5,000 | 5,000 |
| Chippewa | 13,000 | 12,000 |
| Chisago | 8,000 | 8,000 |
| Clay | 12,000 | 12,000 |
| Clearwater | 7,000 | 7,000 |
| Cottonwood | 14,000 | 12,000 |
| Crow Wing | 5,000 | 5,000 |
| Dakota | 13,000 | 12,000 |
| Dodge | 12,000 | 12,000 |
| Douglas | 9,000 | 9,000 |
| Faribault | 16,000 | 12,000 |
| Fillmore | 12,000 | 12,000 |
| Freeborn | 15,000 | 12,000 |
| Goodhue | 13,000 | 12,000 |
| Grant | 10,000 | 10,000 |
| Hennepin | 12,000 | 12,000 |
| Houston | 12,000 | 12,000 |
| Hubbard | 5,000 | 5,000 |
| Isanti | 7,000 | 7,000 |
| Itasca | 5,000 | 5,000 |
| Jackson | 16,000 | 12,000 |
| Kanabec | 7,000 | 7,000 |
| Kandiyohi | 12,000 | 12,000 |
| Kittson | 9,000 | 9,000 |
| Koochiching | 5,000 | 5,000 |
| Lac qui Parle | 12,000 | 12,000 |
| Lake of the Woods | 5,000 | 5,000 |
| Le Sueur | 13,000 | 12,000 |
| Lincoln | 12,000 | 12,000 |
| Lyon | 14,000 | 12,000 |
| McLeod | 15,000 | 12,000 |
| Mahnomen | 6,000 | 6,000 |
| Marshall | 10,000 | 10,000 |
| Martin | 16,000 | 12,000 |
| Meeker | 12,000 | 12,000 |
| Mille Lacs | 7,000 | 7,000 |
| Morrison | 7,500 | 7,500 |
| Mower | 12,000 | 12,000 |
| Murray | 14,000 | 12,000 |
| Nicollet | 15,000 | 12,000 |
| Nobles | 16,000 | 12,000 |
| Norman | 10,000 | 10,000 |
| Olmsted | 12,000 | 12,000 |
| Otter Tail | 9,000 | 9,000 |
| Pennington | 7,000 | 7,000 |
| Pine | 6,500 | 6,500 |
| Pipestone | 13,000 | 12,000 |
| Polk | 12,000 | 12,000 |
| Pope | 12,000 | 12,000 |
| Ramsey | 12,000 | 12,000 |
| Red Lake | 7,500 | 7,500 |
| Redwood | 15,000 | 12,000 |
| Renville | 14,000 | 12,000 |
| Rice | 13,000 | 12,000 |
| Rock | 16,000 | 12,000 |
| Roseau | 6,800 | 6,800 |
| Saint Louis | 5,000 | 5,000 |
| Scott | 15,000 | 12,000 |
| Sherburne | 7,000 | 7,000 |
| Sibley | 15,000 | 12,000 |
| Stearns | 10,800 | 10,800 |
| Steele | 15,000 | 12,000 |
| Stevens | 12,000 | 12,000 |
| Swift | 12,000 | 12,000 |
| Todd | 8,000 | 8,000 |
| Traverse | 12,000 | 12,000 |
| Wabasha | 12,000 | 12,000 |
| Wadena | 7,000 | 7,000 |
| Waseca | 15,000 | 12,000 |
| Washington | 10,000 | 10,000 |
| Watonwan | 14,000 | 12,000 |
| Wilkin | 11,500 | 11,500 |
| Winona | 12,000 | 12,000 |
| Wright | 10,000 | 10,000 |
| Yellow Medicine | 12,000 | 12,000 |
| MISSISSIPPI | | |
| Adams | 8,000 | 8,000 |
| Alcorn | 10,000 | 10,000 |
| Amite | 7,500 | 7,500 |
| Attala | 7,000 | 7,000 |
| Benton | 8,250 | 8,250 |
| Bolivar | 12,000 | 12,000 |
| Calhoun | 8,000 | 8,000 |
| Carroll | 9,000 | 9,000 |
| Chickasaw | 8,000 | 8,000 |
| Choctaw | 7,000 | 7,000 |
| Claiborne | 9,000 | 9,000 |
| Clarke | 7,000 | 7,000 |
| Clay | 8,000 | 8,000 |
| Coahoma | 15,000 | 12,000 |
| Copiah | 8,000 | 8,000 |
| Covington | 7,000 | 7,000 |
| De Soto | 10,000 | 10,000 |
| Forrest | 8,000 | 8,000 |
| Franklin | 7,000 | 7,000 |
| George | 7,500 | 7,500 |
| Greene | 7,000 | 7,000 |
| Grenada | 9,000 | 9,000 |
| Hancock | $7,000 | $7,000 |
| Harrison | 7,500 | 7,500 |
| Hinds | 9,500 | 9,500 |
| Holmes | 10,000 | 10,000 |
| Humphreys | 10,000 | 10,000 |
| Issaquena | 11,600 | 11,600 |
| Itawamba | 8,500 | 8,500 |
| Jackson | 7,000 | 7,000 |
| Jasper | 8,000 | 8,000 |
| Jefferson | 9,000 | 9,000 |
| Jefferson Davis | 8,000 | 8,000 |
| Jones | 8,500 | 8,500 |
| Kemper | 6,500 | 6,500 |
| Lafayette | 8,600 | 8,600 |
| Lamar | 7,600 | 7,600 |
| Lauderdale | 7,000 | 7,000 |
| Lawrence | 7,500 | 7,500 |
| Leake | 7,500 | 7,500 |
| Lee | 10,000 | 10,000 |
| Leflore | 15,000 | 12,000 |
| Lincoln | 8,000 | 8,000 |
| Lowndes | 8,500 | 8,500 |
| Madison | 10,000 | 10,000 |
| Marion | 7,000 | 7,000 |
| Marshall | 8,500 | 8,500 |
| Monroe | 9,000 | 9,000 |
| Montgomery | 7,000 | 7,000 |
| Neshoba | 7,000 | 7,000 |
| Newton | 7,500 | 7,500 |
| Noxubee | 9,000 | 9,000 |
| Oktibbeha | 10,000 | 10,000 |
| Panola | 9,000 | 9,000 |
| Pearl River | 7,500 | 7,500 |
| Perry | 7,000 | 7,000 |
| Pike | 8,000 | 8,000 |
| Pontotoc | 9,000 | 9,000 |
| Prentiss | 8,500 | 8,500 |
| Quitman | 11,500 | 11,500 |
| Rankin | 8,000 | 8,000 |
| Scott | 7,000 | 7,000 |
| Sharkey | 11,000 | 11,000 |
| Simpson | 7,000 | 7,000 |
| Smith | 8,000 | 8,000 |
| Stone | 7,000 | 7,000 |
| Sunflower | 12,000 | 12,000 |
| Tallahatchie | 11,500 | 11,500 |
| Tate | 9,000 | 9,000 |
| Tippah | 8,500 | 8,500 |
| Tishomingo | 8,500 | 8,500 |
| Tunica | 15,000 | 12,000 |
| Union | 9,000 | 9,000 |
| Walthall | 8,500 | 8,500 |
| Warren | 9,500 | 9,500 |
| Washington | 12,000 | 12,000 |
| Wayne | 7,500 | 7,500 |
| Webster | 7,000 | 7,000 |
| Wilkinson | 7,500 | 7,500 |
| Winston | 7,000 | 7,000 |
| Yalobusha | 7,500 | 7,500 |
| Yazoo | 10,000 | 10,000 |
| MISSOURI | | |
| Adair | 8,000 | 8,000 |
| Andrew | 10,000 | 10,000 |
| Atchison | 12,000 | 12,000 |
| Audrain | 9,000 | 9,000 |
| Barry | 7,000 | 7,000 |
| Barton | 8,500 | 8,500 |
| Bates | 9,000 | 9,000 |
| Benton | 7,500 | 7,500 |
| Bollinger | 7,500 | 7,500 |
| Boone | 8,500 | 8,500 |
| Buchanan | 11,000 | 11,000 |
| Butler | 8,500 | 8,500 |
| Caldwell | 9,500 | 9,500 |
| Callaway | 8,000 | 8,000 |
| Camden | 7,000 | 7,000 |
| Cape Girardeau | 8,500 | 8,500 |
| Carroll | 10,000 | 10,000 |
| Carter | 7,000 | 7,000 |
| Cass | 10,500 | 10,500 |
| Cedar | 7,000 | 7,000 |
| Chariton | 9,500 | 9,500 |
| Christian | 7,500 | 7,500 |
| Clark | 8,500 | 8,500 |
| Clay | 12,000 | 12,000 |
| Clinton | 10,600 | 10,600 |
| Cole | 7,500 | 7,500 |
| Cooper | 8,500 | 8,500 |
| Crawford | 7,000 | 7,000 |
| Dade | 8,000 | 8,000 |
| Dallas | 7,000 | 7,000 |
| Daviess | 9,000 | 9,000 |
| De Kalb | 9,000 | 9,000 |
| Dent | 7,500 | 7,500 |
| Douglas | 7,000 | 7,000 |
| Dunklin | 12,000 | 12,000 |
| Franklin | 8,000 | 8,000 |
| Gasconade | 7,000 | 7,000 |
| Gentry | 9,700 | 9,700 |
| Greene | 9,000 | 9,000 |
| Grundy | 9,000 | 9,000 |
| Harrison | 9,500 | 9,500 |
| Henry | 8,000 | 8,000 |
| Hickory | 7,000 | 7,000 |
| Holt | 12,000 | 12,000 |
| Howard | 8,500 | 8,500 |
| Howell | $8,000 | $8,000 |
| Iron | 7,000 | 7,000 |
| Jackson | 12,000 | 12,000 |
| Jasper | 9,000 | 9,000 |
| Jefferson | 9,500 | 9,500 |
| Johnson | 8,500 | 8,500 |
| Knox | 8,500 | 8,500 |
| Laclede | 7,500 | 7,500 |
| Lafayette | 12,000 | 12,000 |
| Lawrence | 8,500 | 8,500 |
| Lewis | 8,500 | 8,500 |
| Lincoln | 9,000 | 9,000 |
| Linn | 9,250 | 9,250 |
| Livingston | 9,500 | 9,500 |
| McDonald | 7,000 | 7,000 |
| Macon | 8,000 | 8,000 |
| Madison | 8,000 | 8,000 |
| Maries | 7,000 | 7,000 |
| Marion | 9,200 | 9,200 |
| Mercer | 8,000 | 8,000 |
| Miller | 7,000 | 7,000 |
| Mississippi | 12,000 | 12,000 |
| Moniteau | 7,500 | 7,500 |
| Monroe | 8,000 | 8,000 |
| Montgomery | 8,000 | 8,000 |
| Morgan | 7,000 | 7,000 |
| New Madrid | 12,000 | 12,000 |
| Newton | 8,500 | 8,500 |
| Nodaway | 12,000 | 12,000 |
| Oregon | 7,000 | 7,000 |
| Osage | 7,500 | 7,500 |
| Ozark | 7,000 | 7,000 |
| Pemiscot | 12,000 | 12,000 |
| Perry | 8,500 | 8,500 |
| Pettis | 9,500 | 9,500 |
| Phelps | 7,000 | 7,000 |
| Pike | 9,000 | 9,000 |
| Platte | 12,000 | 12,000 |
| Polk | 7,500 | 7,500 |
| Pulaski | 7,000 | 7,000 |
| Putnam | 8,000 | 8,000 |
| Ralls | 8,000 | 8,000 |
| Randolph | 8,000 | 8,000 |
| Ray | 9,500 | 9,500 |
| Reynolds | 7,000 | 7,000 |
| Ripley | 7,000 | 7,000 |
| Saint Charles | 11,000 | 11,000 |
| Saint Clair | 7,500 | 7,500 |
| Sainte Genevieve | 8,000 | 8,000 |
| Saint Francois | 8,000 | 8,000 |
| Saint Louis | 12,000 | 12,000 |
| Saline | 12,000 | 12,000 |
| Schuyler | 8,000 | 8,000 |
| Scotland | 8,500 | 8,500 |
| Scott | 10,000 | 10,000 |
| Shannon | 7,000 | 7,000 |
| Shelby | 9,000 | 9,000 |
| Stoddard | 10,000 | 10,000 |
| Stone | 7,000 | 7,000 |
| Sullivan | 8,000 | 8,000 |
| Taney | 7,000 | 7,000 |
| Texas | 7,500 | 7,500 |
| Vernon | 8,000 | 8,000 |
| Warren | 8,000 | 8,000 |
| Washington | 7,500 | 7,500 |
| Wayne | 7,000 | 7,000 |
| Webster | 7,500 | 7,500 |
| Worth | 9,500 | 9,500 |
| Wright | 7,000 | 7,000 |
| MONTANA | | |
| Beaverhead | 16,000 | 12,000 |
| Big Horn | 16,000 | 12,000 |
| Blaine | 16,000 | 12,000 |
| Broadwater | 12,000 | 12,000 |
| Carbon | 16,000 | 12,000 |
| Carter | 12,000 | 12,000 |
| Cascade | 16,000 | 12,000 |
| Chouteau | 16,000 | 12,000 |
| Custer | 16,000 | 12,000 |
| Daniels | 16,000 | 12,000 |
| Dawson | 16,000 | 12,000 |
| Deer Lodge | 16,000 | 12,000 |
| Fallon | 12,000 | 12,000 |
| Fergus | 16,000 | 12,000 |
| Flathead | 12,000 | 12,000 |
| Gallatin | 16,000 | 12,000 |
| Garfield | 12,000 | 12,000 |
| Glacier | 16,000 | 12,000 |
| Golden Valley | 12,000 | 12,000 |
| Granite | 16,000 | 12,000 |
| Hill | 16,000 | 12,000 |
| Jefferson | 16,000 | 12,000 |
| Judith Basin | 16,000 | 12,000 |
| Lake | 12,000 | 12,000 |
| Lewis and Clark | 16,000 | 12,000 |
| Liberty | 16,000 | 12,000 |
| Lincoln | 8,000 | 8,000 |
| McCone | 16,000 | 12,000 |
| Madison | 16,000 | 12,000 |
| Meagher | 16,000 | 12,000 |
| Mineral | 8,000 | 8,000 |
| Missoula | 12,000 | 12,000 |
| Musselshell | 12,000 | 12,000 |
| Park | 16,000 | 12,000 |
| Petroleum | 12,000 | 12,000 |

| County | Average value | Investment limit |
|---|---|---|
| MONTANA—continued | | |
| Phillips | $12,000 | $12,000 |
| Pondera | 16,000 | 12,000 |
| Powder River | 16,000 | 12,000 |
| Powell | 16,000 | 12,000 |
| Prairie | 16,000 | 12,000 |
| Ravalli | 12,000 | 12,000 |
| Richland | 16,000 | 12,000 |
| Roosevelt | 16,000 | 12,000 |
| Rosebud | 16,000 | 12,000 |
| Sanders | 8,000 | 8,000 |
| Sheridan | 16,000 | 12,000 |
| Silver Bow | 12,000 | 12,000 |
| Stillwater | 16,000 | 12,000 |
| Sweet Grass | 16,000 | 12,000 |
| Teton | 16,000 | 12,000 |
| Toole | 16,000 | 12,000 |
| Treasure | 16,000 | 12,000 |
| Valley | 16,000 | 12,000 |
| Wheatland | 16,000 | 12,000 |
| Wibaux | 16,000 | 12,000 |
| Yellowstone | 16,000 | 12,000 |
| NEBRASKA | | |
| Adams | 12,000 | 12,000 |
| Antelope | 12,000 | 12,000 |
| Arthur | 12,000 | 12,000 |
| Banner | 13,000 | 12,000 |
| Blaine | 12,000 | 12,000 |
| Boone | 12,000 | 12,000 |
| Box Butte | 14,000 | 12,000 |
| Boyd | 9,500 | 9,500 |
| Brown | 12,000 | 12,000 |
| Buffalo | 13,500 | 12,000 |
| Burt | 15,000 | 12,000 |
| Butler | 14,500 | 12,000 |
| Cass | 16,000 | 12,000 |
| Cedar | 14,000 | 12,000 |
| Chase | 14,000 | 12,000 |
| Cherry | 12,000 | 12,000 |
| Cheyenne | 14,000 | 12,000 |
| Clay | 12,000 | 12,000 |
| Colfax | 14,000 | 12,000 |
| Cuming | 15,000 | 12,000 |
| Custer | 12,000 | 12,000 |
| Dakota | 15,000 | 12,000 |
| Dawes | 13,000 | 12,000 |
| Dawson | 14,000 | 12,000 |
| Deuel | 14,000 | 12,000 |
| Dixon | 14,000 | 12,000 |
| Dodge | 15,000 | 12,000 |
| Douglas | 14,500 | 12,000 |
| Dundy | 14,000 | 12,000 |
| Fillmore | 12,000 | 12,000 |
| Franklin | 12,000 | 12,000 |
| Frontier | 13,500 | 12,000 |
| Furnas | 11,500 | 11,500 |
| Gage | 15,000 | 12,000 |
| Garden | 13,000 | 12,000 |
| Garfield | 12,000 | 12,000 |
| Gosper | 12,000 | 12,000 |
| Grant | 12,000 | 12,000 |
| Greeley | 13,000 | 12,000 |
| Hall | 12,000 | 12,000 |
| Hamilton | 12,000 | 12,000 |
| Harlan | 12,000 | 12,000 |
| Hayes | 13,500 | 12,000 |
| Hitchcock | 14,000 | 12,000 |
| Holt | 12,000 | 12,000 |
| Hooker | 12,000 | 12,000 |
| Howard | 11,500 | 11,500 |
| Jefferson | 13,500 | 12,000 |
| Johnson | 14,500 | 12,000 |
| Kearney | 13,000 | 12,000 |
| Keith | 13,500 | 12,000 |
| Keya Paha | 11,000 | 11,000 |
| Kimball | 14,000 | 12,000 |
| Knox | 12,500 | 12,000 |
| Lancaster | 14,500 | 12,000 |
| Lincoln | 13,500 | 12,000 |
| Logan | 12,000 | 12,000 |
| Loup | 12,000 | 12,000 |
| McPherson | 12,000 | 12,000 |
| Madison | 13,500 | 12,000 |
| Merrick | 12,660 | 12,000 |
| Morrill | 13,000 | 12,000 |
| Nance | 11,500 | 11,500 |
| Nemaha | 15,000 | 12,000 |
| Nuckolls | 12,000 | 12,000 |
| Otoe | 16,000 | 12,000 |
| Pawnee | 14,000 | 12,000 |
| Perkins | 14,000 | 12,000 |
| Phelps | 14,000 | 12,000 |
| Pierce | 13,000 | 12,000 |
| Platte | 13,500 | 12,000 |
| Polk | 14,500 | 12,000 |
| Red Willow | 14,000 | 12,000 |
| Richardson | 16,000 | 12,000 |
| Rock | 12,000 | 12,000 |
| Saline | 13,500 | 12,000 |
| Sarpy | 14,000 | 12,000 |
| Saunders | 15,000 | 12,000 |
| Scotts Bluff | 16,000 | 12,000 |
| Seward | 14,500 | 12,000 |
| Sheridan | 13,000 | 12,000 |
| Sherman | 11,000 | 11,000 |
| Sioux | 12,000 | 12,000 |
| Stanton | 13,000 | 12,000 |
| Thayer | $12,000 | $12,000 |
| Thomas | 12,000 | 12,000 |
| Thurston | 13,500 | 12,000 |
| Valley | 13,000 | 12,000 |
| Washington | 14,500 | 12,000 |
| Wayne | 14,500 | 12,000 |
| Webster | 12,000 | 12,000 |
| Wheeler | 12,000 | 12,000 |
| York | 13,500 | 12,000 |
| NEVADA | | |
| Churchill | 14,000 | 12,000 |
| Clark | 14,000 | 12,000 |
| Elko | 14,000 | 12,000 |
| Lincoln | 14,000 | 12,000 |
| Lyon | 14,000 | 12,000 |
| Mineral | 14,000 | 12,000 |
| Nye | 14,000 | 12,000 |
| Pershing | 14,000 | 12,000 |
| Washoe | 14,000 | 12,000 |
| White Pine | 14,000 | 12,000 |
| NEW HAMPSHIRE | | |
| Belknap | 9,000 | 9,000 |
| Carroll | 8,500 | 8,500 |
| Cheshire | 11,000 | 11,000 |
| Coos | 9,000 | 9,000 |
| Grafton | 9,000 | 9,000 |
| Hillsboro | 10,500 | 10,500 |
| Merrimack | 9,500 | 9,500 |
| Rockingham | 11,500 | 11,500 |
| Strafford | 11,000 | 11,000 |
| Sullivan | 11,000 | 11,000 |
| NEW JERSEY | | |
| Atlantic | 12,000 | 12,000 |
| Bergen | 20,000 | 12,000 |
| Burlington | 15,500 | 12,000 |
| Camden | 14,000 | 12,000 |
| Cape May | 12,000 | 12,000 |
| Cumberland | 14,500 | 12,000 |
| Gloucester | 14,000 | 12,000 |
| Hunterdon | 16,000 | 12,000 |
| Mercer | 18,500 | 12,000 |
| Middlesex | 16,000 | 12,000 |
| Monmouth | 15,000 | 12,000 |
| Morris | 18,000 | 12,000 |
| Ocean | 12,500 | 12,000 |
| Salem | 14,000 | 12,000 |
| Somerset | 16,000 | 12,000 |
| Sussex | 15,000 | 12,000 |
| Warren | 15,500 | 12,000 |
| NEW MEXICO | | |
| Bernalillo | 18,000 | 12,000 |
| Catron | 20,000 | 12,000 |
| Chaves | 20,000 | 12,000 |
| Colfax | 20,000 | 12,000 |
| Curry | 18,000 | 12,000 |
| De Baca | 20,000 | 12,000 |
| Dona Ana | 20,000 | 12,000 |
| Eddy | 12,000 | 12,000 |
| Grant | 20,000 | 12,000 |
| Guadalupe | 20,000 | 12,000 |
| Harding | 20,000 | 12,000 |
| Hidalgo | 16,000 | 12,000 |
| Lea | 20,000 | 12,000 |
| Lincoln | 16,000 | 12,000 |
| Luna | 18,000 | 12,000 |
| McKinley | 20,000 | 12,000 |
| Mora | 20,000 | 12,000 |
| Otero | 16,000 | 12,000 |
| Quay | 20,000 | 12,000 |
| Rio Arriba | 20,000 | 12,000 |
| Roosevelt | 18,000 | 12,000 |
| Sandoval | 20,000 | 12,000 |
| San Juan | 18,000 | 12,000 |
| San Miguel | 20,000 | 12,000 |
| Santa Fe | 18,000 | 12,000 |
| Sierra | 18,000 | 12,000 |
| Socorro | 18,000 | 12,000 |
| Taos | 20,000 | 12,000 |
| Torrance | 20,000 | 12,000 |
| Union | 20,000 | 12,000 |
| Valencia | 18,000 | 12,000 |
| NEW YORK | | |
| Albany | 8,000 | 8,000 |
| Allegany | 8,000 | 8,000 |
| Broome | 8,000 | 8,000 |
| Cattaraugus | 8,500 | 8,500 |
| Cayuga | 8,000 | 8,000 |
| Chautauqua | 8,500 | 8,500 |
| Chemung | 8,500 | 8,500 |
| Chenango | 8,200 | 8,200 |
| Clinton | 8,100 | 8,100 |
| Columbia | 12,000 | 12,000 |
| Cortland | 8,500 | 8,500 |
| Delaware | 9,000 | 9,000 |
| Dutchess | 15,000 | 12,000 |
| Erie | 11,000 | 11,000 |
| Essex | 9,000 | 9,000 |
| Franklin | 8,000 | 8,000 |
| Fulton | 9,000 | 9,000 |
| Genesee | $10,000 | $10,000 |
| Greene | 10,200 | 10,200 |
| Herkimer | 9,000 | 9,000 |
| Jefferson | 7,500 | 7,500 |
| Lewis | 8,500 | 8,500 |
| Livingston | 10,500 | 10,500 |
| Madison | 9,000 | 9,000 |
| Monroe | 12,000 | 12,000 |
| Montgomery | 9,000 | 9,000 |
| Nassau | 25,000 | 12,000 |
| Niagara | 11,000 | 11,000 |
| Oneida | 10,000 | 10,000 |
| Onondaga | 10,000 | 10,000 |
| Ontario | 8,500 | 8,500 |
| Orange | 12,000 | 12,000 |
| Orleans | 8,000 | 8,000 |
| Oswego | 7,000 | 7,000 |
| Otsego | 8,500 | 8,500 |
| Rensselaer | 10,000 | 10,000 |
| Saint Lawrence | 7,000 | 7,000 |
| Saratoga | 7,000 | 7,000 |
| Schenectady | 9,000 | 9,000 |
| Schoharie | 10,500 | 10,500 |
| Schuyler | 7,500 | 7,500 |
| Seneca | 7,400 | 7,400 |
| Steuben | 8,000 | 8,000 |
| Suffolk | 20,000 | 12,000 |
| Sullivan | 10,000 | 10,000 |
| Tioga | 7,500 | 7,500 |
| Tompkins | 8,000 | 8,000 |
| Ulster | 13,500 | 12,000 |
| Warren | 8,000 | 8,000 |
| Washington | 8,000 | 8,000 |
| Wayne | 8,500 | 8,500 |
| Wyoming | 9,500 | 9,500 |
| Yates | 8,000 | 8,000 |
| NORTH CAROLINA | | |
| Alamance | 8,500 | 8,500 |
| Alexander | 7,500 | 7,500 |
| Alleghany | 7,000 | 7,000 |
| Anson | 7,500 | 7,500 |
| Ashe | 8,000 | 8,000 |
| Avery | 6,500 | 6,500 |
| Beaufort | 7,000 | 7,000 |
| Bertie | 8,500 | 8,500 |
| Bladen | 8,000 | 8,000 |
| Brunswick | 7,000 | 7,000 |
| Buncombe | 8,000 | 8,000 |
| Burke | 7,500 | 7,500 |
| Cabarrus | 8,000 | 8,000 |
| Caldwell | 7,000 | 7,000 |
| Camden | 8,500 | 8,500 |
| Cartaret | 7,500 | 7,500 |
| Caswell | 7,000 | 7,000 |
| Catawba | 7,500 | 7,500 |
| Chatham | 7,000 | 7,000 |
| Cherokee | 7,000 | 7,000 |
| Chowan | 7,500 | 7,500 |
| Clay | 7,000 | 7,000 |
| Cleveland | 8,000 | 8,000 |
| Columbus | 8,500 | 8,500 |
| Craven | 8,000 | 8,000 |
| Cumberland | 8,000 | 8,000 |
| Currituck | 8,500 | 8,500 |
| Dare | 6,000 | 6,000 |
| Davidson | 8,500 | 8,500 |
| Davie | 8,000 | 8,000 |
| Duplin | 8,000 | 8,000 |
| Durham | 8,000 | 8,000 |
| Edgecombe | 8,000 | 8,000 |
| Forsyth | 8,500 | 8,500 |
| Franklin | 7,500 | 7,500 |
| Gaston | 7,500 | 7,500 |
| Gates | 7,500 | 7,500 |
| Graham | 5,000 | 5,000 |
| Granville | 8,000 | 8,000 |
| Greene | 8,000 | 8,000 |
| Guilford | 8,500 | 8,500 |
| Halifax | 7,500 | 7,500 |
| Harnett | 8,000 | 8,000 |
| Haywood | 7,500 | 7,500 |
| Henderson | 7,500 | 7,500 |
| Hertford | 8,000 | 8,000 |
| Hoke | 7,500 | 7,500 |
| Hyde | 5,000 | 5,000 |
| Iredell | 8,500 | 8,500 |
| Jackson | 6,500 | 6,500 |
| Johnston | 8,000 | 8,000 |
| Jones | 7,500 | 7,500 |
| Lee | 8,000 | 8,000 |
| Lenoir | 8,000 | 8,000 |
| Lincoln | 8,000 | 8,000 |
| McDowell | 7,000 | 7,000 |
| Macon | 6,500 | 6,500 |
| Madison | 8,000 | 8,000 |
| Martin | 8,000 | 8,000 |
| Mecklenburg | 8,500 | 8,500 |
| Mitchell | 6,500 | 6,500 |
| Montgomery | 7,000 | 7,000 |
| Moore | 7,000 | 7,000 |
| Nash | 8,000 | 8,000 |
| New Hanover | 8,500 | 8,500 |
| Northampton | 8,000 | 8,000 |
| Onslow | 7,500 | 7,500 |
| Orange | 8,000 | 8,000 |

| County | Average value | Investment limit |
|---|---|---|
| NORTH CAROLINA—continued | | |
| Pamlico | $6,000 | $6,000 |
| Pasquotank | 8,500 | 8,500 |
| Pender | 7,000 | 7,000 |
| Perquimans | 7,500 | 7,500 |
| Person | 7,500 | 7,500 |
| Pitt | 8,500 | 8,500 |
| Polk | 7,500 | 7,500 |
| Randolph | 8,000 | 8,000 |
| Richmond | 7,500 | 7,500 |
| Robeson | 8,500 | 8,500 |
| Rockingham | 7,500 | 7,500 |
| Rowan | 8,500 | 8,500 |
| Rutherford | 8,000 | 8,000 |
| Sampson | 8,000 | 8,000 |
| Scotland | 7,500 | 7,500 |
| Stanly | 8,500 | 8,500 |
| Stokes | 7,000 | 7,000 |
| Surry | 7,500 | 7,500 |
| Swain | 6,000 | 6,000 |
| Transylvania | 6,500 | 6,500 |
| Tyrrell | 7,500 | 7,500 |
| Union | 8,500 | 8,500 |
| Vance | 8,000 | 8,000 |
| Wake | 8,000 | 8,000 |
| Warren | 7,500 | 7,500 |
| Washington | 7,500 | 7,500 |
| Watauga | 8,000 | 8,000 |
| Wayne | 8,000 | 8,000 |
| Wilkes | 8,000 | 8,000 |
| Wilson | 8,500 | 8,500 |
| Yadkin | 8,000 | 8,000 |
| Yancey | 8,000 | 8,000 |
| NORTH DAKOTA | | |
| Adams | 10,000 | 10,000 |
| Barnes | 12,000 | 12,000 |
| Benson | 11,000 | 11,000 |
| Billings | 10,000 | 10,000 |
| Bottineau | 12,000 | 12,000 |
| Bowman | 10,000 | 10,000 |
| Burke | 9,500 | 9,500 |
| Burleigh | 9,000 | 9,000 |
| Cass | 13,500 | 12,000 |
| Cavalier | 12,000 | 12,000 |
| Dickey | 10,000 | 10,000 |
| Divide | 9,000 | 9,000 |
| Dunn | 10,500 | 10,500 |
| Eddy | 10,000 | 10,000 |
| Emmons | 9,000 | 9,000 |
| Foster | 11,000 | 11,000 |
| Golden Valley | 12,000 | 12,000 |
| Grand Forks | 13,000 | 12,000 |
| Grant | 10,000 | 10,000 |
| Griggs | 11,000 | 11,000 |
| Hettinger | 10,000 | 10,000 |
| Kidder | 9,000 | 9,000 |
| La Moure | 10,000 | 10,000 |
| Logan | 10,000 | 10,000 |
| McHenry | 10,000 | 10,000 |
| McIntosh | 10,000 | 10,000 |
| McKenzie | 12,000 | 12,000 |
| McLean | 10,500 | 10,500 |
| Mercer | 10,500 | 10,500 |
| Morton | 10,000 | 10,000 |
| Mountrail | 9,500 | 9,500 |
| Nelson | 10,500 | 10,500 |
| Oliver | 11,000 | 11,000 |
| Pembina | 13,000 | 12,000 |
| Pierce | 10,000 | 10,000 |
| Ramsey | 11,000 | 11,000 |
| Ransom | 10,500 | 10,500 |
| Renville | 11,000 | 11,000 |
| Richland | 13,000 | 12,000 |
| Rolette | 10,000 | 10,000 |
| Sargent | 10,000 | 10,000 |
| Sheridan | 9,000 | 9,000 |
| Sioux | 9,500 | 9,500 |
| Slope | 9,500 | 9,500 |
| Stark | 10,500 | 10,500 |
| Steele | 12,000 | 12,000 |
| Stutsman | 10,000 | 10,000 |
| Towner | 12,000 | 12,000 |
| Traill | 13,500 | 12,000 |
| Walsh | 12,500 | 12,000 |
| Ward | 11,000 | 11,000 |
| Wells | 12,000 | 12,000 |
| Williams | 10,600 | 10,600 |
| OHIO | | |
| Adams | 8,000 | 8,000 |
| Allen | 14,000 | 12,000 |
| Ashland | 12,000 | 12,000 |
| Ashtabula | 9,000 | 9,000 |
| Athens | 9,000 | 9,000 |
| Auglaize | 16,000 | 12,000 |
| Belmont | 10,000 | 10,000 |
| Brown | 9,000 | 9,000 |
| Butler | 16,000 | 12,000 |
| Carroll | 7,000 | 7,000 |
| Champaign | 15,000 | 12,000 |
| Clark | 16,000 | 12,000 |
| Clermont | 10,000 | 10,000 |
| Clinton | 14,000 | 12,000 |
| Columbiana | 10,000 | 10,000 |
| Coshocton | 9,000 | 9,000 |
| Crawford | 14,000 | 12,000 |
| Cuyahoga | $14,000 | $12,000 |
| Darke | 16,000 | 12,000 |
| Defiance | 15,000 | 12,000 |
| Delaware | 13,000 | 12,000 |
| Erie | 15,000 | 12,000 |
| Fairfield | 13,000 | 12,000 |
| Fayette | 16,000 | 12,000 |
| Franklin | 15,000 | 12,000 |
| Fulton | 14,000 | 12,000 |
| Gallia | 9,000 | 9,000 |
| Geauga | 12,000 | 12,000 |
| Greene | 15,000 | 12,000 |
| Guernsey | 8,000 | 8,000 |
| Hamilton | 12,000 | 12,000 |
| Hancock | 15,000 | 12,000 |
| Hardin | 14,000 | 12,000 |
| Harrison | 7,000 | 7,000 |
| Henry | 15,000 | 12,000 |
| Highland | 14,000 | 12,000 |
| Hocking | 8,000 | 8,000 |
| Holmes | 12,000 | 12,000 |
| Huron | 12,000 | 12,000 |
| Jackson | 8,000 | 8,000 |
| Jefferson | 8,000 | 8,000 |
| Knox | 11,000 | 11,000 |
| Lake | 14,000 | 12,000 |
| Lawrence | 10,000 | 10,000 |
| Licking | 12,000 | 12,000 |
| Logan | 12,000 | 12,000 |
| Lorain | 15,000 | 12,000 |
| Lucas | 16,000 | 12,000 |
| Madison | 15,000 | 12,000 |
| Mahoning | 12,000 | 12,000 |
| Marion | 15,000 | 12,000 |
| Medina | 14,000 | 12,000 |
| Meigs | 9,000 | 9,000 |
| Mercer | 16,000 | 12,000 |
| Miami | 16,000 | 12,000 |
| Monroe | 7,000 | 7,000 |
| Montgomery | 16,000 | 12,000 |
| Morgan | 8,000 | 8,000 |
| Morrow | 11,000 | 11,000 |
| Muskingum | 9,000 | 9,000 |
| Noble | 8,000 | 8,000 |
| Ottawa | 16,000 | 12,000 |
| Paulding | 15,000 | 12,000 |
| Perry | 9,000 | 9,000 |
| Pickaway | 15,000 | 12,000 |
| Pike | 11,000 | 11,000 |
| Portage | 10,000 | 10,000 |
| Preble | 16,000 | 12,000 |
| Putnam | 15,000 | 12,000 |
| Richland | 12,000 | 12,000 |
| Ross | 15,000 | 12,000 |
| Sandusky | 16,000 | 12,000 |
| Scioto | 11,000 | 11,000 |
| Seneca | 14,000 | 12,000 |
| Shelby | 14,000 | 12,000 |
| Stark | 11,000 | 11,000 |
| Summit | 12,000 | 12,000 |
| Trumbull | 10,000 | 10,000 |
| Tuscarawas | 10,000 | 10,000 |
| Union | 13,000 | 12,000 |
| Van Wert | 15,000 | 12,000 |
| Vinton | 7,000 | 7,000 |
| Warren | 14,000 | 12,000 |
| Washington | 11,000 | 11,000 |
| Wayne | 14,000 | 12,000 |
| Williams | 14,000 | 12,000 |
| Wood | 16,000 | 12,000 |
| Wyandot | 14,000 | 12,000 |
| OKLAHOMA | | |
| Adair | 8,000 | 8,000 |
| Alfalfa | 15,000 | 12,000 |
| Atoka | 8,500 | 8,500 |
| Beaver | 15,000 | 12,000 |
| Beckham | 12,000 | 12,000 |
| Blaine | 13,000 | 12,000 |
| Bryan | 10,000 | 10,000 |
| Caddo | 11,000 | 11,000 |
| Canadian | 14,000 | 12,000 |
| Carter | 10,500 | 10,500 |
| Cherokee | 8,000 | 8,000 |
| Choctaw | 8,500 | 8,500 |
| Cimarron | 15,000 | 12,000 |
| Cleveland | 11,000 | 11,000 |
| Coal | 8,500 | 8,500 |
| Comanche | 10,000 | 10,000 |
| Cotton | 11,500 | 11,500 |
| Craig | 9,000 | 9,000 |
| Creek | 8,500 | 8,500 |
| Custer | 13,000 | 12,000 |
| Delaware | 8,000 | 8,000 |
| Dewey | 12,000 | 12,000 |
| Ellis | 12,500 | 12,000 |
| Garfield | 15,000 | 12,000 |
| Garvin | 10,500 | 10,500 |
| Grady | 10,000 | 10,000 |
| Grant | 14,000 | 12,000 |
| Greer | 12,000 | 12,000 |
| Harmon | 12,000 | 12,000 |
| Harper | 12,000 | 12,000 |
| Haskell | 9,000 | 9,000 |
| Hughes | 9,000 | 9,000 |
| Jackson | 14,000 | 12,000 |
| Jefferson | $11,000 | $71,000 |
| Johnston | 8,500 | 8,500 |
| Kay | 14,000 | 12,000 |
| Kingfisher | 13,000 | 12,000 |
| Kiowa | 14,000 | 12,000 |
| Latimer | 8,000 | 8,000 |
| Le Flore | 8,000 | 8,000 |
| Lincoln | 9,000 | 9,000 |
| Logan | 11,000 | 11,000 |
| Love | 8,500 | 8,500 |
| McClain | 11,000 | 11,000 |
| McCurtain | 8,500 | 8,500 |
| McIntosh | 9,000 | 9,000 |
| Major | 13,000 | 12,000 |
| Marshall | 8,500 | 8,500 |
| Mayes | 9,000 | 9,000 |
| Murray | 10,500 | 10,500 |
| Muskogee | 10,000 | 10,000 |
| Noble | 12,000 | 12,000 |
| Nowata | 9,000 | 9,000 |
| Okfuskee | 9,000 | 9,000 |
| Oklahoma | 13,000 | 12,000 |
| Okmulgee | 9,000 | 9,000 |
| Osage | 12,000 | 12,000 |
| Ottawa | 10,000 | 10,000 |
| Pawnee | 10,000 | 10,000 |
| Payne | 10,500 | 10,500 |
| Pittsburg | 8,500 | 8,500 |
| Pontotoc | 10,500 | 10,500 |
| Pottawatomie | 10,000 | 10,000 |
| Pushmataha | 8,000 | 8,000 |
| Roger Mills | 12,000 | 12,000 |
| Rogers | 9,000 | 9,000 |
| Seminole | 9,000 | 9,000 |
| Sequoyah | 8,000 | 8,000 |
| Stephens | 10,000 | 10,000 |
| Texas | 15,000 | 12,000 |
| Tillman | 15,000 | 12,000 |
| Tulsa | 13,000 | 12,000 |
| Wagoner | 10,000 | 10,000 |
| Washington | 9,000 | 9,000 |
| Washita | 14,000 | 12,000 |
| Woods | 15,000 | 12,000 |
| Woodward | 12,000 | 12,000 |
| OREGON | | |
| Baker | 16,000 | 12,000 |
| Benton | 14,000 | 12,000 |
| Clackamas | 14,000 | 12,000 |
| Clatsop | 14,000 | 12,000 |
| Columbia | 14,000 | 12,000 |
| Coos | 11,000 | 11,000 |
| Crook | 13,000 | 12,000 |
| Curry | 11,000 | 11,000 |
| Deschutes | 13,000 | 12,000 |
| Douglas | 12,000 | 12,000 |
| Gilliam | 25,000 | 12,000 |
| Grant | 14,000 | 12,000 |
| Harney | 17,500 | 12,000 |
| Hood River | 14,000 | 12,000 |
| Jackson | 14,000 | 12,000 |
| Jefferson | 13,000 | 12,000 |
| Josephine | 14,000 | 12,000 |
| Klamath | 17,000 | 12,000 |
| Lake | 14,500 | 12,000 |
| Lane | 15,000 | 12,000 |
| Lincoln | 10,000 | 10,000 |
| Linn | 15,000 | 12,000 |
| Malheur | 15,000 | 12,000 |
| Marion | 14,000 | 12,000 |
| Morrow | 15,000 | 12,000 |
| Multnomah | 15,000 | 12,000 |
| Polk | 14,000 | 12,000 |
| Sherman | 32,000 | 12,000 |
| Tillamook | 17,000 | 12,000 |
| Umatilla | 15,000 | 12,000 |
| Union | 16,000 | 12,000 |
| Wallowa | 16,000 | 12,000 |
| Wasco | 18,600 | 12,000 |
| Washington | 16,000 | 12,000 |
| Wheeler | 14,000 | 12,000 |
| Yamhill | 16,000 | 12,000 |
| PENNSYLVANIA | | |
| Adams | 8,300 | 8,300 |
| Allegheny | 12,000 | 12,000 |
| Armstrong | 6,000 | 6,000 |
| Beaver | 9,000 | 9,000 |
| Bedford | 9,000 | 9,000 |
| Berks | 9,000 | 9,000 |
| Blair | 8,750 | 8,750 |
| Bradford | 5,200 | 5,200 |
| Bucks | 14,000 | 12,000 |
| Butler | 8,000 | 8,000 |
| Cambria | 6,000 | 6,000 |
| Carbon | 7,620 | 7,620 |
| Centre | 10,000 | 10,000 |
| Chester | 13,000 | 12,000 |
| Clarion | 6,500 | 6,500 |
| Clearfield | 6,000 | 6,000 |
| Clinton | 6,500 | 6,500 |
| Columbia | 6,700 | 6,700 |
| Crawford | 6,000 | 6,000 |
| Cumberland | 12,000 | 12,000 |
| Dauphin | 8,000 | 8,000 |
| Erie | 10,000 | 10,000 |

| County | Average value | Investment limit |
|---|---|---|
| PENNSYLVANIA—continued | | |
| Fayette | $8,600 | $8,600 |
| Franklin | 10,000 | 10,000 |
| Fulton | 7,000 | 7,000 |
| Greene | 8,200 | 8,200 |
| Huntingdon | 8,100 | 8,100 |
| Indiana | 8,000 | 8,000 |
| Jefferson | 6,500 | 6,500 |
| Juniata | 8,200 | 8,200 |
| Lackawanna | 7,800 | 7,800 |
| Lancaster | 13,500 | 12,000 |
| Lawrence | 9,000 | 9,000 |
| Lebanon | 11,500 | 11,500 |
| Lehigh | 11,000 | 11,000 |
| Luzerne | 7,200 | 7,200 |
| Lycoming | 6,500 | 6,500 |
| McKean | 6,000 | 6,000 |
| Mercer | 8,000 | 8,000 |
| Mifflin | 9,000 | 9,000 |
| Monroe | 6,600 | 6,600 |
| Montgomery | 12,500 | 12,000 |
| Montour | 6,800 | 6,800 |
| Northampton | 10,500 | 10,500 |
| Northumberland | 6,500 | 6,500 |
| Perry | 8,000 | 8,000 |
| Potter | 7,000 | 7,000 |
| Schuylkill | 7,000 | 7,000 |
| Snyder | 6,000 | 6,000 |
| Somerset | 10,000 | 10,000 |
| Sullivan | 6,000 | 6,000 |
| Susquehanna | 6,000 | 6,000 |
| Tioga | 5,300 | 5,300 |
| Union | 8,000 | 8,000 |
| Venango | 7,500 | 7,500 |
| Warren | 7,500 | 7,500 |
| Washington | 10,200 | 10,200 |
| Wayne | 6,000 | 6,000 |
| Westmoreland | 9,000 | 9,000 |
| Wyoming | 6,000 | 6,000 |
| York | 9,000 | 9,000 |
| RHODE ISLAND | | |
| Kent | 11,000 | 11,000 |
| Newport | 12,000 | 12,000 |
| Providence | 12,000 | 12,000 |
| Washington | 10,500 | 10,500 |
| SOUTH CAROLINA | | |
| Abbeville | 7,000 | 7,000 |
| Aiken | 7,500 | 7,500 |
| Allendale | 8,000 | 8,000 |
| Anderson | 8,500 | 8,500 |
| Bamberg | 9,000 | 9,000 |
| Barnwell | 8,000 | 8,000 |
| Beaufort | 7,500 | 7,500 |
| Berkeley | 7,500 | 7,500 |
| Calhoun | 9,000 | 9,000 |
| Charleston | 7,500 | 7,500 |
| Cherokee | 7,500 | 7,500 |
| Chester | 8,500 | 8,500 |
| Chesterfield | 8,000 | 8,000 |
| Clarendon | 9,000 | 9,000 |
| Colleton | 7,500 | 7,500 |
| Darlington | 10,000 | 10,000 |
| Dillon | 11,000 | 11,000 |
| Dorchester | 7,500 | 7,500 |
| Edgefield | 8,500 | 8,500 |
| Fairfield | 7,000 | 7,000 |
| Florence | 10,000 | 10,000 |
| Georgetown | 7,500 | 7,500 |
| Greenville | 9,000 | 9,000 |
| Greenwood | 7,000 | 7,000 |
| Hampton | 8,000 | 8,000 |
| Horry | 10,000 | 10,000 |
| Jasper | 7,500 | 7,500 |
| Kershaw | 8,000 | 8,000 |
| Lancaster | 8,000 | 8,000 |
| Laurens | 8,500 | 8,500 |
| Lee | 9,000 | 9,000 |
| Lexington | 7,000 | 7,000 |
| McCormick | 7,000 | 7,000 |
| Marion | 10,000 | 10,000 |
| Marlboro | 11,000 | 11,000 |
| Newberry | 8,000 | 8,000 |
| Oconee | 8,500 | 8,500 |
| Orangeburg | 9,000 | 9,000 |
| Pickens | 8,500 | 8,500 |
| Richland | 8,000 | 8,000 |
| Saluda | 8,500 | 8,500 |
| Spartanburg | 9,000 | 9,000 |
| Sumter | 9,000 | 9,000 |
| Union | 7,500 | 7,500 |
| Williamsburg | 9,000 | 9,000 |
| York | 8,500 | 8,500 |
| SOUTH DAKOTA | | |
| Armstrong | 9,000 | 9,000 |
| Aurora | 10,000 | 10,000 |
| Beadle | 10,000 | 10,000 |
| Bennett | 11,000 | 11,000 |
| Bon Homme | 12,500 | 12,000 |
| Brookings | 13,000 | 12,000 |
| Brown | 13,000 | 12,000 |
| Brule | 10,000 | 10,000 |
| Buffalo | 10,000 | 10,000 |
| Butte | 12,000 | 12,000 |
| Campbell | $9,600 | $9,600 |
| Charles Mix | 10,500 | 10,500 |
| Clark | 12,800 | 12,000 |
| Clay | 15,000 | 12,000 |
| Codington | 13,000 | 12,000 |
| Corson | 10,000 | 10,000 |
| Custer | 9,000 | 9,000 |
| Davison | 12,000 | 12,000 |
| Day | 12,000 | 12,000 |
| Deuel | 13,000 | 12,000 |
| Dewey | 9,500 | 9,500 |
| Douglas | 12,000 | 12,000 |
| Edmunds | 10,000 | 10,000 |
| Fall River | 10,000 | 10,000 |
| Faulk | 11,000 | 11,000 |
| Grant | 13,000 | 12,000 |
| Gregory | 10,000 | 10,000 |
| Haakon | 10,500 | 10,000 |
| Hamlin | 13,000 | 12,050 |
| Hand | 10,000 | 10,000 |
| Hanson | 12,000 | 12,000 |
| Harding | 10,500 | 10,500 |
| Hughes | 10,000 | 10,000 |
| Hutchinson | 13,200 | 12,000 |
| Hyde | 10,000 | 10,000 |
| Jackson | 11,000 | 11,000 |
| Jerauld | 10,000 | 10,000 |
| Jones | 10,500 | 10,500 |
| Kingsbury | 13,000 | 12,000 |
| Lake | 16,000 | 12,000 |
| Lawrence | 11,000 | 11,000 |
| Lincoln | 17,600 | 12,000 |
| Lyman | 11,500 | 11,500 |
| McCook | 13,000 | 12,000 |
| McPherson | 10,000 | 10,000 |
| Marshall | 13,000 | 12,000 |
| Meade | 11,000 | 11,000 |
| Mellette | 10,000 | 10,000 |
| Miner | 12,000 | 12,000 |
| Minnehaha | 16,000 | 12,000 |
| Moody | 16,000 | 12,000 |
| Pennington | 11,000 | 11,000 |
| Perkins | 10,000 | 10,000 |
| Potter | 12,000 | 12,000 |
| Roberts | 12,000 | 12,000 |
| Sanborn | 11,000 | 11,000 |
| Shannon | 10,000 | 10,000 |
| Spink | 12,000 | 12,000 |
| Stanley | 10,000 | 10,000 |
| Sully | 11,000 | 11,000 |
| Todd | 11,000 | 11,000 |
| Tripp | 10,000 | 10,000 |
| Turner | 14,000 | 12,000 |
| Union | 15,000 | 12,000 |
| Walworth | 10,320 | 10,320 |
| Washabaugh | 10,500 | 10,500 |
| Yankton | 13,000 | 12,000 |
| Ziebach | 9,500 | 9,500 |
| TENNESSEE | | |
| Anderson | 7,500 | 7,500 |
| Bedford | 9,000 | 9,000 |
| Benton | 6,500 | 6,500 |
| Bledsoe | 7,000 | 7,000 |
| Blount | 9,500 | 9,500 |
| Bradley | 7,500 | 7,500 |
| Campbell | 7,500 | 7,500 |
| Cannon | 6,500 | 6,500 |
| Carroll | 7,500 | 7,500 |
| Carter | 7,500 | 7,500 |
| Cheatham | 7,000 | 7,000 |
| Chester | 7,000 | 7,000 |
| Claiborne | 6,500 | 6,500 |
| Clay | 7,000 | 7,000 |
| Cocke | 7,500 | 7,500 |
| Coffee | 7,300 | 7,300 |
| Crockett | 8,500 | 8,500 |
| Cumberland | 6,500 | 6,500 |
| Davidson | 12,000 | 12,000 |
| Decatur | 6,500 | 6,500 |
| De Kalb | 7,000 | 7,000 |
| Dickson | 7,000 | 7,000 |
| Dyer | 9,500 | 9,500 |
| Fayette | 7,500 | 7,500 |
| Fentress | 6,500 | 6,500 |
| Franklin | 9,000 | 9,000 |
| Gibson | 9,500 | 9,500 |
| Giles | 9,000 | 9,000 |
| Grainger | 7,500 | 7,500 |
| Greene | 10,000 | 10,000 |
| Grundy | 7,000 | 7,000 |
| Hamblen | 10,000 | 10,000 |
| Hamilton | 8,500 | 8,500 |
| Hancock | 6,500 | 6,500 |
| Hardeman | 7,000 | 7,000 |
| Hardin | 6,500 | 6,500 |
| Hawkins | 8,500 | 8,500 |
| Haywood | 7,500 | 7,500 |
| Henderson | 8,000 | 8,000 |
| Henry | 8,000 | 8,000 |
| Hickman | 7,500 | 7,500 |
| Houston | 7,000 | 7,000 |
| Humphreys | 8,000 | 8,000 |
| Jackson | 8,000 | 8,000 |
| Jefferson | 8,500 | 8,500 |
| Johnson | 7,500 | 7,500 |
| Knox | $10,500 | $10,500 |
| Lake | 12,000 | 12,000 |
| Lauderdale | 8,500 | 8,500 |
| Lawrence | 8,000 | 8,000 |
| Lewis | 6,500 | 6,500 |
| Lincoln | 9,000 | 9,000 |
| Loudon | 8,000 | 8,000 |
| McMinn | 7,500 | 7,500 |
| McNairy | 6,500 | 6,500 |
| Macon | 6,500 | 6,500 |
| Madison | 8,500 | 8,500 |
| Marion | 8,000 | 8,000 |
| Marshall | 8,500 | 8,500 |
| Maury | 10,500 | 10,500 |
| Meigs | 7,000 | 7,000 |
| Monroe | 7,200 | 7,200 |
| Montgomery | 9,000 | 9,000 |
| Moore | 8,500 | 8,500 |
| Morgan | 6,500 | 6,500 |
| Obion | 10,000 | 10,000 |
| Overton | 6,500 | 6,500 |
| Perry | 7,000 | 7,000 |
| Pickett | 6,500 | 6,500 |
| Polk | 7,000 | 7,000 |
| Putnam | 7,500 | 7,500 |
| Rhea | 6,500 | 6,500 |
| Roane | 8,000 | 8,000 |
| Robertson | 9,000 | 9,000 |
| Rutherford | 8,500 | 8,500 |
| Scott | 6,500 | 6,500 |
| Sequatchie | 7,000 | 7,000 |
| Sevier | 7,500 | 7,500 |
| Shelby | 10,500 | 10,500 |
| Smith | 8,000 | 8,000 |
| Stewart | 7,000 | 7,000 |
| Sullivan | 10,500 | 10,500 |
| Sumner | 9,500 | 9,500 |
| Tipton | 8,500 | 8,500 |
| Trousdale | 8,500 | 8,500 |
| Unicoi | 7,500 | 7,500 |
| Union | 7,000 | 7,000 |
| Van Buren | 6,500 | 6,500 |
| Warren | 7,000 | 7,000 |
| Washington | 10,500 | 10,500 |
| Wayne | 6,500 | 6,500 |
| Weakley | 8,000 | 8,000 |
| White | 7,500 | 7,500 |
| Williamson | 10,500 | 10,500 |
| Wilson | 8,500 | 8,500 |
| TEXAS | | |
| Anderson | 12,000 | 12,000 |
| Angelina | 12,500 | 12,000 |
| Aransas | 15,000 | 12,000 |
| Archer | 15,000 | 12,000 |
| Armstrong | 17,000 | 12,000 |
| Atascosa | 14,000 | 12,000 |
| Austin | 12,000 | 12,000 |
| Bailey | 13,000 | 12,000 |
| Bandera | 16,000 | 12,000 |
| Bastrop | 12,000 | 12,000 |
| Baylor | 14,000 | 12,000 |
| Bee | 15,000 | 12,000 |
| Bell | 15,000 | 12,000 |
| Bexar | 15,000 | 12,000 |
| Blanco | 15,000 | 12,000 |
| Borden | 16,000 | 12,000 |
| Bosque | 14,000 | 12,000 |
| Bowie | 15,000 | 12,000 |
| Brazoria | 15,000 | 12,000 |
| Brazos | 15,000 | 12,000 |
| Briscoe | 18,000 | 12,000 |
| Brooks | 14,000 | 12,000 |
| Brown | 15,000 | 12,000 |
| Burleson | 12,000 | 12,000 |
| Burnet | 15,000 | 12,000 |
| Caldwell | 14,000 | 12,000 |
| Calhoun | 15,000 | 12,000 |
| Callahan | 12,000 | 12,000 |
| Cameron | 16,000 | 12,000 |
| Camp | 12,000 | 12,000 |
| Cass | 12,000 | 12,000 |
| Castro | 18,000 | 12,000 |
| Chambers | 12,000 | 12,000 |
| Cherokee | 14,000 | 12,000 |
| Childress | 14,000 | 12,000 |
| Clay | 14,000 | 12,000 |
| Cochran | 16,000 | 12,000 |
| Coke | 15,000 | 12,000 |
| Coleman | 15,000 | 12,000 |
| Collin | 15,000 | 12,000 |
| Collingsworth | 15,000 | 12,000 |
| Colorado | 14,000 | 12,000 |
| Comal | 15,000 | 12,000 |
| Comanche | 12,000 | 12,000 |
| Concho | 14,000 | 12,000 |
| Cooke | 15,000 | 12,000 |
| Coryell | 12,000 | 12,000 |
| Cottle | 15,000 | 12,000 |
| Crosby | 15,000 | 12,000 |
| Dallam | 19,200 | 12,000 |
| Dallas | 15,000 | 12,000 |
| Dawson | 16,000 | 12,000 |
| Deaf Smith | 18,000 | 12,000 |
| Delta | 15,000 | 12,000 |
| Denton | 15,000 | 12,000 |
| De Witt | 14,000 | 12,000 |

| County | Average value | Investment limit |
|---|---|---|
| **TEXAS—continued** | | |
| Dickens | $14,000 | $12,000 |
| Dimmit | 16,000 | 12,000 |
| Donley | 15,000 | 12,000 |
| Duval | 12,000 | 12,000 |
| Eastland | 12,000 | 12,000 |
| Edwards | 25,000 | 12,000 |
| El Paso | 25,000 | 12,000 |
| Ellis | 15,000 | 12,000 |
| Erath | 12,000 | 12,000 |
| Falls | 15,000 | 12,000 |
| Fannin | 15,000 | 12,000 |
| Fayette | 12,000 | 12,000 |
| Fisher | 14,000 | 12,000 |
| Floyd | 16,000 | 12,000 |
| Foard | 15,000 | 12,000 |
| Fort Bend | 16,000 | 12,000 |
| Franklin | 12,000 | 12,000 |
| Freestone | 14,000 | 12,000 |
| Frio | 14,000 | 12,000 |
| Gaines | 15,000 | 12,000 |
| Galveston | 12,000 | 12,000 |
| Garza | 14,000 | 12,000 |
| Gillespie | 16,500 | 12,000 |
| Glasscock | 14,000 | 12,000 |
| Goliad | 15,000 | 12,000 |
| Gonzales | 12,000 | 12,000 |
| Gray | 18,000 | 12,000 |
| Grayson | 15,000 | 12,000 |
| Gregg | 12,000 | 12,000 |
| Grimes | 14,000 | 12,000 |
| Guadalupe | 14,000 | 12,000 |
| Hale | 16,000 | 12,000 |
| Hall | 15,000 | 12,000 |
| Hamilton | 14,000 | 12,000 |
| Hansford | 20,000 | 12,000 |
| Hardeman | 15,000 | 12,000 |
| Hardin | 12,000 | 12,000 |
| Harris | 12,000 | 12,000 |
| Harrison | 14,000 | 12,000 |
| Hartley | 19,200 | 12,000 |
| Haskell | 14,000 | 12,000 |
| Hays | 14,000 | 12,000 |
| Hemphill | 18,000 | 12,000 |
| Henderson | 12,000 | 12,000 |
| Hidalgo | 16,000 | 12,000 |
| Hill | 15,000 | 12,000 |
| Hockley | 15,900 | 12,000 |
| Hood | 12,000 | 12,000 |
| Hopkins | 15,000 | 12,000 |
| Houston | 12,000 | 12,000 |
| Howard | 14,000 | 12,000 |
| Hudspeth | 25,000 | 12,000 |
| Hunt | 15,000 | 12,000 |
| Irion | 14,000 | 12,000 |
| Jack | 15,000 | 12,000 |
| Jackson | 15,000 | 12,000 |
| Jasper | 12,000 | 12,000 |
| Jefferson | 20,000 | 12,000 |
| Jim Hogg | 14,000 | 12,000 |
| Jim Wells | 14,000 | 12,000 |
| Johnson | 15,000 | 12,000 |
| Jones | 13,000 | 12,000 |
| Karnes | 12,000 | 12,000 |
| Kaufman | 15,000 | 12,000 |
| Kendall | 15,000 | 12,000 |
| Kent | 14,000 | 12,000 |
| Kerr | 16,500 | 12,000 |
| Kimble | 17,500 | 12,000 |
| King | 12,000 | 12,000 |
| Kleberg | 12,000 | 12,000 |
| Knox | 14,000 | 12,000 |
| Lamar | 15,000 | 12,000 |
| Lamb | 14,000 | 12,000 |
| Lampasas | 15,000 | 12,000 |
| La Salle | 12,000 | 12,000 |
| Lavaca | 12,000 | 12,000 |
| Lee | 12,000 | 12,000 |
| Leon | 12,000 | 12,000 |
| Liberty | 20,000 | 12,000 |
| Limestone | 14,000 | 12,000 |
| Lipscomb | 18,000 | 12,000 |
| Live Oak | 12,000 | 12,000 |
| Llano | 15,000 | 12,000 |
| Lubbock | 16,000 | 12,000 |
| Lynn | 16,000 | 12,000 |
| McCulloch | 18,000 | 12,000 |
| McLennan | 15,000 | 12,000 |
| McMullen | 12,000 | 12,000 |
| Madison | 14,000 | 12,000 |
| Marion | 14,000 | 12,000 |
| Martin | 14,000 | 12,000 |
| Mason | 18,000 | 12,000 |
| Matagorda | 15,000 | 12,000 |
| Maverick | 16,000 | 12,000 |
| Medina | 15,000 | 12,000 |
| Menard | 16,000 | 12,000 |
| Midland | 16,000 | 12,000 |
| Milam | 12,500 | 12,000 |
| Mills | 14,000 | 12,000 |
| Mitchell | 15,000 | 12,000 |
| Montague | 13,000 | 12,000 |
| Montgomery | 12,000 | 12,000 |
| Moore | 18,000 | 12,000 |
| Morris | 12,000 | 12,000 |
| Motley | 14,000 | 12,000 |
| Nacogdoches | 14,000 | 12,000 |
| Navarro | 15,000 | 12,000 |
| Newton | $12,000 | $12,000 |
| Nolan | 15,000 | 12,000 |
| Nueces | 16,000 | 12,000 |
| Ochiltree | 20,000 | 12,000 |
| Orange | 20,000 | 12,000 |
| Palo Pinto | 12,000 | 12,000 |
| Panola | 12,000 | 12,000 |
| Parker | 12,000 | 12,000 |
| Parmer | 18,000 | 12,000 |
| Polk | 15,000 | 12,000 |
| Rains | 12,000 | 12,000 |
| Randall | 16,000 | 12,000 |
| Real | 18,000 | 12,000 |
| Red River | 15,000 | 12,000 |
| Reeves | 25,000 | 12,000 |
| Refugio | 15,000 | 12,000 |
| Robertson | 12,000 | 12,000 |
| Rockwall | 15,000 | 12,000 |
| Runnels | 14,000 | 12,000 |
| Rusk | 15,000 | 12,000 |
| Sabine | 12,000 | 12,000 |
| San Augustine | 14,000 | 12,000 |
| San Jacinto | 12,000 | 12,000 |
| San Patricio | 17,000 | 12,000 |
| San Saba | 17,000 | 12,000 |
| Schleicher | 15,000 | 12,000 |
| Scurry | 14,000 | 12,000 |
| Shackelford | 15,000 | 12,000 |
| Shelby | 12,000 | 12,000 |
| Sherman | 18,000 | 12,000 |
| Smith | 12,500 | 12,000 |
| Somervell | 12,000 | 12,000 |
| Starr | 12,000 | 12,000 |
| Stephens | 15,000 | 12,000 |
| Stonewall | 12,000 | 12,000 |
| Swisher | 16,000 | 12,000 |
| Tarrant | 15,000 | 12,000 |
| Taylor | 13,000 | 12,000 |
| Terry | 13,000 | 12,000 |
| Throckmorton | 15,000 | 12,000 |
| Titus | 12,000 | 12,000 |
| Tom Green | 18,000 | 12,000 |
| Travis | 14,000 | 12,000 |
| Trinity | 15,000 | 12,000 |
| Tyler | 15,000 | 12,000 |
| Upshur | 12,000 | 12,000 |
| Uvalde | 16,000 | 12,000 |
| Van Zandt | 12,500 | 12,000 |
| Victoria | 15,000 | 12,000 |
| Walker | 12,000 | 12,000 |
| Waller | 14,000 | 12,000 |
| Ward | 25,000 | 12,000 |
| Washington | 14,000 | 12,000 |
| Wharton | 16,000 | 12,000 |
| Wheeler | 12,000 | 12,000 |
| Wichita | 15,000 | 12,000 |
| Wilbarger | 16,000 | 12,000 |
| Willacy | 16,000 | 12,000 |
| Williamson | 14,000 | 12,000 |
| Wilson | 14,000 | 12,000 |
| Wise | 15,000 | 12,000 |
| Wood | 12,000 | 12,000 |
| Yoakum | 16,000 | 12,000 |
| Young | 15,000 | 12,000 |
| Zapata | 12,000 | 12,000 |
| Zavala | 16,000 | 12,000 |
| **UTAH** | | |
| Beaver | 13,000 | 12,000 |
| Box Elder | 15,000 | 12,000 |
| Cache | 15,000 | 12,000 |
| Carbon | 10,000 | 10,000 |
| Daggett | 12,000 | 12,000 |
| Davis | 15,000 | 12,000 |
| Duchesne | 12,000 | 12,000 |
| Emery | 12,000 | 12,000 |
| Garfield | 12,000 | 12,000 |
| Grand | 12,000 | 12,000 |
| Iron | 13,000 | 12,000 |
| Juab | 12,000 | 12,000 |
| Kane | 12,000 | 12,000 |
| Millard | 12,000 | 12,000 |
| Morgan | 13,000 | 12,000 |
| Pinte | 12,000 | 12,000 |
| Rich | 12,000 | 12,000 |
| Salt Lake | 14,000 | 12,000 |
| San Juan | 12,000 | 12,000 |
| Sanpete | 12,000 | 12,000 |
| Sevier | 13,000 | 12,000 |
| Summit | 12,000 | 12,000 |
| Tooele | 12,000 | 12,000 |
| Uintah | 13,000 | 12,000 |
| Utah | 15,000 | 12,000 |
| Wasatch | 14,000 | 12,000 |
| Washington | 13,000 | 12,000 |
| Wayne | 12,000 | 12,000 |
| Weber | 15,000 | 12,000 |
| **VERMONT** | | |
| Addison | 11,500 | 11,500 |
| Bennington | 10,000 | 10,000 |
| Caledonia | 7,000 | 7,000 |
| Chittenden | 11,921 | 11,900 |
| Essex | 8,000 | 8,000 |
| Franklin | 8,500 | 8,500 |
| Lamoille | 7,500 | 7,500 |
| **VERMONT—continued** | | |
| Orange | $7,500 | $7,500 |
| Orleans | 7,000 | 7,000 |
| Rutland | 7,500 | 7,500 |
| Washington | 8,000 | 8,000 |
| Windham | 8,000 | 8,000 |
| Windsor | 7,500 | 7,500 |
| **VIRGINIA** | | |
| Accomac | 8,000 | 8,000 |
| Albemarle | 10,000 | 10,000 |
| Alleghany | 8,000 | 8,000 |
| Amelia | 7,500 | 7,500 |
| Amherst | 8,000 | 8,000 |
| Appomattox | 7,500 | 7,500 |
| Augusta | 12,000 | 12,000 |
| Bath | 9,000 | 9,000 |
| Bedford | 7,500 | 7,500 |
| Bland | 10,000 | 10,000 |
| Botetourt | 11,000 | 11,000 |
| Brunswick | 7,500 | 7,500 |
| Buchanan | 6,000 | 6,000 |
| Buckingham | 6,000 | 6,000 |
| Campbell | 7,500 | 7,500 |
| Caroline | 7,500 | 7,500 |
| Carroll | 9,000 | 9,000 |
| Charles City | 8,500 | 8,500 |
| Charlotte | 7,500 | 7,500 |
| Chesterfield | 6,500 | 6,500 |
| Clarke | 12,000 | 12,000 |
| Craig | 8,000 | 8,000 |
| Culpeper | 11,000 | 11,000 |
| Cumberland | 6,000 | 6,000 |
| Dickenson | 6,000 | 6,000 |
| Dinwiddie | 7,500 | 7,500 |
| Elizabeth City | 11,000 | 11,000 |
| Essex | 9,000 | 9,000 |
| Fairfax | 12,000 | 12,000 |
| Fauquier | 12,000 | 12,000 |
| Floyd | 7,500 | 7,500 |
| Fluvanna | 6,000 | 6,000 |
| Franklin | 7,500 | 7,500 |
| Frederick | 11,000 | 11,000 |
| Giles | 10,000 | 10,000 |
| Gloucester | 8,000 | 8,000 |
| Goochland | 7,000 | 7,000 |
| Grayson | 10,000 | 10,000 |
| Greene | 7,000 | 7,000 |
| Greensville | 7,500 | 7,500 |
| Halifax | 7,500 | 7,500 |
| Hanover | 8,000 | 8,000 |
| Henrico | 10,000 | 10,000 |
| Henry | 7,500 | 7,500 |
| Highland | 8,000 | 8,000 |
| Isle of Wight | 8,000 | 8,000 |
| James City | 11,000 | 11,000 |
| King and Queen | 7,000 | 7,000 |
| King George | 8,000 | 8,000 |
| King William | 7,500 | 7,500 |
| Lancaster | 9,000 | 9,000 |
| Lee | 12,000 | 12,000 |
| Loudoun | 12,000 | 12,000 |
| Louisa | 6,500 | 6,500 |
| Lunenburg | 7,000 | 7,000 |
| Madison | 8,500 | 8,500 |
| Mathews | 8,000 | 8,000 |
| Mecklenburg | 7,500 | 7,500 |
| Middlesex | 8,000 | 8,000 |
| Montgomery | 10,000 | 10,000 |
| Nansemond | 8,000 | 8,000 |
| Nelson | 7,500 | 7,500 |
| New Kent | 7,500 | 7,500 |
| Norfolk | 10,000 | 10,000 |
| Northampton | 12,000 | 12,000 |
| Northumberland | 9,000 | 9,000 |
| Nottoway | 7,500 | 7,500 |
| Orange | 10,000 | 10,000 |
| Page | 10,000 | 10,000 |
| Patrick | 7,500 | 7,500 |
| Pittsylvania | 7,500 | 7,500 |
| Powhatan | 6,500 | 6,500 |
| Prince Edward | 7,500 | 7,500 |
| Prince George | 8,000 | 8,000 |
| Princess Anne | 10,000 | 10,000 |
| Prince William | 11,000 | 11,000 |
| Pulaski | 12,000 | 12,000 |
| Rappahannock | 9,000 | 9,000 |
| Richmond | 9,000 | 9,000 |
| Roanoke | 11,000 | 11,000 |
| Rockbridge | 11,000 | 11,000 |
| Rockingham | 12,000 | 12,000 |
| Russell | 12,000 | 12,000 |
| Scott | 10,000 | 10,000 |
| Shenandoah | 11,000 | 11,000 |
| Smyth | 12,000 | 12,000 |
| Southampton | 8,000 | 8,000 |
| Spotsylvania | 7,500 | 7,500 |
| Stafford | 7,500 | 7,500 |
| Surry | 8,500 | 8,500 |
| Sussex | 7,500 | 7,500 |
| Tazewell | 12,000 | 12,000 |
| Warren | 11,000 | 11,000 |
| Warwick | 11,000 | 11,000 |
| Washington | 12,000 | 12,000 |
| Westmoreland | 10,500 | 10,500 |
| Wise | 10,000 | 10,000 |
| Wythe | 12,000 | 12,000 |
| York | 12,000 | 12,000 |

| County | Average value | Investment limit |
|---|---|---|
| WASHINGTON | | |
| Adams | $21,200 | $12,000 |
| Asotin | 15,000 | 12,000 |
| Benton | 16,500 | 12,000 |
| Chelan | 12,500 | 12,000 |
| Clallam | 14,000 | 12,000 |
| Clark | 14,500 | 12,000 |
| Columbia | 15,000 | 12,000 |
| Cowlitz | 14,000 | 12,000 |
| Douglas | 17,250 | 12,000 |
| Ferry | 14,000 | 12,000 |
| Franklin | 17,150 | 12,000 |
| Garfield | 45,000 | 12,000 |
| Grant | 15,000 | 12,000 |
| Grays Harbor | 14,000 | 12,000 |
| Island | 10,000 | 10,000 |
| Jefferson | 12,000 | 12,000 |
| King | 14,500 | 12,000 |
| Kitsap | 11,000 | 11,000 |
| Kittitas | 12,000 | 12,000 |
| Klickitat | 16,000 | 12,000 |
| Lewis | 12,000 | 12,000 |
| Lincoln | 30,000 | 12,000 |
| Mason | 12,000 | 12,000 |
| Okanogan | 15,000 | 12,000 |
| Pacific | 12,000 | 12,000 |
| Pend Oreille | 12,000 | 12,000 |
| Pierce | 14,000 | 12,000 |
| San Juan | 10,000 | 10,000 |
| Skagit | 14,000 | 12,000 |
| Skamania | 13,000 | 12,000 |
| Snohomish | 14,500 | 12,000 |
| Spokane | 18,500 | 12,000 |
| Stevens | 15,000 | 12,000 |
| Thurston | 10,000 | 10,000 |
| Wahkiakum | 14,000 | 12,000 |
| Walla Walla | 15,000 | 12,000 |
| Whatcom | 14,000 | 12,000 |
| Whitman | 25,000 | 12,000 |
| Yakima | 15,000 | 12,000 |
| WEST VIRGINIA | | |
| Barbour | 6,500 | 6,500 |
| Berkeley | 11,000 | 11,000 |
| Boone | 5,000 | 5,000 |
| Braxton | 6,000 | 6,000 |
| Brooke | 7,000 | 7,000 |
| Cabell | 6,000 | 6,000 |
| Calhoun | 5,000 | 5,000 |
| Clay | 5,000 | 5,000 |
| Doddridge | 6,000 | 6,000 |
| Fayette | 5,500 | 5,500 |
| Gilmer | 6,000 | 6,000 |
| Grant | 7,500 | 7,500 |
| Greenbrier | 10,000 | 10,000 |
| Hampshire | 6,500 | 6,500 |
| Hardy | 7,500 | 7,500 |
| Harrison | 8,500 | 8,500 |
| Jackson | 6,500 | 6,500 |
| Jefferson | 12,000 | 12,000 |
| Kanawha | 6,500 | 6,500 |
| Lewis | 7,500 | 7,500 |
| Lincoln | 5,000 | 5,000 |
| Logan | 5,000 | 5,000 |
| Marion | 6,500 | 6,500 |
| Marshall | 7,500 | 7,500 |
| Mason | 8,000 | 8,000 |
| Mercer | 6,000 | 6,000 |
| Mineral | 6,000 | 6,000 |
| Monongalia | 6,500 | 6,500 |
| Monroe | 8,000 | 8,000 |
| Morgan | 5,000 | 5,000 |
| Nicholas | 6,000 | 6,000 |
| Ohio | 11,000 | 11,000 |
| Pendleton | 7,500 | 7,500 |
| Pleasants | 6,000 | 6,000 |
| Pocahontas | 7,500 | 7,500 |
| Preston | 6,500 | 6,500 |
| Putnam | 6,500 | 6,500 |
| Raleigh | 5,500 | 5,500 |
| Randolph | 8,000 | 8,000 |
| Ritchie | 6,500 | 6,500 |
| Roane | 6,500 | 6,500 |
| Summers | 5,500 | 5,500 |
| Taylor | 6,500 | 6,500 |
| Tucker | 6,500 | 6,500 |
| Tyler | 6,500 | 6,500 |
| Upshur | 6,500 | 6,500 |
| Wayne | 5,000 | 5,000 |
| Webster | 5,000 | 5,000 |
| Wetzel | 5,000 | 5,000 |
| Wirt | 5,500 | 5,500 |
| Wood | 6,500 | 6,500 |
| Wyoming | 5,000 | 5,000 |
| WISCONSIN | | |
| Adams | 8,500 | 8,500 |
| Ashland | 7,000 | 7,000 |
| Barron | 10,000 | 10,000 |
| Bayfield | 7,000 | 7,000 |
| Brown | 11,000 | 11,000 |
| Buffalo | 10,000 | 10,000 |
| Burnett | 7,000 | 7,000 |
| Calumet | 15,000 | 12,000 |
| Chippewa | 10,000 | 10,000 |
| Clark | $8,500 | $8,500 |
| Columbia | 15,000 | 12,000 |
| Crawford | 10,000 | 10,000 |
| Dane | 15,000 | 12,000 |
| Dodge | 15,000 | 12,000 |
| Door | 11,000 | 11,000 |
| Douglas | 7,000 | 7,000 |
| Dunn | 10,000 | 10,000 |
| Eau Claire | 10,000 | 10,000 |
| Florence | 7,000 | 7,000 |
| Fond du Lac | 15,000 | 12,000 |
| Forest | 7,000 | 7,000 |
| Grant | 15,000 | 12,000 |
| Green | 15,000 | 12,000 |
| Green Lake | 15,000 | 12,000 |
| Iowa | 15,000 | 12,0000 |
| Iron | 7,000 | 7,00 |
| Jackson | 8,500 | 8,500 |
| Jefferson | 15,000 | 12,000 |
| Juneau | 8,500 | 8,500 |
| Kenosha | 15,000 | 12,000 |
| Kewaunee | 11,000 | 11,000 |
| La Crosse | 10,000 | 10,000 |
| Lafayette | 15,000 | 12,000 |
| Langlade | 8,500 | 8,500 |
| Lincoln | 8,500 | 8,500 |
| Manitowoc | 15,000 | 12,000 |
| Marathon | 8,500 | 8,500 |
| Marinette | 8,500 | 8,500 |
| Marquette | 8,500 | 8,500 |
| Milwaukee | 15,000 | 12,000 |
| Monroe | 8,500 | 8,500 |
| Oconto | 8,500 | 8,500 |
| Oneida | 7,000 | 7,000 |
| Outagamie | 11,000 | 11,000 |
| Ozaukee | 15,000 | 12,000 |
| Pepin | 10,000 | 10,000 |
| Pierce | 10,000 | 10,000 |
| Polk | 10,000 | 10,000 |
| Portage | 8,500 | 8,500 |
| Price | 7,000 | 7,000 |
| Racine | 15,000 | 12,000 |
| Richland | 10,000 | 10,000 |
| Rock | 15,000 | 12,000 |
| Rusk | 7,000 | 7,000 |
| Saint Croix | 10,000 | 10,000 |
| Sauk | 15,000 | 12,000 |
| Sawyer | 7,000 | 7,000 |
| Shawano | 8,500 | 8,500 |
| Sheboygan | 15,000 | 12,000 |
| Taylor | 8,500 | 8,500 |
| Trempealeau | 10,000 | 10,000 |
| Vernon | 10,000 | 10,000 |
| Vilas | 7,000 | 7,000 |
| Walworth | 15,000 | 12,000 |
| Washburn | 7,000 | 7,000 |
| Washington | 15,000 | 12,000 |
| Waukesha | 15,000 | 12,000 |
| Waupaca | 8,500 | 8,500 |
| Waushara | 8,500 | 8,500 |
| Winnebago | 15,000 | 12,000 |
| Wood | 8,500 | 8,500 |
| WYOMING | | |
| Albany | 18,000 | 12,000 |
| Big Horn | 11,500 | 11,500 |
| Campbell | 12,000 | 12,000 |
| Carbon | 18,000 | 12,000 |
| Converse | 18,000 | 12,000 |
| Crook | 12,000 | 12,000 |
| Fremont | 15,000 | 12,000 |
| Goshen | 18,000 | 12,000 |
| Hot Springs | 15,000 | 12,000 |
| Johnson | 18,000 | 12,000 |
| Laramie | 15,000 | 12,000 |
| Lincoln | 14,000 | 12,000 |
| Natrona | 18,000 | 12,000 |
| Niobrara | 16,000 | 12,000 |
| Park | 15,000 | 12,000 |
| Platte | 15,000 | 12,000 |
| Sheridan | 18,000 | 12,000 |
| Sublette | 18,000 | 12,000 |
| Sweetwater | 18,000 | 12,000 |
| Teton | 18,000 | 12,000 |
| Uinta | 15,000 | 12,000 |
| Washakie | 18,000 | 12,000 |
| Weston | 15,000 | 12,000 |
| ALASKA (see § 311.31) | | |
| Anchorage | 20,000 | 12,000 |
| Fairbanks | 20,000 | 12,000 |
| Homer | 12,000 | 12,000 |
| Palmer | 20,000 | 12,000 |

| County | Average value | Loan limit |
|---|---|---|
| HAWAII | | |
| Hawaii | $12,000 | $12,000 |
| Honolulu | 12,000 | 12,000 |
| Kauai | 12,000 | 12,000 |
| Maui | 12,000 | 12,000 |
| PUERTO RICO (SEE § 311.31) | | |
| Adjuntas | $8,000 | $8,000 |
| Aguadilla | 14,500 | 12,000 |
| Angeles | 8,000 | 8,000 |
| Arecibo | 10,000 | 10,000 |
| Arroyo | 8,000 | 8,000 |
| Barranquitas | 10,000 | 10,000 |
| Bayamon | 12,000 | 12,000 |
| Caguas | 12,000 | 12,000 |
| Camuy | 10,000 | 10,000 |
| Canovanas | 12,000 | 12,000 |
| Carolina | 12,500 | 12,000 |
| Cayey | 12,000 | 12,000 |
| Ciales | 8,000 | 8,000 |
| Comerio | 8,000 | 8,000 |
| Corozal | 12,500 | 12,000 |
| Fajardo | 12,000 | 12,000 |
| Humacao | 14,000 | 12,000 |
| Jayuya | 10,000 | 10,000 |
| Juana Diaz | 8,000 | 8,000 |
| Juncos | 12,000 | 12,000 |
| Lares | 10,000 | 10,000 |
| Manati | 8,000 | 8,000 |
| Mayaguez | 10,000 | 10,000 |
| Orocovis | 8,000 | 8,000 |
| Ponce | 12,000 | 12,000 |
| Rio Piedras | 9,000 | 9,000 |
| San German | 12,000 | 12,000 |
| San Lorenzo | 10,000 | 10,000 |
| San Sebastian | 8,000 | 8,000 |
| Utuado | 8,000 | 8,000 |
| Vega Baja | 12,000 | 12,000 |
| Yabucoa | 18,000 | 12,000 |
| Yauco | 12,000 | 12,000 |
| VIRGIN ISLANDS (SEE § 311.31) | | |
| Christiansted | 10,000 | 10,000 |
| Frederiksted | 10,000 | 10,000 |

(Secs. 3 (a), 44 (b), 60 Stat. 1074, 1069; 7 U. S. C. 1003 (a), 1018 (b))

§ 311.31 *Territorial subdivisions in Alaska, Puerto Rico, and the Virgin Islands.* In Alaska, Puerto Rico, and the Virgin Islands, for the purposes of Title I, Title II, and the related provisions of Title IV of the Bankhead-Jones Farm Tenant Act, as amended, each of the areas identified below is designated a subdivision to be deemed synonymous with the term "county," as the term is used in said titles. Each such subdivision consists of, and is co-extensive with the geographical limits of, the area set forth opposite the name of the subdivision.

ALASKA

*Name of Subdivision and Divisions or Precincts Comprising Subdivision*

Anchorage: Recording Precincts of Anchorage, Kenai-Anchorage, Seward, Whittier, Fairbanks: Fourth Division.

Homer: Recording Precincts of Seldovia, Kodiak, Kvichak, Illiamna, Bristol Bay.

Palmer: Recording Precincts of Palmer, Wasilla, Talkeetna, Chitna.

PUERTO RICO

*Name of Subdivisions and Municipalities Comprising Subdivision*

Adjuntas: Adjuntas.
Aguadilla: Aguada, Aguadilla, Isabela, Moca.
Angeles: The Wards of Angeles, Caguanas, Roncador, Santa Isabel, and Santa Rosa in the municipality of Utuado.
Arecibo: Arecibo.
Arroyo: Arroyo, Guayama, Maunabo, Patillas, Salinas.
Barranquitas: Aibonito, Barranquitas.
Bayamon: Bayamon, Catano, Toa Alta, Toa Baja.
Caguas: Caguas, Gurabo.
Camuy: Camuy, Hatillo, Quebradillas.
Canovanas: Canovanas, Rio Grande.
Carolina: Carolina, Trujillo Alto.
Cayey: Cayey, Cidra.
Ciales: Ciales, Morovis.

Comerio: Aguas Buenas, Comerio.
Corozal: Corozal, Naranjito.
Fajardo: Ceiba, Culebra, Fajardo, Luquillo, Vieques.
Humacao: Humacao, Naguabo.
Jayuya: Jayuya.
Juana Diaz: Coamo, Juana Diaz, Santa Isabel, Villalba.
Juncos: Juncos, Las Piedras.
Lares: Lares.
Manati: Barceloneta, Manati.
Mayaguez: Anasco, Hormigueros, Las Marias, Maricao, Mayaguez, Rincon.
Orocovis: Orocovis.
Ponce: Penuelas, Ponce.
Rio Piedras: Guaynabo, Rio Piedras, San Juan.
San German: Cabo Rojo, Lajas, San German, Sabana Grande.
San Lorenzo: San Lorenzo.
San Sebastian: San Sebastian.
Utuado: Utuado, except the Wards of Angeles, Caguanas, Roncador, Santa Isabel, and Santa Rosa.
Vega Baja: Dorado, Vega Alta, Vega Baja.
Yabucoa: Yubucoa.
Yauco: Guanica, Guayanilla, Yauco.

VIRGIN ISLANDS

*Name of Subdivision and Area Comprising Subdivision*

*Christiansted:* All of Saint John Island, all of Saint Thomas Island, and that portion of Saint Croix Island which is bounded on the north, south, and east by the sea, and is bounded on the west by the estates of Sweet Bottom, Fountain, River, Hermitage, Blue Mountain, Colquhoun Mt. Pleasant, and Bethlehem.

*Frederiksted:* That portion of Saint Croix Island which is not included in the area comprising Christiansted Subdivision.

(Sec. 54, 60 Stat. 1071, sec. 1 (b), ch. 339, 61 Stat. 493; 7 U. S. C. 1028)

SUBPART C—PURPOSES OF FARM OWNERSHIP LOANS

DERIVATION: §§ 311.41 to 311.44 contained in FHA Instruction 401.3.

§ 311.41 *General.* The broad purposes of Farm Ownership (FO) loans are to:

(a) Provide credit which is not otherwise available to promote more secure occupancy of farms and farm homes by families who derive the major portion of their income from farming operations.

(b) Correct the economic instability resulting from some present forms of farm tenancy by substituting farm ownership for farm tenancy.

(c) Promote farm ownership by making loans and insuring mortgages to enable qualified farm tenants, farm laborers, sharecroppers, veterans and other individuals to acquire, repair or improve family-size farms or to enlarge, repair, or improve farms which are undersized or underimproved and which can be enlarged, repaired, or improved so as to constitute efficient family-type farm-management units. (See §§ 321.1 to 321.8 of this chapter.)

(d) Promote farm ownership by making loans and insuring mortgages to enable qualified disabled veterans to acquire, enlarge, repair, or improve farm units of sufficient size to meet their needs and farming capabilities.

(e) Preserve the family-type farm in the continental United States and in Alaska, Hawaii, Puerto Rico, and the Virgin Islands by providing the type of real estate credit necessary to permit eligible persons who cannot secure such credit elsewhere to acquire, enlarge, or improve farms so that such farms will constitute family-type farms. (See §§ 321.1 to 321.8 of this chapter.)

(Secs. 1, 44 (a) (3), 54, 60 Stat. 1074, 1068, 1071, sec. 1 (b), ch. 339, 61 Stat. 493; 7 U. S. C. 1001, 1018 (a) (3), 1028; see titles of acts, 50 Stat. 522, 60 Stat. 1062)

§ 311.42 *Source of funds*—(a) *Public.* Farm Ownership direct loans are made from funds authorized to be appropriated by Title I of the Bankhead-Jones Farm Tenant Act, as amended. Such funds are appropriated by Congress in the annual Department of Agriculture Appropriation Acts.

(b) *Private.* Farm Ownership insured mortgage loans are made from funds furnished by private lenders. The utilization of such funds is authorized by Title I of the Bankhead-Jones Farm Tenant Act, as amended. Upon appropriation of the sum authorized to be appropriated for the farm tenant mortgage insurance fund, eligible mortgages or deeds of trust securing loans made by private lenders may be insured by the Farmers Home Administration.

(Secs. 5, 11 (a), 12 (a), 60 Stat. 1075, 1076, 7 U. S. C. 1005, 1005a (a), 1005b (a); item, "Farmers' Home Administration," 61 Stat. 545)

§ 311.43 *Types of loans.* There are three types of Farm Ownership loans; Tenant Purchase (TP) loans, Farm Enlargement (FE) loans, and Farm Development (FD) loans.

(a) Tenant Purchase loans are loans made or insured to enable eligible persons who do not own farms to purchase and improve family-type farms. (See §§ 321.1 to 321.8 of this chapter.) The proceeds of such loans may be used to:

(1) Purchase family-type farms, and in connection therewith to:

(i) Repair and improve family-type farms to meet established standards of health, safety, comfort and convenience, and otherwise put them in livable and operable condition.

(ii) Provide for such basic land and soil improvements, as properly do not belong to recurring year-to-year operation of the farms, necessary to make the farms family-type farms.

(iii) Provide for necessary water and water facilities.

(iv) Pay all authorized fees and expenses incident to the making or insuring of the loans which are required to be paid by the purchaser and which he cannot pay from other funds.

(2) Purchase, in certain specially defined cases in which it is economically unsound to acquire the land necessary to the farming operation, headquarters units which, when operated with adjacent lands dependably available to the operator for the term of the loan, will constitute family-type farms.

(b) Farm Enlargement loans are loans made or insured to enable eligible persons who own farms which are definitely too small and inadequate to constitute family-type farms, to enlarge, repair, or improve such farms so that they will definitely constitute family-type farms. (See §§ 321.1 to 321.8 of this chapter.) The proceeds of such loans may be used to purchase sufficient additional land to enlarge undersized farms into family-sized farms, and in connection therewith to:

(1) Repair and improve the enlarged farms to meet established standards of health, safety, comfort and convenience, and otherwise put them in livable and operable condition.

(2) Provide for such basic land and soil improvements, as properly do not belong to recurring year-to-year operation of the farms, necessary to make the farms family-type farms.

(3) Provide for necessary water and water facilities.

(4) Refinance existing debts on farms to be enlarged provided that such refinancing is incidental to the primary purpose of enlargement of undersized farms.

(5) Pay all authorized fees and expenses incident to the making or insuring of the loans which are required to be paid by the purchaser and which he cannot pay out of other funds.

(c) Farm Development loans are loans made or insured to enable eligible persons who own farms of adequate acreage to constitute family-size farms, but which, because of under-improvement are definitely not sufficiently productive to constitute family-type farms (see §§ 321.1 to 321.8 of this chapter), but can definitely be made sufficiently productive by proper repair and improvement to constitute family-type farms. When Farm Development loans are made or insured to finance major land or building improvements, funds for minor repairs or improvements may be included, but such loans will not be made solely for the purpose of minor and incidental repairs and improvements. In observing these principles, Farm Development loans, irrespective of refinancing incidental thereto, rarely will be for improvements costing less than $800 or $1,000. No land will ever be purchased with the proceeds of Farm Development loans. The proceeds of such loans may be used to repair and improve underimproved family-size farms to meet established standards of health, safety, comfort and convenience, and otherwise put them in livable and operable condition, and in connection therewith to:

(1) Provide for such basic land and soil improvements, as do not properly belong to recurring year-to-year operation of the farms, necessary to make the farms family-type farms.

(2) Provide for necessary water and water facilities.

(3) Refinance existing debts on underimproved family-size farms; *Provided,* That such refinancing is incidental to the primary purpose of development of the underimproved farms.

(4) Pay all authorized fees and expenses incident to the making or insuring of the loans which are required to be paid by the borrower and which he cannot pay out of other funds.

(Secs. 1, 3 (a), 12 (d), 44 (b), 60 Stat. 1072, 1074, 1076, 1069; 7 U. S. C. 1001, 1003 (a), 1005b (d), 1018 (b))

§ 311.44 *Farm Ownership Loans to Disabled Veterans.* Tenant Purchase,

Farm Enlargement or Farm Development loans may be made or insured to enable eligible veterans drawing disability pensions to acquire, enlarge, or improve farm units of sufficient size to meet the farming capabilities of such veterans and afford them income which, together with their pensions, will enable them to meet living and operating expenses and the amounts due on their loans.

(Sec. 1 (c), 60 Stat. 1073; 7 U. S. C. 1001 (c))

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## PART 316—APPLICANTS

### SUBPART A—CRITERIA FOR SELECTION



### SUBPART B—APPLICATIONS



### SUBPART C—CERTIFICATION



### SUBPART A—CRITERIA FOR SELECTION

DERIVATION: § 316.1 to 316.6 contained in FHA Instruction 411.1.

§ 316.1 *General.* In considering the qualifications of applicants to receive direct and insured Farm Ownership loans, no discrimination shall be made on the basis of descent, race, creed, or political affiliation.

§ 316.2 *Requirements.* The following requirements shall govern in considering the qualifications of applicants for direct and insured Farm Ownership loans. In order to be approved for a Farm Ownership loan, each applicant must:

(a) Be a citizen of the United States of America.

(b) Except for veterans, be engaged presently or have been engaged recently in farming as a means of providing a major portion of the family income.

(c) Be a farm tenant, farm laborer, share cropper, veteran or other individual qualified under paragraph (b) of this section, in order to be considered for a Tenant Purchase loan.

(d) Be a farm owner, contract purchaser of a farm, or other individual qualified under paragraph (b) of this section, in order to be considered for a Farm Enlargement or a Farm Development loan.

(e) Be willing to cooperate with representatives of the Farmers Home Administration in:

(1) Instituting and carrying out proper farming conservation practices and sound farm- and home-management plans.

(2) Maintaining such records and accounts as required.

(f) Possess honesty, integrity, industry, and other qualities evidencing good character.

(g) Have shown a proper attitude toward meeting his debt obligations.

(h) Have a genuine desire for stability of residence.

(i) Be adapted to and interested in operating a family-type farm.

(j) Possess the necessary initiative, resourcefulness, and ability to succeed with the operation and management of a family-type farm.

(k) Be unable to obtain credit sufficient in amount to finance his actual needs at rates (but not exceeding 5 percent per annum) and terms prevailing in or near his community for loans of similar size and character from responsible sources.

(l) Except for disabled veterans, be free from incurable physical disabilities likely to interfere with successful farm- and home-management operations and with the repayment of the loan.

(m) Have all outstanding judgments against him settled or satisfactory arrangements made for settlement.

(n) Have no excessive nonreal estate debts which, together with the Farm Ownership loan, cannot be repaid from anticipated farm income.

(o) Be 21 years of age, unless legal disability of minority has been removed pursuant to the laws of the state. (This requirement also applies to the applicant's wife.)

(Secs. 1, 2 (b), (3) (a), 3 (b) (4), 44 (a) (3), 44 (b), 60 Stat. 1072, 1073, 1074, 1068, 1069; 7 U. S. C. 1001, 1002 (b), 1003 (a), 1003 (b) (4), 1018 (a) (3), 1018 (b))

§ 316.3 *Preference.* Preference shall be given to those applicants for direct and insured Farm Ownership loans:

(a) Who are veterans, in accordance with § 316.5.

(b) Who are married or who have dependent families. Other things being equal, families with dependent children who will remain in the home for some years to come should be given preference.

(c) Who, wherever practicable, are able to make an initial down payment, or who are owners of livestock and farm implements necessary to carry on successful farming operations.

(Sec. 1 (b), 60 Stat. 1073; 7 U. S. C. 1001 (b))

§ 316.4 *Limitations.* The following limitations shall be observed in selecting all applicants for direct and insured Farm Ownership loans:

(a) Unless an exception, together with the reasons therefor, is made in writing by the State Director, an applicant for a Farm Ownership loan shall not be approved when the applicant or a person in his family is related to any employee who participates in the processing or approval of the loan in any of the following direct or step relationships: Father, mother, son, daughter, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law.

(b) No loan shall be made if a member of the County Committee participates in any certification with respect to the application in which such County Committeeman or any person related to such County Committeeman within the third degree of consanguinity or affinity has any pecuniary interest, direct or indirect, or in which any of them had such interest within one year prior to the date of certification.

(c) An applicant for a Farm Ownership loan shall not be approved if he has been employed by the Farmers Home Administration (including County Committeemen), unless at least one year has elapsed since the employee's resignation or retirement, except that an employee who is a veteran not returning to active duty with the Farmers Home Administration may apply for a Farm Ownership loan at any time on the same basis as any other veteran.

(d) An applicant for a Farm Enlargement or Farm Development loan shall not be approved unless he is engaged primarily in farming. The aim is to make such loans to actual farmers who have been unable to make a satisfactory living because their farms are undersized or underdeveloped.

(e) An applicant for a Farm Enlargement or a Farm Development loan, who has an existing mortgage or deed of trust on the land he owns, should endeavor to obtain funds for enlargement or development from the mortgagee or other responsible source. If such funds are not available in accordance with the provisions of § 316.2 (k), the applicant may be considered for a Farm Enlargement or a Farm Development loan. If the mortgage is held by an agency under the jurisdiction of the Farm Credit Administration, the County Supervisor and the County Committee should ascertain from the local representative of that agency that an unsuccessful effort has been made by the applicant to obtain additional financing from the agency.

(f) An applicant who has a legal interest in a family-type farm held in estate may be considered for a Tenant Purchase loan to enable him to purchase the interest of the other heirs and to satisfy his share of any liens or encumbrances against the farm: *Provided:*

(1) That no funds are included in the loan for the payment of any equity held by the applicant which is free from encumbrances.

(2) That the State Director determines in writing before approval of the loan:

(i) That the applicant is unlikely to receive an inheritance in a short time either of title to the property or of sufficient funds to make a Farm Ownership loan unnecessary, and,

(ii) That the circumstances of the other heirs are such as to make it impracticable for them to sell the property to the applicant or to advance additional funds that would make a Farm Ownership loan unnecessary.

(g) An applicant who has a legal interest in a farm held in estate which is less than a family-type farm may be considered for a Farm Enlargement loan to enable him to purchase the interest of the other heirs, to satisfy his share of any liens or encumbrances against the farm, and to purchase additional land in accordance with the limitations contained in paragraph (f) of this section.

(h) An applicant for a Tenant Purchase loan may be approved if either he or his wife own, or has a legal interest

in, a small tract of land which is of negligible value and cannot be developed into a family-type farm; *Provided*, That they agree in writing to dispose of such interest as soon as practicable and apply the proceeds as a payment on the loan.

(Secs. 1 (a), 1 (b) (1), 2 (c), 3 (a), 44 (b), 60 Stat. 1072, 1073, 1074, 1069; 7 U. S. C. 1001 (a), 1001 (b) (1), 1002 (c), 1003 (a), 1018 (b))

§ 316.5 *Veterans.* In addititon to the foregoing criteria for evaluating the qualifications of all applicants, the following procedure will be observed in considering the qualifications of veterans who are applicants for direct and insured Farm Ownership loans:

(a) *Preference.* Farm Ownership applicants who are veterans shall be entitled to preference over Farm Ownership applicants who are nonveterans. County Committees always shall consider the applications of veterans first. The steps involved in selecting applicants and farms up to the point of optioning the farms shall be completed with respect to these applications before completing similar steps with respect to applications of nonveterans.

(b) *Definition.* The term "veteran" as used in this Chapter pertaining to Farm Ownership loans means:

(1) A person who served in the land or naval forces of the United States during any war between the United States and any other nation and who has been discharged or released therefrom under conditions other than dishonorable, or,

(2) A person who served in World War II and who is eligible for the benefits of Title III of the Servicemen's Readjustment Act of 1944, as amended, including:

(i) A person who served in the active military or naval forces of any government allied with the United States in World War II.

(ii) A minor whose legal disability of minority is removed pursuant to the laws of the state. The County Supervisor will obtain from the State Director a determination as to whether the legal disability of minority has been removed pursuant to the laws of any particular state.

(c) *Evidence of eligibility.* When any person indicates on Form FHA–197, "Application for FHA Services," that he is a veteran, it will be necessary for him to furnish certain documentary proof that he is a veteran. Good judgment should govern as to the stage of negotiations at which the applicant will be asked to furnish such proof. The kind of proof required will depend upon whether the applicant claims eligibility as a veteran under paragraph (b) (1) or (2) of this section.

(1) If eligibility is claimed under paragraph (b) (2) of this section, the applicant must furnish a photostatic or other copy of any official document, duly certified as a true copy of the original, which evidences that he is such a veteran. The document may be a discharge or other separation paper issued by the United States War Department, the United States Navy Department, the United States Marine Corps, or the United States Coast Guard; or it may be Veterans' Administration Form 1870, "Certificate of Eligibility," executed by the Veterans' Administration.

(2) If eligibility is claimed under paragraph (b) (1) of this section, the applicant must furnish a photostatic or other copy of Veterans' Administration Form 1870, "Certificate of Eligibility," executed by the Veterans' Administration, duly certified as a true copy of the original.

(d) *Ability, experience and training.* In determining the likelihood that a veteran will be able to carry out successfully undertakings required of him in connection with a Farm Ownership loan, County Supervisors, State Field Representatives and County Committeemen should give careful consideration to his qualifications from the standpoint of ability and experience, including training as a vocational trainee. Ordinarily, a veteran having no farming experience should not be favorably considered for a Farm Ownership loan until he has acquired actual experience in performing the various seasonal operations related to the kind of farming in which he expects to engage. There may be exceptions, however, in very special instances, such as one in which a veteran will be associated with or closely directed by a member of his family, near relative or other person similarly interested in his welfare whose practical experience in farming temporarily will make up for the veteran's lack of experience. Otherwise, when a veteran has had no farming experience or training and evidences a desire to obtain such training, the County Supervisor should refer the veteran to the local office of the Veterans' Administration to obtain information regarding available farm training programs. If he arranges to take such training, the contribution that it may make toward his success may be taken into account in evaluating his qualifications.

(Secs. 1 (b) (2), 44 (b), 60 Stat. 1073, 1069, secs. 500 (a), 505 (b), 59 Stat. 626, 629; 7 U. S. C. 1001 (b) (2), 1018 (b), 38 U. S. C. 694 (a), 694e (b))

§ 316.6 *Disabled veterans.* In addition to the foregoing criteria for all applicants and the procedure for veterans, the following special procedure will be observed in considering the qualifications of disabled veterans who are applicants for direct and insured Farm Ownership loans.

(a) *Definition.* The term "disabled veteran" as used in Farmers Home Administration Instructions pertaining to Farm Ownership loans means a veteran who is receiving disability compensation or pension pursuant to laws administered by the Veterans' Administration, the United States War Department, the United States Navy Department, the United States Marine Corps, or the United States Coast Guard.

(b) *Evidence of disability.* When any person indicates on Form FHA–197 that he draws a veteran's disability compensation or pension and it appears that he is eligible to purchase a farm that is less than an efficient family-type farm-management unit, it shall be necessary for him to furnish, in addition to the evidence required by § 316.5 (c), a letter from the Veterans' Administration, the United States War Department, the United States Navy Department, the United States Marine Corps, or the United States Coast Guard, which clearly discloses the nature of his disability and the amount and frequency of his disability compensation or pension payments. The source of these payments will indicate where the disabled veteran should apply for such a letter.

(Secs. 1 (c), 44 (b), 60 Stat. 1073, 1069; 7 U. S. C. 1001 (c), 1018 (b))

SUBPART B—APPLICATIONS

DERIVATION: §§ 316.21 to 316.24 contained in FHA Instruction 411.2.

§ 316.21 *General.* (a) Applications for direct and insured Farm Ownership loans will be accepted at any time in the County Office. All applicants will be advised that the making of such loans depends upon:

(1) The availability of funds.

(2) The certification by the County Committee of each applicant and the farm he desires to purchase, enlarge, or improve.

(3) The approval by appropriate officials of the Farmers Home Administration.

(b) The County Supervisor will be responsible for informing the public relative to the services available under the Farm Ownership program in his territory. The need for acquainting the public with respect to the Farm Ownership program and the methods used will depend largely upon the local situation.

(Sec. 2 (d), 60 Stat. 1074; 7 U. S. C. 1002 (d))

§ 316.22 *Applications for services.* (a) Form FHA–197, "Application for FHA Services." Each applicant for a Farm Ownership loan will be furnished Form FHA–197, "Application for FHA Services," and will be instructed to fill out the front side of the Form as completely as possible. County employees should render assistance to the applicant in completing the front side of the Form. The employee who receives Form FHA–197 should make sure that it is signed properly and dated by the applicant. The employee should also obtain as much information as possible for the completion of the "Tenure History of Head of Family" on the reverse of the Form. The County Supervisor will make sure that the tenure data on the reverse of Form FHA–197 are complete. In the space for comments, he will indicate any facts that may disqualify the applicant on the basis of the criteria contained in §§ 316.1 to 316.6 of this chapter and will make appropriate comments with respect to the health and farm and home management qualifications of the applicant and his family. The County Supervisor also will date and sign the Form before it is considered by the County Committee.

(b) *Life of applications.* Applications for Farm Ownership loans received during any fiscal year will remain active during that fiscal year and the subsequent fiscal year, unless voluntarily withdrawn by the applicant, preferably in writing, prior to the expiration date.

(c) *Notification to applicants.* The County Supervisor will notify applicants regarding their applications for Farm Ownership loans as follows:

(1) At the end of every week each individual who filed Form FHA–197 during that week will be sent a completed form letter advising him of the period during which his application will be considered.

(2) As soon as practicable after each meeting of the County Committee at which action is taken on new applications for Farm Ownership loans, each tentatively approved applicant will be notified by letter when to appear before the County Committee.

(3) At the end of each fiscal year, the County Committee in consultation with the County Supervisor will choose from the expiring applications, those applicants who appear to be eligible and who may wish to renew their applications. The County Supervior will send a completed form letter to each such applicant, informing him that it will be necessary to file a new Form FHA–197 if he wishes further consideration for a Farm Ownership loan.

§ 316.23 *Tentative approval by County Committee.* The County Supervisor will refer promptly all Farm Ownership applications to the County Committee for consideration. When reviewing Form FHA–197, the County Committee will consider carefully the borrower's financial status, the tenure history of the applicant, and the County Supervisor's comments regarding the qualifications of the family. Whenever practicable, one or more members of the County Committee and the County Supervisor should visit the applicant at his place of residence before any action is taken by the County Committee. Such a visit often will reveal significant facts concerning the family which may come to light in no other way. On the basis of this information and any other available facts, the County Committee tentatively will approve an applicant, decide that he should receive later consideration, or determine that presently he is not qualified for a loan. The process of sifting applicants on the basis of relative qualifications will be continuous.

(Sec. 2 (a) (1), 60 Stat. 1073; 7 U. S. C. 1002 (a) (1))

§ 316.24 *Evaluating health of the applicant and his family.* Except for disabled veterans (see § 316.6 of this chapter), it will be the responsibility of the County Supervisor and the County Committee to consider the physical ability of the applicant and his family to engage in successful farm and home management operations. The County Supervisor will inquire regarding any physical disabilities and any health problems. When any definite health problems are in evidence, the County Supervisor, with the consent of the applicant, may consult the family's physician. It is only the incurable physical disabilities likely to interfere with successful farm and home management operations and with the repayment of the loan which render an applicant ineligible. In addition, no member of the applicant's family should have a disability or an affliction likely to prevent the repayment of the loan. For the benefit of the County Committee, the County Supervisor should include on the reverse of Form FHA–197 a brief report of his observations and findings with respect to health.

(Secs. 1 (c), 44 (b), 60 Stat. 1073, 1069; 7 U. S. C. 1001 (c), 1018 (b))

SUBPART C—CERTIFICATION

DERIVATION: §§ 316.41 and 316.42 contained in FHA Instruction 411.3.

§ 316.41 *Certification of applicant by county committee.* The County Committee is responsible for determining the eligibility of each applicant to receive the benefits of Title I of the Bankhead-Jones Farm Tenant Act, as amended; that by reason of his character, ability, industry, and experience, the applicant will successfully carry out undertakings required of him under a direct or insured Farm Ownership loan; and that credit sufficient in amount to finance the actual needs of the applicant, specified in the application, is not available to him at the rates (but not exceeding the rate of 5 per centum per annum) and terms prevailing in the community in or near which the applicant resides for loans of similar size and character from commercial banks, cooperative lending agencies, or from any other responsible source. The County Committee must certify to the above determinations on Form FHA–491 which will be prepared, signed and distributed in accordance with §§ 321.41 to 321.43 of this chapter.

(Sec. 2 (b), 60 Stat. 1073; 7 U. S. C. 1002 (b))

§ 316.42 *Legal requirement for certification.* No Farm Ownership loan shall be made or insured for any purpose unless certification by the County Committee has been made with respect to the applicant applying for the loan, as required in § 316.41, and with respect to the farm which is to be taken as security for a direct or insured loan, as required in §§ 321.41 to 321.43 of this chapter.

(Sec. 2 (d), 60 Stat. 1074; 7 U. S. C. 1002 (d))

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## PART 321—SELECTION OF FARMS

SUBPART A—CRITERIA



SUBPART B—OPTIONING



SUBPART C—CERTIFICATION



SUBPART D—SUBDIVISION OF TRACTS



SUBPART A—CRITERIA

DERIVATION: §§ 321.1 to 321.8 contained in FHA Instruction 421.1.

§ 321.1 *General.* (a) Farm selection is a fundamental step in making direct or insured Farm Ownership loans. It is essential that applicants, County Supervisors and County Committeemen understand thoroughly the standards to be considered in farm selection. After applicants have acquired a proper understanding regarding the basic objectives of the Farm Ownership program, they will be given wide latitude in the selection of farms they desire to purchase.

(b) Under the Farm Ownership program, either efficient family-type farm-management units will be acquired or improved, or undersized or under-improved farms will be enlarged or improved into efficient family-type farm-management units. The one exception to this requirement will be in the case of disabled veterans who, under certain conditions, may acquire, enlarge or improve farms which are less than efficient family-type farm-management units.

(Secs. 1 (a), 1 (c), 60 Stat. 1072, 1073; 7 U. S. C. 1001 (a), 1001 (c))

§ 321.2 *Standards for selection of efficient family-type farm-management units.* (a) An efficient family-type farm-management unit is a farm which furnishes full, productive, year-round employment for an average farm family and one which an average farm family can operate successfully without employing outside labor, except during brief peak-load periods at planting or harvest time. Such a farm must have the capacity to yield income on the basis of long-time prices which will maintain an average farm family according to acceptable living standards, pay annual operating expenses, pay for and maintain necessary livestock and farm and home equipment and pay off the loan.

(1) In individual cases, allowances may be made with respect to employing outside labor while children are too young to be of such assistance or after they have grown up and left home.

(2) A farm on which a tenant family will be expected to reside and supplement the labor of the owner and his family, or on which an average family would require hired help a considerable part of the time, is not an efficient family-type farm-management unit and will not be approved.

(3) Nonfarm income will not be considered in determining whether a farm, as finally developed, will be an efficient family-type farm-management unit.

(b) As used in this chapter, the term "family-type farm" will mean an efficient family-type farm-management unit.

(Sec. 1 (c), 60 Stat. 1073; 7 U. S. C. 1001 (c))

§ 321.3 *Standards for selection of farms which are less than efficient family-type farm-management units in cases of disabled veterans.* Farms that are less than efficient family-type farm-management units may be acquired, enlarged or improved by eligible war veterans who are receiving disability pensions, *Provided,* That:

(a) The size and character of the farm are suitable to the particular needs and capabilities of the disabled veteran.

(b) The farm has the capacity to produce an annual income which, together with the veteran's disability pension, will enable him to meet his normal obligations. These obligations will include family-living expenditures which will maintain acceptable standards of living for the veteran and his family, as well as operating expenses, and amounts due on his loan.

(c) The unit is larger than a mere garden plot or rural residence.

(d) A satisfactory farm plan can be carried out with the available family labor.

(e) The unit is of such character and productivity that it will not be necessary for the disabled veteran to use all or part of his pension to support unprofitable farming operations. In other words, the income from the operation of the unit as a farm, including the value of food produced for home use, should at least offset the actual operating expenses chargeable to farm operations such as seed, fertilizer and repayment of that portion of the loan represented by the farming operations. Such expenses, however, need not include cash family-living costs or maintenance, taxes, insurance and loan costs chargeable to the residence. In determining the loan and other costs chargeable to the residence, the valuation of the residence should be consistent with the depreciated value shown on Form FHA–43, "Appraisal of Buildings for Insurance."

(f) Farm income and disability compensation will constitute the major sources of income. Part-time farms, on which disabled veterans plan to live and devote most of their activity to nonfarm employment, should not be approved.

(Secs. 1 (c), 44 (b), 60 Stat. 1073, 1069; 7 U. S. C. 1001 (c), 1018 (b))

§ 321.4 *General criteria for selection of Farm Ownership farms.* (a) The making or insuring of a Farm Ownership loan depends upon a satisfactory title to the farm being vested in the borrower in order to secure a first mortgage or deed of trust on the farm. For this reason, a careful inquiry should be made relative to the title, legal description and boundaries of any land to be purchased, as well as any land already owned by the applicant, before time is lost in considering other aspects of the farm.

(b) In selecting farms for Farm Ownership loans, consideration should be given to base acreage allotments and assigned yields or productivity indexes upon which soil conservation payments are made.

(c) If a Farm Ownership farm is to be formed by combining separate tracts of land, the tracts preferably should be contiguous. However, a farm may consist of noncontiguous tracts if they are so situated with respect to each other that the combined unit can be operated conveniently and efficiently as a family-type farm. This is especially important in making Farm Enlargement loans, since the question of operating noncontiguous tracts is more likely to arise in connection with this type of loan.

(d) Farms approved for Farm Enlargement or Farm Development loans, as defined in § 311.43 of this chapter should be definitely undersized or underdeveloped and in their present state constitute definitely less than efficient family-type farm-management units.

(1) Enlargement or development of farms should constitute the primary purpose of Farm Enlargement or Farm Development loans. Refinancing in connection with Farm Enlargement and Farm Development loans must not constitute the primary purpose of the loans. However, since it is necessary to obtain a first mortgage or deed of trust on farms, funds for refinancing purposes may be included in Farm Enlargement and Farm Development loans.

(2) In connection with Farm Development loans, consideration should be given to all types of improvements that may be needed to make the farm an efficient family-type farm-management unit. This will include such needed land improvements as irrigation, drainage, land clearing, terracing and basic soil treatment, as well as needed construction and repair of buildings. In some cases, a farm may be approved which needs only one type of improvement, such as construction or major repair of a building, in order to make it an efficient family-type farm-management unit. Usually, however, more than one type of improvement will be needed. Farms needing only minor building repairs or minor land improvements which are not essential to making the farm an efficient family-type farm-management unit will not be approved for Farm Development loans.

(e) Farms should not be approved which consist almost wholly of undeveloped land that requires an excessive amount of expense or labor for land improvement, and which will not produce an income sufficient to support the family, meet operating expenses and payments on the loan the first year of operation.

(f) When individual family-type farms are not available in any area, consideration should be given to the subdivision of large tracts.

(g) Farms will not be approved in areas designated for retirement from agriculture by Federal, State or county land use planning agencies, or areas so poor that they are likely to be so designated. Outside of such areas, it will be necessary, in order to assist persons in greatest need of Farm Ownership loans, to make such loans in areas including poor as well as good land. When loans are made for the purchase of poorer grades of land, unusual care must be exercised to see that it is purchased at a price in line with its earning capacity. Land that is worn out, eroded, foul and weedy cannot be restored to productivity quickly or without great effort and expense. This fact should be taken into account in determining the present value of the land.

(h) In farm selection and approval, due consideration should be given to roads, schools, markets, and other community facilities. The tax rate on farms, the bonded indebtedness and other costs incident to irrigation and drainage, or other types of improvements, should also be considered. In irrigation areas, careful consideration should be given to the adequacy of the water supply and water rights.

(i) When a farm is not on a public road, it is essential that there be a satisfactory legal right-of-way from the farm to a public road.

(Secs. 1 (a), 1 (c), 3 (a), 12 (a), 44 (b), 60 Stat. 1072, 1073, 1074, 1076, 1069; 7 U. S. C. 1001 (a), 1001 (c), 1003 (a), 1005b (a), 1018 (b))

§ 321.5 *Limitations in selection of Farm Ownership farms because of interest of sellers.* (a) No Farm Ownership loan will be made or insured if any member of the County Committee participates in, or attempts to influence, in any manner, the selection, consideration, discussion or certification with respect to a farm in which such member, or any person related to such member within the third degree of consanguinity or affinity, has any pecuniary interest, direct or indirect, or in which any of them had such interest within one year prior to the date of certification.

(b) Unless an exception is made as provided below, a Farm Ownership loan will not be made or insured for the purchase or improvement of land when an FHA employee has an interest, direct or indirect, or when a person related to that employee by blood or marriage has an interest, direct or indirect, in the land to be purchased or improved and when an FHA employee is officially, through his FHA employment, connected with the processing, handling or approval of such loan in a manner as to enable him directly or indirectly to influence FHA decisions with respect to the processing, handling or approval of the loan. The state director may make the exception and give the reasons therefor in writing, unless he is the interested FHA employee, in which case the Administrator will make and sign the exception.

(c) Farms will not be approved for Tenant Purchase or Farm Enlargement loans which involve the purchase of land owned by a parent or other near relative of an applicant, nor will a farm be approved for a Farm Enlargement or Farm Development loan on which a parent or near relative holds a mortgage, unless the state director has determined before approval of the loan:

(1) That the applicant is unlikely to receive an inheritance in a short time either of title to the property or of sufficient funds to make a Farm Ownership loan unnecessary, and

(2) That the seller's circumstances are such as to make it impracticable for him to sell the property to the applicant or to advance additional funds that would make a Farm Ownership loan unnecessary.

(Secs. 2 (c), 44 (b), 60 Stat. 1074, 1069; 7 U. S. C. 1002 (c), 1018 (b))

§ 321.6 *Preliminary farm selection*—(a) *Listing and studying farms for farm ownership applicants.* (1) When it appears that Farm Ownership applicants may have difficulty in locating and selecting desirable farms, the County Supervisor may prepare a preliminary list of farms which he has learned are for sale. To help in the preparation of this list, a carefully worded press release may be issued. This press release may indicate that Farm Ownership loans will be made or insured in the county to eligible war veterans and other qualified persons for the purchase, enlargement or improvement of farms. It also may suggest that owners having farms for sale which may qualify for the Farm Ownership program may list them with the County Supervisor. In addition to such press release, the County Supervisor may learn of farms for sale through contacts with landowners, county agents, banks, insurance companies, secretaries of Federal Land Bank Associations, county recorders' offices, and others. Although tracts of land suitable for subdivision into family-type farms will be considered, large tracts of raw, undeveloped land usually are not acceptable for the Farm Ownership program. The County Supervisor will not promote the sale of any particular farm or group of farms and will avoid commitments as to price, but he will obtain all information that is available on this subject.

(2) Upon request of the County Supervisor, a state Farm Ownership representative will visit a county for the purpose of assisting the County Committee in the study of listed farms. The Farm Ownership representative will explain to the Committee the FHA standards for farms and the use of Form FHA–596, "Earning Capacity Report." If a study of the farms listed indicates that there is not an adequate number of acceptable farms, the Committee, with the aid of the Farm Ownership representative, may make further efforts to discover desirable farms which are for sale. The Committee will authorize the inclusion of such farms on the tentatively approved list as appear upon preliminary examinations to be acceptable, provided it is reasonable to assume that they may be obtained at justifiable prices. Commitments as to prices should be avoided in this preliminary listing of farms.

(3) In order to keep requests for appraisal services to a minimum, the County Supervisor and County Committees should assist and advise applicants in the selection of farms so that such requests will be limited, to the fullest extent practicable, to farms which are reasonably certain to qualify for the Farm Ownership program.

(b) *Selection of farms by Farm Ownership applicants.* In the course of reaching a proper understanding with applicants, they should be informed of the type, size and general characteristics of farms which are suitable to them and acceptable for the program in the particular area. Applicants may select a farm previously approved by the County Committee, or any other farm which later may be approved by the Committee. County Committeemen, state Farm Ownership representatives and County Supervisors should render assistance to applicants in this preliminary selection of farms. In this connection, any commitment to sellers regarding price will be avoided.

(Secs. 1 (c), 2 (a) (2), 2 (b), 60 Stat. 1073; 7 U. S. C. 1001 (c), 1002 (a), (2), 1002 (b))

§ 321.7 *Preliminary approval of farms.* When a Farm Ownership applicant who is viewed with favor has selected a farm, the County Supervisor will arrange for a preliminary inspection of the farm. Upon preliminary approval of the farm by the County Committee, the County Supervisor will request the services of the FHA employee authorized to appraise farms for the preparation of Form FHA–596. It is generally advisable to obtain an option before requesting such services.

(Secs. 2 (a) (2), 2 (b), 60 Stat. 1073; 7 U. S. C. 1002 (a) (2), 1002 (b))

§ 328.8 *Preference to war veterans.* When both a veteran and a nonveteran have been viewed with favor and are interested in the same farm at the same time, preference will be given to the veteran, provided the seller is willing to sell to either person.

(Sec. 1 (b) (2), 60 Stat. 1073; 7 U. S. C. 1001 (b) (2))

SUBPART B—OPTIONING

DERIVATION: §§ 321.21 to 321.28 contained in FHA Instruction 421.2.

§ 321.21 *General.* (a) An option will be taken in the name of the Tenant Purchase or Farm Enlargement applicant, unless the land to be optioned consists of a tract to be subdivided. In the process of obtaining an option, any qualified person may render assistance.

(b) While the information in Form FHA–596, "Earning Capacity Report," will furnish a basis for arriving at a fair option price, it is generally advisable to obtain an option prior to the preparation of Form FHA–596. This is a safeguard against incurring the expense of appraisal and other work in connection with a farm which it may not be possible to purchase.

(c) Farms should not be optioned at prices that are believed to be in excess of the actual earning capacity values or when it appears that the total investment in the complete farm unit will exceed the investment limit in the county. Even though loans for the purchase of farms so optioned may not be approved, an objectionable precedent may be established that will affect adversely negotiations in connection with other properties in the community. Prior to optioning, the County Supervisor or one or more members of the County Committee should look over the farm to make certain that there is a reasonable probability that it will "appraise out". The effect on the option price of such factors as mineral rights, Agricultural Conservation Program payments and outstanding leases should be determined as promptly as possible and every effort should be made to secure the option at the lowest cash figure that the seller will accept.

(Secs. 2 (a) (2), 2 (b), 60 Stat. 1073; 7 U. S. C. 1002 (a) (2), 1002 (b))

§ 321.22 *Preparation of option*—(a) *Use of option forms.* (1) Options for individual units will be taken on Form FHA–188A, or Form FHA–188B, "Option for Purchase of Farm." The County Supervisor will be advised by the state office whether Form FHA–188A or Form FHA–188B is to be used. When possible, it is desirable to insert in the option the time and conditions under which the applicant will be given possession of the property. It will be noted that Form FHA–188A requires the seller to furnish an abstract of title, and Form FHA–188B requires him to furnish a policy of title insurance. Title insurance will be used when it is available, and the seller will be requested to fill out an application for title insurance at the same time he signs the option. The seller will be given the choice of any title insurance company which has been approved for issuing title insurance policies in the county. In the case of a Farm Enlargement loan, the seller will select the title insurance company and will apply for title insurance on the tract which he is selling; at the same time the applicant will apply for title insurance from the same company on the tract which he owns.

(2) Options taken by Farm Enlargement applicants will contain the following clause, inserted in the space provided for conditions peculiar to a particular transaction:

> The seller agrees that, irrespective of any other provision in this option, the buyer, or his assignees may, if the option is accepted, without any liability therefor, refuse to accept conveyance of the property described herein if the Government or other prospective Mortgagee fails or refuses to make the aforesaid loan because of defects in the title to land now owned by the buyer.

The inclusion of this paragraph will relieve the applicant of his obligation to purchase and will absolve him from possible liability for damages whenever incurable defects in the title to the original tract are disclosed, subsequent to the acceptance of the option, which prevent the closing of the loan.

(3) As soon as the option has been signed by the seller, it will be transmitted by the County Supervisor to the state office. (See §§ 331.1 and 332.1 of this chapter.)

(b) *Listing complete information on options.* Options should contain complete and accurate information on all reservations, easements, leases, water rights, or other conditions peculiar to the transaction. Such items as dates of exe-

cution and expiration, names of lessees, lessors, and areas involved, and amounts of compensation should be stated clearly. If the spaces provided on the option are insufficient for such information, extra sheets should be used and stapled to the form. Disclosure of such information at a later date causes undue delay in closing the loan. If the applicant is related to the seller, the relationship should be explained fully on an extra sheet, so that the state director can make the determination required in § 321.5.

(c) *Agricultural conservation program payments.* Options should not contain assignments of Agricultural Conservation Program payments, since the Soil Conservation and Domestic Allotment Act forbids such assignments. However, the cash equivalent of the anticipated Agricultural Conservation Program payment may be taken into account in arriving at the option price, since the amount of such payment and the individuals to whom it will accrue legally can be determined readily.

(Secs. 3 (a), 3 (b) (4), 12 (a), 12 (c) (4), 60 Stat. 1074, 1076, sec. 103 (g), 52 Stat. 35, sec. 18, 52 Stat. 205; 7 U. S. C. 1003 (a), 1003 (b) (4), 1005b (a), 1005b (c) (4), 16 U. S. C. 590h (g))

§ 321.23 *Mineral rights.* (a) It is the general policy of the FHA that borrowers will hold all of the mineral rights in land purchased, improved, or refinanced with the proceeds of Farm Ownership loans. In some instances, however, sellers may refuse to transfer mineral rights, or such rights may be vested wholly or partially in third parties. In such situations, field officials are to be guided by the principle that, with respect to the minerals, the applicant should make as good a bargain as is possible in the circumstances. When an option is submitted to the state office which does not propose to convey all of the mineral rights to the applicant, the representative of the office of the Solicitor will advise the state director of the facts in the case. The state director, after satisfying himself that all practical efforts to obtain 100% of the mineral rights have been made, may approve the option if:

(1) The applicant has obtained, or is able to obtain, a portion of the mineral rights or guaranties of compensation, either of which is deemed adequate protection against loss in the event that the minerals are developed.

(2) The state director determines that there is little likelihood that the minerals will be developed. (This determination may be made by the state director on a county basis or for a group of counties, provided the situation with respect to minerals is similar or widespread in the county or group of counties.)

(b) If the applicant does not have or cannot obtain either a sufficient portion of the mineral rights or adequate guaranties of compensation, and the state director cannot determine that there is little likehood of development of the minerals, the option may be approved only if the state director finds:

(1) That the situation with respect to the minerals will not jeopardize the security interest of the mortgagee.

(2) That it is not practicable for the applicant to select another farm.

(c) Reservations authorized on behalf of the seller should embrace the smallest fraction of the mineral rights and run for the shortest time to which the seller will agree. Where minerals are reserved by the seller, they should be named specifically in the option, and the term "other minerals" should be avoided when possible.

(1) When a family-type farm is subject to mineral reservations, approval of the option will be dependent upon a finding by the state director that the reservation in question will not render the farm less than an efficient family-type farm-management unit.

(2) When a farm which is less than an efficient family-type farm-management unit has been selected by a disabled veteran and is subject to mineral reservations, the option will not be approved unless the state director finds that such a reservation does not constitute a potential impairment of the income-producing ability of the farm, or will not otherwise render the farm unsuitable for the disabled veteran.

(d) The County Supervisor should ascertain whether the option includes all mineral rights or whether the seller or some prior owner of the property has deeded, leased, or otherwise conveyed the whole or a part of the mineral rights. If the seller is in doubt as to whether a conveyance or lease of any part of the mineral rights has been made, or if there is a possibility that a deed, lease, or any other type of conveyance of mineral rights exists, a check will be made of the public records to determine whether there are such outstanding conveyances. If there is an outstanding deed, lease, or other conveyance of the mineral rights, the County Supervisor will forward to the state office with the option a copy of such instrument, secured either from the seller or from the public records.

(Secs. 1 (c), 3 (a), 12 (a), 44 (b), 60 Stat. 1073, 1074, 1076, 1069; 7 U. S. C. 1001 (c), 1003 (a), 1005b (a), 1018 (b))

§ 321.24 *Side agreements.* (a) Side agreements between applicants and sellers involving a purchase price greater or less than the option price or any additional consideration whatsoever are in violation of Federal law. Any party entering into such side agreements or misrepresenting in any way the purchase price is subject, upon conviction, to a $10,000 fine or imprisonment for five years or both. The County Supervisor is responsible for informing applicants and sellers regarding these penalties.

(1) If the County Supervisor or any employee becomes aware of a side agreement before a Farm Ownership loan is closed, the County Supervisor will suspend processing of the loan and report the facts in the case to the state director.

(2) If the County Supervisor or any employee becomes aware of a side agreement after a Farm Ownership loan is closed, a report of the facts in the case will be made to the state director.

(3) Further action in either case will be governed by advice received from the state director, who will report the facts to the representative of the office of the Solicitor and to the representative of the Examination Division. If the representative of the office of the Solicitor finds that probable financial or criminal liability is involved, he will report his findings to the state director, who will report the facts in the case to the Administrator. If the representative of the office of the Solicitor finds that probable financial or criminal liability is not involved, he will report his findings to the state director who will take appropriate administrative action. Failure on the part of FHA employees to carry out the spirit and intent of these provisions with respect to side agreements will constitute an offense of serious gravity and will be dealt with accordingly.

(b) The following courses of action are among those which may be taken by the state director in cases involving side agreements after careful review of the circumstances involved:

(1) Refuse to make the loan, if it is not closed.

(2) Return to the borrower any funds paid by or for the borrower as a result of the side agreement.

(3) Foreclose the loan.

(4) Recommend to the Administrator proceeding under penalty provisions of the law.

(5) Recommend appropriate disciplinary action with respect to FHA employees in cases in which they have been remiss in discharging their responsibilities or have been implicated personally in the offense committed.

(Sec. 44 (b), 60 Stat. 1069, sec. 1001 contained in sec. 1, Pub. Law 772, 80th Cong. (62 Stat. 749); 7 U. S. C. 1018 (b), 18 U. S. C. 1001)

§ 321.25 *Payment of one dollar consideration.* The option requires payment of one dollar ($1) by the applicant, and the money actually should be paid to the seller, since a receipt for the payment of one dollar ($1) is acknowledged specifically in the option.

§ 321.26 *Recording of option.* In some cases, it may be desirable to record the option after State office approval to prevent third parties from acquiring an interest in the optioned property. The County Supervisor will be informed by the State office of the circumstances under which recordation is advisable. If the option is recorded, the fee will be paid by the applicant.

§ 321.27 *Assignment of option.* If paragraph 10 of Form FHA–188A or FHA–188B has not been stricken by the seller, Form FHA–188H, "Assignment of option," will be used when it is desirable to assign the option to a new Farm Ownership applicant. If the option is assigned, the County Supervisor should send a copy of Form FHA–188H to the seller when it is completed.

§ 321.28 *Expiration of option.* (a) If in unusual circumstances the County Supervisor is unable to send the option to the state office three weeks before the irrevocable period expires, he should send it as promptly as possible and request that it be given preferential consideration.

(b) If it becomes necessary to extend the time of expiration of the original option beyond one year, a new option will be secured by the applicant.

(c) If an option is in the state office and the seller gives ten days' written notice of termination, in accordance with the terms of the option, the County Supervisor will wire the state office promptly so that special consideration may be given to such an option.

(Secs. 3 (b) (4), 12 (c) (4), 44 (b), 60 Stat. 1069, 1074, 1076, 7 U. S. C. 1003 (b) (4), 1005b (c) (4), 1018 (b))

SUBPART C—CERTIFICATION

DERIVATION: §§ 321.41 to 321.43 contained in FHA Instruction 421.3.

§ 321.41 *General.* The County Supervisor will arrange for a meeting of the County Committee to consider Form FHA–596, "Earning-Capacity Report," Form FHA–14, "Our Farm and Home Plan for 19__," Form FHA–14C, "Long-time Farm and Home Plan," and Form FHA–643, "Farm Development Plan." After they have made an examination of the farm and have given proper consideration to these forms, the Committee is ready to prepare Form FHA–491, "County Committee Certification," with respect to the certification of the farm.

(Secs. 2 (a) (2), 2 (b), 60 Stat. 1073; 7 U. S. C. 1002 (a) (2), 1002 (b))

§ 321.42 *Certification of farm by County Committee.* (a) The County Committee legally is responsible for determining that each farm to be financed with the proceeds of a Farm Ownership loan or of a loan insured under Title I of the Bankhead-Jones Farm Tenant Act, as amended, is of such character that there is reasonable likelihood that the making or insuring of the loan with respect to the farm will carry out the purposes of the act. The County Committee also is responsible for determining the amount which it finds to be the fair and reasonable value of the farm based upon its normal earning capacity, after contemplated improvements or enlargements are made. In addition, the County Committee is responsible for recommending the amount and purposes of the loan and for determining that the value of the farm, as acquired, enlarged, or improved will not be in excess of the average value of efficient family-type farm-management units in the county. The County Committee will certify to the above determinations on Form FHA–491.

(1) When a farm proposed for purchase by a Tenant Purchase borrower consists of separate tracts, the County Committee will certify as to the fair and reasonable value of the complete farm unit, as combined and improved.

(2) When a farm is to be enlarged by a Farm Enlargement borrower, the County Committee will certify as to the fair and reasonable value of the farm, as enlarged and improved.

(3) When a farm is to be developed by a Farm Development borrower, the County Committee will certify as to the fair and reasonable value of the farm, as improved.

(b) Efficient family-type farm-management units: The total investment in a farm, as computed in § 311.25 of this chapter, should not be greater than is justified on the basis of its normal earning capacity, after contemplated improvements are made. The following determinations will be made by the County Committee in certifying family-type farms:

(1) *Determination of fair and reasonable value (Farm Ownership loans).* The County Committee will enter its determination of the fair and reasonable value of the farm based on its normal earning capacity, after contemplated improvements or enlargements are made, on Form FHA–491. The County Committee should give due consideration to the "Earning-Capacity Report" prepared by FHA employees authorized to appraise farms. The normal earning capacity, after contemplated improvements are made, rather than income-producing ability of the farm as indicated on Form FHA–14 and Form FHA–14C should be considered in arriving at this determination. The County Committee should not be influenced by the amount of the proposed loan or the average value of efficient family-type farm-management units in the county, as determined by the Secretary, in making their determination, based on the "Earning-Capacity Report," and their examination of the farm. In other words, the County Committee's determination of their fair and reasonable value should represent its actual bona fide determination with respect to the particular farm under consideration.

(2) *Determination of acquisition and refinancing costs (Farm Ownership loans).* The County Committee will indicate on Form FHA–491 the amount necessary to acquire the land, free and clear of all encumbrances, to refinance any existing indebtedness on the farm, and to pay necessary fees. When Form FHA–14 and Form FHA–14C show definite possibilities of increased income under good management, the amount that can be paid for the farm or used for refinancing purposes may be slightly higher than the recommended purchase or refinancing price shown on the "Earning-Capacity Report," when necessary to acquire or enlarge a particularly desirable farm. However, the benefits of increased income, in general, should accrue to the borrower and should not be bartered away through excessive price to the seller or through unjustified payment to a lien holder.

(3) *Determination of value less planned improvements (Farm Enlargement and Farm Development loans).* The County Committee will enter its determination of "Value Less Planned Improvements" of the "Tract Owned by the Applicant" and the "Tract to be Purchased, if any," on Form FHA–493, "Value of Applicant's Unit," after a review of the recommendations of the FHA employees authorized to appraise farms.

(c) Less than efficient family-type farm-management units for disabled veterans: The total investment in a farm, as computed in § 311.25 of this chapter, for a disabled veteran should not be greater than is justified by the cash income available after farm-operating and family-living expenses are deducted from the sum of farm earnings and pension payments. The following determinations will be made by the County Committee in certifying farms for disabled veterans which are less than efficient family-type farm-management units:

(1) *Determination of fair and reasonable value (Farm Ownership loans).* The County Committee will enter its determination of the fair and reasonable value of the farm after contemplated improvements or enlargements are made. The County Committee should give due consideration to (i) the "Earning-Capacity Report" prepared by FHA employees authorized to appraise farms, (ii) the suitability of the unit to the farming capabilities of the disabled veteran and his family, (iii) the normal market value of the farm and (iv) other pertinent factors, such as the "Long-Time Farm and Home Plan" and the "Farm Development Plan."

(2) *Determination of acquisition and refinancing costs (Farm Ownership loans).* The County Committee will indicate on Form FHA–491 the amount necessary to acquire the land, free and clear of all encumbrances, to refinance any existing indebtedness on the farm and to pay necessary fees. Special caution should be exercised to avoid obligating a disabled veteran beyond his capacity to pay by paying more than the farm is worth or by investing more in improvements than is justified. Exploitation of the disabled veteran's pension by paying too much for the farm should be avoided.

(3) *Determination of value less planned improvements (Farm Enlargement and Farm Development loans).* The County Committee will enter its determination of "Value Less Planned Improvements" of the "Tract owned by Applicant" and the "Tract to be purchased, if any," on Form FHA–493, "Value of Applicant's Unit," after a review of the recommendations of the FHA employee authorized to appraise farms.

(Secs. 1 (c), 2 (a) (2), 2 (b), 2 (d), 3 (a), 42 (d), 60 Stat. 1073, 1074, 1067; 7 U. S. C. 1001 (c), 1002 (a) (2), 1002 (b), 1002 (d), 1003 (a), 1016 (d))

§ 321.43 *Execution of Forms by County Committee.* Forms FHA–491 and FHA–493 will be signed by at least two County Committeemen.

(Sec. 42 (c), 60 Stat. 1067; 7 U. S. C. 1016 (c))

SUBPART D—SUBDIVISION OF TRACTS

Sections 321.61 to 321.69 interpret and apply secs. 1 (c), 3 (a), 3 (b) (4), 12 (a), 12 (c) (4), 44 (b), 60 Stat. 1073, 1074, 1076, 1069; 7 U. S. C. 1001 (c), 1003 (a), 1003 (b) (4), 1005b (a), 1005b (c) (4), 1018 (b).

DERIVATION: §§ 321.61 to 321.69 contained in FHA Instruction 421.4.

§ 321.61 *General.* In areas where large tracts of land are available and satisfactory family-type farms are difficult to obtain, consideration may be given to the subdivision of tracts into family-

type farms for Farm Ownership applicants. Each farm unit so established shall be capable of independent operation by a single family and shall meet all the standards and requirements prescribed for individual Farm Ownership farms.

§ 321.62 *Optioning.* (a) If the tract is found acceptable for subdivision into more than three farm units, an option will be taken on Form FHA–188D from the seller, with the assistance of the employee authorized to appraise farms. The option will be taken at the lowest possible price. Great care should be used in such negotiations to avoid waste of time and expense. An option should not be taken until there are sufficient bona fide applicants in the county who have signified a willingness to purchase subdivided units equal in number to the number of units into which the tract will be subdivided.

(1) A single option will be taken on the whole tract on Form FHA–188D in the name of a bona fide Farm Ownership applicant interested in a unit in the tract proposed for subdivision. In no case will the person in whose name the option is taken be designated as an agent or trustee, or as acting in a similar capacity in connection with the subdivision of the tract or the handling of loan funds. Under no circumstance will an option be taken in the name of a Farmers Home Administration employee. The County Supervisor is responsible for explaining the terms and conditions of Form FHA–188D, including survey requirements, to the seller and the applicant in whose name the option is taken.

(2) If satisfactory materials for permanent boundary markers for individual units are not on the tract, a specific requirement will be inserted in Form FHA–188D to require the seller to furnish markers made of any suitable material, including concrete, stone, or iron pipe.

(3) At the itme the seller signs the option, he will be required to designate, in writing, the title insurance company from which title insurance will be obtained. (See §§ 327.1 to 327.8 of this chapter concerning the policies applicable to the selection of a title insurance company.)

(b) If the study of the tract indicates that the land can be subdivided into two or three farm units, an effort should be made to obtain a separate option on Form FHA–188A, "Option for Purchase of Farm," or FHA–188B, "Option for Purchase of Farm," on each of the separate units of the tract.

(1) If the seller desires, the following provision may be inserted in the option:

> This option shall be contingent upon the acceptance of _____ other options of this date executed by the seller herein to the following persons: _____ and _____.

(2) If the seller is to furnish a survey, the following will be inserted in the option form:

> The seller agrees to furnish, at his expense, if the Government so requires, an accurate survey, in accord with such engineering standards as the Government may prescribe, of the land herein described, made and certified by a survey or acceptable to the Government. It is understood that the cost of the survey shall not exceed the sum of _____ Dollars.

§ 321.63 *Recording of option.* In some cases, it may be desirable to record the option, after approval by the State Director, to prevent third parties from acquiring an interest in the optioned property. If it is determined by the representative of the Office of the Solicitor that the option should be recorded, it will be sent to the County Office for recordation purposes and then returned to the State Office. If the option is recorded, the fee will be paid by the buyer in whose favor the option was given.

§ 321.64 *Assignment of interest in option*—(a) *Assignment of interest in option by buyer.* Whenever the buyer in favor of whom Form FHA–188D was given assigns a unit to an applicant, Form FHA–188E, "Assignment of Interest in Option," will be used. A separate assignment will be prepared for each unit in the subdivision to be assigned and will be executed by the buyer in favor of the applicant who will purchase the unit. When the survey is to be made at the expense of the seller, the paragraph numbered 2 of Form FHA–188E will be deleted.

(b) *Designation of interest in option by State Director or by State Field Representative.* In case the buyer named in option Form FHA–188D is not willing or able to execute an assignment of interest in option on Form FHA–188E, or if a substitute assignee is to be designated, the State Director will execute Form FHA–188G, "Designation of Assignee of Interest in Option." The State Director is authorized to delegate this authority to State Field Representatives.

(1) When the survey is to be made at the expense of the seller, the paragraph numbered 2 of Form FHA–188G will be deleted.

(2) The second "Whereas" clause of Form FHA–188G will be deleted in each instance in which a substitute assignee is designated.

(3) Whenever a State Field Representative who has been authorized to execute Form FHA–188G designates an assignee or substitute assignee, the State Field Representative will sign his name on the first line below the date of the instrument and the following will be typed between the line for the signature and the next line on the form: "State Field Representative for State Director, State of (Name of State)"

§ 321.65 *Approval of loans.* Individual loans will be reviewed by the State Field Representative, as prescribed in §§ 331.1 to 331.11 and §§ 332.1 to 332.10 of this chapter. The State Field Representative is authorized to approve individual Farm Ownership loans in connection with a subdivision. A loan must not be approved until the applicant is thoroughly familiar with the proposed farm unit which he will purchase and has indicated his intention to follow through with the loan and purchase. Applicants must not be persuaded to accept subdivision units in lieu of other farms upon assurances that they will not have to occupy the units or that better farms will be secured for them later. When the State Field Representative has approved loans for all units in a subdivision, he will prepare a memorandum to the County Supervisor, listing for each farm unit the name of the borrower, the option price, and the total amount of each loan.

§ 321.66 *Acceptance of option and ordering title insurance.* Upon approval of all of the individual loans by the State Field Representative, acceptances of the options for the fractional interests in the tract will be obtained from the individual purchasers. The buyer named in Form FHA–188D will accept his unit by using Form FHA–191C, "Acceptance of Option by Buyer." Form FHA–191A, for each of the other applicants, will be prepared by the County Supervisor. In instances in which the applicant was designated as assignee on Form FHA–188G, the first two lines of the second paragraph on Form FHA–191A should be amended to read as follows:

> The State Director of the Farmers Home Administration has designated me, by an agreement dated the _____ day of _____ 19__, a copy of which is attached, assignee of the right to purchase for the sum of.

The signed originals of Forms FHA–191C and FHA–191A, together with a copy of each of the related Forms FHA–188E and FHA–188G, will be sent to the seller by the County Supervisor as attachments to the letter directing the seller to arrange for title insurance and to begin the survey. It should be clearly understood by all persons concerned that completion of the loans will be contingent upon acceptances by the buyer and all assignees. Under no circumstances will an option be accepted by a Farmers Home Administration employee.

§ 321.67 *Survey.* (a) When the seller has selected a surveyor acceptable to the title insurance company, as required in the letter forwarding the acceptances of the option, the County Supervisor will furnish the surveyor with a copy of the tentative subdivision map prepared by the employee authorized to appraise farms. The County Supervisor will also request that the surveyor attempt to follow the tentative subdivision map as closely as possible with respect to general layout and the acreage for each unit, especially the open acreage. The County Supervisor will inform the seller and the surveyor that the survey plats will be required to show the following information:

(1) In rectangular survey areas, the section lines and such range and township designations as are necessary for the location of the tract.

(2) The total acreage of the tract and of each unit.

(3) The location of present public roads.

(4) The boundary lines of individual units.

(5) The identification of each unit by number in the same manner as shown on the tentative subdivision map.

(6) Other items required by the State Director, such as:

(i) Significant topographic features, such as lakes and streams.

(ii) The location of public facilities, such as railroads, pipelines, and power lines.

(iii) Proposed public roads, including width.

(iv) Acreage of open land and woodland in each unit.

(7) A form of surveyor's certification meeting the requirements of applicable State statutes and the title insurance company involved. If a specific form of certification is not required by State law or the title insurance company, the surveyor's certification should be in substantially the following form:

To all persons interested in title to the premises surveyed—I hereby certify that the above map or plat is an exact representation of a survey made by me of the lands shown and is correct; that the descriptions written hereon or attached hereto are true and correct; and that there are no encroachments either way across property lines, except as shown hereon and specifically referred to in the Surveyor's Report attached hereto.

(b) In addition to the map, the County Supervisor will request from the surveyor a typewritten legal description of the tract as a whole and of each subdivision unit and, when required by the title insurance company, will ask him to complete the appropriate "Surveyor's Report Form." These documents will be attached to the map of survey. The County Supervisor will also request from the surveyor a written statement to the effect that the error of closure for the survey does not exceed 1:2000.

(c) The employee authorized to appraise farms will visit the property and check the survey to ascertain whether the property is being properly divided and to suggest any necessary adjustment. He will ascertain that each unit of the tract will have access to a public road. If necessary, arrangements should be made for public or private easements for roads, drainage, and irrigation. (See § 321.69.) If he finds the map consistent with the tentative subdivision map, he will initial the map of survey.

(d) Upon approval by the employee authorized to appraise farms, the County Supervisor will forward to the State Office the original cloth map of survey, together with the description of the tract as a whole, the description of each individual farm unit, and, when required by the title insurance company involved, the Surveyor's Report Form. (The cloth map of survey should be mailed in an appropriate mailing tube.) The map of survey will not be recorded nor will any copies be made before approval by the State Director.

(e) Upon receipt in the State Office, the map of survey and attachments will be sent to the representative of the Office of the Solicitor for review. Upon approval by the representative of the Office of the Solicitor and the State Director, the State Office will return the map of survey, with attachments, to the County Supervisor, who will advise the surveyor to make as many complete copies or prints of the approved map of the survey, as well as the certification and attachments, as are necessary to meet the requirements listed below. The original map will be recorded by the County Supervisor in the deed records in the county where the land is located. The buyers will share equally the costs of recording. The copies of the map and descriptions, together with copies of the "Surveyor's Report," if such report is required by the title insurance company, will be distributed as follows:

(1) As many copies to the local representative of the title insurance company as are required.

(2) Two copies to the State Office. One of these copies will contain the date of recordation and the book number and page number under the certificate of the official recorder.

(3) One copy will be retained in the County Office file.

(f) If satisfactory permanent markers for individual farm units are not in place, the County Supervisor will require the seller to have the surveyor place permanent markers of concrete, stone, iron pipe, or other suitable material at all corners of each farm unit. The County Supervisor will request the surveyor not to place these markers before obtaining the approval of the employee authorized to appraise farms. To prevent misunderstandings arising in the future, each borrower will inspect the boundary lines of his unit at the earliest possible time after the markers are placed by the surveyor.

§ 321.68 *Title clearance.* Except as otherwise provided in this subpart, title clearance will be effected in accordance with §§ 327.1 to 327.8 of this chapter.

§ 321.69 *Easements and rights-of-way for roads, drainage, and irrigation.* Frequently, incident to the subdivision of a tract, it will be necessary to arrange for easements and rights-of-way over particular units, which may or may not be benefited, or over land outside the subdivision, to provide roads, irrigation, and drainage to other units. The cost of such easements or rights-of-way are to be borne solely by the buyers whose units are to be benefited by the roads or drainage and irrigation facilities in proportion to the benefits to be derived by the several units. Whenever local governmental or quasi governmental units, such as States, counties, townships, and road, drainage, and irrigation districts, are to provide the services for which the easements or rights-of-way are to be conveyed, the conveyance of the easements or rights-of-way should be made directly to such governmental units. If no such governmental or quasi governmental unit is to construct and maintain the facility, the conveyances will run to the buyers of, and be made appurtenant to, the lands to be benefited. The loans to the buyers will include sufficient funds to cover the cost of the easements or rights-of-way which benefit their lands. Instruments for the conveyance of easements or rights-of-way will be prepared or approved by the representative of the Office of the Solicitor. The following methods for the conveyance of easements and rights-of-way may be used:

(a) The instruments for the granting of the easements or rights-of-way may be executed by the buyers of the units over which the easements or rights-of-way are to run, whether the instruments are executed in favor of private persons or governmental or quasi governmental units. The execution of such instruments should be made at the time of closing of the loans. The County Supervisor should explain to buyers executing such instruments that allowance was made in determining the cost of their units for the easements or rights-of-way conveyed.

(b) The seller may be required to execute instruments for conveyance of easements or rights-of-way to governmental or quasi governmental units immediately prior to the closing of the loans. If this method is used:

(1) The following provision should be inserted in Form FHA–188D prior to the time of execution thereof:

If this option is accepted, the seller agrees to execute such instruments for the conveyance of rights-of-way or easements over the above-described lands as the Government may require. It is expressly understood that the conveyance of such easements or rights-of-way pursuant to the requirements of the Government shall not diminish the total purchase price stipulated in paragraph 4 of this option.

(2) The following provision should be inserted in each Form FHA–188E or FHA–188G, prior to the time of execution thereof:

The rights in the land covered by this instrument shall be subject to the conveyance by the grantor of the above-mentioned option of such easements or rights-of-way as may be made in accordance with the requirements of the Government, as provided in said option.

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## PART 322—APPRAISAL OF FARMS

### SUBPART A—EARNING CAPACITY APPRAISAL

Sec.

322.1 General.

322.2 Values to be recommended on Form FHA–596 by Farmers Home Administration employees authorized to appraise farms; efficient family-type farm-management units.

322.3 Appraising less than efficient family-type farms for disabled veterans receiving disability pensions.

Sections 322.1 to 322.3 interpret and apply sec. 2 (b), 60 Stat. 1073; 7 U. S. 1002 (b).

DERIVATION: §§ 322.1 to 322.3 contained in FHA Instruction 422.1.

§ 322.1 *General.* (a) A technical earning capacity appraisal will be prepared for each farm purchased, enlarged, or improved with direct or insured Farm Ownership loan funds, as required by the Bankhead-Jones Farm Tenant Act, as amended. Such appraisal will be made available to the County Committee for its guidance in determining the fair and reasonable value of the farm based upon its normal earning capacity, and to loan approving officials for their guidance in reviewing the loan application.

(b) In making these earning capacity appraisals, employees authorized to appraise farms will prepare Form FHA–596, "Earning Capacity Report," and Form FHA–596B, "Map of Farm." When a farm under consideration for a Farm Ownership loan is located in a drainage, irrigation, or levee district or when minerals, timber, or other rights are leased,

reserved, or exempted, Form FHA–596A, "Supplemental Report (Irrigation, Drainage, Levee, and Minerals)," also will be employed to the extent applicable.

(c) The term "normal earning capacity" means the long-time average annual production and income that reasonably can be expected from the farm. The term "normal earning capacity value" is an expression of the value of the farm based on its normal earning capacity.

§ 322.2 *Values to be recommended on Form FHA–596 by Farmers Home Administration employees authorized to appraise farms; efficient family-type farm-management units*—(a) *Normal earning capacity value.* This value is the maximum amount that safely can be invested in the farm consistent with the net income that the farm unit reasonably can be expected to produce, after any proposed enlargement or development, on the basis of the following assumptions:

(1) The farm will be operated by an average family of average farming ability.

(2) Cropping and livestock systems used are typical for the farm under consideration and will maintain the anticipated productivity.

(3) Average crop yields and livestock production estimates are used.

(4) Approved farm commodity prices based upon long-time average prices adjusted to reflect probable future prices are employed in estimating income, and comparable farm operating and family living costs sufficient to maintain productivity (including a proper allowance for the reasonably efficient use of generally accepted labor saving equipment) are used in estimating expenses.

(5) The farm will be purchased, enlarged, or improved with the proceeds of a loan to be extended and repaid in accordance with the Bankhead-Jones Farm Tenant Act, as amended.

(6) The normal farm operating and family living expenses, the cost of necessary farm and equipment repairs and replacements, and principal and interest payments will be met out of farm income.

(7) Income credited to the farm will include only income from the sale of farm commodities.

(8) The building improvements on, or at the outset to be made on, the farm will meet Farmers Home Administration minimum standards for utility, health, safety, comfort, and convenience, and estimates of building depreciation, maintenance costs, and tax and insurance payments are sufficient at least to meet these standards and costs.

(9) The land resources on, or at the outset to be developed on, the farm will meet minimum Farmers Home Administration standards of land development.

Estimates and basic data employed should be considered in connection with the normal market values of farm land in the community, the hazards peculiar to the type of farming in the community, the availability of market outlets, and the location of the farm with respect to community facilities. The final result (the determined earning capacity value) will be the best judgment of the employee authorized to appraise farms, using the data and assumptions indicated above, as to the maximum amount an average borrower safely could afford to invest in the farm.

(b) *Recommended maximum purchase price.* (1) The recommended maximum purchase price, in the case of a Tenant Purchase loan, is determined by the employee authorized to appraise farms. It is his opinion as to the amount which safely can be paid for the farm in its present condition. In no case shall the recommended maximum purchase price exceed the normal earning capacity value or the present market value, whichever is the lesser. In establishing the recommended maximum purchase price, it should be recognized that the normal earning capacity value is based upon the income from the farm after the completion of planned improvements and development, whereas the price to be paid the vendor is based upon the present condition of the farm. Since an accurate estimate of the cost of necessary improvement and development may not be available to the employee authorized to appraise farms, his opinion with respect to the maximum purchase price should be based on the value of the farm for agricultural purposes in its present condition, assuming normal conditions with respect to commodity prices and operating expenses, or the present market value, whichever is the lesser.

(2) The recommended maximum purchase price will be used by the County Committee in the following manner: After the County Committee, on the basis of Form FHA–596, has determined the fair and reasonable value of the farm as developed and improved, the estimated cost of all farm development shown in Part I of Form FHA–643, "Farm Development Plan," plus estimated fees shown in Part III will be deducted from the fair and reasonable value shown in paragraph 6 of Form FHA–491, "County Committee Certification." The result will be compared with the recommended maximum purchase price shown on page 4 of Form FHA–596. When the result of subtracting the cost of all farm development and fees from the fair and reasonable value is less than the recommended maximum purchase price, this result becomes the maximum amount that may be paid for the farm. When the result of subtracting the cost of all farm development and fees from the fair and reasonable value is greater than the recommended maximum purchase price, the farm should be purchased for no more than the recommended maximum purchase price, if possible; however, when warranted, the County Committee may approve a purchase price up to the fair and reasonable value less the cost of farm development and fees.

(c) *Recommended maximum refinancing price.* This determination, in the case of a Farm Enlargement or a Farm Development loan, represents the opinion of the employee authorized to appraise farms as to the value of the farm, in its existing condition before enlargement or development, for agricultural purposes assuming normal conditions with respect to commodity prices, and operating expenses, or present market value, whichever is the lesser. It is a guide as to whether any existing indebtedness should be refinanced in full or, if adjustment is needed, the amount of adjustment necessary. It bears the same relationship to the original owned tract in the case of a Farm Enlargement or a Farm Development loan that the recommended maximum purchase price bears to the farm to be purchased in the case of a Tenant Purchase loan, and shall be used in the same manner as the recommended maximum purchase price.

§ 322.3 *Appraising less than efficient family-type farms for disabled veterans receiving disability pensions.* Since the normal earning capacity concept of appraising efficient family-type farm-management units is not adaptable to appraising a farm which is less than an efficient family-type farm, the employee authorized to appraise farms will base his recommended maximum purchase price on the price at which comparable properties in the community have been sold over a period of years; the condition of improvements and adaptability of buildings to the type of farming to be practiced by the veteran; the production and marketing advantages or hazards; the location of the property in relation to schools, churches, markets, and other community services; and the salability of the farm.

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## PART 323—LAND DEVELOPMENT

### SUBPART A—MINIMUM STANDARDS

Sec.



Sections 323.1 to 323.4 interpret and apply secs. 1 (a), 1 (c), 3 (b) (4), 12 (c) (4), 44 (b), 60 Stat. 1072, 1073, 1074, 1076, 1069; 7 U. S. C. 1001 (a), 1001 (c), 1003 (b) (4), 1005b (c) (4), 1018 (b).

DERIVATION: §§ 323.1 to 323.4 contained in FHA Instruction 423.1.

§ 323.1 *General.* (a) Land development will be an integral part of farm development and will include such items as fencing, clearing, leveling, terracing, draining and irrigating systems, development of permanent pasture, woodlots, and orchards, and applications of basic soil amendments and fertilizers in connection with permanent conservation practices.

(b) The need for basic land development will be considered carefully by Farmers Home Administration officials and County Committeemen in connection with the making of each Farm Ownership loan. Needed funds will be provided in Farm Ownership loans involving capital expenditures for the cost of planned land development necessary to put the farm on a sound operable basis at the time of occupancy or as quickly as practicable thereafter. Recurring costs of soil conservation and soil improvement practices should be financed by the borrower with annual income or with the proceeds of other loans.

§ 323.2 *Minimum standards for land development.* (a) Minimum standards for land development are not subject to rigid definition. Therefore, good judg-

ment is required in interpreting and applying such standards to local conditions and individual circumstances. With these qualifications, necessary plans will be provided in connection with each Farm Ownership loan to meet the following minimum standards for land development:

(1) *Prevention of erosion.* All practicable means to prevent erosion will be taken in all cases where there is danger of wearing away of soil or loss of fertility from wind or water erosion. Land subject to damage by water erosion will be terraced or contoured, provided with grass waterways and diversion ditches, or otherwise improved as needed in accordance with approved conservation practices. Rolling cropland which does not lend itself to terracing or contouring and on which erosion is occurring should be returned to meadow, pasture, or forest. Soil-binding crops, including trees, will be planted where most effective in controlling erosion.

(2) *Basic soil treatment.* In cases where the need for basic soil treatment is established definitely, such treatments as the application of lime, phosphate, and potash will be made under conditions where profitable response has been demonstrated in practice. Provision also may be made for proper conservation of farm manures.

(3) *Permanent pastures.* Permanent pastures will be established where needed as a part of the farming system. They will be improved by seeding, fertilizing, fencing for rotation or deferred grazing, removing brush, weeds, and so forth, when essential to the effective operation of the farm.

(4) *Permanent forage or hay crops.* Permanent forage or hay crops adapted to the area must be established on farms where such crops are essential to soil building and conservation.

(5) *Drainage.* In cases where drainage is necessary for economic and effective use of land, such drainage will be provided. Either drain tile or open ditches may be used, whichever is the more practicable and satisfactory method. In developing such plans, consideration must be given to local and state drainage regulations.

(6) *Water facilities.* In cases where there is need for the installation or repair of such water facilities as wells, ponds, windmills, farm distribution systems, and small irrigation systems, plans will be made for such purposes. It is important that consideration be given to making plans for placing existing installations in good working condition as a prerequisite to loan approval. Leveling and grading, when essential, also may be included. Livestock watering facilities will be provided to the extent necessary to insure successful operation of livestock enterprises.

(7) *Farm layout and fences.* Fields will be arranged to facilitate the most economical and convenient operation of the farm and most practicable use of the land. In the construction of fences, consideration will be given to the protection of the garden, desirable arrangement of the farmstead, the contour of the land, and pasture development. Permanent interior fences should not be constructed until careful analysis of farm organization has determined the best location of fields with relation to each other and to nonportable buildings.

(8) *Weed eradication.* Measures to prevent and eradicate harmful infestations of weeds will be taken where economically feasible and practicable.

(9) *Home orchards.* Where practicable, home orchards of locally adapted fruits should be encouraged. These orchards, in general, should be limited to the number and variety of trees required to meet demands for home consumption. Borrowers should be willing and able to provide the necessary care to insure reasonable success.

(10) *Land clearing.* In cases where clearing of land is necessary to round out the unit, it will be completed as quickly as possible to avoid undue delay in obtaining maximum production. Land clearing may include such operations as removal of trees, stumps, brush, stones, old orchard trees, and the like.

(11) *Reforestation.* The planting of trees for timber, poles, fence posts, and similar purposes, including field and farmstead windbreaks and the improvement of timber stands, will be encouraged where such development materially strengthens the farm economy and offers an important source of future income.

(12) *Landscaping.* Landscaping of grounds, including the planting of shade trees, lawn grass, and shrubbery, to make the surroundings of the dwelling attractive and homelike in appearance, will be encouraged with emphasis on the use of native materials and participation by the borrower and his family in such development.

(b) The State Director is authorized, where necessary in order to meet local conditions, to make additions to the minimum standards for land development set forth in paragraph (a) of this section.

§ 323.3 *Cooperation with other agencies.* Representatives of the Soil Conservation Service, the County Agricultural Conservation Committees, County Agents, State Colleges of Agriculture, Forest Service, and other qualified State and Federal agencies may be called upon for general advice and information relative to farm organization, farm development, and conservation of farm resources. In planning the farm development, the assistance offered by such agencies should be taken advantage of wherever possible, in order to keep the borrower's total indebtedness to a minimum, and should be utilized to establish and maintain approved farming conservation practices on the farm.

§ 323.4 *Funds for land development.* The initial Farm Ownership loan should include funds the borrower needs to meet the costs of planned land development intended for permanent improvement of the productivity of the farming unit or prevention of erosion or soil depletion. The costs of planned land development or soil improvement which must be repeated annually, or from time to time during the life of the loan, or which is a part of a crop rotation system, should be financed by operating funds. When it is necessary to purchase lime and fertilizer needed for extensive basic soil treatment, the cost may be financed from Farm Ownership loan funds. On the other hand, the cost of lime and fertilizer needed at periodic intervals to maintain the soil productivity should be financed by operating funds. The cost of annual maintenance of terraces, for example, is a cost attributable to annual operations, whereas the cost of running the contour lines and the initial building of terraces are permanent improvement items. Soil conservation or improvement practices, which relate primarily to short-term improvement of the soil, such as the planting of annual and rotated legumes and crops for green manure, are considered annual operating costs. Farm Ownership funds may be used, however, to finance the cost of long-time land development or soil improvement, such as the basic application of lime and fertilizer and seed needed to establish permanent pastures and hay crops. Land clearing, stump removing, tiling, drainage ditches, permanent canals or laterals, and the like, are considered permanent improvements, for which Farm Ownership loan funds may be advanced.

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## PART 324—CONSTRUCTION AND REPAIR

### SUBPART A—MINIMUM STANDARDS

Sec.
- 324.1 General.
- 324.2 Minimum standards for construction and repair.
- 324.3 Accomplishing building construction and repair.

### SUBPART B—PLANNING FARM DEVELOPMENT

- 324.21 General.
- 324.22 Responsibilities for planning farm development.
- 324.23 Planning farm development.
- 324.24 Preparation of loan documents when deferred construction is involved.
- 324.25 Obtaining obligated deferred advance funds to complete farm development.
- 324.26 Methods of performing construction and land development.

### SUBPART C—PERFORMING FARM DEVELOPMENT

- 324.41 General.
- 324.42 Implementing farm development performed by or under the direction of the borrower.
- 324.43 Implementing farm development performed by contract.
- 324.44 Changes in Form FHA–643.
- 324.45 Inspections.
- 324.46 Payments.

### SUBPART A—MINIMUM STANDARDS

Sections 324.1 to 324.3 interpret and apply secs. 1 (a), 1 (c), 44 (b), 60 Stat. 1072, 1073, 1069; 7 U. S. C. 1001 (a), 1001 (c), 1018 (b).

DERIVATION: §§ 324.1 to 324.3 contained in FHA Instruction 424.1.

§ 324.1 *General.* (a) The need for building construction and repair will be considered carefully by Farmers Home Administration officials and County Committeemen in connection with the making of each Farm Ownership loan. Needed funds will be included in Farm Ownership loans for expenditures for all planned construction or repair work necessary to put the farm in livable and operable condition at the time of occupancy or as quickly as practicable thereafter. Livable and operable conditions means reasonable compliance with

the minimum standards for land development set forth in §§ 323.1 to 323.4 of this chapter, and the minimum standards for construction and repair set forth herein.

(b) It is assumed that farm income, at least until the borrower has acquired a substantial equity in his farm, will be needed to meet living and operating expenses and to get the borrower ahead of schedule in retiring his Farm Ownership loan. In general, therefore, farm income should not be used to finance expenditures for planned construction and repair. As each borrower makes progress in acquiring equity in his farm, there will be occasion to construct and repair buildings not originally planned because of unforeseeable circumstances and conditions. The use of farm income to finance such needed improvements may be authorized when the borrower is substantially ahead of schedule and when the use of farm income will not jeopardize his ability to maintain his Farm Ownership account in good standing or his ability to meet other planned obligations. Otherwise, such needed improvements should be financed with a subsequent Farm Ownership loan, if authorized, or from some other source.

(c) Funds should not be included in Farm Ownership loans to repair old dilapidated structures which would be short-lived and unsatisfactory if they were repaired. Such structures should be demolished. Suitable new structures should be built if they are needed and essential to the successful operation of the farm. On the other hand, structures of value and potential usefulness should not be destroyed, but should be repaired. Good judgment is required on the part of all concerned in applying this policy.

§ 324.2 *Minimum standards for construction and repair.* (a) Minimum standards for construction and repair are not subject to rigid definition. Therefore, good judgment is required in interpreting and applying such standards to local conditions and individual circumstances. With these qualifications, necessary plans and necessary funds will be provided in connection with each Farm Ownership loan to meet the following minimum standards for construction and repair:

(1) *Domestic water supply.* The domestic water supply must be adequate and uncontaminated. Wells and springs should be situated so as to avoid pollution from barns or outdoor toilets and should be protected from surface seepage. Wells should have concrete slab covers with sanitary type pumps installed. Cisterns should be kept clean and tightly covered.

(2) *Privies.* Privies must meet State Health Department approval as to design and location.

(3) *Foundations and floors.* Foundations must be adequate and sound, and floors must be in good conditions.

(4) *Roofs and exterior walls.* Roofs must be watertight. Exterior walls of wood should be protected by paint or other preservative, except in the case of old structures with very rough exterior finish or in the case of temporary buildings where painting would not be practicable.

(5) *Chimneys and flues.* Chimneys and flues must be so constructed and in such repair as not to be fire hazards. New chimneys should be built from the ground up with clay tile or other suitable lining. Old chimneys and flues should be examined thoroughly for defects and should be well braced and supported. Mortar joints should be tight. No frame should be built into the chimney.

(6) *Interior walls and woodwork.* Interior walls and woodwork should be clean and in good repair.

(7) *Ceilings.* Ceilings must not be less than seven feet four inches high for all new dwellings. In the case of remodeling, this standard should be met as far as practicable.

(8) *Windows and doors.* Windows and doors must be in good repair, properly screened, and in sufficient number to provide adequate light and ventilation.

(9) *Stairs and ladders.* Stairs and ladders must be made safe and firm. Stairs, particularly those in the dwelling, should be provided with handrails.

(10) *Sleeping quarters.* Sleeping quarters should be adequate to meet family needs.

(11) *Kitchens.* Kitchens in both new and remodeled dwellings should be lighted and ventilated adequately, properly equipped with sinks, cupboards, drawers and adequate working surfaces. Sinks should be connected with drains which carry off water in a sanitary manner.

(12) *Home storage space.* There should be adequate space for storing food, clothing, utensils, tools, produce, and other household items.

(13) *Farm storage space and shelter.* There should be adequate space for storing grain, feed, farm products, equipment, and supplies. Adequate shelter should be provided for planned poultry and livestock enterprises.

(b) The State Director is authorized, where necessary in order to meet local conditions, to make additions to the minimum standards for construction and repair set forth in paragraph (a) of this section.

§ 324.3 *Accomplishing building construction and repair.* The details of planning items of building construction and repair are contained in §§ 324.21 to 324.26, and the details for performing items of building construction and repair are contained in § 324.41 to 324.46.

SUBPART B—PLANNING FARM DEVELOPMENT

DERIVATION: §§ 324.21 to 324.26 contained in FHA Instruction 424.2.

§ 324.21 *General—(a) Definitions.* For the purposes of the Farm Ownership Program, the following terms are defined:

(1) "Farm development" means construction and land development on Farm Ownership farms. The term "development" as used in this section includes the term "improvement".

(i) "Immediate development" means all farm development which is needed within the first 15 months after the borrower occupies his farm as owner to permit the efficient carrying out of the long-time farm and home plan and to conform to minimum standards.

(ii) "Deferred development" means farm development which is planned at the time of the initial loan but which, in accordance with the long-time farm and home plan, may be postponed beyond the first 15 months after the borrower occupies his farm as owner, without jeopardizing the efficient operation of the farm. "Deferred development" will become "immediate development" as soon as loan funds for deferred items have been received by the borrower.

(2) "Land development" means such items as fencing, clearing, leveling, terracing, draining and irrigating systems, development of permanent pasture, woodlots and orchards, and applications of basic soil amendments and fertilizers in connection with permanent conservation practices. (See §§ 323.1 to 323.4 of this chapter.)

(3) "Construction" means the erection, alteration, salvage, removal, or repair of any building or structure, or additions thereto as well as the installation or repair of, or additions to, electric systems, domestic and stock water systems, or sewage disposal systems. (See §§ 324.1 to 324.3.)

(4) "Contract" means a fully executed Form FHA–296, "Construction Contract."

(b) *Policy regarding deferred development.* (1) In the past, deferment of farm development was permitted because of wartime restrictions on construction and the lack of labor and materials. Farm development will not be deferred hereafter for these reasons.

(2) Farm development will be deferred only when the long-time farm and home plan indicates that such development should properly be performed at a date more than 15 months beyond the time the borrower occupies his farm as owner. Such deferment will be approved only after the loan approving officer has specifically ascertained that the borrower clearly understands the deferred development program and intends to complete it as scheduled. It is intended that any needed development which will contribute to the efficient operation of the farm and which will properly be performed within the first 15 months after the borrower occupies his farm as owner, will be planned as immediate rather than deferred development. Farm development might properly be deferred in situations such as the following:

(i) Assume that the farm in question has been operated on a cash crop economy but that the applicant in his long-time plan proposed to operate it as a dairy farm. This involves establishing pasture and hay seedings during the first two years and the purchase of high quality dairy calves which would mature at the time the feed base became established. Construction of a dairy barn and milk house is planned at the beginning but these buildings can be used only after the dairy herd has matured. In such a case construction might properly be deferred for a period of two years.

(ii) Another example is provided by the land clearing methods followed in

some areas where the land is surface cleared and allowed to remain for a year or more before the stumps are removed. In such an instance the land development represented by the removal of stumps would be a proper matter for deferment.

(3) In no event will any farm development which is to be financed from appropriated funds be deferred beyond two years following the end of the fiscal year during which the funds are obligated.

(c) *Authorized substitute for Engineer.* The State Director, with the advice of the Engineer, if available, is authorized to delegate to any qualified and properly trained Farmers Home Administration employee planning duties and functions of the Engineer, which other staff members can do or can be trained to do effectively, such as the preparation of Form FHA–643, "Farm Development Plan," in cases involving minor items of development or the use of approved standard plans. Whenever the term "Engineer" appears in this section it will include his authorized substitute.

(Secs. 1 (a), 1 (c), 44 (b), 60 Stat. 1072, 1073, 1069, R. S. 3690, sec. 5, 18 Stat. 110, sec. 2, 24 Stat. 157, sec. 6, 40 Stat. 1309; 7 U. S. C. 1001 (a), 1001 (c), 1018 (b), 31 U. S. C. 712, 713)

§ 324.22 *Responsibilities for planning farm development*—(a) *Responsibilities of the applicant.* (1) The applicant and his wife, in consultation with the County Supervisor, will decide upon the nature and extent of the farm development work necessary to meet minimum farm development standards. This will involve a decision as to the construction necessary, under the annual and long-time farm and home plans, to meet family needs, livestock and storage requirements, as well as the kind and extent of land development required.

(2) When a new building is required, standard building plans will be made available to the applicant. Minor modifications may be made in such standard plans to meet individual circumstances, but special plans will not be provided by the Farmers Home Administration for new buildings to meet the needs and desires of each applicant. The applicant may furnish, at his own expense, complete plans and specifications which may be utilized upon approval by the Engineer and the State Director.

(3) The applicant should understand and agree to all construction and land develoment work itemized on Form FHA-643 with the understanding that revisions of the plan may be made in accordance with §§ 324.41 to 324.46.

(b) *Responsibilities of the County Supervisor.* (1) The County Supervisor will be responsible for arranging all meetings regarding farm development between the applicant, his wife, and Farmers Home Administration personnel. It is desirable that all persons involved in the farm development planning visit the farm together. If this cannot be arranged, the least possible number of visits will be scheduled consistent with sound planning.

(2) The County Supervisor will be responsible for conducting the farm development planning meeting on the farm. He will advise the applicant and his wife of such factual information as they may require to determine the farm development best suited to their plan of farm operation and the best methods of accomplishing the work.

(3) The County Supervisor will make sure that the applicant and his wife have participated fully in, understand, and are in complete agreement with the farm development plan for the farm.

(c) *Responsibilities of the engineer.* (1) The Engineer will render technical advice to the applicant and the County Supervisor and will furnish the necessary cost estimates and plans and specifications.

(2) If it appears that sufficient funds cannot be made available to accomplish planned farm development, the Engineer will suggest, if practicable, alternative plans which come within the limit of available funds and which will result in at least minimum standards for farm development.

(Sec. 44 (b), 60 Stat. 1069; 7 U. S. C. 1018 (b))

§ 324.23 *Planning farm development.* (a) Form FHA–643, "Farm Development Plan," will be used in planning farm development. The Engineer will complete Parts I and II of the Form. These two parts must be completed in time to be available for consideration by the County Committee in connection with the certification of the farm on Form FHA–491, "County Committee Certification." The County Supervisor will complete Part III of Form FHA–643. The Engineer will consult with the County Supervisor and the borrower regarding all farm development. Agreements should be reached on the various jobs to be done and the methods of completing the work. The Engineer and the County Supervisor will also take into consideration pertinent information contained in Form FHA–596, "Earning Capacity Report," the requirements of the annual and long-time farm and home plans, the financial condition and desires of the borrower, the contribution to net income which the proposed farm development will make, labor efficiency, minimum farm development standards and other pertinent factors.

(b) The Engineer will estimate the cost of providing each planned farm development item at the lowest practicable sum using current construction costs. He will include all items of land development recommended by the employee authorized to appraise farms and will take into consideration the estimated cost of such land development. Minimum standards for land development, as well as the most efficient use of available labor and materials, also will be carefully considered. No alterations or deletions will be made in the Engineer's cost estimates without the approval of the Engineer.

(c) The borrower, the County Supervisor, and the Engineer will agree as to what structures, if any, should be moved or salvaged. Such structures will be listed and appropriately identified in Column (1), Part I, of Form FHA–643. Any net proceeds from the sale of such structures will be applied as an extra payment on the loan or will be used to pay the cost of authorized farm development, if such is contemplated on Form FHA–643.

(1) No structures to be salvaged or removed will be retained on the farm longer than 15 months after the borrower occupies his farm as owner without specific authority from the State Director.

(2) The amount of planned loan funds, if any, to be expended on structures to be salvaged later or removed will be inserted in Part I, Column (3), of Form FHA–643, opposite the name of the item in Column (1).

(Secs. 1 (c), 3 (b) (4), 12 (c) (4), 44 (b), 60 Stat. 1073, 1074, 1076, 1069; 7 U. S. C. 1001 (c), 1003 (b) (4), 1005b (c) (4), 1018 (b))

§ 324.24 *Preparation of loan documents when deferred construction is involved.* When deferred construction is included on Form FHA–643, the following requirements will be adhered to in preparing the loan documents:

(a) *Amount of immediate advance.* The amount of the immediate advance will be inserted on Form FHA–190, "Promissory Note," Form FHA–5, "Loan Voucher," and Form FHA–668, "Loan Agreement and Request for Funds." This amount must correspond with the amount on line 10, Column (1), Part III of Form FHA–643.

(b) *Amount of deferred advance.* In order to obligate funds for future use by the borrower, the amount of the deferred advance will be inserted on Form FHA–668, "Loan Agreement and Request for Funds (Deferred Advance)." This amount must correspond with the amount on line 8, Column (2), Part III of Form FHA–643.

(c) *Total farm ownership loan.* The amount of the total Farm Ownership loan will be inserted as item 9A or 9B of Form FHA–491, "County Committee Certification." This amount must correspond with the sum of line 10, Column (1), plus line 8, Column (2), in Part III of Form FHA–643.

(Sec. 3 (b) (4), 60 Stat. 1074; 7 U. S. C. 1003 (b) (4))

§ 324.25 *Obtaining obligated deferred advance funds to complete farm development.* (a) When it becomes practicable to proceed with deferred development, it will be necessary to obtain all of the funds which have been obligated on Form FHA–668 (or FSA–668), "Loan Agreement and Request for Funds (Deferred Advance)." In order to have these funds disbursed, the following forms must be prepared and submitted to the State Office in the event the funds for deferred development were obligated subsequent to October 31, 1946:

(1) Form FHA–5, "Loan Voucher."

(2) Form FHA–190, "Promissory Note".

(3) Form FHA–476, "Transmittal and Flow Sheet".

(b) In the event the funds for deferred development were obligated on Form FSA–668, "Loan Agreement and Request for Funds (Deferred Advance)," prior to November 1, 1946, Form FSA–FI 5, "Public Voucher," and Form FSA–LE 190,

"Promissory Note," will be used in place of the corresponding FHA forms listed above.

(c) The amount to be inserted on Form FHA–5 (or FSA–FI 5) and Form FHA–190 (or FSA–LE 190) must correspond with the amount on line 8, Column (2), Part III of Form FHA–643 (or FSA–643).

(Sec. 3 (b) (4), 60 Stat. 1074; 7 U. S. C. 1003 (b) (4))

§ 324.26 *Methods of performing construction and land development.* Construction and land development work will be planned for performance by or under the direction of the borrower, by contract, or by a combination of both methods. The County Supervisor and the Engineer will reach an understanding with the applicant as to the best method to be used in performing construction and land development.

(a) *Work done by or under the direction of the borrower.* (1) Generally, the borrower will be expected to perform the construction and land development work which he is qualified to perform and can do without interfering with efficient farming operations.

(2) Construction and land development work may be performed by or under the direction of the borrower only when (i) a careful analysis of his farm and home plan reveals that he can carry on his farming operations and complete the work within the established time limit, and (ii) he possesses the necessary desire, skill, technical knowledge and managerial ability to complete the work satisfactorily.

(3) Immediate construction and land development work performed by or under the direction of the borrower will be planned for completion as soon as practicable but not later than 15 months after he occupies his farm as owner.

(b) *Work done by contract.* (1) Except for the construction and land development work to be accomplished by or under the direction of the borrower, all farm development will be done by qualified contractors. Every practicable effort should be made to perform work by contract when this method is applicable. The County Supervisor, upon the recommendation of the Engineer, is authorized to approve plans and contracts for farm development.

(2) Immediate farm development work performed under contract will be planned for completion as soon as practicable, but not later than 15 months after the borrower occupies his farm as owner.

(Sec. 44 (b), 60 Stat. 1069; 7 U. S. C. 1018 (b))

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SUBPART C—PERFORMING FARM DEVELOPMENT

Sections 324.41 to 324.46 interpret and apply secs. 3 (b) (4), 12 (c) (4), 44 (b), 60 Stat. 1074, 1076, 1069; 7 U. S. C. 1003 (b) (4), 1005b (c) (4), 1018 (b). Other statutory provisions interpreted or applied are cited to text in parentheses.

DERIVATION: §§ 324.41 to 324.46 contained in FHA Instruction 424.3.

§ 324.41 *General*—(a) *Methods of performance.* All farm development planned on Form FHA–643, "Farm Development Plan," will be performed (1) by or under the direction of the borrower, (2) by contract, or (3) by a combination of the two methods.

(b) *Time limits.* Every effort will be made to complete all immediate development performed by or under the direction of the borrower or by contract within 15 months after the borrower occupies his farm as owner.

(c) *Time of starting construction and land development.* All farm development will be started as soon as practicable after the loan is closed. Before making commitments or starting any item of farm development, the County Supervisor and the borrower should be reasonably sure that the item can be completed according to plans and specifications and within available funds.

(1) If it appears that any change is necessary in the plans and specifications for any item, the procedure for effecting changes on Form FHA–643, as provided in § 324.44, will be followed.

(2) When the loan is approved, the State Office will notify the Engineer so that he may prepare any necessary plans, specifications, and instructions for the farm development work, as planned on Form FHA–643, in order that his responsibilities with respect to the initiation of farm development work may be discharged without delay as soon as the loan is closed.

(d) *Extension of time for completing construction and land development.* Upon expiration of time limits, recorded in Part II of Form FHA–643, for completion of planned items of immediate farm development, the County Supervisor will take the following action with respect to any planned items which have not been completed.

(1) For farm development items performed by or under the direction of the borrower, the extension of time will be accomplished by preparing Form FHA–924, "Request for Development Changes," in the following manner. The County Supervisor will discuss with the borrower the reasons why the work was not completed within the time limit and will reach an understanding as to when the work will be completed. The agreed upon extension of time for completion of each item will be recorded under "Description of Changes." The reasons why the construction was not completed as planned will be listed under "Justification."

(2) For farm development items being performed by contract, extensions of time will be granted only in accordance with the terms of Form FHA–296, "Construction Contract" (see paragraph 6 of Form FHA–296). Extensions of time for contract work will be processed on Form FHA–925, "Contract Change Order," in accordance with the provisions of § 324.44 (b) (1), and will become a supplement to the contract.

(3) For farm development items set up in "Part II–Narrative" of Form FHA–643 for construction by contract method, but for which no contract has been executed at the expiration of the period of 15 months after the borrower occupies his farm as owner, the extension of time will be accomplished in accordance with subparagraph (1) of this paragraph.

(e) *Real property insurance.* The County Supervisor will be responsible for ascertaining that all structures involving construction, regardless of the method of performance, are insured adequately at the proper time.

(f) *Use of supervised bank account.* The County Supervisor will explain clearly to the borrower the use of the supervised bank account in disbursing funds for farm development.

(g) *Authorized substitute for Engineer.* The State Director, with the advice of the Engineer, if available, is authorized to delegate to any qualified and properly trained Farmers Home Administration employee the duties and functions of the Engineer with respect to performing farm development, which other staff members can do or can be trained to do effectively. Whenever the term "Engineer" appears in §§ 324.41 to 324.46, it shall include his authorized substitute.

§ 324.42 *Implementing farm development performed by or under the direction of the borrower.* When Form FHA–643 indicates that farm development is to be performed by or under the direction of the borrower, he will (a) purchase the material and do the work, or (b) purchase the material and hire labor to do the work under his direction.

§ 324.43 *Implementing farm development performed by contract.* Ordinarily, all of the farm development of a single farm to be accomplished by the contract method will be included in a single contract to one contractor. However, in those instances where it is plainly in the best interest of the borrower and the Government, the farm development of a single farm may be split into two or more separate contracts. In other words, separate contracts with respect to one or more planned items of farm development of a single farm, may be awarded for materials, labor, or both materials and labor. When separate contracts are used in connection with the development of a single farm, each contract must be awarded to a different contractor. However, this will not prohibit the awarding of another contract to the same contractor for work on the same farm in connection with deferred or subsequently planned development. When Form FHA–643 indicates that farm development is to be performed by contract, the following steps will be taken:

(a) *Preparation of bid docket.* The State Office will notify the Engineer when the loan is closed. Upon receipt of such notice, the Engineer will transmit to the County Supervisor an appropriate number of bid dockets to be used by bidders. Each docket will contain Form FHA–927, "Invitation for Bid," Form FHA–928, "Bid," Form FHA–296, "Construction Contract," and appropriate technical specifications and drawings. Appropriate entries will be made on Forms FHA–927, FHA–928, and FHA–296.

(1) *Selection of contractor.* Caution must be exercised in the selection of the contractor and no contractor will be

awarded more contracts than he reasonably can be expected to perform.

(2) *Surety bonds.* (i) In cases where it has been determined by the Engineer that the provision in Form FHA–296 requiring the contractor to furnish surety bonds will prevent otherwise qualified local contractors from bidding on the work, the Engineer may waive this provision. Modification of Form FHA–296 to provide for the waiving of surety bond requirements shall be made by crossing out item V "Surety Bond" of the "General Conditions" and by adding the following notation under item 7 of the contract: "Item V 'Surety Bond' of the 'General Conditions' is deleted from this contract."

(ii) When a contractor bidding on a contract is required to furnish Form FHA–200, "Performance and Payment Bond," the bond will be obtained from a surety company legally doing business in the state.

(b) *Securing bids.* Each prospective bidder will be supplied with a bid docket, together with appropriate instructions for bidding. The County Supervisor, with the assistance of the Engineer, will secure on Form FHA–928 bids from as many qualified contractors as practicable.

(c) *Bid opening.* Bids will be opened in public at the time and place designated in Form FHA–927. The borrower and the County Supervisor must be present and, if practicable, the Engineer should be present when the bids are opened and tabulated.

(d) *Awarding the contract.* (1) The award will always be made by the borrower to the lowest responsible bidder after approval by the Engineer: *Provided,* That:

(i) All requirements of the loan closing instructions have been met.

(ii) The cost of all items in any category, namely; dwelling, other construction, and land development, does not exceed the estimate made for the same category on Form FHA–643, Part III, by more than ten percent. The ten percent limitation applies separately to immediate development and to deferred development in each category. If the ten percent is exceeded, authority shall be required from the State Field Representative before making the award.

(iii) The total cost of all immediate development items to be performed under the contract does not exceed the total estimated cost of such items as shown on Part I of Form FHA–643.

(2) If the Engineer is present at the opening of the bids, the award may be made immediately. If the Engineer is not present at the opening of the bids, the County Supervisor will forward all bids, together with his recommendations and the recommendations of the borrower, to the Engineer for review. The Engineer will return the bids, together with his written approval, disapproval, or recommendations, to the County Supervisor. When, in special cases, the Engineer deems it necessary, he also will prepare Form FHA–296. If he deems it advisable, he may request the advice of the representative of the Office of the Solicitor relative to the provisions which must be inserted in the form before forwarding them to the County Supervisor.

(e) *Preparation of Form FHA–296 for signature.* Unless prepared previously by the Engineer, the County Supervisor will prepare Form FHA–296 after the award has been made. In instances in which the Engineer has authorized the waiver of the requirement with respect to surety bonds and the successful bidder will not be required to furnish such bonds, the County Supervisor will modify Form FHA–296 in accordance with paragraph (a) (2) of this section. The County Supervisor then will secure the required signatures of the contractor and the borrower on the original and two copies.

(f) *Notice to proceed.* After the signatures have been secured on Form FHA–296, the County Supervisor will advise the borrower to issue notice to the contractor to proceed.

(g) *Subcontracts.* (1) Contractors will not be permitted to enter into agreements with subcontractors for any farm development work until written consent is received by the County Supervisor from the Engineer. Before approval of any subcontract the Engineer will determine that the subcontract contains the following provisions: (i) The subcontractors will comply with the terms of Form FHA–296 entered into between the contractor and the owner, and (ii) the contractor will have the same powers regarding the termination of the subcontract as the owner has with respect to Form FHA–296.

(2) Two copies of the executed subcontract will be furnished the County Supervisor by the contractor.

(h) *Pay rolls.* In compliance with the requirements of Form FHA–296 pertaining to the "Kickback Statute," the contractor and any subcontractor will submit each week to the County Supervisor one copy of their pay rolls for the previous week on Form FHA–173A, "Weekly Pay Roll." The statement of compliance with the "Kickback Statute," as stated on the back of Form FHA–173A, must be sworn to by the contractor or subcontractor as the case may be. (Ch. 482, 48 Stat. 948, sec. 9, 54 Stat. 1236, 40 U. S. C. 276b, 276c; Reg. Sec. Labor, Feb. 3, 1942, 29 CFR, Cum. Supp., 3.3 (b), 3.4 (a))

§ 324.44 *Changes in Form FHA–643.* If a subsequent loan is not required, changes in Form FHA–643 may be made at any time at the request of the borrower and with the consent of the State Field Representative or the County Supervisor as hereinafter provided by the use of Form FHA–924 or Form FHA–925. Form FHA–924 will be used when farm development is performed by or under the direction of the borrower. Form FHA–925 will be used when farm development is performed by contract. (If a subsequent loan is required, see §§ 333.1 to 333.11 of this chapter.)

(a) *Limitations.* The State Field Representative and the County Supervisor are authorized to approve changes in Form FHA–643, as specified in paragraphs (b) and (c) of this section: *Provided,* That:

(1) Such a change is for an authorized purpose.

(2) Such a change has been discussed with and approved in writing by the County Committee in the case of any basic change which affects substantially the method of operation of the farm or the Government's security. (Sec. 2 (b), 60 Stat. 1073; 7 U. S. C. 1002 (b))

(3) Such a change does not result in a total investment in the farm in excess of the County Investment Limit, or the fair and reasonable value of the farm as certified by the County Committee on Form FHA–491, "County Committee Certification," whichever is the lesser.

(4) Sufficient funds have been deposited in the borrower's supervised bank account to cover the contemplated change when the change involves additional funds to be furnished by the borrower.

(5) When the change involves additional funds to be furnished by the borrower which will bring the total investment in the farm above the fair and reasonable value of the farm as determined previously by the County Committee, a revised Form FHA–491 will be required, prepared, and distributed in the regular manner. Such a change may be authorized provided the County Committee finds that:

(i) The earning capacity of the farm will support the increased investment.

(ii) The fair and reasonable value does not exceed the "average value" for the county. (Sec. 3 (a), 60 Stat. 1074; 7 U. S. C. 1003 (a))

(iii) The total investment does not exceed the County Investment Limit.

(6) The recommendation of the Engineer has been secured when a change in construction done by or under the direction of the borrower involves technical engineering.

(7) The recommendation of the Engineer has been secured when there is any change in construction done by contract.

(8) The recommendation of the employee authorized to appraise farms has been secured when a change in land development is involved.

(b) *Changes authorized by State Field Representative.* Subject to the limitations set forth in paragraph (a) of this section, the State Field Representative is authorized to approve changes which involve:

(1) Extension of time to complete work done under contract.

(2) Extension of time to complete work done by or under the direction of the borrower. Before granting such extensions of time a definite understanding must be reached that the work will be completed within the additional time allotted.

(3) Changes in method of performing farm development.

(4) Deletion from Form FHA–643 of planned farm development items found not to be necessary.

(5) Basic changes in the original farm and home plans.

(6) Transfer of loan funds within or between development categories when the cost of the items in any category exceeds ten percent of the amount shown on Form FHA–643.

(7) An increase in cost of planned farm development to be paid from the borrower's own funds.

(c) *Changes authorized by County Supervisor.* Subject to the limitations set forth in paragraph (a) of this section, the County Supervisor is authorized to approve minor changes in Form FHA–643 which do not require the approval of the State Field Representative. He also is authorized to approve changes which involve transfers of funds as follows:

(1) *Between farm development categories.* Part III of Form FHA–643 establishes three categories of farm development: (*a*) Dwelling, (*b*) other construction, and (*c*) land development. Funds may be transferred between these categories to the extent necessary to meet the difference between estimated costs on Form FHA–643 and actual costs: *Provided,* That:

(i) No planned item on Form FHA–643 is omitted and no basic changes are made in the farm and home plans upon which the loan was authorized.

(ii) Such transfers do not result in increasing or decreasing the funds for immediate development in any category more than ten percent.

(2) *From unexpended service fee.* Ordinarily any unexpended amount of the service fee which will not be needed shall be applied as a refund on a loan (see § 311.1 (f) of this chapter). However, any such unexpended amount may be transferred to any one of the three above categories of immediate development to meet the difference between estimated costs on Form FHA–643 and actual costs.

(d) *Preparation of Form FHA–924 and Form FHA–925*—(1) *Approval by State Field Representative.* (i) Form FHA–924 requiring the approval of the State Field Representative will be signed as follows: The borrower will sign as requesting the change; the Engineer and/or the employee authorized to appraise farms will sign as recommending the change, if the nature of the change requires his recommendation; the County Supervisor will sign as recommending the change; and the State Field Representative will sign if he approves the change.

(ii) Form FHA–925 requiring the approval of the State Field Representative will be signed as follows: The borrower will sign as requesting the change; the contractor will sign as accepting the change; the Engineer and/or the employee authorized to appraise farms will sign as recommending the change, if the nature of the change requires his recommendation; the County Supervisor will sign as recommending the change; and the State Field Representative will sign if he approves the change.

(2) *Approval by County Supervisor.* (i) Form FHA–924 requiring the approval of the County Supervisor will be signed as follows: The borrower will sign as requesting the change; the Engineer and/or the employee authorized to appraise farms will sign as recommending the change, if the nature of the change requires his recommendation; and the County Supervisor will sign if he approves the change.

(ii) Form FHA–925 requiring the approval of the County Supervisor will be signed as follows: The borrower will sign as requesting the change; the contractor will sign as accepting the change; the Engineer and/or the employee authorized to appraise farms will sign as recommending the change, if the nature of the change requires his recommendation; and the County Supervisor will sign if he approves the change.

§ 324.45 *Inspections*—(a) *Work done by or under the direction of the borrower*—(1) *Periodic inspections.* The County Supervisor will make periodic inspections of all farm development work in progress. After each inspection, the County Supervisor will record in the borrower's field folder the date the inspection was made, the percentage of work completed, and any other pertinent information. The inspection and acceptance of material as delivered to the site and the storage of material will be the responsibility of the borrower. The County Supervisor will advise the borrower of these responsibilities. When construction is involved, the Engineer also will make such additional inspections as the nature and character of the work may require.

(2) *Final inspections.* The County Supervisor will make a final inspection of immediate development within sixty days after all such development has been completed, provided that no construction item has exceeded a cash cost of $500. If any construction item exceeds a cash cost of $500, the Engineer will make the final inspection. When all immediate development performed by or under the direction of the borrower has been completed and the Engineer's inspection is required, the County Supervisor will notify the Engineer in writing. At the earliest feasible date, but within sixty days after such notification, the Engineer will make a final inspection of all farm development items not covered by a previous inspection.

(b) *Work done by contract*—(1) *Periodic inspections.* As the work proceeds, the Engineer will make necessary periodic inspections to determine whether construction and/or land development work conforms with plans, specifications, and change orders, and whether the contractor is complying with other provisions of Form FHA–296.

(i) When adverse conditions involving plans, specifications, change orders, or labor provisions are found at the time of inspection by the Engineer, he will request the contractor in writing to correct such adverse conditions in conformance with the contract. A copy of this request will be sent to the County Supervisor who will endeavor to have the contractor comply with the Engineer's request. If the County Supervisor cannot secure compliance, he will report the facts to the State Director who will determine the action to be taken.

(ii) The County Supervisor will make such periodic inspections as he and the Engineer agree upon. After each inspection, the County Supervisor will report his findings to the Engineer in writing and place one copy of the report in the borrower's County Office case file.

(2) *Final inspections.* (i) The Engineer will make a final inspection as soon as possible after the County Supervisor advises him that the contract work has been completed.

(ii) When a separate contract is awarded for material only, it will be the responsibility of the Engineer to inspect all material delivered under the contract to ascertain if the material is acceptable as to quantity, grade, and quality. The Engineer will make this final inspection after the County Supervisor has advised him that all deliveries under the contract have been made.

(c) *Use of Form FHA–926, "Certificate of Final Inspection."* All final inspections of farm development work performed by or under the direction of the borrower or by contract will be reported on Form FHA–926. The official making the final inspection shall include recommendations for correcting any discrepancies.

§ 324.46 *Payments*—(a) *Work done by or under the direction of the borrower; payment of laborers and material suppliers.* The County Supervisor will encourage borrowers to pay obligations promptly. Payment of bills for labor and material will be made as soon as practicable after the bills are received and will be made by check signed by the borrower and countersigned by the County Supervisor.

(1) The County Supervisor will have in his possession itemized statements from the creditor covering material furnished and/or labor performed before countersigning checks. Such statements will be signed by the borrower as correct and received. Statements covering labor will show the names of persons hired, dates they worked, number of hours (or days) worked, total hours (or days) worked, rate per hour (or day) and total amount due. The check number and the date of payment will be indicated on all invoices and hired labor statements. These invoices and statements then will be placed in the borrower's County Office case file.

(2) Whenever the County Supervisor has reason to believe that there may be danger of claims, because of disputes, dissatisfaction, or other causes, he will require the borrower to secure Form FHA–205, "Release by Claimants," before countersigning the check for final payment. It is not necessary to have Form FHA–205 notarized when used in this manner. The State Director, at his discretion, may require the use of Form FHA–205 in all instances.

(3) Under no circumstances will the County Supervisor permit funds to be withdrawn from a borrower's supervised bank account to pay the borrower for labor performed by himself on his farm.

(b) *Work done by contract*—(1) *Payment of contractors.* When Form FHA–200 is not used, payment will be made by check signed by the borrower and countersigned by the County Supervisor and in the following manner:

(i) In one lump sum for the whole contract after the work is finished, inspected, and accepted. This payment will be made only after the contractor has executed Form FHA–232, (Form Letter—Certificate of Contractor's Re[illegible]

in which he (a) acknowledges payment in full for his services, (b) certifies that he has paid for all labor employed and materials purchased by him in performance of his contract, and (c) certifies that there are no claims against him because of injuries sustained by his employees. The contractor will attach to Form FHA–232 a completed Form FHA–205, notarized properly.

(ii) Upon completion of any major item, partial payments may be made up to 80 percent of the contract price of that item upon final inspection and approval by the Engineer. When this method is used, payment will be made only when the applicable provisions of the previous paragraph have been met with respect to the completed major item. Form FHA–232 will be signed by the contractor and will indicate only the amount of payment received, which will not be in excess of the 80 percent permissible. When Form FHA–232 is to be used in this manner, as a receipt for partial payments, it will be rewritten with the necessary changes. Final payment shall be made on all items only after the contractor complies with the requirements of (i) of this subparagraph.

(iii) When a separate contract is awarded for the furnishing of material only, one payment will be made by check signed by the borrower and countersigned by the County Supervisor for the entire amount of the material contract price. The check for this payment will not be issued until (a) the Engineer has reported in writing that he has inspected the material delivered under the contract and finds it acceptable as to quantity, grade, and quality, (b) the borrower has signed the itemized statement of material as correct and received, and (c) the contractor has signed Form FHA–232, and has attached completed Form FHA–205, notarized properly. The County Supervisor will advise the borrower to store properly and care for all material delivered under the contract.

(2) When Form FHA–200 is used, partial payments may be made after the Engineer has inspected the work and has indicated in writing that all of the terms of the contract are being complied with. The percentage of completion and the maximum payment will be determined by the Engineer. Final payment will be made to a contractor only when the work is finished, inspected, and accepted by the Engineer, at which time the entire amount will be due and payable. When Form FHA–200 is used, Form FHA–232 will be required of the contractor only to acknowledge payment in full. Form FHA–205 will not be required.

(3) Circumvention of the above methods of payment through modification of Form FHA–296 by inclusion of special conditions, or any other device whatsoever, expressly is prohibited.

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## PART 327—TITLE CLEARANCE

### SUBPART A—GENERAL PROVISIONS

Sec.
327.1 General.
327.2 Services of title insurers and abstracters.
327.3 Responsibility for title clearance charges.
327.4 Arrangements with title insurers.
327.5 Arrangements with abstracters.
327.6 Surveys.
327.7 Title defects.
327.8 Types of estates.

DERIVATION: §§ 327.1 to 327.8 contained in FHA Instruction 427.1.

§ 327.1 *General.* Title I of the Bankhead-Jones Farm Tenant Act, as amended, requires that each loan made or insured thereunder be secured by a first mortgage or deed of trust covering the farm. Two methods of title clearance are used in the Farm Ownership program:

(a) *Title insurance.* If title insurance and services are available under an approved proposal covering the locality in which the loan is to be made, title insurance and services as provided in the proposal will be obtained by sellers of farms and Farm Ownership borrowers. However, title insurance will not be required if the farm with respect to which title examination is needed consists entirely of land being sold by the Department of Agriculture, or land which is subject to a first mortgage or deed of trust held by the Farmers Home Administration, which will not be released in connection with the transaction. The State Director may, upon advice and instructions from the representative of the Office of the Solicitor, accept certificates of title deemed by that Representative to be legally satisfactory for purposes of title clearance in lieu of title insurance.

(b) *Examination of abstracts.* If suitable title insurance services are not available in the locality, and for the types of cases in which title insurance will not be used, title clearance will be through examination of abstracts, or certificates of title, by a representative of the Office of the Solicitor.

(Secs. 3 (a), 12 (a), 60 Stat. 1074, 1076; 7 U. S. C. 1003 (a), 1005b (a))

§ 327.2 *Services of title insurers and abstracters.* Sellers and borrowers will have the unrestricted privilege of selecting from among approved title insurers and abstracters the ones whose services they desire. No employee or any other person connected with the Farmers Home Administration will directly or indirectly instruct or encourage any seller or borrower to obtain title insurance or abstracts from any particular one of the several approved sources. Application for title insurance with a particular insurer may, however, depending upon regulations of the insurer, necessitate use by the applicant of abstracting, surveying, and other services acceptable to the insurer.

§ 327.3 *Responsibility for title clearance charges.* No representative of the Farmers Home Administration has the authority to obligate the Government for the payment of charges which may be claimed by any title insurer, attorney, abstracter, surveyor, or other party for services, or otherwise to commit the Government to liability in connection with title clearance. Such parties must look for payment solely to sellers and borrowers by whom requests for services will be made. Farm Ownership loans, when made, may include amounts to cover those title clearance services which are chargeable to the borrowers. However, if for any reason the loan to a prospective borrower is not closed, no liability is assumed by the Government to pay for any title clearance services which may have been rendered in connection with the prospective loan.

(Secs. 1 (a), 3 (a), 60 Stat. 1072, 1074; 7 U. S. C. 1001 (a), 1003 (a))

§ 327.4 *Arrangements with title insurers.* Existing arrangements with title insurers which heretofore have been approved on behalf of the Government by the Farm Security Administration, the Office of the Solicitor, or the Farmers Home Administration will remain in force and effect until such time as they are cancelled by the Farmers Home Administration or by the insurers, or until superseded by arrangements effected pursuant to this paragraph. Further arrangements with title insurers will be adopted in accordance herewith.

(a) *Negotiations with State Director.* The State Director is authorized to negotiate with title insurers who may wish to furnish title insurance and services in connection with Farm Ownership loans. The State Director will request the insurer to submit its proposal, in duplicate, on Form FHA–136, "Title Insurance Proposal." Separate forms for each State in which the insurer proposes to furnish services will be needed if the jurisdictional area of the State Director includes more than one State. If Form FHA–136 cannot be used because of local laws or conditions, see paragraph (c) of this section. The representative of the Office of the Solicitor will render assistance to the State Director regarding legal matters in connection with negotiations, but the actual negotiations will be directly between the State Director and the title insurer.

(b) *Standard proposals; acceptance by State Director.* The State Director will accept on behalf of the Farmers Home Administration all proposals received from title insurers if the following conditions exist:

(1) The proposal is submitted on Form FHA–136 with no revisions, deletions, or other modifications except as permitted herein.

(2) The title insurer is served in the areas covered by the proposal by representatives who are authorized to carry out the provisions of the proposal, and the insurer is licensed to do business in the particular State or legally is permitted to transact business within the State covered by the proposal.

(3) The title insurer will issue the standard LIC (Life Insurance Company) or the revised ATA (American Title Association) form of mortgagee's title insurance policy, or will issue the standard form of "combination policy," which covers both the interests of the mortgagee and the interests of the borrower as owner.

(4) Basic rates and additional charges, if any, for mortgagee's policies are set forth in the style indicated by part I, section 1, and part I, section 4,

respectively, of Form FHA–136, whether or not combination policies are offered, and such rates are found by the State Director to be reasonable and the lowest rates which can be secured by negotiation.

(5) Rates for owners' policies are set forth in the manner indicated by part II, section 1 (if combination policies are offered there may be supplied in part I, section 1, an additional column showing rates, based on amount of insurance, applicable to combination policies), and such rates are found by the State Director to be reasonable and the lowest rates which can be secured by negotiation. If the insurer offers to issue owners' policies in the same amount as the mortgage insurance in Farm Enlargement and Farm Development cases, the proviso following the semicolon in the first paragraph of part II, section 1, should be stricken.

(c) *Other forms of proposals.* Proposals of title insurers which do not meet the requirements of paragraph (b) of this section, together with all pertinent correspondence, shall be referred by the State Director to the National Office for consideration and action.

(1) If, because of local laws or conditions, Form FHA–136 cannot be used, a proposal which meets the requirements of such laws or conditions, and which conforms as nearly as practicable to the Farmers Home Administration standards contained in Form FHA–136, may be formulated by the insurer and State Director and referred to the National Office.

(2) If local laws or conditions do not preclude the use of Form FHA–136, but the title insurer, after negotiations with the State Director, wishes to offer a proposal which does not conform with paragraph (b) of this section, the proposal desired by the insurer will be referred to the National Office.

(d) *Supervision by National Office.* The State Director will keep the National Office currently informed concerning arrangements and problems relating to title insurance. Referrals will be to the National Office, Attention: Farm Ownership Division.

(1) One copy of each standard proposal accepted by the State Director will be forwarded to the National Office.

(2) If the State Director believes that the rates proposed to be charged by title insurers in a particular area under his jurisdiction are not commensurate with the services offered, he shall negotiate for lower rates. If reasonable rates cannot be obtained, or if for any other reason it appears that title clearance should be handled in the area without title insurance, he will make a complete report to the National Office, so that consideration may be given to establishing other arrangements for title clearance.

(3) All instances which involve deviation from arrangements established under Form FHA–136, or proposed changes in administrative policy, interpretation of insurance policies or contracts, debatable loss cases, unusual problems, or difference of opinion with title insurers will be referred to the National Office.

(Secs. 3 (a), 12 (a), 44 (b), 60 Stat. 1074, 1076, 1069; 7 U. S. C. 1003 (a), 1005b (a), 1018 (b))

§ 327.5 *Arrangements with abstracters.* Existing arrangements with abstracters and companies heretofore approved to supply abstracting services or certificates of title in connection with programs of the Farm Security Administration and the Farmers Home Administration are not superseded by this subpart. The State Director is authorized to communicate with other abstracters and companies operating within his jurisdictional area. Upon determining that any such additional abstracter or company is able to furnish services consistent with efficient program administration and in conformity with legal standards recommended by the Office of the Solicitor, the State Director will advise the appropriate County Supervisor to include the name of the abstracter or company on the list of approved sources from which sellers and borrowers make their selections.

(Secs. 3 (a), 12 (a), 60 Stat. 1074, 1076; 7 U. S. C. 1003 (a), 1005b (a))

§ 327.6 *Surveys.* The State Director, acting upon advice from the representative of the Office of the Solicitor, will determine whether surveys of farms will be required. As a general rule, a survey will be required only if necessary to establish facts which relate to adequacy of the title to the farm, including the improvements thereon.

(Secs. 3 (a), 12 (a), 60 Stat. 1074, 1076; 7 U. S. C. 1003 (a), 1005b (a))

§ 327.7 *Title defects.* If title examination discloses defects which require more than simple curative material, or which under the approved plans for the loan are not to be removed with loan funds in connection with closing, the representative of the Office of the Solicitor will inform the State Director of the legal implications thereof. If the defect consists of an outstanding lease or agreement which was not noted in the option and which involves such matters as minerals, timber, naval stores, or use of land for public rights-of-way, the State Director may approve taking of a mortgage or deed of trust subject to the lease or agreement if he determines that the lease or agreements will not prevent the farm from being an efficient family-type farm and is not otherwise objectionable. However, in such cases, the prospective borrower must be informed of the circumstances and an equitable adjustment in the purchase price should be obtained. Also, recertification of the farm and the applicant by the County Committee will be necessary, together with appropriate changes in loan instruments already prepared.

(Secs. 1 (c), 2 (b), 3 (a), 12 (a), 60 Stat. 1073, 1074, 1076; 7 U. S. C. 1001 (c), 1002 (b), 1003 (a), 1005b (a))

§ 327.8 *Types of estates.* If possible under State law, titles to farms which secure Farm Ownership loans shall be conveyed to or held by borrowers, if married, as estates with survivorship rights, except in those cases in which (a) the wife is a minor and cannot, under State law, enter into a binding contract for all purposes, or (b) the wife is not a citizen of the United States. Where the wife is an alien or incapable of contracting because of minority disability, the conveyance will not be made to the husband and wife, but the State Director may, upon determination in each case that the status of the wife will not affect the soundness of the loan, approve a conveyance to the husband alone. Where necessary to effect changes in the title to land owned by a borrower so as to create an estate with survivorship rights, the representative of the Office of the Solicitor will issue appropriate instructions and prepare the required legal instruments. Expenses of recording should be paid by the borrowers and may be paid out of the service fee.

(Secs. 1 (b) (1), 3 (b) (4), 12 (c) (4), 44 (b), 60 Stat. 1073, 1074, 1076, 1069; 7 U. S. C. 1001 (b) (1), 1003 (b) (4), 1005b (c) (4), 1018 (b))

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## PART 331—PROCESSING DIRECT LOANS

### SUBPART A—COUNTY OFFICE ROUTINE

Sec.



DERIVATION: §§ 331.1 to 331.11 contained in FHA Instruction 443.1.

§ 331.1 *Preliminary submission of option.* When the option, Form FHA–188A or Form FHA–188B, has been signed by the seller, it will be forwarded to the State Office for review. When the option is returned to the County Office it will be held in the applicant's file pending action upon the loan application.

§ 331.2 *Additional forms.* In addition to the loan application and related forms discused in Parts 316 and 321 of this chapter, the following forms will be prepared in the County Office and included in the loan docket:

(a) *Form FHA–5, "Loan Voucher".* Form FHA–5 will be signed by the applicant for the purpose of requesting payment of the loan. The applicant certifies on this form that he is unable to obtain adequate credit elsewhere and that no part of the loan has been received.

(b) *Form FHA–668, "Loan Agreement and Request for Funds."* Form FHA–668 will be signed by the applicant, his wife and the County Supervisor. Form FHA–668 sets forth the purposes for which the loan funds are to be used and contains the terms and conditions and agreements of the applicant with respect to the loan. The form also contains administrative determinations and certifi-

cations to be made by the County Supervisor.

(c) *Form FHA–190, "Promissory Note".* Form FHA–190 will be signed by the applicant and his wife to evidence the loan debt and the manner of repayment. The date of the promissory note, the amount of the first installment, and the year in which the first installment will become due will be left blank at the time the note is signed. The amount of the next succeeding thirty-nine installments to be inserted will be 5.052 percent of the principal amount of the note. At the time of signing, the County Supervisor will explain to the applicant that the amount of the first installment will be determined at the time of loan closing. (In the states of Delaware, New Jersey, New York, and Pennsylvania, Form FHA–190A, "Bond", is used in place of Form FHA–190.)

(d) *Execution of informal agreement.* Each new applicant and his wife will be required to sign Form FHA–317, "Agreement". This informal agreement with the Farmers Home Administration sets forth obligations which the applicant and his wife assume when they accept a direct loan. Its purpose is to give the applicant and his wife a clear understanding of what is expected of those who obtain Farm Ownership loans, and it should be signed by them, with full knowledge of its contents, not later than the signing of Form FHA–668.

(Sec. 3(b) (4), 60 Stat. 1074; 7 U. S. C. 1003 (b) (4))

§ 331.3 *Preparation and submission of loan docket.* When the County Committee has signed Form FHA–491, "County Committee Certification," the County Supervisor will assemble the loan docket for consideration by the State Field Representative.

§ 331.4 *Action by State Field Representative*—(a) *Authority.* The State Field Representative is authorized to approve or disapprove initial direct loans in accordance with Farmers Home Administration procedures, except that individual loans in connection with a subdivision will not be approved until prior approval of the subdivision has been received from the State Office. The State Director also is authorized to approve or disapprove initial direct loans in accordance with Farmers Home Administration procedures.

(b) *Analysis of loan.* It is the responsibility of the State Field Representative to determine that the applicant is eligible, that each loan is sound, and that there is a reasonable likelihood that the family will be successful on the farm.

(c) *Check of investment limits.* For all direct loans, the State Field Representative will ascertain that:

(1) The total proposed investment in the farm does not exceed the county investment limit, except as authorized by the Administrator.

(2) The total proposed investment in the farm does not exceed the fair and reasonable value of the farm as certified by the County Committee.

(3) The fair and reasonable value of the farm as certified by the County Committee does not exceed the average value of efficient family-type farm-management units in the county as determined by the Secretary of Agriculture (see § 311.30 of this chapter).

(d) *Check of evidence of discharge or release.* For all direct loans to veterans, the State Field Representative will check the evidence of discharge or release, and attach it to the loan approval letter provided for in paragraph (e) (2) of this section for the County Office copy of the loan docket. In the case of a veteran with pensionable disability, he will check also the written evidence of disability to verify the amount of and the reason for the pension.

(e) *Approval of loan and notification to County Supervisor.* (1) Approval or disapproval of loans by the State Field Representative generally will be based upon an "on-the-ground" review. The ordinary practice, therefore, will be for the State Field Representative to pass upon the loan in the County Office after visiting the farm and family. There may be circumstances, however, which make it unnecessary for the State Field Representative to pass upon loans in the County Office. When justified, the State Director may authorize the State Field Representative to have direct loan dockets mailed for review.

(2) When the loan is approved, the State Field Representative will sign Form FHA–643, and Form FHA–668. He also will furnish the County Supervisor with a letter tentatively approving the loan and, except for a direct Farm Development loan, authorize him to notify the applicant to accept the option. The original loan docket then will be forwarded to the Area Finance Office for mechanical examination and obligation of funds.

(3) If the loan is disapproved, the State Field Representative will return the loan docket to the County Supervisor with a letter explaining the reasons for disapproval and giving appropriate suggestions for correction, if possible. When a loan is disapproved finally, the County Supervisor will notify the applicant of the disapproval of the loan and the reasons therefor.

(Secs. 1 (b) (2), 1 (c), 3 (a), 60 Stat. 1073, 1074; 7 U. S. C. 1001 (b) (2), 1001 (c), 1003 (a))

§ 331.5 *Accepting option and ordering title insurance.* (a) When the County Supervisor has been notified by the State Field Representative of the tentative approval of a direct Tenant Purchase loan or Farm Enlargement loan, the County Supervisor will prepare the acceptance of option letter, Form FHA–191, "Acceptance of Option (Vendor to furnish Abstract)," or Form FHA–191B, "Acceptance of Option (Vendor to furnish Title Insurance)," if the applicant intends to proceed with the loan as planned. The original of the option acceptance letter will be signed by the applicant as "Buyer," and by his wife if she is named in the option, and mailed to the seller. If it is necessary that the seller submit a deposit for furnishing an abstract in connection with placing the order for title insurance, information to that effect will be added to the option acceptance letter, and it will be the responsibility of the County Supervisor to see that the necessary action is taken by the seller. The signed application for title insurance will be removed from the file, and will be transmitted by the County Supervisor to the local representative of the title insurance company or to the office of the company, whichever is customary.

(b) In the case of a direct Farm Development loan, the signed application for title insurance will be transmitted to the local representative of the title insurance company or the office of the company in the usual manner.

(Sec. 3 (a), 60 Stat. 1074; 7 U. S. C. 1003 (a))

§ 331.6 *Cancellation of loan.* If a borrower requests that his loan be cancelled or if it becomes necessary for the State Director to order the cancellation of a direct loan after approval and prior to closing, every effort will be made to secure the execution of Form FHA–668B, "Cancellation of Loan Agreement." Form FHA–668B serves to cancel the loan agreement and promissory note, and will be signed by the borrower, his wife, and the State Field Representative. If it is impossible to secure the execution of Form FHA–668B, a letter requesting cancellation of the loan and stating the facts in the case will be sent to the State Office. If a check has been received but not cashed, it will be returned to the Disbursing Office with a letter containing a request for cancellation and giving the reasons therefor. If the check has been cashed, the borrower will cancel the loan by remitting a check payable to the Treasurer of the United States and countersigned by the County Supervisor. No interest will be charged in a case of this kind. When the original note stamped "Cancelled" is received in the County Office, the original note will be returned to the borrower.

§ 331.7 *Reduction in amount of loan.* (a) If the original estimate for any direct loan is found to be too high before the check has been delivered to the borrower, the borrower, his wife, and the State Field Representative will execute Form FHA–668A, "Amendment to Loan Agreement," which serves to amend Form FHA–668 so as to reduce the amount of the loan. If the check has been issued, it must be returned for cancellation. A new Form FHA–190, Form FHA–5, Form FHA–643, and Form FHA–491 will be submitted for the reduced amount of the loan.

(b) If the check has been deposited in the borrower's supervised bank account, the excess will be refunded. The amortization schedule may be recalculated if requested by the borrower.

(Sec. 3 (b) (4), 60 Stat. 1074; 7 U. S. C. 1003 (b) (4))

§ 331.8 *Increase in amount of loan.* (a) If the original estimate for any direct loan is found to be too low before the check has been deposited in a supervised bank account, and before the fiscal year during which the funds for the initial loan were obligated has expired, a request, explained properly, will be sent immediately to the State Office for the return of the original docket. Form

FHA–668B will be signed by the borrower, his wife, and the State Field Representative. The check, if it has been issued, will be cancelled and a new Form FHA–491, Form FHA–5, Form FHA–668, Form FHA–190, Form FHA–43, and Form FHA–643 will be submitted for the total amount of the loan as increased.

(b) If the original estimate for any direct loan is found to be too low and the check has not been received, but the fiscal year during which the funds for the initial loan were obligated has expired, a subsequent loan will be requested.

(c) If the original estimate for any direct loan is found to be too low, but the check has been received and deposited in a supervised bank account, a subsequent loan will be requested.

(Sec. 3 (b) (4), 60 Stat. 1074, R. S. 3690; 7 U. S. C. 1003 (b) (4), 31 U. S. C. 712)

§ 331.9 *Loss by fire between acceptance of option and closing of loan.* If there is an unreplaced loss or damage to the optioned property by fire or other casualty between the date of the option and the closing of a direct Tenant Purchase loan or Farm Enlargement loan, the following actions may be taken:

(a) The borrower may accept conveyance of title, provided the purchase price is adjusted adequately to compensate for the loss. This adjustment should be in writing and should be submitted to the State Director, who will determine (1) that the farm and home plans are not affected adversely, and (2) that the adjustment is sufficient to enable the borrower by means of the initial loan to purchase the land and to repair or replace the damaged or destroyed buildings in accordance with the minimum standards for construction and repair. In the event the proposed adjustments require a substantial increase in the amount of the loan for repairs and construction and a smaller amount for the purchase price of the land, the State Director will request another certification by the County Committee on Form FHA–491. If the loss results in a change in the amount of loan funds needed, the procedure prescribed in §§ 331.7 and 331.8 may be followed.

(b) When adjustments cannot be made on the above basis, the borrower should refuse to accept conveyance under the terms of the option.

(Secs. 1 (c), 2 (b), 60 Stat. 1073; 7 U. S. C. 1001 (c), 1002 (b))

§ 331.10 *Occupancy of farms by tenant purchase and farm enlargement borrowers.* (a) The acceptance of the option makes the sale of the farm conditional upon delivery of satisfactory title by the seller. When the acceptance of option letter, Form FHA–191 or Form FHA–191B, has been mailed to the seller, the borrower will arrange to occupy and operate the farm as soon as practicable.

(b) *Possession between acceptance of option and closing of loan.* When it is desirable for the borrower to start farming operations in the period between acceptance of the option and closing of the loan, he may lease the farm from the seller by using Form FHA–189, "Short-Term Lease of Optioned Land." This lease adjusts the rent to be paid by the borrower to that portion of the crop year during which the seller retains title to the farm, and provides for payment by the seller or maintenance costs during the same period. Provisions for proration of taxes are contained in the option, Form FHA–188A or Form FHA–188B, which also contemplates that any insurance coverage prior to conveyance is a responsibility of the seller.

(c) *Possession after closing of loan.* In the event the borrower cannot occupy the farm during the crop year in which the loan is closed, an understanding should be reached with the seller regarding rents, right of entry, and other pertinent questions in connection with loan closing. In cases where the seller is to remain on the farm, Form FHA–198, "Short-Term Lease (Between Purchaser and Seller)," shall be executed. This lease provides that the seller will occupy the farm as lessee until the end of the crop year. In cases where the seller desires to reserve certain rights, Form FHA–129, "Temporary Cropping License," shall be executed. In cases where a tenant is occupying the farm and will not give possession, Form FHA–199, "Agreement (Between Seller, Purchaser, and Tenant)," shall be executed. This agreement provides that the tenant shall vacate the premises when his lease expires and provides for proration of rental payments between seller and borrower, right of entry, and the like.

(Sec. 3 (b) (4), 60 Stat. 1074; 7 U. S. C. 1003 (b) (4))

§ 331.11 *Closing of the loan.* (a) No direct loan will be closed until closing instructions have been received from the representative of the Office of the Solicitor. No direct loan will be closed until the County Supervisor is thoroughly convinced that the applicant definitely intends to live on and personally operate the farm in accordance with his agreements.

(b) *Deposit of check.* The check issued to the borrower in care of the County Supervisor will be deposited in a supervised bank account.

(c) In case where title insurance is used, a check for the amount due the seller on the purchase price will be drawn by the borrower, countersigned by the County Supervisor, and given to the local title attorney of the title insurance company for delivery to the seller at the proper time in the closing of the loan. In a case where title insurance is not available, the closing instructions from the representative of the Office of the Solicitor will include advice to the County Supervisor as to payment to the seller.

(d) In cases in which income is to be received by the borrower from a mineral lease or other existing agreement pertaining to the property at the time of purchase, the State Director will determine the percentage or share of the income which equitably should be paid as "extra" payments on the loan. Form FHA–253A, "Assignment of Income from Property to be Mortgaged," will be executed by the borrower, his wife, and the lessee at the time of loan closing. By means of Form FHA–253A, the borrower assigns, and the lessee agrees to pay, to the Government a specified portion of the amounts payable under such mineral lease or other agreement, to be applied on the loan. If he deems it advisable, the State Director, upon advice of the representative of the Office of the Solicitor, may require the acknowledgment and recordation of the assignment. Any cost incident thereto shall be borne by the borrower.

(e) The amount of the first installment on the loan and the year in which it will become due will be inserted on Form FHA–497, "Notification of First Payment Date," at the time the borrower and his wife sign the mortgage (deed of trust). The amount of the first installment, not to exceed 5.052 percent of the loan, will be agreed upon mutually by the County Supervisor and the borrower, taking into consideration the borrower's financial circumstances, and the extent to which he will receive income from the farm during the calendar year preceding the date of the first installment. The County Supervisor should advise the borrower, in the event of disagreement, that it is the duty of the County Supervisor to determine the amount of the first installment based on the foregoing conditions. The date of the first installment will be the first March 31 following the date of the borrower's loan check, regardless of the date on which the loan is closed. For example, if a loan check is issued in September 1948 and the loan is closed in October 1948, the date of the first payment will be March 31, 1949. However, if a loan check is issued in February 1948 and the loan is not closed until April 1948, the date of the first payment will be March 31, 1948. In this case a nominal first installment such as one dollar would be sufficient, unless the borrower desires to pay more. Form FHA–497 will be signed by the borrower, his wife, and the County Supervisor. This form authorizes the State Director to insert on the promissory note the amount of the first installment and the year in which it is payable and to date the note to conform with the date of the check.

(f) When there are insurable buildings on the farm, the County Supervisor will attach to Form FHA–497 either a standard insurance policy submitted by the borrower, or Form FHA–42, "Valuation Report for Insurance," with the borrower's check for the premium.

(g) When the closing instructions from the representative of the Office of the Solicitor include a recommendation that a homestead declaration be filed, the County Supervisor will inform the borrower accordingly and see that he thoroughly understands the advantages as outlined by the representative of the Office of the Solicitor. In the event the borrower elects to file a homestead declaration, the County Supervisor will assist him in taking the necessary steps.

(h) For purposes of the Farm Ownership program, a direct Tenant Purchase loan or a direct Farm Enlargement loan is considered closed when the deed and mortgage (deed of trust) are filed for record. A direct Farm Development loan is considered closed when the mortgage (deed of trust) is filed for record.

(Secs. 3 (a), 3 (b) (1)–(4), 44 (b), 48, 60 Stat. 1074, 1069, 1070, sec. 1, Pub. Law 720, 80th Cong. (62 Stat. 534); 7 U. S. C. 1003 (a), 1003 (b) (1)–(4), 1018 (b), 1022)

## PART 332—PROCESSING INSURED LOANS

### SUBPART A—COUNTY OFFICE ROUTINE



### SUBPART B—STATE OFFICE ROUTINE



### SUBPART A—COUNTY OFFICE ROUTINE

DERIVATION: §§ 332.1 to 332.10 contained in FHA Instruction 443.2.

§ 332.1 *Preliminary submission of option.* When the option, Form FHA–188A or Form FHA–188B, has been signed by the seller, it will be forwarded to the State Office for review. When the option is returned to the County Office, it will be held in the applicant's file pending action upon the loan application.

§ 332.2 *Additional forms.* In addition to the loan application and related forms discussed in Parts 316 and 321 of this chapter, the following forms will be prepared in the county office and included in the loan docket:

(a) *Form FHA–358, "Agreement by Applicant for Insured Loan."* Form FHA–358 will be signed by the applicant, his wife and the County Supervisor. Form FHA–358 sets forth the purposes for which the loan funds are to be used and contains certain agreements of the applicant with respect to the insured loan. The form also contains administrative determinations and certifications to be made by the County Supervisor.

(b) *Form FHA–359, "Borrower-Insurer-Lender Triple Agreement."* Section I of Form FHA–359 contains certain agreements of the applicant with respect to the insured loan and will be signed by the applicant and his wife when it is evident that the applicant will qualify for the loan. Section II of the form contains a commitment on the part of the Farmers Home Administration to endorse the original note or bond for insurance at the time of loan closing; this commitment will be signed by the State Field Representative. Section III of the form contains a commitment on the part of the lender to advance the loan funds when the note or bond, endorsed for insurance, and security instrument are executed and delivered by the applicant; this commitment will be signed by the lender after Section I is signed by the applicant and prior to acceptance of the option. Section IV of the form contains general provisions and conditions applicable to the loan.

(c) *Form FHA–360, "Promissory Note (Insured Loan)."* Form FHA–360 will be signed by the applicant and his wife at the time of loan closing to evidence the loan debt and the manner of repayment. The amortization rate for regular installments payable on the note is 4.326 percent. Form FHA–360 also contains a form of "Insurance Endorsement" for execution by the State Director. The date on which the mortgage insurance becomes effective will be inserted in the "Insurance Endorsement" by the County Supervisor at the time of loan closing. Blue copies of Form FHA–360 will be used for all copies except the original which is white. (In the States of Delaware, New Jersey, New York and Pennsylvania, Form FHA–360A "Bond (Insured Loan)" is used in place of Form FHA–360.)

(d) *Execution of informal agreement.* Each new applicant and his wife will be required to sign Form FHA–317, "Agreement". This informal agreement with the Farmers Home Administration sets forth obligations which the applicant and his wife assume when they accept an insured loan. Its purpose is to give the applicant and his wife a clear understanding of what is expected of those who obtain Farm Ownership loans, and it should be signed by them, with full knowledge of its contents, not later than the signing of Form FHA–358.

(Sec. 12 (c) (4), 60 Stat. 1076; 7 U. S. C. 1005b (c) (4))

§ 332.3 *Preparation and submission of loan docket.* When the County Committee has signed Form FHA–491, "County Committee Certification," the County Supervisor will assemble the loan docket for consideration by the State Field Representative.

§ 332.4 *Action by State Field Representative*—(a) *Authority.* The State Field Representative is authorized to approve or disapprove initial insured loans and to execute a commitment to insure such loans in accordance with Farmers Home Administration procedures, except that individual loans in connection with a subdivision will not be approved until prior approval of the subdivision has been received from the State Office. The State Director is also authorized to approve or disapprove initial insured loans and to execute commitments to insure in connection therewith in accordance with Farmers Home Administration procedures.

(b) *Analysis of loan.* It is the responsibility of the State Field Representative to determine that the applicant is eligible, that each loan is sound, and that there is a reasonable likelihood that the family will be successful on the farm.

(c) *Check of investment limits.* For all insured loans, the State Field Representative will ascertain that:

(1) The total proposed investment in the farm does not exceed the county investment limit, except as authorized by the Administrator.

(2) The total proposed investment in the farm does not exceed the fair and reasonable value of the farm as certified by the County Committee.

(3) The fair and reasonable value of the farm as certified by the County Committee does not exceed the average value of efficient family-type farm-management units in the county as determined by the Secretary of Agriculture (see § 311.30 of this chapter).

(4) The loan does not exceed 90 percent of the fair and reasonable value of the farm, as certified by the County Committee, or 90 percent of the total investment in the farm whenever it is the lesser.

(d) For all insured loans to veterans, the State Field Representative will check the evidence of discharge or release, and attach it to the loan approval letter provided for in paragraph (e) (2) of this section for the County Office copy of the loan docket. In the case of a veteran with pensionable disability, he will check also the written evidence of disability to verify the amount of and the reason for the pension.

(e) *Approval of loan and notification to County Supervisor.* (1) It is intended that approval or disapproval of loans by the State Field Representative generally will be based upon an "on-the-ground" review. The ordinary practice, therefore, will be for the State Field Representative to pass upon the loan in the County Office after visiting the farm and family. There may be circumstances, however, which make it unnecessary for the State Field Representative to pass upon loans in the County Office. When justified, the State Director may authorize the State Field Representative to have insured loan dockets mailed for review, and for execution of commitments to insure.

(2) When the loan is approved, the State field Representative will sign Form FHA–643 and Form FHA–358. He also will sign the commitment to insure on Form FHA–359 even though a lender may not have signed the commitment to loan. In exceptional cases, such as when Form FHA–359 has been sent to the lender and is not available on the date of loan approval, the State Field Representative may sign the Form at a later date. If the lender is local, it might be expedient for the applicant or County Supervisor to obtain the signature of the lender before the State Field Representative reviews the docket. When the loan is approved by the State Field Representative, he will furnish the County Supervisor with a letter tentatively approving the loan and, except for an insured Farm Development loan, authorizing him to notify the applicant to accept the option after the commitment to loan is executed by the lender. The original loan docket then will be forwarded to the State Office.

(3) If the loan is disapproved, the State Field Representative will return the loan docket to the County Supervisor with a letter explaining the reasons for disapproval and giving appropriate suggestions for correction, if possible. When a loan is disapproved finally, the County Supervisor will notify the applicant of the disapproval of the loan and the reasons therefor. If the lender previously has signed the commitment to loan on Form

FHA–359, the County Supervisor also will notify the lender in writing.

(Secs. 12 (a), 12 (c) (1)–(5), 60 Stat. 1076, sec. 2, Pub. Law 720, 80th Cong. (62 Stat. 534); 7 U. S. C. 1005b (a), 1005b (c) (1)–(5))

§ 332.5 *Accepting option and ordering title insurance.* (a) When Form FHA–359 has been executed fully and the County Supervisor has been notified by the State Field Representative of the tentative approval of an insured Tenant Purchase loan or Farm Enlargement loan, the County Supervisor will prepare the acceptance of option letter, Form FHA–191, "Acceptance of Option (Vendor to furnish Abstract), or Form FHA–191B, "Acceptance of Option (Vendor to furnish Title Insurance)," if the applicant intends to proceed with the loan as planned. The original of the option acceptance letter will be signed by the applicant as "Buyer," and by his wife if she is named in the option, and mailed to the seller. If it is necessary that the seller submit a deposit for furnishing an abstract in connection with placing the order for title insurance, information to that effect will be added to the option acceptance letter, and it will be the responsibility of the County Supervisor to see that the necessary action is taken by the seller. The signed application for title insurance will be removed from the file, and will be transmitted by the County Supervisor to the local representative of the title insurance company or to the office of the company, whichever is customary. The County Supervisor will request that the mortgagee's title insurance policy be made payable to the mortgagee and/or the United States of America.

(b) In the case of an insured Farm Development loan, the signed application for title insurance will be transmitted to the local representative of the title insurance company or the office of the company when Form FHA–359 is executed fully.

(Sec. 12 (a), 60 Stat. 1076; 7 U. S. C. 1005b (a))

§ 332.6 *Cancellation of loan.* If an applicant requests that his loan be canceled, or if it becomes necessary for the State Director to order cancellation of an insured loan after a lender has signed the commitment to loan on Form FHA–359, the County Supervisor will furnish the lender with a letter outlining briefly the circumstances that prohibit closing of the loan and advising that Form FHA–359 has been canceled. Any funds advanced for the account of the applicant will be returned promptly to the lender by returning the check.

§ 332.7 *Reduction in amount of loan or increase in amount of loan.* If the original estimate for an insured loan is found to be too high or too low after a lender has signed a commitment to loan on Form FHA–359, the original Form FHA–359 will be returned to the lender with a request that a new Form FHA–359 for the reduced or increased amount be executed. Upon receipt of the new commitment to loan on the new Form FHA–359, the previous Form FHA–359 for the original amount of the loan will be destroyed. If a check in the amount of the original estimate has been issued, it will be returned to the lender and a new check for the reduced or increased amount requested. The old Forms FHA–360, FHA–358, FHA–643, and FHA–491 will be destroyed and new forms will be prepared for the reduced or increased amount of the loan. The County Committee and the State Field Representative will review the new Forms for approval or disapproval of the revised loan.

§ 332.8 *Loss by fire between acceptance of option and closing of loan.* If there is an unreplaced loss or damage to the optioned property by fire or other casualty between the date of the option and the closing of an insured Tenant Purchase loan or Farm Enlargement loan, the following actions may be taken:

(a) The borrower may accept conveyance of title, provided the purchase price is adjusted adequately to compensate for the loss. This adjustment should be in writing and should be submitted to the State Director, who will determine (1) that the farm and home plans are not affected adversely, and (2) that the adjustment is sufficient to enable the borrower by means of the initial loan to purchase the land and to repair or replace the damaged or destroyed buildings in accordance with the minimum standards for construction and repair. In the event the proposed adjustments require a substantial increase in the amount of the loan for repairs and construction and a smaller amount for the purchase price of the land, the State Director will request another certification by the County Committee on Form FHA–491. If the loss results in a change in the amount of loan funds needed, the procedure prescribed in § 332.7 may be followed.

(b) When adjustments cannot be made on the above basis, the borrower should refuse to accept conveyance under the terms of the option.

(12 (c) (2) and (3), 60 Stat. 1076; 7 U. S. C. 1005b (c) (2) and (3))

§ 332.9 *Occupancy of farms by tenant purchase and farm enlargement borrowers.* (a) The acceptance of the option makes the sale of the farm conditional upon delivery of satisfactory title by the seller. When the acceptance of option letter, Form FHA–191 or Form FHA–191B, has been mailed to the seller, the borrower will arrange to occupy and operate the farm as soon as practicable.

(b) *Possession between acceptance of option and closing of loan.* When it is desirable for the borrower to start farming operations in the period between acceptance of the option and closing of the loan, he may lease the farm from the seller by using Form FHA–189, "Short-Term Lease of Optioned Land." This lease adjusts the rent to be paid by the borrower to that portion of the crop year during which the seller retains title to the farm, and provides for payment by the seller of maintenance costs during the same period. Provisions for proration of taxes are contained in the option, Form FHA–188A or Form FHA–188B, which also contemplates that any insurance coverage prior to conveyance is a responsibility of the seller.

(c) *Possession after closing of loan.* In the event the borrower cannot occupy the farm during the crop year in which the loan is closed, an understanding should be reached with the seller regarding rents, right of entry, and other pertinent questions in connection with loan closing. In cases where the seller is to remain on the farm, Form FHA–198, "Short Term Lease (Between Purchaser and Seller)," shall be executed. In cases where the seller desires to reserve certain rights, Form FHA–129, "Temporary Cropping License," shall be executed. In cases where a tenant is occupying the farm and will not give possession, Form FHA–199, "Agreement (Between Seller, Purchaser, and Tenant)," should be executed. (See § 331.10 (c) of this chapter.)

(Sec. 12 (c) (4), 60 Stat. 1076; 7 U. S. C. 1005 (b) (c) (4))

§ 332.10 *Closing of the loan.* (a) No insured loan will be closed until closing instructions have been received from the representative of the Office of the Solicitor. No insured loan will be closed until the County Supervisor is thoroughly convinced that the applicant definitely intends to live on and personally operate the farm in accordance with his agreements.

(b) *Ordering of check.* When the County Supervisor receives closing instructions from the representative of the Office of the Solicitor and the endorsed promissory note from the State Office, the County Supervisor will notify the lender of the proposed date of loan closing and will request that the borrower's check be made available to the borrower on that date. In cases where it appears probable that the bank handling the supervised account will require a lender's personal check to clear before loan closing checks can be issued, the lender should be requested to furnish a certified check. The lender or his representative may present the check at the time the loan is closed, or, if the check is to be mailed, it should be addressed in care of the County Supervisor at the County Office address.

(c) *Deposit of check.* The check issued to the borrower will be deposited in a supervised bank account on the date of loan closing.

(d) In a case where title insurance is used, a check for the amount due the seller on the purchase price will be drawn by the borrower, countersigned by the County Supervisor, and given to the local representative of the title insurance company for delivery to the seller at the proper time in the closing of the loan. In a case where title insurance is not available, the closing instructions from the representative of the Office of the Solicitor will include advice to the County Supervisor as to payment to the seller.

(e) *Collection of appraisal fee and initial mortgage insurance charge.* It is the responsibility of the County Supervisor to collect the $20 appraisal fee from the applicant at the time of loan closing. At the time of loan closing, the County Supervisor also will collect from the applicant the initial mortgage insurance charge. The amount of such charge will be computed at the rate of one percent of the principal amount of the loan for

the period from the date of loan closing to the first March 31 thereafter. Such charge must be paid from the applicant's personal funds.

(f) The borrower will pay all fees for acknowledging and recording the security instruments.

(g) In cases in which income is to be received by the borrower from a mineral lease or other existing agreement pertaining to the property at the time of purchase, the State Director will determine the percentage or share of the income which equitably should be paid as "extra" payments on the loan. Form FHA–253A, "Assignment of Income from Property to be Mortgaged," will be executed by the borrower, his wife, and the lessee at the time of loan closing. If he deems it advisable, the State Director, upon advice of the representative of the Office of the Solicitor, may require the acknowledgment and recordation of the assignment. Any cost incident thereto shall be borne by the borrower.

(h) The due date of the first installment on the loan will be the first March 31st following the date of the loan closing. The amount of the first installment, not to exceed 4.326 percent of the loan, will be agreed upon mutually by the County Supervisor and the borrower, taking into consideration the borrower's financial circumstances, and the extent to which he will receive income from the farm during the calendar year preceding the date of the first installment. Whenever possible, the first installment should be not less than the interest that will accrue on the loan from the date of closing to the first March 31st thereafter. In special cases, however, where the borrower will not have income from his farm during the calendar year preceding the first due date, a nominal payment of less than the interest may be accepted. The County Supervisor should advise the borrower, in the event of disagreement, that it is the duty of the County Supervisor to determine the amount of the first installment based on the foregoing conditions.

(i) When there are insurable buildings on the farm, the County Supervisor will transmit to the State Office, either a standard insurance policy submitted by the borrower, or Form FHA–42, "Valuation Report for Insurance," with the borrower's check for the premium.

(j) When the closing instructions from the representative of the Office of the Solicitor include a recommendation that a homestead declaration be filed, the County Supervisor will inform the borrower accordingly and see that he thoroughly understands the advantages as outlined by the representative of the Office of the Solicitor. In the event the borrower elects to file a homestead declaration, the County Supervisor will assist him in taking the necessary steps.

(k) For purposes of the Farm Ownership program, an insured Tenant Purchase loan or an insured Farm Enlargement loan is considered closed when the deed and mortgage (deed of trust) are filed for record. An insured Farm Development loan is considered closed when the mortgage (deed of trust) is filed for record.

(l) When the insured mortgage (deed of trust) is recorded, the County Supervisor will transmit the original recorded mortgage (deed of trust) to the representative of the Office of the Solicitor for review. If the lender should insist upon immediate possession of the mortgage (deed of trust), the County Supervisor may deliver the original recorded mortgage (deed of trust) to the lender upon receiving it from the Recorder's Office. In such case, the County Supervisor will send a certified copy to the representative of the Office of the Solicitor in lieu of the original mortgage (deed of trust).

(Secs. 12 (a), 12 (c) (4), 12 (d), 12 (e) (1), 60 Stat. 1076, secs. 2, 3, Pub. Law 720, 80th Cong. (62 Stat. 534); 7 U. S. C. 1005b (a), 1005b (c) (4), 1005b (d), 1005b (e) (1))

SUBPART B—STATE OFFICE ROUTINE

DERIVATION: §§ 332.21 and 332.22 contained in FHA Instruction 443.5.

§ 332.21 *Endorsement of promissory note (or bond) for insurance.* (a) The State Director is authorized to endorse promissory notes (or bonds) for mortgage insurance as herein provided.

(b) Prior to signing the "Insurance Endorsement" on Form FHA–360, "Promissory Note" (or Form FHA–360A, "Bond"), the State Director will ascertain that the amount of the loan submitted for endorsement is within the loan insurance authority allotted to the State.

(c) When the representative of the Office of the Solicitor reviews the title insurance company's interim binder, or the abstract of title, and determines that the title is satisfactory, or that a satisfactory title can be secured, he will notify the State Director and forward closing instructions to the County Supervisor. Upon receipt of this preliminary determination from the representative of the Office of the Solicitor, and notice from the Area Finance Office that the docket forms submitted for review are satisfactory, the State Director will sign the "Insurance Endorsement" on the original promissory note (or bond), omitting the date of the endorsement. The County Supervisor is responsible for entering the effective date of the insurance endorsement on the date the loan is closed. The endorsed promissory note (or bond) will then be forwarded to the County Supervisor.

(Secs. 12 (a), 12 (b), 60 Stat. 1076; 7 U. S. C. 1005b (a), 1005b (b))

§ 332.22 *Routines subsequent to closing insured loan.* (a) The original of Form FHA–361, when received in the Area Finance Office, will be the authority for the establishment of the official borrower's account. There will also be established in the Area Finance Office such subsidiary accounts for the recording of the appraisal fee, initial mortgage insurance charge, and the annual mortgage insurance charges as may be required. It will be the responsibility of the Area Finance Office to distribute the amounts received for these various charges in accordance with the provisions of section 12 (d) and (e) of Title I of the Bankhead-Jones Farm Tenant Act, as amended.

(b) The filing of a homestead declaration will be optional with the borrower, except in those states where the establishment of homestead exemptions is advisable. The representative of the Office of the Solicitor in his closing instructions will include an enumeration of the advantages to be derived by the borrower, as well as all other pertinent information, including the cost of filing and other expenses and a summary of the procedure to be followed by a borrower who desires to file a homestead declaration under the particular state law.

(c) When the representative of the Office of the Solicitor has reviewed the recorded mortgage (deed of trust) and has determined that the insured loan has been properly closed and the lender has obtained a first mortgage (deed of trust) on the farm, he will advise the State Director accordingly and will send the recorded mortgage (deed of trust) to the State Director for delivery to the lender (mortgagee).

(Secs. 12 (c) (4), 12 (d), 12 (e) (1) and (2), 60 Stat. 1076, 1077, sec. 3, Pub. Law 720, 80th Cong. (62 Stat. 534); 7 U. S. C. 1005b (c) (4), 1005b (d), 1005b (e) (1) and (2))

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PART 333—PROCESSING SUBSEQUENT LOANS

Sec.



DERIVATION: §§ 333.1 to 333.11 contained in FHA Instruction 443.3.

§ 333.1 *General.* Authority to make subsequent loans should not detract from the effort to make initial Farm Ownership loans in such a manner that subsequent loans will be unnecessary. Subsequent loans will not be made to expand borrowers' operations beyond the scope of efficient family-type farm-management units as defined in §§ 321.1 to 321.8 of this chapter.

(a) A subsequent loan is any additional Farm Ownership loan made to a Farm Ownership borrower by the Farmers Home Administration. For the purposes of §§ 333.1 to 333.11, the term "borrower" includes, in addition to recipients of Title I loans, persons who purchased their Farm Ownership farms from the Government on credit and transferees of Farm Ownership farms. In connection with a transfer case, the term, "initial loan," as used in this section, refers to Farm Ownership indebtedness which was incurred by the transferor of the farm.

(b) Sections 333.1 to 333.11 do not include procedure for making:

(1) Subsequent loans under the Farm Ownership insured mortgage program.

(2) Deferred advances to complete construction and development.

(Secs. 1 (a), 1 (c), 60 Stat. 1072, 1073; 7 U. S. C. 1001 (a), 1001 (c))

§ 333.2 *Purposes.* Subsequent loans may be made to Farm Ownership borrowers under the provisions of §§ 333.1 to 333.11 to accomplish any one or any combination of the following purposes:

(a) Alter existing buildings, construct new buildings, or otherwise improve or develop land when necessary to meet Farm Ownership minimum standards.

(b) Purchase additional land necessary to make the farm an efficient family-type farm-management unit.

(c) Pay equity of transferor, in whole or in part, in connection with the transfer of a Farm Ownership farm.

(d) Refinance Farm Ownership indebtedness in connection with a loan for enlargement or improvement of an undersized or underimproved farm.

(Secs. 1 (a), 1 (c), 60 Stat. 1072, 1073; 7 U. S. C. 1001 (a), 1001 (c))

§ 333.3 *Circumstances under which subsequent loans may be made.* Conditions may arise which necessitate adjustments in farming operations and require subsequent loans for the alteration of existing buildings, erection of new buildings, other improvement or land development, and possibly the purchase of additional land. Subsequent loans will be made only in cases of:

(a) *Previous administrative errors.* These are errors made in planning and estimating in connection with the initial Farm Ownership loan which must be corrected in order to meet Farm Ownership minimum standards.

(b) *Impairment of the Government's security.* These are conditions which may develop, after the making of an initial Farm Ownership loan, that will reduce the productive capacity of the farm to such an extent that it will prevent the borrower's repaying the loan. A subsequent loan under these circumstances is not authorized unless the loan clearly is necessary to prevent an incurable default in repayment of the initial loan.

(c) *Need for improvements to adjust farming operations to changing conditions.* These are conditions which affect the type of farming or the methods of production. Examples of such changing conditions might be:

(1) *Change in prevailing area conditions.* Changes in prevailing conditions within an area may require adjustments in farming operations. Sanitation standards with respect to the production of whole milk may change, forcing a borrower to cease shipping whole milk unless required improvements are made. In other instances, changes in available markets also may make it necessary for a borrower to convert to another type of farming.

(2) *Change in individual farm.* Significant changes in the condition of the farm, caused by catastrophes, such as floods, and so forth, may require adjustments in farming operations.

(d) *Need for additional funds in connection with transfers.* When a Farm Ownership farm is transferred, the transferee may require funds to purchase the equity of the transferor or for other authorized purposes.

(Secs. 1 (a), 1 (c), 60 Stat. 1072, 1073; 7 U. S. C. 1001 (a), 1001 (c))

§ 333.4 *Methods of making subsequent farm ownership loans.* Three different methods of making subsequent loans will be followed. These methods and the types of Farm Ownership borrowers to which each method is applicable are: (As used in this section, the term "Pursuant to Title I" refers to sales of units on terms in accordance with Title I of the Bankhead-Jones Farm Tenant Act, as amended.)

(a) *Method I; refinancing outstanding debt.* The subsequent loan will be in an amount sufficient to refinance the borrower's outstanding Farm Ownership debt and to provide the additional funds required for enlargement or improvement. The entire loan will bear interest at the rate of 4 percent. Method I will be used in making subsequent loans to borrowers whose initial Farm Ownership loans were approved prior to June 19, 1948, and who are identified in one or more of the following classifications:

(1) Farm Development (FD), including former Farm Home Improvement (FHI) and Special Real Easte (SRE), borrowers whose initial loans were made from Loans, Grants and Rural Rehabilitation (LG and RR) funds or State Rural Rehabilitation Corporation funds or both.

(2) Project Liquidation (PL) borrowers whose units were sold not Pursuant to Title I.

(3) Project Liquidation (PL) borrowers whose units were purchased or developed, in whole or part, with State Rural Rehabilitation Corporation funds and which were later sold Pursuant to Title I.

(4) Project Liquidation (PL) borrowers whose units were sold by a Defense Relocation Corporation (DRC), a Land Leasing or a Land Purchasing Association, or similar corporations.

(b) *Method II; not refinancing outstanding debt.* The outstanding debt, as of the date the subsequent loan is approved, will be reamortized at the rate(s) of interest provided for in the note(s) to be reamortized. Except as authorized in transfer cases, the outstanding debt will be reamortized within the remaining repayment period of the note evidencing the initial loan. Except in transfer cases, the borrower will be required to submit Form FHA–176, "Request for Reamortization of Farm Ownership Loan." The amount of the subsequent loan will be amortized at 4 percent. Method II will be used in making subsequent loans to:

(1) Tenant Purchase (TP) and Farm Enlargement (FE) borrowers whose initial loans were approved prior to June 19, 1948, and were made from Title I funds.

(2) Project Liquidation (PL) borrowers whose units were sold pursuant to Title I, regardless of the date of loan approval, provided the interest rate is 3 percent or 3½ percent and State Rural Rehabilitation Corporation funds are not involved.

(c) *Method III; not refinancing outstanding debt (consolidation of initial and subsequent loans).* The initial Farm Ownership loan and the subsequent loan will be consolidated and amortized together. Method III will be used in making subsequent loans to borrowers whose initial Farm Ownership loans were approved after June 18, 1948, except those Project Liquidation (PL) borrowers converting from lease and purchase contracts at 3 percent (pursuant to Title I) after that date.

(Secs. 3 (b) (1)–(3), 44 (b), 48, 60 Stat. 1074, 1069, 1070, Sec. 1, Pub. Law 720, 80th Cong. (62 Stat. 534); 7 U. S. C. 1003 (b) (1)–(3), 1018 (b), 1022)

§ 333.5 *Variable-payment agreements.* Subsequent loan applicants will have the option of determining the payment plan to be followed. All applicants will be urged to adopt the new variable-payment plan with respect to both the initial and subsequent loans. In any event, both loans must be under the same method of repayment.

(a) Borrowers under Method I will have the same method of repayment for the entire indebtedness since a new promissory note will be taken to cover both the old indebtedness and the subsequent loan.

(b) All borrowers under Method II who elect the variable-payment plan will be required to execute a new variable-payment agreement, Form FHA–165, "Variable-Payment Agreement", covering the outstanding indebtedness. The variable-payment agreement covering the subsequent loan will be contained in the promissory note evidencing the subsequent loan. If a borrower under Method II, whose initial loan was under the variable-payment plan, elects the fixed-payment plan for the subsequent loan, the existing variable-payment agreement must be canceled.

(c) A fixed-payment borrower under Method III may change to a variable-payment plan at the time of the subsequent loan, if he so desires, by executing Form FHA–165 covering the initial loan.

(Secs. 3 (b) (4), 44 (b), 48, 60 Stat. 1074, 1069, 1070; 7 U. S. C. 1003 (b) (4), 1018 (b), 1022)

§ 333.6 *Limitations.* (a) Ordinarily, a subsequent loan will not be approved if the amount of funds required is $500 or less, except for equity payments in transfer cases. The required improvements costing $500 or less should be financed out of farm income.

(b) A subsequent loan will not be made with respect to any farm if the outstanding balance of prior loans, plus the amount of the subsequent loan (excluding the amount to be used for refinancing under Method I), exceeds the recertified value of the farm, nor with respect to any farm which has a recertified value in excess of the average value established for the county.

(c) The approval of the National Office is required for making subsequent loans in the following circumstances. In these instances the State Field Representative will submit his recommendations to the State Director who, in turn, will submit to the National Office a letter of justification fully describing the circumstances of the loan.

(1) When the loan is made under Methods II and III, above, and the sum of the following exceeds the county investment limit: (i) The amount of the borrower's initial total investment in the farm (see § 311.25 of this chapter), and (ii) the amount of any subsequent loans, including the amount currently requested.

(2) When the loan is made under Method I, above, and the sum of the following exceeds the county investment limit: (i) The amount of the borrower's initial total investment in the farm (see § 311.25 of this chapter) and (ii) the amount of any subsequent loans previously made, and (iii) the amount of the currently requested subsequent loan which is not to be used for refinancing.

(Secs. 3 (a), 44 (b), 60 Stat. 1074, 1069; 7 U. S. C. 1003 (a), 1018 (b))

§ 333.7 *Certification by county committee.* The County Committee will certify on Form FHA–491, "County Committee Certification," as to the fair and reasonable value of the farm, based upon its normal earning capacity, after contemplated improvements are made. The Committee will take into consideration any information on farm production that has become available as a result of operating history, as well as the normal earning capacity of the farm indicated on the latest Form FHA–596, "Earning Capacity Report." They also will consider Form FHA–14, "Our Farm and Home Plan for 19—"; Form FHA–14C, "Long-Time Farm and Home Plan"; and Form FHA–643, "Farm Development Plan," when included. However, the Committee should discount any farm productivity due to the special capabilities of the borrower. A justifiable basis must exist for any changes in former certifications.

(Secs. 2 (b), 2 (d), 60 Stat. 1073, 1074; 7 U. S. C. 1002 (b), 1002 (d))

§ 333.8 *Amortization.* As a rule, subsequent loans will be amortized within the remaining period of the initial Farm Ownership loan. Only in exceptional cases under Method I and transfer cases, where it is necessary to extend the repayment period of the initial Farm Ownership loan, may such loans be amortized beyond the remaining period of the initial loan. In such cases, the subsequent loan will be amortized within the remaining period of the initial loan as extended, but not to exceed 40 years from the date of the subsequent loan.

(Secs. 3 (b) (1), 3 (b) (3), 60 Stat. 1074; 7 U. S. C. 1003 (b) (1), 1003 (b) (3))

§ 333.9 *Approval of subsequent loans.* Except for a subsequent loan to the transferee in connection with a transfer case which the State Director is authorized to approve, the State Field Representative is authorized to approve subsequent loans and to execute the same documents he executes in connection with initial Farm Ownership loans. He will process the docket and notify the County Supervisor in the same manner as provided in §§ 331.1 to 331.11 of this chapter.

§ 333.10 *Title clearance.* Additional title clearance will be required if the subsequent loan includes funds for the purchase of additional land or if the mortgage or deed of trust securing the initial loan is to be released. In all other cases, a supplementary title examination will be necessary to establish that no liens have attached to the property subsequent to the recording of the mortgage(s) or deed(s) of trust securing the initial and any previous subsequent loans.

(Sec. 3 (a), 60 Stat. 1074; 7 U. S. C. 1003 (a))

§ 333.11 *Closing the loan.* The subsequent loan will be closed in accordance with §§ 331.1 to 331.11 of this chapter.

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## PART 337—FARM AND HOME MANAGEMENT; YEAR END SERVICING

### SUBPART A—ANNUAL CHECKOUT

Sec.
337.1 General.
337.2 Steps required for effective checkout.
337.3 Collection policy.
337.4 Application of collection policy.
337.5 Form FHA–528, "Annual Income Return."

Sections 337.1 to 337.5 interpret and apply secs. 3 (b) (4), 12 (c) (4), 44 (b), 48, 60 Stat. 1074, 1076, 1069, 1070; 7 U. S. C. 1003 (b) (4), 1005b (c) (4), 1018 (b), 1022. Other statutory provisions interpreted or applied are cited to text in parentheses.

DERIVATION: §§ 337.1 to 337.5 contained in FHA Instruction 437.1.

§ 337.1 *General.* The checkout process with Farm Ownership borrowers is a means of saving time for the County Supervisor and increasing the effectiveness of supervision.

(a) *Time and scope of checkout.* (1) As soon as possible after the close of the record-book year but not later than February 28, the County Supervisor will meet with the borrower for his annual checkout. The checkout process will include:

(i) Checking Form FHA–195, "Farm Family Record Book."

(ii) Completing Form FHA–528, "Annual Income Return."

(iii) Analyzing the year's business of the borrower as summarized on Form FHA–528.

(iv) Completing the borrower's farm and home plan for the new year.

(v) Collecting Farm Ownership and Production Loan amounts still to be paid for the year.

(2) Generally, the borrower's fiscal year will be the calendar year. Since notes are drawn ordinarily on this basis there can be no change in a borrower's fiscal year.

(3) The record-book year may, however, when circumstances justify, start November 1 or December 1 rather than January 1. It must not start later than January 1. Form FHA–528 will be completed as of the date the record-book is closed. The new Farm and Home Plan will be completed for the following year beginning on the same date.

(4) A borrower must not be checked out before his record-book year is closed. If it is desired that the checkout start before January 1, the record-book year must be changed accordingly. It must be started either November 1 or December 1. The State Director may decide whether the record-book year will be uniform for all borrowers in a state and all borrowers within a county. Except in states or counties where borrowers start their record-books early, the borrower's fiscal year and the record-book year will be identical.

(5) In changing the record-book year from a year starting January 1 to one starting November 1 or December 1, there will be a short year at the start. Table E of Form FHA–528 will be used to include any crops or livestock properly belonging to the year's business but which were not sold on November 30. In all cases where the record-book is closed and the checkout completed as of some date prior to December 31, all references to December 31 on Form FHA–528 and in this subpart will be considered to be the date as of which the record-book was closed.

(b) *Place for checkout.* In order to save the time of the County Supervisor, conferences will be scheduled with individual borrowers at the County Office or at some other place or places to which borrowers may come conveniently.

§ 337.2 *Steps required for effective checkout.* The following outline of the steps required for an effective checkout will be observed:

(a) *Advance preparation of Form FHA–528.* The County Office will prepare for the checkout by filling in certain portions of Form FHA–528 in advance.

(b) *Material to be sent to borrower.* The County Office will assemble and send to each borrower, before the old record book is closed, the following material:

(1) Partially filled out Form FHA–528.

(2) Form FHA–195 for new year.

(3) A letter of explanation to the borrower instructing him how to get ready for the checkout as indicated in paragraph (c) of this section. It will set the date and place for the checkout and will instruct the borrower to bring to the checkout his old and new record-books and the partially filled out Form FHA–528. It will also inform the borrower of the items he should fill out.

(c) *Borrower's preparation.* On the basis of the above instructions from the County Office the borrower will be expected to:

(1) Complete all business transactions and settle all accounts before closing the year's business.

(2) Complete and summarize the year's record-book.

(3) Fill out the inventory for the beginning of the year in the new record-book.

(4) Fill in designated portions of Form FHA–528 in pencil.

(5) Make preliminary Farm and Home Plan in the new record-book.

(6) Arrange to meet County Supervisor on date set for checkout.

(d) *Checkout with borrower.* At the time of the checkout with the borrower, the County Office will proceed as follows:

(1) Check old record book for completeness and accuracy.

(2) Check inventory in the new record-book for completeness and accuracy.

(3) Complete Form FHA–528.

(4) Secure any additional information required to make appropriate analyses for the annual meeting.

(5) Discuss and analyze the year's business with the borrower.

(6) Check and complete the Farm and Home Plan in the new record-book and prepare the County Office copy of Form FHA–14, "Farm and Home Plan."

(7) If possible, complete collection of the Farm Ownership and Production Loans, if any, which are to be paid for the year.

§ 337.3 *Collection policy.* The collection policy involves the whole question of wise use of income. The most important decisions in this connection will relate to determining how much of the borrower's net cash income should be used to pay debts, and how much should be used for such things as household furnishings, machinery, livestock, and cash-operating capital. Consideration will also be given to the question of how much of the income to apply to retiring chattel and other old debts and how much to apply to the Farm Ownership debt in order to protect the Government's investment and at the same time keep the farm operating on a sound basis. Subject to the above conditions, the cash income should be used as follows:

(a) First, to pay farm operating and family living expenses, including current operating debts. These should be kept in reasonable control by conformance to approved farm and home plans.

(b) Second, the next priority for the use of cash income is:

(1) *For a Payment Plan I Borrower.* (See §§ 361.21 to 361.25 of this chapter.)

(i) To pay an amount on chattel debts equal to the annual depreciation of the chattels. If the amount due on chattel debts is less than the estimated amount of chattel depreciation, an expenditure may be allowed for new chattels, if needed, in an amount sufficient to make the combined outlay for old debts and new chattels roughly equivalent to chattel depreciation.

(ii) To pay the scheduled annual installment of principal and interest on his Farm Ownership debt, or to bring the borrower up to schedule when he is behind schedule on such debt.

(2) *For a Payment Plan II Borrower.* (See §§ 361.21 to 361.25 of this chapter.) Such a borrower is required by law to keep his Farm Ownership account up to schedule so the same priority cannot be given to the payment of chattel or other old debts as for a Payment Plan I borrower. When funds are available to meet required payments for both the Farm Ownership debt and the amount due on the chattel debts, the borrower will make the payments as required. When the income is not sufficient to make both payments, the funds available will be prorated to the two accounts in proportion to the amounts due, including delinquencies. Application of deficient income in this manner will not relieve a borrower from any Farm Ownership delinquency occasioned thereby.

(c) Third, the remaining income should be used for the following purpose depending on the circumstances of the individual case.

(1) To get the borrower ahead of schedule on his Farm Ownership debt. The aim will be to work toward getting and maintaining the Farm Ownership debt ahead of schedule by larger payments in good years.

(2) To speed up retirement of the chattel or other old debts.

(3) To build up cash-operating capital so that less money will have to be borrowed for this purpose.

(4) To make capital investments that will result in sound and justifiable expansion of operations and improve living conditions.

(d) Other considerations.

(1) Family living and farm operating debts incurred to finance annual operations normally should be repaid each year. If because of crop failure, or other unanticipated developments, funds are not available to pay such debts out of the year's income, they should be given priority of payment the following year as old debts.

(2) If an operating debt is incurred for production which will not be realized until the following year, is not scheduled for payment until that time and it is carried over as an old debt to be paid the following year when production is realized, it should have the same priority for payment, when due, as other farm operating debts for the year.

(3) If some foundation or feeder livestock or capital goods have been sold and the income received has been entered as income in Form FHA–528, a compensating amount will be allowed first for the repayment of any debts secured by the chattels and second may be allowed for the purchase of livestock or additional capital goods.

(4) Consideration should be given to the amount of income allowed for capital goods purchases and also for net debt repayment in previous years. The allowance for the purchase of capital goods and for net debt repayment combined should be sufficient on the average to replace the capital goods. The amount may vary from year to year so long as the investments for replacements plus net debt repayments tend to equal depreciation over a period of years. In good years when the net income is large, it is reasonable to allow a larger amount than during poor years when the net income is small.

§ 337.4 *Application of collection policy*—(a) *General.* (1) Final determination of the amount to be paid on the Farm Ownership and other debts is made during the checkout. However, since all or a large part of the collections are usually made before the end of the year, it is necessary to determine in advance of the checkout the approximate amount to be paid. The collection policy, as explained in § 337.3, will be the guide when making Farmers Home Administration collections regardless of whether they are made during the year or at the end of the year.

(2) It is the policy of the Farmers Home Administration to arrive at a mutual understanding with each Farm Ownership borrower at the annual checkout as to the use of the estimated cash income for debt payment during the new year. This understanding will be recorded in the new Farm and Home Plan. The agreed amount, the source of funds, and the approximate date for payment on debts will be shown.

(3) In the case of a borrower who is not making satisfactory progress in repaying his debts, these estimates of payments should be reviewed just prior to the marketing of the products which represent the borrower's main source of income. When it is obvious that the income has been underestimated or overestimated, the borrower and the County Supervisor will agree on a revised schedule of payments. This revised schedule will be entered in the Farm and Home Plan.

(b) *Collecting debt repayments.* Generally, it will be to the advantage of Farm Ownership borrowers to make repayment on their debts from each major source of income as sales occur. While some Farm Ownership borrowers will be able to live within approved budgets and accumulate funds for debt payment at the end of the year, this is not considered the best policy for most borrowers. Particularly, it is not the best policy in cash crop areas where the prevailing system of settling with tenants has established the custom of debt payments when sales occur. The general policy will be to encourage borrowers to pay their debts as the money becomes available.

(c) *Adjusting for incorrect application of collection policy.* Since most Farmers Home Administration collections are made prior to the checkout and the application of such collections is based on estimated income, the final summary of the year's business on Form FHA–528 may reveal that collections were not applied in accordance with the collection policy. If care is exercised in setting up collection goals and debt payment priorities, it is not probable that discrepancies will be significantly large. If they are large, compensating adjustments will be made for the next year.

§ 337.5 *Form FHA–528, "Annual Income Return"*—(a) *Its uses.* Form FHA–528 serves several important purposes. It is to be filled out for each Farm Ownership borrower following his first full crop year and annually thereafter. Every Farm Ownership borrower should understand it and should learn to fill in designated items on his own return. Following is a summary of the uses of the form:

(1) It provides a convenient summary of the record-book for analyzing the year's business with the borrower.

(2) It provides a basis for good farm and home planning.

(3) It provides the basis for deciding the annual payments and serves as a billing for all Farm Ownership borrowers.

(4) It supplies source material for use at annual meetings of Farm Ownership borrowers.

(5) It supplies information needed by County Committees in reviewing the progress made by borrowers.

(6) It supplies source material for the Farm Ownership borrowers' annual progress report and other studies.

(7) It supplies the information needed by Farmers Home Administration officials when checking and analyzing the

status and progress of individual Farm Ownership borrowers.

(8) It supplies information needed in liquidating Farm Ownership farms.

(9) It supplies information required by borrowers in the preparation of income tax returns.

(b) *Collecting balance due.* If any portion of the amount to be paid by the borrower has not been collected, the County Supervisor will collect it at the time of the checkout, if possible. In any event, all collections from the year's business will be made by March 15 of each year so that they will be reflected on the Form FHA–677, "Schedule Status of Farm Ownership Borrowers," prepared by the Area Finance Office as of March 31.

(c) *Action in case of disagreement.* If a Payment Plan I borrower disagrees with the County Supervisor as to the amount to be paid or a Payment Plan II variable payment borrower disagrees as to whether it has been a "normal or above-normal" or a "below-normal" year, the matter will be referred to the County Committee which will study the case and recommend to the State Director the amount it believes the borrower should pay. This recommendation will be submitted in a separate memorandum signed by at least two members of the County Committee. The State Director will make the final determination and advise the County Supervisor.

(Sec. 42 (d), 60 Stat. 1067; 7 U. S. C. 1016 (d))

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**Subchapter C—Production and Subsistence Loans**

AUTHORITY: §§ 341.1 to 344.9 issued under pars. 2 and 5, Order, Sec. Agric., Oct. 14, 1946, 11 F. R. 12520; Order, Acting Sec. Agric., Oct. 30, 1947, 12 F. R. 7137. Statutory provisions interpreted or applied are cited in parentheses at the end of affected sections, with the exception that when statutory provisions interpreted or applied relate generally to an entire part, citations are given in the heading of such part.

PART 341—APPROVAL AUTHORITY

Sec.
341.1 Scope of part.
341.2 General policy.
341.3 Authorization to State Directors.
341.4 Authorization to redelegate loan approval authority.
341.5 Limitations relative to redelegation of authority.

DERIVATION: §§ 341.1 to 341.5 contained in FHA Instruction 441.1.

§ 341.1 *Scope of part.* Sections 341.1 to 341.5 describes the delegation to State Directors of authority to approve loans pursuant to Title II of the Bankhead-Jones Farm Tenant Act, as amended, known as Production and Subsistence (P&S) loans, and the authority for redelegation of such authority to State Field Representatives and County Supervisors.

§ 341.2 *General policy.* Insofar as feasible, Production and Subsistence (P&S) loans will be approved in the field, either by County Supervisors or by State Field Representatives. State Directors will redelegate loan approval authority to State Field Representatives and County Supervisors and provide the necessary instructions with respect to the exercise thereof. Loans in excess of the amounts specified in § 341.3, or which for other policy reasons cannot be approved by the State Director, will be submitted to the Administrator for approval.

§ 341.3 *Authorization to State Directors.* Subject to the applicable policies and provisions contained in Parts 342 and 343 of this chapter, State Directors are authorized to approve Production and Subsistence (P&S) loans to eligible individuals: *Provided:*

(a) The aggregate amount of loans made to an individual or to individuals as provided in § 342.6 (g) of this chapter during any one fiscal year will not exceed $3,500.

(b) No loan may be made to an individual which will cause his total outstanding indebtedness for Production and Subsistence (P&S), Rural Rehabilitation (RR) (including advances from State Rural Rehabilitation (RR) Corporation Trust Funds, but excluding Farm Development (FD) loans made from Rural Rehabilitation (RR) and State Rural Rehabilitation (RR) Corporation Trust Funds) and Emergency Crop and Feed loans to exceed $5,000. The "total outstanding indebtedness" includes principal and accrued interest and any amounts paid by the Government for the account of and charged to the borrower.

(c) No loan may be made to an individual who has been indebted continuously for five (5) consecutive years for Production and Subsistence (P&S) loans until such indebtedness is paid in full.

(d) The aggregate of loans made in connection with any one joint-owner group service will not exceed $5,000.

(e) No loan may be made to an individual who is still indebted on August 14, 1951, for Rural Rehabilitation (RR) loans (including advances from State Rural Rehabilitation (RR) Corporation Trust Funds, but excluding Farm Development (FD) loans made from Rural Rehabilitation (RR) or State Rural Rehabilitation (RR) Corporation Trust Funds), Emergency Crop and Feed (ECF) loans and Production and Subsistence (P&S) loans until all indebtedness under such loans has been paid in full.

(Sec. 21, 60 Stat. 1072; 7 U. S. C. 1007)

§ 341.4 *Authorization to redelegate loan approval authority.* State Directors are authorized to redelegate to State Field Representatives, or to County Supervisors in charge of County Offices, all or any part of their authority to approve Production and Subsistence (P&S) loans and shall reserve the right to review at their discretion the exercise of or to revoke any of the authority so delegated, provided County Supervisors in charge of County Offices may not be authorized to approve:

(a) Loans which will result in a total principal indebtedness for Production and Subsistence (P&S), Rural Rehabilitation (RR), (including advances from State Rural Rehabilitation (RR) Corporation Trust Funds, but excluding Farm Development (FD) loans made from Rural Rehabilitation (RR) and State Rural Rehabilitation (RR) Corporation Trust Funds) and Emergency Crop and Feed (ECF) loans in excess of $2,500.

(b) Initial Production and Subsistence (P&S) loans to Farm Ownership (FO) borrowers and Production and Subsistence (P&S) loans (initial or subsequent) submitted with a Farm Ownership (FO) loan docket.

§ 341.5 *Limitations relative to redelegation of authority.* (a) Each State Director will determine the maximum loan approval authority to be redelegated to the positions of State Field Representative and County Supervisor for the State as a whole, and will issue State instructions redelegating such authority on a position basis.

(b) State Directors may limit or restrict the exercise of redelegated loan approval authority to certain State Field Representatives by means of individual "policy letters." State Field Representatives, with the concurrence of State Directors, may limit or restrict the exercise of redelegated loan approval authority to certain County Supervisors, under their respective jurisdictions, by means of individual policy letters.

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PART 342—POLICIES

Sec.
342.1 General.
342.2 Eligibility requirements for production and subsistence loans.
342.3 Purposes for which loans may be made.
342.4 Terms of loans.
342.5 Security policies.
342.6 Loan limitations and requirements.
342.7 Making annual loans.
342.8 Making adjustment loans.

Sections 342.1 to 342.8 interpret and apply secs. 21, 44 (b), 60 Stat. 1072, 1069; 7 U. S. C. 1007, 1018 (b). Other statutory provisions interpreted or applied are cited to text in parentheses.

DERIVATIONS §§ 342.1 to 342.8 contained in FHA Instruction 441.2.

§ 342.1 *General.* (a) Title II of the Bankhead-Jones Farm Tenant Act, as amended by the Farmers Home Administration Act of 1946, authorizes the making of Production and Subsistence loans to eligible farmers and stockmen for the financing of farm and home needs. The program authorized under this law will consist of credit, and when required, supervision or guidance in farm and home operations. The extent or degree of "on-the-farm" supervision will vary with the needs of the family for assistance in improving the farm and home operations as a means of enabling it to meet better the loan obligations to the Farmers Home Administration.

(b) The Production and Subsistence loan program is designed:

(1) To provide credit to farmers on an annual basis for the production of cash crops or for the purchase or growing of feed for productive livestock or livestock being fed for market.

(2) To provide credit to farmers when adjustments may be needed in their farm and home operations to place such operations on a sound basis. Such credit will be based on a sound Farm and Home Plan developed with the family and sup-

plemented by such supervision of the farm and home operations as is necessary to assist the family in carrying on successfully the planned operations.

§ 342.2 *Eligibility requirements for production and subsistence loans*—(a) *Who is eligible.* Farmers and stockmen, who are citizens of the United States and who are operators of farms which are not larger than family-type farms, are eligible to receive Production and Subsistence loans, provided sufficient credit to finance the actual needs of the applicant is not available to him at the rates (but not exceeding the rate of 5 per centum per annum) and terms for loans of similar size and character prevailing in or near the community where the applicant resides.

(1) "Farmers" and "stockmen," as used herein, are defined as individuals who derive a major portion of their income from farming or stock-raising and spend the major portion of their time in carrying on farming or stockraising operations. This will include individuals who, for special reasons, may not have farmed in the last few years, but whose background and normal means of livelihood in the past have been farming or stock-raising. Payments to veterans for pensionable disabilities will not be considered as income in determining eligibility under this definition of "farmers" or "stockmen."

(b) *Certification by applicant.* Before an application (initial or subsequent) can be considered, the applicant must certify in writing on Form FHA–49, "Certifications—Production and Subsistence Loans," that sufficient credit to meet his needs is not available to him at the rates (but not exceeding the rate of 5 per centum per annum) and terms for loans of similar size and character prevailing in or near the community where the applicant resides.

(c) *Certification by County Committee.* No Production and Subsistence loan (initial or subsequent) may be made unless the County Committee certifies in writing on Form FHA–49 that:

(1) The applicant is eligible for a loan under the requirements prescribed in paragraph (a) of this section.

(2) The applicant, in the opinion of the County Committee, will endeavor honestly to carry out the undertakings and obligations required of him under a loan. Any evidence in the records of the Farmers Home Administration that an applicant has not acted in good faith with respect to loan transactions formerly under the jurisdiction of the Emergency Crop and Feed Loan Division of the Farm Credit Administration or the Farm Security Administration will be made available to the County Committee for its use in determining whether the required certification with respect to such applicant will be made.

(d) *Administrative determination.* All certifications by County Committees that applicants are eligible to receive loans are subject to administrative review and final determination. The loan approval official is hereby authorized and directed to determine administratively whether an applicant certified by the County Committee is eligible to receive a loan. In making such determination, the loan approval official will take into consideration the certifications of the applicant and of the County Committee and other pertinent information. The applicant will not be required to submit written rejections from other credit sources except in borderline cases when required by the County Committee or loan approval official.

(Secs. 44 (a) (2) and (3), 60 Stat. 1068; 7 U. S. C. 1018 (a) (2) and (3))

§ 342.3 *Purposes for which loans may be made.* Production and Subsistence loans may be made for the following purposes only:

(a) To purchase necessary livestock, farm equipment and farm equipment repairs, seed, feed, fertilizer, lime, farm supplies, and other farm needs including the acquisition of memberships in farm purchasing and marketing and farm-service type cooperative associations. These purposes do not include the purchase of passenger automobiles, memberships in production cooperatives, or memberships for the purpose of establishing control by the Farmers Home Administration in any type of cooperatives.

(b) To pay for necessary hired farm labor during peak seasons or periods of emergency and for necessary custom work or services.

(c) To pay debts secured by liens on chattels (livestock or farm equipment) essential to the applicant's farming operations, and to pay cash rent, where no other satisfactory rental arrangement can be effected, for not more than one year in advance, provided (1) the applicant is obligated under a written lease to pay the amount to be advanced for such purpose, and (2) the terms of the lease provide the applicant with reasonably secure and satisfactory tenure.

(d) To erect necessary minor buildings or to make necessary minor repairs or improvements to real estate, provided the total advance to an applicant for such items is not in excess of $100 for any twelve months' period beginning with the date of the first advance for any such purpose.

(e) To pay taxes and insurance premiums on property or insurance policies serving as security for Farmers Home Administration loans.

(f) To purchase essential home equipment and home equipment repairs required by the applicant's family to sustain itself on the farm in a reasonably satisfactory manner.

(g) To meet family subsistence needs, including expenses for medical care.

§ 342.4 *Terms of loans.* (a) Interest will be charged at the rate of 5 percent per annum on all Production and Subsistence loans. Interest will accrue on outstanding principal only and will not be compounded.

(b) Repayments of principal on Production and Subsistence loans based on Farm and Home Plans will be scheduled at least once each twelve-month period during the life of the loans in accordance with the following policies:

(1) Advances for recurring expenses will be scheduled for repayment when the principal income from the year's operations normally would be received.

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

(3) Advances for purposes other than those enumerated in subparagraphs (1) and (2) of this paragraph will be scheduled for repayment in at least annual installments for 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 repayment schedule extend beyond the useful life of the security offered for the advance or beyond five years from the date the advance is made, whichever is the lesser.

(c) Annual Production and Subsistence loans, authorized in § 342.7, will be scheduled for repayment when the principal income normally would be received. In no case may they exceed a period of 12 months from the date of the advance, except: Loans made to purchase or produce feed for livestock being fed for the market, or for productive livestock may extend to 15 months, provided the first installment is scheduled for payment within 12 months.

(Sec. 48, 60 Stat. 1070; 7 U. S. C. 1022)

§ 342.5 *Security policies.* Production and Subsistence loans will be secured for the full amount of the loan by a first lien on all livestock and equipment purchased or refinanced with proceeds of the loan and by a lien on the crops growing or to be grown by the applicant subject only to the landlord's interest in the crops for rent for the crop year for which the loan is made. However, if a particular crop of the applicant is under lien as security for advances made by another creditor to produce the crop, a lien will be taken on such crop subject to the lien of the other creditor, provided no advance will be made by the Farmers Home Administration in connection with such crop.

(a) When a loan (either annual or adjustment) is made to a nonowner operator, in states in which the landlord acquires by statute a lien on crops or personal property for advances made, supplies furnished or for rent, or if the landlord has acquired such interest by lease or contract, the landlord will be required to subordinate in favor of the Government any interest he now has or may acquire in the livestock, farm equipment and crops of the applicant resulting from advances made, supplies furnished, or for rent, except his interest in the crops for rent for the crop year for which the loan is made. State Directors, with the advice of the Representative of the Office of the Solicitor, will inform County Supervisors on a state basis in those states in which it is necessary because of State statutes to obtain landlord's subordinations under the policy expressed above.

(b) Loans made to purchase or produce feed for livestock being fed for market or to be fed to productive livestock, other than those used for subsistence purposes, also must be secured by first liens on such livestock.

(c) Loans may be further secured by the best lien obtainable on as much of the livestock and farm equipment of security value owned by the applicant at the time the loan is made as is necessary to protect the interest of the Government. Generally, the livestock and farm equipment owned by the applicant will not be used as security for annual loans made only for the production of cash crops. Normally, loans for this purpose will be secured by crop liens only.

(d) Assignments of proceeds from crop insurance policies or from the sale of agricultural products may be taken as additional security for any loan when necessary to protect the interest of the Government. Agricultural Conservation Program assignments will not be taken as security.

(e) Farm and home equipment purchased with loan funds to the total value of $25 or less per loan may be omitted from security instruments.

(f) Reports of lien searches to determine that the Government will receive the required security are required to be made in all cases at the time funds are advanced.

§ 342.6 *Loan limitations and requirements.* The following loan requirements and limitations will be observed in making Production and Subsistence Loans.

(a) The amount of each loan will be limited to the needs of the applicant and his ability to repay, *Provided:*

(1) No initial loan may be made in excess of $3,500.

(2) Not more than $3,500 may be advanced to a borrower during any one fiscal year.

(3) No loan may be made that will result in a borrower's becoming indebted in excess of $5,000 for Production and Subsistence loans, Rural Rehabilitation loans (including advances from State Rural Rehabilitation Corporation Trust funds, but excluding Farm Development loans made from Rural Rehabilitation and State Rural Rehabilitation Corporation Trust Funds) and Emergency Crop and Feed loans or any combination of such loans. This maximum limit will include principal and interest and other charges in connection with any such loans paid by the Government and charged to the account of the borrower.

(b) No loan may be made to an applicant who has been indebted continuously for Production and Subsistence loans for five consecutive years until all of his indebtedness under such loans has been paid in full.

(c) An applicant who is still indebted on August 14, 1951, for Rural Rehabilitation (including advances from State Rural Rehabilitation Corporation Trust funds, but excluding Farm Development loans made from Rural Rehabilitation and State Rural Rehabilitation Corporation Trust funds) and Emergency Crop and Feed loans will not be eligible to receive Production and Subsistence loans thereafter until all indebtedness under such Rural Rehabilitation, Emergency Crop and Feed and Production and Subsistence loans have been paid in full.

(d) Subject to other applicable requirements and limitations, Production and Subsistence loans may be made to applicants who have been indebted continuously for the last five years or longer for Rural Rehabilitation loans (including advances from State Rural Rehabilitation Corporation Trust funds, but excluding Farm Development loans made from Rural Rehabilitation and State Rural Rehabilitation Corporation Trust Funds) and Emergency Crop and Feed loans, only:

(1) When the County Committee reviews the present circumstances of the applicant, certifies that the applicant is eligible, and recommends in writing that a loan be made; and

(2) When the loan approval official determines that an additional loan will improve the applicant's position and will not jeopardize the Government's chances of collecting the entire indebtedness owed by the applicant.

(e) Before Production and Subsistence loans are made, applicants will be required to make satisfactory arrangements for the use of sufficient land of the quality and condition necessary for carrying on the type of farming intended on a sound and practical basis. When loans are to be made to nonowner operators it must be determined that the amount of the rent is reasonable. In such cases the applicants should, whenever possible, obtain satisfactory written leases covering at least the periods of the loans for the farms to be operated.

(f) No loan may be made to a corporation or a cooperative association. (Sec. 44 (a) (i), 60 Stat. 1068; 7 U. S. C. 1018 (a) (1))

(g) A joint loan may be made to husband and wife, mother and son, or father and son, living together as a family and operating jointly the same farm unit. No other joint loans may be made, provided, however, nothing in this section will prohibit the taking of additional security in the form of a co-maker on a promissory note in connection with a loan to an individual. However, separate loans may be made to eligible individuals who are engaged jointly in farming, *Provided:* (1) Not more than two individuals are interested in the operations; (2) the security requirements contained in § 342.5 are met; and (3) the total of the loans to both individuals does not exceed the loan limitations for an individual. If a loan is made only to one such individual, the other will be required to execute a subordination as to his interest in all security. However, if a loan is made to each of the two individuals, the security instruments for each loan will be executed by both.

§ 342.7 *Making annual loans.* Annual loans may be made for any authorized purpose to eligible applicants whose primary needs are seasonal or emergency credit, or those who are unable to obtain the necessary resources and who lack the ability to make effective use of adjustment loans.

(a) Before an annual loan is made, the loan approval official will determine that: (1) The loan can be repaid within a period not to exceed 12 months (except that loans to grow or purchase feed for livestock being fed for market or for productive livestock be repaid as provided in § 342.4 (c)) without jeopardizing the applicant's future operations; (2) the amount of the loan and the purposes for which the funds are to be used are consistent with the applicant's needs for the year; (3) the applicant has made adequate provision for meeting all necessary farm and home expenses, either through the loan or other sources; and (4) the estimated income from which the loan will be paid is sufficient for that purpose and to provide a reasonably safe margin above the amount required for that purpose, recognizing production hazards and price fluctuations.

(b) These foregoing determinations will be based upon an analysis of the applicant's resources, farming experience and ability, debt repayment history, and proposed operations. Current and reliable information regarding the past record of the applicant, the quality of farming operations carried on by him and the productivity of the farm to be operated must be available as a basis for making this analysis. A visit to the farm before the loan is approved is required in order to obtain this information unless the County Supervisor can obtain it without going to the farm, or unless it can be furnished by a member of the County Committee.

§ 342.8 *Making adjustment loans.* Adjustment loans may be made for any authorized purpose to eligible applicants: whose primary needs are credit and guidance in making the adjustment and improvements necessary for successful farm and home operations; who have or can acquire the necessary resources for making such adjustments and improvements; and, who have or who through proper guidance can develop the abilities needed to carry out successful farm and home operations.

(a) Before an adjustment loan is made, the loan approval official will determine that:

(1) The applicant has satisfactory tenure arrangements.

(2) The Farm and Home Plans provide for proper organization of the farm business.

(3) The farm and home improvements and practices essential to successful operations are planned.

(4) The planned farming operations are financially sound.

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

(6) The loan can be repaid in accordance with the provisions of § 342.4.

(b) The foregoing determinations will be based upon an analysis of the applicant's resources, farming experience and ability, debt repayment history, and a sound Farm and Home Plan.

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## PART 343—PROCESSING

Sec.



DERIVATION: §§ 343.1 to 343.8 contained in FHA Instruction 441.3.

§ 343.1 *General.* Sections 343.2 to 343.8 set forth the requirements and procedures for the preparation and execution of documents and for other routines in connection with making Production and Subsistence loans.

§ 343.2 *Definitions.* (a) "Applicant" is any individual who applies for a Production and Subsistence loan, regardless of whether he has previously obtained or is presently indebted for a loan.

(b) "Initial Adjustment Loan" is a Production and Subsistence loan based upon a farm and home plan and made to an applicant who is not indebted for a loan based upon such a plan.

(c) "Subsequent Adjustment Loan" is a Production and Subsistence loan based upon a farm and home plan and made to an applicant who is indebted for a loan based upon such a plan.

(d) "Annual Loan" is a Production and Subsistence loan not based on a farm and home plan. The terms "Initial" and "Subsequent" are not used in connection with annual loans.

§ 343.3 *Loan forms and routines*—(a) *Applications for loans.* Applications for Production and Subsistence loans will be made to the County Office as follows:

(1) Applicants for annual loans will execute Form FHA–197, "Application for FHA Services," and Form FHA–197A, "Supplement to Application for FHA Services".

(2) Applicants for initial adjustment loans will execute Form FHA–197.

(3) Applicants for subsequent adjustment loans will not be required to execute either Form FHA–197 or Form FHA–197A, but will be required to execute Form FHA–49, "Certifications—Production and Subsistence Loans," in accordance with paragraph (b) of this section. Also, if current financial information is not available in the County Office records, such applicants will be required to complete Table A of Form FHA–14, "Farm and Home Plan".

(b) *Form FHA–49, "Certifications—Production and Subsistence Loans."* Form FHA–49 will be executed and retained in the County Office for each loan without regard to whether such form has been executed by a borrower in connection with loans made previously. However, when a loan is to be disbursed in two advances in accordance with paragraph (g) of this section only one Form FHA–49 will be executed.

(1) Part I, "Applicant Certification," of Form FHA–49 will be executed by each applicant at the time the application is made.

(2) The County Committee will:

(i) In those cases in which the applicant is determined to be eligible, execute Part II, "County Committee Certification," of Form FHA–49.

(ii) In those cases in which the applicant is determined to be ineligible, delete the "Committee Certification," indicate the reasons for the rejection under "Comments," and sign in the space provided. In such cases, the County Supervisor will notify the applicant of the County Committee action.

(c) *Form FHA–14, "Farm and Home Plan."* In making adjustment loans, Form FHA–14 will be developed and a copy retained in the County Office. The applicant will be provided with a copy of the farm and home plan either in the record book or on Form FHA–14.

(d) *Form FHA–14A, "Schedule of Long-Time Farm and Home Improvements."* Form FHA–14A will be prepared in connection with adjustment loans to record improvements and adjustments that have been agreed upon, but which will not be completed during the planned year.

(e) *Form FHA–31, "Promissory Note."* Form FHA–31 will be prepared for the amount of each advance, except that when a loan is to be disbursed in two advances in accordance with paragraph (g) of this section, separate Forms FHA–31 will be prepared for each advance. The amount of the loan and the scheduled repayments always will be in multiples of $5. The time limitations for repayment schedules prescribed in § 342.4 (b) (3) and § 342.4 (c) of this chapter run from the date of the loan check instead of the date of the note. Form FHA–31 will be dated as of the date of execution by the applicant, and the original only will be executed. The applicant's spouse need not execute Form FHA–31 unless the County Supervisor or other approving official determines, because of the spouse's interest in the farm to be operated or in other property owned, that the signature of the spouse is necessary for the protection of the Government's interest.

(f) *Form FHA–5, "Loan Voucher."* Form FHA–5 will be prepared for the total amount of the advance as indicated on each Form FHA–31. The status of the applicant, whether "Veteran" or "Nonveteran," will be indicated at the top of the form. The original only will be signed by the applicant.

(g) *Immediate and future advances.* Production and Subsistence loan dockets may be submitted to the Area Finance Office for (1) immediate disbursement of the full amount of the loan, or (2) disbursement in two advances with both loan vouchers being submitted together, one providing for an amount to be disbursed immediately and the other providing for the remainder to be disbursed on a designated date in the future, at least thirty days but not more than 120 days from the submission of the loan docket, or (3) disbursement in one advance on a designated date in the future, at least thirty days but not more than 120 days from the submission of the loan docket. However, the proposed payment date of the loan scheduled for future payment must not extend beyond the current fiscal year.

(h) *Form FHA–87, "Report of Lien Search."* Form FHA–87 will be prepared in an original only and will be retained in the County Office. Applicants are required to obtain and pay the cost of lien searches. The cost of lien searches may be paid from the proceeds of loan checks when necessary.

(i) *Form FHA–30. ––, "Crop and Chattel Mortgage."* Form FHA–30. ––, will be prepared in an original and one copy if it is to be recorded, and two copies if it is to be filed. The original (and one copy if it is to be filed) will be executed by the applicant. The requirements for the signature of the applicant's spouse will be as prescribed for Form FHA–31 in paragraph (e) of this section.

(j) *Form FHA–32, "Subordination Agreement."* (1) The applicant will obtain, from the landlord or other parties of interest, a subordination agreement on Form FHA–32 in connection with each Production and Subsistence loan, whenever required as provided in § 342.5 (a) of this chapter.

(2) In lieu of obtaining Form FHA–32 from the landlord, the subordination may be obtained by inserting the following language, which is included in Form FHA–81, "Flexible Farm Lease," in any lease agreement: "In consideration of loan(s) to be made by the Farmers Home Administration, the landlord hereby subordinates in favor of the Farmers Home Administration any interest or lien he now has or may acquire in or on the livestock, farm equipment, and crops of the tenant during the term of the lease or any extension or renewal thereof; except that this subordination does not apply to the landlord's interest in the crops grown in any year for current rent for that year."

(k) *Form FHA–80, "Assignment of Proceeds from the Sale of Agricultural Products."* Form FHA–80, or other form approved by the State Director and the representative of the Office of the Solicitor, will be used to obtain an assignment of proceeds from the sale of farm, dairy, or other agricultural products.

(R. S. 3690, secs. 21, 44 (a) (2) and (3), 44 (b), 44 (c), 60 Stat. 1072, 1068, 1069; 31 U. S. C. 712, 7 U. S. C. 1007, 1018 (a) (2) and (3), 1018 (b), 1018 (c))

§ 343.4 *Loan service to applicant.* Applications will be processed with a minimum number of office contacts by the applicant and, as rapidly as possible, consistent with sound operations. When Form FHA–14 is not required or already has been developed, the loan docket, including Form FHA–197, Form FHA–49, Form FHA–31, Form FHA–5, and, when possible, Form FHA–30. ––, should be completed and executed at the time the application is made. If a subordination is required and cannot be obtained immediately, it must be obtained by the applicant and returned to the County Office before the loan is closed. Instructions for securing the lien search report will be given to the applicant at the time the application is filed.

(Sec. 44 (b), 60 Stat. 1069; 7 U. S. C. 1018 (b))

§ 343.5 *Review and approval or rejection.* The loan approving official is responsible for seeing that all pertinent laws and regulations are met before a loan is approved.

(a) *Approval of loans.* The loan will be approved by the execution of Form FHA–5 in the space designated for the "Signature of the Approving Official." The approving official also will set forth any special conditions of approval or special security requirements on a separate sheet of paper which will remain in the County Office file.

(b) *Rejection of loans.* If a loan is rejected, the approving official will indicate the reasons for the rejection on Form FHA–197, if executed; otherwise, on a separate sheet of paper. The County Supervisor will notify the applicant by letter of the rejection with the return of the original of Form FHA–31 and any executed security instruments.

(Sec. 44 (b), 60 Stat. 1069; 7 U. S. C. 1018 (b))

§ 343.6 *Receipt of loan checks.* The County Supervisor is authorized to receive and deliver loan checks to applicants. This authority may be redelegated in writing to any properly bonded Farmers Home Administration employee.

§ 343.7 *Loan closing*—(a) *Check delivery.* Upon receipt of a check, the County Supervisor will notify the applicant promptly, indicating where and when he may expect delivery of the check, or will mail the check to him.

(b) *Lien search reports.* Before a loan check is delivered, there must be in the County Office case folder a report of lien search on Form FHA–87, showing whether or not as of that date there are any liens on record against the property offered as security.

(c) *Security documents.* Properly bonded County Office employees are authorized to execute and file or record any legal instruments necessary to obtain or preserve security for loans, including mortgages and similar lien instruments (when the holder of a mortgage or other lien is required to execute the instrument), affidavits, acknowledgments, and other certifications (when the mortgagee must execute such certifications under State law).

(d) *Obtaining security for production and subsistence loans.* (1) In cases in which no capital goods are to be purchased, or when the capital goods to be purchased are not required to be covered by a lien pursuant to § 342.5 (e) of this chapter, the lien instrument will be taken at the time the note and voucher are executed.

(2) In cases in which capital goods are to be purchased and covered by a lien, the County Supervisor will encourage the applicant to arrange 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 these cases at the time of the delivery of the loan check will be governed by the following requirements:

(i) 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.

(ii) 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 at the time of the delivery of the loan check to the applicant.

(iii) If a part of the property which is to serve as security for the loan is yet to be purchased at the time the initial mortgage is taken, under the requirements of subparagraphs (2) (i) or (2) (ii) of this paragraph, a first lien will be taken on such property at the time it is purchased.

(e) *Fees.* (1) 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.

(2) Whenever cash is accepted by 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–385, "Acknowledgement of Payment for Recording and Lien Search Fees," will be executed and given to the borrower. 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 a 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. Farmers Home Administration personnel will obtain written receipts for disbursement of the fees collected, either in the blank space at the bottom of the retained copy of Form FHA–385, or on a receipt form issued by the County Clerk or other official performing the service for which the fee was collected.

(Secs. 21, 44 (b), 60 Stat. 1072, 1069; 7 U. S. C. 1007, 1018 (b))

§ 343.8 *Revision in the use of loan funds.* County Supervisors may authorize changes in the use of loan funds when such changes are in the best interest of the borrower and the Government's financial interest will not be affected adversely. In such cases the intended use of loan funds must be in accord with the authorized purposes.

(a) When changes are made in the use of loan funds and the revisions affect the farm and home operations, the farm and home plan for adjustment loans will be revised. In the case of annual loans, the changes will be incorporated in the loan application. The record must show that the borrower and the County Supervisor agreed to the changes.

(b) When changes are made in the use of loan funds, no revision will be made in the repayment schedule on Form FHA–31. However, in adjustment loan cases when funds loaned for the purchase of capital goods are to be used to meet operating expenses, the borrower must agree to repay the loan during the first year in the amount equal to the additional funds used for operating expenses. County Supervisors will confirm such agreements by letters to the respective borrowers and an appropriate notation will be made on the loan record.

(Sec. 44 (b), 60 Stat. 1069; 7 U. S. C. 1018 (b))

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## PART 344—GROUP SERVICES

Sec.
344.1 General.
344.2 Purpose of group services.
344.3 Definition and types.
344.4 Development of group services.
344.5 Production and subsistence loans to establish group services.
344.6 Business operations.
344.7 Bonding.
344.8 Insurance.
344.9 Supervision and servicing.

Sections 344.1 to 344.9 interpret and apply secs. 21, 44 (b), 60 Stat. 1072, 1069; 7 U. S. C. 1007, 1018 (b). Other statutory provisions interpreted or applied are cited to text in parentheses.

DERIVATION: §§ 344.1 to 344.9 contained in FHA Instruction 441.4.

§ 344.1 *General.* Sections 344.2 to 344.9 describe policies and procedures for the financing, operation and limited supervision of group service activities of borrowers from the Farmers Home Administration.

§ 344.2 *Purpose of group services.* Group services are a means by which two or more farmers may provide themselves with such services, equipment and facilities as sires, machinery, storage facilities, food preservation equipment, and other needed farm and home services, facilities and equipment which they could not otherwise obtain individually on an economically sound basis. Through the use of group services, farmers on family-type farms may keep capital investment in balance with their other resources and size of operations, and provide themselves with modern production equipment, facilities and services not otherwise available to them as individuals. Group services are an integral part of a well-balanced production and subsistence loan program.

§ 344.3 *Definition and types.* A group service is a service or facility operated for the benefit of a small group of individuals, and the property used in the service is owned by one or more members of the group. Group services to be established, financed and supervised under §§ 344.2 to 344.9 are of the following types:

(a) *Joint-owner.* A joint-owner group service is one in which two or more individuals acquire, own jointly, and use one or more pieces of equipment, sires, or similar facilities. The operation of such services will be primarily for the members of the group, but they also may be made available to users other than the owners. When two or more individuals combine resources to acquire and own a facility jointly and a loan is made by FHA to one or more of the joint owners, the facility will be designated as a joint-owner group service. For purposes of organization, operation, and supervision, joint-owner group services are classified as follows:

(1) *Informal.* An informal joint-owner group service is one which (i) either because of the kind of service, the number of participants, or the equality of participation in the service, has no special managerial problems requiring the services of a manager; and (ii) the service is not operated on a fee basis. For example, a service which consists of either a corn planter, a disk, a washing machine, or other comparable item that is to be used ordinarily by two to four participants, and on a nonfee basis, would be an informal joint-owner group service.

(2) *Formal.* A formal joint-owner group service is one which (i) either because of the kind of service, the number of participants, or the inequality of participation in the service, requires a manager or manager-treasurer to receive and distribute funds, keep necessary records, and be responsible for the operation and maintenance of the service; and (ii) is operated on a fee basis. For example, a service which consists of either a tractor and combine, a tractor and peanut picker, food preservation equipment, or comparable items, that is used ordinarily by more participants than in the case of an informal service, and is used on a fee basis, would be a formal joint-owner group service.

(b) *Master-owner.* A master-owner group service is one in which (1) an individual owns and operates one or more pieces of equipment, sires, or similar facilities which serve the needs of two or more individuals; or (2) two or more farmers individually own separate items of equipment, sires, or facilities and exchange their use on the basis of a written agreement. An example of "(2)" above is the situation in which one farmer owns a mower and rake, another owns a grain drill, and a third owns a binder, and the three mutually agree to exchange the use of these implements, decide upon the equitable exchange rate, and make a settlement at the end of the operating year.

§ 344.4 *Development of group services.* County Supervisors will assist in the development of a group service where one or more applicants for FHA assistance need a service which it is not economically advisable to obtain individually.

(a) *Determining needs.* County Supervisors will recognize the need for establishing a group service from (1) an analysis of the farm and home operations of the applicants; and (2) an analysis of the facilities available in the community. However, applicants themselves must decide whether to participate.

(b) *Steps in development.* Developing the group service will include generally the following steps:

(1) A discussion by interested families of their common needs and the possibilities of meeting these needs by means of a group service.

(2) A decision as to whether or not the families wish to work together as a group to meet such needs.

(3) A decision upon a definite plan of action including the methods and details of financing and operation.

(4) Specific planning by each participant for the use of the service.

(c) *Maximum use of existing services and facilities.* In some cases it may be possible to meet the needs of FHA borrowers by expanding the use of existing group service in the neighborhood or by negotiating with the owners of facilities available to the neighborhood without establishing new group services. Such guidance and assistance will not constitute the basis for reporting group service activity.

§ 344.5 *Production and subsistence loans to establish group services*—(a) *Eligibility.* Loans to acquire property for use in a group service may be made to individuals who are eligible for Production and Subsistence (P&S) loans under § 342.2 of this chapter.

(b) *Loan purposes.* Loans made for the purchase of property to be used on a group service basis will be subject to the policies prescribed for the Production and Subsistence (P&S) loans in § 342.3 of this chapter. Loans will be made only for the amounts which applicants are unable to finance from their own funds.

(c) *Rate of interest.* Production and Subsistence (P&S) loans for establishing group services will bear interest at the rate of 5 percent per annum.

(d) *Promissory note*—(1) *Master-owner services.* The obligation created by a Production and Subsistence (P&S) loan for the purchase of livestock or equipment to establish a master-owner service will be evidenced on Form FHA–31, Promissory Note. If at the same time the applicant requests a Production and Subsistence (P&S) loan for other authorized purposes the entire amount will be included in the one note, and only one loan docket need be prepared.

(2) *Joint-owner services.* In those cases where Production and Subsistence (P&S) loan funds are requested by an applicant to purchase an interest in property to be used in a joint-owner group service, which loan is to be secured by a joint mortgage on the group-service property pursuant to paragraph (f) (1) of this section, and the applicant at the same time requests additional Production and Subsistence (P&S) loan funds for other authorized purposes, separate Forms FHA–31, evidencing the respective obligations, must be executed, and a separate loan docket must be prepared for each loan. If the loan to purchase property to be used in a joint-owner service is not to be secured by a joint mortgage pursuant to paragraph (f) (1) of this section, then only one Form FHA–31 for the total amount of the loan need be executed and only one loan docket prepared.

(e) *Approval authority.* Delegations of authority to approve Production and Subsistence (P&S) loans as provided in §§ 341.1 to 341.5 of this chapter will apply where such loans are being made in connection with establishing group services.

(f) *Security requirements.* Loans to individuals made in connection with the establishment of group services will be secured in such manner as will protect adequately the Government's interest and in accordance with the policies stated in § 342.5 of this chapter. The following security requirements will be observed in making Production and Subsistence (P&S) loans for participation in group services:

(1) Borrowers, who obtain loans to aid in establishing joint-owner group services, will secure their respective loans by a first lien on their undivided interests in the property purchased for use in the service. A joint chattel mortgage will be executed by each of the parties having an interest in the property. The form of mortgage used must permit enforcement of the lien by the Government against the entire property in the event of a default in respect to any individual note secured thereby or in the event of a breach by any individual borrower of any of the covenants or provisions of the mortgage. The joint mortgage form used for this purpose must be approved by the State Director and the Representative of the Office of the Solicitor. However, where none of the Production and Subsistence (P&S) loans made in connection with a given group service is in excess of $100, each such loan may be secured by a chattel mortgage on the respective borrower's personal property (unencumbered except for existing mortgages in favor of FHA), other than the property purchased for use in the group service, provided such property (or the borrower's equity therein where the property is already mortgaged to the FHA) is of sufficient value to secure adequately the Government's loan. In the latter case Form FHA 30.___, Crop and Chattel Mortgage, will be utilized.

(2) Loans made to individuals for establishing master-owner services will be secured by a first lien on Form FHA 30.__ on the property purchased with the loan funds. The loan approval official may require, as additional security, assignments of service fees, mortgages on other available personal property owned by the borrower, and other types of security that are customarily prescribed for Production and Subsistence (P&S) loans. Assignments of service fees will be executed on forms approved by the State Director and the Representative of the Office of the Solicitor.

(g) *Repayments*—(1) *Loan repayment period.* Loans will be scheduled for repayment in at least annual installments and as rapidly as possible consistent with the borrower's ability to pay as determined by an analysis of the operation of the group service and the farm and home operations of the individual, and consistent with the provisions of § 342.4 (b) and (c) of this chapter. (Sec. 48, 60 Stat. 1070; 7 U. S. C. 1022)

(2) *Liability of individual joint-owners.* A separate note will be taken from each individual borrower in the amount of his loan. While the personal liability of each joint-owner is limited only to the amount of unpaid principal and interest on his individual loan, the Government, in the event of breach or default by any of the joint-owners, may enforce its lien by proceeding against the property mortgaged jointly pursuant to paragraph (f) (1) of this section.

(h) *Limitations on group services.* (1) Loans will be made only to eligible individuals and not to the group.

(2) The group will not be incorporated and will consist of a relatively small number of participants.

(3) The operation of the service will be primarily for the members of the group with any direct revenue producing activities being incidental to such operation.

(4) No portion of Production and Subsistence (P&S) loan funds may be used for the purchase or lease of land, or the carrying on of any land purchasing or land-leasing program, or the carrying on of any operations in collective or cooperative farming. (Sec. 44 (a) (4), 60 Stat. 1069; 7 U. S. C. 1018 (a) (4))

(i) *Submission of loan docket.* Loan dockets in connection with group serv-

ices will have the same routing as other Production and Subsistence (P&S) loan dockets; however, in the case of joint-owner group services, all individual loan dockets for a particular service will be submitted as a unit with a brief transmittal letter signed by the County Supervisor, giving the names of the applicants and amount of funds requested by each. For loans requiring approval other than in the County Office, the loan submission also will include Form FSA–855, "Request for Establishment of Group Service," operating plan and appropriate form of agreement. These documents will be returned to the initiating office upon approval or rejection of the loan(s).

§ 344.6 *Business operations* — (a) *Planning and budgeting.* Before the beginning of each operating season the members of each group service will develop an operating plan for the coming year. It is important that all members participate in making the plan in both joint-owner and master-owner group services. The type of meeting or the formality thereof for this purpose will be determined largely by the number of participants and the nature and scope of the service. The annual operating plan of formal joint-owner group services and master-owner group services that operate on a fee basis will be recorded on Form FSA–375. The original of the plan will be kept by the group, and two copies will be retained in the County Office files. The annual operating plan of informal joint-owner group services and master-owner group services that operate on a nonfee basis will be recorded on appropriate portions of Form FSA–375 or (at the discretion of the group) in narrative form and should reflect the estimated use planned for the service, as well as any changes that need be made to improve operations. The original of the annual operating plan (for such informal services) will be kept by the group, and a copy will be retained in the County Office files.

(b) *Records.* All group services, financed in whole or in part by FHA, will be required to maintain such records as are necessary to provide information on which to determine results of operation and to aid in future planning.

(1) In the case of master-owner group services that operate on a nonfee basis and informal joint-owner group services, the County Supervisor, in consultation with the group, will advise what records are to be maintained.

(2) All other types of group services will be required to maintain Form FSA–376, Record Book, or a similar record in readily usable form to record all business transactions of the service.

(3) Form FSA–376A, Service Ticket, or a comparable receipt form, will be used to issue receipts for fees collected and for services performed.

(c) *Summary of year's operations.* At the end of the operating season, the manager or secretary of formal joint-owner group services or the owner in master-owner group services operated on a fee basis, with the advice of the County Supervisor, will prepare a summary of the year's operations. However, a summary of the year's operations will not be required of informal joint-owner group services and master-owner group services that operate on a nonfee basis. In those cases where the summary is prepared, the members of the group or the master-owner will use the information as an aid in making plans for subsequent years' operations. In master-owner group services, the owner generally will find it important to discuss the summary information with the members of the group in connection with developing operating plans for the coming year. The summary of the year's operations will be recorded on the appropriate portions of the original and two copies of the Form FSA–375, "Annual Operating Plan." The original of Form FSA–375, which should reflect the planned operations and actual results of the year's operations, will be kept by the group. One of the County Office copies, after the results of the year's operations are recorded thereon, will be forwarded to the State Field Representative at the end of the operating season, but not later than January 15 of each year. The State Field Representative will review the summary of the year's operations, make such use of the information as is necessary in the supervision and training of county personnel, and transmit the copy to the State Office not later than February 1 of each year.

§ 344.7 *Bonding.* The group will consider thoroughly whether fidelity bond coverage should be obtained and the recommended amount thereof for the individual entrusted with the safekeeping of the group's funds. After giving due consideration to the recommendations of the group and the prevailing customs in the area, the loan approval official will make final determination of the requirements for bond. If a bond is required, the original will be retained in the County Office. Where possible, the position (treasurer, secretary, or manager) should be bonded rather than the person. The State Director, acting for the United States Government, will be named as an obligee in the bond jointly with members of the group. FHA employees may not serve as trustees or under any other title as custodian of the funds for a group service. However, properly authorized FHA officials may act as countersigning officers for supervised bank accounts. Fidelity bonds, when required, will be obtained locally through an acceptable bonding company.

§ 344.8 *Insurance.* (a) After giving due consideration to the recommendations of the group and the prevailing customs in the area, as to the insurance to be secured and the amount of coverage, it will be the responsibility of the loan approval official to:

(1) Require public liability and property damage insurance on all trucks, on tractors and other vehicles frequently driven over public highways, and on all other equipment on which it is customary in the area to carry such insurance.

(2) Require adequate fire and extended coverage insurance on all buildings serving as security for the Production and Subsistence (P&S) loans made in connection with group services.

(3) Determine the need for requiring other types of insurance and requiring insurance on other types of property.

(b) The required insurance, wherever possible, may be obtained locally.

(c) The United States Government, acting through the Administrator of the FHA, as mortgagee of the property, will be named as beneficiary in the policy jointly with the members of the group or the master-owner. The original policy will be filed in the County Office.

§ 344.9 *Supervision and servicing.* (a) Supervision of group services, to the extent needed, will be directed toward developing membership participation and understanding and training managers and members to operate the service efficiently to protect the financial interests of the members and the Government.

(b) At the end of each operating season for the service, County Supervisers will analyze the summary of the year's operations and the new plan of operations and determine the extent and kind of supervision needed for the forthcoming season. County Supervisors will obtain the advice of the County Committee on all group services which present special problems from the standpoint of membership participation and understanding, operating efficiency, and the financial interest of the members and the Government. Group meetings, demonstrations and on-the-job training are effective supervisory methods for group services. A field folder and Form FSA–595, Area Guide Group Service Card, will be maintained for each group service.

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## Subchapter D—Water Facilities Loans

AUTHORITY: §§ 351.1 to 356.8 issued under pars. 2 and 5, Order, Sec. Agric., Oct. 14, 1946, 11 F. R. 12520. Statutory provisions interpreted or applied are cited in parentheses at the end of the affected sections, with the exception that when statutory provisions interpreted or applied relate generally to an entire part, citations are given in the heading of such part.

### PART 351—APPROVAL AUTHORITY

Sec.



DERIVATION: §§ 351.1 to 351.3 contained in FHA Instruction 442.1.

§ 351.1 *Authorization to State Directors.* (a) State Directors are authorized to close Water Facilities loans which were approved or conditionally approved by either the Administrator or the Regional Director of the Farm Security Administration, subject to all of the conditions contained in loan approval letters and documents issued by either or both of such officials.

(b) Loans in excess of the amounts and authority specified in this section will be submitted to the Administrator for approval.

(c) State Directors are authorized to approve Water Facilities loans subject to applicable loan making policies and to the following limitations:

(1) No Water Facilities loan, initial or subsequent, will be approved which will

result in a total outstanding Water Facilities indebtedness of any one individual in excess of $5,000.

(2) No Water Facilities loan, initial or subsequent, will be approved which will result in a total outstanding Water Facilities indebtedness of any one incorporated mutual water company, water association, or irrigation district, in excess of $20,000.

(3) The aggregate of loans made to all individuals in connection with any one water facilities group service will not exceed $20,000.

(Sec. 2 (3), 50 Stat. 869; 16 U. S. C. 590s (3))

§ 351.2 *Authorization to State Directors to redelegate loan approval authority.* (a) State Directors are authorized to redelegate to State Field Representatives all or any part of their authority to approve Water Facilities loans, except that State Field Representatives may not be authorized to approve:

(1) Loans to water associations, mutual irrigation companies, or irrigation districts.

(2) Loans for irrigation purposes.

(3) Loans to establish a water facilities group service.

(b) State Directors are authorized to redelegate to County Supervisors, in charge of County Offices, all or any part of their authority to approve Water Facilities loans to individuals, except that County Supervisors may not be authorized to approve:

(1) Loans for irrigation purposes.

(2) Any loan, initial or subsequent, which will result in a total outstanding Water Facilities indebtedness in excess of $1,000.

(3) Loans to establish a water facilities group service.

§ 351.3 *Redelegating authorities.* Insofar as feasible, and subject to the limitations in this section, Water Facilities loans will be approved in the field by either State Field Representatives or County Supervisors. State Directors will redelegate loan approval to such officials and provide necessary instructions with respect to the exercise thereof. Each State Director will determine the maximum Water Facilities loan approval authority to be redelegated to each position (State Field Representative and County Supervisor) for the State as a whole and will issue State instructions redelegating such authority on a position basis.

(a) State Directors may limit or restrict the exercise of redelegated Water Facilities loan approval authority to certain State Field Representatives by means of individual "policy letters." State Field Representatives, with the concurrence of the State Director, may limit or restrict the exercise of redelegated Water Facilities loan approval authority to certain County Supervisors under their respective jurisdictions by means of individual "policy letters."

(b) Restrictions and limitations on the exercise of redelegated loan approval authority will be used whenever needed to assist in the development and maintenance of a sound Water Facilities program. In redelegating Water Facilities loan approval authority and issuing "policy letters," State Directors and State Field Representatives must satisfy themselves that the delegates under their immediate supervision are capable of exercising such authority satisfactorily. Through careful analyses and observations in the field, State Directors and State Field Representatives must determine that such authority is being exercised on a sound and effective basis.

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## PART 352—POLICIES

Sec.



Sections 352.1 to 352.14 interpret and apply sec. 2 (3), 50 Stat. 869; 16 U. S. C. 590s (3). Other statutory provisions interpreted or applied are cited to text in parentheses.

DERIVATION: §§ 352.1 to 352.14 contained in FHA Instruction 442.2.

§ 352.1 *General.* Sections 352.2 to 352.14 set forth the basic policies for extending technical and financial assistance to (a) individual farmers and, (b) incorporated mutual water companies, water users associations and irrigation districts (referred to in this subpart as "associations"), in the arid and semiarid areas of the United States for farmstead and irrigation Water Facilities under the Water Facilities Program administered pursuant to Public Law 399, 75th Congress (50 Stat. 869), as amended, referred to in this subpart as the Water Facilities Act. As used in this part, the arid and semiarid areas of the United States include the 17 Western States; namely, Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

§ 352.2 *Basic objective.* The objective of the act is to provide facilities for water storage and utilization in the arid and semiarid areas of the United States to alleviate wastage and inadequate utilization of water resources on farm, grazing, and forest lands, thereby contributing to the preservation of natural resources; to the protection of the public health and public lands; and to the prevention of droughts, periodic floods, crop failures, decline in standards of living, and excessive dependence on public relief. (Sec. 1, 50 Stat. 869; 16 U. S. C. 590r)

§ 352.3 *Area planning*—(a) *Previously approved areas.* All areas previously approved for water facilities operations by the Water Facilities Board and by the Farm Security Administration are adopted as approved areas by the Farmers Home Administration subject to the same limitations covering ground water development contained in the existing authorizations.

(b) *Requirements for area plans.* Approved area plans will be required when applicants residing outside presently approved areas request assistance in the development of ground water for irrigation, either by pumping or artesian flow, beyond the amount which is used under established water rights or water use before assistance is rendered to such applicants.

§ 352.4 *Types of assistance provided.* The following general types of assistance are available under the Water Facilities Program:

(a) *Loans.* Water Facilities loans may be made for the purpose of construction, repair, rehabilitation, reinstatement, or enlargement of water facilities (1) to individual farmers for such facilities on their farm units, or to enable them to obtain the benefits from a water system owned and operated by a water facilities group service or by an association, and (2) to associations incorporated for similar purposes.

(b) *Technical assistance*—(1) *With loans.* Technical assistance will be furnished to individuals and associations receiving loans under this program. Such assistance will include the planning of the facility to be installed, advice and guidance about planning and carrying out farm and home operations, as well as the technical supervision in the installation and operation of the facility.

(2) *Without loans.* When eligible applicants make application for technical assistance only and cannot obtain such assistance from public or private sources it may be furnished if personnel can be made available. Technical assistance without loans may include the same types of assistance as are furnished in connection with loans, except that in such cases it may not include actual supervision of the installation and operation of the facility.

(3) *Government responsibility.* The County Supervisor must inform applicants and others who furnish labor, supplies, and equipment to applicants, that the Government will not be responsible for or guarantee the successful installation and operation of the facility.

§ 352.5 *Purposes for which Water Facilities loans and assistance may be extended:* Water Facilities loans and assistance may be extended for any of the following items which will accomplish the purposes of the act:

(a) The construction, repair, rehabilitation, reinstatement, or enlargement of farmstead facilities and irrigation facilities which will include such items and appurtenances thereto as reservoirs, storage and diversion dams, ponds, wells, cisterns, pipelines, storage tanks, stock water tanks, spring development, and pumping installations including windmills and other kinds of power plants, distribution systems, and the acquisition of real estate or interests therein necessary for sites or rights-of-way upon which a facility will be located. Loans may not be made for plumbing and plumbing fixtures within farm buildings or for power plants to generate electricity.

(b) The acquisition of a source of water supply, including (1) the purchase of water stock or memberships in an association: *Provided,* The organizational, financial, and water right situations of such association are sound; (2) the acquisition of a right through appropriation or purchase of a water supply; or (3) the acquisition of land in cases where it is not possible to acquire and transfer appurtenant water rights apart from the land: *Provided,* That the value of the land acquired without the water right is an incidental part of the purchase price of the water right.

(c) The purchase of stock or memberships in or the payment of assessments to an association which will enable such association to finance water facilities for which loan funds may be used, *Provided:*

(1) The organization and financial structure of the association or company is sound; and

(2) The water facilities plans for the contemplated facility and the water right situation are approved by the Farmers Home Administration.

(d) The hiring of or contracting for labor and equipment for land leveling which is necessary to make efficient use of irrigation water on land owned by the applicant.

(e) The refinancing of an existing indebtedness secured by a facility with respect to which a loan is being made for repair, rehabilitation, reinstatement, or enlargement, *Provided:*

(1) Such refinancing is necessary for the successful operation of the facility;

(2) Arrangements cannot be made with the present creditor to extend or modify the terms of the security instruments to enable the facility to be operated successfully;

(3) The refinancing is for the payment of a debt incurred in the construction or repair of the existing facility and not for the refinancing of farm real estate indebtedness; and

(4) The amount to be used for refinancing does not exceed 50% of the total Water Facilities loan funds being advanced.

(f) The purchase of equipment needed by an association or a water facilities group service for construction or maintenance of a farmstead or irrigation water system, if:

(1) Equipment purchased for use in construction (i) is not otherwise available at reasonable cost or the cost of the project will be materially lower as the result of such purchase, and (ii) can be used effectively in maintenance work after the project is complete or will be sold and the funds used for other planned costs of the project or returned as payment on the loan.

(2) Equipment purchased for maintenance only can be used effectively and economically throughout its useful life on the water system operated by the group.

(g) The hiring of or contracting for personal services such as engineers, attorneys, auditors, construction foremen and laborers needed for the planning, organization, construction or repair of the facility with respect to which a loan is made.

§ 352.6 *Loan terms*—(a) *Interest rate.* Water Facilities loans will bear interest at the rate of three percent (3%) per annum on the unpaid principal balance. Interest will begin as of the date of the loan check for all loans.

(b) *Repayments.* Water Facilities loans will be scheduled for repayment annually in as short a time as possible in accordance with the ability of the borrower to repay. However, the loan repayment schedule will not exceed the useful life of the facility or twenty years, whichever is the lesser, except in meritorious and exceptional cases, with the prior approval of the Administrator, loans to associations may be scheduled for repayment over the useful life of the facility but not to exceed forty years. The first principal repayment may be deferred for a period of not to exceed one full year from the date the facility is placed in operation when it has been determined that income without the use of the facility will be insufficient to make such payment.

(c) *Farmer contributions.* Individuals and associations, including the members thereof, will be expected to contribute to the cost of any facility to the extent practicable by furnishing such items as funds, labor, materials, and equipment. Sec. 4 (3), 50 Stat. 870; 16 U. S. C. 590u (3))

(d) *Voluntary services for making surveys and plans.* (1) Individual applicants may be requested to assist personally and gratuitously in the conduct of preliminary surveys and planning operations in connection with the proposed facility. Farmers Home Administration personnel are authorized to request such assistance, *Provided:*

(i) The person furnishing the assistance acknowledges in writing that he will provide the assistance gratuitously;

(ii) Any such request for assistance is limited to such labor and other forms of aid as can be rendered personally by the individual involved; and

(iii) Gratuitous assistance from other artisans or laborers will neither be requested nor accepted.

(2) Association applicants may utilize the compensated or uncompensated services of members or stockholders or other artisans or laborers in the part of the survey and planning undertaken by the association as its contribution to the planning and construction of the facility. However, if such services are requested by Farmers Home Administration personnel, the provisions of paragraph (d) (1) of this section shall apply to the association and the individual rendering the service.

§ 352.7 *Limit on the use of Water Facilities funds.* Not more than $50,000 of Federal funds may be expended for the construction, repair, enlargement, and maintenance or financial assistance to any one project. (Sec. 7, 54 Stat. 1124; 16 U. S. C. 590z–5)

§ 352.8 *Eligibility requirements for Water Facilities loans.* The benefits of the Water Facilities Program will be extended to individuals or to groups of individuals (including associations) whose lands are in use for agricultural purposes, including grazing, or whose lands will be placed in such use as a result of the installation of a proposed water facility.

(a) *Individuals.* An individual is eligible to receive a Water Facilities loan for authorized purposes, *Provided:*

(1) The individual is a farm owner or farm tenant whose lands are in need of water facilities to promote sound operations.

(2) The individual cannot obtain credit for the purpose of the loan on reasonable terms and conditions and in sufficient amount from commercial banks, cooperative lending agencies, or from any other responsible source available in or near the community in which he resides.

(3) The individual owns or operates a farm unit of a size not substantially in excess of that regarded as a family-type farm unit for the area in which he is situated.

(b) *Associations.* A non-profit association having all corporate powers necessary to the borrowing and repayment of the loan and the operation of the water facility financed with the loan is eligible to receive a Water Facilities loan for authorized purposes, *Provided:*

(1) The owners or tenants, operating farm units of a size not substantially in excess of those regarded as family-type farms for the area in which they are situated, will use the major portion of the water to be made available by the facility.

(2) The association does not have sufficient funds to carry out the objectives for which the loan is sought and cannot obtain such funds by levying special assessments or charges on its members, or from commercial banks, cooperative lending agencies, or from any other responsible source normally serving the area on reasonable terms and conditions.

(c) *Unincorporated water associations.* An unincorporated water association is not eligible to receive a Water Facilities loan. However, Water Facilities loans may be made to individuals to participate in an unincorporated water association or water facilities group service approved by the Farmers Home Administration.

(d) *Certification by applicant.* Each applicant for a Water Facilities loan, individual or association, must certify, before a loan is approved, that he is unable to obtain credit on reasonable terms and conditions and in sufficient amount, from commercial banks, cooperative lending agencies, or from any other responsible source available in or near the community in which he resides, to carry out the objectives for which the Water Facilities loan is sought.

(e) *Certification by County Committee.* No Water Facilities loan, initial or subsequent, may be made unless the County Committee certifies in writing that the applicant is eligible to receive a Water Facilities loan under the appropriate requirements of paragraphs (a) and (b) of this section. (Sec. 5, 50 Stat. 870; 16 U. S. C. 590v)

(f) *Administrative determination.* All certifications by County Committees that applicants are eligible to receive Water

Facilities loans are subject to administrative review and final determination. The loan approval officer is directed to determine whether an applicant certified by the County Committee is eligible to receive a Water Facilities loan. In making such determination, the loan approval officer will take into consideration the certifications of the applicant and of the County Committee, and other pertinent information. Generally, the applicant will not be required to submit a written notice of rejection for credit from other available credit sources. However, the County Committee or loan approval officer should state what attempts have been made to secure other credit and may require such a written notice of rejection in doubtful cases.

§ 352.9 *Planning requirements.* (a) Water Facilities Plans will be developed as a means of determining costs and feasibility of proposed water facilities to be constructed with loans and as a guide for subsequent installations of such facilities.

(b) Farm and Home Plans will be developed with each applicant for an individual loan as a basis for determining the soundness of the loan; as a guide to the family in carrying out farm and home operations consistent with the basic objectives of the Water Facilities Program; and in determining the applicant's debt paying ability.

(1) An annual farm and home plan will be developed, for the year in which the loan is made, with each applicant.

(2) A long-time farm and home plan also will be developed with each applicant if the installation of the proposed facility will result in a major reorganization of the farm business.

(c) *Group plans*—(1) *Water Facilities group services.* At the time the initial assistance is rendered to a Water Facilities group service, an operating plan, and an operating budget will be developed with the group. Annually thereafter, until all loans have been repaid, the group will be required to summarize the operations for the past year and review and modify, if necessary, the operating plans and prepare a budget for the coming year's operations.

(2) *Water Facilities associations.* A loan to an association will be based on a financial report consisting of a balance sheet and an operating statement showing the results of operations for the association's last fiscal year, and a budget showing estimated receipts and expenditures for the next fiscal year. Annually thereafter, the Board of Directors will summarize operations for the past year and submit to the Government for approval a financial report and a budget for the next year's operations.

§ 352.10 *Water right requirements.* Assistance will be extended under this program only to applicants who comply with all applicable State laws with respect to the appropriation and use of water. In the absence of State laws requiring filing, but where State rules and regulations do not prevent the filing of an application for, or a notice of appropriation of, a water right, such filing will be required for all loans for irrigation purposes and association loans for farmstead systems involving a new or additional appropriation or use of water.

§ 352.11 *Tenure.* (a) Credit under this program will be extended to individual applicants who (1) have reasonable assurance of the use of the land for a period sufficient to permit the repayment of the Water Facilities loan, and (2) have tenure agreements which will provide for use of land on equitable terms and at a reasonable cost and permit the proper utilization of land and water.

(b) When a loan is made to a tenant, the landlord will be required to compensate the tenant for the improvement to the real estate. This may be accomplished through such methods as extended tenure, reductions in rent, repayment of residual value, removal of the facility, or other equitable adjustments in tenure.

§ 352.12 *Security requirements.* All Water Facilities loans will be secured in a manner which will protect adequately the Government's financial interest. The following policies will govern the taking of security for Water Facilities loans:

(a) *Loans to individuals.* (1) Except as provided in this section, a first or second lien will be taken, whenever possible, upon real estate and water rights owned or to be acquired by the applicant. It is preferable that such a lien cover the real estate upon which the facility is installed and which it serves. If a first lien is not available, a second lien will be taken only when the applicant's equity in the water rights or real estate, with the facility installed, is such that the second lien will have a substantial security value. When a second lien is taken on real estate, a first lien will be obtained also on any mortgageable property purchased with the loan. All liens on real estate will be taken subject to the title requirements set out in §§ 354.1 to 354.4 of this chapter.

(2) When a real estate lien of the quality and value described above is not available, the loan will be secured by a first lien on any mortgageable property purchased with the loan, plus sufficient additional security chosen from the following types to secure the loan adequately:

(i) A first lien on selected items of livestock, farm equipment, or both.

(ii) A lien on selected items of livestock, farm equipment, or crops, subject only to the outstanding lien thereon held by the Farmers Home Administration as security for other Operating loans.

(iii) A first lien on crops when a lien on other personal property is not available.

(iv) An assignment of income from the sale of agricultural products.

(3) Water Facilities loans scheduled for repayment within five years or less may be secured in either of the ways outlined in subparagraphs (1) and (2) of this paragraph.

(4) Borrowers receiving loans to be used to purchase shares of water stock will be required to pledge or assign such stock as security for the loan. No additional security shall be required if the stock represents a right to receive water for irrigation purposes, if it can be resold readily by the pledgee or assignee, and if the purchase price was not substantially larger than the price at which stock in the particular company usually has been sold.

(5) Water facilities equipment for irrigation, such as portable sprinkler systems, pumps, and motors, which is not attached to real estate, is considered personal property. It is permissible for Water Facilities loans made for purchasing only such equipment to be secured only by a first lien on the equipment purchased, and by necessary additional security of the character described in subparagraph (2) of this paragraph.

(6) A mortgage lien will be taken also on the rights-of-way and easements owned or acquired by the borrower for use in connection with the proposed facility, if it is necessary to do so in order to protect adequately the Government's financial or security interests. For example, if a mortgage is taken on a farm, the mortgage should include any such rights-of-way appurtenant thereto or to be used in connection therewith. Likewise, if a mortgage will be taken on a string of pipe located on a right-of-way, a mortgage should also be taken on the right-of-way. Applicants will obtain partial releases or consents to easements and rights-of-way across privately owned tracts of land from any holders of outstanding liens disclosed by the forms of title evidence required by §§ 354.1 to 354.4 of this chapter.

(b) *Loans to associations.* (1) A first lien, if obtainable, will be taken on real and personal property, exclusive of easements, rights-of-way, and water rights, owned by the applicant at the time the loan is approved. If a first lien is not obtainable, mortgages on such property may be taken subject only to the outstanding liens for debts not being refinanced by the loan.

(2) A first lien will be taken on real and personal property, exclusive of easements, rights-of-way, and water rights, acquired with loan funds.

(3) A mortgage lien will be taken on the interest of the applicant in all easements, rights-of-way, and water rights used in connection with the facility. In instances where the easements or rights-of-way involve private lands, and are not derived pursuant to state statutes authorizing the installation of water or irrigation works across lands of other owners, associations will obtain from holders of outstanding liens, which are disclosed by real estate lien searches covering a period of at least ten years prior to the execution of the easements, and so forth, partial releases or consents to such easements and rights-of-way.

(4) Assignments of association income will be taken as additional security.

§ 352.13 *Insurance*—(a) *When required.* Insurance will be required on mortgageable property (except windmills and their towers) purchased with the loan when the location, character, and construction of the facility is such that it is subject to destruction or damage by fire, windstorm, or tornado to the extent of $500 or more. When real estate is taken as loan security, insur-

ance will be required on the dwelling and the other farm buildings thereon without which the borrower could not continue successful farming operations. This insurance will cover destruction, loss, and damage from fire, lightning, windstorm, and any other hazard covered customarily in the area.

(b) *Amount of insurance.* (1) When real estate is not taken as security and insurance is required on the mortgageable property purchased with the loan, the amount of that insurance will be equal to the depreciated replacement value of such property or the amount of the loan, whichever is less.

(2) When a first real estate mortgage is taken, the amount of insurance required will be equal to the depreciated replacement value of the mortgageable property purchased with the loan and of the farm buildings required to be insured, or the amount of the Water Facilities loan, whichever is less.

(3) When a second real estate mortgage is taken, the amount of insurance required will be equal to the depreciated replacement value of the mortgageable property purchased with the loan and of the farm buildings required to be insured, or the unpaid amount of the first mortgage plus the amount of the Water Facilities loan, whichever is less.

§ 352.14 *Subsequent loans.* Subsequent Water Facilities loans may be made under the same policies, requirements, and procedures as for initial loans where one or more of the following situations exist:

(a) A need for additional credit in connection with the facility exists because of a catastrophe, such as storm, flood, earthquake, failure of water supplies, and so forth.

(b) An expansion or corrective action is needed in connection with the facility which could not be foreseen at the time the initial loan was made.

(c) To complete a facility begun with the initial loan where increased costs which cannot be absorbed by the applicant make the subsequent loan necessary for the protection of the investment of the Government.

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PART 354—PROCESSING LOANS TO INDIVIDUALS

Sec.

354.1 Water Facility loan forms and routines.
354.2 Assembly of loan dockets for review.
354.3 Review and approval or rejection.
354.4 Loan closing.

Sections 354.1 to 354.4 interpret and apply sec. 2 (3), 50 Stat. 869; 16 U. S. C. 590s (3). Other statutory provisions interpreted or applied are cited to text in parentheses.

DERIVATION: §§ 354.1 to 354.4 contained in FHA Instruction 442.4.

§ 354.1 *Water Facility loan forms and routines*—(a) *Form FHA–197, "Application for FHA Services."* Each indivdual applying for initial or subsequent Water Facilities loans or technical assistance only will fill out, execute and file with the County Office, Form FHA–197, "Applications for FHA Services," in an original only. The type of water facilities needed by the applicant will be described in Item 21 of Form FHA–197.

(1) The following statement will be typed on the back of the form in the space provided for comments, and signed by the applicant:

Upon request, I will personally assist, without charge to, credit from, or other obligation on the part of the Government, in the conduct of any survey or planning operation directed by the Farmers Home Administration incident to this application.

(Sec. 4 (3), 50 Stat. 870; 16 U. S. C. 590u (3))

(2) Upon favorable certification by the County Committee, the County Supervisor will prepare a copy of Form FHA–197 for all applicants requesting loans or technical assistance in the planning of irrigation or individual farmstead facilities on which the assistance of the Water Facilities Specialist or Engineer is needed. This copy will be forwarded to the State Director as a request for such assistance and the following information will be entered on the reverse of the form or on a separate sheet attached thereto:

(i) The nature of the problems with which help is needed.

(ii) Source of water supply, known points of diversion and what water rights have been or need to be acquired by the applicant, if any.

(iii) Other pertinent facts such as when the applicant will be available for contacts, kind of materials and equipment likely to be used in the construction of the facility, and names of local contractors or dealers who would likely be interested in some phase of the construction.

(b) *Form FHA–121, "Certifications—Water Facilities Loans to Individuals."* Form FHA–121 will be prepared in an original only.

(1) Part I of Form FHA–121 will be executed by the applicant at the time the application is made.

(2) Part II of Form FHA–121 will be executed by the County Committee as follows:

(i) When the applicant is determined to be eligible, by signing the "County Committee Certification."

(ii) When the applicant is determined to be ineligible, by deleting the "County Committee Certification," indicating the reasons for such determination under "Comments," and signing in the space provided. (Sec. 5, 50 Stat. 870; 16 U. S. C. 590v)

(c) *Farm and home plans.* (1) Form FHA–14, "Farm and Home Plan," will be prepared in an original and one copy. The original will be given to the applicant and the copy will be placed in the loan docket.

(2) Form FHA–14C, "Long-Time Farm and Home Plan," when required by § 352.9 of this chapter, will be prepared in an original and one copy. The original will be retained by the borrower and the copy will be placed in the docket. The steps and practices to be followed in making the long-range changes in the farm operations resulting from the installation of the water facility and the methods of financing such changes will be recorded on Form FHA–14C.

(d) *Leases.* When the lease held by a tenant-applicant is not equitable and does not provide for reimbursement for real estate improvements made by the tenant, Form FHA–160, "Water Facilities Improvement Lease," or Form FHA–260, "Supplement to Lease," whichever is applicable, will be used. However, other lease forms containing similar provisions, if available, may be used.

(e) *The Water Facilities Plan.* A plan containing the items enumerated below will be prepared in an original and one copy; the original will be placed in the loan docket and a copy will be given to the applicant. The County Supervisor will prepare the water facilities plan for the simple farmstead facilities. The Water Facilities Engineer will prepare the water facilities plan for the installation of irrigation facilities and the more difficult farmstead facilities. The Water Facilities Engineer will obtain the approval of the appropriate State officials including State Health Department officials for all construction plans where such approval is required by State statute or regulation. The detail to be included in the water facilities plan will be governed by the complexity of the facility to be constructed. The water facilities plan will include:

(1) Form FHA–556, "Water Facilities Cost Estimate."

(2) A statement on (i) the methods and plans proposed for constructing the water facility, (ii) water supply availability, suitability and demand, (iii) estimated useful life of facility, (iv) contributions by the applicant and the assistance to be rendered by the Government in connection with construction, (v) date for starting construction, and (vi) plans, including an estimate of costs, for important operation and maintenance features of the facility. When land leveling is involved, information also should be included on such items as depth of top soil; depth to hardpan, rock and gravel; prevalence of alkali; and in addition, instructions should be given for leveling various fields.

(3) Exhibits such as maps, drawings and charts necessary to illustrate the proposed construction methods and plans. When the loan includes funds for land leveling, a map of the farm will be prepared showing the existing conditions such as irrigation and drainage facilities, field arrangement, and fences. Also this map, or another map if necessary, should show the proposed land leveling features including such items as topography, location and extent of cuts and fills, the location of irrigation and drainage ditches and structures, direction of irrigation flow, and field arrangements.

(f) *Supervisor's narrative.* When the loan will be approved outside of the County Office or will be referred to the Representative of the Office of the Solicitor, the County Supervisor will prepare a narrative in an original only containing information not covered elsewhere in the loan docket. Generally, the narrative will contain the following:

(1) Recommendations concerning security to be taken for the loan.

(2) A statement indicating the applicant's interest in the real estate to be improved by the water facility. If the applicant's interest is less than full ownership, the supervisor will include recommendations concerning any needed

changes in the tenure instruments such as mortgages, purchase contracts, or leases. If the real estate to be improved is mortgaged or otherwise encumbered, include the names of the parties, the terms and conditions of the encumbrances, and the balance due on the debt secured thereby. If the loan is to be secured by a real estate mortgage, the statement will be supported by such abstracts of title, deeds, outstanding real estate mortgages, easements, rights-of-way, leases, and purchase contracts as the applicant may have or may be able to procure without substantial costs or delay. (The applicant will be informed that additional proof of title to real estate may be required before the loan is closed.)

(3) A statement concerning the applicant's title to water rights owned or to be acquired for use in connection with the facility. This statement will be supported by documents which the applicant may have or may be able to procure without substantial cost or delay, such as certificates of water filings, water permits, and abstracts of court decrees. (The applicant will be informed that additional proof of title to water rights may be required before the loan is closed.) However, when the State statutes or regulations do not require or permit water filings, permits, or other proof of appropriation or use of water as proposed in the water facilities plan, or when the loan is for participation in a group or association owned facility and water right information is shown in the group or association docket, such information need not be included in the narrative.

(g) *Form FHA–122, "Promissory Note."* This form will be prepared in an original and two copies. The original will accompany the loan docket, one copy will be retained in the County Office, and the other copy will be given to the applicant. Form FHA–122 will be dated as of the date of execution by the applicant. The location of the County Office will be entered in the space provided for designating the office to which the loan will be repaid. The note will be prepared for the full amount of the loan which will always be in multiples of $5. If a chattel mortgage will be taken as security for the loan and the lien created by the chattel mortgage cannot run or be extended without the consent of the borrower for the entire period of the loan, the installment due under the note for the year when the lien created by the chattel mortgage is to terminate must be the amount of the installment for that year, plus the total amount of all subsequent installments shown on Form FHA–258, "Agreement to Extend Repayment Period." The applicant's name should be typed under his signature. The original only will be executed by the applicant and his spouse, if any.

(h) *Form FHA–258, "Agreement to Extend Repayment Period."* This form will be used only for the loans to be secured by chattel liens which cannot run or be extended without the consent of the borrower for the period needed by the applicant for the repayment of the loan. In the states where it is necessary to use Form FHA–258, the State Director will issue State instructions to that effect. The form will be prepared in an original and one copy for the total amount of the loan as indicated in the promissory note. The original will accompany the loan docket, the copy will be given to the applicant. Form FHA–258 will be dated as of the date of execution by the applicant. The repayment schedule, as agreed upon with the applicant, will be entered in the appropriate spaces. The original only will be executed by the applicant and the copy will be conformed.

(i) *Form FHA–5, "Loan Voucher."* This form will be prepared in an original and two copies for the total amount of the loan as indicated in the promissory note. The original only will be signed by the applicant and all copies will accompany the loan docket. "WF" will be inserted opposite "Type of Loan" in the upper right corner. The names of the applicant and the loan approving official will be typed under their respective signatures. In the space marked "(Address)," under the name of the "(Payee-applicant)," show the address to which the check should be mailed as follows:

Care of _____ County Supervisor, Farmers Home Administration, U. S. Department of Agriculture _____.
(County Office Address)

§ 354.2 *Assembly of loan dockets for review.* The following documents, after having been examined thoroughly to make sure that they are complete as to dates, signatures, and mechanical accuracy, will be assembled in the order named below for review by the loan approving official. If the applicant is indebted for other Farmers Home Administration loans and the Water Facilities loan is to be approved other than in the County Office, the loan submission will also include the County Office case file.

(a) Form FHA–197, "Application for FHA Services";

(b) Form FHA–121, "Certifications—Water Facilities Loans to Individuals";

(c) Form FHA–14, "Farm and Home Plan";

(d) Form FHA–14C, "Long-Time Farm and Home Plan," when required;

(e) Narrative, including any supporting documents;

(f) Water Facilities Plan;

(g) Form FHA–122, "Promissory Note";

(h) Form FHA–258, "Agreement to Extend Repayment Period," when required; and

(i) Form FHA–5, "Loan Voucher."

§ 354.3 *Review and approval or rejection*—(a) *Administrative review.* The loan approving official is responsible for seeing that all pertinent laws and regulations are met before a loan is approved. This will require that he examine the docket to see that (1) the applicant and County Committee certifications have been made and are a part of the docket, (2) the applicant is eligible, (3) funds are being loaned for authorized purposes, and (4) all other pertinent requirements are met.

(b) *Approval of loans.* (1) When no legal problems are involved, the loan approving official may approve the loan without a review by the Representative of the Office of the Solicitor. The loan approving official, when such official is other than the County Supervisor, will set forth in a memorandum of conditional approval any special conditions involving adjustments in farm and home operations, the water facilities plan, and the taking of security. The loan will then be approved by the execution of Form FHA–5.

(2) When legal problems are involved, such as those pertaining to real estate security, water rights, easements, and title clearance, the loan approving official will approve the loan subject to legal review by the Representative of the Office of the Solicitor who will issue instructions covering the matters examined. The loan approving official will prepare a memorandum setting forth the conditions which must be met with reference to farm and home operations, the water facilities plan, and security to be taken.

(i) When a loan in excess of $1,000 is to be secured by a real estate mortgage, the applicant will be required to provide a policy of mortgagee's title insurance or an abstract of title continued down to the date the loan docket is submitted and later extended down to the date of recordation of the mortgage to the United States.

(ii) When a loan of $1,000 or less is to be secured by a real estate mortgage, the applicant may furnish, in lieu of a mortgagee's policy of title insurance or an abstract, a lien search on Form FHA–87, "Report of Lien Search," prepared by an abstractor or practicing attorney. In instances where Form FHA–87 is furnished, it will show unpaid liens, taxes and judgments against the real estate. The requirement of a first lien in § 352.12 of this chapter will be deemed to be satisfied if the mortgage or deed of trust is prior to any lien shown by an adequate lien search.

(iii) When a mortgage will be taken on the applicant's interest in rights-of-way and easements, the applicant will submit such proof of title as he may already have or a lien search on Form FHA–87 prepared by an abstractor or practicing attorney.

(c) *Ordering the loan check.* After Form FHA–5 has been executed, the original and all copies together with the original of Form FHA–122 will be forwarded to the Area Finance Office.

(d) *Rejection of loan.* When a loan is rejected, the approving official will indicate the reasons for the rejection on Form FHA–197. If the approving official acts upon the loan outside of the County Office, he will return the loan submission to the County Supervisor. The County Supervisor will notify the applicant by letter of the rejection, including the reasons therefor, and will return the original of Form FHA–122 and other documents such as leases, abstracts, and other title documents to the applicant.

§ 354.4 *Loan closing*—(a) *Receipt of loan checks.* The County Supervisor will follow §§ 343.6 and 343.7 (a) of this chapter with respect to receiving and handling loan checks.

(b) *Meeting loan approval conditions.* (1) Upon approval of a loan the County Supervisor will notify the applicant of the approval and of any special loan approval conditions which must be met be-

fore the loan can be closed. If no such conditions were made, the notification may be delayed until the loan check is received.

(2) Before a loan can be closed, the applicant must comply with any special loan approval conditions which must be met by the time the loan is closed. In order to expedite the closing of the loan, such conditions will be met as rapidly as possible.

(c) *Closing the loan.* (1) When real estate, or interests in real estate, and water rights are to be taken as security for a loan, the loan will be closed in accordance with the closing instructions issued on a case basis by the Representative of the Office of the Solicitor. The original and the copy of the security instruments and other documents attached to the closing instructions will be used. (The Representative of the Office of the Solicitor for each state will draft a real estate mortgage form to be used in connection with Water Facilities loans in the state. The form must be approved in the National Office prior to use.) The original of the security instruments will be completed and executed by the applicant and his spouse, if any. The original will be recorded at the time of the closing of the loan. When the loan has been closed, the County Supervisor will forward to the State Director, for referral to the Representative of the Office of the Solicitor, the instruments and other documents used in closing the loan, as well as a statement on how instructions not satisfied by such documents were met. Any necessary corrective action shown to be necessary by the Representative of the Office of the Solicitor must be completed. After the County Supervisor has been informed that the loan has been closed in a manner satisfactory to the Representative of the Office of the Solicitor, the original of the security instruments will be made a part of the County Office file and the copy will be delivered to the applicant.

(2) When real estate or interests in real estate and water rights are not to be taken as security, the following actions will be taken by the County Supervisor in closing the loan:

(i) Form FHA–87 will be obtained at the time the loan is closed to determine that security requirements are being met. When a mortgage will be taken on property purchased with loan funds and such property will become affixed to real estate, a search of the real estate records will be made and Form FHA–87 will be prepared showing the present ownership of and the outstanding liens, including taxes and judgments, against the real estate to which the property is to be attached. The lien search report will be prepared in an original only by appropriate county officials, local abstractors, or attorneys, except that in unusual circumstances the County Supervisor may be authorized by the State Director to make lien searches and execute Form FHA–87. Applicants will select the source through which such reports are obtained.

(ii) Severance agreements will be obtained on Form FHA–259, "Severance Agreement," when a separate mortgage is to be taken on property purchased with loan funds and such property will become attached to real estate and in all cases of loans to tenants. Form FHA–259 will be prepared in an original only and will be executed by the County Supervisor on behalf of the Government, by the owner of the real estate, and by such other parties as shown on Form FHA–87 to have an interest in the real estate on which the facility will be installed. The legal description of the real estate on which the facility will be located will be entered on the severance agreement exactly as it will be described in the chattel mortgage. The severance agreement must be obtained not later than the date that the property purchased with loan funds is delivered on the farm. Where it is necessary to record Form FHA–259, the State Director will issue State instructions pertaining to such action. Form FHA–259 will be made a part of the County Office file.

(iii) Form FHA–30. ____, "Crop and Chattel Mortgage," will be prepared in an original and one copy if it is to be recorded and two copies if it is to be filed. Only the notes evidencing the water facilities indebtedness will be described in the mortgage. The property to be mortgaged will be accurately and adequately described therein. Form FHA–30. ____ will be amended for use in connection with Water Facilities loans by striking out the covenant in the mortgage reading as follows: "If, at any time, it shall appear to the Mortgagee that the Mortgagor may be able to obtain a loan from a production credit association, Federal Land Bank, or other responsible cooperative or private credit source at rates (but not exceeding the rate of 5 percentum per annum), and terms for loans for similar periods of time and purposes prevailing in this area, the Mortgagor will, upon request of the Mortgagee, apply for and accept such loan in sufficient amount to repay the Mortgagee and to pay for any stock necessary to be purchased in the cooperative lending agency in connection with the loan." When a lien on crops is not to be taken as security for the loan, the form will be amended by the deletion of the provisions designed to create a crop lien. All such deletions will be initialed by the borrower before the form is executed. The chattel mortgage will be executed by the borrower and his spouse, if any. At the time the loan is closed or before any funds are withdrawn from the supervised bank account, a mortgage will be taken covering livestock, equipment, and crops selected to serve as security for the loan, as well as any property already on hand to be paid for with loan funds. Property which is subsequently purchased with loan funds will be mortgaged at the time such property is purchased. Lien instruments must be delivered to the recording office for recordation or filing, whichever is appropriate, as soon as such instruments are executed. The State Director, with the advice of the Representative of the Office of the Solicitor, will issue instructions with regard to legal requirements in connection with the execution, witnessing, certification, acknowledgment, and recordation or filing of lien instruments.

(3) County Supervisors are authorized to execute, accept and file or record any legal instruments necessary to obtain or preserve security for loans, including mortgages and similar lien instruments (where the holder of a mortgage or other lien is required to execute the instrument) and affidavits, acknowledgments and other certifications (where the mortgagee must execute such a certification under state law), and to accept and file or record subordinations and nondisturbance agreements, assignments, and other documents necessary to the obtaining of security.

(d) *Obtaining property insurance.* When property insurance is required, the borrower will apply for the required amount of such insurance and will pay the premium thereon at the time the loan is closed. Insurance may be obtained from any insurance company licensed to do such business in the state where the property is located.

(1) The insurance policy must contain (i) the standard mortgage clause (without contribution) printed in or attached to the policy, (ii) the mortgage clause (without contribution) which has been approved and made mandatory by the laws of the state, or (iii) Form FHA–878, "Property Insurance Mortgage Clause For Direct Loans." However, in those jurisdictions where, under local laws or conditions, none of the mortgage clauses referred to above may be used, the clause mandatory in that locality may be used after approval by the National Office. The "United States of America" will be shown as "Mortgagee" in the mortgage clause or in the loss payable clause if no space is provided in the mortgage clause.

(2) If the borrower has insurance in force covering losses or damage from the hazards covered customarily by insurance policies in the area, additional insurance need not be required, *Provided:*

(i) The amount of the insurance in force is as much as the amount required;

(ii) An application for endorsement is submitted to the insurer company before the loan is closed to include the property purchased with the loan under the existing policy, if insurance on such property will be required; and

(iii) The borrower obtains a mortgage clause in the existing policy which will show the "United States of America" as "Mortgagee."

(3) If the loan is secured in part by a second lien on real estate, and the borrower has the required amount of insurance in force on the farm buildings, the provisions of subparagraph (2) of this paragraph must be complied with. The mortgage clause in the existing policy must show the "United States of America" as "Mortgagee," as its interest may appear. When less than the required amount of insurance is in force, additional insurance will be obtained through a separate insurance policy covering the Water Facility installation. This policy will show the United States of America as first Mortgagee in the mortgage clause so that the proceeds of the policy will be payable to the Government or the borrower in case of loss.

(4) All notices to the Mortgagee will be sent to the State Office covering the ter-

ritory in which the property is located. The original insurance policy will be kept in the County Office file, except in those cases in which the holder of a lien prior to that of the Farmers Home Administration is entitled to possession of the policy.

(e) *Fees and costs.* Statutory fees for filing or recording mortgages or other legal instruments and other costs such as notary and lien search fees, abstracts and mortgagees' policies of title insurance incident to loan transactions will be paid by the borrower from personal funds or from the proceeds of the loan. Whenever cash is accepted by Farmers Home Administration personnel to be used to pay such fees or costs, Form FHA–385, "Acknowledgment of Payment for Recording and Lien Search Fees," will be executed.

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PART 356—PROCESSING LOANS TO ASSOCIATIONS

Sec.



Sections 356.1 to 356.8 interpret and apply sec. 2 (3), 50 Stat. 869; 16 U. S. C. 590s (3). Other statutory provisions interpreted or applied are cited to text in parentheses.

DERIVATION: §§ 356.1 to 356.8 contained in FHA Instruction 442.6.

§ 356.1 *General.* Sections 356.2 to 356.8 set forth the requirements and procedures for the making of Water Facilities loans to incorporated water users associations, mutual water companies, and irrigation districts (referred to as associations).

§ 356.2 *Preliminary request and investigation*—(a) *Letter of request.* Each group applying for an association loan will make a preliminary request for assistance in the form of a letter. The letter should state the kind of assistance needed, give a description of the proposed facility, contain information about the source of water supply and the water rights owned or to be established, and give some indication of the amount of loan funds needed. If the group is already incorporated, the letter will be signed by the President. If the group is not yet incorporated, the members of the organizing committee will sign the letter. The County Supervisor will send a copy of the letter to the State Director.

(b) *Investigation of request.* The State Director will arrange for the Water Facilities Specialist or the Water Facilities Engineer, or both, to assist the County Supervisor to conduct a preliminary investigation of the association's request for assistance. This preliminary investigation will be made in sufficient detail to provide information on eligibility, to determine that the request for assistance is for authorized purposes under the Water Facilities program, and to determine generally that other requirements of the Water Facilities program can be met.

(1) *Obtaining assistance for surveys and planning operations.* When the Water Facilities Specialists and Engineers will need other persons to make up a survey party, the association will be requested to furnish such persons to help make the investigation and planning surveys.

(i) If such help cannot be obtained without cost, the association must arrange to raise the cash necessary to pay such costs not later than the date the persons' services are no longer needed in the survey party. In no event must the Government become obligated to pay such costs.

(ii) If the members or prospective members of the association will help in investigation and planning surveys without cost, the engineer or specialist will require each individual who performs any such work to execute an agreement in the following form which will be filed in the County Office file.

COOPERATIVE AGREEMENT

I hereby agree, personally and gratuitously, to assist and otherwise cooperate, upon request, in the conduct of surveys and planning operations directed by the Farmers Home Administration in connection with assistance applied for under the Water Facilities program by _____, from which
(Name of Group)
I will benefit. I agree that the Government will not be obligated in any manner, to me or the above-named group, by this agreement or by the furnishing of assistance pursuant thereto.

_____
(Signature)

_____ _____
(Date) (Address)

(Sec. 4 (3), 50 Stat. 870; 16 U. S. C. 590u (3))

(2) *Eligibility certifications.* After preliminary cost estimates have been made by the engineer and it is determined that the proposed facility is feasible, the County Committee will make its certification as to the eligibility of the association to receive assistance.

(i) *Form of certification.* If the County Committee determines that the association is eligible for assistance, a certification in the form specified below will be typed in an original and two copies. The original will be executed and the copies will be conformed.

COUNTY COMMITTEE CERTIFICATION

We certify that the _____ is eligible to receive a Water Facilities loan; that credit sufficient in amount to carry out the objectives in the association's application is not available to it at reasonable terms and conditions from commercial banks, cooperative lending agencies, or from any other responsible source in the community in or near which the association operates; and that, in our opinion, the association will endeavor honestly to carry out the undertakings and obligations required of it.

Date _____ _____
Signature

_____
Signature

_____
Signature

(ii) *Rejection by County Committee.* If the County Committee determines that the association is not eligible to receive assistance, the reasons therefor will be stated in a memorandum or letter signed by the Committee. The County Supervisor will notify the applicant. (Sec. 5, 50 Stat. 870; 16 U. S. C. 590v)

§ 356.3 *Preparation of loan application*—(a) *Form FHA–28, "Loan Application By Water Association."* After cost estimates have been developed and the association has been determined eligible, the Water Facilities Specialist or the County Supervisor, or both, will assist the officers of the association with the preparation of Form FHA–28 and accompanying exhibits in an original and one copy. If National Office approval is required, an additional copy will be prepared. The original will be executed by the officers of the association authorized to sign documents required in obtaining the loan. The remaining copy or copies will be conformed.

(b) *Preparation of exhibits to accompany loan application.* Subparagraphs (1) to (10) of this paragraph contain instructions for the preparation of the exhibits to be submitted with Form FHA–28. The originals and copies of the exhibits will be attached to the original and copies of Form FHA–28 respectively.

(1) *Exhibit A: Resolution of Stockholders or Members.* If state statutes or the association's articles and by-laws require that the Board of Directors be authorized by the stockholders or members to apply for a loan and perform other acts in connection therewith, a resolution granting such authority must be adopted by the members or stockholders at a regular or special meeting. In order for the resolution to be valid, the meeting of the members in which the resolution is passed must be called and held pursuant to proper notice, and the voting must comply with the requirements of the by-laws of the association. The resolution must be recorded in the minutes of the meeting and the text will be substantially the same as that contained in Exhibit A of Form FHA–28. The Secretary of the association will certify to the adoption of the resolution by completing and executing the form of "Certificate" at the end of Exhibit A.

(2) *Exhibit B: Resolution of Board of Directors.* The Board of Directors will pass a resolution, at a regular or special meeting, authorizing the President and Secretary of the association to obtain a loan for the association and to perform other required acts in connection therewith. In order for the resolution to be valid, the meeting of the Board of Directors in which the resolution is passed must be called and held pursuant to proper notice, and the voting must comply with the requirements of the by-laws of the association. The resolution must be recorded in the minutes of the Board of Directors' meeting and the text of the resolution will be the same as contained in Exhibit B of Form FHA–28. The Secretary of the association will certify as to the adoption of the resolution by completing and executing the "Certification" at the end of Exhibit B of Form FHA–28.

(3) *Exhibit C: Articles of Incorporation.* The association will obtain at its own expense, from the Secretary of State or similar officials, a certified copy

of its articles of incorporation, together with all amendments thereto, and also a statement from that official as to whether the corporation is in good standing. The County Supervisor will make the required number of copies of all documents received from the Secretary of State.

(4) *Exhibit D: By-Laws.* The association will furnish to the County Supervisor the required number of certified copies of its by-laws and any amendments thereto.

(i) The Secretary of the Association will make the following certification concerning the by-laws:

CERTIFICATION

I, _____, Secretary of the_____, a Corporation existing under the laws of the State of _____, hereby certify that the attached is a true copy of the by-laws, together with all amendments thereto, as of the _____ day of _____, 19____, which have been duly adopted by the members of the _____
_____
_____
Secretary

(ii) If the association has been organized since the preliminary request for assistance was filed with the County Supervisor, certified copies of the minutes of all organization meetings will be attached as part of Exhibit D.

(5) *Exhibit E: Stock or Membership Certificates.* Sample copies or certified facsimiles of the Stock or Membership Certificate in use or to be used, will be furnished by the association. If the association has entered or will enter into stock or membership subscription agreements with its members or stockholders, sample copies of such agreements will also be furnished.

(6) *Exhibit F: Financial Reports and Operating Budgets*—(i) *Financial reports.* The financial reports to be furnished by the association will consist of a balance sheet and an operating statement as of the close of the association's last fiscal year. If the financial situation of the association has changed materially since the close of the last fiscal year, the association will furnish, in addition, a balance sheet and operating statement reflecting the business conditions and activities for the current fiscal year as of the close of business of the month preceding the preparation of the loan application. If the latest balance sheet shows accounts receivable or debts outstanding, appropriate schedules will be attached to the balance sheet as follows: (*a*) The accounts receivable schedule will show for each debtor the amount owed and the possibility of collection; (*b*) the liability accounts will show for each creditor the original date, amount, and terms of the obligation; unpaid principal; delinquent principal; unpaid accrued interest; purpose of the obligation; and the security pledged for the repayment of the obligation, if any. The financial reports may be submitted in the form in general use by the association. However, it is preferable that pages one and two of Exhibit F, Form FHA–28 be used for this purpose when such reports are not already available. Financial reports submitted must be signed by the President and attested to by the Secretary.

(ii) *Operating budgets.* The association will furnish a proposed operating budget showing anticipated income and expenditures for the first full year of operations following the estimated date that the facility will be completed. If the proposed budget shows any significant changes from the operating statement for the association's last fiscal year the budget must be supported by a written narrative explaining such changes. The proposed operating budget will be prepared on page 3 of Exhibit F of Form FHA–28 and will be signed by the President and attested to by the Secretary.

(7) *Exhibit G: List of Association Officers.* The Secretary will furnish a certificate showing the names, titles, and places of residence of the association's officers on Exhibit G of Form FHA–28.

(8) *Exhibit H: List of Members, Stockholders, or Patrons.* The Secretary will furnish a certificate showing all of the names of the members or stockholders and patrons of the association on Exhibit H, Form FHA–28. The number of shares of stock owned by each stockholder will also be shown. Each name appearing on the certificate must be shown exactly as it is recorded in the membership or stockholder record of the association.

(9) *Exhibit I: Water Facilities Plan.* The Water Facilities Engineer will prepare a water facilities plan consisting of a narrative, preliminary maps and designs, and an estimate of costs. An extra copy of the water facilities plan will be prepared for use by the engineer in preparing final plans, specifications, and contract documents.

(i) *Narrative.* The following will be included in the narrative:

(*a*) A statement concerning the location and accessibility of the facility.

(*b*) A description of the existing facilities, if any, showing their condition, adequacy and suitability for further use in connection with the proposed facility.

(*c*) A description of proposed facilities to be installed, repaired, replaced or extended; materials to be used; the main construction features; and the methods which will be used to overcome problems and difficulties encountered in design.

(*d*) A statement concerning the arrangements made to acquire the sites and rights-of-way necessary for the facility.

(*e*) A brief analysis showing whether the facility is practicable from an engineering standpoint; whether it will fulfill the needs for which it is to be constructed; and whether it will supply a sufficient quantity of water of suitable quality to meet proposed requirements and peak demands, as related to the needs to be served.

(*f*) An estimate of the useful life of the facility.

(*g*) A statement showing whether the association's contributions indicated on Form FHA–556, "Water Facilities Cost Estimate," can be furnished and used properly in the construction of the proposed facility.

(*h*) A statement as to whether the facility should be constructed by contract or force account.

(*i*) A statement containing any special recommendations for the operation and maintenance of the facility after it is constructed.

(ii) *Preliminary maps and designs.* Such preliminary maps and plans will be prepared as are necessary to formulate a reliable cost estimate and to furnish graphical information which will illustrate the narrative. When real property or interests in real property will be acquired for sites and rights-of-way, the preliminary map will show the ownership and legal description of the real property to be acquired or crossed. Final detailed working drawings and technical specifications will not be prepared until it appears that the loan can be closed and construction undertaken.

(iii) *Cost estimate.* An estimate of project cost will be prepared on Form FHA–556.

(10) *Exhibit J: Reports on Association's Title to Assets.* This exhibit will consist of a statement showing the nature of the title to real property, including land, water rights, rights-of-way, easements, and permits, which the association has or proposes to acquire. This statement will be supported by such abstracts, easements, permits, court decrees, maps, and other documentary evidence which the association has or can readily secure without substantial cost or delay. The association will be informed that additional proof of title may be required as a condition of loan approval.

§ 356.4 *Farm data, summary and economic justification*—(a) *Form FHA–139, "Farm Data Work Sheet."* This form will be completed in an original only for each water user and placed in the State Office docket. The County Supervisor may assist the water users either in group meetings or on the farm to complete Form FHA–139, if necessary, to assure accuracy of data.

(b) *Exhibit A: Summary of Farm Data.* "Summary of Farm Data," will be prepared in an original and one copy if the loan can be approved by the State Director or two copies if National Office approval is required. The information contained in the summary will be tabulated on columnar paper or other large sheets as needed in the County Office. Information obtained from water users on Form FHA–139 will be summarized on the summary. Such information will be used by the County Supervisor in the preparation of the economic justification.

(c) *Economic justification.* The Economic Justification will be prepared in narrative form by the County Supervisor with the assistance of the Water Facilities Specialist in an original and one copy. If the loan requires approval in the National Office an additional copy will be prepared. Based on an analysis of the information tabulated on "Summary of Farm Data" and data from other sources, the economic justification will show:

(1) *Whether the loan is sound.* This should include information to show whether the annual assessments or charges to be made in accordance with the proposed operating budget can be met by the water users. The information should include comparison of the proposed assessments with the annual water assessments or charges customarily made

by one or more other associations operating water systems of a similar nature under the same general agricultural conditions. The comparison will be reduced to some common unit such as per acre, per acre foot of water, per user, per 1,000 gallons of water used, or per month.

(2) *How the use of the facility will accomplish the basic objectives of the Water Facilities program.* In making this showing, attention should be given to such items as important improvements in the organization of farm enterprises and farm businesses, improvements in the use of water and land resources, and improvements in live-at-home programs.

§ 356.5 *Assembly and review of loan application and supporting information*—(a) *Assembly of loan dockets.* The loan dockets will be assembled in an original and one copy. If National Office approval is required, an additional copy will be prepared. The original docket will be labeled "State Office." One copy will be labeled "County Office," and the third copy, if prepared, will be labeled "National Office."

(b) *Review by State Field Representative.* After the County Supervisor has assembled and checked the completeness and accuracy of the loan dockets, they will be submitted to the State Field Representative for review. The State Field Representative will check the soundness of the loan, the sufficiency of the proposed budget, and the adequacy of security offered for the loan, and make his recommendations in writing. The State Office docket and the National Office copy of the docket, if any, will be mailed to the State Director.

(c) *State office review and processing.* All loan applications submitted by associations will be reviewed by the Water Facilities Specialist and Water Facilities Engineer. Such applications will also be referred to the Representative of the Office of the Solicitor for preliminary review.

(1) *Action by the Water Facilities Specialist.* The Water Facilities Specialist will review such applications to determine whether or not they are complete and accurate as to content, arrangement, dates, and signatures. When an application is found to be complete the Water Facilities Specialist will:

(i) Prepare a report of his analysis on eligibility, economic justification, terms of loan repayment, and adequacy of security.

(ii) Prepare a proposed letter to the County Supervisor containing the recommended loan approval conditions and an outline of the procedure to be followed in satisfying those conditions.

(iii) Refer the application to the Water Facilities Engineer and the Representative of the Office of the Solicitor for review and recommendations.

(2) *Action by the Water Facilities Engineer.* The Water Facilities Engineer will review applications to determine whether or not the preliminary plans, maps, designs, cost estimates, and the proposed operating budgets are complete and accurate. When the application is found to be complete, the Water Facilities Engineer will prepare a report of his analysis on the physical feasibility of the project, the soundness of proposed construction features, the adequacy of cost estimates, and the adequacy of the proposed operating budgets. His report will also outline the engineering work to be completed as a condition to the closing of the loan.

(d) *Preliminary review by the Representative of the Office of the Solicitor*—(1) *Review and examination.* Association applications will be referred to the Representative of the Office of the Solicitor for a legal review and an examination of at least the following:

(i) Administrative "determinations," with respect to the eligibility of the applicant and the propriety of the use to which the loan proceeds will be put.

(ii) The articles of incorporation with reference to (*a*) validity of organization, including compliance with statutory requirements as to form and content, term of existence, and so forth; (*b*) power to engage in the proposed activity and to borrow money and give the necessary security therefor; (*c*) assessability of stock; and (*d*) rights of stockholders and members.

(iii) The by-laws with reference to (*a*) regularity of adoption; (*b*) power of Board of Directors to borrow money and to encumber corporate property as security therefor; (*c*) voting rights; (*d*) power of Board of Directors to levy assessments; (*e*) compliance with all applicable statutory provisions; and (*f*) operating plans for delivering water, making assessments or charges for service, and enforcing the payment of such assessments or charges through such devices as the sale of stock, and terminating of service.

(iv) Resolutions authorizing the making of the loan.

(v) Stock or membership certificates and water contracts.

(vi) Proposed letter of condititonal approval.

(2) *Preliminary memorandum.* After his examination, the Representative of the Office of the Solicitor will prepare a preliminary memorandum to the State Director setting forth his opinion of the sufficiency of the docket with respect to matters examined. A statement as to whether there appears to be any legal obstacle which would make the loan impossible should be included. The memorandum should list any additions or changes that should be made in the proposed letter of approval prepared by the Water Facilities Specialist.

(e) *Submission of applications to National Office.* The State Director will forward a copy of the loan application to the National Office if approval in that office is required. In addition to the documents submitted by the County Supervisor, the National Office copy of the docket will include:

(1) A copy of the preliminary memorandum from the Representative of the Office of the Solicitor.

(2) A copy of the report of the Water Facilities Specialist.

(3) A copy of the report of the Water Facilities Engineer.

§ 356.6 *Action after loan approval*—(a) *State Office.* After the loan has been approved, the State Director will issue instructions to the County Supervisor for meeting loan approval conditions, prepare and send to the Supervisor instruments needed for carrying out loan approval conditions, obligate funds for the loan, and determine that loan approval conditions have been met.

(1) *Letter of conditional approval.* The State Office will prepare a letter of conditional approval based upon administrative determinations and other requirements of the Representative of the Office of the Solicitor. If the loan was approved in the National Office, an additional copy will be prepared. The original and one copy will be forwarded to the County Supervisor who will keep the original and give the copy to the applicant. One copy will be sent to the Representative of the Office of the Solicitor, and one copy will be placed in the State Office docket. The fourth copy, if prepared, will be held until all loan approval conditions have been met, after which it will be forwarded to the National Office. This letter will include at least the following:

(i) Loan approval conditions which must be met prior to loan closing and those which may be met after loan closing but which will be included in the loan agreement or mortgage.

(ii) Instructions for satisfying conditions which must be met prior to the issuance of loan closing instructions.

(iii) Instructions for obtaining and submitting required proof of title to security property.

(iv) Instructions for completion and execution of loan documents such as the loan agreement, promissory note, voucher, and agreement to date note.

(2) *Preparation of loan forms and other instruments.* The loan forms and other instruments needed by the County Supervisor and applicant in complying with the instructions contained in the State Director's letter of conditional approval will be prepared in the State Office and attached to the letter of conditional approval. The loan forms and instruments to be attached thereto will include at least the following:

(i) Form FHA–134, "Loan Agreement For Associations," will be prepared in an original and four copies (five copies if loan was approved in National Office). The original and the two copies will be forwarded to the County Supervisor for execution (including affixing the seal) by the association. All unsigned copies of Form FHA–134 will be conformed. When the State Director has executed Form FHA–134, the original and one conformed copy will be sent to the Area Finance Office, one signed copy will be kept in the State Office, and the other signed copy and one conformed copy will be sent to the County Supervisor who will deliver the signed copy to the association. The remaining conformed copy, if any, will be sent to the National Office.

(ii) Form FHA–125, "Promissory Note (Associations)," is the form of promissory note to be used for loans to incorporated water associations. Form FHA–125 will be prepared in an original and three copies (four copies if the loan was approved in the National Office). The

amount of the note will always be in multiples of $5. The location of the County Office will be entered in the space provided for designating the place to which the loan will be repaid. The original of the note will be forwarded to the County Supervisor for execution (including affixing the seal). All copies of the note will be conformed when the original is returned by the County Supervisor. The original will be forwarded to the Area Finance Office at the time the loan check is requested. A copy will be kept in the State Office docket. When loan closing instructions are issued, two copies will be sent to the County Supervisor. The remaining copy, if any, will be sent to the National Office.

(iii) Form FHA–127, "Authorization to Date Note," is the form to be executed by the properly authorized officers of the association to authorize the Area Finance Manager to date Form FHA–125. Form FHA–127 will be prepared in an original and three copies. The original will be sent to the County Supervisor for execution (including affixing the seal) by the association. When the original has been returned, all copies will be conformed. The original will be sent to the Area Finance Office with the note. A copy will be placed in the State Office loan docket, and two copies will be sent to the County Supervisor who will retain one for the County Office loan docket and deliver the other to the association.

(iv) Form FHA–5, "Loan Voucher," will be prepared in an original and two copies. The symbol "WF" will be inserted opposite "Type of Loan" in the upper right corner. The name of the association will be typed on the voucher above the space provided for the signature of the "(Payee-Applicant)." The names of the officers and the loan approval officers will be typed under their respective signatures. In the space marked "(Address)" under the name of the "(Payee-Applicant)," show the address to which the check should be mailed as follows:

Care of County Supervisor, Farmers Home Administration, U. S. Department of Agriculture, _____
(County Office Address)

The loan voucher will be sent to the County Supervisor for execution (including affixing the seal) by the association. When the loan check is ordered, the loan voucher will be sent to the Area Finance Office with the note.

(v) Other instruments: Such instruments as deeds and easements needed by the association in meeting loan approval conditions upon request of the association will be prepared by the Representative of the Office of the Solicitor in an original and the number of copies necessary for filing and recordation.

(3) *Obligating loan funds.* Funds for loans to associations will be obligated on the basis of approved loan agreements and the funds will be available for the payment of a voucher for a period of two years after the close of the fiscal year in which the loan is approved. Such loan agreements must be executed by the officers of the association and the State Director on or before June 30 of the fiscal year in which the loan is approved. The State Director will, upon receiving from the County Supervisor Form FHA–134 executed by the association in an original and two copies, determine whether they have been properly completed and executed. He will execute the original and the two signed copies and forward the original and one conformed (not executed) copy to the Area Finance Office for establishing the obligation of funds. (R. S. 3690, sec. 5, 18 Stat. 110, sec. 2, 24 Stat. 157, sec. 6, 40 Stat. 1309; 31 U. S. C. 712, 713)

(b) *County Office.* The County Supervisor will deliver the copy of the letter of conditional approval to the association for consideration. If the association determines it is able and willing to comply with all loan approval conditions, the County Supervisor, Water Facilities Specialist, and Water Facilities Engineer may assist the association in meeting the conditions. The association will execute the original and the first two copies of Form FHA–134. The original and the two signed copies will be returned immediately to the State Director. When all conditions have been met, the County Supervisor will return to the State Director:

(1) Form FHA–125, "Promissory Note (Associations)," executed.

(2) Form FHA–127, "Authorization to Date Note," executed.

(3) Form FHA–5, "Loan Voucher," executed.

(4) Required instruments such as deeds, easements, permits and water filings.

(5) Required title documents such as lien searches, and abstracts or preliminary title reports.

(6) Other evidence to show proof of compliance.

(c) *Review of compliance with loan approval conditions.* The State Director will examine all loan papers, instruments, documents and other evidence submitted by the County Supervisor to ascertain whether all administrative conditions of loan approval were complied with. He will then transmit these materials to the Representative of the Office of the Solicitor for legal review. If the review discloses that curative work is needed, the State Director will make such a requirement which must be satisfied before the loan is closed.

§ 356.7 *Closing the loan*—(a) *State Office action.* When the State Director, upon the advice of the Representative of the Office of the Solicitor, has determined that all requirements to be met before the loan is closed have been completed, and the association has indicated that it is ready for the funds to be advanced, he will order the loan check and request the Representative of the Office of the Solicitor to prepare loan closing instructions and the security instruments and other documents needed to close the loan.

(1) *Issuing loan closing instructions.* The instructions will cover, but need not be limited to, the continuation of lien searches and abstracts, and the execution and the recording or filing of security instruments. Loan closing instructions will be prepared in an original and three copies. The original, together with at least the following attached, will be forwarded to the County Supervisor:

(i) Two conformed copies of Form FHA–125, "Promissory Note (Associations)."

(ii) One conformed copy of Form FHA–127, "Authorization to Date Note."

(iii) Security instruments and other documents (in sets of three) needed to close the loan.

(2) *Ordering the loan check.* At the time the loan closing instructions are forwarded to the County Supervisor, the State Director will execute Form FHA–5 in the space designated for the signature of the approving official. The loan check will then be ordered by forwarding to the Area Finance Office:

(i) The original and all copies of Form FHA–5, "Loan Voucher."

(ii) The original of Form FHA–125, "Promissory Note (Associations)."

(iii) The original of Form FHA–127, "Authorization to Date Note."

(iv) The original and a conformed copy of Form FHA–134 for those cases in which a loan agreement has not been sent to the Area Finance Office for obligating funds.

(b) *County Office action*—(1) *Receiving loan checks.* The County Supervisor will follow § 343.6 of this chapter with respect to receiving loan checks.

(2) *Delivery of loan check.* (i) Upon receipt of a loan check, the County Supervisor will notify the association promptly, indicating where and when the check will be delivered, and that the officers authorized to sign documents should be present.

(ii) The delivery of the loan check will be governed by the loan closing instructions.

(iii) The loan check will then be deposited in a supervised bank account.

(iv) The County Supervisor will then deliver to the association a conformed copy of Form FHA–125, "Promissory Note (Associations)."

(3) *Obtaining fidelity bonds.* At the time the loan check is delivered, the association will make application for a fidelity bond covering the position entrusted with the receipt and disbursement of its funds. The amount of the bond will be at least equal to the amount of the assessments or charges made and collected by the association in any normal fiscal year. The association will pay the premium for the bond. The State Director, acting for the United States Government, will be named as obligee in the bond with the association. The fidelity bond will be obtained locally through an acceptable bonding company and will be forwarded to the State Director.

(4) *Responsibility of the County Supervisor.* It is the responsibility of the County Supervisor, as well as any other official of the Farmers Home Administration in assisting the County Supervisor to close the loan, to comply explicity with all loan closing instructions issued by the Representative of the Office of the Solicitor, including the obtaining and filing or recordation of security instruments and other documents required by such instructions.

(c) *Payment of fees and costs.* Statutory fees and other charges for filing or recording mortgages or other legal instruments and notary and lien search fees incident to loan transactions will be paid by the association from its own funds or from the proceeds of the loan. Whenever cash is accepted by 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–385, "Acknowledgment of Payment for Recording and Lien Search Fees," will be executed in an original and one copy. The copy will be placed in the County docket and the original will be given to the association.

§ 356.8 *Insurance.* (a) The State Director will require associations to obtain (1) public liability and property damage insurance on all trucks, tractors, and other vehicles owned by the association and frequently driven over public highways, and (2) fire and extended coverage insurance on all buildings and equipment therein. Consideration will be given to the recommendations of the officers of the associations and the prevailing customs in the area as to the types and amount of insurance to be required. The insurance may be obtained locally. The State Director will notify the County Supervisor when the insurance is to be obtained and the County Supervisor will request the association to obtain such coverage.

(b) The fire and extended coverage insurance policy must contain (1) the standard mortgage clause (without contribution) printed in or attached to the policy, (2) the mortgage clause (without contribution) which has been approved and made mandatory by the laws of the state, or (3) Form FHA–878, "Insurance Mortgage Clause." However, in those jurisdictions where, under local laws or conditions, none of the mortgage clauses referred to above may be used, the clause mandatory in that locality may be used after approval by the National Office. The "United States of America" will be shown as "Mortgagee" in the mortgage clause or in the loss payable clause if no space is provided in the mortgage clause. All notices to the mortgagee will be sent to the State Office covering the territory in which the property is located.

(c) The original insurance policy will be kept in the County office file.

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## Subchapter E—Account Servicing

AUTHORITY: §§ 361.1 to 372.109, except §§ 364.1 to 364.10 and 371.21 to 371.40, issued under pars. 2 and 5, Order, Sec. Agric., Oct. 14, 1946, 11 F. R. 12520. §§ 364.1 to 364.10 issued under pars. 2 and 5, Order, Sec. Agric., Oct. 14, 1946, 11 F. R. 12520, and Order, Sec. Agric., Jan. 20, 1945, 10 F. R. 809, as amended by Order, Acting Sec. Agric., Nov. 19, 1948, 13 F. R. 6903. §§ 371.21 to 371.40 issued under pars. 2 and 5, Order, Sec. Agric., Oct. 14, 1946, 11 F. R. 12520, and Order, Sec. Agric., July 9, 1948, 13 F. R. 4147. Statutory provisions interpreted or applied are cited in parentheses at the end of affected sections, with the exception that when statutory provisions interpreted or applied relate generally to an entire subpart, citations are given in the heading of such subpart.

### PART 361—ROUTINE

SUBPART A—SERVICING OPERATING LOANS



SUBPART B—SERVICING FARM OWNERSHIP LOANS



SUBPART C—SERVICING LOANS TO COOPERATIVE ASSOCIATIONS



SUBPART A—SERVICING OPERATING LOANS

DERIVATION: §§ 361.1 to 361.7 contained in FHA Instruction 451.1.

§ 361.1 *General*—(a) *Policy.* Borrowers will be required to repay their debts to the Farmers Home Administration in accordance with their ability to pay and will be encouraged to pay ahead of schedule to the extent possible. Borrowers who have acted in good faith and have exercised due diligence in an effort to repay their indebtedness but cannot pay on schedule because of circumstances beyond their control will receive due consideration in future servicing actions.

(b) *Responsibility.* Under the general guidance and supervision of State Office officials, County Supervisors are responsible for servicing all loans and accounts administered by the Farmers Home Administration.

§ 361.2 *Servicing operating loans to individuals*—(a) *Adjustment loans and water facilities loans of active borrowers.* The foundation for proper and timely repayments of such loans is sound farm and home planning, supplemented by effective follow-up supervision as needed. Loan servicing activities, therefore, begin at the time the original plan is made and are an integral part of planning and follow-up supervision in connection with such loans.

(b) *Annual loans of active borrowers.* Servicing of annual loans begins with the making of such loans and includes, among other things, letters and loan servicing visits to farms.

(c) *Accounts of collection-only borrowers.* Collection-only borrowers are expected to make final settlements of their debts to the Farmers Home Administration as rapidly as possible. This objective will be accomplished by collecting the amounts owed by these borrowers to the extent of their ability to pay and by the proper application of the established policies governing debt adjustment. County Supervisors are responsible for the development of a plan for the systematic servicing of these cases.

(Secs. 22, 44 (b), 60 Stat. 1072, 1069, sec. 2 (3), 50 Stat. 869; 7 U. S. C. 1008, 1018 (b), 16 U. S. C. 590s (3))

§ 361.3 *Notifying operating loan borrowers of amount due.* County Supervisors will notify borrowers on Form FHA–137, "Request for Payment," or similar form approved by the State Director, of payments which should be made or of amounts due or about to become due on their loans. These notices will be timed to reach borrowers immediately prior to the receipt of income from which payment should be made.

§ 361.4 *Accounting differences*—(a) *Overpayments and refunds.* (1) If, after all principal and interest indebtedness of a borrower has been repaid, there is an additional amount identifiable as "excess" for credit to the borrower, the Area Finance Office will refund the amount due the borrower. The refund check will be mailed to the borrower in care of the County Supervisor who will examine his records to see that the refund is due before delivering the check.

(2) If a borrower believes he has made an overpayment and requests refund, such request must be in writing.

(b) *Changes in application of repayments.* Any request for a change in the application of a repayment will be made on Form FHA–238, "Request for Change in Application," prepared in an original and one copy. The original will be signed by the County Supervisor and forwarded to the Area Finance Office, and the copy retained in the County Office. Such requests must conform to the rules of application set forth in §§ 362.1 to 362.8 of this chapter.

§ 361.5 *Change of borrower's address and transfer of loan records*—(a) *Policy.* (1) County Supervisors are responsible for maintaining correct addresses of all borrowers whose loan records are under their jurisdiction.

(2) When a borrower is moving to a new location and intends to move security property, he is required to apply for permission to move such property.

(3) Any special problems arising from a borrower moving to a new location, such as servicing of real estate security or chattel security affixed to real estate, will be referred to the State Office.

(4) When a borrower moves to a new location, prompt liquidation will be required of any chattel security property remaining at the old location, in accordance with established policies. The County Supervisor in charge of the program where the property is located will be responsible for the liquidation of the security property.

(5) The receiving County Supervisor will institute appropriate loan servicing action and will have the old security instruments recorded or filed immediately or will obtain new instruments, whichever is required. The State Director, with approval of the Representative of the Office of the Solicitor, will issue in-

structions supplementing this section relative to the legal requirements in the state regarding the taking of new security and the recording of existing security instruments for moves within a county, moves between counties served by the same State Office, and moves into the State.

(6) When a borrower whose total indebtedness is $10 or less moves to a new location, the case will not be transferred if the amount due is to be canceled under § 364.6 (a) (1) of this chapter. In such cases, immediate cancellation action will be initiated.

(7) When a borrower has made application for a compromise or cancellation of his indebtedness under the provisions of §§ 364.1 to 364.10 of this chapter and moves to a new location, the case will not be transferred unless the application for compromise or cancellation is rejected.

(8) When an application for a compromise or cancellation is received during the process of verifying the new address, the receiving County Supervisor will assist the borrower in preparing Form FHA–858, "Application for Settlement of Indebtedness," and will forward it to the transferring County Supervisor with his recommendation. Such case will not be transferred unless the application for compromise or cancellation is rejected.

(b) *Authorities.* County Supervisors are authorized to approve applications for moves of security property in accordance with the policies and procedures contained in §§ 361.1 to 361.7.

(c) *Preparation and distribution of Form FHA–544, "Application to Move Security Property and Verification of Address".* When the borrower makes application to move security property he will complete Section A, Part II, "Application to Move Security Property".

§ 361.6 *Application of remittances to specific notes within loan-type accounts.* County Supervisors are authorized to apply repayments to specific notes within loan-type accounts according to the rules of application prescribed in §§ 362.1 to 362.8 of this chapter when the need for such application arises. Form FHA–690, "Statement of Application of Remittances", will be used for this purpose.

§ 361.7 *Fully paid operating loans—*(a) *Surrender of notes.* When a note (or loan-type account) has been paid in full, the Area Finance Office will prepare Form FHA–597, "Notice of Fully Paid Notes," attach the note(s) stamped with a paid-in-full legend, and mail to the County Office. Form FHA–597 will be filed in the borrower's case file in the County Office. The County Supervisor will examine the borrower's records in the County Office and satisfy himself that the account has been paid in full before delivering the note(s) to the borrower. The note(s) will be returned to the borrower immediately except:

(1) When the final payment is made in a form other than currency, Treasury check, cashier's check, postal notes or money orders, the note(s) will not be surrendered until thirty days after the date of final payment, and

(2) When the notes are needed in making marginal releases or satisfactions of security instruments, the notes will be held until the instruments are to be satisfied.

(b) *Surrender of notes to effect collection.* (1) In individual cases, State Directors are authorized to request the Area Finance Offices in writing to furnish County Supervisors with promissory notes, together with a statement of the amount due under such notes, when the surrender of the notes is necessary to effect final collection.

(2) County Supervisors are authorized to surrender notes to borrowers in such cases when final payments of the amounts due are made in the form of currency, Treasury check, cashier's check, postal note or money order.

SUBPART B—SERVICING FARM OWNERSHIP LOANS

DERIVATION: §§ 361.21 to 361.25 contained in FHA Instruction 451.2.

§ 361.21 *General.* Sections 361.22 to 361.25 describe the payment plans for repayment of direct and insured Farm Ownership loans; provide procedures for the application of payments on direct and insured Farm Ownership accounts; for maintaining direct and insured Farm Ownership accounts in the County Office; for reamortizing direct Farm Ownership loans; and for processing fully paid direct Farm Ownership loans.

§ 361.22 *Definitions—*(a) *Classification of payments.* Payments on direct and insured Farm Ownership accounts will be classified as follows:

(1) *Regular payments.* All payments other than extra payments and refunds will be regular payments. Usually, they will be derived from farm income, but they will include also payments from off-farm income, inheritances, life insurance, and so forth. Most payments on Farm Ownership accounts will be regular payments.

(2) *Extra payments.* Payments derived from the sale of mortgaged property, or from mineral royalties from leases which depreciate the value of the security, or from the cash proceeds of real property insurance, will be extra payments.

(3) *Refunds.* Payments derived from unexpended Farm Ownership loan balances will be refunds. Usually, such payments will be made but once in the life of a Farm Ownership loan.

(b) *Installment on note and other charges—*(1) *Direct loans.* For a direct loan borrower, the term, "installment on note and other charges," as used in §§ 361.22 and 361.24, will be the sum of the following:

(i) The amount of the annual installment for the year as provided in his promissory note(s).

(ii) The amount of any recoverable cost charges paid by the Government during the year. These are payments for taxes, property insurance, special assessments, and other payments necessary for the protection of the security.

(2) *Insured loans.* For an insured loan borrower, the term, "installment on note and other charges," as used in §§ 361.22 and 361.24, will be the sum of the following:

(i) The amount of the annual installment for the year as provided in his promissory note(s).

(ii) The amount of the annual mortgage insurance charge.

(iii) The amount of any recoverable cost charges paid by the lender or out of the mortgage insurance fund during the year. These are limited to advances incident to the loan for taxes, property insurance, special assessments, and like payments in discharge of liens prior to the mortgage.

(iv) The amount of any accrued interest on advances made out of the mortgage insurance fund.

(c) *Schedule status.* A direct or insured loan borrower will be "on schedule" when his cumulative regular payments through the last preceding March 31, not including the amount he has prepaid on that date, are equal to the accumulated installments on his note and other charges which are due through the same date as shown on Form FHA–677 or Form FHA–514. A direct or insured loan borrower will be "ahead of schedule" or "behind schedule," respectively, when such regular payments are greater or less than such accumulated installments on his note and other charges.

(d) *Maturity status.* A direct or insured loan borrower will be "current" when his cumulative regular payments through the last preceding March 31 are equal to the accumulated amounts matured, as determined on Form FHA–528, "Annual Income Return," (see §§ 337.1 to 337.5 of this chapter). A direct or insured loan borrower will be "prepaid" or "delinquent," respectively, when such regular payments are greater or less than such accumulated amounts matured.

(e) *Mortgage Insurance Account; insured loans.* The term "Mortgage Insurance Account" applies only to insured loan borrowers. The mortgage insurance account for a borrower is a combination of the following items:

(1) The annual mortgage insurance charge.

(2) The amount of any advances made out of the mortgage insurance fund to meet defaulted payments of principal and interest, to pay taxes, special assessments, water rates, and other amounts which may become liens prior to the mortgage, or to pay property insurance.

(3) The accrued interest on any such advances made out of the mortgage insurance fund.

(Secs. 3 (b) (4), 12 (c) (4) and (6), 60 Stat. 1074, 1076, sec. 4, Pub. Law 720, 80th Cong. (62 Stat. 535); 7 U. S. C. 1003 (b) (4), 1005b (c) (4) and (6))

§ 361.23 *Application of payments—*(a) *Regular payments on direct loan accounts.* All regular payments on direct loan accounts will be applied first to any unpaid balance of interest on the note. Any remainder will be applied to the principal balance on the note.

(b) *Regular payments on insured loan accounts.* All regular payments on insured loan accounts will be applied first to any unpaid balance of the mortgage insurance account, and second to any unpaid balance of interest on the note. Any remainder will be applied to the principal balance on the note.

(c) *Extra payments on direct and insured loan accounts.* All extra payments on direct or insured loan accounts will be applied first to any unpaid balance of interest on the note. Any remainder will be applied to the principal balance on the note. Extra payments will not relieve an insured loan borrower from paying the amount due the mortgage insurance account each year.

(d) *Refunds on direct and insured loan accounts.* All refunds on direct or insured loan accounts will be applied entirely to the principal balance on the note. Refunds will not relieve an insured loan borrower from paying the amount due the mortgage insurance account each year.

(e) *Area Finance Office handling.* The application of collections on direct and insured loan accounts will be reflected in the record of accounts maintained by the Area Finance Office as indicated by the County Supervisor on Form FHA–37, "Receipt for Payment."

(1) Amounts paid on a direct loan borrower's account will be credited as of the date of Form FHA–37.

(2) Amounts paid on the mortgage insurance account will be credited to an insured loan borrower's account as of the date of Form FHA–37.

(3) Amounts paid for the account of the lender will be credited to an insured loan borrower's account as of the date the United States Treasury check is issued to the lender. (Sec. 4 (12 (f) (4)), Pub. Law 720, 80th Cong. (62 Stat. 535))

§ 361.24 *Farm Ownership payment plans.* Direct and insured Farm Ownership loans will be repaid in accordance with Payment Plan I or Payment Plan II, as described below, except that direct or insured fixed payment loan borrowers whose loans were approved after October 31, 1946 will not be included in Payment Plan I or Payment Plan II.

(a) *Payment Plan I.* Payment Plan I applies to each direct Farm Ownership borrower whose loan was approved prior to November 1, 1946, and who signed Form FSA–LE 228, "Variable Payment Agreement," or Form FSA–550, "Promissory Note (Variable Payment Plan)", if he has not transferred to Payment Plan II. Payment Plan I applies also to a transferee who assumed the obligation of a variable payment transferor whose loan was approved prior to November 1, 1946, unless the transferor or transferee has signed Form FHA–165, "Variable-Payment Agreement." Under Payment Plan I, the amount to be matured each year will be determined on Form FHA–528 by the County Supervisor on the basis of the borrower's ability to pay.

(b) *Payment Plan II.* (1) Payment Plan II applies to all fixed payment direct loan borrowers whose loans were approved prior to November 1, 1946; to all variable payment borrowers whose direct or insured loans were approved subsequent to October 31, 1946; and to all direct loan borrowers who have signed Form FHA–165. The provisions of Payment Plan II are contained in Form FHA–190, "Promissory Note," in Form FHA–360, "Promissory Note (Insured Loan)," and in Form FHA–165. Under Payment Plan II:

(i) The County Supervisor will determine on Form FHA–528 each year whether the borrower's income for the year was "normal or above normal"; or "below normal."

(ii) A borrower may make payments ahead of schedule at any time. He may later, in a year of "below normal" income, employ such ahead of schedule payments to supplement the amount available from that year's operations for application on the annual installment payable on his note. Ahead of schedule payments, however, will not relieve an insured loan borrower from paying the amount due the mortgage insurance account each year.

(iii) At least one scheduled annual installment on his note and other charges will be due from the borrower each year of "normal or above normal" income, and for each year of "below normal" income when the borrower is not ahead of schedule.

(2) A fixed payment borrower whose direct loan was approved prior to November 1, 1946, may continue to make fixed payments. However, he also may make payments ahead of schedule and later may employ such payments to supplement the amount available from that year's operations for application on the annual installment payable on his note in a year of "below normal" income. The County Supervisor, therefore, will maintain the account of such fixed payment borrower in the same manner as he does for other borrowers under Payment Plan II. Payments made in excess of the fixed amount by such fixed payment borrower prior to April 1, 1947, do not affect his schedule status.

(c) *Transfer from Payment Plan I to Payment Plan II.* (1) A borrower operating under Payment Plan I may transfer voluntarily to Payment Plan II by signing Form FHA–165 although it ordinarily will not be to his advantage to do so. However, a borrower operating under Payment Plan II will not be permitted to transfer to Payment Plan I.

(2) The State Director is authorized to transfer a borrower under Payment Plan I who has signed Form FSA–LE 228 to Payment Plan II. Written notice of a compulsory transfer from Payment Plan I to Payment Plan II will be sent to the borrower by the State Director.

(Sec. 48, 50 Stat. 531, 60 Stat. 1070; 7 U. S. C. 1022)

§ 361.25 *Processing fully paid direct Farm Ownership Loans*—(a) *Authorization.* The State Director is authorized to accept final payment on a direct Farm Ownership loan and to execute the necessary releases and satisfactions.

(b) *Loans repaid in less than five years.* In the case of a loan to be repaid in less than five years from the date of the initial note, the County Supervisor will advise the State Office of the circumstances. In justifiable cases, the State Director is authorized to approve the acceptance of final payment before such five years have elapsed, except that the approval of the National Office is required when payment is to be made from sale of the farm outside the program where profit making is the only significant motive. If the State Director approves the acceptance of final payment, he will so advise the County Supervisor.

(c) *Preparation of receipt.* Final payment of the account will be indicated on Form FHA–37, "Receipt for Payment," by marking it "paid-in-full". Proceeds from the sale of a farm will be shown as an extra payment and other payments will be shown as a regular payment or a refund. The County Supervisor will advise the borrower as to the manner in which property insurance will be canceled, or release of mortgage interest executed.

(Sec. 3 (b) (6), 60 Stat. 1074; 7 U. S. C. 1003 (b) (6))

## SUBPART C—SERVICING LOANS TO COOPERATIVE ASSOCIATIONS

DERIVATION: §§ 361.41 to 361.47 contained in FHA Instruction 451.3.

§ 361.41 *General.* Sections 361.42 to 361.47 prescribe the policies, authorities, responsibilities and procedures for loan servicing and supervision of all active cooperative associations. Active cooperative associations, referred to in this subpart as "associations," include water facility associations and all other cooperative associations indebted to the Government for direct loans which have not been approved for liquidation.

§ 361.42 *Policies.* (a) Associations are expected to place all phases of their operations on a sound basis, and to manage their own affairs with a minimum of technical advice and guidance from the Farmers Home Administration.

(b) Servicing of association loans will be directed toward the repayment of loans on schedule and obtaining compliance with all provisions of the loan agreements, notes and security instruments. Associations will be encouraged to prepay their indebtedness to the Government when possible.

(c) When technical services related to operations, accounting and membership relations are available through other Government agencies, regional cooperative organizations, or other independent sources, associations will be expected to use such services and will be directed to them.

(d) Personnel of the Farmers Home Administration will not perform any of the following functions or services for borrower associations: (1) Serve as officials; (2) perform any administrative or employee functions with respect to any phases of the business; (3) perform clerical services, maintain financial or other records, prepare financial reports or develop operating budgets for the associations. This will not prohibit the necessary training of association Boards of Directors, committees and employees in the performance of their respective duties or the exercise of official duties by Farmers Home Administration employees specifically authorized in individual cases for the protection of the Government's financial interests.

(e) Associations in default and not operating on a sound basis, which after careful analysis do not evidence prospects of attaining future successful operations within a reasonable time, will be liquidated in an orderly and businesslike manner in accordance with authoriza-

tions and instructions issued by the National Office in individual cases.

§ 361.43 *Authorities.* (a) Subject to the provisions of §§ 361.42 to 361.47 and the approval of the Representative of the Office of the Solicitor as to legal sufficiency, State Directors are authorized to perform the following functions when it is determined that such action will not be to the detriment of the Government:

(1) Approve annual budgets submitted by associations.

(2) Approve requests from associations to extend credit to patrons.

(3) Require additional security when it is determined that existing security is inadequate.

(4) Require associations to carry insurance of the types and amounts determined necessary on property mortgaged to the Government.

(5) Require associations to provide adequate bond coverage on officials and employees handling a substantial amount of cash or property.

(6) When required by the loan agreement: approve the general manager appointed by an association and the amount of his salary; approve the discharge of a manager upon request of the association; and request the association to discharge its manager when such action is deemed necessary to protect the Government's interest.

(7) Approve requests from associations for revision of existing charters and by-laws.

(8) Inform associations of the conditions under which the Government will release liens on mortgaged property to be sold or exchanged and after sale or exchange release such property from lien instruments held by the Government, *Provided:*

(i) The sale or exchange of the property will not impair future successful operations.

(ii) The security is sold for cash at not less than its current fair market value and the proceeds are remitted to the Government for application on the association's indebtedness; or, the exchange will result in the Government obtaining other security property or cash or both, which is equivalent to the fair market value of the property exchanged.

(9) Approve requests from associations to purchase stock or other securities or become a member of any other corporation or association when the benefits to be derived therefrom are commensurate with the investment.

(10) Approve requests from associations for the distribution of cash dividends or patronage refunds.

(11) Approve requests from associations for voluntary dissolution and liquidation of assets when it is determined that the sale of the association's assets will retire in full its indebtedness to the Government.

(12) Appoint a supervisor to act as the Government's representative, if provision is made therefor in the loan agreement, when:

(i) The association has failed to comply with the terms and conditions of the loan agreement and such failure has jeopardized seriously the Government's interest or in all probability will do so.

(ii) Other methods of securing voluntary compliance with the loan agreement have failed.

(13) Approve requests from associations for construction or for the acquisition of construction materials and equipment involving major improvements and repairs.

(14) Approve requests from associations to borrow funds or contract liabilities outside the regular and usual course of business.

(15) Renew existing security instruments.

(b) All requests or applications from associations which the State Director is not authorized to approve will be referred to the National Office together with the State Director's recommendations. These will include, among others, the following:

(1) To renew or amend the terms or conditions of existing notes or loan agreements.

(2) To modify the requirements for setting aside funds or collecting retains for application on the association's indebtedness to the Government.

(3) To merge or consolidate with another organization.

(4) To transfer any assets to another organization except in the regular and usual course of business.

(5) To voluntarily dissolve an association and liquidate its assets when it is determined that the proceeds of sale will not retire in full the association's obligation to the Government.

§ 361.44 *Responsibilities.* (a) County Supervisors are responsible for:

(1) Informing associations of their obligations to the Government under existing loan agreements, notes and security instruments.

(2) Informing associations of the types and frequency of report requirements under § 361.45.

(3) Prompt collection of association loan obligations to the Government and servicing security for such loans as required by §§ 361.42 to 361.47.

(4) Securing compliance by the association of other terms and conditions of its agreements with the Government.

(5) Reporting to State Directors promptly the failure of any association to comply with the terms and conditions of its agreements after such non-compliance has been brought to the attention of the association and has not been corrected.

(6) Furnishing such training and technical guidance, not readily available through other sources, to associations as is required for protecting the Government's interests. This training and guidance may relate to business operations, personnel training, membership activities or any other phase which vitally affects such association's operations and the Government's interest.

(7) Attending the annual meeting and, as necessary, other membership or directors meetings of associations in the capacity of technical adviser.

(b) State Field Representatives are responsible for:

(1) Providing County Supervisors with technical guidance, training, and follow-up supervision as needed.

(2) Administrative follow-up to ascertain that County Supervisors carry out their responsibilities as perscribed in §§ 361.42 to 361.47.

(3) Consulting with and, if necessary, arranging for the assistance of State Office personnel on special training and problems of cooperative associations.

(c) State Directors are responsible for:

(1) Coordinating and directing loan servicing and supervisory activities relating to associations under their jurisdiction and performing other functions as prescribed by §§ 361.42 to 361.47.

(2) Establishing a record system in such manner as deemed advisable for maintaining follow-up action to assure prompt compliance by associations with requirements related to budget and report submissions, insurance and bond renewals, reports required under State Laws, chattel security expirations, repayment schedules and other major loan and security servicing requirements.

§ 361.45 *Budget and report submission by associations*—(a) *Annual budget.* (1) When required by loan agreements, annual operating budgets will be submitted to the Government by associations at the beginning of the association's fiscal year. A sixty-day grace period is allowed within which each association will complete its budget and transmit it to the County Supervisor.

(2) The annual budget may be submitted in any form desired by the association, but must set forth clearly and in detail the estimated income and expenses for the year. If the budget proposes any significant changes from the previous year's operating record, the budget must be supported by a written narrative explaining all estimates that indicate a significant change.

(b) *Audit reports.* (1) Pursuant to the provision of the loan agreement, associations are obligated to furnish such reports as the Government will from time to time require. It is the policy under this provision of the loan agreement to require annual audit reports of associations and such additional reports as the State Director or the Administrator deems necessary. The annual audit report referred to herein may be in the form desired by the association but must consist of a balance sheet showing the association's current financial position as of the end of each fiscal year and an operating statement showing the results of operations for the year just closed.

(2) When an association's total outstanding indebtedness to the Government exceeds $15,000, the audit report will be prepared by a qualified independent auditor. The auditing services of a central or federated cooperative will be considered an independent audit. When an association's total outstanding indebtedness to the Government is $15,000, or less, the audit may be made by a committee of the membership not including any officer, director or employee of the association. Audits made by a committee of members will consist of a veri-

fication of the balance sheet and operating statement. The State Director may in the case of any association in this latter group require an independent audit where the nature of operations, volume of business or other factors indicate an independent audit to be necessary, and the cost would not be an undue financial burden to the association.

(3) The annual audit report will be submitted preferably with the budget but in all cases as soon as possible after the close of the fiscal year. If the annual audit report has not been completed at the time for submitting the budget for approval, an unaudited copy of the balance sheet and operating statement will be submitted with the budget in order to permit expeditious analysis and approval of the budget.

§ 361.46 *Analysis, transmittal and approval of budget and analysis of audit reports*—(a) *Budgets*—(1) *Analysis.* As soon as possible after the receipt of the budget and financial information in the form of the audit report or balance sheet and operating statement from an association, and after securing such additional information as may be necessary, the County Supervisor will analyze the budget and supporting material and prepare Form FHA–958, "Financial and Budget Analysis," in an original and two copies. The analysis will be made in the light of sound business practices, basic cooperative principles, and financial interest of the Government. The County Supervisor will consult with the State Field Representative in analyzing the budget and in making his recommendations for approval or disapproval. The State Field Representative will attach his recommendations or indicate concurrence in those of the County Supervisor.

(2) *Transmittal.* The County Supervisor will transmit to the State Director:

(i) Form FHA–958 in an original and one copy. The remaining copy will be retained in the County Office.

(ii) The annual audit report or the unaudited balance sheet and operating statement as the case may be.

(iii) The budget as submitted by the association with his recommendations.

(iv) Copies of the minutes of the annual meeting and of any meetings of the Board of Directors at which the budget was discussed or acted upon.

(v) Any other related material.

(3) *Approval.* (i) The State Director after review of the budget will signify his approval or conditional approval by a letter addressed to the County Supervisor.

(ii) An appropriate notation will be entered on the State Office record system of the receipt and approval of each association's annual budget. This notation will be made at the time of approval by the State Director.

(iii) The State Director will retain in his files the original of Form FHA–958. The copy of Form FHA–958 and a copy of the letter approving the budget will be transmitted to the National Office.

(iv) All budgets, audit reports, financial reports, and other material submitted in connection with the budget will be returned by the State Director to the County Supervisor with the approval letter and will become a part of the Farmers Home Administration County Office permanent records.

(v) The County Supervisor will notify the association in writing of the approval of the budget and of any conditions prescribed in connection with such approval.

(b) *Analysis of late audit reports.* When the audit report is submitted subsequent to the budget, the County Supervisor will analyze the report and compare it with the financial and operating statement that was submitted with the budget. In the event there are any substantial differences, the County Supervisor will confer with the State Field Representative as to further action.

§ 361.47 *Loan servicing*—(a) *Repayments*—(1) *Notice of payment due.* Form FHA–93, "Statement of Account and Notice of Payment Due," will be prepared in an original and three copies by the Area Finance Manager by the tenth of each month for all associations having installments of principal or interest falling due from the twenty-sixth of the current month through the twenty-fifth of the following month. The status of each note or suffix will be shown as well as the total of all notes on the Form FHA–93. Interest will be accrued and matured to the date of principal maturity in accordance with the terms of the note. The Area Finance Manager will mail the original to the association, a copy to the County Supervisor, and a copy to the State Director.

(2) *Receiving and transmitting of repayments.* Repayments from associations will be handled in accordance with §§ 362.1 to 362.8 of this chapter.

(3) *Application of repayments.* (i) All repayments received will be credited as of the date of the receipt and applied, first to billed interest and the balance to principal in accordance with Form FHA–93.

(ii) When payments from normal income are made in advance of maturity, such payments will be applied to principal unless the borrower requests, and it is indicated on the receipt, that part of such payments be applied to interest.

(iii) Repayments in excess of $100 derived from the sale of mortgaged property not sold in the usual course of business will be applied to the last maturing installments of principal and an equivalent amount of such principal will be matured at the same time.

(b) *Statement of account.* The Area Finance Manager, upon request of the State Director, will furnish the original and two copies of Form FHA–749, "Statement of Cooperative Loan Account," showing the status of the loan account of any association as of the date the information is requested.

(c) *Form FHA–106, "Register of Loan Control Transactions."* The Area Finance Manager will prepare Form FHA–106 in an original and three copies as of June 30th and December 31st of each year. The original and one copy of this form will be sent to the National Office, Attention: Finance Division, Fund Accounting Section; one copy will be sent to the State Director; and one copy will be retained in the Area Finance Office.

(d) *Satisfactions.* When a loan has been paid in full, the Area Finance Manager will prepare Form FHA–597, "Notice of Fully Paid Notes," in an original and one copy and forward them to the Communications and Records Management Section having custody of the notes. The notes will be stamped "Paid in Full" and will be sent, attached to the original of Form FHA–597, to the State Director. The copy of the Form FHA–597, with appropriate notation that the notes have been returned, will be filed in the client file in the Communications and Records Management Section. Upon receipt of Form FHA–597 and accompanying notes, State Directors are hereby authorized to satisfy and discharge lien instruments by executing Form FHA–77, "Satisfaction," when all notes secured by such lien instruments are fully paid. Form FHA–77, notes, related security instruments, insurance policies, and bonds will be transmitted to the County Supervisor. County Supervisors are authorized to deliver Form FHA–77, paid in full notes, related security instruments, insurance policies, and bonds to the association and are authorized to make marginal releases of security instruments described in Form FHA–77 as may be required by State Laws. The original of Form FHA–597 will be filed in the client file in the County Office.

(e) *Insurance and bonding.* (1) Thirty days prior to the expiration date or premium payment date of an insurance policy or bond, the State Director will notify the County Supervisor of the coverage required and the County Supervisor will request the association to obtain such coverage. The originals of policies and bonds will be transmitted by the County Supervisor to the State Office where they will be retained.

(2) Insurance policies will have attached the standard mortgage clause (without contribution) or Form FHA–878, "Insurance Mortgage Clause." If a mortgage clause has been approved or is made mandatory by the laws of any State, such clause will be used in that State. If a standard mortgage clause (without contribution) is printed in the policy, then a loss payable clause will be required. The name of the United States of America as mortgagee will be inserted in the mortgage clause.

(3) Associations will obtain required fidelity bonds locally through acceptable bonding companies. The State Director or his successor in office acting for the United States Government will be named as obligee in the bond, jointly with the association.

(f) *Renewals.* (1) Direct loans to active associations may be renewed when all of the following conditions exist:

(i) The Associatiton has a substantial delinquency which cannot be liquidated within one year.

(ii) The renewal action will not operate to the financial detriment of the Government or impair the security rights of the Government.

(iii) The budget and/or plan of operations of the association provide reasonable assurance that the association will be able to make payments from normal operating income in accordance with the terms of the proposed renewal.

(iv) The Board of Directors and membership have definite plans for obtaining membership support and providing competent management for the continued activity of the association.

(2) Associations desiring to renew notes evidencing loans from the Government will submit their applications to the County Supervisor. These applications will be supported by the following:

(i) A current financial report consisting of a balance sheet and operating statement which presents an accurate report of the association's financial condition. This report must be certified as to its accuracy by a responsible official of the association.

(ii) A certified copy of an appropriate resolution adopted by the Board of Directors and/or membership authorizing the renewal action.

(iii) A budget referred to in subparagraph (1) (iii) of this paragraph. This budget must be supported by a narrative statement describing any significant changes in the association's plan of operation that will reflect the association's ability to make payments from normal operating income in accordance with the proposed renewal.

(iv) An independent current fair market value appraisal of all property owned by the association on which the Government holds a lien.

(3) All applications for renewal of association loans will be submitted to the State Director with recommendations from both the County Supervisor and State Field Representative.

(4) Upon receipt of an application for renewal of an association's loan, the State Director shall request the Area Finance Manager to prepare a special statement of account. The State Director will review the special statement of account, the application for renewal and supporting information and forward the complete docket with his recommendations to the National Office for further consideration.

(5) The State Director will be advised of the action taken on a request for renewal. If the renewal is approved, the State Director will then be supplied with a renewal note form which he will prepare in an original and two copies. The note will be dated as of the date on which the renewal will take effect. The repayment schedule of the renewal note will be in annual principal installments as prescribed by the National Office. The State Director will, after securing approval of the Representative of the Office of the Solicitor as to legal sufficiency, transmit the original and copies of the note to the County Supervisor with a letter of instruction with reference to execution of the renewal note and complying with any renewal conditions. A copy of this letter will be sent to the Area Finance Manager who will discontinue accruing interest until he receives the original executed renewal note. When the original note has been executed by the appropriate officials of the association, the County Supervisor will forward the original to the Area Finance Manager, one copy will be furnished the association, and one copy retained in the County Office. The County Supervisor will also advise the State Director that the renewal note has been executed.

(g) *Releasing security.* (1) Any dispositions of property mortgaged to the Government are made subject to such mortgage. Associations will be held strictly accountable to the Government for all proceeds derived from the sale of mortgaged property which the Government is entitled to receive under its lien.

(2) Before security property mortgaged to the Government is sold or exchanged, associations are required to obtain from the Farmers Home Administration a statement of the conditions under which the lien will be released. This statement will be made on Form FHA–851. "Statement of Conditions on Which Lien Will Be Released."

(3) When an association desires to sell or exchange the mortgaged property, it will submit to the County Supervisor the following:

(i) A certified copy of an appropriate resolution adopted by the Board of Directors and/or membership requesting permission to dispose of security property.

(ii) A narrative statement setting forth the reasons for disposing of security property.

(iii) A report reflecting the current fair market value of the property to be released.

(4) The County Supervisor will prepare an original and two copies of Form FHA–851. One copy will be retained in the County Office and the original and one copy will be forwarded to the State Director along with the request for permission to dispose of security property, supporting information received from the association and the County Supervisor's recommendations. The State Director will indicate his approval of conditions of sale or exchange by executing the original of Form FHA–851 and returning it to the County Supervisor for delivery to the Association.

(5) When security property is sold or exchanged in accordance with the conditions stated in the approved Form FHA–851, the County Supervisor will prepare Form FHA–99, "Release," in an original and two copies. One copy will be retained in the County Office and the original and one copy will be forwarded to the State Director to be executed. After execution the original will be sent to the County Supervisor for delivery to the association.

(6) Property acquired by associations by exchange or by purchase with proceeds from the sale of other mortgaged property must be made subject to a lien in favor of Farmers Home Administration in such manner as the Representative of the Office of the Solicitor advises to be appropriate under applicable State laws. When a new security instrument is necessary, it will be taken at the time of acquisition of the new property.

(h) *Reporting on defaulted cases.* (1) Defaults by associations under their notes, loan agreements, mortgages or other security instruments, which have not been cured by the association after a reasonable amount of loan servicing and supervision by County Supervisors with the advice of the State Field Representative, will be reported in narrative form to the State Director with either their joint or separate recommendations. The association file and other pertinent material will be forwarded to the State Director with the report.

(2) In cases where the County Supervisor and the State Field Representative recommend liquidation of an association's assets the following additional information will be included in the report to the State Director.

(i) A statement as to whether or not the liquidation would be voluntary on the part of the association. If the association has authorized liquidation, then a copy of the resolution should be attached.

(ii) Specific recommendations on the method of carrying out the liquidation.

(iii) Estimate of the net amount that probably will be realized from disposal of the assets, and an estimate of the loss, if any, to the Government.

(iv) A list of unsalable assets and recommendations for disposal if title to such assets will rest in the Government.

(3) If the liquidation of an association's assets is involved and the recommended liquidation action is not within the approval authority of the State Director as prescribed in § 361.43, the complete docket, together with the State Director's recommendations, will be forwarded to the National Office. In such instances specific authorities and instructions will be issued by the national Office when liquidation is authorized.

(4) After all liquidation action has been completed, the complete docket will be returned to the unit office and placed in the official files in that office.

(i) *Appointment of supervisor*—(1) *Notice to the supervisor.* (i) When the loan agreement so provides and the State Director determines that an association's failure to comply with the terms and conditions of the loan agreement is jeopardizing seriously or in all probability will jeopardize seriously the Government's interest and all other methods of securing voluntary compliance with the loan agreement have failed, he will appoint a supervisor, as defined in the loan agreement, to act as the Government representative for the purpose of carrying out the terms and conditions of the agreement.

(ii) The State Director will notify in writing the person selected of his appointment as supervisor. The letter which must be approved by the Representative of the Office of the Solicitor for legal sufficiency, will include:

(*a*) A statement of the supervisor's duties and responsibilities.

(*b*) The authorities granted him in order to carry out his duties and responsibilities of managing the operations of the association.

(*c*) A stipulation of the salary, if any, which he is to receive for his work. In case an employee of the Government is appointed supervisor he will receive no compensation in addition to his regular salary.

(*d*) Other information and instructions necessary to enable him to perform his duties effectively.

(2) *Notice to the association.* The State Director will notify the association, in writing, of the appointment of a su-

pervisor citing the appropriate provisions of the loan agreement. The letter of notification will include the following:

(i) A notice of the specific breach(es) of the loan agreement which renders the appointment necessary and the objectives of the Government in taking control.

(ii) The name of the supervisor and his salary, if any, as fixed by the Government.

(iii) A detailed statement describing the specific authorities and duties of the supervisor.

(3) *Bonding.* The State Director will require that an adequate bond be obtained by the supervisor, the cost to be borne by the association.

(4) *Notice to the National Office.* The State Director will immediately notify the National Office of the appointment of a supervisor and submit a statement for future handling of the association which will include plans for returning management to the association or recommendations for liquidation action.

(j) *Reporting other associations requests and applications.* (1) Requests and applications from associations for other loan servicing actions not specifically covered by this section will be made in written form addressed to the County Supervisor and must be supported by a copy of the resolution adopted by the members or Board of Directors in connection with such request.

(2) The County Supervisor will attach to the request or application, the association county office file containing the Charter, By-Laws, current year's budget, where required, and the latest audit report.

(3) The County Supervisor will analyze the request or application, make his recommendations after consulting with the State Field Representative, and transmit the complete docket to the State Director. The State Field Representative will attach his recommendations or indicate concurrence in those of the County Supervisor by initialing the docket.

(4) In certain cases, the State Director may require additional information such as a current statement of account from the Area Finance Manager, or a current fair market value appraisal of the association's property. When such appraisals are required they must be made at no cost to the Government.

(5) When the loan servicing action is not within the approval authority of the State Director as prescribed in § 361.43, the complete docket, together with the State Director's recommendations will be forwarded to the National Office. Specific authorities and instructions will be issued in individual cases.

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## PART 362—REMITTANCES

### SUBPART A—COLLECTIONS

Sec.



DERIVATION: §§ 362.1 to 362.8 contained in FHA Instruction 452.1.

§ 362.1 *General.* (a) All collection items, such as checks, drafts, money orders, and postal notes will be made payable to, or endorsed in favor of, the Treasurer of the United States, regardless of the accounts to which such collection items will be applied. All collection items in any form other than currency are accepted subject to collection, that is, subject to the items being paid.

(b) Collection items containing restrictive notations that will not permit such items to be processed and applied to accounts in accordance with the instructions contained in §§ 362.1 to 362.6 will be returned to the remitters by the Farmers Home Administration officials receiving such items with the request that such notations be withdrawn. However, items containing restrictive notations not affecting the handling thereof, such as "payment in full," when the amount thereof does in fact pay the account in full, as provided in §§ 362.1 to 362.6 will be accepted and processed. Farmers Home Administration employees should discourage the use of restrictive notations on collection items.

§ 362.2 *Authority.* County Supervisors and other Farmers Home Administration employees who are bonded properly are authorized to receive, receipt for, and transmit repayments on accounts.

§ 362.2 *Endorsement of collection items.* (a) Collection items made payable to the order of the borrower or to a person other than the Treasurer of the United States should be endorsed by the last holder (usually the borrower) as follows:

To be deposited to the credit of
The Treasurer of the United States

---
(Signature of Last Holder)

(b) If the last holder is unable to sign his or her name, the collection item will be prepared for endorsement by mark and for the signature of a witness as illustrated below. Farmers Home Administration employees may act as witnesses to signature by mark when other witnesses are not available.

To be deposited to the credit of
The Treasurer of the United States

His
John X Doe
Mark

---
(Name of Last Holder)

Richard Roe Witness

NOTE: On checks issued by the Treasurer of the United States, the signatures and addresses of two witnesses are required.

(c) County Supervisors and other employees who are bonded properly are authorized to endorse collection items only as follows:

(1) Collection items made payable in the first instance to, or endorsed to the credit of, the United States of America, the United States Department of Agriculture, Farmers Home Administration, ------ Rural Rehabilitation Corporation, Farm Security Administration, Emergency Crop and Feed Loan Office, or the Governor of the Farm Credit Administration (including joint checks, the entire proceeds of which are to be remitted), will be endorsed as follows, using the appropriate designation, depending upon the payee:

To be deposited to the credit of
The Treasurer of the United States
United States of America (or)
United States Department of Agriculture (or)
Farmers Home Administration (or)
------ Rural Rehabilitation Corporation (or)
Farm Security Administration (or)
Emergency Crop and Feed Loan Office (or)
Governor, Farm Credit Administration

By ----------
Title ----------

(2) Where collection items are received which are made payable to the order of the borrower or persons other than the Treasurer of the United States and such items are not endorsed in the manner provided in paragraph (a) of this section, the following endorsement will be made immediately below the endorsement of the last holder:

To be deposited to the credit of
The Treasurer of the United States
Farmers Home Administration

By ----------
Title ----------

(d) County Supervisors may endorse, in the manner prescribed in paragraph (g) of this section, checks representing proceeds from the sale of mortgaged property made payable jointly to other persons and the Farmers Home Administration, the Farm Security Administration, the Emergency Crop and Feed Loan Office, the Governor of the Farm Credit Administration, the United States of America, or the United States Department of Agriculture, only to enable:

(1) The Government to obtain the amounts of such checks determined to be due the Government.

(2) The borrower to obtain the amounts of such checks that are to be used for the purposes approved by County Supervisors, in accordance with the provisions of existing instructions on releasing security property.

(3) Third party payees, if any, whose names appear on such checks, to obtain the amounts determined to be due such payees. In the event the name of a third party payee appears on a joint check, the County Supervisor, before endorsing the check, also will determine (i) the amounts, if any, due such payee, and (ii) that the endorsement by the County Supervisor will not permit such payee to participate in the proceeds of the check beyond the extent to which he is entitled. Ordinarily, the endorsement of the County Supervisor should appear below the endorsement of the third party payee, and the endorsement of the borrower should appear last on the check.

(e) When County Supervisors are requested to endorse joint checks not representing proceeds from the sale of mortgaged property, and when the entire item

is not to be remitted, such checks will be forwarded to the State Office along with a complete statement of facts, including the borrower's case file, the purpose for which such checks are drawn, and the amount claimed by parties having an interest therein. State Directors will determine the interest of the Government, if any, in such joint checks, and are authorized to place the appropriate endorsement thereon, as prescribed in paragraph (f) of this section.

(f) Joint checks may be endorsed, under the authority in paragraphs (d) and (e) of this section, only by the use of one of the following forms of endorsement:

(1) Where a part of the proceeds of the check is to be remitted to the Government as a payment, the following endorsement form (with appropriate designation, depending upon the payee) will be used:

Endorsed without recourse only to permit: Issuance of a cashier's check to the order of the Treasurer of the United States in the amount of $ _____:
United States of America (or)
United States Department of Agriculture (or)
Farmers Home Administration (or)
------ Rural Rehabilitation Corporation (or)
Farm Security Administration (or)
Emergency Crop and Feed Loan Office (or)
Governor, Farm Credit Administration
By _____
Title _____

If objections are encountered to the wording of this endorsement, the County Supervisor exercising this authority may insert between the words "recourse" and "only" the following: "as to any amounts not paid to the Treasurer of the United States."

(2) Where no part of the proceeds of a joint check is to be remitted to the Government, the following endorsement form (with appropriate designation, depending upon the payee) will be used:

Endorsed without recourse:
United States of America (or)
United States Department of Agriculture (or)
Farmers Home Administration (or)
------ Rural Rehabilitation Corporation (or)
Farm Security Administration (or)
Emergency Crop and Feed Loan Office (or)
Governor, Farm Credit Administration
By _____
Title _____

(3) Checks payable jointly, as described in paragraph (d) of this section, which are received from or on behalf of common borrowers of the Federal Land Bank and the Farmers Home Administration, as defined in the existing Memorandum of Understanding, may be endorsed in the manner prescribed below, providing the borrower has consented to the contemplated division of the proceeds through the execution of Form FHA–461, "Summary Sheet for Common Borrowers." (See paragraphs (e) and (f) (1) of this section.)

Endorsed without recourse only to permit:
(1) Issuance of a cashier's check to the order of the Treasurer of the United States in the amount of $_____:
(2) Issuance of a cashier's check to the order of the Federal Land Bank of _____ in the amount of $_____:
United States of America (or)
United States Department of Agriculture (or)
Farmers Home Administration (or)
------ Rural Rehabilitation Corporation (or)
Farm Security Administration (or)
Emergency Crop and Feed Loan Office (or)
Governor, Farm Credit Administration
By _____
Title _____
In all cases, the borrower will endorse the joint check below the foregoing endorsement, whether or not he has endorsed it previously.

(g) In instances prescribed in paragraph (d) of this section, the County Supervisor, where necessary, may issue a written redelegation to any properly bonded employee in his office authorizing him to endorse joint checks in which the Government has an interest; *Provided:*

(1) Only the borrower and the Government, or the borrower, his landlord and the Government, appear as parties to the check.

(2) The employee so authorized has been informed by the County Supervisor of the respective interests of the Government and the borrower and, where applicable, the borrower's landlord, in the proceeds of the check.

(h) Area Finance Managers are authorized to endorse, in the manner specified above, collection items that lack endorsement by the Farmers Home Administration. This authority may be redelegated to any bonded Area Finance Office employee.

§ 362.4 *Refunding collection items.* Where a check is made payable solely to the Farmers Home Administration, Farm Security Administration, a State Rural Rehabilitation Corporation, Emergency Crop and Feed Loan Office, Governor of the Farm Credit Administration, or the United States of America, or a check is made payable to the Treasurer or the Treasury either solely or jointly with others (and the amount of such check is greater than that to which Farmers Home Administration is entitled and it is not possible to obtain separate checks), the check will be endorsed and transmitted to the Area Finance Office with Form FHA–144, "Summary of Remittances." Form FHA–37, "Receipt for Payment," will be made for the full amount of the check and will contain in the application block a notation of the request for refund and the amount thereof. Such receipts may be signed only by the County Supervisor. Where such refunds are payable to individuals other than borrowers, the County Supervisor will obtain a written request for payment from such persons. The request must contain a description of the check from which the refund is requested, including the date, the amount, the payee or payees, the drawer and the name of the bank on which it is drawn. The request must set forth specifically the amount requested as well as a factual statement supporting the basis for payment. The request must be signed by the individual requesting the refund and must bear approval of the County Supervisor, indicating that he has determined that the refund should be made as requested. The original signed request and one copy will be attached to Form FHA–144, covering the collection when it is forwarded to the Area Finance Office. One copy of the request will be filed with the County Office copy of Form FHA–144. The Area Finance Office will prepare and process a refund voucher based upon the request and the information contained on Form FHA–144 and the receipt. Such refund checks to borrowers, or to payees other than borrowers, will be mailed to the respective payee, in care of the County Supervisor.

§ 362.5 *Application of repayments—*(a) *Application of repayments on operating loan accounts.* The source from which repayments are derived will determine generally the accounts to which applications will be made. Repayments on such accounts will be applied first to unpaid interest shown on the current Form FHA–647, "Trial Balance of Loan Accounts," and then to principal. Farmers Home Administration officials receiving repayments will make application to specific accounts and, except for Emergency Crop and Feed Loan accounts, will make the applications between interest and principal. All loan refunds will be applied to principal only. In cases where large amounts of unpaid interest have accumulated and borrowers state in writing that they will make payments if such payments are applied to principal first, County Supervisors hereby are authorized to make exceptions to the policy of applying repayments to interest first and, in such cases, apply the repayments to principal first. In such cases, County Supervisors will inform borrowers that interest is not being forgiven. The following rules will govern the selection of accounts and installments to which repayments will be applied:

(1) Repayments, regardless of source, will be applied first to any recoverable costs which have been charged to the borrower's account.

(2) Repayments derived from the sale of mortgaged property representing normal income will be applied first to the current maturity or maturities, and the balance of the remittance, if any, will be applied:

(i) To accounts with small balances for the purpose of removing such accounts from the records.

(ii) To account(s) having the oldest delinquencies.

(iii) To oldest unpaid accounts.

(3) Repayments derived from the sale of basic security will be applied to the final unpaid installment(s) on the account secured by the earliest mortgage covering such basic security.

(4) Unused balances of loan advances will be applied to the final unpaid installment(s) on the note which evidences such advance, except that where such partial refund represents an advance for current farm and home expenses repayable within the year, it may be applied to the first unpaid installment on such note.

(5) Total refunds of loan advances will be applied to the notes which evidence such advances.

(6) In applying repayments from sources other than those in subparagraphs (2), (3), (4), and (5) of this paragraph, the borrower has the right of election as to the account(s) on which

such repayments will be applied. In the absence of the borrower's election, such repayments generally will be applied to:

(i) Accounts with small balances.

(ii) Accounts with the oldest delinquency.

(iii) Accounts which includes the oldest unsecured note(s).

(iv) Accounts which include the oldest secured note(s), except where a borrower owes both Farmers Home Administration and State Rural Rehabilitation Corporation Loan accounts, such repayments will be prorated between the Farmers Home Administration and the Corporation on the basis of the total balances (including principal and interest) owed to each, and the portions thus prorated will be applied respectively to the Farmers Home Administration and Corporation loan accounts as prescribed in subparagraph (6) of this paragraph.

(7) Where the Government has advanced funds to complete State Rural Rehabilitation Corporation commitments (such accounts now coded as 6F_____ accounts), any repayment that normally would be applied to any of the borrower's Corporation accounts will be applied to the 6F_____ account until it is paid.

(8) Application of repayments to notes within loan accounts will be made in accordance with the general principles set forth in subparagraphs (1) to (7) of this paragraph.

(b) *Classification and application of payments on Farm Ownership and other real estate accounts*—(1) *Classification.* Payments on Farm Ownership and Other Real Estate accounts will be classified as follows:

(i) *Regular payments.* All payments, other than "extra payments" and "refunds." Usually they will be derived from farm income, but they will include also payments from off-farm income, inheritances, life insurance, and so forth. Obviously most payments on Farm Ownership accounts will be "regular payments."

(ii) *Extra payments.* Payments derived from the sale or lease of mortgaged property.

(iii) *Refunds.* Payments are derived from unexpended Farm Ownership loan balances. Usually such payments will be made but once in the life of a Farm Ownership loan.

(2) *Application.* Payments on Farm Ownership and other Real Estate accounts will be applied as follows:

(i) *Regular payments.*

(*a*) All "regular payments" will be applied first to unpaid interest shown to be due on the latest Form FHA–677, "Schedule Status of Farm Ownership Borrowers," available in the County Office. Any remainder will be applied to principal.

(*b*) Regular payments may be made at any time by an old or new variable-payment borrower. When regular payments made during the grace period result in a total in excess of the amounts found to be due or agreed to be paid on Form FHA–528, "Annual Income Return," the excess will be credited toward the borrower's next annual payment.

(*c*) Regular payments may be made at any time by a fixed-payment borrower. The manner in which such payments will be applied is illustrated as follows: Payments made during the grace period 1947 would be applied first toward any delinquencies and any unpaid amounts due for 1946. Any additional amounts paid during 1947 would be applied toward the 1947 installment until it is fully paid. If there are still further payments in 1947, they will be applied to the debt, but they will not reduce the borrower's regular 1948 payment.

(ii) *Extra payments.* All "extra payments" will be applied first to the unpaid interest shown to be due on the latest Form FHA–677 available in the County Office. Any remainder will be applied to principal. Extra payments will not affect the scheduled status of a borrower nor will they affect the amount a borrower is delinquent or prepaid.

(iii) *Refunds.* All "refunds" will be applied entirely to principal and will not affect the scheduled status of a borrower nor will they affect the amount a borrower is delinquent or prepaid.

(c) *Area finance office handling.* Collections will be reflected in the record of accounts maintained by the Area Finance Office, as indicated on Form FHA–37. If an obvious error has been made in the application of the collection to the loan account and the intended application is readily discernible, the Area Finance Office will make the proper entry of the collection on the records without communicating with the County Office and will notify such Office of the correction by means of Form FHA–143, "Advice of Change in Application." Where the intended application is not readily discernible, the Area Finance Office will obtain the advice of the County Office through direct correspondence before entering the collection in the official records.

§ 362.6 *Final payments on operating loan accounts*—(a) *Operating loan accounts other than emergency crop and feed loan.* Final payments on loan accounts will be indicated by inserting on the copies of Form FHA–37, in the space provided, the loan code of the account being fully paid. The Area Finance Office, in such cases, will record collections according to the interest computation on such receipts. The Area Finance Office immediately will prepare Form FHA–597, "Notice of Fully Paid Notes," covering such paid-in-full accounts, and forward it to the County Office through the Communications and Records Section in the Area Finance Office where the paid notes will be attached, when either of the conditions enumerated below has been met:

(1) When a borrower pays a loan account in full within 30 days of the date of the latest Form FHA–647, such payment must include all of the unpaid principal and all unpaid interest shown on such Form FHA–647. No additional interest subsequent to the date of the latest Form FHA–647 need be computed or paid.

(2) When a borrower pays a loan account in full more than 30 days after the date of the latest Form FHA–647, such payment must include all of the unpaid principal and unpaid interest as shown on the latest Form FHA–647 plus interest accrued since the date of Form FHA–647 as computed by the official who made the collection.

NOTE: Claims by or on behalf of a borrower that the interest has been computed incorrectly will be referred by the County Supervisor to the Area Finance Office for review and appropriate action. Where refunds are requested Area Finance Office computations of interest will control.

(b) *Emergency crop and feed loan accounts.* When collections are received on Emergency Crop and Feed Loan accounts which are intended to pay the accounts in full, the Farmers Home Administration official receiving the collections will compute the interest due on the accounts to the date the collections are received. In such cases, the Area Finance Office will check the interest computations and will prepare Forms FHA–597 only when the accounts are fully paid.

§ 362.7 *Receipts.* Form FHA–37 is the only form of receipt to be used for collections on accounts and for loan refunds.

§ 362.8 *Refunding payments received under Field Service Branch of Production and Marketing Administration (formerly AAA) set-offs.* Borrowers against whom Field Service Branch set-offs have been requested, are entitled to a refund of any amounts paid to the Farmers Home Administration under such set-offs in excess of the unpaid indebtedness covered thereby. When a borrower's Field Service Branch check is received in the County Office, and the borrower is entitled to all or a part of the proceeds of the check because it exceeds the unpaid balance of the indebtedness covered by the set-off, refund will be made to the borrower as outlined below:

(a) *Where the Farmers Home Administration is entitled to only part of the Field Service Branch set-off check.* The County Supervisor will issue Form FHA–37 in the full amount of the Field Service Branch check received. The County Supervisor will insert in the application block of the receipt (showing principal and interest separately) the amount required to pay in full the balance of the existing indebtedness covered by the Field Service Branch set-off, followed by the statement, "Refund Balance of $_____ Directly to Borrower." It will be the responsibility of the County Supervisor to determine the application of the proceeds of such checks and to sign Form FHA–37 therefor. Upon receipt of the collection item, the Area Finance Office will prepare and process Standard Form 1047, "Public Voucher for Refund," for the amount indicated, for refund directly to the borrower. (Refund checks will be mailed to the borrower in care of the local Agricultural Conservation Association Office.)

(b) *Where the Farmers Home Administration is entitled to no part of the Field Service Branch set-off check.* Where the Farmers Home Administration is not entitled to any part of the Field Service Branch check because the borrower has repaid in full the indebtedness covered by the Field Service Branch

set-off, no receipt (Form FHA–37) will be issued for such checks, and the check will be transmitted to the Area Finance Office for refund directly to the borrower.

(c) *Unidentified Field Service Branch checks.* When a Field Service Branch check is received and the County Supervisor determines that it is not properly applicable to the account of any borrower within his jurisdiction, he will forward the check, with a letter containing all available information, to the State Office.

(d) *State Office handling of unidentified Field Service Branch checks.* When the State Office receives an unidentified Field Service Branch check from a County Office, an attempt will be made to identify the borrower or the proper account to be credited, using available records or information obtained from the Area Finance Office. If the proper account or the borrower cannot be identified, the check, together with a letter of transmittal explaining the situation, should be returned to the State Office of the Production and Marketing Administration.

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## PART 363—FARM OWNERSHIP TAXES

### SUBPART A—COUNTY OFFICE ROUTINE

Sec.
363.1 General.
363.2 Definition of tax.
363.3 Reporting delinquent taxes.
363.4 Servicing delinquent taxes.

### SUBPART B—STATE OFFICE ROUTINE

363.21 General.
363.22 Servicing delinquent taxes.

### SUBPART A—COUNTY OFFICE ROUTINE

Sections 363.1 to 363.4 interpret and apply sec. 3 (b) (4) and (5), 60 Stat. 1074; 7 U. S. C. 1003 (b) (4) and (5).

DERIVATION: §§ 363.1 to 363.4 contained in FHA Instruction 425.1.

§ 363.1 *General.* (a) Each Farm Ownership borrower will be responsible for paying taxes on his farm to the proper taxing authorities. This obligation of the borrower is included in the mortgage or deed of trust securing his loan.

(b) The County Supervisor will encourage Farm Ownership borrowers to pay taxes promptly in order to obtain any discount and to avoid any penalties. This can be accomplished in routine servicing of Farm Ownership loans by emphasizing the advantages of setting aside sufficient income to meet tax obligations when they become due and by reminding borrowers of such obligations before they become delinquent.

(c) The County Supervisor will be responsible for ascertaining that all Farm Ownership properties are listed properly on the tax rolls.

(d) Any changes or modifications of local tax requirements will be reported promptly to the State Office.

§ 363.2 *Definition of tax.* A tax, as used in this chapter pertaining to Farm Ownership loans, means all taxes, assessments, levies, or other similar obligations which will become a lien upon the real estate and which are included on one statement issued by a tax-levying body.

§ 363.3 *Reporting delinquent taxes.* Not later than one week after the delinquent date of each tax or any installment thereof on which penalty accrues, the County Supervisor will prepare a report for submission to the State Office. This report will consist of a statement to the effect that there are no tax delinquencies in the county involved, or it will consist of a list in duplicate of all Farm Ownership borrowers who have not paid the tax in full, together with a statement to the effect that all borrowers not listed have paid the tax in full.

§ 363.4 *Servicing delinquent taxes.* (a) Immediate servicing will be given to all Farm Ownership borrowers who have been reported to the State Office as delinquent, and every effort should be made to have the borrower pay the delinquent tax from his own funds.

(b) The payment of a delinquent tax as a result of such servicing will be reported to the State Office as soon as positive evidence of payment has been secured.

(c) If any Farm Ownership borrower is unable to pay the delinquent tax from his own funds, the County Supervisor will make a detailed report of the facts in the case to the State Office. This report will (1) identify the borrower by name and case number, (2) state the amount of the tax, (3) state the amount of any accrued penalty to a specific future date, and (4) list the name and address of the taxing body to which payment is due. The report will include also a statement regarding the efforts made by the County Supervisor to have the borrower pay the delinquent tax from his own funds.

(d) Upon administrative determination in the State Office, payment of the delinquent tax will be made by use of Standard Form 1034, "Public Voucher for Purchases and Services Other Than Personal."

### SUBPART B—STATE OFFICE ROUTINE

Sections 363.21 and 363.22 interpret and apply secs. 3 (b) (4) and (5), 60 Stat. 1074; 7 U. S. C. 1003 (b) (4) and (5).

DERIVATION: §§ 363.21 and 363.22 contained in FHA Instruction 425.2.

§ 363.21 *General.* The State Office is responsible for maintaining proper administrative control to prevent the nonpayment of real estate taxes on Farm Ownership properties.

§ 363.22 *Servicing delinquent taxes.* An employee will be designated in the State Office to handle actions on delinquent Farm Ownership taxes.

(a) Thirty days after the delinquent date of a tax, the County Supervisor will be requested, unless he has already submitted the report, to send the detailed report required by § 363.4 on each borrower who has not yet paid the delinquent tax.

(b) When such report is received and after it has been administratively determined by the State Director that payment of the delinquent tax cannot be made by the borrower from his own funds, Standard Form 1034, "Public Voucher for Purchases and Services Other Than Personal," will be prepared by the State employee in favor of the appropriate taxing authority. Standard Form 1034 should be processed within 60 days of the delinquent date of the tax unless the property is subject to sale for taxes before that time, as determined by the representative of the Office of the Solicitor. A statement will be inserted on Standard Form 1034 properly identifying the borrower, describing clearly the purpose for which the funds will be used, and showing the appropriate rate of interest. The amount of the tax payment also will be shown. The amount will bear interest at the lowest rate specified in any existing mortgage or deed of trust securing the Farm Ownership indebtedness.

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## PART 364—SETTLEMENT

### SUBPART A—COMPROMISE, ADJUSTMENT, AND CANCELLATION OF DEBTS DUE THE FARMERS HOME ADMINISTRATION

Sec.
364.1 General.
364.2 Definitions.
364.3 Policies.
364.4 Debts subject to settlement.
364.5 Settlement of debts upon application by borrowers.
364.6 Cancellation of debts without application from the borrower.
364.7 Delegation of authorities.
364.8 County Office handling.
364.9 State Office handling.
364.10 Delegation of authority to Deputy Administrator, Assistant Administrator in charge of Program Operations, and Director, Production Loan Division.

Sections 364.1 to 364.10 interpret and apply secs. 41 (g) (2) and (3), 60 Stat. 1065, 1066, secs. 1, 2, 58 Stat. 836; 7 U. S. C. 1015 (g) (2) and (3), 12 U. S. C. 1150, 1150a. Other statutory provisions interpreted or applied are cited to text in parentheses.

DERIVATION: §§ 364.1 to 364.9, except paragraph (d) and the exception in paragraph (c) of § 364.7, contained in FHA Instruction 456.1. Paragraph (d) of § 364.7 contained in Order, Administrator, April 22, 1948, 13 F. R. 2307. Exception in paragraph (c) of § 364.7 contained in Order, Administrator, Dec. 3, 1948. § 364.10 contained in Order, Administrator, June 16, 1947, approved Sec. Agric., June 18, 1947, 12 F. R. 4063.

§ 364.1 *General.* Sections 364.1 to 364.9 provide the policies and procedures for the compromise, adjustment, and cancellation of debts due the Farmers Home Administration, except debts arising from Water Facilities, Farm Ownership, Other Real Estate loans and direct loans to associations or corporations. Requests received by field officials for settlement of these latter four types of debts will be referred by State Directors to the National Office for instructions and a statement of policy for handling. The source of the authorities for the actions described in §§ 364.2 to 364.9 are:

(a) Subsection (g), section 41, Title IV of the Bankhead-Jones Farm Tenant Act as amended by the Farmers' Home Administration Act of 1946 (Pub. Law 731, 79th Congress; 60 Stat. 1062).

(b) The act of Congress, approved December 20, 1944 (Pub. Law 518, 78th Congress; 58 Stat. 836) and the regulations of the Department of Agriculture dated January 20, 1945, issued pursuant thereto.

(c) Trust Agreements with the various State Rural Rehabilitation Corporations.

§ 364.2 *Definitions.* The following are definitions of certain terms used in this subpart:

(a) "Debts" or "claims" means unpaid principal, accrued interest, and any other charges which properly are chargeable to the account of the borrower under any programs administered by the Farmers Home Administration except the debts excluded in § 364.1. Rural Rehabilitation loans made from State Rural Rehabilitation Corporation funds are included in the terms "debts" or "claims."

(b) "Borrower" or "debtor" means any person, or persons, obligated, either as principal or surety, to pay debts due the Farmers Home Administration.

(c) "Compromise" means the complete satisfaction of debts through a lump-sum payment of an amount less than the total debt and the acceptance by the Government of such amount in full payment of the debt.

(d) "Adjustment" means a reduction in the amount due, conditioned upon payment of the adjusted amount at some specified future time or times and with or without the payment of any consideration when the adjustment offer is approved. An adjustment is not a settlement until the provisions of the approved adjustment have been met.

(e) "Cancellation" means the complete discharge of debts due without any payment thereon.

(f) "Settlement(s)" means compromise, adjustment, or cancellation of debts due the Farmers Home Administration. The term "settlement" is used for convenience in referring to compromise, adjustment or cancellation actions, individually or collectively.

§ 364.3 *Policies.* The authorities contained in §§ 364.1 to 364.9 for the settlement of debts will neither serve as justification for nor permit any relaxation of the efforts of officials to collect debts due the Farmers Home Administration to the extent of the borrower's ability to pay. Debts and the security therefor, if any, will continue to be serviced in accordance with applicable policies and procedures. There are some cases when payment in full will not be possible; however, before any settlements are approved under this section, it must be established clearly in each case that applicable requirements are satisfied fully. The authorities must not be used in any manner to permit a borrower to obtain a settlement to which he is not entitled.

(b) Case classification of a borrower will not prevent the settlement of his debt, nor will a settlement thereof prevent the borrower from receiving further assistance. However, an application for assistance in such a case will be reviewed carefully in the light of the circumstances surrounding the settlement, as well as other applicable factors, for the purpose of determining whether the applicant has a reasonable prospect of repaying the loan requested and any remaining debts due the Farmers Home Administration.

§ 364.4 *Debts subject to settlement.* Debts due the Farmers Home Administration arising under any of the following types of loans or contracts may be settled subject to the provisions of §§ 364.1 to 364.9:

(a) Emergency Crop and Feed loans, including drought feed loans made in 1934–1935 and loans made by the Secretary of Agriculture to farmers for the purchase of capital stock in forming local Agricultural Credit Corporations.

(b) Rural Rehabilitation loans, including those made from State Rural Rehabilitation Corporation funds.

(c) Flood and Windstorm Restoration loans.

(d) Lease Contracts of former project occupants.

(e) Lease and Purchase Contracts that have been canceled.

(f) Furniture Contracts.

(g) Wartime Civilian Control Administration loans. These loans were made only in the West Coast States.

(h) Production and Subsistence loans.

§ 364.5 *Settlements of debts upon application by borrower*—(a) *Compromise and adjustment.* Debts described in § 364.4 may be compromised or adjusted upon application by the borrower, or, when unable to act for himself, upon application by his guardian, executor, administrator, or any other person directly interested in his estate, provided all of the following conditions exist:

(1) The total amount of the claim on which settlement is requested, including accrued interest and any other charges which properly are chargeable to the account, is less than $10,000. When the total amount of all types of debts due the Farmers Home Administration, including, for this purpose, Water Facilities, Farm Ownership, and Other Real Estate debts, is $10,000 or more, regardless of the amount of the debts on which settlement is requested, the case will be transmitted to the National Office with the complete file. Such requests will be documented as required for other settlements. (Sec. 4.1 (g) (1), 60 Stat. 1065; 7 U. S. C. 1015 (g) (1))

(2) The debt for which settlement is requested is due and payable finally under the terms of the note or the right of acceleration under the note has been exercised by written notice prior to the date of the application and offer: *Provided,* That any compromise or adjustment offer on indebtedness which has not been due finally and payable for a period of two years or more or when a period of two years has not elapsed from the date of acceleration under the terms of a note, will be referred to the National Office for concurrence by the Administrator or his delegate before a final settlement is approved. However, such offers need not be referred to the National Office for concurrence if the notes evidencing the indebtedness were renewed prior to December 31, 1944.

(3) The borrower is unable to pay in full his debts due the Farmers Home Administration and the amount offered in compromise or adjustment is found to be the full amount that he can be expected to pay, based on a determination of his reasonable ability to pay, and the value of the security, if any. Unwillingness of the borrower to pay his debt, or a mere financial disadvantage to him, will not justify the acceptance of a compromise or adjustment offer. The good faith of a borrower in meeting his obligation(s) to the Government also will be considered. The debt-paying ability of a borrower must be determined by making a complete analysis of his circumstances. The following factors, among others, will be considered in making this analysis:

(i) *The present income of the borrower and probable income in the future.* The source of a borrower's income and the nature of his work will affect the amount and stability of his future income and debt-paying ability and will have a direct bearing on settlement. Payments received from old-age pensions and payments received by veterans for pensionable disabilities should not be considered as sources of funds with which to make compromise and adjustment offers.

(ii) *Necessary living and operating expenses of the borrower.* It is essential to determine the necessary living and operating expenses of the borrower, since the amount of net income is important in determining the amounts that will be available for payment on debts.

(iii) *The value of security.* In determining debt-paying ability, it must be presumed, in any case, that the borrower can pay an amount at least equal to the fair-market value of the security for the debt. Therefore, an amount less than the value of the security will not be accepted in settlement. When the debt is secured, the maximum amount which the borrower is able to pay over and above the fair-market value of the security must be determined from an examination of all other pertinent factors. County Supervisors will show in Part VII of Form FHA–858, "Application for Settlement of Indebtedness," the fair-market value of any security and the basis on which established.

(iv) *The value of the borrower's property.* Some of the property owned by a borrower, such as household goods and his homestead, is not subject to the payment of debts in many states unless the property is mortgaged; nevertheless, the value of assets in relationship to total liabilities is one indication of the extent to which a borrower can pay his debts. There is no intention, however, to require a borrower to liquidate all of his assets before a settlement is made.

(v) *The total debt of the borrower and the relative priorities on his income.* The extent and manner in which the borrower's debts are secured and the claim that such secured debts have on his income will determine the position of the various creditors in obtaining payment from income. The relative position of the Farmers Home Administration, as a creditor, will determine largely the payments that may be expected out of income. However, a settlement should not be approved in cases where other creditors will be permitted to assume a more favorable position than that to which such creditors otherwise would be entitled. In some cases when borrowers are farming, County Supervisors may need to contact other creditors for the purpose of effecting debt adjustment.

(vi) *The age and health of the borrower.* Advanced age alone is not necessarily an indication of the borrower's future earning capacity, although a borrower of advanced age may be less likely to enjoy an increased income from which a larger debt-paying ability may be derived. The condition of the health of a borrower necessarily will weigh heavily in determining whether his future income probably will increase or decrease. The stability of necessary labor and management contributions from other members of the family in carrying on the enterprise also should be given consideration.

(b) *Cancellation of debts upon application by the borrower.* (1) Debts arising under the following types of loans may be canceled upon application by the borrower, or, when unable to act for himself, upon application by his guardian, executor, administrator, or any other person directly interested in his estate, provided the principal balance due under a single act of Congress is not in excess of $1,000, and the other applicable provisions set forth herein are met:

(i) Emergency Crop and Feed loans, including Drought Feed loans made in 1934–1935 and loans made by the Secretary of Agriculture to farmers for the purchase of capital stock in forming local Agricultural Credit Corporations.

(ii) Rural Rehabilitation loans, excluding those made from State Rural Rehabilitation Corporation funds.

(iii) Flood and Windstorm Restoration loans.

(iv) Production and Subsistence loans.

(2) In addition to the foregoing limitation as to amount, the following requirements must be met before any debts due the Farmers Home Administration may be canceled:

(i) *The final installment on the note or contract presently held by the Government as evidence of the debt must have been due and payable five years or more.* If maturities under a note have been accelerated by written notice to the borrower, the five years will begin to run from the date of such notice, provided all servicing action subsequent to the notice has been consistent with the intent of the notice. For renewed accounts, the five years will begin to run from the date of the last installment on the renewal note or from the date of the notice of acceleration under that note.

(ii) *The borrower is unable to pay any part of his debts and has no reasonable prospect of being able to do so.* Such findings will not be made on the basis of mere unwillingness to pay or mere financial disadvantage to the borrower, but on the basis that the settlement is the most advantageous arrangement possible from the standpoint of the Government. In no event shall debts be canceled unless, in addition to the foregoing requirements, there is an advantage in removing the debts from the accounts.

(iii) *The borrower has acted in good faith in an effort to pay his debts.* Some of the factors to consider in determining whether a borrower has acted in good faith in an effort to pay his debts are: (*a*) Properly caring for and accounting for all security property; (*b*) Propriety of uses of income and whether or not payments have been made on the debts to the extent possible; (*c*) Whether the borrower has attempted, through the transfer or sale of assets or by other means, to defeat efforts to collect the debts; and (*d*) Whether the borrower made any material misrepresentation or concealed any pertinent facts in obtaining the loan.

(3) The following information is given as a guide in determining whether the principal balance due on loans made under a single act of Congress is in excess of $1,000:

(i) Emergency Crop and Feed loans made in the calendar year 1936 and in prior calendar years, with the exception of 1934–35 drought loans, may be identified to the act of Congress under which they were made by the prefix or suffix. For example: "32–" or "–32" means that the loan was made under the 1932 act of Congress. These prefixes or suffixes may carry a further identification letter such as "C," "W," "V," and so forth, to indicate the type or purpose of the loan; but, regardless of this additional identification, the prefix or suffix "32" means that the loans were made under an act of Congress for that year. The prefix or suffix "34D" means that the loan was made from a special fund in 1934–35 for the feeding of livestock during the severe drought in that period. Such drought loans must be considered separately from regular 1934 and 1935 Emergency Crop and Feed loans in arriving at the $1,000 limitation.

(ii) All Emergency Crop and Feed loans beginning with the calendar year 1937 and extending through October 31, 1946, were made under the act of Congress approved January 29, 1937, as amended; therefore, all principal balances outstanding on loans made to a borrower during that period must be considered together in determining whether he owes a principal balance in excess of $1,000 under one act of Congress.

(iii) Loans outstanding which were made by the Secretary of Agriculture during the early thirties for the purchase of capital stock in Agricultural Credit Corporations are very few in number. A schedule of these loans will be sent to each State Office concerned.

(iv) Rural Rehabilitation loans were made under a separate act of Congress for each fiscal year, beginning with the fiscal year 1936 through October 31, 1946. Consequently, the unpaid principal balance on Rural Rehabilitation loans approved for a borrower during any one fiscal year will be the basis for determining whether the amount of the principal debt for such loans under a single act of Congress is $1,000 or less.

(v) Flood and Windstorm loans were made pursuant to one act of Congress, namely, the Second Deficiency Appropriation Act of 1943. Consequently, the $1,000 limitation will apply to the total principal amount owed by a borrower for all such loans, regardless of the year made.

(c) *Review by County Committee.* The County Committee will review all applications for settlement of debts and will recommend approval or rejection of proposed settlements in the section provided for this purpose in the application. No settlement will be approved which is more favorable to the borrower than that recommended by the County Committee. (Sec. 42 (d), 60 Stat. 1067; 7 U. S. C. 1016 (d))

§ 364.6 *Cancellation of debts without application from the borrower.* (a) Debts described in § 364.4 may be canceled without an application from the borrower when:

(1) The total debt is $10 or less and it appears that further collection efforts would be ineffectual or likely to prove uneconomical.

(2) The total debt is over $10 but not in excess of $100, has been due and payable for three years or more, and further provided that the County Supervisor having charge of the claim makes a current investigation and reports that the borrower has no known assets from which the debt can be collected.

(b) Debts described in § 364.5 (b) (1) may be canceled, regardless of the amount due, without an application from the borrower when:

(1) The borrower (all obligors) is deceased and all of the following conditions exist:

(i) All possibilities of making collections on the debt have been exhausted.

(ii) There is no known security for the debt.

(iii) The debt has not been assumed by any other party.

(iv) If an administrator or executor has been appointed to settle the estate of the borrower(s), a final settlement has been made and confirmed by the probate court.

(v) A period of at least twelve months has elapsed since the death of the borrower (all obligors).

(2) The borrower (all obligors) has received a discharge of the debt in bankruptcy and all of the following conditions exist:

(i) A representative of the Office of the Solicitor has rendered an opinion that the claim was recognized properly in the bankruptcy proceedings and that the discharge may bar successfully any legal action by the Government against the borrower (all obligors) to enforce collection of the debt.

(ii) The debt has not been revived by the borrower (or any other obligors).

(iii) There is no known security for the debt.

(3) The whereabouts of the borrower (all obligors) is unknown and has remained unknown for at least two years when the debt is $100 or less, or five years when the debt is in excess of $100, and provided all of the following conditions exist:

(i) All possibilities of making collections on the debt have been exhausted.

(ii) There is no known security for the debt.

(iii) Local representatives of other agencies of the Department of Agriculture have been contacted to ascertain whether or not such agencies have known of the borrower's whereabouts during the last two years if the debt is $100 or less, or five years if the debt is in excess of $100.

(iv) A diligent effort has been made by the field officials to locate the borrower. The records must establish the fact that repeated efforts have been made to locate him during the period of time that his address has not been known. A mere statement of conclusions by the official recommending the cancellation is not of itself sufficient to satisfy this requirement.

(v) The debt has been due and payable for three years or more.

§ 364.7 *Delegation of authorities.* (a) State Directors are authorized to approve compromise, adjustment or cancellation of debts due the Farmers Home Administration, upon application by borrowers, under the policies and procedures set forth in §§ 364.1 to 364.9, provided the applicable conditions contained in § 364.5 are found to exist.

(b) State Directors are authorized to cancel debts due the Farmers Home Administration, without applications by borrowers, under the policies and procedures set forth in §§ 364.1 to 364.9, provided the situations and applicable conditions in § 364.6 of this chapter are found to exist.

(c) The authorities contained in this section may not be redelegated, except that they may be redelegated to the Assistant State Director for the State of Texas.

(d) State directors are authorized to delegate to duly established Farmers Home Administration county committees authority to perform debt settlement functions under §§ 364.1 to 364.9 in counties for which no county committees have been appointed. (Sec. 42 (d), 60 Stat. 1067; 7 U. S. C. 1016 (d))

§ 364.8 *County Office handling.* (a) Borrowers who request settlement of debts under the provisions of § 364.5 will complete Parts I through V of Form FHA–858, "Application for Settlement of Indebtedness," in the original and two copies. The original and one copy, together with the borrower's case file, will be transmitted to the State Office and one copy retained in the County Office. Separate Forms FHA–858 will be completed by borrowers who jointly and severally are liable for the debt and will be transmitted to the State Office as a unit. However, in cases of joint borrowers who are members of the same family unit (such as husband and wife, mother and son, and so forth) one Form FHA–858 signed by both may be used. In the latter case, the required financial information for both borrowers will be entered on Form FHA–858. Settlements may not be approved as to one joint borrower unless approved as to all borrowers obligated for the debt. The information entered on Form FHA–858 must be furnished by the borrower and not obtained from office records or furnished by County Office personnel, except that borrowers will be furnished the necessary information concerning the amount of their debts. However, officials will assist borrowers, when necessary, in the preparation of Form FHA–858. In order to eliminate unnecessary handling of applications, County Supervisors should discourage borrowers from filing Form FHA–858 in those cases where the debts are clearly ineligible for settlement or when the amount of the proposed offer is clearly not in line with repayment ability. Since County Supervisors may neither approve nor reject applications under §§ 364.1 to 364.9, any application, regardless of its merits, will be accepted upon the request of the borrower and forwarded to the State Office with the County Supervisor's recommendation for final approval or rejection. When applications are received at the insistence of borrowers and the debts are clearly ineligible for settlement, normal collection and security servicing activities will continue in accordance with approved policies.

(b) The following explanation is furnished to assist in the preparation of certain parts of Form FHA–858:

(1) *Part II (A)* Debts for which settlement is requested will be listed in Part II (A). The loan type code or loan number and the date(s) of note(s) evidencing the debts will be entered in column (1). The face amount of the note(s) (not to include deferred interest shown on renewal notes) will be entered in column (3). The unpaid balance of interest and principal by notes (or by loan type) will be entered in the proper spaces in column (4). For this purpose, interest will not be accrued to a date later than the date of the last trial balance, except that interest on Emergency Crop and Feed loan accounts will be calculated to the date of the application for settlement.

(2) *Part II (B).* Debts due the Farmers Home Administration for which settlement is not being requested, will be listed in Part II (B).

(3) *Part II (C).* Debts due other agencies of the Department of Agriculture will be listed in Part II (C) and the name of the agency shown in column (1).

(4) *Part III (A).* When an application for settlement is submitted after the crop season begins, the estimated farm income for the entire calendar year should be included in the figures entered in column (1), Part III (A). When an application is submitted before the beginning of the crop season, the farm income for the previous calendar year will be included in the figures entered in column (1), Part III (A). In the latter situation, however, if it appears that the farm income for the present calendar year will be materially different from the previous calendar year, borrowers will be required to estimate the farm income for the entire present calendar year. This amount will be included in the figures inserted in column (1), Part III (A).

(5) *Part V.* When a borrower offers a lump-sum cash payment in compromise of the debts listed in Part II (A), the amount will be entered in the appropriate space in Part V (A). The total amount of adjustment offers will be entered in the appropriate space in Part V (A), and the amount and date of each payment in the other spaces provided for that purpose. In applications for cancellation, the word "None" will be entered in the appropriate spaces in Part V (A). The borrower will sign the original Form FHA–858.

(6) *Part VI.* The County Committee will complete and execute Part VI as required under § 364.5 (c).

(7) *Part VII.* The County Supervisor will complete and execute Part VII. A detailed statement of facts disclosed by the investigation required by paragraph (c) of this section will be included under "Remarks" or, when necessary, as an attachment to Form FHA–858.

(8) Applications (Form FHA–858) for settlements of debts must be self-supporting as to all requirements under § 364.5.

(c) County Supervisors will investigate the circumstances of each borrower who files an application for settlement to determine the completeness and correctness of the statements made and whether the requirements in § 364.5 are met. County Supervisors will contact local representatives of other agencies of the Department of Agriculture to ascertain the correctness of the borrower's disclosures in Part II (C) of Form FHA–858. If the borrower is indebted to other agencies of the Department of Agriculture, a full report relative to such debts will accompany the borrower's application to the State Office. The investigation by County Supervisors will include personal contact with the borrower and other parties.

(d) It is the responsibility of County Supervisors to discuss with borrowers who apply for settlements, their repayment ability and other circumstances in order to aid borrowers in determining the proper type and terms of settlement offers. The present and future repayment ability of a borrower, considering the factors contained in § 364.5 will be the basis for determining whether the debts should be compromised, adjusted, or canceled, and, in the case of compromise and adjustment offers, the amount of a reasonable offer. It is impossible to forecast accurately the borrower's future repayment ability over a long period of time; consequently, offers for adjustment of debts should take this fact into consideration. The period of time during which payments on adjustment offers are to be made should not, except in unusual cases, exceed three years. If a borrower's income is derived from sources which do not appear to be stable, it may be preferable to consider a compromise offer, or an adjustment offer providing for maximum payments over a short period of time, in lieu of an adjustment providing for a larger total payment over a longer period.

(e) County Supervisors immediately will notify the State Director of any action taken by a borrower who has filed an application for settlement of his debts when such action affects the status of his debts, the security therefor, or the final decision on the settlement. If borrowers make requests for release of security property while applications for settlement of debts are pending in the State Office, the County Supervisor will refer such requests to the State Director, with appropriate recommendations. It is the responsibility of County Supervisors to service adequately all debts with respect to which adjustments have been approved, and the security therefor. Adjustment agreements will become inoperative and any payments made thereunder will be retained when it is de-

termined that a borrower has failed to comply reasonably with the terms of such agreements. Unless payments in adjustment cases are received within fifteen days of the date due, County Supervisors will notify the State Director of the failure of the borrower to meet the terms of the approved adjustment offer, together with other pertinent information.

(f) Applications in which the borrower offers a payment in compromise of debts, or in which he makes an adjustment offer with an initial cash payment, will be supported by the payments required therein at the time such applications are filed in the County Office. Such payments may be in any form that is acceptable to the Farmers Home Administration as payments on accounts, and will be receipted for in the usual manner on Form FHA–37, "Receipt for Payment," by officials of the Farmers Home Administration who are authorized to accept collections, except:

(1) Receipts covering payments, either in compromise or adjustment cases, made at the time of the offer will not show the usual loan identification but instead, will contain one of the following legends: "Compromise offer—FHA" or "Adjustment offer—FHA." These payments will be held in Special Deposits by the Area Finance Manager pending receipts from the State Director of notice of approval or rejection of the offer.

(2) Receipts covering payments by borrowers under approved adjustments will contain the following legend in the identification block in lieu of the usual loan identification: "Payment under FHA adjustment approved _____." Such payments will not be held in suspense. The source of each payment will be indicated clearly on Form FHA–37, in the space provided for that purpose. Proceeds derived from the sale of security property shall not be used in making compromise or adjustment offers. Such proceeds are subject to application on the borrower's account, irrespective of an application for settlement of indebtedness, and, therefore, cannot be returned to the borrowers if such offers are rejected.

§ 364.9 *State office handling.* (a) State Directors will appoint a Review Committee composed, generally, of three State Office staff members who are qualified by experience and training to review and make recommendations on each proposed action submitted in accordance with the provisions of §§ 364.5 and 364.6. In those offices having a Loan Servicing Specialist, he will be a member of this Review Committee.

(b) Applications for settlement under §§ 364.1 to 364.9 may not be approved when the debt is pending before the Secretary of the Treasury for compromise, or before the Department of Justice for collection. Advice of the representative of the Office of the Solicitor should be obtained on settlement offers from guardians, executors, administrators, or other persons directly interested in estates in process of administration to be sure that cases normally referred to the United States Attorneys under existing procedures will continue to be so referred. When a case is pending before the Department of Justice, the County Supervisor should explain to the borrower that authority to act in such a case rests with the United States Attorney and should advise the borrower to contact that office regarding any proposals for settlement. If the borrower insists on submitting an offer through Farmers Home Administration channels, the County Supervisor will transmit the offer to the State Office, with appropriate recommendation by separate memorandum but without the recommendation of the County Committee. In such cases, Form FHA–858 need not be prepared. State Directors will refer such offers to the representative of the Office of the Solicitor for appropriate handling. County Supervisors will avoid making any commitment or statement to a borrower which might in any way prejudice the United States Attorney's handling of the case. If a case has been referred to the Department of Justice and later returned with a statement that it has been closed without taking judgment, offers of settlement then may be acted upon as authorized in §§ 364.1 to 364.9. However, if a judgment has been obtained, any compromise offer must be referred to the Department of Justice, regardless of the amount of the debt or the fact that the case may have been returned as a "closed file." (R. S. 3469, sec. 512 (b), 48 Stat. 759, sec. 5, Ex. Ord. No. 6166, June 10, 1933 (contained in 5 U. S. C. 124–132); 31 U. S. C. 194)

(c) State Directors will indicate the final action on each application for settlement under the provisions of § 364.5, by signing and dating the original of Form FHA–858. There also will be shown the source of the authority in the space provided for that purpose. When the borrower's offer is accepted, the original of Form FHA–858 will be forwarded to the Area Finance Office for processing. When the borrower's offer is rejected, the State Director will notify the Area Finance Manager to refund to the borrower, in care of the appropriate County Supervisor, any amounts being held in Special Deposits as provided in § 364.8 (f). A copy of such notice will be retained in the State Office files. Both the original and one copy of Form FHA–858 will be retained in the State Office for all rejected applications. State Directors will notify borrowers, by letter, of the final action taken in respect to their applications for settlement. For approved applications, the letter should set forth specifically the terms of the offer and the approval thereof. For rejected applications, the letters will set forth briefly the reasons therefor. A copy of the letter to the borrower will be stapled to the State Office copy of Form FHA–858. Another copy along with the borrower's case file will be forwarded to the County Office. However, when the rejection of an offer appears necessary because of lack of information or inadequacy of the offer, State Directors may inform County Supervisors of the tentative rejection and request submission of additional information or request that the borrower submit, if he so desires, a more acceptable offer. This action will afford the borrower an opportunity to present additional informtaion or a new offer and will assist State Directors in refraining from any final action which might be inconsistent with the ability of the borrower to pay. In such cases, the final notice of rejection of the offer should be withheld until sufficient time has elapsed to enable the borrower to present further information or a new offer.

(d) State Directors will review carefully reports from County Supervisors relative to the failure of borrowers to meet the terms of approved adjustments. State Directors may approve a change in the payment date of a single installment due on an approved adjustment when special circumstances justify such action and when the change will not affect the payment dates of subsequent installments. They may approve other revisions when a new offer is submitted and the requirements in § 364.5, are met fully, including a new recommendation by the County Committee. When an approved adjustment is voided, because of the failure of the borrower to meet the terms thereof, the State Director will notify the borrower by letter of such action and will forward copies thereof to the Area Finance Office and the County Office.

(e) State Directors will approve the cancellation of debts due the Farmers Home Administration, authorized in § 364.6, by signing and dating Form FHA–859. There also will be shown the source of the authority in the space provided therefor. The original and one copy of Form FHA–859 will be forwarded to the Area Finance Office for processing.

§ 364.10 *Delegation of authority to Deputy Administrator, Assistant Administrator in Charge of Program Operations, and Director, Production Loan Division.* There is delegated to the Deputy Administrator, the Assistant Administrator in Charge of Program Operations, and the Director, Production Loan Division, severally and not jointly, the power and authority, subject to general supervision of the Administrator, to do all things the Administrator is required or empowered to do in connection with the debt settlement activities and operations in the National Office, pursuant to the act of Congress, approved December 20, 1944 (58 Stat. 836), the Farmers Home Administration Act of 1946, approved August 14, 1946 (60 Stat. 1062) and the transfer agreements with the various State Rural Rehabilitation Corporations. This delegation shall be deemed to include but is not limited to the approval and disapproval of applications for the compromise, cancellation and adjustment of debts pursuant to the within named acts and transfer agreements.

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## PART 371—SECURITY SERVICING AND LIQUIDATION; OPERATING LOANS

### SUBPART A—GENERAL SECURITY SERVICING

Sec.

Sec.
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SUBPART A—GENERAL SECURITY SERVICING

Sections 371.1 to 371.17 interpret and apply sec. 44 (b), 60 Stat. 1069, sec. 2 (3), 50 Stat. 869; 7 U. S. C. 1018 (b), 16 U. S. C. 590s (3). Other statutory provisions interpreted or applied are cited to text in parentheses.

DERIVATION: §§ 371.1 to 371.16 contained in FHA Instruction 462.1. § 371.17 contained in Administration Letter No. 65 dated Nov. 15, 1943.

§ 371.1 *General.* Borrowers must account to the Government for all property that is mortgaged to secure operating loans. County Supervisors will make borrowers aware of their responsibilities by reference to the various covenants in the mortgage and by appropriate explanations and advice. In addition, County Supervisors, in the protection of the Government's security interest, will discuss with and advise borrowers concerning the wise use of income and, specifically, the uses consistent with §§ 371.2 to 371.16 that may be made of proceeds derived from the sale of security property as authorized in §§ 371.2 to 371.16.

§ 371.2 *Extension or renewal of security instruments*—(a) *State requirements.* In many states, statutes provide a method for extending or renewing recorded security instruments. The State Director, with the advice of the Representative of the Office of the Solicitor as to legal matters involved, will issue state instructions covering this requirement.

(b) *Authority.* County Supervisors are authorized to execute Form FHA-126, "Affidavit of Extension and Renewal," or similar form approved by the Representative of the Office of the Solicitor, as provided for in state instructions, when such action is required in order to extend or renew security instruments.

§ 371.3 *Obtaining additional security.* When additional security for a loan is available (including assignments on current income) and is needed to protect further the Government's interest, County Supervisors will attempt to obtain such additional security. When a current loan is not being made to a borrower, annual crop liens will be taken as additional security only if the County Supervisor determines, in individual cases, that such liens are necessary to protect the interests of the Government. In taking additional security, notes for Water Facilities loans, the final due date of which extends beyond that of other operating loans, will not be described on mortgages covering the borrower's crops, livestock, and farm machinery. This will mean, in such cases, that Water Facilities indebtedness and other operating-loan indebtedness will not be described on the same mortgage. To encumber the borrower's operating capital for the period of repayment of such Water Facilities loans, may impair seriously the borrower's ability to refinance his indebtedness or to obtain necessary operating credit after his other operating loans have been repaid.

(a) *Securing unpaid balances on Emergency Crop and Feed, Rural Rehabilitation, and Production and Subsistence Loans.* When mortgages are taken to secure current Production and Subsistence loans, or for other purposes, unpaid balances on Emergency Crop and Feed loans, Rural Rehabilitation, or Production and Subsistence loans, which are secured at that time, will continue to be described in mortgages. County Supervisors must determine in individual cases whether to request borrowers to give security for unpaid balances on loans which are now unsecured. This determination will be based upon whether the total amount owed is clearly within the ability of the borrower to repay within a reasonable period, generally not to exceed three years, and whether the borrower can offer security of sufficient value to aid materially in the collection of the indebtedness. Borrowers who are eligible for loans in accordance with present requirements will not be denied assistance because of their unwillingness or inability to give security for unpaid balances on unsecured loans. This policy permits the exercise of sound discretion by County Supervisors in requesting borrowers to convert unsecured loans to a secured status. In the administration of this policy, County Supervisors will not obtain security for unsecured balances that have been outstanding for several years and that are clearly beyond the ability of the borrower to repay in full.

(b) *Real estate.* (1) Real estate should be taken as additional security for operating loans only in cases where adequate chattel security is not available and the financial condition of the borrower, considering the amounts owed both the Farmers Home Administration and the outside creditors, is unfavorable and where the borrower has a substantial equity in such real estate to be mortgaged.

(2) Where the County Supervisor recommends that real estate security, including liens on Farm Ownership farms, be taken, he will submit the following information to the State Office:

(i) An appraisal report, where one has not been submitted previously, on the real estate on which it is proposed that the Farmers Home Administration will obtain a lien. The appraisal should show the present fair-market value of the property and the borrower's equity in such property, and may be made by any employee of the Farmers Home Administration who is qualified to make real estate appraisals.

(ii) A brief statement of facts, based upon the conditions in paragraph (b) (1) of this section, showing the desirability of taking such real estate security.

(iii) A brief description of existing liens, if any, on the property, including the repayment terms thereof.

(3) If the taking of such additional security is approved by the State Office, appropriate forms and instructions will be provided by the State Office in each case.

(4) Borrowers will be required to insure improvements on real property covered by liens securing operating indebtedness in such amounts and against such hazards as are customary in the area. Such insurance may be obtained from any insurance company properly authorized to do business in the area. The insurance policy must include a standard mortgagee clause providing for direct payment to the United States of America as its interest may appear in the property.

§ 371.4 *Furnishing lists of borrowers to purchasers*—(a) *Policy.* County Supervisors, where they deem it advisable, may furnish buyers within a trade area with lists of borrowers whose property is subject to liens held by the Farmers Home Administration. State Directors, however, may require that such lists be distributed in any specified area or in the State as a whole. Such lists may be general, showing all borrowers who have mortgaged all or a part of their crops or personal property, or they may be specific, showing only those borrowers who have mortgaged certain types of crops or personal property. Specific lists may or may not be in addition to the general lists. Discretion will be exercised in the distribution of lists. It is the public records which give the notice required by law, and this list is only in addition to such notice.

(b) *Transmittal.* Lists will be transmitted by letter, Form FHA–852, "List of Farmers Home Administration Borrowers." When practical, County Supervisors personally may deliver such lists to the buyers. It will be the responsibility of the County Supervisor to keep current the lists that have been distributed by notifying buyers in writing of the names of borrowers that should be added and the names of paid-up or transferred borrowers that should be deleted, or to indicate clearly in writing that such lists are "annual" lists.

§ 371.5 *Disposition of security property other than real estate*—(a) *General policy.* Any dispositions of property mortgaged to the Farmers Home Administration are made subject to the mortgage held by the Farmers Home Administration. Moreover, borrowers will be held strictly accountable to the Government for all proceeds derived from the sale of mortgaged property. Proceeds derived from the sale of security property sold in the usual course of operating the farm enterprise (that is, normal farm income) and which the Farmers Home Administration is entitled to receive under its lien should be used first to pay the amount due or about to become due on the accounts owed the Farmers Home Administration. All other security property is "basic security," and proceeds derived from its sale will be applied, except as otherwise authorized below, on debts secured by liens on the property in accordance with the priority of such liens. Security property or the proceeds thereof may be released only when it reasonably appears from the facts that such release will not be to the financial detriment of the Government.

(b) *Authorizations.* County Supervisors are authorized to release security property under the following conditions:

(1) When security property has been sold, provided the proceeds are used for one or more of the following purposes:

(i) To make payments on debts due the Farmers Home Administration. (This authority to release security property may not be exercised by County Supervisors in liquidation cases unless such liquidations have been approved by the appropriate official.)

(ii) To pay, in nonfarm and home plan cases, from the sale of crops, livestock, and livestock products sold in the usual course of operating the farm enterprise; (*a*) necessary harvesting and marketing expenses, not otherwise provided for, in connection with crops or livestock mortgaged to the Farmers Home Administration; and (*b*) other necessary farm and home expenses for the crop year, not otherwise provided for, after the Production and Subsistence loan for the year has been paid. After a borrower has repaid in full the Production and Subsistence loan for the current year and has paid on any old secured debts due the Farmers Home Administration the amount agreed upon with the County Supervisor, the remaining income for the year from the sources enumerated above may be released to the borrower to meet other farm and home expenditures.

(iii) To pay farm and home expenses provided for in the farm and home plan, including revisions thereof, from proceeds derived from crops, livestock, or livestock products, the sale of which is contemplated in the farm and home plan. In such cases, when it becomes evident that the total income will be insufficient to meet the farm and home expenses for the year, plus the amount to be paid on the borrower's debts due the Farmers Home Administration for the year, the County Supervisor will reexamine with the borrower the uses that are to be made of the income, and will determine the proper proration of the income between the minimum essential farm and home expenses and payment on debts due the Farmers Home Administration.

(iv) To pay costs (not normally occurring) that are directly necessary for the preservation of the remaining security property.

(v) To purchase (or to acquire through exchange) property more suitable to the borrower's needs from the proceeds of the sale (or the exchange), of basic security, subject to the following conditions:

(*a*) The new property must be made subject to a lien in favor of the Farmers Home Administration by the execution of a new security instrument (or by the operation of the "replacement" or "after-acquired property" clauses, in accordance with state instructions). The new property, together with any additional proceeds that may be applied on the indebtedness, will have security value to the Farmers Home Administration at least equal to that of the lien formerly held by the Farmers Home Administration on the old property. However, when the newly acquired property is not valued at more than twenty-five dollars ($25), a new security instrument covering such property will not be required.

(*b*) When a new security instrument is necessary, it will be taken at the time of acquisition of the new property. However, in individual cases, the County Supervisors may delay the taking of a new security instrument not to exceed one year or until a new mortgage is necessary for other reasons, whichever is earlier, when both of the following conditions exist: Adequate security (the present value, as determined by a conservative appraisal, of the borrower's property remaining under mortgage to the Farmers Home Administration is substantially greater than the amount of the debt) will continue to exist; and the borrower's account due the Farmers Home Administration is current during such period of delay.

(vi) To make payments to other creditors as agreed upon in the farm and home plan, or to pay other farm and home expenditures from crops, livestock, or livestock products that are sold in the usual course of operating the farm enterprise. However, these payments will be made only after the full amount agreed upon for the year has been paid to the Farmers Home Administration and creditors with liens superior to those in favor of the Farmers Home Administration have been paid the amounts due for the year.

(2) When livestock is consumed by the borrower family for subsistence purposes.

(3) When the Farmers Home Administration holds a mortgage on crops in which neither the borrower nor the Farmers Home Administration has an interest due to the fact that the borrower is no longer occupying or cultivating the premises described in the mortgages.

§ 371.6 *Accounting for security property*—(a) *County office record of security property.* County Supervisors are responsible for maintaining a complete record of each borrower's security property.

(b) *Accounting by the borrower.* When borrowers or prospective purchasers make prior inquiries concerning sales or exchanges of security property, County Supervisors are authorized to execute Form FHA–851, "Statement of Conditions on Which Lien will be Released," stating the conditions under which the Farmers Home Administration will release its lien on the property in the event of a sale or exchange. Form FHA–851 will be executed in the original and one copy, the original to be delivered to the person making the inquiry and the copy to be retained in the County Office case file. When sales or exchanges have been made in these instances, the proceeds may be used for one or more of the purposes for which releases are authorized herein.

(c) *Use of Form FHA–99, "Release."* Form FHA–99, "Release," is the only form that may be used by County Supervisors to release property. Such releases will be made only under the conditions described in § 371.5 (b). However, as a matter of general policy, Form FHA–99 need not be prepared in any case unless requested by a borrower or by an interested third party.

§ 371.7 *Suspensions or releases of assignments*—(a) *Authority.* (1) Suspensions or releases of assignments of proceeds from the sale of agricultural products may be approved by County Supervisors for purposes enumerated in § 371.5 (b) (1). Such suspensions or releases will be on forms approved by the Representative of the Solicitor.

(2) State Directors are authorized to approve requests for suspensions or releases of assignments other than to those specified in subparagraph (1) of this paragraph, provided the funds are to be used by the borrower for purposes set forth in § 371.5 (b) (1).

(b) *Preparation.* All suspensions or releases of assignments will be prepared in an original and one copy. The original will be forwarded directly to the person or firm making the payment against which the assignment is effective, and the copy will be retained in the borrower's folder in the County Office. In every case, the borrower's folder will show the purpose for which the suspension or release is made.

§ 371.8 *Waivers of liens (other than liens on real estate) for borrowers receiving loans under Commodity Credit Corporation Program.* The authorities and procedures outlined herein for the waiver of Farmers Home Administration liens on property other than real estate will ap-

ply to any of the Commodity Credit Corporation loan programs. Likewise, such authorities and procedures will apply whether the Commodity Credit Corporation loans are made directly by the corporation or through a lending agency authorized by the Commodity Credit Corporation.

(a) *Authority.* County Supervisors are authorized to execute waivers of Farmers Home Administration liens on property (other than real estate) in favor of the Commodity Credit Corporation, or its associate lending agencies, to enable borrowers indebted to the Farmers Home Administration to obtain Commodity Credit Corporation loans, provided:

(1) The funds from such loans are to be used for the purposes set forth in § 371.5 (b) (1).

(2) The loan is in the full amount of the Commodity Credit Corporation loan value of the commodity.

(3) The producers' notes contain requests for the disbursement of loan funds, as set forth in paragraph (b) of this section.

(4) When the amount of the commodity loan is less than the market value of the crop pledged, the borrower has paid or will pay from the Commodity Credit Corporation loan the amount due on debts owed the Farmers Home Administration for the crop year (including any delinquencies).

(b) *Routines for handling lien waivers.* For borrowers to obtain Commodity Credit Corporation loans, County Supervisors will be required to execute waivers of the Farmers Home Administration liens. Such waivers usually will be executed on Commodity Credit Corporation Form AB, "Lien Waiver," which will be furnished by the Commodity Credit Corporation or its associate lending agencies. If any other type of lien waiver form is being used locally for Commodity Credit Corporation loans, the County Supervisor will submit a copy thereof to the State Office for approval prior to its use. The borrower will be required by the Commodity Credit Corporation to sign a producer's note to evidence the commodity loan. Adequate space is provided in the note for the insertion of the names and addresses of lien holders and the amounts which the producer requests the payee to pay to them or to other parties who may have an interest in the proceeds. It will be the responsibility of the County Supervisor to see that such space in the producer's note is filled in properly, so as to provide for the proper disbursement of the Commodity Credit Corporation loan funds. The producer's note should provide for the issuance of a check payable to the Treasurer of the United States for the total amount to be paid the Farmers Home Administration.

(c) *Notice to lending agencies.* In every case where the lien waiver is executed, the County Supervisor will prepare and deliver or mail to the lending agency (prior to the disbursement of the loan funds) a letter notifying such lending agency that the lien waiver may be held by it and exercised only in the event the loan proceeds are disbursed according to the terms of the producer's note. Form FHA–707, "Waiver of Lien," (letter to lending agency) will be used for this purpose.

§ 371.9 *Loss or destruction of security property.* The loss of security property by death, theft, destruction, or deterioration will be made a matter of record in the County Office through the use of Form FHA–708, "Statement of Loss of Property." County Supervisors will require completion and execution of this Form by borrowers in all such cases. Any questionable circumstances respecting reported losses will be investigated by the County Supervisor. Appropriate reports and recommendations will be made to the State Office in cases when the circumstances indicate that it may be necessary to take legal action.

§ 371.10 *Actions when borrowers fail to account properly for security property.* In cases when borrowers fail to account properly for security property, the County Supervisor will report the facts promptly to the State Office. However, where such actions by the borrower represent only minor deviations from the policies expressed in §§ 371.1 to 371.16 and have no materially adverse effect upon the financial interest of the Farmers Home Administration, (for example, where borrowers have failed to account for nominal amounts which were derived from the sale of security property, or have failed to explain satisfactorily the disposition of minor items of security property), such cases need not be reported. Such report need not be made when the borrower pays his loan in full, either voluntarily or through liquidation action.

§ 371.11 *Subordination of security other than real estate*—(a) *Policy.* Liens in favor of the Farmers Home Administration may be subordinated only when:

(1) Such action will assist the Government in preserving or realizing on its security.

(2) The best interest of the borrower will be served by such action.

(3) The Government will suffer no financial detriment by reason of such subordination.

(b) *Authorizations and purposes.* State Field Representatives are authorized to execute subordinations of Farmers Home Administration liens on property (other than real estate) subject to the above-stated policy and in the following instances:

(1) When an obligation secured by a lien prior to that of the Farmers Home Administration is about to mature or has matured and the prior lien holder desires to extend or renew the obligaton, or the obligation can be refinanced, provided the relative position of the Farmers Home Administration is maintained.

(2) When the Farmers Home Administration has not and will not advance funds for the crop year for any of the crops or for a particular crop, provided, the subordination covers only the crops growing or to be grown during the crop year, in connection with which the Farmers Home Administration has not advanced funds, and is limited to a specific amount determined to be necessary for the production of the crop or crops.

(3) When the Farmers Home Administration holds a lien on crops and additional funds are needed for harvesting or marketing such crops, provided:

(i) The subordination is limited to a specific amount that has been found by the Farmers Home Administration to be reasonable and necessary for the purposes for which such funds are to be used.

(ii) It appears reasonably certain that the funds obtained by the borrower will be repaid within 90 days.

(iii) Subordination agreements may not be used to finance enterprises which could not be financed wholly by funds of the Farmers Home Administration because of loan policies and limitations.

(iv) When funds are needed to preserve or realize on security property because of an emergency or catastrophe, and such need for funds cannot be met through a loan by the Farmers Home Administration in sufficient time to prevent the borrower and the Farmers Home Administration from suffering a substantial loss.

(c) *Methods.* Subordinations that are authorized herein may be made only by use of subordination agreement forms approved by the State Director and the Representative of the Office of the Solicitor. No forms approved for other purposes, letters of any type, or oral commitments, may be used to subordinate the liens of the Farmers Home Administration or to commit the Government in any way to other credit sources. County Supervisors may not guarantee, personally or on behalf of the Government, repayment of advances from other credit sources.

(d) *Statement of justification.* The County Supervisor will prepare a detailed statement of facts showing the justification for the proposed subordination action when a request for subordination is being recommended by such official. A copy of the statement of justification and a copy of the subordination agreement, when approved, will be filed in the borrower's case file.

§ 371.12 *Releases and subordinations of real estate security (operating loans)*—

(a) *Authority for real estate releases.* State Directors are authorized to release, on Form FHA–99 or other forms approved by the Representative of the Office of the Solicitor, liens on real estate in favor of the Farmers Home Administration in the following instances:

(1) When mortgaged real estate is sold for its fair-market value and all of the proceeds, less necessary sale expenses, are applied on the mortgage debts in accordance with their respective priorities. (See § 371.14, for satisfaction of security instruments where debts have been paid in full.)

(2) When mortgaged real estate is sold or exchanged to acquire other property better suited to the borrower's needs. Appraisals showing the fair-market value of the property being sold or exchanged and of the property being acquired will be made by a qualified employee of the Farmers Home Administration. When real estate is being acquired, a title search and certificate of title will be obtained at the borrower's expense. The Farmers Home Administration must

obtain a lien on the new property having security value, after applying any excess proceeds on the Farmers Home Administration lien debts, at least equal to the value of the lien formerly held by the Farmers Home Administration on the old property.

(3) When a right-of-way or an easement is granted for its fair value and the proceeds, if any, are applied on the mortgage debts in accordance with their respective priorities, provided such action will not affect adversely the value of the security of the Farmers Home Administration.

(4) When timber, oil, mineral, or similar rights are sold for their fair-market value and the net proceeds are applied on the mortgage debts in accordance with their respective priorities, provided such action will not affect adversely the value of the security of the Farmers Home Administration.

(5) When the mortgagor has only a contract to purchase (not title to the property) and has defaulted on his purchase contract, or it otherwise appears that there is no possibility of his acquiring title, provided the Farmers Home Administration will suffer no detriment by reason of such action. In such cases, if the mortgagor is entitled to a refund under the purchase contract, such refund will be applied on the debts due the Farmers Home Administration.

(b) *Release of valueless junior liens.* When the Farmers Home Administration holds a junior lien and a release is requested, the State Director will ascertain whether or not such lien has any value. When such junior lien is determined to be valueless, a release may be executed only by the Comptroller General. Applications for release of valueless junior liens will be prepared with the assistance of the Representative of the Office of the Solicitor and submitted to the National Office for further handling. (Sec. 2410 (d) contained in sec. 1, Pub. Law 773, 80th Cong. (62 Stat. 973); 28 U. S. C. 2410 (d))

(c) *Subordinations.* The same policies with respect to the subordination of Farmers Home Administration liens on chattel property stated in § 371.11 (a), also are applicable to the subordination of liens on real estate. Based upon this policy, State Directors are authorized to subordinate, on forms approved by the Representative of the Office of the Solicitor, the liens of Farmers Home Administration on real estate, in the following instances:

(1) When an obligation secured by a lien prior to that of the Farmers Home Administration is to be renewed or extended, or when such obligation can be refinanced, provided the relative position of the Farmers Home Administration is maintained.

(2) When the Farmers Home Administration holds a junior lien and funds are being advanced for needed improvements on the real estate, provided both of the following conditions exist:

(i) The relative position of the Farmers Home Administration lien is maintained.

(ii) The additional funds are needed by the borrower to preserve the property on which the Farmers Home Administration has a lien, or will be used to make improvements to the property which will create a more favorable collection outlook for the Farmers Home Administration.

(3) When a right-of-way or an easement is granted for its fair value and the proceeds, if any, are applied on the mortgage debts in accordance with their respective priorities, provided such action will not affect adversely the value of the security of the Farmers Home Administration.

(4) When oil, mineral, or similar rights are leased for their fair value, provided the Government will suffer no detriment by reason of such action. When the lease will reduce the value of the property as security, the net proceeds realized therefrom will be applied on the mortgage debts in accordance with their respective priorities. In other cases, State Directors may permit the proceeds derived from the lease to be paid directly to the borrower, provided the account due the Farmers Home Administration is current and the borrower is making satisfactory progress.

(d) *Statements of justification.* The County Supervisor will prepare a detailed statement of justification in support of each release or subordination action proposed under paragraphs (a), (b), and (c) of this section. Such statements of justification will be forwarded to the State Director. For all approved releases and subordinations, a copy of the statement of justification and a copy of the release or subordination will be filed in the borrower's case file.

§ 371.13 *Correcting errors in security instruments.* When security instruments have been taken to secure operating loans covering property which the mortgagor did not own, or in which he had no mortgageable interest, State Directors are authorized to correct such errors, except when it is determined that there was bad faith on the part of both the borrower and the owner in giving the security instrument. This authority will be exercised through the use of Form FHA–99, or other form approved by the Representative of the Office of the Solicitor.

§ 371.14 *Satisfactions of security instruments (operating loans)*—(a) *Satisfaction upon receipt of fully paid notes.* County Supervisors are authorized to satisfy mortgages, deeds of trust, assignments, and other security instruments covering crops, chattels and real estate when all notes secured by such instruments have been paid in full (including those satisfied through compromise, adjustment, or cancellation action), as evidenced by receipt of Form FHA–597, "Notice of Fully Paid Notes," by the execution of Form FHA–77, "Satisfaction," in an original and one copy. The original will be delivered to the borrower for recording or filing, and the copy will be retained in the County Office. However, if state laws require recording or filing by the mortgagee, a second copy will be prepared for the borrower, and the original will be recorded or filed by the County Supervisor. When state statutes provide that satisfactions may be accomplished by marginal entry on the records of the recording office, or when special circumstances require some other form of satisfaction, County Supervisors are authorized to make such satisfactions according to state instructions. In such cases, Form FHA–77 will not be prepared, but a notation of the satisfaction will be made on Form FHA–597 which will be retained in the borrower's case file.

(b) *Satisfaction prior to receipt of fully paid notes.* County Supervisors are authorized to satisfy mortgages, deeds of trust, assignments, and other security instruments covering crops, chattels, and real estate at the time final payments are received and prior to receipt of fully paid notes, provided that final payment on the debt secured by the instruments being satisfied is received in the form of cash, postal money order, certified check, or cashier's check. Satisfactions in such cases will be made only on Form FHA–77, and not by marginal release or other special method. This authority to satisfy security instruments will be exercised only in cases requiring immediate action, such as the refinancing of Farmers Home Administration loans, or other need for removing the Government's liens on the security property simultaneously with receipt of final payments.

§ 371.15 *Assignment of notes and security instruments.* State Directors are authorized to assign notes to third parties without recourse against the Government, and security instruments therefor without warranty by the Government, in consideration of the payment in full of such notes by such parties in the situations set forth below. The Representative of the Office of the Solicitor will review each proposed assignment, as to the legal matters involved, and will approve the form of assignment:

(a) When borrowers request or give written consent to such an assignment.

(b) When borrowers have not requested or given written consent to such an assignment, provided:

(1) Such borrowers have been declared incompetent or, being competent, have demonstrated an unwillingness to cooperate voluntarily with the Government in the servicing and orderly retirement of their accounts.

(2) Such assignment will eliminate costly administrative and legal handling by the Government.

§ 371.16 *Fees*—(a) *Security instruments.* Statutory fees for filing or recording mortgages and other security instruments (including renewal mortgages or statements, or Form FHA–126, "Affidavit of Extension and Renewal") and notary fees in connection with the execution of such instruments, in all cases where money advances are being made, will be paid by the borrower out of personal funds or loan funds, and in all other cases will be paid by him or charged to his account. Wherever possible, borrowers should pay these fees directly to the officials rendering the service. When cash is accepted by personnel of the Farmers Home Administration to be used to pay the above-mentioned fees, Form FHA–385, "Acknowledgment of Payment for Recording and Lien Search Fees," will

be executed and handled as prescribed in § 343.7 (e) of this chapter. If the borrower is unable to pay the necessary fees, the County Supervisor may pay such fees by means of Standard Form 1034, "Public Voucher for Purchases and Services Other Than Personal." When recording officials, or others, cannot or will not accept Standard Form 1034, the County Supervisor may pay the fees from personal funds and claim reimbursement by means of Standard Form 1129, "Voucher for Petty Purchases." When such fees are paid by means of Standard Form 1034, or in cash and reimbursement is claimed by means of Standard Form 1129, such forms must show the names and case numbers of the borrowers and the amount to be charged to the account of each.

(b) *Satisfactions.* Fees for filing or recording satisfactions of security instruments must be paid by the borrower unless otherwise required by law. When state law requires the mortgagee to file or record satisfactions and to pay the necessary fees therefor, the fees will be paid by the Government and charged to nonrecoverable costs. When provided for in state instructions, payment of fees for filing or recording satisfactions, and fees for making marginal satisfactions, may be paid by means of Standard Form 1034, or in cash, and reimbursement claimed by means of Standard Form 1129.

(c) *Notarial fees.* Fees for notarial service necessary in connection with releases, subordinations, and related documents executed for and on behalf of the Government, and which cannot be secured without cost, will be paid by the Government and charged to nonrecoverable costs. Such fees will be paid by means of Standard Form 1034, or in cash, and reimbursement claimed by means of Standard Form 1129.

§ 371.17 *Substitution of security for Water Facilities loans to individuals*—(a) *General.* It is the policy of the Farmers Home Administration to assist such Water Facilities borrowers to obtain credit for farm and home operations by permitting them to substitute as security for the Water Facilities loan, other property of equal security value for the personal property security.

(b) *Authorization.* State Directors are authorized, for those cases in which individual Water Facilities loans are secured by liens on personal property, to release liens held on personal property, provided the loans can be secured by liens on other property in accordance with the security policies in §§ 352.1 to 352.14 of this chapter and it is determined that:

(1) The substitution of security property is necessary to enable the borrower to obtain needed credit from sources other than Farmers Home Administration.

(2) The borrower is making satisfactory financial progress in his farm operations.

(3) The new security property has security value equal to or greater than the property presently serving as security, after giving due consideration to the present fair market value and useful life of the security.

(4) Such action will not be to the detriment of the Government.

SUBPART B—LIQUIDATIONS

Sections 371.21 to 371.40 interpret and apply secs. 41 (h), 51, 60 Stat. 1066, 1070; sec. 2 (3), 50 Stat. 869, item, "Loans to Farmers, 1948 Flood Damage," Pub. Law 785, 80th Cong. (62 Stat. 1038); 7 U. S. C. 1015 (h), 1025, 16 U. S. C. 590s (3). Other statutory provisions interpreted or applied are cited to text in parentheses.

DERIVATION: §§ 371.21 to 371.40 contained in FHA Instruction 455.1.

§ 371.21 *General*—(a) *Scope.* This subpart establishes the policies, authorities, and procedures for liquidating Production and Subsistence, Water Facilities, Flood, Flood and Windstorm, Rural Rehabilitation, and Emergency Crop and Feed loans, including the disposition of property acquired by the Government through liquidation of such loans.

(b) *Definitions.* (1) "Government" includes the United States of America, Farmers Home Administration and its predecessor agencies, and State Rural Rehabilitation Corporations.

(2) "Default" is the failure on the part of the borrower to observe his agreements with the Government as contained in notes and mortgages.

(3) "Liquidation" is the act of selling a borrower's security property for the purpose of applying the proceeds against his indebtedness when such action will result in his discontinuance as an active case, or the institution of civil suit against a borrower to recover amounts owed the Government.

(4) "Abandonment" is the voluntary relinquishment of control by the borrower of security property without providing for its care.

(5) "Security property" is personal property (including growing crops), unless otherwise indicated, which is under lien to the Farmers Home Administration.

(6) "Repossessed property" is security property over which the Government has custody, the title to which remains in the borrower.

(7) "Acquired security property" is personal property, unless otherwise indicated, to which the Government has acquired title through authorized liquidation action.

(8) "Foreclosure sale" is the act of selling security property (including real estate) by the Government either under the power of sale in the mortgage or through court proceedings.

§ 371.22 *Liquidation policy.* The collection policy of the Farmers Home Administration with respect to Operating loans is set forth in § 361.1 (a) of this chapter. Liquidation action ordinarily will be undertaken when any one of the following conditions exist:

(a) A borrower is delinquent and his refusal or inability to pay on schedule, or as agreed upon, is due to (1) lack of diligence, (2) lack of managerial ability which has not been corrected by proper supervision, or (3) other circumstances within his control.

(b) A borrower is no longer farming and is delinquent or otherwise is in default.

(c) A borrower is in default by not properly caring or accounting for property serving as security to such an extent that the security interest of the Government is or may be impaired, or by some other act of bad faith in connection with his loan.

§ 371.23 *Responsibility of County Supervisor.* County Supervisors are responsible for applying the liquidation policy in the manner prescribed by this subpart. In exercising this responsibility they will (a) initiate liquidation actions pursuant to this subpart, (b) assemble information and make the reports provided in this subpart, and (c) complete the liquidation promptly.

§ 371.24 *Acceleration of unmatured installments.* When a case has been approved for liquidation, under the authorities contained in § 371.25, the following policies will govern the acceleration of unmatured installments.

(a) The State Director, with respect to all cases referred to the representative of the Office of the Solicitor, will accelerate all unmatured installments by letter to the last known address of the borrower.

(b) With respect to all other liquidation cases, County Supervisors may accelerate unmatured installments by letter to the borrower when it is determined that such formal notice will not affect adversely the collection of any remaining indebtedness.

(c) When unmatured installments are accelerated by letter pursuant to paragraphs (a) and (b) of this section, executed copies of such letters will be mailed to all other obligors on the indebtedness.

§ 371.25 *Delegations of authorities.* (a) State Directors, subject to the policies and procedures contained in this subpart, are authorized.

(1) To approve the foreclosure of first liens on real estate serving as security for Operating loans when court action is not necessary.

(2) To execute the necessary instruments to establish the Government's claims in probate proceedings or proceedings under the Bankruptcy Act, and other judicial proceedings affecting Operating loans.

(3) To approve transfers of mortgaged real and personal property serving as security for Operating loans and to approve the assumption of indebtedness of borrowers by third parties.

(b) County Supervisors, subject to the policies and procedures contained in this subpart, are authorized to approve liquidation of personal property which can be accomplished by use of Forms FHA–851, "Statement of Conditions on Which Lien Will Be Released," FHA–209, "Agreement for Voluntary Liquidation of Mortgaged Chattels," FHA–217, "Agreement for Public Sale," or, if permitted by State Instructions, under the "Powers of Sale" in the lien instrument.

(c) County Supervisors and Assistant County Supervisors, subject to the policies and procedures contained in this subpart, are authorized:

(1) To sell, on behalf of the Government, repossessed or acquired security

property and to execute the necessary instruments to complete such sales.

(2) To execute agreements for temporary custody of property and for the care of growing crops.

§ 371.26 *Advances to protect the Government's interest in security property, including real estate, pending liquidation.* (a) When liquidation is contemplated or has been approved and property serving as security is in imminent danger of loss or deterioration, State Directors are authorized to protect the Government's interest and approve advances in payment of:

(1) Delinquent taxes or assessments.

(2) Premiums on insurance essential to protection of the Government's interest.

(3) Costs necessary to preserve property serving as security.

(4) Repair or maintenance of property serving as security in the custody of a court, (i) when no other funds are available to pay such costs, and (ii) such action is approved by the court.

(b) Advances may not be made pursuant to paragraph (a) of this section unless the amount thereof legally can be made a part of the debt and be secured by the Government's lien.

§ 371.27 *Sale of security property by borrowers.* When liquidation has been approved and the borrower desires to sell security property himself, such action may be authorized if, in the opinion of the approving official, it will be to the best interests of the Government and the borrower. Such sales will be by one of the following methods.

(a) *Private sale.* If the borrower can effect an immediate private sale of the security property for its fair market value, Form FHA–851 will be used in accordance with § 371.6 of this chapter. If the security property is not sold within 30 days after the execution of Form FHA–851, it will be disposed of in accordance with paragraph (b) of this section or § 371.31.

(b) *Public sale.* When the borrower requests permission to sell the security property at public sale in his own name and such action is to the best interests of the Government and the borrower, such request may be granted through the execution of Form FHA–217. County Supervisors and Assistant County Supervisors are authorized to execute Form FHA–217 in these cases. No official of the Farmers Home Administration is authorized to bid at such sales.

§ 371.28 *Repossession of security property.* County Supervisors and Assistant County Supervisors are authorized to take possession of security property for the Government when:

(a) Security property has been abandoned by a borrower.

(b) A case has been approved for liquidation and Form FHA–209 has been signed by the borrower.

(c) Liquidation has been approved and possession of the property can be obtained peaceably even though the borrower has not signed Form FHA–209.

(d) Delivery is made as a result of court action.

§ 371.29 *Care of repossessed property pending sale.* When security property has been repossessed as authorized in § 371.28, or the property has been delivered as a result of court proceedings, the following action will be taken.

(a) *Livestock.* Livestock will be delivered to a person with adequate facilities who will agree in writing to care for and feed the livestock. Reasonable compensation will be agreed upon in advance. Whenever practicable, animal products of livestock will be computed as a part or all of the caretaker's compensation. Delivery, however, will be made pursuant only to a written agreement on Form FHA–210, executed on behalf of the Government by the County Supervisor or Assistant County Supervisor. The agreement will cover a period not to exceed 60 days. When an approved extension of time is secured in accordance with § 371.31, Form FHA–210 will be amended as appropriate and initialed by the parties thereto, or a new agreement executed covering such extension. If a more favorable arrangement cannot be obtained, custody agreements may provide that the Farmers Home Administration will supply feed necessary to maintain the livestock.

(b) *Machinery, equipment, tools, harvested crops, and other chattels.* This type of property will be properly stored and cared for by the County Supervisor pending its sale. Space may be leased for this purpose through the State Director, if necessary, or, such property may be stored and cared for by agreement on Form FHA–210 as prescribed in the case of livestock. This type of property will not be put to use by the caretaker but will be held in storage only.

(c) *Growing crops.* Form FHA–211, "Agreement for Cultivating, Harvesting, and Marketing of Growing Crops," will be used in liquidation cases when necessary in caring for growing crops.

(1) If the borrower is a tenant and his landlord has taken possession of the farm for a breach of the lease, the County Supervisor or the Assistant County Supervisor will negotiate with the landlord for the care and disposition of the crop by the landlord or by a third party. If the landlord expects to complete the crop himself, his signature should be obtained, if possible, on Form FHA–211.

(2) If the borrower is a tenant but his landlord has not taken possession of the farm, the County Supervisor or the Assistant County Supervisor, with the consent of the landlord, will take the necessary steps to provide for the cultivation, harvesting, and marketing of the growing crops under Form FHA–211.

(3) Under subparagraph (1) or (2) of this paragraph, the consent of the landlord must be obtained in writing on Form FHA–211 to any arrangements made with other individuals for the care and disposition of the crops involved. If the consent of the landlord cannot be obtained on Form FHA–211, that fact should be reported to the State Office for further instructions.

(4) If the borrower is owner of the land on which the crops are being grown, he will be required to sign Form FHA–211 as landlord, unless the growing crops are to be sold in place.

(5) County Supervisors or Assistant County Supervisors will execute Form FHA–211 on behalf of the Government.

§ 371.30 *Tests and inspections of livestock.* If required by State law as a condition of sale, livestock being sold by the Government will be tested or inspected prior to the sale.

(a) *Payments of costs.* Costs for tests and inspections of repossessed livestock will be paid in the manner prescribed in § 371.31 (c).

§ 371.31 *Sale of repossessed property by the Government.* All repossessed property should be sold as soon as practicable and legally permissible after repossession. Except as provided below, such property must be sold within 60 days from the date of the repossession. In those States where the maximum period of time for which costs of custody care, and storage legally may be charged to the borrower's account is less than 60 days, the period of time provided by law will be the maximum period for which repossessed property may be held for sale. When an extension of time beyond 60 days appears to be necessary, County Supervisors will request the State Director for an extension. If an extension of time is granted, the County Supervisor will proceed in accordance with the instructions from the State Director and, in cases of sale under Form FHA–209, will make the appropriate change with the borrower by amending item 4 thereof.

(a) *Private sale.* (1) Repossessed property may be sold at private sale for cash under the conditions agreed to by the borrower through the execution of Form FHA–209, provided the sale price is equal to at least the minimum price established by the agreement. If requested by the purchaser, County Supervisors or Assistant County Supervisors will execute and deliver to the purchaser Form FHA–213C, "Bill of Sale 'C' (Sale Through Government as Liquidating Agent)."

(2) Repossessed property may be sold for cash for its fair market value if agreed to by the borrower by the execution and delivery of Form FHA–213B, "Bill of Sale 'B' (Sale by Private Party)."

(3) Repossessed perishable property, such as certain fresh fruit and vegetables, in immediate danger of deterioration or spoilage will be sold privately for the best cash price obtainable, even though the borrower has not signed Form FHA–209 or Form FHA–213B. In such cases, Form FHA–213C will be executed and delivered to the purchaser.

(4) Repossessed property such as wheat, rye, oats, corn, cotton, and tobacco (but not livestock and machinery) may be sold at private sale for cash, provided such sales are not prohibited by law. The price received must be in line with current market quotations for products of similar grade, type, or other recognized classification. If requested in such cases, Form FHA–213C will be executed and delivered to the purchaser.

(5) Repossessed property in instances other than those outlined in subparagraphs (1), (2), (3), and (4) of this paragraph may be sold for its fair market value at private sale in those States where such method is authorized by the

security instrument and is permissible legally. State Directors are hereby authorized to approve the sale of repossessed property at private sale under such circumstances on an individual basis, or such authority may be redelegated to County Supervisors.

(b) *Public sale.* Repossessed property may be sold at public sale either pursuant to agreement on Form FHA–209, or, when authorized by State Instructions, pursuant to the "Powers of Sale" in the lien instrument. If requested, Form FHA–213C will be executed and delivered to the purchaser. The method of conducting such public sales will be subject to the following requirements:

(1) When public sales are to be advertised by posting notices, Form FHA–212, "Notice of Sale," or revisions thereof approved by the representative of the Office of the Solicitor, will be used. State Instructions will be issued stating the number of places and length of time Form FHA–212 will be posted, and, if newspaper advertising is required by law, (i) the types of newspapers to be used, (ii) the number and time of insertion of newspaper advertisement, and (iii) the form of notice of sale to be used.

(2) The property will be sold to the highest bidder and where the successful bidder is other than the Government it will be sold for cash (as opposed to credit sales).

(c) *Payment of costs connected with sales.* (1) Except as limited by law, costs of custody, care, and storage of the property pending sale, and other costs authorized herein arising from repossession and sale of the property, will be paid by the County Supervisor out of the cash proceeds derived from the sale.

(2) In no event will any of the costs incident to the repossession and sale of security property be borne by the Government. When cash proceeds are not available from the sale of the property with which to pay costs referred to in subparagraph (1) of this paragraph, such costs will be paid through the medium of Standard Form 1034 (Standard Form 1144, "Public Voucher for Advertising," for newspaper advertising), and the amount of such voucher will be charged to the respective borrower's account, except as limited by State law.

(d) *Receipts.* Receipts will be obtained for all amounts paid out of the sale proceeds and retained in the County Office. Form FHA–37, "Receipt for Payment," will be issued only for the total amount remitted to the Farmers Home Administration for credit to the borrower's indebtedness.

§ 371.32. *Foreclosure of real estate liens.* (a) *Policy.* The liquidation policy prescribed in § 371.22 of this chapter is applicable to the foreclosure of real estate liens securing Operating loans.

(b) *Bidding at sale for the Government.* State Directors will bid, on behalf of the Government, at foreclosure sales of first real estate liens held by the Government, an amount equal to the value of the real estate being sold or the amount of the borrower's indebtedness to the Government secured by liens on the property, including costs incidental to the sale, whichever is the lesser. State Directors may redelegate authority to bid at such sales in specific cases.

§ 371.33 *Liquidation and collection through court actions.* All actions to enforce the rights of the Government under any of the security instruments, or otherwise to protect the Government's interests through the institution of Court proceedings, will be handled by the appropriate United States Attorney.

(a) *Actions on cases referred to the representative of the Office of the Solicitor.* When a case is referred to the representative of the Office of the Solicitor, no collection or security servicing action will be taken except upon specific instructions from the State Director or the representative of the Office of the Solicitor. However, when the borrower proposes to make a payment on his account, the County Supervisor will receive the collection in accordance with the established procedure.

(b) *Actions on cases referred to the United States Attorney and on judgment cases.* (1) The Department of Justice is responsible primarily for the collection of loan accounts which have been referred to the United States Attorney. After notice has been received that a case has been referred to the United States Attorney or that a judgment has been obtained, no action will be taken by the County Supervisor except upon specific instructions from the State Director, the representative of the Office of the Solicitor, or the United States Attorney. However, the County Supervisor will keep the State Director informed of any developments which may affect the Government's security interests or the pending court action to enforce collection. The following will be observed in connection with borrowers whose cases have been referred to the United States Attorney.

(i) If such borrower proposes to make a payment, the County Supervisor will not accept such payment, but will offer to assist in preparing a letter for the borrower's signature to be used in transmitting the payment to the appropriate United States Attorney.

(ii) Collection items received through the mail from the borrower or from other sources by the County Office to be applied to such accounts will be forwarded by the County Supervisor through the State Office to the appropriate United States Attorney. Form FHA–37 will not be issued in any case in which payment is made on a judgment account, or on an account which has been referred to the United States Attorney . The borrower will be informed by letter of the disposition of the amount received and that payments in the future should be made to the United States Attorney at a given address.

(iii) If such a borrower proposes a compromise settlement to the County Supervisor, he will be informed that the proposal must be made to the United States Attorney. In such a case the County Supervisor may assist the borrower in submitting his proposal to the United States Attorney.

(iv) State Directors will observe the policies and procedures set forth in subdivisions (i), (ii), and (iii) of this subparagraph in connection with borrowers whose accounts have been referred to the United States Attorneys or reduced to judgments.

(2) Collections received by the Area Finance Office for application to accounts after notice has been received from the representative of the Office of the Solicitor that such accounts have been referred to the United States Attorney, will be held in special deposits, and the State Director will be notified of the receipt of such collection.

(Ch. 3935, 34 Stat. 816, R. S. 367, sec. 5, Ex. Ord. No. 6166, June 10, 1933 (contained in 5 U. S. C. 124–132); 5 U. S. C. 310, 316)

§ 371.34 *Care and disposition of acquired security property.* (a) The County Supervisor will make immediate arrangements for the care and storage of acquired security property in the same manner as for repossessed property. Acquired security property may not be left with a custodian under a custody agreement executed prior to its acquisition by the Government. A new custody agreement will be executed on Form FHA–210 for the care of such property. Charges for the care and custody of such property will be paid by the Government by means of Standard Form 1034.

(b) The County Supervisor is authorized to sell acquired security property to any individual for the best cash price obtainable at public auction or by privately negotiated sale, after giving public notice of sale. Title to acquired security property will be transferred to purchasers, at the time the cash purchase price is paid, by execution and delivery of Form FHA–213A, "Bill of Sale 'A' (Sale of Government Property)," Form FHA–213A will be prepared in an original only. (Sec. 43 (d), 60 Stat. 1068; 7 U. S. C. 1017 (d))

§ 371.35 *Disposition of acquired farms.* Farms which have been acquired by the Government through the liquidation of Operating loans, except loans under the Water Facilities Act and 1948 Flood loans, and which are suitable for sale under Title I of the Bankhead-Jones Farm Tenant Act, as amended, will be disposed of under the authority and procedure contained in §§ 372.81 to 372.84 of this chapter. All other farms and parcels of real estate acquired by the Government through the liquidation of Operating loans will be disposed of under the authority and procedure set forth in §§ 372.101 to 372.109 of this chapter (Secs. 2 (b), 43 (d), 60 Stat. 1063, 1068; sec. 2 (b) contained in note under 7 U. S. C. 1001, 7 U. S. C. 1017 (d))

§ 371.36 *Bankruptcy*—(a) *Acts of bankruptcy.* If any borrower (1) is adjudicated a bankrupt or applies for the benefits of any State or Federal insolvency law, (2) petitions for relief under any creditor statutes, (3) makes a general assignment for the benefit of creditors, or (4) takes any other similar steps to liquidate his property, prompt notification of such adjudication, application, or action will be transmitted by the County Supervisor, along with the borrower's County Office case files, to the State Office. The State Office will refer the matter to the representative

of the Office of the Solicitor. After this time, the County Supervisor will not take any action with respect to the case except by direction of the representative of the Office of the Solicitor through the State Director.

(b) *Proof of claim.* A proof of claim covering the indebtedness due the Farmers Home Administration will be prepared and filed with the proper court official by the State Director. (Sec. 57c, 52 Stat. 866; 11 U. S. C. 93 (c))

(c) *Unsecured claim.* In a bankruptcy proceeding, debts due the United States are entitled to priority of payment in advance of general creditors, including interest to the date of payment in full of the debt. (The same rules apply to claims on behalf of the State Rural Rehabilitation Corporations or Corporation Trust funds.) (Sec. 64 (5), 52 Stat. 874, R. S. 3466; 11 U. S. C. 104 (a) (5), 31 U. S. C. 191)

(d) *Disposition of security property.* When a referee in bankruptcy, conciliation commissioner, or other court official releases mortgaged property to the Government, the State Director will inform the County Supervisor and instruct him concerning the sale of the security property or other handling. Funds received for application on the bankrupt's indebtedness will be applied in the same manner as if no bankruptcy proceedings had been instituted.

(e) *Continuation with borrowers in bankruptcy cases.* It may be desirable to permit a borrower discharged in bankruptcy who will continue farming to retain possession of the mortgaged property released to the Government by the Court. Such action may be approved by the State Director when it is determined that the borrower should be assisted under present policies to continue his farming operation and the Government's interest will not be jeopardized. The County Supervisor will submit a report to the State Office, together with his recommendation, when in his opinion the borrower should be permitted to remain in possession of the mortgaged property. When such recommendation is approved by the State Director, the borrower will be required to execute a new note(s) for the full amount owed. Such revival of the indebtedness will be accomplished by the execution of Form FHA–124, "Renewal Promissory Note." A separate note must be taken covering indebtedness under each loan code. Form FHA–124 will be dated the date executed by the borrower. Past due installments will be scheduled for repayment on the date the note is executed. Installments not yet due will be scheduled the same as on the note(s) being revived. Such notes will be executed so as to continue the liability of all of the cosigners for the original indebtedness.

(f) *Liability of cosigners.* Cosigners on notes due from borrowers who have been discharged in bankruptcy (for example, when the spouse is a cosigner on the note) are not released from liability by the proceedings unless such cosigner also has received a discharge in bankruptcy.

§ 371.37 *Deceased borrowers—(a) Priority of Government claims.* Debts due the United States from estates of deceased debtors are entitled to priority of payment in advance of other of the decedent's debts which are unsecured. (R. S. 3466; 31 U. S. C. 191)

(b) *State and County Office action.* The purpose of servicing loans of deceased borrowers will be to accomplish one or more of the following: To obtain an accounting or liquidation of all security, to obtain repayment in full or such payments as are warranted by the decedent's and other obligor's circumstances, or to apply properly the debt settlement policies set forth in §§ 364.1 to 364.9 of this chapter. In servicing deceased cases, collection effort will not be directed against persons who are in no way obligated to pay the debts of the deceased borrower.

(1) When probate or administration proceedings have been or will be instituted, the State Director will refer the case to the representative of the Office of the Solicitor for preparation of a proof of claim, or other appropriate action or advice. The proof of claim will be filed with the appropriate official by the State Director.

(2) When probate or administration proceedings will not be undertaken, any security property will be liquidated in accordance with this subpart as expeditiously as possible or serviced pursuant to paragraph (d) of this section.

(c) *Death during crop year.* When the death of a borrower occurs during the crop year and the Government holds a lien on crops or chattels, arrangements should be made whereby surviving members of the decedent's family, or other persons agreeable to all parties of interest, will complete the year's operations, provided the Government's interest can be protected properly.

(d) *Continuation with survivors.* A member of the decedent's family who is capable of continuing the farm enterprise may be allowed, with the approval of the State Office, to retain possession of the deceased borrower's security property, both real and personal. When security property will be retained in the possession of a survivor who is a cosigner and is liable legally, it will not be necessary to execute an assumption agreement. Ordinarily in such cases, a new mortgage will not be executed unless required for other reasons. If the survivor is not a cosigner on the note(s) the survivor will assume payment of the entire debt owed the Government by the deceased borrower or an amount of that debt equal to the fair market value of the security property, whichever is the lesser.

(1) When the assuming survivor is not a cosigner on the original notes, or is not liable legally even though a cosigner, Form FHA–111, "Assumption Agreement," will be prepared in an original and two copies. The survivor and the County Supervisor will execute the original and all copies of Form FHA–111 and the survivor will execute a mortgage. The original of Form FHA–111 will be placed in the borrower's County Office case file, one copy will be sent to the Area Finance Office, and the other copy will be given to the assuming survivor. When approving the assumption of the debts of a decedent by a survivor, the State Director, with the approval of the representative of the Office of the Solicitor, should request that all possible steps be taken (such as obtaining waivers from other heirs or creditors, or the filing of a declaration of widow's exemptions in jurisdictions where such action is permissible) to provide such survivor with title to the property which can be accepted, for security purposes, with reasonable safety. When the amount of the debt assumed by the survivor is less than the amount owed the Government by the deceased borrower, Form FHA–111 will provide that the Government will release its mortgage on the security property when the new borrower has paid in full the amount of the debt assumed.

(2) The original notes and security instruments in such cases will be retained until the indebtedness against the deceased's estate has been paid in full or settled pursuant to §§ 364.1 to 364.9 of this chapter. The deceased borrower's name will be retained in the account records. In such cases it should be made clear to the personal representative of the deceased or, if there is not a personal representative, the heirs, that the decedent's estate will remain liable for the full amount of the debt.

§ 371.38 *Transfer of real estate security (other than Farm Ownership) and assumption of indebtedness.* (a) In some cases, borrowers are unable to carry out the terms and conditions of their loans, and it may be desirable to effect a transfer of the real estate (other than Farm Ownership) securing Operating loans, with consent of the borrower, to some other individual. When such a transfer is approved, the notes and mortgages of the original borrower will be retained, and such obligations will remain in effect until final settlement of the loan is made. An assumption agreement will be entered into between the original borrower and the assuming borrower, with the approval of the Government, for the unpaid balance of the loan or an amount of the debt equal to the value of the security property, whichever is the lesser. In addition, the assuming borrower will execute a mortgage on the property purchased whenever required by State law and, in all cases the original borrower will execute an acknowledgement of continued liability. When the amount of the debt assumed is less than the amount owed the Government, the assumption agreement should provide that the Government will release its mortgage on the security property when the assuming borrower has paid in full the amount of the debt assumed. Any junior mortgagees must give their written consent to the sale.

(b) When the only security remaining for an Operating loan (excluding a Water Facilities loan or a 1948 Flood loan) is real estate security, and it is desired to release the original borrower from personal liability, the County Office case file and the recommendation of the State Director will be forwarded to the National Office for further instructions.

§ 371.39 *Authority to approve assumption agreements.* State Directors are hereby authorized to accept assumption agreements for the Government in the

types of cases covered by §§ 371.37 (d) and 371.38 subject to the requirements contained therein. In other cases assumption agreements may be accepted after approval by the National Office when it is determined that such action will be to the advantage of the Government and the interested parties.

§ 371.40 *Production and Marketing Administration set-offs (formerly AAA)* —(a) *Cases eligible for set-off.* Payments from the Field Service Branch of the Production and Marketing Administration to persons indebted to the Farmers Home Administration may be set off against such indebtedness only in cases within the following applicable classifications set forth in the Secretary's Order with regard to set-offs, as revised:

(1) "(a) The Debtor has committed a fraud against the United States or there is evidence establishing material misrepresentation of fact, in securing a loan from the United States, without which fraudulent act or material misrepresentation the loan would not have been made, or would have otherwise been made in a smaller amount."

(2) "(c) A person who is indebted to the Farmers Home Administration has failed to use the borrowed funds for the purposes specified in the written loan document or has, in bad faith, disposed of property covered by a mortgage, deed of trust, or lien instrument given to secure the loan."

(3) "(f) Any account or renewal thereof arising from the loan operations of the Farmers Home Administration (or predecessor agency) (1) becomes finally due on or after July 1, 1939, and (2) has not been finally settled by such creditor agency within a period of two years thereof, and, at the expiration of such two-year period, (a) the debtor is not a client of and does not have a current loan from such creditor agency (except for collection purposes), and (b) such creditor agency considers a request for set-off in such case to be in the interest of its program."

(4) "(g) The United States or a corporation, all the stock of which is owned by the United States, has secured a judgment against the debtor which remains unsatisfied." (Order, Acting Sec. Agric., Oct. 19, 1948, 13 F. C. 6212).

NOTE: The other classifications of the Secretary's Order are not applicable to the Farmers Home Administration.

(b) *Policy and routine.* It is the policy of the Farmers Home Administration to request set-offs only when there is evidence that the borrower has shown bad faith and when ordinary collection efforts have not been effective. Recommendations for set-offs will be given careful consideration by the State Director to determine that there is adequate justification for the set-off and that the set-off is in accordance with the requirements of the Secretary's Order and the policy of the Farmers Home Administration. If the recommendation for set-off is approved, a letter will be written to the borrower stating that a request for a set-off has been made, together with the reasons for such action. The letter also should state that the request for set-off will be withdrawn if the borrower, prior to the time the set-off is effected, makes the necessary settlement for the action which resulted in the request for set-off.

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## PART 372—SECURITY SERVICING AND LIQUIDATIONS; FARM OWNERSHIP LOANS

### SUBPART A—GENERAL SECURITY SERVICING

Sec.



### SUBPART B—TRANSFERS OF FARMS WITH RELEASE FROM PERSONAL LIABILITY



### SUBPART C—VOLUNTARY CONVEYANCE OF FARMS TO THE GOVERNMENT



### SUBPART E—MANAGEMENT AND DISPOSITION OF ACQUIRED FARMS



### SUBPART F—SALE OF FARMS NOT SUITABLE FOR PURPOSES OF TITLE I



### SUBPART A—GENERAL SECURITY SERVICING

DERIVATION: §§ 372.1 to 372.11 contained in FHA Instruction 465.1.

§ 372.1 *General*—(a) *Purpose.* Sections 372.1 to 372.11 prescribe the authorities, policies, and procedures for use in general security servicing with respect to direct Farm Ownership loans and insured loans which have been assigned to the Government. However, § 372.3 also applies to insured loans prior to assignment to the Government.

(b) *Applicability.* For the purpose of §§ 372.1 to 372.11, Farm Ownership farms include farms which are security for direct loans made pursuant to Title I of the Bankhead-Jones Farm Tenant Act; insured loans which have been assigned to the Government; credit sales of farms pursuant to sections 43 and 51 of the Bankhead-Jones Farm Tenant Act, as amended, and Public Law 563, 79th Congress; loans and credit sales by the State Rural Rehabilitation Corporations directly or under transfer agreements with the Secretary of Agriculture; loans made out of Loans, Grants and Rural Rehabilitation funds for farm improvement or farm development; mortgages assigned to the Government as security for, or the payment of, loans to, or in liquidation of, Defense Relocation Corporations, and Land Leasing and Land Purchasing Associations, including Georgia Pine Mountain Valley Rural Community Corporation, Cherry Lake, Inc., and Dyess Farms, Inc.

(c) *General policies.* Security servicing actions, must be guided by the general purposes of the Farm Ownership program to assist a borrower who cannot get credit elsewhere in achieving ownership of an efficient family-type farm-management unit. No servicing action should be taken which will have the effect of reducing the farm unit in size or in capacity below that required by the borrower for the orderly repayment of his loan, the maintenance of a reasonable standard of living, and to assure that he and his family will continue to have a farm which at least will meet the minimum standards prescribed for the Farm Ownership program.

§ 372.2 *Delegation of authority.* Subject to the policies and procedures prescribed in §§ 372.1 to 372.11 with respect to direct Farm Ownership loans and insured loans which have been assigned to the Government:

(a) The State Director is authorized to:

(1) Determine when it appears that a borrower can secure refinancing credit and require refinancing when other acceptable credit is available.

(2) Approve grant of easements and rights-of-way by borrowers.

(3) Approve sale or exchange of portion of farm.

(4) Approve sale or exchange of water rights.

(5) Approve sale or lease of mineral rights owned by borrowers.

(6) Approve leases by, or to lease on behalf of, the borrowers.

(7) Execute caretaker's agreement.

(8) Make advance of funds on behalf of the borrower and charge the amounts to the borrower's Farm Ownership account.

(9) Approve the sale of a farm outside the program.

(10) Assign, without recourse, Farm Ownership notes and security instruments.

(b) The State Field Representative is authorized to:

(1) Consent to the construction or alteration of buildings other than planned when the labor and material cost will exceed $500 and is paid by the borrower.

(2) Approve the sale or exchange (including removal) of timber when the proceeds of the sale or sales within a 12-month period will exceed $100.

(3) Approve the sale (including removal) of sand, gravel, stone, or coal which the borrower owns when the proceeds of the sale or sales within a 12-month period will exceed $100.

(c) The County Supervisor is authorized to:

(1) Consent to the construction or alteration of buildings other than planned when the labor and material cost will not exceed $500 and is paid by the borrower.

(2) Approve the sale or lease of naval stores.

(3) Approve the sale or exchange (including removal) of timber when the proceeds of the sale or sales within a 12-month period will not exceed $100.

(4) Approve the sale (including removal) of sand, gravel, stone, or coal which the borrower owns when the proceeds of the sale or sales within a 12-month period will not exceed $100.

§ 372.3 *Refinancing with respect to loans made on and after November 1, 1946.* The Bankhead-Jones Farm Tenant Act, as amended, and the security instruments executed on or after November 1, 1946, require the borrower, upon request of the Secretary, to apply for and accept a loan from cooperative or private credit sources in sufficient amount to repay the secured indebtedness. As soon as possible after March 31, 1949, and each March 31 thereafter, the County Supervisor will review all outstanding direct and insured Farm Ownership loans made on or after November 1, 1946, and will present for consideration of the County Committee those loans on which 35 percent or more of the principal of the loan has been repaid. The County Committee will consider and make its recommendation as to those borrowers who it believes may be able to secure other financing on reasonable rates and terms prevailing in the community but not to exceed the interest rate of 5 percent. Before making its recommendation, the County Committee may deem it advisable to make a preliminary check in the area to determine if such credit appears to be available. Their findings will be included in their recommendation to the State Director. Each borrower who the County Committee believes may be able to secure such refinancing, shall be notified by a letter from the County Supervisor to attempt to secure other financing and to report the results of his efforts to the County Supervisor within 60 days. In the case of an insured loan, a copy of the letter will be forwarded to the holder of the mortgage or deed of trust. At the expiration of the 60-day period, the County Supervisor will submit to the County Committee a list of those borrowers who have reported that other financing is available, a list of those who have reported that other financing is not available, and a list of those borrowers who have not responded to the letter. Borrowers who are able to secure other financing will be instructed to proceed and their cases will be handled in the same manner as repayments of loans in full. The County Committee will recommend to the State Director the action which should be taken with respect to borrowers who reported that they are unable to secure other financing and the borrowers who have failed to respond to the County Supervisor's letter. The State Director will determine whether to give the borrower another opportunity to refinance, to assist in locating other lenders who might refinance the borrower's indebtedness, or to proceed with liquidation of the borrower's security. The State Director will take into consideration the progress the borrower has made, his continued need for supervision and whether his failure to secure other financing demonstrates a lack of good faith. In any case where the borrower has not attempted in good faith to secure other financing when it appears that other financing is available, and that with such other financing the borrower is likely to succeed in the repayment of the refinanced balance, the State Director will proceed with the liquidation of the security.

(Secs. 3 (b) (6) and (7), 12 (c) (4), 42 (d), 44 (c), 60 Stat. 1074, 1075, 1076, 1067, 1069; 7 U. S. C. 1003 (b) (6) and (7), 1005 b (c) (4), 1016 (d), 1018 (c))

§ 372.4 *Partial release, subordination, or consent under the terms of Farm Ownership security instruments*—(a) *Purposes and conditions.* The security instruments generally provide that the written consent of the Government must be obtained for (1) the making of improvements, (2) the granting of easements and rights-of-way, (3) the sale of any portion of the farm, (4) the sale or exchange of water rights, (5) the sale or lease of sand, gravel, coal, oil, gas, and other minerals, (6) the leasing of naval stores, and (7) the cutting and sale (including removal) of timber. However, the security instruments permit the use of such timber, gravel, oil, gas, coal, or other minerals as may be necessary for ordinary domestic purposes. It is the responsibility of the borrower to keep the land in a good state of cultivation, as well as the farm buildings and fences in good repair, so that the farm will continue to meet minimum Farm Ownership standards. Therefore, a Farm Ownership borrower will not be required to obtain consent for normal maintenance, repairs, or for the construction of movable buildings. A proposed purchaser or lessee will be informed that the proposed sale or lease is contingent upon approval by the authorized representative of the Farmers Home Administration. The consent of the Government will usually be given by the appropriate approving official to each application for release: *Provided*, That (1) the Government will suffer no financial detriment by reason of the transaction, (2) the consideration (monetary or other) for any sale, exchange, or lease is adequate, (3) the borrower enters into a satisfactory arrangement with the Government with respect to the disposition of any proceeds, (4) the farm will not be rendered less than an efficient family-type unit, and (5) the following applicable conditions are met:

(i) *Making of improvements other than planned.* The request of a borrower to make structural improvements, after planned improvements have been completed, such as the alteration of existing buildings or construction of new buildings not contemplated in his Farm Development Plan, may be approved as follows:

(*a*) The County Supervisor may consent, on behalf of the Government, to the borrower making minor structural improvements, such as erecting a poultry house, a small granary, a small hog house, a machine shed, a privy, an addition to a barn, and so forth, when the labor (including that of the family computed at prevailing wages for such labor) and material cost of such minor improvements is borne by the borrower and will not exceed $500.

(*b*) The State Field Representative may consent, on behalf of the Government, to the construction or alteration of any building, such as the adding of new rooms to or the altering of the design of an existing dwelling, construction of a new dwelling, barn, or other durable and stationary building, when the labor (including that of the family computed at prevailing wages for such labor) and material cost of such improvements is borne by the borrower and will exceed $500. No consent will be granted for the construction of a dwelling designed for occupancy by tenants, sharecroppers, or farm laborers of the borrower. Consent to construct buildings not essential to the farming operations will be granted only when it appears that the making of the expenditure will not prevent the repayment of the loan by the borrower in accordance with his repayment schedule after the expenditure for such improvements.

(ii) *Grant of easements and rights-of-way.* The State Director may approve, on behalf of the Government, a borrower's application for permission to grant an easement or right-of-way, and such approval will be given as a general rule upon the determination by the State Director that the granting of the easement or right-of-way will not render the unit less than an efficient family-type unit and the compensation received by the borrower, whether monetary or in the nature of services or facilities made available, compensate the borrower sufficiently.

(iii) *Sale or exchange of portion of farm.* The State Director may approve, on behalf of the Government, the sale of a portion of a Farm Ownership farm, provided that such sale does not render the farm less than an efficient family-type unit. The State Director also may approve the sale of a portion of the farm where the acreage to be sold is to be replaced by the acquisition of other land. If the transaction involves merely an exchange of property, the existing security instrument on the portion of the farm to be conveyed may be released and a new security instrument taken on the land to

be acquired. If the exchange involves sale and purchase, approval of sale will be withheld until the acceptance of the option on the tract to be acquired and the proceeds of sale will be held in the borrower's supervised bank account, or in escrow, for application on the purchase price of the additional land. Any excess proceeds will be applied as an extra payment on the loan. Each application for the sale or exchange of a portion of a farm will be sent to the State Director accompanied by a recommendation signed by the County Supervisor and at least two members of the County Committee.

(iv) *Sale or exchange of water rights.* The State Director may approve, on behalf of the Government, the sale or exchange of water rights. An application of a Farm Ownership borrower for permission to sell or exchange water rights will be approved only upon the recommendation of the County Committee, and a determination that the sale or exchange of the water rights will not affect adversely the operation of the farm as an efficient family-type unit. The sale or exchange of such rights may be approved in connection with the acquisition of a better supply of water for the farm or to assure more permanent and more economical delivery of water.

(v) *Sale or lease of mineral rights.* The State Director may approve, on behalf of the Government, the sale of mineral rights or the leasing of land for minerals, provided that the borrower obtains guarantees of compensation which are deemed adequate protection against damage to the surface in the event the minerals are developed, and such sale or lease will not render the farm less than an efficient family-type unit. This applies regardless of whether the borrower owns all or part of the mineral rights. The State Director may establish a minimum price per acre for which any application to sell mineral rights will be approved. He also may establish a minimum per acre rental for which approval will be given for the leasing of land for minerals. Sand, gravel, and stone ordinarily are considered to be minerals except in those localities where general mineral reservations do not include sand, gravel, or stone. Where the United States has retained a mineral interest, the application of a borrower for approval of sale of sand, gravel, or stone should be submitted to the representative of the Office of the Solicitor for determination as to whether such materials are minerals belonging to the United States. The mineral interest of the United States is subject to lease by the Secretary of the Interior and applications for such lease will be sent by the prospective lessee direct to the Bureau of Land Management, Department of the Interior, Washington 25, D. C.

(vi) *Sale or lease of naval stores.* The County Supervisor may consent, on behalf of the Government, to the sale or lease of naval stores by a borrower, *Provided,* That the sale or lease requires operation consistent with approved naval stores practices.

(vii) *Sale or exchange (including removal) of timber.* (*a*) The County Supervisor may consent, on behalf of the Government, to the use of timber or the exchange of timber when such materials are to be used for repairs or improvements on the farm. He may approve the sale of timber by the borrower when the proceeds of the sale or sales within a 12-month period will not exceed $100.

(*b*) The State Field Representative may approve, on behalf of the Government, the sale of timber, the proceeds of which will exceed $100. If the sale involves an appreciable amount of timber, the State Field Representative will confer with the State Director and obtain qualified technical assistance, when available, to check or cruise the timber to be sold and inform the borrower with reference to the value of the timber. If selective cutting based on a sustained yield plan is involved, technical assistance should be provided, if possible, to assist the borrower in selecting the timber to be cut.

(viii) *Sale (including removal) of sand, gravel, stone, or coal owned by the borrower.* (*a*) The County Supervisor may approve, on behalf of the Government, the sale of sand, gravel, stone, or coal when the proceeds of the sale or sales within a 12-month period will not exceed $100.

(*b*) The State Field Representative may approve, on behalf of the Government, the sale of sand, gravel, stone, or coal when the proceeds of the sale or sales within a 12-month period will exceed $100.

(b) *Preparation and processing of Form FHA–696, "Application for Partial Release, Subordination, or Consent."* When a borrower desires a partial release or subordination of the lien of the security instrument or the Government's consent to transactions authorized under this section, he will make application therefor on Form FHA–696. The borrower's application will be approved or disapproved by the Farmers Home Administration employee designated herein to give consent or approval, on behalf of the Government, to the particular request. A formal release or subordination of lien will not be furnished except when requested.

(c) *Preparation and processing of releases and subordinations.* Each application requiring a formal release or subordination of lien will be forwarded by the State Director to the representative of the Office of the Solicitor, together with related information and a request for the preparation of Form FHA–99, "Release," or other appropriate form. If the representative of the Office of the Solicitor approves the transaction as to legality, he will prepare the appropriate instrument in an original and three copies and send them with such instructions as may be necessary to the State Director who will execute the original and conform the three copies.

(d) *Assignment of income from mortgaged property.* When all the proceeds from any transaction authorized herein are to be collected at the time of delivery of the release or subordination, it will not be necessary to use Form FHA–253B, "Assignment of Income from Mortgaged Property." However, in each case where all or part of the proceeds are to be collected subsequent to the time of delivery of the release or subordination, Form FHA–253B will be prepared by the County Supervisor in an original and three copies, the original and all copies of which will be signed by the borrower and his wife at the time Form FHA–696 is executed.

(Secs. 3 (b) (4) and (6), 42 (d), 60 Stat. 1074, 1067; sec. 402, 60 Stat. 1099, sec. 3, 61 Stat. 914; 7 U. S. C. 1003 (b) (4) and (6), sec. 402, Reorg. Plan No. 3 of 1946 (contained in note under 5 U. S. C. 133 y–16), 30 U. S. C. 352)

§ 372.5 *Actions by third parties affecting security.* The borrower ordinarily will be required to represent his own interest in condemnation suits, trespass cases, and title cases if he does not have an owner's policy of title insurance, but if the security interest of the United States is affected, the United States Attorney will be requested to represent the Government's interest. If the title is insured and the policy covers the point in question as determined by the representative of the Office of the Solicitor, the title insurance company should be notified by the representative of the Office of the Solicitor in order that it may have an opportunity to undertake the defense of the title.

(Ch. 3935, 34 Stat. 816, R. S. 367, sec. 5, Ex. Ord. No. 6166, June 10, 1933 (contained in 5 U. S. C. 124–132); 5 U. S. C. 310, 316)

§ 372.6 *Lease of farm by or on behalf of the borrowers.* One of the principal objectives of the Farm Ownership program is the continued personal occupancy and operation of the borrower's farm as a family-type farm. Whenever a borrower ceases to personally occupy and operate the farm, the purpose for which the loan is made has ceased to exist. Consequently, as a general rule, permission will not be granted for the lease of the farm by the borrower or the occupancy thereof by other persons. However, circumstances may arise, such as death within family, poor health, abandonment, and so forth, which may make it necessary to lease the farm. Therefore, in such instances, the State Director may authorize the borrower to lease the farm, or part thereof, for such period as he deems justifiable, but ordinarily not to exceed one year. If the borrower is not available to execute the lease or will not consent to the lease and the State Director determines that the occupancy and operation of the farm is necessary for the protection of the Government's security, he may execute a lease on behalf of the borrower, pursuant to the provisions in the security instrument.

(a) *Preparation of lease.* The original and all copies of the lease will be signed by the lessor and lessee. In case of a deceased borrower, a person legally empowered to execute the lease may sign as lessor. If a borrower is unable or unwilling to execute the lease, it will be signed by the State Director on behalf of the borrower. The prospective renter and the borrower should be informed that the leasing arrangement is subject to approval of the State Director. If, in the opinion of the County Supervisor, there

is little likelihood of the lease being disapproved, and circumstances require immediate occupancy, he may permit the renter to take possession of the farm prior to such approval by the State Director and the necessary corrections in the lease should be settled with the borrower and the renter if advice is received from the State Office that the lease was approved on terms other than those submitted by the borrower and renter.

(b) *Approval of lease.* Upon examination and approval of the lease in the State Office, the State Director will sign the lease. If the lease has been signed by the borrower, as lessor, the State Director will sign in the space provided for approval. However, if it is necessary to execute the lease on behalf of the borrower, the State Director will sign in the space provided for the signature of the lessor, and the words, "United States of America," will be typed above his signature and his title will be typed below his signature.

(c) *Suggestions to renter.* The renter of a Farm Ownership farm will be encouraged to participate in the agricultural conservation programs which are available and will be of benefit to the farm and his progress. He should be encouraged also to keep records of farming operations similar to those kept by borrowers of the Farmers Home Administration, especially if he is a prospective applicant for a Farm Ownership loan. The County Supervisor will furnish such a renter with Form FHA–195, "Farm Family Record Book," and instruct him with respect to keeping records.

§ 372.7 *Vacated farms*—(a) *Initial actions required.* If a borrower vacates his Farm Ownership farm without approval by the Government, the County Supervisor will undertake to arrange for the transfer of the farm to an approved Farm Ownership applicant or for the voluntary conveyance of title to the Government. When the borrower is unwilling to transfer the farm to an approved applicant, or is unwilling to convey title voluntarily to the Government, the County Supervisor will report the case to the State Director. The State Director will instruct the County Supervisor to take one or more of the following actions:

(1) Arrange for the borrower to lease the farm for not more than a one-year period.

(2) Submit for review and approval a lease on behalf of the borrower.

(3) Secure a caretaker.

(4) Submit necessary additional information for use in connection with foreclosure, if appropriate.

(b) *Completion of planned improvements.* When Farm Ownership loan funds remain in the borrower's supervised bank account as a result of not having been used to complete improvements as originally planned by the borrower, such improvements may be completed, during the period the farm is leased, in accordance with the authority contained in Form FHA–668, "Loan Agreement and Request for Funds," provided that such improvements are completed as previously planned and approved by the borrower, as reflected in Form FHA–643, "Farm Development Plan." If possible, such improvements should be performed by contract and the leasing of the farm will not be affected except that the lease should contain a clause permitting the contractor to enter the property. Under certain circumstances, especially where soil improvements are involved, it may be desirable to have the improvement work done by the renter as a contractor because the making of such improvements may affect his farming operations. If the State Director deems it inadvisable to complete the improvements by using the Farm Ownership loan funds remaining in the borrower's supervised bank account, such funds will be returned as a refund on the borrower's Farm Ownership loan. However, payment may be authorized by the State Director, with the advice of the representative of the Office of the Solicitor, in those cases where a contract for improvement, approved by the Government, had been entered into between the borrower and a contractor.

§ 372.8 *Death of borrower.* The death of a Farm Ownership borrower should be reported immediately on Form FHA–141, "Report on Deceased Borrower."

(a) *Determination of the family with respect to disposition of farm.* The decision as to whether the family will continue to live on and operate the farm ordinarily will be decided by the surviving obligor(s) on the note. Ample time should be allowed the family within which to make this determination.

(1) *Where family desires to continue operation of farm.* The State Director usually will approve the continued operation of the farm by the family, if they so desire. However, if the State Director finds that because of age, mental or physical condition, or the lack of family labor, there is doubt as to the family's ability successfully to carry on the undertakings required of it, and if such difficulties cannot be overcome, he will direct that negotiations be undertaken with the family for liquidation of the account through transfer, voluntary conveyance, or otherwise. If legal title does not pass to the surviving obligor on the note by operation of law, title will be consolidated in one member of the family, if legally possible by foreclosure or otherwise, unless such action is undesirable because of the conditions mentioned above, or because of the possibility that the member of the family in whom title is being consolidated may not be the successful bidder at the foreclosure sale. Consolidation of title will be in accordance with instructions from the representative of the Office of the Solicitor. All expenses in connection with consolidation of title shall be paid by the person in whom the title is consolidated, including, if necessary, new owners' and mortgagees' policies of title insurance.

(2) *Where family desires to discontinue operation of farm.* When the surviving obligor or heirs of the deceased borrower do not desire to continue operation of the farm, the County Supervisor will negotiate with the family for an agreement whereby the account will be liquidated to the best advantage of all parties concerned. In cases where some of the heirs are minors or under other legal disability, it may be necessary to foreclose. In the case of foreclosure, the family must be advised as to the necessity of such action, and the State Director will proceed under the guidance of the representative of the Office of the Solicitor. The County Supervisor will submit a report to the State Director which will include his recommendation, as well as the recommendation of the County Committee, with respect to (i) transfer of the farm, (ii) conveyance of title to the Government, (iii) sale outside the program (iv) leasing of the farm, (v) appointment of caretaker, or (vi) foreclosure of the security instrument.

§ 372.9 *Sale of farm outside the program.* (a) One of the purposes of the Farmers Home Administration is to keep intact as family-type farms the units established under the Farm Ownership program. However, it is recognized that circumstances may arise wherein a satisfactory plan cannot be worked out to keep the farm in the program and the borrower will be justified in selling his Farm Ownership farm outside the program. Such circumstances may be unanticipated changes in family status, or changes in land use in the community in which the land is located. So long as there is any outstanding indebtedness, the security instrument requires the consent of the Farmers Home Administration before the sale of the farm. A request to sell a Farm Ownership farm outside the program will be approved by the State Director only when the sale will result in the complete liquidation of the Farm Ownership indebtedness and all other indebtedness owed by the borrower to the Farmers Home Administration, or the payment in full of the Farm Ownership debt and the borrower makes satisfactory arrangements with respect to the liquidation of any other debts owed to the Farmers Home Administration. The borrower should make his request in writing and outline therein his reasons for desiring to sell his farm, the person to whom it is to be sold, if known, the sales price, and his agreement with respect to debt liquidation. If the request is approved and funds are tendered to pay the account in full, the case will be handled in accordance with § 361.25 of this chapter.

(b) The County Supervisor will prepare and submit to the State Office a conformed copy of the borrower's written request to sell his Farm Ownership farm outside the program. In addition, the County Supervisor will submit a written statement signed by him and at least two members of the County Committee, which contains their recommendations based on an analysis of the borrower's request. If the borrower refuses to make his request in writing, the County Supervisor will submit a report summarizing the borrower's reasons, along with the recommendations.

(1) *Requests submitted within five years from date of loan.* Except in a case where profit-making is the only significant motive, the State Director may approve a request to sell a Farm Ownership farm outside the program within five years from the date of the

loan, if in his opinion, the circumstances warrant such approval. Where the only significant motive for sale is profit-making, the State Director will submit a conformed copy of the borrower's request, or summary of the borrower's reasons if he refuses to make a written request, and the recommendation of the County Supervisor and the County Committee, as well as his recommendation, to the National Office for consideration.

(2) *Requests submitted after five years from date of loan.* The State Director may approve all requests to sell Farm Ownership farms outside the program after five years from the date of the loan.

(Secs. 3 (b) (6), 42 (d), 60 Stat. 1074, 1067; 7 U. S. C. 1003 (b) (6), 1016 (d))

§ 372.10 *Assignment of Farm Ownership notes and security instruments.* There may be cases, when a loan is refinanced, where the lender may request assignment of the note(s) and security instrument(s) as a condition to making the loan.

(a) *Assignment in connection with refinancing under § 372.3.* When refinancing is required in accordance with § 372.3 and the lender requests assignment as a condition to making the loan, the State Director will assign, without recourse, the note(s) and security instrument(s) held by the Farmers Home Administration evidencing and securing the Farm Ownership loan(s).

(b) *Assignment under other conditions.* When the borrower requests assignment under conditions other than as outlined in § 372.3, the State Director may assign, without recourse, Farm Ownership note(s) and security instrument(s), if he deems the circumstances justifiable. However, to assign securities for the purpose of facilitating refinancing when a borrower has not fulfilled the covenants incident to his Farm Ownership loan, tends to undermine the purposes for which the act was established.

(1) In those cases where the borrower has fulfilled the covenants incident to his Farm Ownership loan and plans to continue living on and personally operating the farm as a family-type unit, or the farm is not an efficient family-type unit, or is otherwise undesirable to retain in the program, the State Director may assign, without recourse, note(s) and security instrument(s) held by the Farmers Home Administration evidencing and securing Farm Ownership loan(s), provided that the lender requests such assignment as a condition to making the loan, and provided further that the borrower's indebtednes to the Farmers Home Administration is retired fully as a result of such refinancing.

(2) In those cases where the borrower has not kept faith with the covenants incident to his loan, in that he has permitted his account to become delinquent, has permitted the security to depreciate, or is not living on and personally operating the farm, or is committing some other violation that singly or in combination would justify foreclosure action, the State Director may refuse to assign the securities. If some other method cannot be mutually arranged for working out a satisfactory solution, such as the transfer of the farm or conveyance of title to the Government, the State Director may initiate foreclosure action, under the advice and guidance of the representative of the Office of the Solicitor.

(c) *Method of assignment.* All assignments of securities shall be in the form and manner approved by the representative of the Office of the Solicitor.

(Sec. 41 (h), 60 Stat. 1066; 7 U. S. C. 1015 (h))

§ 372.11 *Compromise, adjustment, or reduction of Farm Ownership indebtedness.* Most compromises, adjustments, or reductions of Farm Ownership indebtedness will be effected in connection with the transfer of farms to approved Farm Ownership applicants, or voluntary conveyance of title to the Government. However, there may be other cases in which compromise, adjustment, or reduction of the indebtedness will be justifiable. Such cases will be considered on an individual case basis and will be based on the debtor's ability to pay and the value of the security. In no case, however, will the debt be settled for an amount less than the value of the security. If, in this type of case, the State Director is of the opinion that a basis for compromise, adjustment, or reduction exists, he will have Form FHA–858, "Application for Settlement of Indebtedness," prepared and executed. The original and one copy of Form FHA–858, along with the borrower's State Office case file(s), will be forwarded to the National Office for consideration. In those cases where the borrower is deceased, or his whereabouts is unknown, Form FHA–859, "Advice of Cancellation of FHA Indebtedness," will be used. The original and one copy of Form FHA–859, the original and one copy of the recommendation of the County Committee and the State Office case file(s), will be forwarded to the National Office for consideration. The State Director will give a complete report on the case and make his recommendations in his letter of transmittal.

(Sec. 41 (g) (2), 60 Stat. 1065; 7 U. S. C. 1015 (g) (2))

SUBPART B—TRANSFERS OF FARMS WITH RELEASE FROM PERSONAL LIABILITY

Sections 372.21 to 372.27 interpret and apply secs. 41 (g) (1) and (2), 60 Stat. 1065; 7 U. S. C. 1015 (g) (1) and (2). Other statutory provisions interpreted or applied are cited to text in parentheses.

DERIVATION: §§ 372.21 to 372.27 contained in Administration Letter No. 31.

§ 372.21 *General.* Section 41 (g) of the Bankhead-Jones Farm Tenant Act, as amended by the Farmers Home Administration Act of 1946, authorizes the Farmers Home Administration:

(a) To consent to the voluntary transfers of farms, which secure indebtedness to the Government administered by the Farmers Home Administration, from borrowers to other approved applicants.

(b) To release from personal liability borrowers who have transferred their farms to other approved applicants under agreements whereby the transferees assume liability for the entire amount of the outstanding secured indebtedness.

(c) To release from personal liability borrowers who have transferred their farms to other approved applicants who assume liability for that portion of the outstanding indebtedness which is equal to the normal earning-capacity value of the farm at the time of transfer; provided the County Committees certify and the Secretary or his delegate determines that the borrowers:

(1) Have cooperated in good faith with the Secretary.

(2) Have farmed in a workmanlike manner.

(3) Have used diligence to maintain the security against loss.

(4) Otherwise have fulfilled the covenants incident to their loans to the best of their abilities.

§ 372.22 *Delegation of authority.* State Directors are authorized, subject to the policies and procedures prescribed in this section:

(a) To approve transfers of farms.

(b) In connection with farm transfers, to modify the terms of contracts, agreements, and other loan instruments held by the Farmers Home Administration.

(c) To release transferors of farms from personal liability on obligations held by the Farmers Home Administration.

(d) When necessary in connection with approved farm transfers, to cause instruments of record to be modified, released, or discharged.

§ 372.23 *Applicability of §§ 372.21 to 372.27.* Sections 372.21 to 372.27 authorize transfers of farm real estate provided all of the following conditions exist:

(a) The farm is utilized in furtherance of the purposes of the Farm Ownership program and is eligible for transfer under paragraph (d) of this section.

(b) The transferees are eligible for assistance under Title I of the Bankhead-Jones Farm Tenant Act, as amended. The transferees must represent in writing, and it must be determined administratively by the State Director, after a certification to such effect by the County Committee, that credit sufficient in amount to finance the actual needs of the transferees is not available to them at the rates (but not exceeding five percent per annum) and terms prevailing in or near their community. (Secs. 1, 44 (a) (3), 60 Stat. 1072, 1068; 7 U. S. C. 1001, 1018 (a) (3))

(c) The transfer can be consummated on terms under which the transferors will be released from further personal liability with respect to the real estate obligations when the transaction is closed.

(d) The real estate to be transferred is subject to first mortgages or deeds of trust held by the Farmers Home Administration to secure unpaid balances of indebtedness involving one or more of the following: (If the County Supervisor is unable to determine from the County Office records whether a farm is eligible for transfer, he will make inquiry of the State Office.)

(1) Loans and advances under Title I of the Bankhead-Jones Farm Tenant Act, as approved July 22, 1937, or as amended.

(2) Sale of real estate by conveyance executed directly on behalf of the United States of America, the Farmers Home Administration, or the Farm Security Administration, pursuant to authority afforded by:

(i) Section 43 of the Bankhead-Jones Farm Tenant Act, as approved July 22, 1937, or as amended;

(ii) Section 51 of the Bankhead-Jones Farm Tenant Act, as approved July 22, 1937, or as amended;

(iii) Public Law 563, 79th Congress, approved July 30, 1946.

(3) Loans, or the administration of loans, made by the Farm Security Administration or Resettlement Administration to individuals for the acquisition, improvement, or development of farm real estate from funds made available for Rural Rehabilitation purposes, excluding State Rural Rehabilitation Corporation assets.

NOTE I: Real estate transferable under paragraph (d) of this section, ordinarily is referred to as: (1) Farms purchased by borrowers with Title I funds; (2) Repossessed farms acquired through foreclosure which have been resold to eligible borrowers in the Farm Ownership program; (3) Farms securing Farm Development loans (Farm and Home Improvement, Special Real Estate, or Farm Development loans) except when such loans represent State Rural Rehabilitation Corporation trust fund assets, or when a subsequent Farm Ownership loan is required by the transferee in connection with the transfer; and (4) Project liquidation farms sold pursuant to Title I or sold not pursuant to Title I except when the farm represents in whole or in part State Rural Rehabilitation Corporation trust fund assets, or where a subsequent Farm Ownership loan is required by the Transferee in connection with the transfer and the farm was purchased and developed with Loans, Grants and Rural Rehabilitation (formerly referred to as "LG & RR") funds and was not sold pursuant to Title I.

NOTE II: Real estate not transferable under paragraph (d) of this section, includes: (1) Farms subject to mortgages or deeds of trust assigned to the Government by Defense Relocation Corporations, Land Leasing and Land Purchasing Associations and other similar corporations and associations; (2) real estate subject to mortgages or deeds of trust insured by the Farmers Home Administration, prior to assignment thereof to the Secretary of Agriculture in accordance with section 13 of the Bankhead-Jones Farm Tenant Act, as amended; (3) farms which secure obligations incurred pursuant to the Water Facilities Act of August 28, 1937; (4) surplus lands sold on credit and secured by mortgages or deeds of trust; (5) subsistence units sold on credit in connection with the liquidation of projects; and (6) units subject to outstanding lease and purchase contracts.

§ 372.24 *General policies relating to farm transfers*—(a) *Elements of transfers hereunder.* (1) Fundamentally, the transfer of a farm under this section consists of:

(i) A conveyance thereof by the transferors to the transferees, with the consent of the Farmers Home Administration and subject to the mortgages or deeds of trust held by the Farmers Home Administration.

(ii) The simultaneous assumption by the transferees of personal liability for payment of the entire or an agreed amount of the transferors' outstanding indebtedness to which the farm is subject.

(iii) The release of the transferors from further personal liability with respect to the outstanding indebtedness on terms not more favorable than those recommended by the County Committee.

(2) The transfer of a farm will be accomplished in the following manner:

(i) Conveyance of the farm to the transferees will be by warranty deed, executed by the transferors at the time arranged for closing; on a form prepared by or under the supervision of a Representative of the Office of the Solicitor. However, if the transferors acquired their title by quitclaim deed from the Farmers Home Administration or its predecessors, a special warranty deed will be used, warranting against title defects arising subsequent to acquisition of the property by the transferors.

(ii) Form FHA–97, "Agreement for Assumption of Indebtedness," will be executed by the transferees at the time arranged for closing to evidence the obligations assumed by them and will be executed by the State Director as consent of the Farmers Home Administration to the transaction.

(iii) After conveyance of the farm and assumption of liability by the transferees, Form FHA–437, "Release from Personal Liability," will be executed by the State Director and delivered to the transferors. The notes, bonds, or other instruments evidencing the transferors' obligations will not be surrendered except in cases in which a new note and mortgage are executed by the transferees covering the obligations assumed.

(b) *Amount of secured indebtedness to be assumed.* In all cases, the transferees will assume personal liability for payment to the Farmers Home Administration of such portion of the transferors' outstanding indebtedness as does not exceed the value of the property being transferred, based upon its normal earning capacity and the County Committee's recertification. (See § 372.26 (g) (4))

(c) *Assumption of less than full amount outstanding.* If the amount of the outstanding indebtedness exceeds the value of the property to be transferred, the transfer will involve financial loss to the Government. In such a case, if the transferees are to assume liability for obligations incurred by the transferors at different rates of interest, the loss to the Government will be sustained first on the obligations incurred by the transferors at the lowest rate of interest.

(d) The transferees will pay interest on the total amount of the indebtedness, including both unpaid principal and accrued interest, assumed by them at the same rate charged the transferors under the transferors' agreements with the Government.

(e) *Transfer involving payment for transferors' equity.* If the value of a farm exceeds the amount of the outstanding indebtedness owing to the Farmers Home Administration, a transfer may be approved for a consideration consisting of assumption by the transferees of liability for the payment of the full amount of the outstanding secured indebtedness, plus payment by the transferees to the transferors of such an amount as they may agree, with the approval of the State Director, represents the value of the transferors' interest in the farm.

(1) Settlement in full of the transferors' equity, in the amount approved by the State Director, should be made by the transferees at the time title to the property is transferred. In no case, should payment be made prior thereto. If the amount of the equity depends in part on growing crops and if circumstances require, arrangements for payment of that part of the equity, which represents such growing crops, out of proceeds to be received by the transferees from the crops, may be approved by the State Director provided: (i) No lien against the real estate will result and (ii) the arrangements will not interfere with the transferees' ability to discharge currently the obligations which they are to assume, including the making of a full annual payment on the date established for payment of the transferees' first installment. An equity payment to the transferors shall not take precedence over regular annual payments on the indebtedness.

(2) The transferors and transferees must make full disclosure, for consideration by the State Director, of all agreements and understandings, written or otherwise, which they may have with respect to an equity payment.

(3) The amount of the equity payment will not exceed the difference between the amount of the outstanding indebtedness and the value of the real estate which is to be transferred. The value of the real estate to be transferred will be deemed to be equal to the reasonable value of the farm which is to be acquired by the transferees (including contemplated improvements) as recertified by the County Committee, less all contemplated expenses of enlargement and improvement to be incurred by the transferees. If any Title I loan funds remaining in the transferors' supervised bank account are to be transferred with the farm (see § 372.25 (b)), the amount thereof will be deducted from the expenses mentioned.

(4) Payment for the equity will be made by the transferees either with personal unborrowed funds or with the proceeds of a subsequent Farm Ownership loan, or both, provided that the portion of the equity which represents the value of growing crops will not be paid from Title I loan funds. (Sec. 1 (a), 60 Stat. 1072; 7 U. S. C. 1001 (a))

(5) All debts owing by the transferors to the Farmers Home Administration should be satisfied before or in connection with receipt by the transferors of any equity payment.

(f) *Transferees' payment period.* In connection with each assumption agreement required in the case, obligations assumed by transferees must be retired within the period of time provided in the notes, bonds, or agreements executed by the transferors in connection with their obligations, unless the County Committee recommends that a longer payment period be established for the transferees and the State Director determines that

such action is necessary. However, in no case will the State Director approve a payment period for the transferees which exceeds either the shortest period which he determines to be necessary or a period of forty years from the date the transferees assume liability.

(g) *Transferees' installments.* In connection with each assumption agreement required in the case, the transferees' first installment will be made payable on the date when an installment next will become due under the instruments executed by the transferors. The payment schedule established in the agreement will provide as accurately as possible for retirement of the assumed indebtedness through payment by the transferees of equal annual installments. However, if the transferees will not have been in possession of the farm for a full crop year prior to the date established for the first payment, will not receive the benefits of the crop grown during such year, and will not have other funds with which to pay a full annual installment (calculated on the basis of the number of all installments to be paid), the State Director may approve a first installment in such an amount as he determines the transferees will be able to pay. Sec. 48, 60 Stat. 1070; 7 U. S. C. 1022)

§ 372.25 *Other matters affecting preliminary arrangements and closings*—(a) *Preventive measures.* It will be the responsibility of the County Supervisor to assist Farm Ownership borrowers to overcome problems which might cause them to give up their farms because of discouragement, dissatisfaction, or similar causes. In so doing, the County Supervisor should proceed with the knowledge and advice of the State Field Representative. He should seek the advice of the members of the County Committee and enlist their assistance. The processing of a transfer docket should be resorted to only after the combined efforts of the County Supervisor and the County Committee fail to develop a satisfactory solution. (Sec. 42 (d), 60 Stat. 1067; 7 U. S. C. 1016 (d))

(b) *Disposition of loan funds unexpended by transferors.* Any Farm Ownership loan funds remaining in the supervised bank account of the transferors, to the extent necessary to cover approved expenditures, may be transferred to a supervised bank account established for the transferees. Any other Farm Ownership loan funds remaining in the transferors' supervised account shall be returned as a refund on the transferors' indebtedness prior to any request made of the Area Finance Office for a current statement of the transferors' Farm Ownership loan account.

(c) *Loan funds obligated for transferors.* If funds have been obligated in favor of the transferors for deferred construction or other authorized purposes, the obligation must be canceled. If necessary, a subsequent Farm Ownership loan may be processed in favor of the transferees to complete planned development. Withdrawing any funds obligated for the transferors, for the purpose of making them available to the transferees, is prohibited.

(d) *Taxes.* Payment of taxes for the year in which the transfer takes place should be considered by the transferors and transferees in making preliminary arrangement regarding terms of the transfer. Any agreement for proration thereof should be noted in the records pertaining to the transfer.

(e) *Property insurance.* Generally, it will be to the advantage of both transferors and transferees if arrangements can be made whereunder, upon conveyance of the property, any unexpired policy of property insurance will be assigned (with the consent of the insurer) to the transferees, and the cost of any prepaid insurance premiums will be shared fairly. If an agreement is reached to prorate the prepaid premiums, the arrangements should provide for a cash payment by the transferees from personal funds to the transferors in the agreed amount in connection with closing. However, if the transfer is being accomplished at a loss to the Government, the arrangements should provide for payment of the agreed amount, through the transferors, to the Government in reduction of the loss. If the premiums were prepaid by the transferors with a direct loan made by the Government, the arrangements should provide for payment on that loan. Payment by the transferees to the transferors of an agreed amount for assignment of the unexpired property insurance policy does not constitute a cost of farm acquisition, enlargement, or improvement, and the amount thereof will not be paid from Farm Ownership loan funds. (Sec. 1 (a), 60 Stat. 1072; 7 U. S. C. 1001 (a))

(f) *Rent.* If the property has been vacated by the transferors and is rented at the time of the transfer, preliminary arrangements between the transferors and transferees should take into consideration the benefits of rent for the rental period during which the transfer is to take place. Any understanding between them with respect to sharing such benefits should be noted in the transfer records.

(g) *Title defects.* A supplementary title examination will be required to establish that no liens have attached to the property subsequent to recording of the security instruments held by the Farmers Home Administration which secure payment of the obligations being assumed by the transferees. Prior to conveyance, the transferors must remove any title defects which are uncovered, so that a clear title may be conveyed to the transferees, subject only to the security instruments which secure the obligations being assumed. (Sec. 3 (a), 60 Stat. 1074; 7 U. S. C. 1003 (a))

(h) *Transfer expenses.* The transfer of a farm which does not require enlargement ordinarily will involve expenses for the purpose enumerated below. Such expenses should be paid by the transferors, either from personal funds or from any remaining part of the service fee in the transferors' supervised bank account. If circumstances require, they may be paid by the transferees either from personal funds or from a service fee if one is included in a subsequent loan to the transferees. Transfer expenses ordinarily include:

(1) Supplementary title examination.

(2) Revenue stamps on the deed if a substantial equity is conveyed.

(3) Public records search for personal charges against the transferees.

(4) Recordation of transfer deed.

(i) *Title insurance.* A new policy of mortgagee's title insurance need not be obtained with respect to the land covered by the security instrument held by the Farmers Home Administration unless the circumstances require execution of a new mortgage by the transferees and the representative of the Office of the Solicitor advises that the original policy thereupon lapses. The advantages of an owner's policy should be explained to the transferees, but they should be permitted to elect whether they will procure a new one, or pay from personal funds the title company's charges for effecting an assignment of the transferor's owner's policy or dispense with owner's title insurance. If the farm being transferred is to be enlarged, title clearance on the new tract will be effected. (Sec. 3 (a), 60 Stat. 1074; 7 U. S. C. 1003 (a))

§ 372.26 *Preparation of transfer docket in county office*—(a) *Preliminary arrangements between transferors and transferees.* The transferors and transferees, in collaboration with the County Supervisor, should reach preliminary understandings as to the material terms under which they desire to consummate the transfer, taking into consideration Farmers Home Administration policies applicable to farm transfers. When preliminary arrangements, satisfactory to them and consistent with such policies, have been agreed upon, their proposed transaction will be referred to the County Committee for certification and recommendations.

(b) *Tentative transfer date.* In selecting a tentative date for transfer, reasonable allowance must be made for all foreseeable time requirements, such as time required by the County Committee for its deliberations, procurement of a current statement of account, completion of the docket, consideration by the State Field Representative, processing in the State Office, preparation of closing instructions, title clearance, and compliance with closing instructions.

(c) *Computation of transferor's outstanding indebtedness.* When Farm Ownership loan funds are to be returned for application on the transferor's Farm Ownership loan account or repayments are being made by the transferor on his Farm Ownership loan in connection with the transfer, such funds will be scheduled to the Area Finance Office before a request is made for a current statement of the transferor's Farm Ownership loan account. The County Supervisor will advise the Area Finance Manager of the impending transfer and request that a current detailed statement of the transferor's Farm Ownership loan account be furnished him. The County Supervisor will inform the Area Finance Manager of any repayments in transit, giving the receipt numbers, dates, and amounts. In addition, he will give the receipt numbers,

dates, and amounts covering any other repayments made on the transferor's Farm Ownership loan account within the past sixty days. The Area Finance Office will prepare a statement of the transferor's account on Form FHA–835, "Certified Statement of Account," showing separately the date and amount of each advance. The amount of unpaid principal, accrued interest, and daily interest accrual may be shown by totals for advances which bear the same interest rate and have the same maturing date. The statement then will be certified as to accuracy. The County Committee will be informed of the total amount of the unpaid principal and the amount of interest that will be accrued on the transferor's Farm Ownership loan as of the proposed date of transfer. The amount of such accrued interest will be computed by adding to the accrued interest shown in the statement the accrued amount from the date of the statement to the proposed date of the transfer, using the daily interest accrual figures furnished by the Area Finance Office.

(d) *Computation of equity.* If the transferors and transferees believe that the value of the property to be transferred exceeds the amount of the outstanding debt, Form FHA–511, "Computation of Equity in TP or FE Farm," will be used by the parties with the assistance of the County Supervisor, in computing the value of the transferors' equity. The amount computed will be reviewed by the County Committee, and its recommendations as to the value of the transferors' equity will be entered on Form FHA–511. (In item 11, of Form FHA–511, reference will be made to three percent, three and one-half percent, or four percent, whichever is applicable.)

(e) *Earning-capacity reports.* The County Committee may request that a current earning-capacity report be prepared for consideration in connection with any other transfer case when one is not available or when they deem it to be necessary. In transfer cases when a current earning-capacity report is not required or requested, the County Supervisor will review the operating records of the farm for the years it has been in the Farm Ownership program and prepare a brief operating history to supplement the original earning-capacity report for use by the County Committee. Abnormal weather or crop conditions, the quality of the transferors' operations, and any other prevailing significant circumstances will be indicated in the history report. However, a current earning-capacity report must be prepared in connection with all proposed farm transfers which involve:

(1) A loss to the Government, unless there is available an earning-capacity report which was prepared within one year prior to recertification of the farm by the County Committee, and there have been no significant physical changes in the farm subsequent to preparation of the report.

(2) A subsequent loan to the transferees for authorized purposes, unless the loan will be in the same amount and for the same purposes as were approved in the transferors' plans for farm development. (Sec. 2 (b), 60 Stat. 1073; 7 U. S. C. 1002 (b))

(f) *Review by County Committee.* The County Committee's deliberations will include, among other things:

(1) Ascertaining whether or not the transferees should assume liability for the full amount of the outstanding indebtedness, considering the amount of the debt calculated to the proposed date of transfer, and the amount and proposed disposition of any Farm Ownership loan funds unexpended by the transferors.

(2) Personal examination of the farm, and review of earning-capacity reports, operating records, and farm-development plans.

(3) Investigation of the eligibility and credit resources of the transferees.

(4) Consideration of matters pertinent to releasing the transferors in full from personal liability.

(g) *Certification of applicant and farm by County Committee.* If the County Committee desires to recommend transfer of the farm, it will certify with respect to the transferees and the farm on Form FHA–499, "Recertification by County FHA Committee." Form FHA–499 will be completed as follows:

(1) The legal description of the complete farm proposed for acquisition and development by the transferees will appear in item 5. Thus, if the farm proposed for transfer is to be enlarged, the farm, with respect to which the certification is made, will include land in addition to that which secures payment of the transferors' indebtedness.

(2) The amount which the County Committee finds to be the fair and reasonable value of the farm described in item 5, based on its normal earning capacity after contemplated improvements are made, will be entered in item 6.

(3) Items 7 and 9 will be stricken if no subsequent Farm Ownership loan to the transferees is involved.

(4) The County Committee's recommendation as to the amount of the outstanding indebtedness which should be assumed by the transferees will be entered in item 8. If assumption of liability for the full amount outstanding is recommended, the word, "all," should be inserted; otherwise, the amount recommended should be entered.

(i) If the transfer involves an equity payment to the transferors, the transferees must assume liability for the full amount of the outstanding indebtedness.

(ii) If no equity payment to the transferors is involved, the transferees will be expected to assume liability for an amount equal to the value of the farm (described in item 5) as certified in item 6, less all expenses of enlargement and development to be incurred by the transferees except such expenses as will be paid from any Farm Ownership loan funds remaining in the transferors' supervised bank account which are approved for transfer with the farm.

(5) If the County Committee believes that the transferees cannot be expected reasonably to retire the obligations to be assumed within the period of time remaining under the transferors existing agreements with the Government, the County Committee will recommend the shortest period of time following consummation of the transfer in which the transferees can be expected to retire the obligations. In such cases, there will be added immediately after the semicolon in line 4 of item 8, the following: "and that such assumed obligations be retired within ____ years after conveyance." The repayment period recommended for the transferees will be entered in the blank. The County Committee will supply a written statement mentioning the factors which, in the County Committee's opinion, necessitate extension of the repayment period. (Secs. 2 (b), 42 (d), 60 Stat. 1073, 1067; 7 U. S. C. 1002 (b), 1016 (d))

(h) *County Committee's recommendation and certification regarding release of transferors.* In connection with all transfers recommended by the County Committee under §§ 372.21 to 372.27, the County Committee also must recommend terms for release of the transferors from personal liability upon closing of the transaction. Such recommendations and certifications will be made in a separate signed statement or signed rider which will be attached to Form FHA–499. A transfer at a loss to the Government cannot be approved, and should not be recommended by the County Committee under §§ 372.21 to 372.27 if the County Committee feels that a certification as to the good faith of the transferors is unwarranted.

(i) *Review by State Field Representative.* After assembly of the docket in the County Office, the State Field Representative will review the case in full and will prepare and insert in the docket his written recommendations with respect to the proposed transaction. If the State Field Representative recommends the transfer, the original docket will be transmitted to the State Director, and the copy of the docket will be retained in the County Office.

§ 372.27 *Approval and closing of transfers*—(a) *Formal determinations and approval by State Director.* The State Director will review the docket and other material pertaining to the case and will ascertain whether the transfer should be approved or disapproved. In connection with approval, the State Director will designate as the date on which conveyance of the farm will take place, either the date proposed in the county, or a later date if such action is deemed necessary. The date selected also will be the date on which the transferees will assume personal liability and the transferors will be released therefrom. If he approves the transfer, he will prepare Form FHA–97, "Agreement for Assumption of Indebtedness," and Form FHA–437, "Release from Personal Liability." If a subsequent loan to the transferee in connection with the transfer is involved, the State Director will sign the original and copy of Form FHA–668, "Loan Agreement and Request for Funds." He will transmit the signed copy to the Area Finance Office with a request that funds be obligated in the amount of the subsequent loan. He will prepare also a memorandum to the rep-

resentative of the Office of the Solicitor in an original and one signed copy. The signed copy will be made a part of the State Office records. The memorandum will include:

(1) A full statement of the terms and conditions under which transfer of the farm is to be consummated, including the date assigned by the State Director for conveyance of the property, terms governing release of the transferors from personal liability, and terms approved for payment of equity, if any.

(2) A statement of the State Director's determination as to the eligibility of the transferees, including their inability to obtain credit.

(3) Mention of any differences between the transaction approved by the State Director and the transaction as proposed by the county office.

(4) A request for preparation of necessary legal instruments and closing instructions for use by the County Supervisor.

(b) *Transmittal for legal action.* If a subsequent loan is involved, the State Director will remove the original of Form FHA–499 and place it in the subsequent loan docket. He then will transmit the transfer docket (and subsequent loan docket if one is involved) to the representative of the Office of the Solicitor. The State Director also will transmit the prepared assumption and release forms and the originals or copies of all documents pertinent to the transfer which are in the custody of the Farmers Home Administration (such as security instruments, notes or bonds, variable payment and other agreements, and title insurance policies).

(c) *Legal review and closing instructions.* After receipt of the memorandum and necessary material pertaining thereto, if the representative of the Office of the Solicitor approves the proposed transaction as to legality, he will prepare closing instructions, and such legal documents as will be required in connection with closing, except those which the closing instructions may indicate are to be prepared by a local attorney, if one is to supervise the closing, and forward them to the County Supervisor. The subsequent loan docket, if one is involved, and a copy of the closing instructions will be returned by the representative of the Office of the Solicitor to the State Director. The other material pertaining to the case which was supplied by the State Director but which will not be needed in the County Office in connection with the closing instructions either will be returned to the State Director, or, pending closing, be retained by the representative of the Office of the Solicitor.

(1) In all states, except in Louisiana, the transferees will not be required to execute a mortgage or other security instrument to secure the obligations assumed by them. However, in particularly complicated cases, a promissory note, bond, mortgage, or variable-payment agreement may be required in addition to Form FHA–97, "Agreement for Assumption of Indebtedness."

(2) In Louisiana, the transferees will execute a new mortgage, which will be effective simultaneously with the deed of conveyance, as security for the obligations assumed under the assumption agreement. The transferees also will execute such supplementary evidences of debt as may be necessary for proper identification of the debt with the new mortgage. Separate mortgages will be necessary to secure obligations bearing different interest rates.

(d) *Closing transfer.* The County Supervisor will proceed with closing the transfer and the subsequent loan, if one is involved in the transfer, in accordance with the closing instructions transmitted to him by the representative of the Office of the Solicitor. When the transferees have signed the original and one copy of Form FHA–97, the deed of conveyance has been filed for record, and the closing instructions otherwise fulfilled, he will transmit to the representative of the Office of the Solicitor information and documents pertinent to the closing as required by the closing instructions. If the representative of the Office of the Solicitor finds that the requirements of the transfer have been satisfied properly, he will so certify to the State Director. The State Director then will execute, on behalf of the Government, the original and one copy of Form FHA–97 and Form FHA–437. The State Director will conform the unsigned copies of Form FHA–97 and all copies of Form FHA–437. He will certify one copy of Form FHA–437. Execution of Form FHA–97 will constitute the State Director's formal approval of the transaction. The original and one copy of the release then will be transmitted to the County Supervisor. The original will be delivered to the transferors. The State Director will transmit to the Area Finance Office the original, one signed copy, and one conformed copy of Form FHA–97, and the certified and one conformed copy of Form FHA–437. The Area Finance Manager will assign a case number to the transferee and insert it in the appropriate spaces on the original and copies of Form FHA–97. The conformed copy of Form FHA–97 then will be returned to the State Director. The State Director will transcribe the case number to all documents in his possession pertaining to the transferee. He then will forward two copies of Form FHA–97 to the County Supervisor. The County Supervisor will retain one copy and deliver one copy to the transferee.

(e) *Completion of records.* Receipt from the State Director of Form FHA–97 and Form FHA–437 by the Area Finance Manager will constitute his authority for closing the account of the transferors and establishing an account for the transferees. The signed copy of Form FHA–97 and the certified copy of Form FHA–437 should be transmitted through channels to the General Accounting Office, Contract Examining Section, Washington 25, D. C., accompanied by a letter of transmittal explaining that Form FHA–97 is being furnished as a contract for the transferees in lieu of the customary form of loan agreement and request for funds, and that the release constitutes the full release of the transferors from personal liability, thereby canceling the loan agreement (or other document by which the transferors' account was established) on file in the General Accounting Office. (Sec. 313, 42 Stat. 26; 31 U. S. C. 54)

## SUBPART C—VOLUNTARY CONVEYANCE OF FARMS TO THE GOVERNMENT

Sections 372.41 to 372.47 interpret and apply secs. 41 (g) (2) (B), 51, 60 Stat. 1065, 1070; 7 U. S. C. 1015 (g) (2) (B), 1025. Other statutory provisions interpreted or applied are cited to text in parentheses.

DERIVATION: §§ 372.41 to 372.47 contained in FHA Instruction 465.3.

§ 372.41 *General.* Sections 372.42 to 372.47 prescribe the authorities, policies, and procedures for:

(a) Processing offers from Farm Ownership borrowers who desire voluntarily to convey titles to their Farm Ownership farms to the Government in lieu of foreclosure. For the purposes of §§ 372.41 to 372.47:

(1) A borrower is the person or persons in whom legal title to a Farm Ownership farm is vested.

(2) A Farm Ownership farm is one which is subject to a first mortgage or deed of trust to secure payment of one or more of the accounts identified in § 372.42.

(b) Crediting borrowers' accounts with the value of their farms.

(c) Releasing borrowers from personal liabilities after such conveyances are made and credits are allowed.

(d) Servicing outstanding balances which may be owing on accounts after credits are allowed.

§ 372.42 *Identification of Farm Ownership loan accounts.* For the purpose of §§ 372.41 to 372.47, accounts are identified and defined as follows:

(a) *Accounts owed to the Farmers Home Administration.* (1) Accounts resulting from Farm Ownership loans made from (i) Title I funds, and (ii) Special Real Estate loans, Farm and Home Improvement loans, and Farm Development loans from funds made available for Loans, Grants, and Rural Rehabilitation.

(2) Accounts resulting from credit sales by the Government of Government-owned farms.

(3) Accounts resulting from notes and mortgages given or assigned as further security on the outstanding debt to the Government securing credit sales of farms which were sold by Defense Relocation Corporations or land leasing and land purchasing associations, except the special accounts listed in paragraph (c) of this section.

(4) Accounts resulting from the assignment to the Secretary of Agriculture of mortgages insured pursuant to the provisions of the Bankhead-Jones Farm Tenant Act, as amended.

(b) *Accounts which represent (in whole or in part) State Rural Rehabilitation Corporation assets.* (1) Accounts resulting from Farm Ownership loans made from State Rural Rehabilitation Corporation funds including loans made on terms comparable to terms of loans under Title I.

(2) Accounts resulting from credit sales by a State Rural Rehabilitation Corporation or the Government of farms which represent an asset of a State Rural

Rehabilitation Corporation or a joint investment asset.

(c) *Special Farm Ownership accounts.* Accounts resulting from notes and mortgages assigned to the Government securing credit sales of farms sold by the following special land purchasing and development corporations:

(1) Dyess Farms, Inc.

(2) Georgia Pine Mountain Valley Rural Community Corporation.

(3) Cherry Lake, Inc.

§ 372.43 *Delegation of authority:* The State Director, subject to the policies and procedures prescribed in §§ 372.41 to 372.47, is authorized to:

(a) Accept a deed offered by a Farm Ownership borrower.

(b) Pay the expenses incident to the vesting of title to a Farm Ownership farm in the Government when a borrower has authorized the charging of such expenses to his Farm Ownership account.

(c) Credit a borrower's Farm Ownership account with the value of his Farm Ownership farm, as determined by the State Director, and with any additional credits to which the borrower may be entitled.

(d) Release a borrower from personal liability on his account after such credits are allowed and to release the lien of (or satisfy) the security instrument.

§ 372.44 *Policies affecting conveyance of title to the Government.* A Farm Ownership borrower who desires to give up his farm should be encouraged to avoid the disadvantages and expenses of foreclosure action by the Government, unless the circumstances are such that no alternative to foreclosure is legally available. In order of preference, the possibilities of the following remedies other than foreclosure should be exhausted: transfer of the farm to an approved applicant; conveyance of title to the Government; sale of the farm for cash outside the program for an amount not less than the amount of the outstanding indebtedness.

(a) *Conditions to be met by borrower before offer can be accepted.* The following conditions must be met by the borrower in connection with an offer to convey title to his farm to the Government before the deed can be accepted:

(1) *Payment of expenses incident to conveyance of title.* He must agree to pay, or consent to the Government paying and charging to his Farm Ownership account, all expenses incident to conveying satisfactory title to the Government, such as cost of:

(i) Supplementary title evidence, including curative material.

(ii) Delinquent real estate taxes and assessments.

(iii) Acknowledgment of the deed to the Government.

(iv) Revenue stamps required on the deed.

(v) Recordation of the deed.

(vi) Recordation of satisfaction of mortgages and other security instruments, cancellations or revocation of powers of attorney, and curative material.

(2) *Removing liens or other title defects.* He must agree, if title examination reveals any liens or other defects which arose subsequent to recording of the security instrument held by the Farmers Home Administration (other than defects resulting from taxes and assessments), that he will remove such defects with personal funds before transfer of title is completed. The expense of curing title defects other than those resulting from taxes and assessments will not be paid by the Government and charged to the borrower's account.

(3) *Assignment of insurance.* He will be required to continue to maintain property insurance on the buildings on his farm while his offer is pending and until such time as title to his farm is vested in the Government. He must agree to assign to the Government all right, title, and interest in:

(i) All existing real property insurance policies insuring the buildings on his farm.

(ii) Any claims under insurance policies for damage to, or destruction of, insured buildings on his farm.

(4) *Assignment of leases.* He must agree to assign to the Government all his right, title, and interest in all outstanding agricultural and mining leases to which his farm is subject.

(5) *Possession.* If the borrower is occupying the farm, he must agree to give possession at the time the deed is accepted. However, if it is desirable that he remain temporarily on the farm, a caretaker's agreement may be entered into with him on Form FHA–529, "Caretaker's Agreement," covering a period of not more than 60 days after acceptance of the deed.

(6) *Refund of unused loan funds.* He must agree to refund, when requested by the Government, any unused Farm Ownership loan funds remaining in his supervised bank account.

(b) *Crediting Farm Ownership accounts with the value of acquired farms.* Upon acceptance of a borrower's offer to convey title to his farm to the Government, the borrower's Farm Ownership account will be credited with the value of his farm, as determined by the State Director, or with the total amount that is owing on his account after all vouchers covering expenses incident to conveying title to the Government are charged thereto, whichever is the lesser.

(c) *Servicing balances outstanding on Farm Ownership accounts after credits are applied.* The source of funds from which a borrower's Farm Ownership account originated is of primary significance in determining the nature of the servicing action applicable to balances outstanding after authorized credits are allowed. The different types of balances outstanding will be serviced as follows:

(1) *Balances outstanding on Farmers Home Administration accounts.* A borrower may be released from personal liability on balances outstanding on accounts owing to the Farmers Home Administration described in § 372.42 (a), with or without the payment of consideration: *Provided,* The County Committee recommends and certifies and the State Director determines that the borrower has cooperated in good faith with the Secretary of Agriculture, has farmed in a workmanlike manner, has used due diligency to maintain the security against loss, and otherwise has fulfilled the covenants incident to his loans to the best of his ability. A release from liability on terms more favorable than those recommended by a County Committee will not be approved. (Sec. 2 (b), 60 Stat. 1063; sec. 2 (b), contained in note under 7 U. S. C. 1001)

(2) *Balances outstanding on State Rural Rehabilitation accounts.* A borrower may be released from personal liability on balances outstanding on accounts which represent, in whole or in part, assets of State Rural Rehabilitation Corporations, provided the balances outstanding are compromised. The State Director is authorized to compromise, adjust, or cancel such balances outstanding when eligible, in accordance with the provisions of §§ 364.1 to 364.9 of this chapter.

(3) *Balances outstanding on special farm ownership accounts.* Balances outstanding on accounts which resulted from notes secured by mortgages assigned to the Government by (i) Dyess Farms, Inc., (ii) Georgia Pine Mountain Valley Rural Community Corporation, and (iii) Cherry Lake, Inc., will not be compromised, adjusted, or cancelled.

(d) *Evidence of release from personal liability.* When no balance outstanding is held against the borrower after consummation of a voluntary conveyance, the borrower's note(s), stamped "Satisfied Through Surrender of Security," will be returned to him and will evidence his release from personal liability.

§ 372.45 *Submission of offers.* Form FHA–411, "Offers to Convey Farm Ownership Farm to the Government," will be used by a Farm Ownership borrower in offering to convey his farm to the Government.

(a) *Tender of deed with offer.* A deed may accompany an offer provided the borrower's Farm Ownership account is wholly owed to Farmers Home Administration (see § 372.42 (a)) and:

(1) The borrower and the County Supervisor believe that the value of the farm is not less than the amount of the Farm Ownership indebtedness plus such expense incident to the conveyance as may be charged to the account: or

(2) The borrower believes that he is eligible for release from personal liability for any balance that may be owing on his Farm Ownership account after allowance of credit equal to the value of his farm.

(b) *Submission of offer without deed.* If the conditions enumerated in paragraph (a) of this section do not exist, a deed will not be tendered with the offer.

§ 372.46 *County committee review and recommendation.* Each offer to convey will be reviewed by the County Committee. The County Committeemen will personally examine the farm and review the current Form FHA–596, Form FHA–643, "Farm Development Plan," when it is necessary to make repairs and improvements to meet minimum standards, and the operating record of the borrower,

before making recommendations. If it appears that the Government should accept the borrower's offer, the County Committee will, in memorandum form, make appropriate recommendations with respect to the fair and reasonable value of the farm.

(a) *Recommended value of offered farms.* In recommending the acceptance of an offer, the County Committee will indicate the fair and reasonable value of the offered farm in its present physical condition, based upon its normal earning capacity.

(b) *Recommendations for release from personal liability on Farmers Home Administration accounts.* In recommending the acceptance of an offer where the borrower is eligible for release from personal liability for the balance owing on his Farm Ownership account after credit is allowed (see § 372.42 (a)), a written statement by the County Committee, certifying that the borrower has acted in good faith and recommending such release, will be required before a borrower can be released.

§ 372.47 *Acceptance of offers.* The State Director will review the recommendations and other material pertaining to the offer when received from the State Field Representative. The State Director will determine whether the farm is suitable or not suitable for Title I purposes and will determine the amount of credit to be allowed to the borrower's Farm Ownership account. For farms suitable for Title I purposes, the amount will be the fair and reasonable value of the farm based upon its normal earning capacity, taking into consideration the "Earning-Capacity Report," the present physical condition of the farm, and the County Committee's recommendation of fair and reasonable value. For farms determined not to be suitable for Title I purposes, the amount will be based upon the resale value of the farm, taking into consideration its physical condition, recent sales of similar farms in the community and other factors affecting value with full regard for the fact that the farm should be resold as soon as possible at no loss to the Government. (See §§ 372.101 to 372.109.) The State Director, if he accepts the offer, will determine whether or not the borrower is to be released from personal liability for any balance that may be owing on his Farm Ownership account. (See § 372.44 (c).)

SUBPART E—MANAGEMENT AND DISPOSITION OF ACQUIRED FARMS

Sections 372.81 to 372.84 interpret and apply secs. 43 (b), 51, 60 Stat. 1067, 1070; 7 U. S. C. 1017 (b), 1025. Other statutory provisions interpreted or applied are cited to text in parentheses.

DERIVATION: §§ 372.81 to 372.84 contained in FHA Instruction 465.5.

§ 372.81 *General.* Sections 372.81 to 372.84 prescribe the authorities, policies, and procedures for the management of acquired Farm Ownership farms from the time title to such farms is vested in the United States until they are sold or disposed of, and for their sale or other disposition. For the purpose of §§ 372.81 to 372.84, Farm Ownership farms are those which have been acquired by the United States by voluntary conveyance or through foreclosure proceedings.

(a) *Expeditious disposition of acquired farms.* Acquired Farm Ownership farms will be sold or otherwise disposed of as expeditiously as possible consistent with the protection of the Government's investment in such farms. Insofar as practicable, preliminary arrangements for the sale of acquired farms should be completed during the process of acquisition. All acquired farms determined to be not suitable for Title I purposes shall be disposed of within 18 months after the date of acquisition.

§ 372.82 *Delegation of authority.* The State Director, subject to the policies and procedures prescribed in §§ 372.81 to 372.84, is authorized to:

(a) Determine the suitability of acquired farms for Title I purposes.

(b) Lease or operate acquired farms.

(c) Where appropriate, pay taxes or to make payments in lieu of taxes on acquired farms.

(d) Authorize such repairs and maintenance of acquired farms as may be necessary to protect the Government's interest.

(e) Sell acquired farms and to execute deeds and other instruments necessary in connection with such sales.

(f) Enter into agreements prorating the payment of rent as between the Government and purchasers of acquired farms.

§ 372.83 *State office routine subsequent to acquisition of farms.* The State Director will take such action with respect to each acquired farm as may be appropriate:

(a) *Suitability of acquired farms for Title I purposes.* The State Director will, as soon as possible after acquisition, determine whether the acquired farm is suitable for Title I purposes. If the farm is, or can be developed into, an efficient family-type farm-management unit having a total value, as repaired, improved, or enlarged, not exceeding the average value of efficient family-type farm-management units in the County with a purchaser's total investment not exceeding the County investment limit, the State Director will determine that the farm is suitable for Title I purposes. If the total value of an acquired farm, as repaired, improved, or enlarged, exceeds the investment limit for the County in which it is located, but does not exceed the average value, the case will be referred to the National Office for prior approval of its suitability for Title I purposes.

(b) *Leasing and care of acquired farms.* The State Director will furnish the County Supervisor with instructions regarding the care and leasing of acquired farms.

(1) *Leasing.* Acquired farms will be leased for the current cropping season, or the remainder thereof, when it is determined that such leasing is necessary to protect the Government's investment. All leases will be on the best reasonable terms obtainable as determined by the State Director. Rent must be payable in cash, but the amount may be based on the market value of shares of agricultural commodities. In leasing farms determined to be suitable for Title I purposes, preference will be given first to approved applicants for Farm Ownership loans and, second, to persons expected to meet the qualifications for such loans. Leases will be on terms that will not delay unnecessarily the sale of farms.

(2) *Caretaking.* Whenever it is impracticable to lease an acquired farm, and caretaking is deemed necessary to protect the Government's investment, such farm may be operated from the date of acquisition until sale or other disposition under caretaker arrangements on terms approved by the State Director. If a caretaker's agreement is used, compensation to the caretaker may not be paid from the proceeds of the property or income therefrom. An acquired farm cannot be operated by the Government under a caretaker's agreement for a period exceeding one year from the date of acquisition. No provision shall be included in a caretaker's agreement which will interfere with expeditious sale or other disposition of the farm.

(c) *Taxation on acquired farms.* Except as hereinafter provided, the Farmers Home Administration is required by law to pay taxes on Farm Ownership farms acquired on behalf of the Government which are determined to be suitable for Title I purposes, and to make payments in lieu of taxes on farms acquired on behalf of the Government which are determined to be unsuitable for Title I purposes. (Sec. 50, 60 Stat. 1070; 7 U. S. C. 1024)

(1) Neither tax payments nor payments in lieu of taxes will be made on acquired farms which represent assets belonging wholly to a State Rural Rehabilitation Corporation trust, except that under the transfer agreement with the South Carolina Rural Rehabilitation Corporation an obligation is imposed on the Secretary of Agriculture to pay out of the trust account such sums as are assessed by local Governments for taxes on lands transferred to the United States.

(2) Neither tax payments nor payments in lieu of taxes will be made on acquired farms which represent assets of Dyess Farms, Inc., Georgia Pine Mountain Valley Rural Community Corporation, and Cherry Lake, Inc.

(3) The determination whether tax payments or in lieu of tax payments will be made on joint investment acquired farms will be made on the basis of the transfer agreements and the respective investments of the Government and the Corporation in the land.

(i) When land comprising a joint investment acquired farm was acquired originally with corporation funds and subsequently improved with appropriated funds, it is considered as real estate belonging to the State Rural Rehabilitation Corporation trust and no taxes will be paid whether or not the farm is suitable for Title I purposes, except in the State of South Carolina where payments measured by tax assessments will be made in either event. Payments in lieu of taxes will be made on such farms, however, only in the States of Alabama,

Arkansas, Florida, Georgia, Louisiana, Michigan, Minnesota, Mississippi, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Washington, West Virginia and Wisconsin.

(ii) When the land was purchased with appropriated funds and improved with corporation funds, it is considered as real estate belonging to the Government and, therefore, if suitable for Title I purposes tax payments will be made in all States and if not suitable for Title I purposes payments in lieu of taxes will be made in all States. (Sec. 50, 60 Stat. 1070; 7 U. S. C. 1024)

(d) *Processing payments of taxes and payments in lieu of taxes.* At the time taxes become due and payable, the State Director will request the County Supervisor to obtain and forward to the State Office separate statements from appropriate tax collecting officials, showing the amount of taxes that are due on each acquired farm under his jurisdiction on which tax payments are to be made, or the amount of taxes that would be due had taxes been assessed on farms on which payments in lieu of taxes are to be made. In case the statement discloses an appreciably increased rate or assessed valuation over former years, the County Supervisor will furnish full details with respect to such increase to the State Director. When there appears to have been an unjustifiable increase the State Director, with the advice of the representative of the Office of the Solicitor, will take such action as may be appropriate. In case taxes or payments in lieu of taxes are to be paid, the State Director will have Standard Form 1034 prepared and processed in accordance with applicable provisions of § 363.22 of this chapter.

(e) *Sale within the Farm Ownership program of acquired farms.* Acquired farms which are determined to be suitable for Title I purposes will, whenever practicable, be sold within the Farm Ownership program. However, such farms will be sold as expeditiously as possible, and will not be held for an unreasonable length of time for within-program disposal. If the farm cannot be sold to an eligible purchaser within two years from the date of acquisition, the State Director will report the case to the National Office for advice as to whether to dispose of such property outside of the Farm Ownership program.

(1) *Determination of selling price.* The State Director will establish the selling price, based upon the normal earning capacity of the farm, taking into consideration such amounts as may be required to repair, improve, or enlarge the farm to meet established Farm Ownership standards, and the reasonable value of the Government's interest in the mineral rights.

(2) *Disposition of growing crops.* Growing crops, when not harvested under a caretaker's agreement, may be sold with the farm or separately. The State Director will determine the selling price thereof separately from that of the farm. Such crops may be sold for cash, but Title I funds may not be loaned to enable a purchaser to make such purchases. When growing crops are sold on credit, either with the farm or separately, a separate note will be taken to evidence the balance of the sale price, (which in the case of a separate sale will not exceed 80% of the total sale price), payable not later than when the crops will be harvested. The separate note will be secured by a lien on the growing crops. (Secs. 1 (a), 43 (d), 60 Stat. 1072, 1068; 7 U. S. C. 1001 (a), 1017 (d))

(3) *Selection of purchaser.* The purchaser will be selected from applicants tentatively approved in accordance with §§ 316.21 to 316.24 c this chapter, with preference accorded veterans as provided in §§ 316.1 to 316.6 and §§ 321.1 to 321.8 of this chapter.

(f) *Methods of selling acquired farms within Farm Ownership program.* Three different methods of selling, within the Farm Ownership program, acquired farms which have been determined to be suitable for Title I purposes will be followed. The State Director will inform the County Supervisor of the appropriate method under which each acquired farm may be sold. The methods and types of farms to which each method is applicable are:

(1) *Sale on credit where no loan is required.* Any acquired farm determined to be suitable for Title I purposes, except one which represents in whole or in part a trust asset of a State Rural Rehabilitation Corporation or an asset of the Georgia Pine Mountain Valley Rural Community Corporation, Cherry Lane, Inc., or Dyess Farms, Inc., may be sold on credit to an approved applicant for a Farm Ownership loan when a loan is not required by the purchaser in connection with the sale. Such a sale will be considered as an initial loan and will be made on terms similar to and in a manner consistent with the provisions for making initial Farm Ownership loans.

(2) *Sale on credit when a loan is required.* When a Farm Ownership direct or insured loan is required by the purchaser for repairs to, or improvement or enlargement of, an acquired farm, the loan will be considered as a subsequent loan. (Sec. 1 (a), 60 Stat. 1072; 7 U. S. C. 1001 (a)) Only the following classes of farms may be sold on credit simultaneously with approving the loan on terms similar to and in a manner consistent with the provisions for making subsequent Farm Ownership loans:

(i) Acquired farms which represent solely investments of Title I funds.

(ii) Farms which were sold in project liquidation on terms in accordance with Title I and subsequently reacquired by Government, provided no part of the investment represents assets administered in trust for a State Rural Rehabilitation Corporation.

(3) *Sale for cash through loan to purchaser.* Each acquired farm which represents a trust asset of a State Rural Rehabilitation Corporation or an asset of the Georgia Pine Mountain Valley Rural Community Corporation, Cherry Lake, Inc., or Dyess Farms, Inc., and each project liquidation acquired farm which represents a joint investment of Government funds and State Rural Rehabilitation Corporation funds will be sold for cash and a Farm Ownership direct or insured loan may be made for acquisition, regardless of whether additional amounts are needed for repairs, improvements, or enlargement. Also, when the purchaser requires Farm Ownership funds for repairs, improvements or enlargement, in connection with the following types of acquired farms, the loan will include funds for the purchase as well as the repair, improvement, or enlargement of the farm:

(i) Farms which, before acquisition, represented security for Farm Development loans (including former Farm and Home Improvement and Special Real Estate loans) made from funds available for Loans, Grants and Rural Rehabilitation.

(ii) Farms which represented a project liquidation unit sold not pursuant to Title I.

(iii) Farms which were acquired by foreclosure or deed in lieu of foreclosure of mortgages or deeds of trust assigned to the Government by a defense relocation corporation or a land leasing and land purchasing association. (Sec. 1 (a), 60 Stat. 1072; 7 U. S. C. 1001 (a))

(g) *Disposal of farms outside the Farm Ownership program.* Acquired farms, or parts thereof, determined to be not suitable for Title I purposes and suitable farms which cannot be sold to an eligible purchaser within a reasonable time will be sold as expeditiously as possible outside the program by the Farmers Home Administration unless special reasons require their transfer to appropriate Government agencies for disposition. Farms, or parts thereof, which at the time of acquisition are determined not to be suitable for Title I purposes will in no event be held by Farmers Home Administration longer than eighteen months from the date of acquisition.

(1) *Sale by the Farmers Home Administration.* The State Director will instruct the County Supervisor with respect to functions to be performed in connection with the disposal of such farms. The State Director is authorized to sell such farms at public or private sale to any individual at the best price obtainable, after public notice. The sale may be either for cash or on terms of at least twenty percent (20%) cash with the balance secured by a first mortgage or deed of trust on the property and payable in equal annual installments within five years with interest at five percent (5%) on the unpaid principal payable annually. The procedure prescribed in §§ 372.101 to 372.109 will be observed in carrying out the sales of farms under this subparagraph.

(2) *Reporting farms for transfer as surplus.* When the State Director is of the opinion that it is to the Government's interest that a farm be transferred for sale by the appropriate disposal agency of the Government rather than for it to be sold by the Farmers Home Administration, he will submit his recommendation to the National Office with full legal description and other pertinent information regarding the farm. (Sec. 43 (d), 60 Stat. 1068; 7 U. S. C. 1017 (d))

(h) *General matters pertaining to the sale of acquired farms.* The following general provisions will apply in connection with the sale of acquired farms:

(1) *Type of deed form.* Conveyances will be made by deed without warranty and will be executed by the State Director. If legally possible, and the sale is to be made within the Farm Ownership program, the deed should create an estate with the right of survivorship. All minerals or mineral rights of the Government will be conveyed to the purchaser. (Sec. 9, 60 Stat. 1080; 7 U. S. C. 1031)

(2) *Abstracts of title.* Abstracts of title held by the Government which cover only the land involved in a particular sale may be sold with the farm. When the sale is on credit terms or a loan is made in connection with the sale, the abstract will be retained by the Government until the security instruments securing the credit sale or loan are fully satisfied. (Sec. 44 (b), 60 Stat. 1069; 7 U. S. C. 1018 (b))

(3) *Sales expense.* No expenses incident to the sale, such as revenue stamps, recording of mortgage, intangible taxes, or title insurance when required, will be borne by the Government.

(4) *Title clearance.* Title clearance for farms suitable for Title I purposes will be effected in accordance with the applicable provisions of §§ 327.1 to 327.8 of this chapter.

(5) *Proration of rent.* When an acquired farm, or part thereof, is under lease which is not to be canceled at the time of sale, and the rent has not become due before the sale is made, and the lease does not contain provisions governing the proration of rent in the event of sale of the farm, the State Director will arrange for any prorated distribution of rent between the Government and the purchaser which is found by the State Director to be equitable and not detrimental to the financial interest of the Government.

§ 372.84 *County Office management and sales routine.* The State Director will furnish the County Supervisor with a copy of Form FHA–412, "Advice of Mortgaged Real Estate Acquired," covering each farm located within his jurisdiction to which the Government has acquired title.

(a) *County Office management functions with respect to acquired farms.* The State Director will issue specific instructions to the County Supervisor with respect to management functions required of him in connection with each acquired farm prior to its sale or other disposition.

(b) *Leasing of acquired farms.* When the State Director authorizes the leasing of an acquired farm, he will advise the County Supervisor of the terms and conditions under which the farm will be leased. Upon receipt of such advice, the County Supervisor will prepare Form FHA–435, "Lease of Farm." The lessee will be required to sign the original and two copies.

(c) *Caretaker arrangements on acquired farms.* If the State Director authorizes a caretaker arrangement, he will advise the County Supervisor of the terms and conditions thereof. Form FHA–529, "Caretaker's Agreement for Farm Ownership Farm," will be prepared.

(d) *Sale of acquired farms within Farm Ownership program.* The State Director will inform the County supervisor of the selling price of each acquired farm suitable for Title I purposes and the method, or methods (if more than one method is applicable) under which the sale may be consummated (see § 372.83 (f)). The State Director will inform the County Supervisor of any requirements, in addition to those prescribed herein, to be met in the processing of the docket in connection with the sale of a particular farm. An applicant will be selected in accordance with §§ 316.1 to 316.6, §§ 316.21 to 316.24, and §§ 316.41 and 316.42 of this chapter, with preference accorded to veterans. (Sec. 1 (b) (2), 60 Stat. 1073; 7 U. S. C. 1001 (b) (2)) An application to purchase will be processed in the same manner as an application for an initial direct Farm Ownership loan as prescribed in §§ 331.1 to 331.11 of this chapter, with the following modifications in form requirements:

(1) *Sale on credit where no loan is required.* Form FHA–188, "Option for Purchase of Farm," and Form FHA–5, "Loan Voucher," will be omitted from the docket. Form FHA–643, "Farm Development Plan," will also be omitted, unless the purchaser will expend his own funds for development, or the State Director requests that the Form be included.

(i) The following statement will be inserted on the original and all copies of Form FHA–668, "Loan Agreement and Request for Funds," in any space above the signatures of the applicant and his wife, before the form is signed by them:

I hereby certify that I am unable to obtain credit sufficient in amount to finance our actual needs at rates (but not exceeding the rate of five percent per annum) and terms prevailing in or near the community in which I reside. (Sec. 44 (a) (3), 60 Stat. 1068; 7 U. S. C. 1018 (a) (3))

(ii) One of the following statements will be added to the bottom of the reverse side of the original and all copies of Form FHA–668:

The total indebtedness of $_____ to be incurred by the applicant under this agreement represents the purchase price of land owned by the Government, under Advice No. _____ dated _____ and sold to the applicant.

The total indebtedness of $_____ to be incurred by the applicant under this agreement, plus $_____ down payment, represents the purchase price of land owned by the Government, under Advice No. _____ dated _____ and sold to the applicant.

(iii) The following statement will be inserted in Item 9 (A) of Form FHA–491, "County Committee Certification," following the words "to enable him to":

* * * acquire the farm, it being understood that the amount of the loan represents the purchase price (or a part of the purchase price) of said farm which is herewith recommended for sale by the Government to the applicant in a manner consistent with the provisions of Title I. (Sec. 2 (d), 60 Stat. 1074; 7 U. S. C. 1002 (d))

(iv) The note and, where legally permissible, the deed and mortgage will be dated as of the date of approval of Form FHA–668 by the State Director.

(2) *Sale on credit when a loan is required.* When a credit sale and loan are to be accomplished at the same time, Form FHA–190, "Promissory Note," will evidence the total amount of the debt (purchase price of unit plus amount of cash loan). Where legally permissible, the deed, note, and mortgage will be dated the date of the loan check. All forms required in connection with the processing of the loan, as prescribed in §§ 333.1 to 333.11 of this chapter, will be included in the docket, except that any form required in complying with §§ 331.1 to 331.11 of this chapter will not be duplicated.

(i) The following statement will be inserted on the original and all copies of Form FHA–668 in any space above the signatures of the applicant and his wife, before the form is signed by them:

I hereby certify that I am unable to obtain credit sufficient in amount to finance our actual needs at rates (but not exceeding the rate of five percent per annum) and terms prevailing in or near the community in which I reside. (Sec. 44 (a) (3), 60 Stat. 1068; 7 U. S. C. 1018 (a) (3))

(ii) The following statement will be added to the bottom of the reverse side of the original and all copies of Form FHA–668:

The total indebtedness of $_____ to be incurred by the applicant under this agreement represents the purchase price of $_____ of land owned by the Government under Advice No. _____, dated _____, and to be sold to the applicant, plus the sum of $_____ in cash to be loaned to the applicant by the United States.

(iii) The following statement will be added in Item 9 (A) of Form FHA–491, "County Committee Certification," after the appropriate statutory purposes of the loan have been inserted:

* * * it being understood that _____ dollars of such "Title I loan" represents the purchase price of said farm, which is herewith recommended for sale by the Government to the applicant in a manner consistent with the provisions of said Title I. (Sec. 2 (d), 60 Stat. 1074; 7 U. S. C. 1002 (d))

## SUBPART F—SALE OF FARMS NOT SUITABLE FOR PURPOSES OF TITLE I

Sections 372.101 to 372.109 interpret and apply secs. 43 (d), 51, 60 Stat. 1068, 1070; 7 U. S. C. 1017 (d), 1025. Other statutory provisions interpreted or applied are cited to text in parentheses.

DERIVATION: §§ 372.101 to 372.109 contained in FHA Instruction 465.6.

§ 372.101 *General.* Sections 372.102 to 372.109 prescribe supplemental authorities, policies, and procedures for the sale outside the Farm Ownership program by the Farmers Home Administration of acquired farms, or parts thereof, which have been determined to be not suitable for the purposes of Title I of the Bankhead-Jones Farm Tenant Act, as amended. (See §§ 372.81 to 372.84.)

§ 372.102 *Delegation of authority.* Subject to the policies and procedures contained in §§ 372.102 to 372.109 and in §§ 372.81 to 372.84, the following additional authorities with respect to acquired farms, or parts thereof, determined not to be suitable for the purposes

of Title I, are delegated to the State Director:

(a) To procure, and approve vouchers in payment of, appraisals of such farms, or parts thereof. This authority will not be redelegated.

(b) To invite, accept, or reject bids and negotiate for the sale of such farms, or parts thereof. The State Director will not redelegate the authority to accept or reject bids, but may redelegate the authority to invite bids and to undertake preliminary negotiations for the sale of such farms, or parts thereof.

§ 372.103 *Terms and conditions of sale.* Each sale of real property, pursuant to §§ 372.101 to 372.109, will be subject to the following terms and conditions:

(a) *Eligible purchasers.* A sale may be made to any available purchaser except to a private corporation. (Sec. 46, 60 Stat. 1069; 7 U. S. C. 1020) Farmers Home Administration employees are eligible to purchase such farms, or parts thereof, only when the sale is based upon competitive bids: *Provided,* That no sale shall be made, either directly or indirectly, to an employee who was in any way connected with its declaration as surplus or who was formerly accountable for the property or connected in any way with the negotiations for the sale thereof. This restriction applies to State and County Committeemen. No sale may be made to persons related to ineligible employees, including Committeemen, within the third degree of consanguinity or affinity, without the prior approval of the Administrator.

(b) *Mineral rights.* All minerals and mineral rights, title to which is vested in the Government, will be included in the sale of the property. (Sec. 9, 60 Stat. 1080; 7 U. S. C. 1031)

(c) *Sale of abstracts.* Abstracts of title or other evidence of title held by the Government, which cover only the land involved in a particular sale, may be sold with the property, provided that when the sale is on credit such abstract(s) or other evidence of title will be retained by the Government until the purchase price is fully paid.

(d) *Terms.* The property shall be sold for the best price obtainable after public notice is given. The property should be sold preferably for cash, but may be sold on credit, secured by the property, when a purchaser for cash is not available, and will be sold on credit when a greater recovery can be obtained by credit sale (see § 372.108 (b)). In credit sales, an initial cash down payment of not less than twenty percent (20%) of the sale price must be made upon each sale, and the balance of the sale price must be paid in equal annual installments payable over a period of not to exceed five (5) years, with interest on the unpaid balance at the rate of five percent (5%) payable annually.

§ 372.104 *Plan of sale.* The State Director will, in order to secure the best price obtainable, develop a plan of sale for each property to be sold. In developing such a plan, consideration should be given to (a) subdivision and offering the property in units; (b) sale of land and marketable timber separately in order to obtain a better price than would be secured from the sale of the land with the timber thereon; and (c) determination of the terms on which bids will be invited.

§ 372.105 *Request for allotment to defray sales costs.* In the event that it is necessary to procure an outside appraisal report or formally advertise the property in newspapers, the State Director will request the establishment of an allotment of funds for such purposes in connection with the sale of each farm. Estimates for the cost of maintenance or repair work may be included when in the opinion of the State Director it will be impossible to sell the property for its reasonable value without making such expenditures, and the repairs or maintenance will add more to the fair market value of the property than the cost of the repairs or maintenance. Each request for an allotment will show the type of asset or security represented by the property.

§ 372.106 *Public notice.* The State Director will arrange for exposing the property to the market and for giving public notice of sale. The manner and form of giving public notice will be approved as to legal sufficiency by the representative of the Office of the Solicitor before release. If public notice and efforts to negotiate a sale of the property should fail to produce a reasonable offer or bid, public notice will again be given if, in the opinion of the State Director, such notice is likely to create additional interest.

(a) *When the value is $2,500 or less.* When the fair market value of the property, as determined by the State Director, does not exceed $2,500, public notice will be given by the State Director either by having appropriate notice of sale posted in not less than three public places (e. g., courthouse, postoffice building, and so forth) in the area where the property is located, or by publishing such notice of sale in the newspapers in accordance with the procedure for placing of advertising. When the State Director deems it desirable, in the interest of adequately exposing the property to the market, he may give such public notice by both posting the notices of sale and publishing them in the newspapers.

(b) *When the value exceeds $2,500.* When the fair market value of the property, as determined by the State Director, exceeds $2,500, public notice will be given by advertising the property formally, in sufficient newspapers, periodicals, trade journals, and other publications, and the employment of handbills, posters, and so forth, to expose the property adequately to the market.

§ 372.107 *Invitation to submit offer or bid*—(a) *When value is $2,500 or less.* When the fair market value of the property, as determined by the State Director, is $2,500 or less, the sale may be negotiated without sealed bids. After the period specified in the notice of sale has expired, the State Director, or the Farmers Home Administration employee authorized to do so by the State Director, will undertake negotiations for sale of the property with all persons who may be interested. Each designation of an employee to negotiate the sale will be made by the State Director in writing. A written report will be made of all negotiations conducted. When the negotiations are undertaken by the State Director and the best offer is acceptable to him, the offer will be reduced to writing on Form FHA–216, "Invitation, Bid, and Acceptance." The original and one copy of Form FHA–216 will be signed by the bidder and accompanied by the amount of the required deposit in the form of a certified check, money order, or cashier's check payable to the Treasurer of the United States. When the negotiations are undertaken by an employee other than the State Director, the best offer obtained, if it is likely to be considered to be acceptable, will likewise be reduced to writing on Form FHA–216, and Form FHA–216 then will be submitted to the State Director together with the deposit and the written report of all negotiations. Before final acceptance of an offer, the State Director will submit Form FHA–216 to the representative of the Office of the Solicitor for review as to legal sufficiency. The applicable procedure outlined in § 372.108 will be followed with respect to analyzing, accepting, and awarding such offers.

(b) *When the value exceeds $2,500.* Sealed bids will be invited in connection with the offering of each property when the fair market value, as determined by the State Director, exceeds $2,500. The State Director will furnish prospective bidders with sufficient copies of Form FHA–216, and with properly addressed envelopes (requiring postage to be paid by the bidder) for transmitting bids, and will request conformity with the detailed instructions contained in Form FHA–216 for the preparation and submission of bids. The State Director will sign section I of Form FHA–216 as issuing officer.

(c) *Preparation of invitation to bid.* (1) Form FHA–216 provides optional payment plans. If the State Director determines to invite bids on an all cash bid only, payment plan "A" will be made applicable by deleting payment plan "B" and paragraph "C" of section IV of Form FHA–216.

(2) If the State Director determines that offers will be acceptable on either payment plan "A" or payment plan "B", he will make the determination as to the percentage of the bid that will be required as an initial cash payment, which in no case will be less than twenty percent (20%), and fill in the blank in line 1 of payment plan "B". The State Director also will determine the period within which the balance of the sale price is to be paid, which period must not exceed five (5) years. The terms of payment of the balance of the sale price, together with the interest rate of five percent (5%) per annum, will be filled in on the two blank lines under payment plan "B".

(3) The State Director will determine the percentage of the bid to be required as a deposit, and will fill in the blank space in paragraph A 1 of section IV of Form FHA–216. The amount of deposit ordinarily should be ten per cent (10%) of the total bid, but in no case shall it be less than five per cent (5%).

(4) Whenever practicable, taxes or payments in lieu of taxes, rents, or receipts from the operation of the property for the current year will be prorated as of the date of delivery of the deed, and, when so prorated, "date of delivery of deed" will be inserted in the blank space in paragraph A 7 of section IV of Form FHA–216. When the property is under lease for the crop year and is sold during the crop year in two or more tracts, or when existing leases are on a share-of-the-crop basis and it is impracticable for these or other reasons to prorate rent as of the date of delivery of the deed, the State Director will insert a definite future date to which the Government will continue to receive all rents, and paragraph A 7 of section IV will be modified by making separate provision for proration of rents or other receipts, as distinguished from taxes or payments in lieu of taxes.

(5) A legal description of the property will be prepared and attached to Form FHA–216 as "Exhibit A". When applicable, the following sentence will be inserted under the legal description: "The above described land will be sold subject to the following specific conditions, reservations, and exceptions:". Following this, any specific conditions, reservations, and exceptions, such as easements, leases, back taxes, and so forth, will be listed.

§ 372.108 *Receiving, custody, and acceptance of bids.* The State Director will indicate the date and hour bids are received in the State Office by placing this information on all envelopes containing bids. Bids received prior to the hour and date stipulated in the advertisement for the bid opening will be kept in a locked container until the time fixed for opening. The State Director will have sole custody of the key at all times. Bids may be withdrawn or modified by written or telegraphic request received from the bidders prior to the time fixed for opening bids, but no bids may be withdrawn or modified after the time fixed for opening.

(a) *Opening of bids.* (1) All bids received will be opened at the hour stipulated in the advertisement. The State Director and at least three Farmers Home Administration employees will be present at the opening. All other interested persons who may desire to attend also may be present. The State Director will designate a secretary who will record the date and hour the bid opening began, the names of the Farmers Home Administration employees present, and tabulate information with respect to each bid as it is opened.

(2) When a bid is not accompanied by certified check, money order, or cashier's check, payable to the Treasurer of the United States, in an amount at least equal to the amount of deposit required in Form FHA–216, the bid will be disqualified, except that when such bid is the high bid and is otherwise acceptable, the bidder will be requested to make the required deposit within a stipulated period of time. If the bidder does not comply with this request, the bid will likewise be disqualified.

(b) *Analysis of bids.* In analyzing bids as to acceptability, the highest qualified bid shall be the determining factor without regard to whether the bid is under payment plan "A" or payment plan "B". That is, a bid under payment "B" must be accepted if it is higher than any bid under payment plan "A", or vice versa.

(c) *Acceptance of bids.* When a bid exceeds $12,000, the State Director shall obtain the prior approval of the National Office before accepting or rejecting the bid. The request for approval submitted to the National Office will include (i) the information tabulated at the opening with respect to each bid, (ii) a copy of Form(s) FHA–736 made on the property, (iii) a report on the type and extent of the advertisement of sale of the property, (iv) a copy of the advertisement, (v) the originals of Forms FHA–216 received from the three highest bidders, and (vi) the recommendations of the State Director.

(1) *Manner of acceptance.* The State Director will accomplish acceptance of a bid by signing in the "Acceptance" block in section III on the original and one copy of Form FHA–216. The signed copy of the accepted bid Form will be mailed to the successful bidder on the acceptance date by registered mail with return receipt requested.

(2) *When a bid is accepted immediately.* If a bid is accepted immediately, the State Director will transmit the deposit of the successful bidder to the Area Finance Office for scheduling into the Special Deposits Account of the United States Treasury Regional Disbursing Office, and the deposits of the unsuccessful bidders will be returned promptly by registered mail with a covering letter of explanation.

(3) *When a bid is not accepted immediately.* If a bid is not accepted immediately, the State Director will transmit the deposits of the three highest bidders to the Area Finance Office for scheduling into the Special Deposits Account of the United States Treasury Regional Disbursing Office, where they will be held until final action is taken. All deposits of bidders other than the deposits of the three highest bidders will be returned promptly by registered mail with a covering letter of explanation. If one of the three highest bids is later accepted, the State Director will request the Area Finance Manager to refund the deposits of the other bidders. If all bids are rejected, the State Director will request the Area Finance Manager to refund the deposits of all three bidders. At the time the State Director requests the Area Finance Manager to refund deposits, the State Director will notify each unsuccessful bidder in writing that his bid has been rejected and that the Area Finance Manager has been requested to refund the deposit.

(d) *Award to successful bidder.* Upon acceptance of a bid by the State Director, Standard Form No. 1036, "Statement and Certificate of Award," will be prepared in an original and two conformed copies. The original will be signed by the State Director. In the space below the "Certificate" will be shown the name and address of the successful bidder, and the following statement: "Award was made pursuant to authority contained in sections 43 (d) and 51 of the Bankhead-Jones Farm Tenant Act, as amended by Public Law 731, 79th Congress (60 Stat. 1062)."

(e) *Negotiated sale.* In the event that all bids are rejected or no bids are received, the State Director may negotiate immediately with the bidders and other prospective purchasers, and consummate the sale of the property, when the negotiated offer is less that $12,000, at the best price obtainable without further advertising, provided that there are no indications that readvertising will create additional interest and result in a higher bid. When the negotiated offer is $12,000 or more, the State Director shall obtain the prior approval of the National Office in the same manner as provided in paragraph (c) of this section. Any negotiated sale shall be on terms not less favorable, and at a price not lower, than the best terms and highest price offered as a result of public notice.

§ 372.109 *Closing of sale and routing of documents.* Promptly after acceptance of the bid, the State Director will conform three copies of Form FHA–216 and will forward to the representative of the Office of the Solicitor the originals of Form FHA–216 and Standard Form No. 1036 and such other pertinent material as may be necessary to close the sale. He will request the representative of the Office of the Solicitor to prepare the necessary legal instruments and closing instructions. The quitclaim deed, promissory note and security instrument will conform as nearly as possible to the type used in closing ordinary business transactions involving the sale of land in the locality where the property is located. The representative of the Office of the Solicitor will return the originals of Form FHA–216 and Standard Form No. 1036 and other pertinent material to the State Director with the closing instruments and instructions. After a sale on credit is closed, all documents executed in complying with the closing instructions will be forwarded to the representative of the Office of the Solicitor who will return the documents to the State Director with an opinion as to whether the sale has been properly closed.

(a) *Notification to tax officials and lessees.* After the deed has been delivered to the purchaser, the State Director immediately will send notice of the sale to the proper tax officials by registered mail, giving the name and address of the purchaser, the date of delivery of the deed, a description of the land, and stating that the United States of America no longer holds title to the property. If the property is subject to an oil, gas, or mineral lease, the State Director will notify the lessee(s) in the same manner.

(b) *Scheduling of proceeds.* All payments received (whether as deposit, down payment, installment payment, or full payment) on the purchase price of the property under the terms of the accepted bid will be scheduled by the collecting official to the Area Finance Office. No receipt will be issued on Form FHA–37, "Receipt for Payment," for any part of the down payment, or for full cash payment at the time of closing. However, Form FHA–37 will be issued in receipting payments on that part of the purchase price evidenced by a promissory note.

Subchapter F—Miscellaneous Regulations

## PART 381—1948 FLOOD LOAN PROGRAM

Sec.
381.1 General.
381.2 Purpose and scope of program.
381.3 Eligibility and certification.
381.4 Loan purposes.
381.5 Rates and terms.
381.6 Security requirements.
381.7 Advances for real estate repairs and improvements.
381.8 Loan processing.
381.9 Loan approval.
381.10 Servicing flood loans.

AUTHORITY: §§ 381.1 to 381.10 issued under Order, Sec. Agric., July 9, 1948, 13 F. R. 4147. Interpret and apply item, "Loan to Farmers, 1948 Flood Damage," Pub. Law 785, 80th Cong. (62 Stat. 1038). Other statutory provisions interpreted or applied are cited to text in parentheses.

DERIVATION: §§ 381.1 to 381.10 contained in FHA Instruction 444.1.

§ 381.1 *General.* Sections 381.2 to 381.10 provide policies and procedures for the making and servicing of Flood Loans authorized under the Second Deficiency Appropriation Act, 1948.

§ 381.2 *Purpose and scope of program.* The primary purpose of this program is the extension of credit to farmers in flood stricken areas who are unable to obtain necessary credit from private or other public sources at reasonable rates and terms to continue farming operations. To accomplish this purpose flood loans may be made to farmers whose farm property, either real or personal (including crops), was destroyed or damaged by floods occurring during the 1948 calendar year and who otherwise are eligible for such loans. Funds are available for this purpose through June 30, 1949. The flood loan program will be restricted to States designated by the Administrator. Planning and supervisory assistance will not be provided flood loan borrowers by the Farmers Home Administration unless such borrowers also are indebted to the Farmers Home Administration for other types of loans in connection with which such assistance is furnished. (Sec. 44 (b), 60 Stat. 1069; 7 U. S. C. 1018 (b)) However, in connection with the repair, rehabilitation, or replacement of property damaged by floods, technical assistance will be necessary in many cases to make sound loans and to assure the wise use of funds advanced. Applicants should utilize the services provided by Federal and State agencies and, when feasible, the services of qualified private firms in obtaining needed technical assistance. Farmers Home Administration is responsible for assisting applicants to obtain such services from other sources, and may provide minimum technical services to applicants whenever personnel is available.

§ 381.3 *Eligibility and certification.* Any farm owner or any farm operator whose farm property, either real or personal (including crops), was destroyed or damaged by flood occurring during the 1948 calendar year is eligible to receive a flood loan provided the financial assistance needed by the applicant to continue his farming operations is not available to him through private or other public sources at reasonable rates and terms.

(a) *Certification by applicant.* Before a loan may be made the applicant must certify on Form FHA–663, "Application and Certifications for Flood Loan," that he has suffered loss as a result of flood occurring during the 1948 calendar year and that he is unable to obtain necessary credit with which to continue his farming operations from private or other public sources at reasonable rates and terms.

(b) *Certification by County Committee.* Before a loan may be made the County Committee must certify on Form FHA–663 that:

(1) The applicant has suffered loss as a result of flood occurring during the 1948 calendar year,

(2) Credit necessary for the applicant to continue his farming operations is not available to him at reasonable rates and terms from private or other public sources, and

(3) The applicant honestly will endeavor to carry out the undertakings and obligations required of him under the loan.

§ 381.4 *Loan purposes.* Flood loans may be made for the following purposes:

(a) The purchase of feed, seed, and fertilizer.

(b) The purchase of livestock.

(c) The purchase of farm and home equipment, or the repair thereof.

(d) The refinancing of indebtedness secured by liens on property other than real estate where the property involved is essential to the applicant's farming operations and the present creditor will not continue to carry the indebtedness on satisfactory terms.

(e) The replacement or repair of buildings, fences, drainage and irrigation systems on individual farms.

(f) The leveling of land and the clearing of debris therefrom necessary as a result of flood damage.

(g) Other farm and home operating expenses essential to continued operations.

(h) Expenses incident to the making of such loans.

§ 381.5 *Rates and terms.* Flood loans will bear interest from the date of the advance at the rate of 3 percent per annum on the unpaid principal. Such loans will be scheduled for repayment in at least annual installments over the minimum period of time consistent with the anticipated ability of the borrower to repay subject to the following:

(a) The repayment schedule may not extend beyond the estimated useful life of the security property.

(b) In no case may loans secured by liens on chattel property be scheduled for repayment over a period extending beyond 10 years from the date of the advance.

(c) Loans secured by liens on real estate in accordance with the policy contained in § 381.6 may be scheduled for repayment over a period not in excess of 20 years from the date of the advance.

(d) The first installment may be scheduled for repayment at the end of the second crop year following the date of the loan when the "Balance Available" as shown in Table K, Item 11 of Form FHA–663 is not sufficient to permit the applicant to make a payment on the flood loan at the end of the first crop year.

§ 381.6 *Security requirements.* (a) Except as provided in paragraph (b) of this section, flood loans will be secured for the full amount of the loan by (1) a first lien on all livestock and equipment purchased or refinanced with proceeds of the loan, (2) the best lien obtainable on crops growing or to be grown, and (3) the best lien obtainable on as much of the livestock and farm equipment of security value owned by the applicant at the time the loan is made as the loan approving official determines necessary reasonably to secure the flood loan.

(b) Flood loans made primarily for real estate repairs and improvements and which require longer periods for repayment than would be prudent to encumber livestock and equipment as security, should be secured only by real estate liens. However, the applicants must have sufficient equity in the real estate to secure adequately the flood loan.

§ 381.7 *Advances for real estate repairs and improvements.* (a) Generally, loans for real estate repairs and improvements should be made to the owner of the real estate. However, a loan for this purpose may be made to a tenant when adequate chattel security can be obtained, but in such cases the landlord will be required to compensate the tenant for the improvement to the real estate. This may be accomplished through such methods as extension of tenure, reduction in rent, repayment of residual value, removal of the improvement, or other equitable tenure adjustments.

(b) When flood loans are to be secured by liens on real estate under the policy contained in § 381.6 (b), the applicant will be required to provide at his expense an abstract of title to the date of loan closing or mortgagee's title insurance. Such evidence of title will be examined by the representative of the Office of the Solicitor to determine adequacy of title and to prepare loan closing instructions.

§ 381.8 *Loan processing.* Flood loans will be processed in accordance with the procedure contained in §§ 343.3 to 343.8 of this chapter, except § 343.3 (j), and except as modified below:

(a) *Loan forms and routines.* (1) Form FHA–663, "Application and Certifications for Flood Loan," will be completed in an original and one copy for each applicant, in lieu of Forms FHA–197 and FHA–49.

(2) In the preparation of Form FHA–31, "Promissory Note," the rate of interest will be changed from 5 percent to 3 percent, and the third paragraph of the note dealing with the variable repayment plan will be deleted.

(3) In the preparation of Form FHA–5, "Loan Voucher," the first sentence immediately above the space for the applicant's signature will be changed to read as follows: "I hereby certify that I am unable to obtain credit sufficient in amount to finance my actual needs at reasonable rates and terms."

(4) Form FHA–76. —, "Real Estate Mortgage," will be used when liens on real estate are taken to secure flood loans.

(b) *Loan closing.* Loans for which real estate security is to be taken will be approved subject to the applicant furnishing proper evidence of title. County Supervisors are responsible for closing flood loans in such instances in accordance with instructions received from the representative of the Office of the Solicitor.

§ 381.9 *Loan approval.* (a) Subject to the policies and procedures contained in §§ 381.2 to 381.10, State Directors are authorized to approve flood loans in amounts not in excess of $12,000 to any one borrower. State Directors may redelegate this loan approval authority to State Field Representatives and County Supervisors subject to the following limitations:

(1) State Field Representatives may be authorized to approve flood loans in amounts not in excess of $5,000 to any one borrower.

(2) County Supervisors may be delegated authority to approve flood loans in amounts not in excess of $2,500 to any one borrower.

(b) State Directors shall reserve the right to review at their discretion the exercise of or to revoke any of the loan approval authority so delegated.

(c) Other indebtedness owed the Farmers Home Administration (Farm Ownership, Water Facilities, or other Operating Loans) by an applicant for a flood loan will not affect the monetary limitations established in paragraph (a) of this section for the approval of flood loans. However, such debts will be considered along with other indebtedness owed by the applicant in determining soundness of the loan and repayment ability.

(d) Applications for flood loans which cannot be approved under the delegation of authority contained in paragraph (a) of this section will be documented as required in §§ 381.3 to 381.8 and submitted to the National Office, for approval.

§ 381.10 *Servicing flood loans.* The policies and procedures for the servicing of operating loans under the Production and Subsistence loan program will be followed in the servicing of flood loans. Officials of the Farmers Home Administration who have been vested with authority under the Production and Subsistence loan program to accept and receipt for collections; accept, record, release, or satisfy security instruments; and perform other servicing functions in connection with operating loans are vested with the same authority with respect to flood loans, except that releases of security for flood loans may be made for the following purposes only:

(a) Repayments on flood loans.

(b) Exchange (including sale and purchase of security better suited to the needs of the borrower).

(c) Normal farm and home expenditures after annual maturities on flood loans have been paid, or prior to such payment where there is reasonable assurance that annual maturities will be paid. Release of income for this purpose is restricted to income derived from the sale of crops, livestock, and livestock products that are sold in the usual course of operating the farm business.

(d) Protection and maintenance of remaining security property.

(e) Payment of emergency expenses essential to the welfare of the family.

[F. R. Doc. 48-11545; Filed, Dec. 30, 1948; 11:46 a. m.]

## Chapter IV—Production and Marketing Administration and Commodity Credit Corporation, Department of Agriculture

Subchapter B—Export and Diversion Programs

PART 517—FRUITS AND BERRIES, FRESH

SUBPART — WINTER PEAR EXPORT AND DIVERSION PROGRAM (FISCAL YEAR 1949)

*Correction*

Federal Register Document 48-11336, appearing on page 8580 of the issue for Wednesday, December 29, 1948, incorrectly codified as Part 508, should have been designated Part 517, as set forth above. Section 508.1 should read "§ 517.10".

# TITLE 7—AGRICULTURE

REARRANGEMENT OF TITLE

In order to effect a more orderly arrangement and to conform to the requirements of the regulations of the Administrative Committee of the Federal Register (13 F. R. 5929) the Subtitles and Chapters of Title 7 are constituted as follows:

Subtitle A—Office of the Secretary of Agriculture

Subtitle B—Regulations and Procedures of the Department of Agriculture

Chapter I—Production and Marketing Administration (Standards, Inspections, Marketing Practices)

Chapter II—Production and Marketing Administration (School Lunch Program)

Chapter III—Bureau of Entomology and Plant Quarantine, Department of Agriculture

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

Chapter V—Production and Marketing Administration (Surplus Property)

Chapter VI—Soil Conservation Service, Department of Agriculture

Chapter VII—Production and Marketing Administration (Agricultural Adjustment)

Chapter VIII—Production and Marketing Administration (Sugar Branch)

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders)

Chapter X—Administrator, Research and Marketing Act

Chapter XI—Production and Marketing Administration (War Food Distribution Orders)

The following redesignation of Part numbers is made:

Part 1800 of former Chapter XIV is redesignated Part 210 of Chapter II.

Part 1700 of former Chapter XIII is redesignated Part 500 of Chapter V.

Part 1701 of former Chapter XIII is revoked.

Part 1901 of former Chapter XV is redesignated Part 1001.

Date: December 24, 1948.

[SEAL] E. J. OVERBY,
*Assistant to the Secretary.*

[F. R. Doc. 48-11336; Filed, Dec. 29, 1948; 9:19 a. m.]

## Chapter I—Production and Marketing Administration (Standards, Inspections, and Marketing Practices)

Subchapter A—Commodity Standards and Standard Container Regulations

PART 29—TOBACCO INSPECTION

REGULATIONS UNDER THE TOBACCO INSPECTION ACT

Pursuant to the provisions of The Tobacco Inspection Act (7 U. S. C. 511 et seq.), the regulations issued thereunder (7 CFR, Supps., 29.1-29.54, inclusive, designated as "Subpart A—Regulations") are hereby redesignated as "Subpart B—Regulations", and amended [1] to read as follows:

*Definitions*

Sec.
29.13 The act.
29.14 Secretary.
29.15 Department.
29.16 Branch.
29.17 Director.
29.18 Person.
29.19 Inspector.
29.20 Sampler.
29.21 Weigher.
29.22 Appeal inspector.
29.23 Tobacco.
29.24 Official standards.
29.25 Tentative standards.
29.26 Office of inspection.
29.27 Certificate.
29.28 Interested party.
29.29 Regulations.
29.30 Package.
29.31 Lot.
29.32 Identification number.
29.33 Official sample.
29.34 Sample seal.
29.35 Lot seal.
29.36 Auction market.
29.37 Designated market.
29.38 Public notice.
29.39 Permissive inspection.
29.40 Mandatory inspection.

*Administration*

29.51 Administration.

*Permissive Inspection*

29.56 Permissive inspection.
29.57 Where inspection is offered.
29.58 Who may obtain inspection.
29.59 How to make application.
29.60 Form of application.
29.61 When application deemed filed.
29.62 When application may be rejected.
29.63 When application may be withdrawn.
29.64 Authority of agent.
29.65 Accessibility of tobacco.
29.66 Certificates.
29.67 Disposition of certificates.
29.68 Advance information.
29.69 Weighing apparatus.

*Mandatory Inspection*

29.71 Mandatory inspection.
29.72 Where mandatory inspection is required.
29.73 Designation of markets.
29.74 Growers' referendum.

[1] The amended regulations are issued to reflect present organization of the Department of Agriculture and current delegations of final authority.

AUTHORITY: §§ 29.13 to 29.133 issued under sec. 14, 49 Stat. 734; 7 U. S. C. 511m.

SUBPART B—REGULATIONS

*Definitions*

As used in this subpart and in all instructions, forms, and documents in connection therewith, the words and phrases hereinafter defined shall have the indicated meanings so assigned unless the context or subject matter otherwise requires.

§ 29.13 *The act.* The Tobacco Inspection Act, approved August 23, 1935. (7 U. S. C. 511 et seq.)

§ 29.14 *Secretary.* The Secretary or Acting Secretary of Agriculture of the United States.

§ 29.15 *Department.* The United States Department of Agriculture.

§ 29.16 *Branch.* Tobacco Branch, Production and Marketing Administration, United States Department of Agriculture.

§ 29.17 *Director.* Director or Acting Director, Tobacco Branch, Production and Marketing Administration, United States Department of Agriculture.

§ 29.18 *Person.* Individual, association, partnership, or corporation.

§ 29.19 *Inspector.* Person employed, licensed, or authorized by the Secretary to determine and certify the type, grade, condition, or other characteristics of tobacco.

§ 29.20 *Sampler.* Person employed, licensed, or authorized by the Secretary to select, tag, and seal official samples of tobacco.

§ 29.21 *Weigher.* Person employed, licensed, or authorized by the Secretary to weigh and certify the weight of tobacco.

§ 29.22 *Appeal Inspector.* An inspector or other person designated or authorized by the Branch to hear appeals under the act and the regulations in this subpart.

§ 29.23 *Tobacco.* Tobacco in its unmanufactured forms as it appears between the time it is cured and stripped from the stalk, or primed and cured and the time it enters a manufacturing process. Conditioning, sweating, and stemming are not regarded as manufacturing processes.

§ 29.24 *Official standards.* Standards for tobacco promulgated by the Secretary under the act.

§ 29.25 *Tentative standards.* Standards for tobacco prepared by the Branch for trial purposes and limited use pending promulgation by the Secretary of Official Standards.

§ 29.26 *Office of inspection.* A field office of the tobacco inspection service of the Branch.

§ 29.27 *Certificate.* A certificate issued under the act and the regulations in this subpart.

§ 29.28 *Interested party.* The owner or other financially interested person; including the warehouseman, commission merchant, association, and other person who has the tobacco in his custody for sale; the authorized agent of the owner; and persons to whom or by whom the tobacco has been sold on the basis of a certificate issued, or sample prepared, under the act, but not including a person who is negotiating for its purchase.

§ 29.29 *Regulations.* Rules and regulations of the Secretary under the act.

§ 29.30 *Package.* A hogshead, tierce, case, bale, or other securely enclosed parcel or bundle.

§ 29.31 *Lot.* A pile, basket, bulk, package, or other definite unit.

§ 29.32 *Identification number.* A number or a combination of letters and numbers in a design or mark approved by the Director, stamped, printed, or stenciled on a lot of tobacco or attached thereto by an inspector, sampler, or weigher for the purpose of identifying the lot covered by a certificate issued under the act.

§ 29.33 *Official sample.* A sample selected, tagged, and signed by an inspector or sampler under the act.

§ 29.34 *Sample seal.* A seal approved by the Director for sealing official samples.

§ 29.35 *Lot seal.* A seal approved by the Director for sealing lots of tobacco certificated under the act.

§ 29.36 *Auction market.* A place to which tobacco is delivered by the producers thereof, or their agents, for sale at auction through a warehouseman or commission merchant.

§ 29.37 *Designated market.* An auction market designated by the Secretary, under section 5 of the act.

§ 29.38 *Public notice.* A proclamation by the Secretary under the act (a) stating that an auction market is designated under the act; (b) giving notice of such fact; (c) specifying a date when the requirement of inspection and certification under the act shall become effective; and (d) released to the press, mailed to the tobacco board of trade or warehouse association of such market, and mailed to the postmaster at such market for posting.

§ 29.39 *Permissive inspection.* Inspection authorized under section 6 of the act.

§ 29.40 *Mandatory inspection.* Inspection authorized or required under section 5 of the act.

*Administration*

§ 29.51 *Administration.* The Director is charged with the supervision of the Branch and the performance of all duties assigned thereto in the administration of the act. Information concerning such administration may be obtained by addressing: The Director, Tobacco Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C.

*Permissive Inspection*

§ 29.56 *Permissive inspection.* Permissive inspection consists of inspection, including sampling and weighing, and certificating tobacco upon the request of an interested party. Upon such request, the Director may authorize and require an inspector, as a part of his duties, to supervise the preparation of tobacco to be inspected under the act, including the sorting, handling, conditioning, or packing of such tobacco.

§ 29.57 *Where inspection is offered.* Tobacco may be inspected, sampled, or weighed for the purposes of the act, upon request of an interested party, at points indicated in paragraphs (a), (b), and (c) of this section whenever official inspectors, samplers, or weighers are available and the tobacco is offered under conditions that permit of its proper examination.

(a) Points at which tobacco enters, or is offered for, interstate or foreign shipment, including packing houses, prizeries, warehouses, and other places where tobacco is handled, packed, or stored.

(b) The stations or the headquarters of inspectors, samplers, or weighers. An official station may be any town, city, or place having a market, receiving station, or other facilities for handling, packing, or storing tobacco and where there is a sufficient volume of work to justify the stationing of an inspector, sampler, or weigher.

(c) Points near an official station, to the extent permitted by the time of the inspector, sampler, or weigher at such official station.

§ 29.58 *Who may obtain inspection.* Inspection, sampling, or weighing as de-

scribed in § 29.56 may be requested by an interested party, or his authorized agent, by filing an application in accordance with §§ 29.59 and 29.60.

§ 29.59 *How to make application.* Application for inspection, sampling, or weighing of tobacco shall be made to the Branch, the office of inspection, or as the case may be, to an official inspector, sampler, or weigher. It may be made orally or in writing and delivered in person, by mail, by telegraph, or otherwise. If made orally, the Branch or the official receiving it may require a written confirmation.

§ 29.60 *Form of application.* Application for inspection, sampling, or weighing tobacco shall include the following information: (a) The date of the application; (b) the designation of the tobacco and the crop year of its production; (c) the name and post-office address of the applicant and of the person, if any, making the application as agent; (d) the financial interest of the applicant in the tobacco; (e) the exact nature of the service desired as (1) inspection, (2) inspection and sealing packages, (3) sampling, or (4) weighing; (f) a statement that the tobacco (1) is in commerce, as defined in the Act, or (2) is to be inspected, sampled, or weighed in connection with its entering such commerce; (g) if the tobacco has been officially inspected, sampled, or weighed previously, the application must have the previous certificate attached, or show with respect to such previous service (1) by whom, (2) the date, (3) previous determinations as certificated; (h) the reason for requesting reinspection, resampling, or reweighing; and (i) such other necessary information as the Director may require.

§ 29.61 *When application deemed filed.* An application shall be deemed filed when delivered to the Branch, the office of inspection, or according to the nature of the service requested, to an official inspector, sampler, or weigher. When an application is filed, the date and time of filing shall be recorded by the official receiving it.

§ 29.62 *When application may be rejected.* An application may be rejected (a) for noncompliance with the act or the regulations in this subpart, or (b) when it is not practicable to provide the service. All expenses incurred in connection with an application rejected for noncompliance with the act or the regulations in this subpart shall be paid by the applicant as provided in § 29.124.

§ 29.63 *When application may be withdrawn.* An application may be withdrawn at any time before the requested service is rendered upon payment of expenses incurred in connection therewith as provided in § 29.124.

§ 29.64 *Authority of agent.* Proof of authority of any person making an application as agent may be required in the discretion of the official receiving the application.

§ 29.65 *Accessibility of tobacco.* All tobacco to be inspected, sampled, or weighed upon application shall be made accessible by the applicant for proper examination, including any necessary display in proper light for determination of grade or other characteristics or for drawing of samples. In the case of tobacco in packages, the coverings shall be removed by the applicant in such manner as may be prescribed by the inspector, sampler, or weigher.

§ 29.66 *Certificates*—(a) *Forms.* Each certificate issued under this regulation shall (1) show that it was issued under The Tobacco Inspection Act; (2) be in a form approved for the purpose by the Director, and (3) embody within its written or printed terms, with respect to the particular kind of service, all applicable information required by paragraphs (b), (c), (d), (e), and (f) of this section. Each certificate may also contain any information, not inconsistent with the act and the regulations in this subpart, as may be approved or required by the Director. The Director may, in his discretion, specify or limit the period in which a certificate shall be valid.

(b) *Inspection certificate.* Each inspection certificate shall show (1) the caption "Tobacco Inspection Certificate"; (2) whether it is an original, first, second, or other copy; (3) the number of the certificate; (4) the identification number and private identification marks on the lot; (5) the date and number of the official sample, if any; (6) the location of the tobacco at the time of inspection or sampling; (7) the date of inspection; (8) the type and grade of the tobacco; (9) the kind of lot or package; and (10) the signature of the official inspector; also such additional information as may be required by the Director. An inspection certificate covering a package of tobacco shall also show the form and condition of the tobacco.

(c) *Sample inspection certificate.* Each sample inspection certificate shall carry the caption "Tobacco Sample Inspection Certificate" and shall otherwise comply with the requirements of an inspection certificate, and in addition include a clearly worded statement that the type, grade, or other tobacco characteristics, shown therein, apply only to the tobacco contained in the sample inspected.

(d) *Weight certificate.* Each weight certificate shall show (1) the caption "Tobacco Weight Certificate"; (2) whether it is an original, first, second, or other copy; (3) the number of the certificate; (4) the identification number or private identification marks on the lot; (5) the location of the tobacco at the time of weighing; (6) the date of weighing; (7) the weight of each lot; (8) the kind of lot or package; and (9) the signature of the official weigher.

(e) *Official sample tag.* Each official sample drawn and prepared shall have attached thereto, a certificate or tag showing (1) the caption "Official Tobacco Sample"; (2) the date of sampling; (3) the location of the tobacco at the time of sampling; (4) the kind of lot or package; (5) the condition of the tobacco; (6) the identification number and private identification marks on the lot; and (7) when a lot is found to be damaged, nested, or in doubtful keeping order, a statement of such fact.

(f) *Combination certificate.* A combination certificate of inspection and weight may be issued under the act, if such certificate carries the caption "Tobacco Inspection and Weight Certificate" and otherwise meets all of the requirements of paragraphs (b) and (d) of this section.

§ 29.67 *Disposition of certificates.* When a certificate of inspection or weight is issued under the act upon the request of an interested party, the original certificate and one copy shall be delivered or mailed to the applicant or a person designated by him, and one copy shall be mailed or delivered to the branch or local office of inspection. Charges may be made for additional copies furnished the interested party upon request as provided in § 29.128.

§ 29.68 *Advance information.* Upon the request of an applicant for whom tobacco has been inspected, sampled, or weighed and certificated under the act, all or any part of the contents of such certificate may be telegraphed or telephoned to him at his expense. Information relative to grade or other determinations contained or to be contained in a certificate shall not be divulged by an inspector, sampler, or weigher to any person other than an interested party or his agent without the approval of the Director, and such information shall not be furnished an interested party before the certificate is issued.

§ 29.69 *Weighing apparatus.* A scale used for determination of weight to be certificated under the act shall be subject to examination for accuracy according to the regulations of the State or municipality in which located. No disapproved scale shall be used to determine weight of tobacco for the purposes of the act and the regulations in this subpart.

*Mandatory Inspection*

§ 29.71 *Mandatory inspection.* Mandatory inspection consists of inspecting and certifying tobacco under the Act on designated markets before it is offered for sale at auction.

§ 29.72 *Where mandatory inspection is required.* All tobacco offered for sale at auction on a market designated in accordance with the act and § 29.73 shall be inspected and certificated under the act upon the date specified by the Secretary in public notice of such designation, and thereafter, except when the requirement of such inspection and certification is temporarily suspended by the Director in accordance with the act and the regulations in this subpart.

§ 29.73 *Designation of markets.* An auction market where tobacco bought or sold thereon at auction or the products customarily manufactured therefrom move in commerce may be designated under the Act by the Secretary after the Director has advised the Secretary that two-thirds of the growers voting in the referendum held in accordance with § 29.74 favored the designation of such market. When a market is designated by the Secretary, he shall give public notice of the fact and in such public notice he shall specify the date on which

the requirement of inspection and certification of tobacco sold at auction on such market shall become effective. The Director may temporarily suspend the requirement of inspection and certification on a designated market when it is found impracticable to provide such service because competent inspectors are not obtainable or because the quantity of tobacco available for inspection is insufficient to justify the cost of such service.

§ 29.74 *Growers' referendum* — (a) *Method of conducting.* Any referendum held as provided in section 5 of the act shall be conducted by the Branch in accordance with this section. The Director shall determine (1) the market or group of markets to be covered by a referendum; (2) when a referendum is to be held; and (3) the period during which growers, entitled to vote therein, may cast their ballots. When a referendum is held for a group of markets, the result of such referendum may be construed to apply either individually or collectively to such markets. Before holding a referendum, the Branch shall establish from the records of the collectors of internal revenue for the preceding marketing season, or in the absence of such records then from such other reliable sources of information as are available, a list showing the names of all growers who are entitled to vote in the referendum, and from the list so established the eligibility of growers to vote in a referendum shall be determined by the Branch; *Provided,* That if a grower, whose name appears on such lists for two or more markets selling the same class of tobacco, votes in one referendum for a market selling such type, he shall not be eligible to vote in a referendum for any other market selling such type.

(b) *Form of ballot.* Ballots to be used for voting in a referendum held under the act shall be in a form approved for the purpose by the Director.

(c) *Distribution of ballots.* Ballots to be used by growers in a referendum under the Act may be distributed by mail or otherwise as the Director may select. The Director may establish and publish a list of voting places for the purpose of any referendum and distribute ballots therefrom. When ballots are not mailed directly to growers who are entitled to vote, insofar as their addresses are known, the Director shall announce the voting places at which ballots can be secured, and copies of such announcement shall be given to the press and mailed, for posting and distribution, to the post offices of the market or group of markets covered by the referendum and to post offices in the vicinity of such markets or group of markets. Any explanatory statement with reference to a referendum, provisions of the act and these regulations, or the operation and benefits of the services authorized by the act may be attached to or supplied with ballots.

(d) *Filing and tabulation of votes.* Each ballot, when filled in and signed by a grower entitled to vote in a referendum, shall be mailed or delivered by him as specified in the ballot. Persons authorized by the Director to receive votes in any referendum shall promptly file all votes received or collected by them with the Branch. All ballots filed in a referendum shall be examined to verify the eligibility of the voter and the Director shall have compiled the result of the referendum and furnish the Secretary a statement showing whether or not two-thirds of the growers voting favored the designation of the market or group of markets covered by the referendum. In verifying votes, ballots which do not show the desire of the voter, or ballots which are defective or illegible, or ballots on which the signature or other identification does not correspond with the established list shall not be counted. The choice of any individual voter shall not be divulged by any official of the Branch, except to the Secretary when requested. Votes, ballots, and other documents pertaining to a referendum shall be preserved in the Branch for a period of 2 years from the closing date of such referendum, and may be destroyed thereafter.

§ 29.75 *Accessibility of tobacco.* All tobacco subject to mandatory inspection on a designated market shall be made readily accessible for inspection.

§ 29.76 *Mandatory inspection ticket.* A mandatory inspection ticket shall consist of a Tobacco Inspection Certificate made and issued in combination with an auction warehouse ticket in a form approved by the Director.

§ 29.77 *Warehousemen to provide tickets.* A mandatory inspection ticket, in the form required by § 29.76 shall be provided by each auction warehouseman on a designated market to cover each lot of tobacco offered for sale at auction by him on such market.

§ 29.78 *Changes or alterations.* No change or alteration shall be made, in the weight or other identification of the lot, on a mandatory inspection ticket after the certification of type and grade by an official inspector, and any such change or alteration shall constitute and be construed as a change or alteration in the certificate issued or authorized under the act.

§ 29.79 *Disposition of ticket.* One copy of the mandatory inspection ticket shall be attached to, or placed on, the tobacco certificated as a further identification of the lot and all copies of such ticket shall become null and void when such identifying copy is removed from the lot. When and as requested by the Director, one copy of such ticket, showing (a) the certification of type and grade; (b) the weight and other identification; and (c) the details of the sale at auction, shall be delivered by the warehouseman to the Branch or the head inspector of the market.

§ 29.80 *Announcing grades.* The grade of each lot of tobacco as certified by an official inspector on a designated market shall be clearly announced by the warehouseman or his representative at the time the lot is offered in the auction: *Provided,* That the Director may waive the requirement of announcing grades in the auction if he finds it impractical for the warehouseman to render this service.

*Appeal*

§ 29.90 *When appeal may be taken.* Whenever an interested party believes that a certificate issued or a sample prepared under the Act is not correct he may file an appeal: *Provided,* That (a) the period for which such certificate was issued or sample was prepared, if any specified, has not expired; (b) all tobacco covered by such certificate or sample is accessible to an appeal inspector for making a proper reinspection, resampling, or reweighing, and can be definitely identified by him as the tobacco covered by such certificate or sample; and (c) the tobacco has not deteriorated or undergone any material change.

§ 29.91 *How to obtain an appeal.* An appeal shall be made in writing and filed with the Branch or the office of inspection for the type of tobacco involved. Such appeal shall show: (a) The date; (b) the name and post office address of the appellant and of the person, if any, making the appeal in his behalf; (c) the financial interest of the appellant in the tobacco; (d) the reasons for making the appeal; and such other information as may be required by the Director. The appeal shall be accompanied by the certificate or sample from which the appeal is taken, unless such requirement is waived by the Branch when it is impracticable for the appellant to furnish such certificate. The appeal inspector may require the appellant to furnish any other relevant and necessary information for the proper consideration of the appeal.

§ 29.92 *Record of filing time.* When an appeal is filed, the date and time of filing shall be recorded by the officer receiving it.

§ 29.93 *When appeal may be refused.* If it shall appear that the reasons stated in an appeal are frivolous or unsubstantial or that the Act or these regulations have not been complied with, the appeal may be denied or dismissed. When an appeal is denied or dismissed, the appeal inspector shall (a) notify the appellant by telegraph or in writing giving the reason for such denial or dismissal; (b) mail a copy of such notification to the Branch; and (c) return or release to the appellant, or other person designated by him, any certificate or sample which was filed with the appeal. All expenses incurred in connection with an appeal prior to its refusal or dismissal shall be paid by the appellant, as provided in § 29.126.

§ 29.94 *When appeal may be withdrawn.* An appeal may be withdrawn by the appellant at any time before an appeal certificate is issued or an appeal sample is prepared, upon the payment of any expenses incurred in connection with the appeal as provided in § 29.126.

§ 29.95 *Review or second inspection not an appeal.* A review or investigation made in accordance with § 29.132, or a second inspection, sampling, or weighing made upon the request of an interested party for the purpose of securing new or later information when the correctness of an old certificate or sample is not questioned, shall not be considered an appeal.

§ 29.96 *Order in which made.* Appeals shall be heard and passed upon, so

far as practicable, in the order in which they are filed.

§ 29.97 *Who shall pass upon appeals.* Appeals shall be passed upon by an appeal inspector designated for the purpose by the Director. When authorized, by the Director, two or more appeal inspectors may jointly pass upon an appeal. The Branch may authorize an inspector, supervising inspector, or other person to act as an appeal inspector, but no appeal inspector shall pass upon an appeal involving the correctness of a certificate issued or sample prepared by him.

§ 29.98 *Appeal findings.* Immediately after an appeal has been heard and the tobacco involved therein has been reexamined, an appeal certificate shall be issued or an appeal sample prepared by the appeal inspector. Such certificate or sample shall show the finding of the appeal inspector and shall be labeled "Appeal Certificate" or "Appeal Sample", as the case may be, over the signature of the appeal inspector. An appeal certificate or sample shall supersede all other certificates or samples for the same lot of tobacco and shall refer specifically to the certificate or sample from which the appeal was made. In all other respects the provisions of these regulations relative to certificates or samples shall apply to an appeal certificate or sample. The findings of the appeal inspector as certificated shall be final, unless the Director shall direct a review of such findings.

§ 29.99 *Superseded certificate or sample.* When superseded under the regulations in this subpart by an appeal certificate or an appeal sample, such superseded certificate or sample shall become null and void and shall not thereafter be used to represent the tobacco described therein. If the original and the copies of the old certificate were not delivered to the appeal inspector for cancellation, the appeal inspector shall notify such persons or firms as he may consider necessary to prevent fraudulent use of any such null and void certificate.

*Inspectors, Samplers, and Weighers*

§ 29.106 *Who may be employed, licensed, or authorized.* Any person who is not financially interested directly or indirectly in merchandising tobacco, except as a grower or except in disposing of tobacco previously acquired, and who has demonstrated his competency may be employed, licensed, or authorized to inspect, sample, or weigh tobacco. Licenses issued by the Secretary shall be countersigned by a supervising official of the Branch. Licenses to inspect or to sample shall specify the type or types of tobacco which the licensee is authorized to inspect or sample.

§ 29.107 *Order of providing service.* When tobacco is to be inspected, sampled, or weighed upon request, such services shall be rendered as far as practicable in the order in which applications were received. In conducting mandatory inspection, the inspection shall start at the beginning of the "break" in the auction warehouse where the sale is scheduled to start and the inspection shall continue in the order of sale on each warehouse floor and from warehouse to warehouse.

§ 29.108 *Certificate issuance.* A certificate shall be issued as soon as practicable after any tobacco has been inspected or weighed for the purpose of the Act. A separate certificate shall be issued for each lot of tobacco inspected or weighed, except when a certificate covering two or more lots is specifically authorized by the Director. In case of a lost or destroyed certificate, a duplicate thereof may be issued under the same number, date, and name by an authorized supervising official. Any such duplicate certificate shall be plainly marked "Duplicate" above the signature of the supervising official who issued it.

§ 29.109 *Inspection determinations.* The determination of type, grade, size, form, condition, or other tobacco characteristics shall be based upon a thorough examination of the lot of tobacco to be certificated or an official sample of such lot. The certification of a lot of tobacco shall be a true representation of the lot, or of the official sample, at the time of inspection.

§ 29.110 *Method of sampling.* In sampling tobacco under the Act, at least three breaks shall be made at different points in the lot, and in the discretion of the sampler as many more breaks shall be made as seem necessary to show the range of the entire lot. From the breaks so made tobacco to be used in the official sample shall be selected. The official shall, so far as practicable, include tobacco of each quality, color, length, and other characteristics found in the lot in such proportions as would truly represent the lot. In case a lot is found to be damaged, nested, or in doubtful keeping order, the official sample tag shall be so marked. Official sample tags shall be attached to the sample, in a manner prescribed by the Director.

§ 29.111 *Weight determinations.* Daily before weighing any tobacco for the purposes of the Act, a weigher shall verify the accuracy of the scales to be used by him. Except as may be otherwise specified by the Director, all weights certificated shall be within an accuracy of 1 pound.

§ 29.112 *Proper light.* Tobacco shall not be inspected or sampled for the purposes of the act except when displayed in proper light for correct determination of grade or other characteristics of tobacco. No tobacco shall be inspected or sampled for the purposes of the act in the direct rays of the sun or by any artificial light which does not permit the inspector correctly to determine the grade or other characteristics of tobacco.

§ 29.113 *Suspension and termination.* The license of an inspector, sampler, or weigher may be suspended, pending final action by the Secretary, by any official authorized to countersign licenses whenever he considers such action to be for the best interest of the service. The designation of an appeal inspector may be withdrawn at any time by the Branch. Before the license of an inspector, sampler, or weigher is terminated or revoked pursuant to the act and the regulations in this subpart, such appointee or licensee shall be furnished by the Secretary, or his designated representative, with a written statement specifying the charges, and within 7 days after his suspension, the licensee may file an appeal in writing with the Secretary supported by any evidence he may wish to offer in connection therewith.

*Fees and Charges*

Fees or charges for permissive inspection performed under the act shall be fixed and paid in accordance with this regulation.

§ 29.121 *For inspection.* Fees or charges for inspecting, sampling, weighing, or sealing, upon the request of any interested party, shall be fixed by the Director, in accordance with §§ 29.122, 29.123, and 29.124, and in amounts which are deemed reasonable under the circumstances.

§ 29.122 *Under cooperative agreement.* Fees or charges for inspecting, sampling, weighing, or sealing, and supervision in connection therewith, under a cooperative agreement with other branches of the Government, State agencies, or other organizations or persons shall be in accordance with such agreement.

§ 29.123 *Direct service.* Fees or charges for inspecting, sampling, weighing, or sealing, when done independently by the Branch, shall be fixed according to the nature of the service and the conditions under which the service is rendered. Charges may, in addition to a fee, include the expenses of the inspector, sampler, or weigher for travel and subsistence and other necessary expenses involved in rendering the service requested.

§ 29.124 *When application rejected or withdrawn.* When an application for inspection, sampling, or weighing is rejected in accordance with § 29.62, or withdrawn in accordance with § 29.63, the applicant may be required to pay a reasonable charge for the time used by an inspector, sampler, or weigher, and other expenses incurred in connection with such application prior to its rejection or withdrawal.

§ 29.125 *Charge for appeals.* A charge of $1 shall be made for each appeal filed under § 29.90 and the fee for an appeal inspection, sampling, or weighing shall equal the fee for the original inspection, sampling, or weighing from which the appeal is taken, plus any charges for travel or other expenses incurred in hearing the appeal: *Provided,* That when a material error in the certificate or sample from which the appeal is taken is found by the appeal inspector, the charge and fee shall be waived.

§ 29.126 *When appeal refused or withdrawn.* When an appeal is refused in accordance with § 29.93 or withdrawn in accordance with § 29.94, the appellant may be required to pay a reasonable charge for the time used by the appeal inspector and other expenses incurred in connection with such appeal prior to its denial, dismissal, or withdrawal.

§ 29.127 *For demonstrations.* Charges, not in excess of the cost thereof, as may be approved by the Director, may be made for demonstrations or samples when such demonstrations or samples are furnished upon request.

§ 29.128 *For certificates.* A charge may be made, in the discretion of the Director, for copies of certificates other than those required to be distributed in § 29.67, and for the issuance of a duplicate certificate in accordance with § 29.108.

§ 29.129 *Payment of, how made.* Fees and charges fixed in accordance with this regulation shall be paid by the applicant or person obtaining the service in accordance with the statement rendered by the Branch. A deposit to cover all, or a part of, fees and charges for services to be rendered may be required by the Branch. Fees for services rendered independently by the Branch, shall be remitted by check or draft made payable to the Treasurer of the United States.

*Miscellaneous*

§ 29.131 *Publications.* Publications under the act and the regulations in this subpart shall be made in such mediums as the Director may from time to time designate for the purpose.

§ 29.132 *Branch investigations.* An inspector, sampler, or weigher, when authorized by the Branch, may of his own initiative, or upon the request of an interested party, review for the purpose of verification or confirmation any tobacco which he has certificated, and any supervising official may review the work of any inspector, sampler, or weigher: *Provided,* That such review shall not be made if the ownership of the tobacco involved has changed since the date of certification, unless there is intimation or evidence of deterioration or of irregularities or fraud in connection with the certification or sampling. When such review discloses an error in the certification, the inspector, sampler, or weigher concerned, or supervising official shall immediately correct the error by making an appropriate change in the certificate or by canceling the certificate and issuing a new certificate in lieu thereof. Any correction made on a certificate shall be initialed by the issuing official or by the supervising official. When a new certificate is issued for a lot of tobacco, the old certificate and copies thereof shall become null and void and shall not thereafter be used to represent the tobacco described therein.

§ 29.133 *Identification number.* The Director may require the use of official identification numbers in connection with tobacco certificated or sampled under the Act. When identification numbers are required, they shall be specified by the Director, and shall be attached to, or stamped, printed, or stenciled on, the lots of tobacco certificated or sampled, in a manner specified by the Director.

Done at Washington, D. C., this 29th day of December 1948.

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

[F. R. Doc. 48-11501; Filed, Dec. 30, 1948; 8:59 a. m.]

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**Subchapter C—Regulations Under the Farm Products Inspection Act**

REGULATIONS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

On November 3, 1948, a notice of rule making was published in the FEDERAL REGISTER (F. R. Doc. 48-9650; 13 F. R. 6481) regarding proposed new regulations for the inspection and certification of dry beans, grain, hay, hops, lentils, dry peas, split peas, oilseeds, rice, agricultural and vegetable seeds, straw, certain other agricultural commodities, and products thereof, under the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621 et seq.) and the so-called Farm Products Inspection Act, consisting of provisions in the Department of Agriculture Appropriation Act, 1949 (62 Stat. 507; 7 U. S. C. Sup. 414), for the market inspection of farm products. After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice, the following regulations are hereby promulgated under the authority contained in said acts. The regulations of this part supersede the regulations of Parts 57, 58, 59, 60, 62 and 66.

PART 68—REGULATIONS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

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AUTHORITY: §§ 68.1 to 68.54 issued under 60 Stat. 1087, 7 U. S. C. 1621 et seq.; 62 Stat. 507, 7 U. S. C. Sup. 414)

DEFINITIONS

§ 68.1 *Meaning of words.* Words used in the regulations in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 68.2 *Terms defined.* For the purpose of the regulations in this part unless the context otherwise requires, the following terms shall be construed, respectively, as follows:

(a) "Acts" means the Agricultural Marketing Act of 1946 (7 U. S. C. 1621 et seq.), and the following provisions of the Department of Agriculture Appropriation Act, 1949 (62 Stat. 507, 7 U. S. C. Supp. 414), or similar provisions of any future act of Congress conferring like authority: "For the investigation and certification, in one or more jurisdictions, to shippers and other interested parties of the class, quality, and condition of any agricultural commodity or food product, whether raw, dried, canned, or otherwise processed, and any product containing an agricultural commodity or

derivative thereof when offered for interstate shipment or when received at such important central markets as the Secretary may from time to time designate, or at points which may be conveniently reached therefrom under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered."

(b) "Regulations" means the regulations in this part.

(c) "Department" means the United States Department of Agriculture.

(d) "Secretary" means the Secretary of the Department or any other officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(e) "Administrator" means the Administrator of the Production and Marketing Administration of the Department, or any other officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(f) "Branch" means the Grain Branch of the Production and Marketing Administration of the Department.

(g) "Director" means the Director of the Branch or any other officer or employee of the Branch to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(h) "Person" means any individual, partnership, association, business trust, corporation, or any other organized group of persons, whether incorporated or not.

(i) "Interested party" means any person financially interested in a transaction involving a commodity.

(j) "Applicant" means an interested party who requests any inspection service with respect to a commodity.

(k) "Inspector" means any employee of the Department authorized by the Secretary, or any other person licensed by the Secretary, to inspect and certify the class, quality, quantity, or condition of specified commodities.

(l) "Supervising inspector" means any employee of the Department authorized by the Secretary to inspect and certify the class, quality, quantity, or condition of specified commodities and designated by the Director to supervise the work of inspectors and official samplers.

(m) "Official sampler" means any person licensed by the Secretary to draw samples of commodities for inspection or any employee of the Department authorized by the Director or by a supervising inspector to draw samples of commodities for inspection.

(n) "Commodity" means any one of the folowing agricultural commodities and products: dry beans, grain, hay, hops, lentils, oilseeds, dry peas, split peas, rice, agricultural and vegetable seeds, straw, and other agricultural commodities, and products of any of such commodities, assigned by the Administrator to the Branch for inspection.

(o) "Office of inspection" means the office of an inspector.

(p) "Inspection certificate" means a written or printed statement issued by an inspector pursuant to the acts and the regulations relative to the class, quality, quantity, or condition of commodities at the time and place stated therein.

(q) "Inspection" means (1) applying such tests and making such examinations of a commodity and records, according to the regulations, as may be necessary to determine the class, grade, other quality designation, quantity, or condition of such commodity, and (2) issuing an inspection certificate.

(r) "Grade" means a grade as defined in official standards for a commodity promulgated by the Secretary.

(s) "Origin" means the place or geographical area where the commodity is grown which is a factor of quality.

(t) "Cooperative agreement" means a memorandum of agreement between the Department and other branches of the Federal Government, State agencies, and other agencies or persons, to conduct, cooperatively, commodity inspection services as authorized in the acts.

ADMINISTRATION

§ 68.3 *Authority.* The Director is charged with the administration of the provisions of the regulations and of the acts insofar as they relate to the subject matter of the regulations, under the supervision of the Secretary and the Administrator.

INSPECTION

§ 68.4 *Kind and availability of service.* (a) The inspection of commodities shall be (1) according to (i) standards of class, grade, other quality designation, quantity, or condition for such commodities promulgated by the Secretary; or (ii) specifications prescribed by Federal agencies; or (iii) specifications of trade associations or organizations approved by the Director; or (iv) instructions and procedures prescribed by the Director; and (2) for one or more factors of class, grade, other quality designation, quantity, or condition, as defined in such standards, specifications, or instructions and procedures.

(b) Inspection under the regulations shall be provided only for commodities offered for interstate shipment or received at important central markets designated by the Director or at points conveniently reached therefrom. Specific information as to the places where inspection is available may be obtained from the Director.

§ 68.5 *Regulations not applicable to inspection of grain under U. S. Grain Standards Act or seeds under Federal Seed Act.* The regulations do not apply to the inspection of grain as required by the United States Grain Standards Act (7 U. S. C. 1946 ed. 71 et seq.) or to the testing and inspection of seeds under the Federal Seed Act (7 U. S. C. 1946 ed. 1551 et seq.).

§ 68.6 *Who may inspect commodities.* The inspection of commodities shall be made only by a person who has been authorized or licensed by the Secretary to perform such functions.

§ 68.7 *Who may obtain service.* An application for inspection may be made by any interested party or his authorized agent.

§ 68.8 *How to make application.* An application for inspection may be made to any office of inspection. Such application may be made orally, in writing, or by telegraph. If made orally, the office of inspection may require that such application be confirmed in writing.

§ 68.9 *Form of application.* An application for inspection shall include the following information: (a) The date of the application; (b) the identification, quantity, and location of the commodity; (c) the name and post office address of the applicant and, if made by an authorized agent, the name and post office address of such agent; and (d) such other information relating to the inspection as may be required by the official with whom the application is filed.

§ 68.10 *When application may be withdrawn.* Upon payment by an applicant of the charges required by § 68.45, an application for inspection may be withdrawn at any time before the certificate has been issued or the results of the inspection have been furnished through other means.

§ 68.11 *Accessibility of Commodities.* Each lot of a commodity for which inspection is requested shall be so placed as to permit the entire lot to be examined or a representative sample thereof to be obtained as required by the kind of inspection to be performed: *Provided,* That if the entire lot is not accessible for examination or a representative sample cannot be obtained, the accessible portion of the lot may be examined or sampled and the inspection restricted to such portion, and the results certified as outlined in § 68.14.

§ 68.12 *Lot inspection.* A lot inspection shall be made by examining an identified lot of a commodity, by analyzing or testing a representative sample or samples of such commodity or by examing relevant records concerning a commodity, whichever may be required for the kind of service requested.

§ 68.13 *Sample inspection.* A sample inspection shall be made by examining, analyzing, or testing a sample of a commodity submitted by an applicant for inspection.

§ 68.14 *Inspection certificate, issuance.* Immediately after an inspection has been completed the inspector shall sign and issue an inspection certificate showing the results of the inspection, in accordance with paragraph (a) or (b) of this section.

(a) *Lot inspection certificate.* A lot inspection certificate shall be issued to show the results of the inspection of an identified lot of a commodity: *Provided,* That, when the entire lot is not accessible for examination or a representative sample thereof cannot be obtained, the certificate shall state the estimated quantity of the commodity in the accessible portion or in the portion for which a representative sample has been obtained, and that the inspection is restricted to such portion, and such certificate may have printed or stamped thereon the words "Partial inspection" or "Partial inspection certificate."

(b) *Sample inspection certificate.* A sample inspection certificate shall be issued to show the results of the inspection of a sample of a commodity submitted by an interested party. Each sample inspection certificate shall state that the results of the inspection set out therein apply only to the sample described in the certificate.

§ 68.15 *Inspection certificate, form.* Each inspection certificate shall be approved by the Director as to form, shall state the results of the inspection, and shall embody within its written or printed terms only such statements of fact as may be required or authorized by the Director.

§ 68.16 *Inspection certificate, disposition of.* Immediately upon issuance the original and one copy of each inspection certificate shall be delivered or mailed to the applicant or otherwise delivered or mailed in accordance with his instructions. One copy of each inspection certificate shall be filed in the office of inspection, and two copies shall be forwarded to the supervising inspector. Not to exceed three additional copies may be furnished, without extra charge, to the applicant if a request therefor is made prior to the issuance of such inspection certificate.

REINSPECTION

§ 68.17 *How to obtain a reinspection; withdrawal of application therefor.* (a) Any interested party who is dissatisfied with the results of an original inspection as stated in the inspection certificate issued as required by § 68.14 may make application for a reinspection of the commodity to the office of inspection where the original inspection was made: *Provided*, That, (a) the commodity has not left the place where the original inspection was made; (b) the identity of the commodity has not been lost; (c) an application for an appeal inspection has not been filed as provided in § 68.21; (d) the certificate issued as the result of the original inspection of the commodity is surrendered to the office of inspection; and (e) the application for reinspection is filed not later than the close of business on the second business day after the date of the original inspection.

(b) Upon payment by an applicant of the charges required by § 68.45 hereof, an application for reinspection may be withdrawn at any time before the certificate has been issued or the results of the reinspection furnished through other means.

§ 68.18 *Manner of reinspection.* A reinspection shall be made by an inspector of the office of inspection where the original inspection was made, shall be based upon an analysis or test of a representative sample or a reexamination of the commodity involved or the records thereof, and shall be for the determination of the same factors of class, grade, other quality designation, quantity, or condition as requested in connection with the original inspection.

§ 68.19 *Reinspection certificates.* After a reinspection has been completed, the inspector shall sign and issue a certificate showing the results of the reinspection, and such certificate shall supersede the original inspection certificate issued for the commodity involved. Each reinspection certificate shall bear conspicuously on its face the notation "Reinspection" and shall clearly identify by number and date, the inspection certificate which it supersedes. Such supersedure shall be effective as of the date of issuance of the reinspection certificate.

§ 68.20 *Disposition of reinspection certificate.* The original and one copy of each reinspection certificate shall be delivered or mailed to the applicant, and a copy shall be delivered or mailed to each known person who received a copy of the superseded certificate.

APPEAL INSPECTION

§ 68.21 *How to obtain an appeal inspection.* Any interested party who is dissatisfied with the results stated in an unsuperseded inspection certificate may make application for an appeal inspection: *Provided*, That (a) the commodity has not left the place where the inspection appealed from was made; (b) the identity of the commodity has not been lost; (c) the entire lot of the commodity is available and accessible for sampling and examination; and (d) the application is filed not later than the close of business on the second business day following the date of the inspection appealed from, which time of filing may be extended by the supervising inspector for good cause shown. The application for appeal inspection shall be made in writing or by telegraph, and shall be filed in the Office of a Supervising Inspector. The inspection certificate with respect to which the application for appeal inspection is made shall be submitted with the application or as soon thereafter as possible.

§ 68.22 *Appeal application, form.* An application for an appeal inspection shall be signed by the applicant or his duly authorized agent and shall state: (a) The identification, quantity, and location of the commodity at the time of making the appeal; (b) the names and post office addresses of all interested parties; and (c) such other information relevant thereto as may be required by the supervising inspector.

§ 68.23 *Record of filing appeal application.* A record showing the date and place of filing an application for appeal inspection and including any other available documents pertaining to such appeal inspection shall be made immediately upon receipt thereof at the office of the supervising inspector.

§ 68.24 *When appeal application may be withdrawn.* Upon payment by an appellant of the fees and charges required by § 68.45 of the regulations, an application for an appeal inspection may be withdrawn at any time before the Federal appeal certificate has been issued or the results of the inspection have been furnished through other means.

§ 68.25 *Who shall make appeal inspections.* An appeal inspection shall be made only by a supervising inspector authorized by the Director to make appeal inspections of the commodity involved.

§ 68.26 *Appeal inspection certificate, issuance.* Immediately after an appeal inspection has been completed, an inspection certificate designated as "Federal Appeal Inspection Certificate" shall be issued by the supervising inspector, showing the results of such appeal inspection, and such certificate shall identify by number and date, the certificate which it supersedes.

§ 68.27 *Appeal inspection certificate, disposition.* The original and one copy of each appeal inspection certificate shall be delivered or mailed to the appellant or person designated by such appellant. A copy shall also be furnished to each interested party of record, including the inspector who made the inspection appealed from, and a copy shall be filed in the office of the supervising inspector. Not to exceed three additional copies may be furnished, without extra charge, to the appellant if a request therefor is made prior to the issuance of the appeal inspection certificate.

§ 68.28 *Appeal inspection certificate supersedes inspection certificate.* An appeal inspection certificate shall supersede the inspection certificate with respect to which the appeal inspection is made; and such supersedure shall be effective as of the date of issuance of such appeal inspection certificate.

§ 68.29 *New inspection.* The provisions of § 68.4 to § 68.28, with respect to inspections, reinspections, and appeal inspections shall not be construed to prevent any interested party from obtaining a new inspection on any commodity when the circumstances are such as to preclude a reinspection or an appeal inspection under the regulations. A certificate issued as a result of such new inspection shall not supersede any inspection certificate previously issued. An application for a new inspection shall not be restricted to the scope of any previous inspection and the applicant may request any or all of the inspection services provided for by the regulations, with the privilege of reinspection and appeal inspection.

GENERAL PROVISIONS FOR INSPECTION, REINSPECTION, AND APPEAL INSPECTION

§ 68.30 *Authority of applicant.* Proof of the authority of the person applying for any inspection service may be required in the discretion of the official to whom application for inspection is made.

§ 68.31 *Advance information.* Upon the request of an applicant for inspection, all or any part of the contents of an inspection certificate issued to such applicant may be telegraphed or telephoned to him at his expense.

§ 68.32 *Accessibility of records.* In the case of inspection for origin, the records indicating the origin of the commodity to be inspected shall be made accessible for examination and verification by an inspector.

§ 68.33 *Manner of sampling, examinations, analyses, etc.* All samplings, examinations, analyses, and tests shall be made in accordance with instructions

and procedures prescribed or approved by the Director.

§ 68.34 *Conditions upon which inspection service furnished.* Service under the regulations will be furnished only if the applicant therefor has complied with all relevant provisions of the acts and the regulations prescribing the conditions upon which such service is made available, and until the applicant does so comply such service will be refused by the official to whom, or the official in charge of the office at which, application for service is made.

§ 68.35 *Denial of inspection service.* (a) Any wilful misrepresentation or deceptive or fraudulent practice made or committed by any person in connection with the making or filing of an application for inspection service; (b) any fraudulent or unauthorized use, alteration, or imitation of any certificate issued pursuant to the regulations; (c) any interference with or obstruction of any inspector or official sampler in the performance of his duties, by intimidation, threat, assault or any other improper means; or (d) any wilful violation of the regulations may be deemed sufficient cause for debarring the person found guilty thereof from any or all benefits of the acts, after opportunity for hearing before a proper official in the Department has been accorded him; *Provided,* That pending investigation and hearing the Director may, without hearing, direct that such person shall be denied the benefits of the acts.

AUTHORIZED INSPECTORS

§ 68.36 *Who may be authorized.* Any employee of the Department who has demonstrated that he possesses a thorough knowledge of a commodity and the standards, and instructions and procedures under which it is inspected may be authorized by the Secretary to inspect such commodity. Each authorization which is issued by the Secretary shall be countersigned by the Director.

LICENSED INSPECTORS AND SAMPLERS

§ 68.37 *Who may be licensed as inspectors.* Any person who is employed under the terms of a cooperative agreement, who possesses proper qualifications, as determined by the Director, and who has no interest, financial or otherwise, direct or indirect, in merchandising, handling, storing, or processing any commodities of the kind to be inspected by him or related products, may be licensed by the Secretary to inspect such commodities. Each license which is issued by the Secretary shall be countersigned by the Director. Each person who applies for a license as an inspector shall, if so required by the Director, be examined for the purpose of determining his competency. Such examination shall be held at such time and place and in such manner as may be prescribed by the Director.

§ 68.38 *Who may be licensed as samplers.* Any person who possesses proper qualifications as determined by a supervising inspector, and has no interest, financial or otherwise, direct or indirect, in merchandising, handling, storing, or processing commodities of the kind to be sampled by him or related products may be licensed by the Secretary to draw samples of such commodities. Each license which is issued to samplers by the Secretary shall be countersigned by the supervising inspector under whose direction the licensee draws samples of commodities.

§ 68.39 *Sampling procedure.* Upon request of any inspector, a licensed sampler shall draw a sample or samples from a designated lot or lots of commodities in accordance with methods prescribed by the Director. Such sampler shall forward all samples of commodities thus drawn to a designated office of inspection in accordance with the instructions of a supervising inspector, and shall furnish, with each sample, the information which the supervising inspector may request.

§ 68.40 *Samples to be identified.* Each sample shall be accompanied by a sampling report signed by the licensed sampler, giving the identity, quantity, and location of the commodity sampled, the name and address of the applicant for inspection, and such other information regarding the lot of the commodity sampled as may be required by the supervising inspector.

§ 68.41 *Suspension or revocation of licenses.* (a) The license of any inspector or sampler licensed under the regulations may be suspended or revoked if the licensee, (1) through wilfulness, carelessness or incompetence fails to perform his duties in accordance with the regulations, and instructions and procedures prescribed by the Director; (2) becomes incapable of properly performing such duties; or (3) engages in any of the activities specified in § 68.35 or § 68.52.

(b) In cases of wilfulness, or those in which the public health, interest, or safety so requires, the license of any licensed inspector or sampler may be summarily suspended by the Director without hearing, pending investigation, but the licensee shall be advised of the facts or conduct which appear to warrant suspension or revocation of his license and shall be accorded an opportunity for a hearing before a proper official in the Department, before the license is finally suspended or revoked. In all other cases, prior to the institution of proceedings for the suspension or revocation of a license, the Director shall cause to be served upon the licensee, in person or by registered mail, a statement of the facts which appear to warrant such suspension or revocation, specifying a reasonable time, depending upon the circumstances in each case, within which the licensee may demonstrate or achieve compliance with the acts, the regulations and instructions and procedures prescribed by the Director. The licensee may demonstrate compliance by the presentation of evidence in writing or, in the discretion of the Director, at an oral hearing. At the end of the time allowed for the licensee to demonstrate or achieve compliance, if the Director finds he is in compliance, proceedings for the suspension or revocation of his license shall not be instituted, but if the Director finds the licensee is not in compliance, he may institute such proceedings and, after service upon the licensee, in person or by registered mail, of a notice that suspension or revocation of his license is under consideration for reasons set out in the statement previously served upon him, and after opportunity for hearing before a proper official in the Department, the license may be suspended or revoked.

FEES AND CHARGES FOR INSPECTION SERVICE

§ 68.42 *Establishment of fees and charges for inspection service.* Fees and charges for inspection service shall be established in accordance with § 68.43, § 68.44, and § 68.47, and shall be reasonable and as nearly as may be equal to the cost of the service for which such fees and charges are assessed. Specific information concerning the fees and charges for particular services under the regulations may be obtained from the Director.

§ 68.43 *Fees and charges for inspection or reinspection.* Except as provided in § 68.47, fees and charges for any inspection or reinspection shall be in accordance with the applicable provisions of (a) and (b) of this section.

(a) *Inspection by a salaried employee of the Department.* Unless otherwise required by the provisions of (b) of this section, fees and charges for inspections or reinspections by an authorized inspector who is a salaried employee of the Department shall be in accordance with such schedule of fees and charges as may be fixed and issued by the Director.

(b) *Inspection under a cooperative agreement.* Fees and charges for inspections or reinspections made pursuant to a cooperative agreement shall be in accordance with the terms and provisions of such agreement.

§ 68.44 *Fees and charges for appeal inspection.* Fees and charges for appeal inspections shall be in accordance with such schedule of fees and charges as may be fixed and issued by the Director: *Provided,* That, if the supervising inspector who makes an appeal inspection finds that there is a material error in the inspection from which an appeal is taken, no fees or charges shall be assessed.

§ 68.45 *Fees and charges when an application for inspection, reinspection or appeal inspection is withdrawn or any inspection service is refused.* In the event an application for inspection, reinspection or appeal inspection is withdrawn or any inspection service (including original inspection, reinspection, or appeal inspection, is refused pursuant to the applicable provisions of the regulations, the interested party who made the application for the inspection service shall pay only such expenses as were incurred in connection with the service prior to the withdrawal or refusal.

§ 68.46 *Payment of fees and charges—*(a) *Manner of payment.* Except as provided in § 68.47 fees and charges for in-

spections, reinspections, and appeal inspections shall be paid by the interested party making application for such inspections in accordance with the provisions of paragraphs (b) and (c) of this section; and, if required by the inspector or supervising inspector who is to make such inspection, such fees and charges shall be paid in advance.

(b) *Fees and charges for inspection by a salaried employee of the Department.* Fees and charges for inspections, reinspections, or appeal inspections by an inspector or a supervising inspector who is a salaried employee of the Department shall, unless otherwise required by paragraph (c) of this section, be paid by the applicant by check, draft, or money order payable to the Treasurer of the United States and remitted promptly to the Director.

(c) *Fees and charges for inspection under a cooperative agreement.* Fees and charges for inspections or reinspections under a cooperative agreement shall be paid by the applicant in accordance with the terms of such agreement.

§ 68.47 *Fees and charges for services by licensed samplers.* Fees and charges for drawing samples of commodities by a licensed sampler shall be paid by the applicant, either direct to such licensed sampler or to the person, if any, by whom such licensed sampler is employed in such capacity. All fees and charges for drawing samples of commodities by a licensed sampler shall be in accordance with such schedule of fees and charges as may be fixed and issued by the Director: *Provided*, That if the licensed sampler is employed under a cooperative agreement, the fees and charges shall be in accordance with the terms of such agreement.

§ 68.48 *Refunds.* The Director will cause to be refunded to any State or person who is a party to a cooperative agreement with the United States for inspection services, and to any applicant for inspection service, any fees and charges remitted in excess of the amount due the United States.

MISCELLANEOUS

§ 68.49 *Publications.* Publications under the acts and the regulations may be made in the FEDERAL REGISTER, the Service and Regulatory Announcements of the Production and Marketing Administration, and such other media as the Administrator may approve for the purpose.

§ 68.50 *Filing of final orders in proceedings to deny inspection service or to suspend or revoke licenses.* All final orders in any proceeding to deny the benefits of the acts to any person or to suspend or revoke a license (except orders required for good cause to be held confidential and not cited as precedents) shall be filed with the Hearing Clerk of the Department and be available to public inspection.

§ 68.51 *Inspection records confidential.* Unless otherwise provided by the regulations in this part or, by other regulations of the Department, records of any inspections, including but not limited to, copies of any inspection, reinspection, or appeal inspection certificates issued, records of such certificates, applicant's accounts, or other information relating to the work of any office of inspection shall not be made available to, or be opened for examination by, any persons who is not connected with the inspection service provided by the regulations, and such records shall be held strictly confidential and for reference only by the Director, the inspector in charge of such office of inspection, his assistants, and such inspector's supervising inspector. Summarized reports which do not disclose the operations of any individual grower, shipper, or other interested party and which are identified clearly as to source and contents may be released to the public: *Provided*, That, when so released, they shall be published in such manner and in such media as will make the information available alike to all interested parties.

§ 68.52 *Political activity.* All inspectors are forbidden, during the period of their appointments or licenses to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. In addition to licensees, this applies to all appointees, including, but not being limited to, temporary and cooperative employees, and employees on leave of absence with or without pay. Wilful violation of this section will constitute grounds for dismissal or other disciplinary action in the case of appointees, and suspension or revocation of licenses in the case of licensees.

§ 68.53 *Identification.* All inspectors and official samplers shall have in their possession and present upon request, while on duty, the means of identification furnished to them by the Department.

§ 68.54 *Effective date and notice of revocation of certain regulations.* The foregoing provisions shall become effective 30 days after the date of publication hereof in the FEDERAL REGISTER, and at that time shall supersede the regulations in 7 CFR, as amended, Parts 57, 58, 59, 60, 62, and 66, which are hereby revoked as of such effective date, except that with respect to violations, rights accrued, liabilities incurred, or appeals taken under such regulations prior to such effective date, all provisions of such regulations shall be deemed to remain in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, liability, or appeal.

Done at Washington, D. C., this 28th day of December 1948. Witness my hand and the seal of the United States Department of Agriculture.

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

[F. R. Doc. 48-11490; Filed, Dec. 30, 1948; 8:56 a. m.]

## Chapter VII—Production and Marketing Administration (Agricultural Adjustment)

PART 730—RICE

NATIONAL MARKETING QUOTA

Sec.
730.21 Basis and purpose.
730.22 Findings and determination with respect to the national marketing quota for rice for the marketing year beginning August 1, 1948.

§ 730.21 *Basis and purpose.* This proclamation is issued under section 355 (a) of the Agricultural Adjustment Act of 1938, as amended. Its purpose is to announce the findings of the Secretary of Agriculture with respect to the relationship between the total supply of rice and the normal supply thereof for the current marketing year in order to determine whether marketing quotas for rice for the 1949–50 marketing year shall be proclaimed under the act. Prior to making the findings, notice was given (13 F. R. 7867) that the Secretary was preparing to examine the supply situation to determine if quotas were required under the act and that any interested person might submit data, views, or recommendations in writing with respect thereto. No written expressions have been received postmarked on or before December 25, 1948, the closing date therefor mentioned in the notice aforesaid. (Secs. 301, 355, 52 Stat. 38, 62, as amended; 7 U. S. C. 1301 (b), (c), 1355 (a))

§ 730.22 *Findings and determination with respect to the national marketing quota for rice for the marketing year beginning August 1, 1949*—(a) *Normal supply.* The normal supply of rice for the marketing year beginning August 1, 1948, is 80,840,000 bushels of rough rice.

(b) *Total supply.* The total supply of rice for the marketing year beginning August 1, 1948, is 82,090,000 bushels of rough rice.

(c) *National marketing quota.* The total supply of rice for the current marketing year does not exceed by more than 10 percent the normal supply of rice for such marketing year; therefore no national marketing quota for rice shall be in effect for the 1949–50 marketing year for the marketings of rice by producers. (Secs. 301, 355, 52 Stat. 38, 62, as amended; 7 U. S. C. 1301 (b) (c), 1355 (a)).

Done at Washington, D. C., this 30th day of December 1948. Witness my hand and the seal of the Department of Agriculture.

[SEAL] I. W. DUGGAN,
*Acting Secretary.*

[F. R. Doc. 48-11544; Filed, Dec. 30, 1948; 11:46 a. m.]

## Chapter VIII—Production and Marketing Administration (Sugar Branch)

[General Sugar Quota Regs. Series 11, No. 1]

PART 821—SUGAR QUOTAS

SUGAR QUOTAS FOR 1949

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act

of 1948 (61 Stat. 922) and the Administrative Procedure Act (60 Stat. 237), these regulations are hereby made, prescribed and published to be in force and effect for the calendar year 1949 or until amended or superseded by regulations hereafter made during the calendar year 1949.

Sec.
821.13 Quotas for domestic areas.
821.14 Quotas for other areas.
821.15 Determination and proration of area deficits.
821.16 Proration of quota for foreign countries other than Cuba and the Republic of the Philippines.
821.17 Direct-consumption portion of quotas or prorations.
821.18 Liquid sugar quotas.
821.19 Restriction on marketing and shipment.
821.20 Inapplicability of quota regulations.

AUTHORITY: §§ 821.13 to 821.20 issued under sec. 403, 61 Stat. 932; 7 U. S. C. 1153.

*Basis and purpose.* The sugar quotas set forth below have been established pursuant to section 202 of the Sugar Act of 1948 (hereinafter called the "act") in terms of short tons of sugar, raw value, determined by the Secretary of Agriculture as the amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1949. The purpose of §§ 821.13 to 821.20, is to establish quotas representing the amount of sugar which each producing area may supply to the continental United States market during the calendar year 1949. Prior to the issuance of §§ 821.13 to 821.20, notice was given (13 F. R. 6019) that the Secretary of Agriculture was preparing, among other things, to establish sugar quotas for the calendar year 1949 and to determine whether any domestic area, the Republic of the Philippines, or Cuba would be unable to market the full quota for such area in 1949 and to reallot any quota deficit so determined. In accordance with the Administrative Procedure Act (60 Stat. 237), due consideration has been given to the data, views, and arguments submitted in writing by interested persons and to the data, views, and arguments expressed at the public hearing held on November 15 and 16, 1948, in Washington, D. C., for the purpose of affording interested persons an opportunity to express their views with respect to the establishment of sugar quotas for the calendar year 1949.

Since the sugar quotas for some areas are relatively small, thereby making it possible for such areas to exceed their quotas within a few days after the beginning of the quota year, it is not possible to comply with the 30-day effective date requirement of the Administrative Procedure Act. Accordingly, §§ 821.13 to 821.20, will become effective January 1, 1949.

§ 821.13 *Original quotas for domestic areas.* There are hereby established, pursuant to subsection (a) of section 202 of the act, for domestic sugar producing areas for the calendar year 1949, the following quotas:

| Area: | *Quotas in terms of short tons, raw value* |
|---|---|
| Domestic beet sugar | 1,800,000 |
| Mainland cane sugar | 500,000 |
| Hawaii | 1,052,000 |
| Puerto Rico | 910,000 |
| Virgin Islands | 6,000 |

§ 821.14 *Original quotas for other areas.* There are hereby established, pursuant to subsections (b) and (c) of section 202 of the act, for foreign countries for the calendar year 1949 the following quotas:

| Area: | *Quotas in terms of short tons, raw value* |
|---|---|
| Republic of the Philippines | 982,000 |
| Cuba | 1,972,800 |
| Other foreign countries | 27,200 |

§ 821.15 *Determination and proration of area deficits*—(a) *Deficit in quota for the Republic of the Philippines.* It is hereby determined pursuant to subsection (a) of section 204 of the act that for the calendar year 1949 the Republic of the Philippines will be unable by an amount of 125,000 short tons of sugar, raw value, to market the quota established for that area in § 821.14.

(b) *Proration of deficit in quota for the Republic of the Philippines.* An amount of sugar equal to the deficit determined in paragraph (a) of this section is hereby prorated, pursuant to subsection (a) of section 204 of the act, as follows:

| Area: | *Additional quotas in terms of short tons, raw value* |
|---|---|
| Cuba | 118,750 |
| Foreign countries other than Cuba and the Republic of the Philippines | 6,250 |

§ 821.16 *Proration of quota for foreign countries other than Cuba and the Republic of the Philippines*—(a) *Original prorations.* The quota for foreign countries other than Cuba and the Republic of the Philippines is hereby prorated, pursuant to subsection (c) of section 202 of the act, among such countries as follows:

| Country: | *Prorations in pounds, raw value* |
|---|---|
| Belgium | 320,755 |
| Canada | 614,905 |
| China and Hongkong | 314,004 |
| Czechoslovakia | 286,962 |
| Dominican Republic | 7,267,715 |
| Dutch East Indies | 230,379 |
| Guatemala | 364,997 |
| Haiti, Republic of | 1,004,431 |
| Honduras | 3,741,021 |
| Mexico | 6,573,906 |
| Netherlands | 237,442 |
| Nicaragua | 11,139,471 |
| Peru | 12,112,821 |
| Salvador | 8,946,168 |
| United Kingdom | 382,178 |
| Venezuela | 316,062 |
| Other countries | 46,783 |
| Subtotal | 53,900,000 |
| Unalloted reserve | 500,000 |
| Total | 54,400,000 |

(b) *Additional prorations.* An amount of sugar equal to that part of the deficit prorated to foreign countries other than Cuba and the Republic of the Philippines under paragraph (d) of § 821.15, is hereby prorated, pursuant to subsection (d) of section 204 of the act, as follows:

| Country: | *Additional prorations in pounds, raw value* |
|---|---|
| Belgium | 73,196 |
| Canada | 140,322 |
| China & Hongkong | 71,656 |
| Czechoslovakia | 65,485 |
| Dominican Republic | 1,658,495 |
| Dutch East Indies | 52,573 |
| Guatemala | 83,292 |
| Haiti, Republic of | 229,211 |
| Honduras | 853,702 |
| Mexico | 1,500,168 |
| Netherlands | 54,184 |
| Nicaragua | 2,542,032 |
| Peru | 2,764,151 |
| Salvador | 2,041,519 |
| United Kingdom | 87,213 |
| Venezuela | 72,125 |
| Other countries | 10,676 |
| Subtotal | 12,300,000 |
| Unallotted Reserve | 200,000 |
| Total | 12,500,000 |

§ 821.17 *Direct-consumption portion of quotas or prorations*—(a) *Domestic areas.* Pursuant to subsections (a), (b), and (c) of section 207 of the act, the quotas established in § 821.13 for the following listed areas may be filled by direct-consumption sugar not in excess of the following amount for each such area:

| Area: | *Direct-consumption sugar, short tons, raw value* |
|---|---|
| Hawaii | 29,616 |
| Puerto Rico | 126,033 |
| Virgin Islands | 0 |

(b) *Other areas.* Pursuant to subsections (d) and (e) of section 207 of the act, the quotas established in §§ 821.14 and 821.15 for the following listed areas may be filled by direct-consumption sugar not in excess of the following amount for each such area:

| Area: | *Direct-consumption sugar, short tons, raw value* |
|---|---|
| Republic of the Philippines | 59,920 |
| Cuba | 375,000 |

(c) Pursuant to subsection (a) of section 204 of the act, the prorations of the quota for foreign countries other than Cuba and the Republic of the Philippines established in § 821.16 may be filled by direct-consumption of sugar not in excess of the amount of each country's proration set forth in paragraph (a) of § 821.16.

§ 821.18 *Liquid sugar quotas.* There are hereby established, pursuant to section 208 of the act, for foreign countries for the calendar year 1949 quotas for liquid sugar as follows:

| Country: | *Liquid sugar, wine gallons, 72 percent total sugar content* |
|---|---|
| Cuba | 7,970,558 |
| Dominican Republic | 830,894 |
| Other foreign countries | 0 |

§ 821.19 *Restrictions on marketing and shipment.* (a) For the calendar year 1949, all persons are hereby prohibited, pursuant to section 209 of the act, from

bringing or importing into the continental United States from the Territory of Hawaii, Puerto Rico, the Virgin Islands, or foreign countries, (1) any sugar or liquid sugar after the applicable quota, or the proration of any such quota, has been filled, or (2) any direct-consumption sugar after the direct-consumption portion of any such quota or proration thereof has been filled.

(b) For the calendar year 1949, all persons are hereby prohibited from shipping, transporting, or marketing in interstate commerce, or in competititon with sugar or liquid sugar shipped, transported, or marketed in interstate or foreign commerce, any sugar or liquid sugar produced from sugar beets or sugarcane grown in either the domestic beet sugar area or the mainland cane sugar area after the quota for such area has been filled.

§ 821.20 *Inapplicability of quota regulations.* Sections 821.13 to 821.19, shall not apply to (a) the first ten short tons, raw value, of sugar or liquid sugar imported from any foreign country, other than Cuba and the Republic of the Philippines, in the calendar year 1949; (b) the first ten short tons, raw value, of sugar or liquid sugar imported from any foreign country, other than Cuba and the Republic of the Philippines, in the calendar year 1949 for religious, sacramental, educational, or experimental purposes; (c) liquid sugar imported from any foreign country, other than Cuba and the Republic of the Philippines, in individual sealed containers not in excess of one and one-tenth gallons each; or (d) any sugar or liquor sugar imported, brought into, or produced or manufactured in the United States for the distillation of alcohol, or for livestock feed or for the production of livestock feed.

*Statement of bases and considerations*—A. *Original quotas.* The original quotas established for domestic areas are in amounts specified in the act. Section 202 of the act provides that the original quota for the Republic of the Philippines shall be 952,000 short tons "as specified in section 211 of the Philippine Trade Act of 1946." Quotas under the Sugar Act are established in terms of "short tons, raw value." An amount of 952,000 short tons of Philippine sugar of usual polarization is equivalent to a quota of 982,000 short tons of sugar, raw value. Similarly, the portion of this quota which may be imported as direct-consumption sugar, established as 56,000 short tons in subsection (d) of section 207 of the act, is equivalent to 59,920 short tons, raw value. The original quotas for other foreign countries have been established by applying the statutory percentages to the difference between the consumption estimate and the sum of the quotas established for domestic areas and the Republic of the Philippines. The quota for foreign countries other than Cuba and the Republic of the Philippines has been prorated on the basis of the original proration made for 1937, as provided by the act. The amounts of the quotas and prorations which may be filled by direct-consumption sugar are as specified in the act. The liquid sugar quotas equal those specified in the act.

B. *Deficit in quota for the Republic of the Philippines.* Total production in the Republic of the Philippines from the 1948–49 crop is expected to be between 720,000 and 743,000 short tons. This indicates that recovery of the sugar industry in this area, while rapid, is not yet complete. Considering this level of production, the requirements of sugar for distribution in the Philippines and the possibilities of arrivals in the United States during the period October through December 1949, of 1949–50 crop sugar, even with further recovery of the industry, it is probable that at least 125,000 short tons, raw value, of the original quota will not arrive in the United States within the calendar year 1949. Therefore, it has been determined that the Republic of the Philippines will be unable by an amount of 125,000 short tons of sugar, raw value, to market the quota established for that area for the calendar year 1949. Accordingly, this quantity has been prorated to Cuba and foreign countries other than Cuba and the Philippines on the basis of 95 percent to Cuba and 5 percent to such other countries as required by the act. This additional quota for foreign countries other than Cuba and the Republic of the Philippines has been prorated on the same basis as the original quota for these countries was prorated.

After giving effect to the original quotas and the proration of the Philippine deficit the current quotas in terms of short tons of sugar, raw value, for the several domestic sugar producing areas, the Republic of the Philippines, Cuba, and "Other Foreign Countries" are as follows:

[Short tons, raw value]

| Production area | Basic quota | Proration of deficit in quota for Philippines | Adjusted quota |
|---|---|---|---|
| Domestic beet sugar | 1,800,000 | ---------- | 1,800,000 |
| Mainland cane sugar | 500,000 | ---------- | 500,000 |
| Hawaii [1] | 1,052,000 | ---------- | 1,052,000 |
| Puerto Rico [2] | 910,000 | ---------- | 910,000 |
| Virgin Islands | 6,000 | ---------- | 6,000 |
| Philippines [3] | 982,000 | [6] (125,000) | 857,000 |
| Cuba [4] | 1,972,800 | 118,750 | 2,091,550 |
| Other foreign countries: [5] | | | |
| Belgium | 160.4 | 36.6 | 197.0 |
| Canada | 307.4 | 70.2 | 377.6 |
| China and Hongkong | 157.0 | 35.8 | 192.8 |
| Czechoslovakia | 143.5 | 32.7 | 176.2 |
| Dominican Republic | 3,633.9 | 829.2 | 4,463.1 |
| Dutch East Indies | 115.2 | 26.3 | 141.5 |
| Guatemala | 182.5 | 41.6 | 224.1 |
| Haiti, Republic of | 502.2 | 114.6 | 616.8 |
| Honduras | 1,870.5 | 426.9 | 2,297.4 |
| Mexico | 3,287.0 | 750.0 | 4,037.0 |
| Netherlands | 118.7 | 27.1 | 145.8 |
| Nicaragua | 5,569.7 | 1,271.1 | 6,840.8 |
| Peru | 6,056.4 | 1,382.1 | 7,438.5 |
| Salvador | 4,473.1 | 1,020.8 | 5,493.9 |
| United Kingdom | 191.1 | 43.6 | 234.7 |
| Venezuela | 158.0 | 36.1 | 194.1 |
| Other Countries | 23.4 | 5.3 | 28.7 |
| Unallotted Reserve | 250.0 | 100.0 | 350.0 |
| Subtotal | 27,200.0 | 6,250.0 | 33,540.0 |
| Total | 7,250,000 | ---------- | 7,250,000 |

[1] Of Hawaii's adjusted quota, 29,616 tons may be direct-consumption sugar.

[2] Of Puero Rico's adjusted quota, 126,033 tons may be direct-consumption sugar.

[3] Of the Philippine's adjusted quota, 59,920 tons may be direct-consumption sugar.

[4] Of Cuba's total adjusted quota, 375,000 tons may be direct-consumption sugar.

[5] Original quotas for "All other foreign countries" may be filled with direct-consumption or with raw sugars. Prorations of the Philippine deficit to "All other foreign countries" may be filled only with raw sugar.

[6] Deduct this amount from original quota.

Done at Washington, D. C. this 29th day of December 1948. Witness my hand and the seal of the Department of Agriculture.

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

[F. R. Doc. 48-11492; Filed, Dec. 30, 1948; 8:57 a. m.]

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[General Sugar Quota Regs., Series 11, No. 2]

## PART 821—SUGAR QUOTAS

### SUGAR CONSUMPTION REQUIREMENTS AND QUOTAS FOR TERRITORY OF HAWAII AND PUERTO RICO FOR CALENDAR YEAR 1949

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1948 (61 Stat. 922) and the Administrative Procedure Act (60 Stat. 237), these regulations are hereby made, prescribed, and published to be in force and effect for the calendar year 1949 or until amended or superseded by regulations hereafter made during the calendar year 1949.

Sec.
821.05 Consumption requirements and quotas.
821.06 Restrictions on marketing.

*Basis and purpose.* The determinations and the sugar quotas set forth below have been made and established pursuant to section 203 of the Sugar Act of 1948 (hereinafter called the "act"). The act requires that the Secretary of Agriculture make such determinations and establish such quotas for the calendar year 1949 during December, 1948. The determinations of the sugar consumption requirements have been based, insofar as required by section 201 of the act, on official statistics of the Department of Agriculture and statistics published by other agencies of the Federal Government. The purpose of such determinations is to provide the amounts of sugar needed to meet the requirements of consumers in the Territory of Hawaii and in Puerto Rico for the calendar year 1949. The determination provides a basis for the establishment of sugar quotas for such year for local consumption therein pursuant to section 203 of the act.

Prior to the issuance of these regulations, notice was given (13 F. R. 6019) that the Secretary of Agriculture was preparing, among other things, to determine the sugar consumption requirements and quotas for the calendar year 1949 for local consumption in Hawaii and in Puerto Rico and that any interested person might present any data, views, or arguments with respect thereto in writing not later than November 26, 1948. Due consideration has been given to the data, views, and arguments submitted, in accordance with the Administrative Procedure Act (60 Stat. 237).

Since the act requires that the Secretary of Agriculture determine sugar consumption requirements and establish quotas for local consumption in Hawaii and in Puerto Rico for the calendar year 1949 during December, 1948, it is not possible to comply with the 30-day effective date requirement of the Administrative Procedure Act. Accordingly, these

regulations shall be effective when published in the FEDERAL REGISTER.

§ 821.05 *Consumption requirements and quotas*—(a) *Original consumption requirements.* It is hereby determined, pursuant to section 203 of the act, that the amount of sugar needed to meet the requirements of consumers in the Territory of Hawaii for the calendar year 1949 is 35,000 short tons of sugar, raw value, and that the amount of sugar needed to meet the requirements of consumers in Puerto Rico for the calendar year 1949 is 95,000 short tons, raw value.

(b) *Original local consumption quotas.* There are hereby established, pursuant to section 203 of the act, for local consumption in the Territory of Hawaii and in Puerto Rico, for the calendar year 1949 the following quotas:

| Area: | *Quotas in terms of short tons, raw value* |
|---|---|
| Hawaii | 35,000 |
| Puerto Rico | 95,000 |

§ 821.06 *Restrictions on marketing.* For the calendar year 1949, all persons are hereby forbidden, pursuant to section 209 of the act, from marketing in the Territory of Hawaii or in Puerto Rico, for consumption therein, any sugar or liquid sugar after the quota for the area for the calendar year 1949 has een filled.

(Sec. 403, 61 Stat. 932; 7 U. S. C. Sup. 1153)

*Statement of bases and considerations.* Section 203 of the act provides as follows: "In accordance with such provisions of section 201 as he deems applicable, the Secretary shall also determine the amount of sugar needed to meet the requirements of consumers in the Territory of Hawaii, and in Puerto Rico, and shall established quotas for the amounts of sugar which may be marketed for local consumption in such areas equal to the amounts determined to be needed to meet the requirements of consumers therein." It has been determined that those provisions of section 201 of the act which shall apply to the determination of the amounts of sugar needed to meet the requirements of consumers in Hawaii and in Puerto Rico relate to (1) the amounts of sugar distributed for local consumption in Hawaii and in Puerto Rico during the twelve-month period ending October 31, 1948, and (2) changes in consumption because of changes in population and demand conditions. The amounts of sugar distributed for consumption in Hawaii and Puerto Rico during such twelve-month period were 38,000 short tons of sugar, raw value, and 100,000 short tons of sugar, raw value, respectively. In Hawaii, demand is expected to decline as a result of substitution of syrups from pineapple juice in pineapple canning, accounting for a net reduction of 3,000 tons from the basic figure. In Puerto Rico, distribution of sugar in recent months indicates a slackening in demand which is expected to more than offset any increase in population and accounts for a net reduction of 5,000 tons from distribution for the twelve months ended October 31, 1948. The total amounts thus determined to meet the needs of the consumers in the respective areas coincide with the recommendations made by interested persons in those areas.

As provided in section 203 of the act, the quotas for local consumption in Hawaii and in Puerto Rico have been established in amounts equal to the estimates of consumers' needs in the respective areas.

Done at Washington, D. C., this 23d day of December 1948. Witness my hand and the seal of the Department of Agriculture.

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

[F. R. Doc. 48-11491; Filed, Dec. 30, 1948; 8:57 a. m.]

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## PART 821—SUGAR QUOTAS

### DETERMINATION OF AMOUNT OF SUGAR NEEDED TO MEET REQUIREMENTS OF CONSUMERS IN THE CONTINENTAL UNITED STATES FOR CALENDAR YEAR 1949

*Basis and purpose.* The determination set forth below is made pursuant to section 201 of the Sugar Act of 1948. The act requires that the Secretary of Agriculture make such determination for the calendar year 1949 during December of 1948. The determination has been based, insofar as required by section 201 of the act, on official statistics of the Department of Agriculture and statistics published by other agencies of the Federal Government. The purpose of such determination is to provide the amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1949. The determination provides a basis for the establishment of sugar quotas for such year pursuant to section 202 of the act.

Prior to the issuance of this determination, notice was given (13 F. R. 6019) that the Secretary of Agriculture was preparing, among other things, to determine the sugar consumption requirements for the calendar year 1949 and that any interested person might present any data, views, or arguments with respect thereto at a public hearing to be held in Washington, D. C., on November 15, 1948. In addition, the notice stated that any interested person might present any data, views, or arguments with respect thereto in writing not later than November 26, 1948. In making this determination, due consideration has been given to the data, views, and arguments expressed at the hearing held on November 15 and 16, 1948, and the data, views, and arguments submitted in writing on or before November 26, 1948, in accordance with the Administrative Procedure Act (60 Stat. 237).

Since the Sugar Act of 1948 requires that the Secretary of Agriculture determine sugar consumption requirements for the calendar year 1949 during the month of December 1948, it is not possible to comply with the 30-day effective date requirement of the Administrative Procedure Act. Accordingly, this determination shall be effective when published in the FEDERAL REGISTER.

§ 821.12 *Consumption requirements and quotas.* The amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1949 is hereby determined to be 7,250,000 short tons, raw value. (Sec. 403, 61 Stat. 932; 7 U. S. C. Sup. 1153)

*Statement of bases and considerations.* Section 201 of the Sugar Act of 1948 reads as follows:

> The Secretary shall determine for each calendar year, beginning with the calendar year 1948, the amount of sugar needed to meet the requirements of consumers in the continental United States; such determinations shall be made during the month of December in each year for the succeeding calendar year (in the case of the calendar year 1948, during the first ten days thereof) and at such other times during such calendar year as the Secretary may deem necessary to meet such requirements. In making such determinations the Secretary shall use as a basis the quantity of direct consumption sugar distributed for consumption, as indicated by official statistics of the Department of Agriculture, during the twelve-month period ending October 31 next preceding the calendar year for which the determination is being made, and shall make allowances for a deficiency or surplus in inventories of sugar, and for changes in consumption because of changes in population and demand conditions, as computed from statistics published by agencies of the Federal Government; and, in order that such determinations shall be made so as to protect the welfare of consumers and of those engaged in the domestic sugar industry by providing such supply of sugar as will be consumed at prices which will not be excessive to consumers and which will fairly and equitably maintain and protect the welfare of the domestic sugar industry, the Secretary, in making any such determination, in addition to the consumption, inventory, population, and demand factors above specified and the level and trend of consumer purchasing power, shall take into consideration the relationship between the prices at wholesale for refined sugar that would result from such determination and the general cost of living in the United States as compared with the relationship between prices at wholesale for refined sugar and the general cost of living in the United States obtaining during 1947 prior to the termination of price control of sugar as indicated by the Consumers' Price Index as published by the Bureau of Labor Statistics of the Department of Labor.

Pursuant to the provisions of this section the determination of the sugar consumption requirements has been based upon the following:

1. *Quantity of direct consumption sugar distributed for consumption during the twelve-months' period ending October 31 next preceding the calendar year for which the determination is being made.* For the twelve months ended October 31, 1948, there were distributed 7,124,000 short tons, raw value, of direct consumption sugars.

(2) *Allowance for deficiency or surplus in inventories of sugar.* Stocks of refiners and importers on December 4, 1948, were approximately 190,000 tons smaller than on January 1, 1948, and will be substantially smaller on January 1, 1949, than a year earlier. However, at the beginning of 1948 such stocks were excessive, whereas present stocks appear

to be adequate under current conditions. Reports of industrial users, wholesalers, and retailers show but slight variations in stocks held by these groups during the period July 1947, to September 1948, and it appears that these stocks likewise are adequate but not excessive. Accordingly, no allowance is made for a deficiency or surplus in inventories.

(3) *Allowances for changes in consumption because of changes in population and demand conditions, including the level and trend of purchasing power.* The Bureau of Census estimates that population in 1949 will be approximately 1.11 percent higher than a year earlier. Purchasing power of consumers as shown by the Index of Income of Industrial Workers rose from 332 percent of the prewar (1935–39) average in 1947 to 360 percent tentatively estimated for 1948. The wholesale price of refined sugar is now 163 percent of the prewar average. Since the purchasing power of consumers so measured has increased approximately four times as much as the price of sugar since the prewar period, it is not evident that small changes that might occur in purchasing power in 1949 will materially affect sugar requirements. It is probable that consumer purchases of sugar during the 12 months ended October 31, 1948, were reduced because of the abnormally large supplies acquired by householders prior to the termination of sugar price controls on October 31, 1947. Unfortunately, no statistics exist showing stocks of householders on October 31, 1947, nor the extent to which such stocks were utilized subsequently. In view of the uncertain effects on 1949 sugar requirements of possible changes in demand, and of the conditions set forth in (4) below, the allowance made for these factors is only 126,000 tons.

(4) *The relationship between prices at wholesale for refined cane sugar and the general cost of living in the United States obtaining in 1947 prior to the termination of price control of sugar.* A wholesale basis price of 9.019 cents per pound for refined cane sugar would have been required in November, 1948 to maintain the relationship between the wholesale price for refined sugar and the Consumers Price Index that existed during 1947 prior to the termination of price control of sugar. The actual wholesale basis price for refined cane sugar in November, as at present, was 7.75 cents per pound, or 14 percent below the level to which consideration is required to be given. The current price is also 0.65 cent per pound, or approximately 8 percent below the ceiling price in effect during October 1947, whereas the costs of producing, processing, and transporting sugar have increased since that date. However, in view of the reduction of stocks held by refiners and the probable reduction in household stocks, it is believed that the demand for quota sugar will improve significantly and that, therefore, a determination of 7,250,000 short tons, raw value, will provide a supply of sugar which will "be consumed at prices which will not be excessive to consumers and which will fairly and equitably maintain and protect the welfare of the domestic sugar industry."

It is hereby found and concluded that the determination made above will meet the requirements of the Sugar Act of 1948. (Secs. 201 and 403 of Pub. Law 388, 80th Cong.)

Done at Washington, D. C., this 23d day of December 1948. Witness my hand and seal of the Department of Agriculture.

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

[F. R. Doc. 48-11493; Filed, Dec. 30, 1948; 8:57 a. m.]

## Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders)

### PART 935—MILK IN OMAHA-COUNCIL BLUFFS MARKETING AREA

### ORDER AMENDING ORDER, AS AMENDED, REGULATING HANDLING

§ 935.0 *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 this order and of each of the previously issued amendments thereto; 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 Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR, Supp., 900.1 et seq.), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Omaha-Council Bluffs marketing area; and a decision was made with respect to amendments by the Secretary on December 21, 1948. Upon the basis of the evidence introduced at such hearing and the record thereof it is hereby found that:

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

(2) The said order, as amended and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which hearings have been held; and

(3) The prices calculated to give milk produced for sale in said marketing area, a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8e of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for such milk, and the minimum prices specified in the order, as amended and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

(b) *Additional findings.* It is necessary, in the public interest, to make this amendment effective not later than January 1, 1949. Any delay beyond January 1, 1949, in the effective date of this amendment will seriously threaten the orderly marketing of milk in the Omaha-Council Bluffs marketing area for the month of January and succeeding months. The nature and provisions of the amendment are well known to the handlers in the market since the hearing was held on June 29, 1948, the recommended decision was filed on October 25, 1948 (13 F. R. 6330), and the final decision was executed by the Secretary on December 21, 1948, which final decision sets forth the need for the amendment. Compliance with the amendatory order will not require any preparation on the part of handlers which cannot be completed by January 1, 1949. It is hereby found and determined, in view of these facts and circumstances, that good cause exists for making this amendment effective January 1, 1949; and that it would be contrary to the public interest to delay the effective date of this amendment to a date later than January 1, 1949.

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the milk covered by this order, as amended, and as hereby further amended) of more than 50 percent of the volume of milk covered by this order, as amended and as hereby further amended, which is marketed within the Omaha-Council Bluffs marketing area refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area; and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order, further amending the order, as amended, is the only practical means pursuant to the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order, further amending the order, as amended, is approved or favored by at least two-thirds of the producers who, during the determined representative period (September 1948), were engaged in the production of milk for sale in the said marketing area.

*It is therefore ordered,* That on and after the effective date hereof, the handling of milk in the Omaha-Council Bluffs marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby further

amended, and the aforesaid order, as amended, is hereby further amended as follows:

1. Delete paragraph (a) of § 935.5 and substitute therefor the following:

(a) *Basic price to be used in computing Class I and Class II prices.* The basic price to be used in computing the minimum prices per hundredweight for Class I milk and Class II milk for each delivery period shall be the higher of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph:

(1) The average of the basic or field prices reported to have been paid for milk of 3.5 percent butterfat content received during the preceding delivery period at the following plants for which prices are reported to the market administrator or to the Department of Agriculture, divided by 3.5, and multiplied by 3.8 and adjusted to the nearest cent:

*Present Operator of Plant and Location of Plant*

Amboy Milk Products Co., Amboy, Ill.
Borden Co., Dixon, Ill.
Borden Co., Sterling, Ill.
Carnation Co., Morrison, Ill.
Carnation Co., Northfield, Minn.
Carnation Co., Oregon, Ill.
Carnation Co. Waverly, Iowa.
Dean Milk Co., Pearl City, Ill.
Dean Milk Co., Pecatonica, Ill.
Fort Dodge Creamery Co., Fort Dodge, Iowa.
Pet Milk Co., Shullsburg, Wis.
United Milk Products Co., Argo Fay, Ill.

(2) The price computed pursuant to paragraph (b) (3) of this section for the preceding delivery period for Class III milk containing 3.8 percent butterfat.

2. Delete paragraph (b) of § 935.5 and substitute therefor the following:

(b) *Class prices.* Each handler shall pay at the time and in the manner set forth in § 935.7 not less than the prices set forth in this paragraph for skim milk and butterfat in producer milk received during the delivery period at such handler's plant.

(1) *Class I.* The price per hundredweight of Class I milk containing 3.8 percent butterfat shall be the basic price computed pursuant to paragraph (a) of this section plus 75 cents during the months of January, February, and March; plus 60 cents during the months of April, May, and June; and plus $1.00 during all other months of each year.

(i) The price per hundredweight of butterfat in Class I milk shall be computed by adding to the price computed pursuant to subparagraph (3) (i) of this paragraph $15.00 during January, February, and March; $12.00 during April, May, and June; and $20.00 during all other months of each year.

(ii) The price per hundredweight of skim milk in Class I milk shall be computed by (*a*) multiplying by 0.038 the price computed pursuant to subdivision (i) of this subparagraph, (*b*) subtracting the result from the price computed pursuant to this subparagraph for Class I milk containing 3.8 percent butterfat, (*c*) dividing the result by 0.962, and (*d*) adjusting to the nearest cent.

(2) *Class II.* The price per hundredweight of Class II milk containing 3.8 percent butterfat shall be the basic price computed pursuant to paragraph (a) of this section plus 75 cents during the months of January, February, and March; plus 60 cents during the months of April, May, and June; and plus $1.00 during all other months, of each year.

(i) The price per hundredweight of butterfat in Class II milk shall be computed by adding to the price computed pursuant to subparagraph (3) (i) of this paragraph $15.00 during January, February, and March; $12.00 during April, May, and June; and $20.00 during all other months of each year.

(ii) The price per hundredweight of skim milk in Class II milk shall be computed by (*a*) multiplying by 0.038 the price computed pursuant to subdivision (i) of this subparagraph, (*b*) subtracting the result from the price computed pursuant to this subparagraph for Class II milk containing 3.8 percent butterfat, (*c*) dividing the result by 0.962, and (*d*) adjusting to the nearest cent.

(3) *Class III.* The price per hundredweight of Class III milk containing 3.8 percent butterfat shall be that computed by multiplying by 3.8 the price computed pursuant to subdivision (i) (*e*) of this subparagraph and adding thereto the amount computed pursuant to subdivision (ii) (*a*) of this subparagraph.

(i) The price per hundredweight of butterfat in Class III milk shall be computed by (*a*) multiplying by 1.25 the average of the prices per pound of 92-score butter at wholesale in the Chicago market as reported by the Department of Agriculture during the delivery period in which such milk was received, (*b*) subtracting 5 cents, (*c*) adjusting to the nearest cent, and (*d*) multiplying the result by 100.

(ii) The price per hundredweight of skim milk in Class III milk shall be computed by (*a*) adding to 21 cents, 3 cents for each full one-half cent that the price of nonfat dry milk solids for human consumption is above 7 cents per pound, (*b*) dividing the resulting sum by 0.962, and (*c*) adjusting to the nearest cent. The price per pound of nonfat dry milk solids to be used shall be the arithmetical average of the carlot prices, both spray and roller process, for human consumption delivered at Chicago, as reported by the Department of Agriculture for the delivery period, including in such average the quotations for any part of the preceding delivery period which were not published and available for the determination of the price of such nonfat dry milk solids for the previous delivery period. In the event the Department of Agriculture does not publish carlot prices for nonfat dry milk solids for human consumption delivered at Chicago, the average of the carlot prices for nonfat dry milk solids for human consumption f. o. b. manufacturing plants as reported by the Department of Agriculture for the Chicago area shall be used, and 3 cents shall be added for each full one-half cent that the latter price is above 6 cents per pound.

(48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; sec. 102 Reorg. Plan 1 of 1947, 12 F. R. 4534)

Issued at Washington, D. C., this 23th day of December 1948 to be effective on and after the 1st day of January 1949.

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

[F. R. Doc. 48-11473; Filed, Dec. 30, 1948; 8:56 a. m.]

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## PART 936—FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN CALIFORNIA

### ORDER AMENDING ORDER, AS AMENDED, REGULATING HANDLING

§ 936.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary to and in addition to the findings and determinations made in connection with the issuance of this order and of each of the previously issued amendments thereto; 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 et seq.) and the rules of practice and procedure effective thereunder (7 CFR and Supps., 900.1 et seq.; 12 F. R. 1159, 4904), a public hearing was held at Sacramento, California, on April 12, 1948, upon proposed further amendments to the marketing agreement, as amended, and Order No. 36, as amended (7 CFR, Supp., 936.1 et seq.), regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The said order, as amended and as hereby further amended, regulates the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, the marketing agreement and the proposed amendments thereto upon which hearings have been held; and

(3) There are no differences in the production and marketing of said fruit grown in the production area covered by said order, as amended and as hereby further amended, that make necessary different terms and provisions applicable to different parts of such area.

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

(1) The agreement amending the marketing agreement, as amended, regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, upon which the aforesaid public hearing was held, has been executed by handlers, excluding cooperative associations of producers who

were not engaged in processing, distributing, or shipping the fruit covered by this order) who, during the period April 1, 1947, to March 31, 1948, both dates inclusive, handled, respectively, not less than 50 percent of the volume of Bartlett pears, not less than 50 percent of the volume of plums, and not less than 50 percent of the volume of Elberta peaches covered by said order, as amended and hereby further amended;

(2) The aforesaid agreement amending the marketing agreement, as amended, has been executed by handlers who were signatory parties to said marketing agreement, as amended, and who, during the preceding marketing season, handled not less than 67 percent of the volume of Bartlett pears, not less than 67 percent of the volume of plums, and not less than 67 percent of the volume of Elberta peaches, grown in the State of California, handled by all signatory handlers to said marketing agreement, as amended, during said marketing season;

(3) The issuance of this order, amending the aforesaid order as amended, is favored and 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 (April 1, 1947, to March 31, 1948, both dates inclusive), were engaged, within the State of California, in the production for market of Bartlett pears, plums, and Elberta peaches, respectively; and

(4) The issuance of this order, amending the aforesaid order as amended, is favored and approved by producers who participated in the aforesaid referendum on the question of its approval and who, during the aforesaid determined representative period, produced for market, within the State of California, at least two-thirds of the volume of Bartlett pears, at least two-thirds of the volume of plums, and at least two-thirds of the volume of Elberta peaches, respectively, produced during said period by all producers who participated in said referendum.

*It is, therefore, ordered,* That, on and after the effective date hereof, the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California shall be in conformity to, and in compliance with, the terms and conditions of the aforesaid order, as amended and as hereby further amended; and such order is hereby amended as follows:

1. Insert the following immediately preceding the period in § 936.1 (b): ", and further amended by Public Law 305, 80th Cong., approved August 1, 1947".

2. Insert, after the first semicolon in § 936.2 (s) (3), the following: "to engage in such research and service activities in connection with the handling of such fruit as may be approved, from time to time, by the Secretary;"

3. In § 936.2 (s) (8), insert the following immediately after the word "sizes": "or minimum standards of quality and maturity".

4. Delete the heading from § 936.4 and substitute, in lieu thereof, the following: *"Regulation."*

5. Delete the heading from § 936.4 (a), and substitute, in lieu thereof, the following: *"By grades and sizes*—(1) *Recommendation."*

6. Delete the paragraph designation "(b)" and its heading from § 936.4 and substitute, in lieu thereof, the following: "(2) *Establishment."*

7. Add to § 936.4 the following new paragraph:

(b) *By minimum standards of quality and maturity*—(1) *Recommendation.* Whenever a commodity committee, established pursuant hereto for a particular fruit, deems it advisable to establish during any period minimum standards of quality or maturity, or both, to govern shipments of such fruit pursuant to this paragraph, it shall so recommend to the Secretary. Each such recommendation of the committee shall be in terms of (i) minimum standards of maturity; (ii) freedom of fruit from material waste; (iii) freedom of fruit from material impairment of shipping quality; (iv) freedom of fruit from material impairment of edible quality; (v) freedom of fruit from serious damage to appearance; (vi) minimum size requirements; or (vii) any combination of the foregoing. With each such recommendation, the committee shall submit to the Secretary the information and data on which such recommendation is predicated; and such commodity committee shall also submit to the Secretary such other information as he may request.

(2) *Establishment.* Whenever the Secretary finds, from the recommendation and information submitted by a commodity committee established pursuant hereto for a particular fruit or from other available information, that to establish minimum standards of quality or maturity, or both, for such fruit and to limit the shipment of such fruit during any period to that meeting the minimum standards would be in the public interest and would tend to effectuate the declared policy of the act, he shall establish such standards, designate such period, and so limit the shipment of such fruit. The Secretary shall immediately notify such commodity committee of the minimum standards so established and the period so designated; and the committee shall give such notice thereof as may be reasonably calculated to bring such regulation to the attention of all interested parties.

8. Delete the provisions in § 936.4 (c) *Exemptions* of the order and insert, in lieu thereof, the following:

(1) Each commodity committee, established pursuant hereto for a particular fruit, shall, subject to the approval of the Secretary, adopt the procedural rules to govern the issuance of exemption certificates.

(2) In the event the Secretary issues a regulation for a particular fruit pursuant to the provisions in paragraph (a) of this section, the commodity committee established pursuant hereto for such fruit shall determine what the percentage of such fruit permitted to be shipped from each district is of the total quantity of such fruit which would be shipped from such district in the absence of such regulation. An exemption certificate shall thereafter be issued by such committee to any grower who furnishes proof, satisfactory to such committee, that by reason of conditions beyond his control he will be prevented, because of the regulation issued, from shipping, or having shipped, a percentage of his crop of such fruit equal to the percentage, determined as aforesaid, of all such fruit permitted to be shipped from his district. The certificate shall permit such grower to ship, or have shipped, a percentage of his crop of such fruit equal to the percentage determined as aforesaid. Each such commodity committee shall maintain a record of all applications submitted for exemption certificates pursuant to the provisions of this section, and shall maintain a record of all certificates issued, including the information used in determining in each instance the quantity of fruit thus to be exempted, and a record of all shipments of exempted fruit. Such additional information as the Secretary may require shall be recorded in the records of such committee. Each commodity committee shall, from time to time, submit to the Secretary reports stating in detail the number of exemption certificates issued, the quantity of fruit thus exempted, and such additional information as may be requested by the Secretary.

(3) In the event the commodity committee, established pursuant hereto for a particular fruit, determines that by reason of general crop failure or any other unusual conditions within a particular district or districts, it is not feasible or would not be equitable to issue exemption certificates to growers within such district or districts on the basis set forth in subparagraph (2) of this paragraph, it may issue exemption certificates on the basis of the average of the percentages, as determined under subparagraph (2) of this paragraph, of the crops of such fruit permitted to be shipped from all districts. An exemption certificate shall thereafter be issued by such committee to any grower who furnishes proof satisfactory to such committee to the effect that such grower will be prevented, because of the aforesaid regulation, from shipping, or having shipped, as large a percentage of his crop of such fruit as the average of the percentages, as determined under subparagraph (2) of this paragraph, of the crops of such fruit permitted to be shipped from all districts. The certificate shall permit such grower to ship, or have shipped, a percentage of his crop of such fruit equal to the average of the percentages determined as aforesaid.

(4) If any grower is dissatisfied with the action of a commodity committee taken with respect to his application for an exemption certificate, such grower may appeal to the Secretary: *Provided,* That such appeal shall be made promptly. The Secretary may, upon an appeal made as aforesaid, modify or reverse the action of the committee from which such appeal was taken. The authority of the Secretary to supervise and control the issuance of exemption certificates is unlimited and plenary; and any determination by the Secretary with respect to an exemption certificate shall be final and conclusive.

9. Insert before the period at the end of the first sentence of § 936.4 (d), the

following: "or minimum standards of quality and maturity."

10. Insert, after the word "size" in the last sentence of § 936.4 (d), the following: "or quality and maturity".

11. Add the following new paragraph to § 936.4:

(e) *Modification, suspension, or termination.* Whenever a commodity committee, established pursuant hereto for a particular fruit, deems it advisable to recommend to the Secretary the modification, suspension, or termination of any or all of the regulations established pursuant to paragraphs (a) or (b) of this section, it shall so recommend to the Secretary. If the Secretary finds, upon the basis of such recommendation or upon the basis of other available information, that to modify any such regulations will tend to effectuate the declared policy of the act, he shall so modify such regulations. If the Secretary finds, upon the basis of such recommendation or upon the basis of other available information, that any such regulations obstruct or do not tend to effectuate the declared policy of the act, he shall suspend or terminate such regulations. The Secretary shall immediately notify such commodity committee, and such commodity committee shall promptly give adequate notice to handlers and growers, of the issuance of each order modifying, suspending, or terminating any such regulations. In like manner and upon the same basis the Secretary may terminate any such modification or suspension.

12. Delete the first sentence in § 936.8 (a) and insert, in lieu thereof, the following:

§ 936.8 *Expenses and assessments*—(a) *Expenses.* The Control Committee is authorized to incur such expenses as the Secretary may find are reasonable and are likely to be incurred by the Control Committee during the then current season for the maintenance and functioning of such committee and the respective commodity committees, and for such research and service activities relating to the handling of fruit as the Secretary may determine to be appropriate.

13. Delete the last sentence of § 936.8 (b).

(48 Stat. 31 as amended, 61 Stat. 208, 707; 7 U. S. C. and Sup. 601 et seq.)

Issued at Washington, D. C., this 28th day of December 1948, to be effective on and after 12:01 a. m., P. s. t., February 15, 1949.

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

[F. R. Doc. 48-11488; Filed, Dec. 30, 1948; 8:56 a. m.]

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## PART 948—MILK IN SIOUX CITY, IOWA, MARKETING AREA

### ORDER AMENDING ORDER, AS AMENDED, REGULATING HANDLING

§ 948.0 *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 this order and of each of the previously issued amendments thereto; 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 Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR, Supps., 900.1 et seq.), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Sioux City, Iowa, marketing area; and a decision was made with respect to amendments by the Secretary on December 21, 1948. Upon the basis of the evidence introduced at such hearing and the record thereof it is hereby found that:

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

(2) The said order, as amended and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which hearings have been held; and

(3) The prices calculated to give milk produced for sale in said marketing area, a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8c of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for such milk, and the minimum prices specified in the order, as amended and as hereby further amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

(b) *Additional findings.* It is necessary, in the public interest, to make this amendment effective not later than January 1, 1949. Any delay beyond January 1, 1949, in the effective date of this amendment will seriously threaten the orderly marketing of milk in the Sioux City, Iowa, marketing area for the month of January and succeeding months. The nature and provisions of the amendment are well known to the handlers in the market since the hearing was held on July 1, 1948, the recommended decision was filed on October 25, 1948 (13 F. R. 6333), and the final decision was executed by the Secretary on December 21, 1948, which final decision sets forth the need for the amendment. Compliance with the amendatory order will not require any preparation on the part of the handlers which cannot be completed by January 1, 1949. It is hereby found and determined, in view of these facts and circumstances, that good cause exists for making this amendment effective January 1, 1949; and that it would be contrary to the public interest to delay the effective date of this amendment to a date later than January 1, 1949.

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the milk covered by this order, as amended and as hereby further amended) of more than 50 percent of the volume of milk covered by this order, as amended and as hereby further amended, which is marketed within the Sioux City, Iowa, marketing area refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area; and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order, further amending the order, as amended, is the only practical means pursuant to the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order, further amending the order, as amended, is approved or favored by at least two-thirds of the producers, who, during the determined representative period (September 1948) were engaged in the production of milk for sale in the said marketing area.

*It is therefore ordered,* That on and after the effective date hereof, the handling of milk in the Sioux City, Iowa, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby further amended; and the aforesaid order, as amended, is hereby further amended as follows:

1. Delete § 984.4 (b) (1) (i) and substitute therefor the following:

(i) Disposed of in the form of milk, skim milk, buttermilk, flavored milk and flavored milk drinks; and

2. Delete § 948.4 (b) (2) and substitute therefor the following:

(2) Class II milk shall be all skim milk and butterfat disposed of as cream, either sweet or sour, including any mixture of skim milk and butterfat containing more than 6 percent butterfat, for consumption in fluid form, aerated cream, and eggnog.

3. Delete § 948.4 (b) (3) and substitute therefor the following:

(3) Class III milk shall be all skim milk and butterfat specifically accounted for as:

(i) Used for animal feeds;

(ii) Used to produce any milk product other than those specified in subparagraphs (1) and (2) of this paragraph; and

(iii) Actual plant shrinkage up to, but not in excess of 2 percent, respectively, of the total receipts of skim milk or but-

terfat in producer milk and other source milk not including receipts from other handlers.

4. Delete § 948.5 (a) and (b) and substitute therefor the following:

(a) *Basic price to be used in computing class prices.* The basic price to be used in computing the minimum prices per hundredweight for Class I milk and Class II milk for each delivery period shall be the higher of the prices calculated by the market administrator pursuant to subparagraphs (1) and (2) of this paragraph for the preceding delivery period.

(1) The average, adjusted to the nearest cent, of the basic (or field) prices reported to have been paid for milk of 3.5 percent butterfat content received during the delivery period at the following plants for which prices are reported to the market administrator or to the Department of Agriculture:

| *Present Operator of Plant and Location of Plant* |
|---|
| Amboy Milk Products Co., Amboy, Ill. |
| Borden Co., Dixon, Ill. |
| Borden Co., Sterling, Ill. |
| Carnation Co., Morrison, Ill. |
| Carnation Co., Northfield, Minn. |
| Carnation Co., Oregon, Ill. |
| Carnation Co., Waverly, Iowa. |
| Dean Milk Co., Pearl City, Ill. |
| Dean Milk Co., Pecatonica, Ill. |
| Fort Dodge Creamery Co., Fort Dodge, Iowa. |
| Pet Milk Co., Shullsburg, Wis. |
| United Milk Products Co., Argo Fay, Ill. |

(2) The price, adjusted to the nearest cent, calculated by the market administrator as follows: (i) Multiply by 1.25 the average of the prices per pound of 92-score butter at wholesale in the Chicago market, as reported by the Department of Agriculture during the delivery period in which such milk was received, (ii) subtract 5 cents, (iii) multiply by 3.5, (iv) add 21 cents, and (v) add 3 cents for each full one-half cent that the price of nonfat dry milk solids is above 7 cents per pound. The price per pound of nonfat dry milk solids to be used shall be the arithmetical average of the carlot prices, both spray and roller process, for human consumption delivered at Chicago, as reported by the Department of Agriculture for the delivery period, including in such average the quotations for any part of the preceding delivery period which were not published and available for the determination of the price of such nonfat dry milk solids for the previous delivery period. In the event the Department of Agriculture does not publish carlot prices for nonfat dry milk solids for human consumption delivered at Chicago, the average of carlot prices for nonfat dry milk solids for human consumption f. o. b. manufacturing plants as reported by the Department of Agriculture for the Chicago area, shall be used, and 3 cents shall be added for each full one-half cent that the latter price is above 6 cents per pound.

(b) *Class prices.* Each handler shall pay at the time and in the manner set forth in § 948.7 not less than the prices set forth in this paragraph for skim milk and butterfat in producer milk received during the delivery period at such handler's plant.

(1) *Class I.* The price per hundredweight for Class I milk containing 3.5 percent butterfat shall be the basic price computed pursuant to paragraph (a) of this section plus 80 cents during the months of April, May, June, and July and plus $1.00 during all other months of each year;

(i) The price per hundredweight for butterfat in Class I milk shall be computed by adding to the price computed pursuant to subparagraph (3) (i) of this paragraph for the preceding delivery period $16.00 during the months of April, May, June, and July and $20.00 during all other months of each year; and

(ii) The price per hundredweight for skim milk in Class I milk shall be computed by (*a*) multiplying by 0.035 the price computed pursuant to subdivision (i) of this subparagraph, (*b*) subtracting the result from the price computed pursuant to this subparagraph for Class I milk containing 3.5 percent butterfat, (*c*) dividing the result by 0.965, and (*d*) adjusting to the nearest cent.

(2) *Class II.* The price per hundredweight for Class II milk containing 3.5 percent butterfat shall be the basic price computed pursuant to paragraph (a) of this section plus 80 cents during the months of April, May, June, and July and plus $1.00 during all other months of each year;

(i) The price per hundredweight for butterfat in Class II milk shall be computed by adding to the price computed pursuant to subparagraph (3) (i) of this paragraph for the preceding delivery period $16.00 during the months of April, May, June, and July and $20.00 during all other months of each year; and

(ii) The price per hundredweight for skim milk in Class II milk shall be computed by (*a*) multiplying by 0.035 the price computed pursuant to subdivision (i) of this subparagraph, (*b*) subtracting the result from the price computed pursuant to this subparagraph for Class II milk containing 3.5 percent butterfat, (*c*) dividing the result by 0.965, and (*d*) adjusting to the nearest cent.

(3) *Class III.* The price per hundredweight for Class III milk containing 3.5 percent butterfat shall be the price computed pursuant to paragraph (a) (1) of this section for the preceding delivery period or the price computed pursuant to paragraph (a) (2) of this section for the current delivery period, whichever is higher;

(i) The price per hundredweight for butterfat in Class III milk shall be computed by (*a*) multiplying by 1.25 the average of the prices per pound of 92-score butter at wholesale in the Chicago market as reported by the Department of Agriculture during the delivery period in which such milk was received, (*b*) subtracting 5 cents, (*c*) adjusting to the nearest cent and (*d*) multiplying the result by 100, and

(ii) The price per hundredweight for skim milk in Class III milk shall be computed by (*a*) multiplying by 0.035 the price computed pursuant to subdivision (i) of this subparagraph, (*b*) subtracting the result from the price computed pursuant to this paragraph for Class III milk containing 3.5 percent butterfat, (*c*) dividing the result by 0.965, and (*d*) adjusting to the nearest cent.

(48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; sec. 102 Reorg. Plan 1 of 1947; 12 F. R. 4534)

Issued at Washington, D. C., this 28th day of December 1948 to be effective on and after the 1st day of January 1949.

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

[F. R. Doc. 48-11474; Filed, Dec. 30, 1948; 8:56 a. m.]

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[Orange Reg. 261]

## PART 966—ORANGES GROWN IN CALIFORNIA AND ARIZONA

### LIMITATION OF SHIPMENTS

§ 966.407 *Orange Regulation 261*—(a) *Findings.* (1) Pursuant to the provisions of Order No. 66 (7 CFR, Cum. Supp., 966.1 et seq.) regulating the handling of oranges grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendation and information submitted by the Orange Administrative Committee, established under the said order, and upon other available information, it is hereby found that the limitation of the quantity of such oranges which may be handled, 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 (60 Stat. 237; 5 U. S. C. 1001 et seq.) 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 Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective date.

(b) *Order.* (1) The quantity of oranges grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., January 2, 1949, and ending at 12:01 a. m., P. s. t., January 9, 1949, is hereby fixed as follows:

(i) *Valencia oranges.* (*a*) Prorate District No. 1: No movement; (*b*) Prorate District No. 2: Unlimited movement; (*c*) Prorate District No. 3: No movement.

(ii) *Oranges other than Valencia oranges.* (*a*) Prorate District No. 1: 700 carloads; (*b*) Prorate District No. 2: Unlimited movement; (*c*) Prorate District No. 3: Unlimited movement.

(2) The prorate base of each handler who has made application therefor, as provided in the said order, is hereby fixed in accordance with the prorate base schedule which is attached hereto and made a part hereof by this reference.

(3) As used in this section, "handled," "handler," "carloads," and "prorate base" shall have the same meaning as is given to each such term in the said order; and "Prorate District No. 1," "Prorate District No. 2," and "Prorate District No. 3" shall have the same meaning as is given to each such term in § 966.107 (11 F. R. 10258) of the rules and regulations contained in this part. (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 29th day of December 1948.

[SEAL] S. R. SMITH,
*Director, Fruit and Vegetable Branch, Production and Marketing Administration.*

PRORATE BASE SCHEDULE

[12:01 a. m. Jan. 2, 1949, to 12:01 a. m. Jan. 9, 1949]

ALL ORANGES OTHER THAN VALENCIA ORANGES

*Prorate District No. 1*

| Handler | Prorate base (percent) |
|---|---|
| Total | 100.0000 |
| A. F. G. Lindsay | 1.4254 |
| A. F. G. Porterville | 2.0185 |
| A. F. G. Sides | .5371 |
| Ivanhoe Cooperative Association | .5339 |
| Doffiemyer & Sons, W. Todd | .6201 |
| Earlibest Orange Association | 1.1335 |
| Elderwood Citrus Association | .8760 |
| Exeter Citrus Association | 2.6759 |
| Exeter Orange Growers Association | 1.2640 |
| Exeter Orchards Association | 1.7282 |
| Hillside Packing Association | 1.7182 |
| Ivanhoe Mutual Orange Association | 1.0836 |
| Klink Citrus Association | 4.6998 |
| Lemon Cove Association | 1.8716 |
| Lindsay Citrus Growers Association | 2.6396 |
| Lindsay Coop. Citrus Association | 1.3791 |
| Lindsay District Orange Co | 1.1627 |
| Lindsay Fruit Association | 1.7285 |
| Lindsay Orange Growers Association | .9057 |
| Naranjo Packing House Co | .9660 |
| Orange Cove Citrus Association | 3.2968 |
| Orange Cove Orange Growers | 2.0073 |
| Orange Packing Company | 1.2000 |
| Orosi Foothill Citrus Association | 1.3063 |
| Paloma Citrus Fruit Association | .9960 |
| Rocky Hill Citrus Association | 1.7362 |
| Sanger Citrus Association | 3.7881 |
| Sequoia Citrus Association | 1.0036 |
| Stark Packing Corp | 2.1966 |
| Visalia Citrus Association | 1.5665 |
| Waddell & Son | 1.8686 |
| Butte County Citrus Association, Inc | 1.3760 |
| James Mills Orchards Co | .8738 |
| Orland Orange Growers Association, Inc | .8960 |
| Andrews Bros. of Calif | .0000 |
| Baird-Neece Corp | 1.8045 |
| Beattie Association, Agnes M | .6890 |
| Grand View Heights Citrus Association | 2.1766 |
| Magnolia Citrus Association | 2.3432 |
| Porterville Citrus Association, The | 1.5893 |
| Richgrove-Jasmine Citrus Association | 1.3710 |
| Sandilands Fruit co | 1.6910 |
| Strathmore Coop. Association | 1.7029 |
| Strathmore Dist. Orange Association | 1.5831 |
| Strathmore Fruit Growers Association | 1.2099 |
| Strathmore Packing House Co | 1.6549 |
| Sunflower Packing Association, Inc | 2.5178 |
| Sunland Packing House Co | 2.8265 |
| Terra Bella Citrus Association | 1.0902 |
| Tule River Citrus Association | 1.2171 |

PRORATE BASE SCHEDULE—Continued

ALL ORANGES OTHER THAN VALENCIA ORANGES—continued

*Prorate District No. 1*—Continued

| Handler | Prorate base (percent) |
|---|---|
| Kroells Bros., Ltd | 1.0649 |
| Lindsay Mutual Groves | 1.5532 |
| Martin Ranch | 1.3530 |
| Woodlake Packing House | 2.1090 |
| Anderson Packing Co., R. M | .4222 |
| Baker Brothers | .1408 |
| Batkin Jr., Fred A | .0907 |
| California Citrus Groves, Inc., Ltd | 1.4489 |
| Chess Co., Meyer W | .4044 |
| Edison Groves, Inc | .0000 |
| Evans Bros. Packing Co | .0000 |
| Exeter Groves Packing Co | 1.0575 |
| Furr, N. C | .5867 |
| Ghianda Ranch | .0360 |
| Harding & Leggett | 1.5213 |
| Justman-Frankenthal Co | .2181 |
| Lo Bue Brothers | 1.0407 |
| Marks, W. & M | .2564 |
| Panno Fruit Co., Carlo | .2249 |
| Randolph Marketing Co | 2.0612 |
| Reimers, Don H | .3725 |
| Rooke Packing Co., B. G | .9794 |
| Webb Packing Co., Inc | .0000 |
| Wollenman Packing Co | 1.1599 |
| Woodlake Heights Packing Corp | .5743 |
| Zaninovich Brothers | .7718 |

[F. R. Doc. 48-11536; Filed, Dec. 30, 1948; 9:31 a. m.]

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## PART 975—MILK IN THE CLEVELAND, OHIO, MARKETING AREA

### ORDER AMENDING ORDER, AS AMENDED, REGULATING HANDLING

§ 975.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary to and in addition to the findings and determinations made in connection with the issuance of this order and of each of the previously issued amendments thereto; 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 Public Act No. 10, 73d Congress (May 12, 1933), as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR, Supps., 900.1 et seq., 12 F. R. 1159, 4904), a public hearing was held upon a proposed amendment to the tentatively approved marketing agreement and to the order, as amended, regulating the handling of milk in the Cleveland, Ohio, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8e of the act are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for such milk, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which hearings have been held.

(b) *Additional findings.* It is necessary to make effective promptly the present amendments to the said order, as amended, to reflect current marketing conditions, and to insure the production of an adequate supply of milk. Any further delay in the effective date of this order, as amended, and as hereby further amended, will seriously threaten the supply of milk for the Cleveland, Ohio, marketing area and will disrupt orderly marketing. The changes affected by this order, amending the order, as amended, do not require of persons affected substantial or extensive preparation prior to the effective date. In view of the foregoing, it is impracticable, unnecessary, and contrary to the public interest to delay the effective date of this order for 30 days after its publication (sec. 4 (c), Administrative Procedure Act, Pub. Law 404, 79th Cong. 60 Stat. 237).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the milk covered by this order, as amended) of more than 50 percent of the volume of milk covered by the aforesaid order, as amended, and as hereby further amended, which is marketed within the Cleveland, Ohio, marketing area, refused or failed to sign the marketing agreement regulating the handling of milk in the said marketing area; and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order, further amending the said order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order further amending the said order, as amended, is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of its issuance and who during September 1948 (said month having been determined to

be a representative period) were engaged in the production of milk for sale in the said marketing area.

*It is therefore ordered,* That on and after the effective date hereof, the handling of milk in the Cleveland, Ohio, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, and the aforesaid order, as amended, is hereby further amended as follows:

1. Delete § 975.6 (b) (1) and substitute therefor the following:

(1) Add to the basic formula price the following amount for the delivery period indicated: May and June, $0.85; September, October, November, December, January, and February, $1.15; and all others, $1.00: *Provided,* That in no event shall the price for Class I milk (other than that described in the second proviso of this subparagraph) be lower than $4.80 from the effective date of this amendment through February 1949; and not lower than $4.58 for the delivery period of March 1949: *And provided further,* That the minimum price of sweet or sour cream, or of any mixture of cream and milk (or skim milk), in Class I milk shall be the price computed pursuant to this subparagraph prior to the application of the above proviso, less 15 cents.

(48 Stat. 31, 670, 675; 49 Stat. 750; 50 Stat. 246; 7 U. S. C. 601 et seq.; sec. 102, Reorg. Plan 1 of 1947; 12 F. R. 4534)

Issued at Washington, D. C., this 29th day of December 1948, to be effective the 1st day of January 1949.

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

[F. R. Doc. 48-11535; Filed, Dec. 30, 1948; 9:30 a. m.]

## Chapter XXI—Organization, Functions and Procedure

### Subchapter D—Agricultural Research Administration

PART 2401—OFFICE OF THE ADMINISTRATOR

PART 2402—BUREAU OF AGRICULTURAL AND INDUSTRIAL CHEMISTRY

PART 2404—AGRICULTURAL RESEARCH CENTER

PART 2408—BUREAU OF HUMAN NUTRITION AND HOME ECONOMICS

PART 2409—BUREAU OF PLANT INDUSTRY, SOILS AND AGRICULTURAL ENGINEERING

DISCONTINUANCE OF CODIFICATION

The codification of Parts 2401, 2402, 2404, 2408 and 2409 is hereby discontinued. Future amendments to statements of organization and functions will appear in the Notices section of the FEDERAL REGISTER.

Dated: December 28, 1948.

[SEAL] F. H. SPENCER,
*Administrator.*

[F. R. Doc. 48-11468; Filed, Dec. 30, 1948; 11:08 a. m.]

# TITLE 26—INTERNAL REVENUE

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

### Subchapter C—Miscellaneous Excise Taxes

[T. D. 5681]

PART 190—RECTIFICATION OF SPIRITS AND WINES

MISCELLANEOUS AMENDMENTS

1. On September 22, 1948, notice of proposed rule-making, regarding the rectification of spirits and wines, was published in the FEDERAL REGISTER (13 F. R. 5507).

2. After consideration of all such relevant matter as was presented by interested persons regarding the proposal, the following amendments of §§ 190.13, 190.14, 190.17, 190.19, 190.31, 190.39, 190.49, 190.94, 190.95, 190.98, 190.99, 190.105, 190.106, 190.115, 190.118 (c), 190.119, 190.132, 190.138, 190.177, 190.262, 190.263, 190.332, 190.334, and 190.392 of Regulations 15, relating to the rectification of distilled spirits and wines, are hereby adopted; §§ 190.41a and 190.471a are added to such regulations; and §§ 190.15, 190.16, 190.110 (a) (2), and 190.137 of such regulations are revoked.

3. These amendments are designed to simplify certain requirements relating to construction and equipment, and the preparation, filing, and approval of documents in connection with the establishment and operation of rectifying plants. It is not the purpose of the amendments to require the filing of new plats and plans, or changes in premises or equipment, where the existing documents and equipment conform essentially to the requirements of the regulations prior to these amendments. Where substantial changes are made in construction, equipment, and premises, the new requirements should be observed.

§ 190.13 *Within 600 feet of distillery.* The district supervisor may permit the carrying on of the business of rectifying spirits or wines at a distance of less than 600 feet in a direct line from a distillery, when he is of the opinion that the revenue will not be endangered thereby. (Secs. 2819, 2832, 3170, 3176, I. R. C.)

§ 190.14 *Special application.* A person desiring to establish a rectifying plant within 600 feet of a distillery shall file a special application, in triplicate, for such privilege with the district supervisor. The application shall state the location of the rectifying plant and the distillery, the distance between the premises, the name of the distiller, a description of any connecting pipe lines, the reason for locating the rectifying plant within 600 feet of the distillery, and any additional information which the district supervisor may require. The district supervisor will take action on such special application in accordance with the procedure prescribed in § 190.119. (Secs. 2819, 2832, 3170, 3176, I. R. C.)

§ 190.17 *Changes requiring approval.* Where there is to be a change in the distance between a rectifying plant and a distillery located within 600 feet of each other, as a result of the extension or curtailment of either premises, a new special application, in triplicate, must be filed with the district supervisor by the proprietor of the premises which are to be extended or curtailed. Where a change occurs in the proprietorship of a rectifying plant or distillery located within 600 feet of each other, the new proprietor shall file with the district supervisor a new special application, in triplicate. Unless the rectifying plant premises are extended or curtailed as the result of such change, the change may be reflected in the next amended notice, Form 27-B, and plat filed by the rectifier. Such new special application shall be considered and disposed of in accordance with § 190.119. (Secs. 2819, 2832, 3170, 3176, I. R. C.)

§ 190.19 *Building or rooms.* The rectifying plant must be so constructed and equipped as to be suitable for the rectification of spirits by the process, or processes, of rectification which the rectifier proposes to use. The room or building must be securely constructed of brick, stone, wood, concrete or other substantial material, and must be completely separated from contiguous buildings or rooms by solid, unbroken partitions, or floors of substantial construction, except as hereinafter provided. Such partitions shall extend from the ground to the roof, or from the floor to the ceiling if a room is used, and if the rectifying plant is under the same roof or in the same building in which is located an internal revenue bonded warehouse or a tax-paid bottling house, the two premises must not have means of communication with each other within the building, except by approved pipe lines as herein authorized: *Provided,* That where a rectifying plant has heretofore been established under the same roof, or in the same building, with an internal revenue bonded warehouse or a tax-paid bottling house with interior communication between the two premises, it may continue to operate in such location if the revenue will not be jeopardized thereby. Where distilled water or tax-paid spirits are to be transferred by pipe line to, or from, the rectifying plant in accordance with the regulations in this part, necessary openings for the passage of the required pipe lines may be permitted in the walls or partitions, and necessary openings for passage of approved water, steam, sewer, or similar lines may likewise be permitted in the walls or partitions. Where contiguous wholesale liquor dealer premises are used in lieu of a finished product room, the necessary doors or openings may be permitted in the walls or partitions for the transfer of filled cases. (Secs. 2801 (e), 3176, I. R. C.)

§ 190.31 *Weighing tanks.* Where weighing tanks are used for gauging spirits, such tanks shall be constructed of metal, and shall be stationary and of uniform dimensions from top to bottom. Each such tank shall be equipped with a suitable measuring device whereby the contents will be correctly indicated. If the weighing tanks are to be used for gauging rectified spirits for determining the amount of tax, or gauging tax-exempt products prior to transfer of the spirits to a bottling tank, such weigh-

ing tanks must also conform to the requirements of § 190.39. The gauging of spirits in a weighing tank connected with a bottling tank shall be deemed to meet the requirements of the regulations in this part for gauging the spirits in a bottling tank mounted on scales: *Provided*, That after gauging, the spirits may be transferred to the bottling tank for immediate tax payment if subject to the rectification tax. Each weighing tank shall be mounted on accurate scales and shall have plainly and legibly painted thereon the words "Weighing Tank," followed by its serial number and capacity in wine gallons. The beams or dials of the scales must indicate weight in 5-pound graduations for scales up to, and including, 25 tons capacity, in 10-pound graduations for scales exceeding 25 tons capacity but not exceeding 60 tons capacity, and in 20-pound graduations for scales having a capacity of more than 60 tons. (Secs. 2801 (e), 2829, 3176, I. R. C.)

§ 190.39 *Bottling tanks.* Where spirits are bottled at the rectifying plant, the rectifier shall provide in the rectifying room, or bottling room if one is provided, one or more bottling tanks securely constructed of metal, and such tanks shall be of uniform dimensions from top to bottom. Each bottling tank shall be mounted on scales, or equipped with a suitable measuring device whereby the contents will be accurately and precisely indicated, and shall have plainly and legibly painted thereon the words "Bottling Tank," followed by its serial number and capacity in wine gallons. A suitable board shall be provided on each bottling tank for the attachment of Forms 237 and 230, as hereinafter provided. Each bottling tank must be closed, and any necessary openings therein affording access to the interior, or to the contents, must be provided with a cover, which will be secured by a Government lock. Stopcocks must be provided and so arranged as to completely control the flow of spirits both into and out of the bottling tank, and so constructed that they may be locked with a Government lock. The pipe connections containing such stopcocks or valves must be brazed, welded, or otherwise secured to the tank in such a manner that they cannot be detached or altered without showing evidence of tampering, and the outlet pipe connection shall be equipped with a check valve. The pipe line connecting the bottling tanks with the bottling machine must conform to the requirements of § 190.45. Bottling tanks may be permanently connected with pipe lines for the conveyance thereto of air and distilled water, but the distilled water pipe line must be affixed to the top of the tank. Such pipe lines must be equipped with a control valve which may be locked with a Government lock. Pipe lines used for the conveyance of air must also be equipped with a check valve located near the point of entry to the tank in order to effectively prevent any abstraction of spirits from the tank. Other pipe lines, except those used for the conveyance of spirits, may not be permanently connected with such tanks. Bottling tanks shall be accurately and precisely calibrated. (Secs. 2801 (e) (1), 2829, and 3176, I. R. C.)

§ 190.41a *Accumulation tanks.* Where the rectifier removes distilled spirits from the bottling line which contain sediment or foreign matter, or which otherwise require refiltering or rebottling, he may install suitable accumulation tanks in the bottling room for the accumulation of such spirits. Each such tank shall have plainly and legibly painted thereon the words, "Accumulation Tank," followed by its serial number and capacity in wine gallons. If the spirits accumulated in each tank are of the same class and type, they may be returned to the bottling tank system for refiltering and bottling with the same batch of spirits. The return of the spirits to the bottling tank system must be under the supervision of the storekeeper-gauger. Unless the spirits are refiltered and bottled with the same lot of spirits from which they were originally bottled, they must be returned for rectification under an approved formula, or, in the case of spirits not subjected to taxable rectification, returned to the dumping and reducing tank for commingling with spirits without rectification within the limitation of § 190.351. In such case, appropriate notation will be made on the Form 230 or Form 237 relative to the return of the spirits. (Secs. 2801(e), 3176, I. R. C.)

§ 190.49 *Distance from distillery or vinegar plant.* If the rectifying plant premises are situated more than 600 feet in a direct line from any premises authorized to be used for distilling spirits, or from a vinegar factory using the vaporizing process, such fact shall be stated on Form 27–B. If the distance between the rectifying plant premises and the premises of a distillery is less than 600 feet in a direct line, there must be stated in the notice, Form 27–B, the name of the proprietor of the distillery, the exact distance in feet and inches between the rectifying plant and distillery, and whether the location of the rectifying plant within such distance of the distillery has been approved by the district supervisor. If such location of the rectifying plant has been approved by the district supervisor, the date of such approval shall be given. If the distance between the rectifying plant premises and a vinegar factory using the vaporizing process is less than 600 feet in a direct line, such fact shall be stated on the form, and also whether or not the vinegar factory was established and operated as such prior to March 1, 1879. (Secs. 2801 (e), 2812, 2819, 2834, 2835, 3170, 3176, I. R. C.)

§ 190.94 *Preparation.* Every plat and plan shall be drawn to scale, and each sheet thereof shall bear a distinctive title, enabling ready identification. The cardinal points of the compass must appear on each sheet except the elevational plans. The minimum scale of any plat will not be less than $\frac{1}{50}$ inch per foot. Each sheet of the original plat and plans shall be numbered, the first sheet being designated number 1, and the other sheets numbered in consecutive order. Plats and plans shall be submitted on sheets of tracing cloth, opaque cloth, or sensitized linen. The dimensions of plats and plans shall be 15 by 20 inches, outside measurement, with a clear margin of at least 1 inch on each side of the drawing, lettering, and writing. Plats and plans may be original drawings, or reproductions made by the "ditto process," or by blue- or brown-line lithoprint, if such reproductions are clear and distinct. (Secs. 2801 (e), 3176, I. R. C.)

§ 190.95 *Depiction of rectifying plant premises.* Plats must show the outer boundaries of the rectifying plant premises, in feet and inches, in a color contrasting with those used for other drawings on the plat, and must contain an accurate depiction of the building, or buildings, comprising the premises, and any driveway, public highway, or railroad right-of-way adjacent thereto or connecting therewith. The depiction of the premises shall agree with the description in the notice, Form 27–B. If the premises are separated by a public highway or railroad right-of-way, and the tracts of land comprising the premises, or parts thereof, abut on such highway or right-of-way, opposite each other, the different tracts will be depicted separately, in feet and inches. If two or more buildings are to be used, the designated name of each shall be indicated, and all pipe lines or other connections, if any, between the same depicted. Where two or more buildings are used for the same purpose, the name of each such building shall include an alphabetical designation, beginning with "A," and they shall be so shown on the plat. All first floor exterior doors of each building on the premises will be shown on the plat. If the rectifying plant consists of a room or a floor of a building, an entire outline of the building, the precise location and dimensions of the room or floor, and the means of ingress and egress to a public street or yard shall be shown. Except as provided in § 190.104, all pipe lines leading to or from the premises, the purpose for which used, and the points of origin and termination will be indicated on the plat. (Secs. 2801 (e), 3176, I. R. C.)

§ 190.98 *Floor plans.* The plans shall include a floor plan of each building, showing the general dimensions of the rooms and floors, and the location of all doors, windows, and other openings, and how such openings are protected. If a portion of a building is used, such as a room or floor, the floor plans will include only that portion, and shall also show the means of ingress and egress to the street. All apparatus and equipment, except pipe lines, must be shown in their exact location on the floor plans and their designated use indicated. Pipe lines may also be shown, if desired. In the case of stills, tanks, and similar equipment, the serial number and capacity shall also be shown. (Secs. 2801 (e), 3176, I. R. C.)

§ 190.99 *Elevational flow diagrams.* Elevational flow diagrams (plans) shall be submitted which shall depict all equipment in its approximate operating sequence and elevation by floors, with all connecting pipe lines, valves, flanges, measuring devices, and attachments for Government locks. The elevation by floors on the diagrams may be indicated by horizontal lines representing floor levels. All major equipment such as stills

and tanks must be identified on the plans as to number and use. The elevational flow diagram must be so drawn that all fixed pipe lines, except those indicated by § 190.104, may be readily traced from beginning to end. Other types of drawings that clearly depict the information required herein may be submitted in compliance with this section. (Secs. 2801 (e), 3176, I. R. C.)

§ 190.105 *Certificate of accuracy.* The plat and plans shall bear a certificate of accuracy in the lower right hand corner of each sheet, signed by the rectifier, the draftsman, and the district supervisor, substantially in the following form:

---
(Name of proprietor)
---
(Address)
Approved ---
(Date)
Accuracy certified by:
---
(District supervisor)
---
(Name and capacity—for the proprietor)
---
(Draftsman)
Rectifying Plant No. ---
---, 19----,
(Date)
Sheet No. ---.

(Secs. 2801 (e), 3176, I. R. C.)

§ 190.106 *Revised plats and plans.* The sheets of revised plats and plans shall bear the same number as the sheets superseded, but will be given a new date. Any additional plats and plans shall be given a new number in consecutive order, or will be otherwise numbered and lettered in such manner as will permit the filing of the plats and plans in proper sequence. (Secs. 2801 (e), 3176, I. R. C.)

§ 190.115 *Changes in premises.* Where the rectifying plant premises are to be extended or curtailed, the rectifier must file with the district supervisor an amended notice, Form 27–B, and an amended plat of the premises as extended or curtailed. If the plans are affected by the extension or curtailment, they must also be amended. If the rectifying plant is within 600 feet of a distillery, the rectifier must also file a special application in accordance with §§ 190.14 or 190.17, if the changes are of such nature or extent as to require a special application. The additional premises covered by an extension may not be used for rectifying purposes, and the portion of the premises to be excluded by a curtailment may not be used for other than rectifying purposes, prior to approval of the notice, Form 27–B. (Secs. 2801 (e), 3170, 3176, I. R. C.)

§ 190.118 *Qualification.* * * *

(c) *Registry of stills.* Register the stills on Form 26, in triplicate, in accordance with § 190.471a, if not previously registered.

* * * * *

§ 190.119 *Special application.* Where a special application for permission to operate a rectifying plant within 600 feet of a distillery is submitted by the rectifier, and such special application conforms to the requirements of these regulations, the district supervisor will cause an inspection to be made to determine whether the proposed operation of the rectifying plant within 600 feet of the distillery may be permitted without jeopardy to the revenue. The inspector will ascertain whether the application accurately describes the relative location of the two premises and all pipe lines and other connections, if any, between such premises. The inspector will also observe the surroundings, including all streets, roads, and driveways connecting the two premises, and any condition which might endanger the revenue, and will describe the same in his report. If the district supervisor finds, upon consideration of the inspection report, that the rectifying plant may be operated at the designated location without danger to the revenue, he will note his approval on all copies of the special application. He will then return one copy of the approved application to the applicant, retain the original for his files, and forward the remaining copy, together with a copy of the inspection report, to the Commissioner. Approval of the special application pertains to the location of the rectifying plant only, and does not authorize the operation thereof. The rectifying plant may not be operated until the rectifier's bond, and other qualifying documents required by law and these regulations, have been filed and approved by the Commissioner. If the special application is disapproved, the district supervisor will note his disapproval thereon and will return all copies of such application to the applicant, with advice as to the reasons for disapproval. (Secs. 2819, 2832, 3170, 3176, I. R. C.)

§ 190.132 *Disposition of qualifying documents.* Where the rectifier's bond, Form 34, and notice, Form 27–B, are approved by the Commissioner, the district supervisor will, upon receipt of the approved copies of such documents from the Commissioner, as provided in § 190.138, forward one copy of the bond, notice, plat, plans, and other qualifying documents to the rectifier, and will retain one copy of such documents for the file. If the rectifier's bond is disapproved, the district supervisor will, upon receipt from the Commissioner of the disapproved copies of such bond and other qualifying documents submitted therewith, return all copies of the qualifying documents to the proprietor, with advice as to the reasons for such disapproval. (Secs. 2801 (e) (1), 3176, I. R. C.)

§ 190.138 *Qualifying documents.* The Commissioner will review the notice, plat, plans, rectifier's bond, Form 34, and other qualifying documents, upon their receipt from the district supervisor. If the Commissioner approves the rectifying plant construction and equipment, and the plat, plans, bond, and notice, and other qualifying documents, he will assign a registry number to the rectifying plant in accordance with § 190.139, note his approval on all copies of the bond and notice, retain one copy of the bond and notice, and all copies of the other qualifying documents, and will return two copies of the approved bond and notice to the district supervisor, with advice as to his action on the qualifying documents. If the Commissioner disapproves the bond, he will note his disapproval thereon and will return all copies thereof to the district supervisor, accompanied by the other qualifying documents submitted therewith, and a statement of the reasons for disapproval of the bond. (Secs. 2815 (c) (d), 3176, I. R. C.)

§ 190.177 *Application, Form 122.* When the rectifier desires to dump spirits for rectification, he will carefully gauge each package and prepare Form 122, in duplicate, giving a complete description of the packages and making application for permission to dump the spirits, except that where spirits are transferred to the rectifying plant, directly upon taxpayment from a contiguous distillery or internal revenue bonded warehouse or a distillery or internal revenue bonded warehouse located in the immediate vicinity of the rectifying plant and owned by the proprietor of the rectifying plant or a subsidiary and dumped for rectification within 30 days after receipt, the withdrawal gauge will be considered as satisfying the requirement that the spirits shall be gauged when dumped for rectification. The supervisor will determine from all the circumstances in each case whether the distillery or warehouse and the rectifying plant are in the immediate vicinity. Where the spirits are so dumped on the withdrawal gauge, details of such gauge will be copied on Form 122, and, in addition thereto, if the rectifying plant is equipped with processing tanks mounted on scales, the spirits may be dumped and gauged by weight in such processing tanks. In such case, the composite proof and proof gallons determined by such gauge shall also be reported on Form 122. The difference in proof gallons between the withdrawal (taxpayment regauge) and such tank gauge shall also be reported on Form 122. If the spirits are to be drawn from a storage tank, the rectifier will likewise execute Form 122, giving all the information applicable. Each Form 122 will be given a serial number beginning with "1" for the 1st day of January of each year and running consecutively thereafter to December 31, inclusive. (Secs. 2801 (e) (1), 2813, 3176, I. R. C.)

§ 190.262 *Application required for extension.* Where the rectifier desires to employ a process of rectification which will extend over more than 10 days, thus necessitating the holding of the spirits in the rectifying room for such longer period, application in quadruplicate for approval of such extended process must be incorporated in the Form 27–B Supplemental, and filed with the district supervisor as provided in § 190.152. The rectifier must set forth fully on such form, following the statement of process, the reason why the period of time specified for completion of the process is necessary. (Secs. 2801 (e), 3176, I. R. C.)

§ 190.263 *Inquiry by district supervisor.* Upon receipt of a Form 27–B Supplemental requesting approval of a process requiring more than 10 days for completion, the district supervisor will make such inquiry as he may deem proper to

determine the necessity for the extended period, and whether approval thereof will jeopardize the revenue. He will then forward all copies of the Form 27–B Supplemental to the Commissioner along with his findings and recommendation. The Form 27–B Supplemental will be disposed of in the manner prescribed by § 190.156. (Secs. 2801 (e), 3176, I. R. C.)

§ 190.332 *District supervisor may authorize.* The district supervisor may, in his discretion, authorize the installation of a pipe line for the transfer of rectified spirits from the bottling tanks in the rectifying plant to bottling tanks in a contiguous taxpaid bottling house or rectifying plant for bottling. (Secs. 2801 (e) (1), 3176, I. R. C.)

§ 190.334 *Action on application.* Upon receipt of the application, the district supervisor will make such inquiry as he may deem necessary to determine the propriety of granting the permission sought. He will then indicate his approval or disapproval on all copies of the application, and will return one copy to the applicant. Where the application is approved, the rectifier will, upon installation of the pipe line, file amended rectifier's notice on Form 27–B, and plans, as provided in § 190.117 in the case of major changes in equipment and an amended plat. These documents, together with a copy of the application to install the pipe line and a copy of the report of inspection relating thereto, will be forwarded to the Commissioner for appropriate action prior to use of the pipe line. If the application is disapproved, the district supervisor will return all copies of the application to the applicant with advice as to the reasons for disapproval. (Secs. 2801 (e) (1), 3176, I. R. C.)

§ 190.392 *Shipment of stamps.* Where the stamps are to be shipped, the collector will forward the stamps to the Government officer by registered mail or express. The expense of forwarding the stamps by registered mail or express will be borne by the proprietor. The collector may furnish the stamps directly to the proprietor for immediate delivery to the Government officer in accordance with § 190.391. (Secs. 2801 (e), 3176, I. R. C.)

§ 190.471a *Registry on Form 26.* Every person having in his possession or custody or under his control any still or distilling apparatus that is set up, must register the same on Form 26, in triplicate, with the district supervisor for the district in which it is set up. Stills to be used for the rectification of any type of distilled spirits may be registered for "Rectification of distilled spirits," and the specific type need not be shown. Thereafter, when another type of distilled spirits is to be rectified, the still need not be reregistered. The temporary suspension of a rectifying plant will not necessitate reregistration of the stills. Furthermore, the operation of a rectifying plant by alternating proprietors, where no actual change in ownership occurs, will not require reregistration of the stills by the proprietors. Where there is a change in location or use, or an actual change in ownership of a still, the still must be registered to reflect the change. The district supervisor will, upon approving the registration of a still on Form 26, retain one copy of the form, forward one copy to the Commissioner, and return the remaining copy to the rectifier. (Secs. 2801 (e), 2810, 3170, 3176, I. R. C.)

4. This Treasury decision shall be effective on the 31st day after its publication in the FEDERAL REGISTER.

(53 Stat. 300, 308, as amended, 309, 314, 319, 320, 373, as amended, 375; 26 U. S. C. secs. 2801 (e), 2810, 2812, 2819, 2829, 2832, 2834, 2835, 3170, and 3176)

[SEAL] GEO. J. SCHOENEMAN,
*Commissioner of Internal Revenue.*

Approved: December 28, 1948.

THOMAS J. LYNCH,
*Acting Secretary of the Treasury.*

[F. R. Doc. 48–11513; Filed, Dec. 30, 1948; 9:30 a. m.]

# TITLE 30—MINERAL RESOURCES

## Chapter II—Geological Survey, Department of the Interior

PART 200—ORGANIZATION AND PROCEDURE

PART 221—OIL AND GAS OPERATING REGULATIONS

PART 222—ESTABLISHMENT OF MINIMUM VALUATIONS FOR PURPOSES OF ROYALTY COMPUTATION

PART 223—APPROVAL OF SALES AGREEMENTS OR CONTRACTS COVERING THE DISPOSAL OF OIL AND GAS LEASE PRODUCTS (NOT APPLICABLE TO INDIAN OR NAVAL PETROLEUM RESERVE LANDS)

PART 227—DEFINITIONS OF KNOWN GEOLOGIC STRUCTURES OF PRODUCING OIL AND GAS FIELDS

PART 231—OPERATING AND SAFETY REGULATIONS GOVERNING THE MINING OF POTASH; OIL SHALE, SODIUM, AND PHOSPHATE; SULPHUR; AND GOLD, SILVER, OR QUICKSILVER; AND OTHER NONMETALLIC MINERALS, INCLUDING SILICA SAND

PART 251—ADMINISTRATION OF GOVERNMENT-OWNED PATENT RIGHTS REGARDING A METHOD AND MEANS FOR EXTINGUISHING MAGNESIUM INCENDIARY BOMBS

EDITORIAL CHANGES INCIDENT TO PREPARATION OF CODE OF FEDERAL REGULATIONS, 1949 EDITION

In order to conform Chapter II of Title 30 to the scope and style of the Code of Federal Regulations, 1949 Edition, authorized and directed by Executive Order 9930 of February 4, 1948 (13 F. R. 519), the following editorial changes are made effective upon publication in the FEDERAL REGISTER:

1. The codification of Part 200, except § 200.104, and the codification of Parts 222 and 227 are hereby discontinued. Future amendments to this material will appear in the Notices section of the FEDERAL REGISTER.

2. The headnote of Part 200 is amended to read "Forms and Reports," and § 200.104 is redesignated § 200.1.

3. Sec. 221.39 is amended to read as follows:

§ 221.39 *Relief from operating, royalty, and rental requirements.* Applications for any modification authorized by law of the operating requirements of a lease for lands of the United States shall be filed in triplicate (quintuplicate for applications involving leases for lands within the naval petroleum reserves) with the supervisor, and shall include a full statement of the circumstances that render such modification necessary or proper. Applications for any modification authorized by law of the royalty or rental requirements of a lease for lands of the United States shall be filed in triplicate in the office of the supervisor.

CROSS REFERENCE: For regulations of the Bureau of Land Management relating to royalty and rental relief, and suspension of operations and production, see 43 CFR, Part 191.

4. Sec. 223.4 is amended to read as follows:

§ 223.4 *Conditional approval by the oil and gas supervisor of acceptable sales agreements or contracts for more than 1 year.* If any agreement or contract covering the disposal of oil and gas lease products is for a fixed term of more than 1 year or is for a term of 1 year or less but grants to either or both of the parties thereto the option to extend its term beyond 1 year, the supervisor, if the agreement or contract is deemed satisfactory and either contains the substance of or is accompanied by the stipulation set forth below, signed by the designated operator or lessee, shall approve such agreement or contract as a method of disposal, subject to any condition, modification, or revocation that may be prescribed upon review thereof by the Director of the Geological Survey.

The stipulation, the substance of which must either be included in the agreement or contract, or be made the subject matter of a separate instrument properly identifying the leases affected thereby, is as follows:

It is hereby understood and agreed that approval of the agreement in question shall be subject to the condition that nothing therein shall be construed as affecting any of the relations between the United States and its lessee, particularly in matters of gas waste, taking royalty in kind and the method of computing royalties due as based on a minimum valuation and in accordance with the terms and provisions of the oil and gas operating regulations applicable to the lands covered by said agreement.

5. Section 231.1 is amended to read as follows:

§ 231.1 *Authority, purpose, and scope of the regulations in this part.* Pursuant to the authority vested in the Secretary of the Interior the regulations in this part have been issued to govern the methods of mining on the public domain for the discovery, mining, and treating of potash, oil shale, sodium, phosphate, sulphur, gold, silver, or quicksilver. The regulations in this part shall also apply to deposits of silica sand and other nonmetallic minerals within lands withdrawn by Executive Order No. 5105 of May 3, 1929, and to minerals in acquired lands (except coal, oil, and gas) under the regulations in 43 CFR, Part 200. On and after July 1, 1944, the ad-

ministration of the regulations in this part, save and except for those provisions dealing with inspections for the safety and welfare of miners engaged in operations covered by the regulations in this part shall be vested in the Geological Survey, Department of the Interior.

Effective July 1, 1944, the function of making inspections for the safety and welfare of miners under the regulations in this part providing for such inspections shall be vested in the Bureau of Mines, Department of the Interior.

The enforcement of the regulations in this part will remain the function of the Geological Survey.

CROSS REFERENCE: Leases of silica sands and other non-metallic minerals in certain areas in Nevada: See Public Lands: 43 CFR, Cum. Supp., Part 199.

6. Part 251, Administration of Government-owned Patent Rights Regarding a Method and Means for Extinguishing Magnesium Incendiary Bombs, is deleted.

(41 Stat. 450, 44 Stat. 302, 710, 1058, 47 Stat. 701, 61 Stat. 915; 30 U. S. C. 189, 271, 275, 285, 293, 359)

OSCAR L. CHAPMAN,
*Under Secretary of the Interior.*

DECEMBER 29, 1948.

[F. R. Doc. 48-11533; Filed, Dec. 30, 1948; 9:30 a. m.]

## TITLE 31—MONEY AND FINANCE: TREASURY

### Chapter II—Fiscal Service, Department of the Treasury

CHANGES INCIDENT TO PUBLICATION OF CODE OF FEDERAL REGULATIONS, 1949 EDITION

In order to conform Chapter II of Title 31 to the scope and style of the Code of Federal Regulations, 1949 Edition, as prescribed by the regulation of the Administrative Committee of the Federal Register and approved by the President effective October 12, 1948 (13 F. R. 5929), the following changes are made, effective upon their publication in the FEDERAL REGISTER:

1. In Part 202, § 202.29 is deleted.
2. In § 204.2 (e), the words "Republic of the Philippines" are substituted for "Commonwealth of the Philippine Islands."
3. In Part 205, § 205.20 is deleted.
4. In Part 208, § 208.0 is deleted.
5. In Part 210, § 210.10 is deleted.
6. In Part 211, § 211.2 is deleted.
7. In the first sentence of § 211.3 (b), a period is inserted after the word "released" and the words "in accordance with section 2 above quoted" are deleted.
8. In § 211.3 (c), the words "set forth in sections 2 and 4 above quoted" and "in accordance with section 2 above quoted" are deleted.
9. In § 211.4 paragraphs (b) and (c) are deleted and (d), (e) and (f) are redesignated (b), (c) and (d), respectively. The figure "62" in the first sentence of the paragraph redesignated (b) is changed to "5". The words "one copy to the Foreign Funds Control Section, Treasury Department" are deleted. The first sentence of the paragraph redesignated (c) is deleted.
10. In Part 220, § 220.2 is revoked.
11. In Part 223, § 223.19 is deleted.
12. Section 224.8 is amended to read as follows:

§ 224.8 *U. S. district courts; where terms may be held.* A list of places at which a term of the United States district court may be held may be obtained from the Administrative Office of the United States Courts, Washington, D. C. (R. S. 161; 5 U. S. C. 22; apply sec. 2, 28 Stat. 279; 6 U. S. C. 7).

13. Section 224.9 is revoked.
14. The codification of Part 226 is discontinued. In the future, notice of surety companies will be published in the Notices section of the FEDERAL REGISTER.
15. Part 227 is revoked.
16. Parts 245, 247, 248, 249, 251 and 252 are deleted.
17. In § 260.2, the words "as provided in § 260.3" are deleted.
18. Section 260.3 is deleted.
19. Section 261.6 is revised to read as follows:

§ 261.6 *Report of shipment.* As promptly as possible after the close of each month, a consolidated report of shipments made during the preceding month must be forwarded by the consignor to the Secretary of the Treasury, for attention of the Division of Deposits, on Form 10DD, Revised. (50 Stat. 480; 5 U. S. C. 134*e*)

20. The headnote for Part 270 is changed to read "Part 270—Availability of Records."
21. The codification of §§ 270.1 to 270.16 is discontinued. Future amendments to this material will appear in the Notices section of the FEDERAL REGISTER.
22. Sections 270.17 and 270.18 are redesignated §§ 270.1 and 270.2, and the subpart designations are deleted.
23. The headnote for Part 351 is changed to read "Part 351—Availability of Records."
24. The codification of §§ 351.1 to 351.7 is discontinued. Future amendments to this material will appear in the Notices section of the FEDERAL REGISTER.
25. Sections 351.8 and 351.9 are redesignated §§ 351.1 and 351.2, and the subpart designations are deleted.

[SEAL] E. H. FOLEY, Jr.,
*Acting Secretary of the Treasury.*

DECEMBER 28, 1948.

[F. R. Doc. 48-11475; Filed, Dec. 30, 1948; 8:56 a. m.]

### Subchapter B—Bureau of the Public Debt

PART 323—AVAILABILITY OF RECORDS

CHANGES INCIDENT TO PUBLICATION OF CODE OF FEDERAL REGULATIONS, 1949 EDITION

DECEMBER 29, 1948.

The following changes are hereby made in connection with the publication of the Code of Federal Regulations, 1949 Edition:

1. The headnote for Part 323 is changed to read, "Part 323, Availability of Records."
2. The codification of §§ 323.1 to 323.12 is discontinued. Future amendments to this material will appear in the Notices section of the FEDERAL REGISTER.
3. Sections 323.13 and 323.14 are redesignated §§ 323.1 and 323.2 and the subpart designations are deleted.

[SEAL] JOHN W. SNYDER,
*Secretary of the Treasury.*

[F. R. Doc. 48-11550; Filed, Dec. 30, 1948; 4:15 p. m.]

## TITLE 8—ALIENS AND NATIONALITY

### Chapter I—Immigration and Naturalization Service, Department of Justice

#### Subchapter B—Immigration Regulations

PART 110—PRIMARY INSPECTION AND DETENTION

DESIGNATION OF JUNEAU, ALASKA, AS A SEPARATE CLASS A PORT OF ENTRY

DECEMBER 9, 1948.

Section 110.1 *Designated ports of entry except by aircraft,* Chapter I, Title 8 of the Code of Federal Regulations is amended by deleting "Juneau" and "Juneau (BSI)" from the sentence in parentheses following "Ketchikan, Alaska" in the list of Class A ports of entry in District No. 12, and by inserting "Juneau, Alaska (BSI)" in that list between "Eagle, Alaska" and "Ketchikan, Alaska".

This order shall become effective on the date of its publication in the FEDERAL REGISTER. The requirements of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable for the reason that the regulation prescribed by this order pertains solely to agency organization.

(Sec. 23, 39 Stat. 892, sec. 24, 43 Stat. 166, sec. 37 (a), 54 Stat. 675, sec. 1, 54 Stat. 1238; 8 U. S. C. 102, 222, 458)

WATSON B. MILLER,
*Commissioner, Immigration and Naturalization.*

Approved: December 27, 1948.

PEYTON FORD,
*Acting Attorney General.*

[F. R. Doc. 48-11482; Filed, Dec. 30, 1948; 8:56 a. m.]

### Chapter II—Office of Alien Property, Department of Justice

PART 500—ORGANIZATION OF OFFICE OF ALIEN PROPERTY AND DELEGATIONS OF FINAL AUTHORITY

DISCONTINUANCE OF CODIFICATIONS

CROSS REFERENCE: For order discontinuing the codification of Part 500 of this chapter, see FEDERAL REGISTER Document 48-11542 in the Notices section, *infra.*

REORGANIZATION AND REVISION OF CHAPTER

Part
501 General rules of procedure.
502 Rules of procedure for claims.
503 Availability of records.
504 Vesting orders.
505 Specific prohibitions.
506 Property in process of judicially supervised administration, or in court or administrative proceedings.
507 Patents, trademarks and copyrights.
508 Administration of alien property seized during World War I.
509 Foreign exchange rates.
510 Reports.
511 Blocked assets: Regulations issued originally by the Treasury Department.
512 Blocked assets: Regulations issued by Office of Alien Property.

PART 501—GENERAL RULES OF PROCEDURE

Sec.
501.1 Claims by inventors or assignees to vested patents.
501.2 Time for filing claims.
501.3 Filing of debt claims by depositors of Yokohama Specie Bank, Ltd., Honolulu Branch.
501.4 Filing of claim as condition precedent to suit.
501.5 Effect of disallowance of claim in determining period of limitations for filing suit.
501.15 Service of process on persons within enemy territory.
501.16 Non-applicability of § 501.15 to service of process or notice on persons within Bulgaria, Hungary, Italy or Rumania.
501.17 Copy of process required to be sent to the Office of Alien Property in certain cases.
501.20 Extension of application of § 501.15 to Territory of Hawaii.
501.21 Non-applicability of § 501.20 to service of process on persons within Bulgaria, Hungary, Italy or Rumania.
501.25 Regulations governing sales of property by the Office of Alien Property.
501.26 Delegation to designated officers of functions and powers under § 501.25 (General Order No. 26).
501.40 Public participation in substantive rule making.
501.45 Renewal of licenses.
501.50 Licensing.
501.60 Reporting concerning certain property.
501.80 Forms.

AUTHORITY: §§ 501.1 to 501.80 issued under sec. 5 (b), 40 Stat. 411, as amended; 50 U. S. C., App. 616. E. O. 9193, July 6, 1942, E. O. 9725, May 16, 1946, E. O. 9788, Oct. 14, 1946, 3 CFR Supps. Special authority is cited to text in parentheses.

§ 501.1 *Claims by inventors or assignees to vested patents.* (a) Any inventor (1) who claims full legal title to a patent or patent application vested by the Alien Property Custodian or the Attorney General, (2) who resided in enemy territory at the date of execution of the application for patent or at any time since such date but before the date on which said patent or patent application was vested, (3) who has not resided in enemy territory at any time on or since the date on which said patent or patent application was vested, and (4) who is desirous of notifying the Office of Alien Property of such claim, may file a notice of said claim on Form APC–16; *Provided, however,* That said inventor resides in the United States on the date on which said notice of claim is executed. Form APC–16 shall be executed under oath, shall be filed with the Office of Alien Property, Washington, D. C., and shall contain complete information as provided in said form.

(b) Any person (1) who claims full legal title to a patent or patent application vested by the Alien Property Custodian or the Attorney General, as a result of assignment to such person and (2) who is desirous of notifying the Office of Alien Property of such claim, may file a notice of said claim on Form APC–17: *Provided, however,* That on the date upon which said patent or patent application was vested, said person was a resident and citizen of the United States; *And provided further,* That no claim shall be filed on Form APC–17 unless before January 1, 1939, the patent or patent application stood of record in the United States Patent Office in the name of a resident and citizen of the United States. Form APC–17 shall be executed under oath, shall be filed with the Office of Alien Property, Washington, D. C., and shall contain complete information as provided in said form.

(c) The existence of an interest of a designated foreign national in the patent or patent application (such as a right to receive royalties) shall not constitute a bar to the filing of a notice of claim under paragraphs (a) or (b) of this section provided that the person filing said notice otherwise claims full legal title to such patent or patent application and provided such interest of a designated foreign national has been reported on Form APC–2.

(d) For the purpose of this section:

(1) "Enemy territory" shall mean the territory of any foreign country with which the United States is, or may in the future be, at war and any territory controlled or occupied by the military, naval or police forces or other authority of any such foreign country. Territories so controlled or occupied shall be deemed to be the territory of Albania, Austria, Czechoslovakia, Danzig, Estonia, French Indo-China, Greece, Hong Kong, Latvia, Lithuania, Luxembourg, British Malaya, Norway, Poland, San Marino, Thailand, Yugoslavia, those portions of Belgium, Denmark, France and The Netherlands within continental Europe, that portion of Burma, China, Netherlands East Indies and Philippine Islands occupied by Japan, that portion of the Union of Soviet Socialist Republics occupied by Germany; and any other territory controlled or occupied by Germany, Italy, Japan, Bulgaria, Hungary or Rumania.

(2) "Designated foreign national" shall mean:

(i) Any resident of any country other than the American Republics, the British Commonwealth of Nations, and the Union of Soviet Socialist Republics.

(ii) Any business organization, organized under the laws of, or having its principal place of business in, any foreign country other than those enumerated in subparagraph (2) (i) of this paragraph.

(iii) Any person included in The Proclaimed List of Certain Blocked Nationals on June 1, 1942. (See § 501.80, Forms APC–2, 16, 17)

§ 501.2 *Time for filing claims*—(a) *Title claims.* (1) Notices of Claim for return of any property or interest seized by, vested in, or transferred to the Attorney General of the United States or his predecessor, the Alien Property Custodian under the Trading with the Enemy Act, as amended, shall be filed (i) in the case of any property or interest acquired by the United States prior to December 18, 1941, by August 9, 1948; or (ii) in the case of any property or interest acquired by the United States on or after December 18, 1941, by April 30, 1949, or within two years from the seizure, vesting, or transfer of the property or interest in respect of which the claim is made, whichever is later, computed in accordance with section 33 of the Trading With the Enemy Act, as amended.

(2) Notwithstanding the provisions of subparagraph (1) of this paragraph, if no such notice of claim is filed prior to July 1, 1947, with respect to any property or interest vested in or transferred to the Attorney General of the United States, or his predecessor, the Alien Property Custodian, between December 18, 1941, and December 31, 1946, inclusive, or the net proceeds thereof, the Attorney General is authorized, under section 34 of the act, to pay debts owed by the person who owned such property or interest immediately prior to such vesting or transfer, out of money included in, or received as net proceeds from the sale, use, or other disposition of, such property or interest, after deduction for expenses and taxes pursuant to section 34 (g) of the act.

(b) *Debt claims.* (1) Claims asserting any debt owed by the person who owned any property or interest immediately prior to its vesting in or transfer to the Attorney General of the United States or his predecessor, the Alien Property Custodian, on or after December 18, 1941, shall be filed with the Office of Alien Property within the time fixed by the Attorney General of the United States in accordance with section 34 of the Trading With the Enemy Act. Under section 34 (a) of the act any time fixed for the filing of any debt claims may be extended in respect of any or all debtors covered thereby; and at least sixty (60) days notice thereof will be given by publication in the FEDERAL REGISTER.

(2) By order (13 F. R. 2763, May 21, 1948) the time fixed for the filing of debt claims by Bar Order No. 1 (12 F. R. 1448, March 1, 1947) has been extended and August 8, 1948 has been fixed as the date after which the filing of debt claims shall be barred in respect of debtors, any of whose property was vested in or transferred to the Attorney General of the United States or his predecessor, the Alien Property Custodian, between December 18, 1941, and December 31, 1946, inclusive.

§ 501.3 *Filing of debt claims by depositors of Yokohama Specie Bank, Ltd., Honolulu Branch.* Notices of Claim for Return of Property heretofore filed by depositors of the Yokohama Specie Bank, Ltd., Honolulu Branch, in respect of principal and interest accruing to

the date of the closing of said bank on December 7, 1941, shall be considered as including Notices of Claim for Payment of Debt under section 34 of the Trading with the Enemy Act covering interest accruing subsequent to the closing of said bank. Releases and receipts executed by such claimants on account of return orders issued in connection with their Notices of Claim for Return of Property shall not be a bar to the allowance of their debt claims for post-closing interest in the event the Attorney General subsequently determines that such post-closing interest is payable. The foregoing shall not be construed as a present determination by the Attorney General as to the validity of such debt claims. (40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp. E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 3 CFR, 1946 Supp.)

§ 501.4 *Filing of claim as condition precedent to suit.* The filing, heretofore or hereafter, of a claim under section 32 of the Trading With the Enemy Act shall constitute the filing of notice required by section 9 of the act as a condition precedent to the filing of a suit in equity for the return of property seized by, vested in, or transferred to the Alien Property Custodian, the Office of Alien Property Custodian, or the Attorney General.

§ 501.5 *Effect of disallowance of claim in determining period of limitations for filing suit.* The final disallowance under the rules of Part 502 of this chapter of any claim for the return of property filed under the Trading With the Enemy Act shall constitute a disallowance for the purpose of determining the period of limitations, prescribed in section 33 of the act, within which a suit pursuant to section 9 of the act may be instituted.

§ 501.15 *Service of process on persons within enemy territory.* (a) In any court or administrative action or proceeding within the United States in which service of process or notice is to be made upon any person in any designated enemy country or enemy-occupied territory, the receipt by the Alien Property Custodian of a copy of such process or notice sent by registered mail to the Alien Property Custodian at Washington, D. C., shall be service of such process or notice upon any such person, if, and not otherwise, the Alien Property Custodian within sixty days from the receipt thereof shall file with the court or administrative body issuing such process or notice, a written acceptance thereof.

(b) Such process or notice shall otherwise conform to the rules, orders or practice of the court or administrative body issuing such process or notice.

(c) This section shall not be construed to limit the authority of the Alien Property Custodian to take any measures in connection with representing any such person in any action or proceeding as in his judgment and discretion is or may be in the interest of the United States.

(d) For the purposes of this section the terms:

(1) "Person" shall mean any individual, partnership, association or corporation:

(2) "Designated enemy country" shall mean any foreign country against which the United States has declared the existence of a state of war (Germany, Italy, Japan, Bulgaria, Hungary and Rumania) and any other country with which the United States is at war in the future;

(3) "Enemy-occupied territory" shall mean any place under the control of any designated enemy country or any place with which, by reason of the existence of a state of war, the United States does not maintain postal communication.

§ 501.16 *Non-applicability of § 501.15 to service of process or notice on persons within Bulgaria, Hungary, Italy or Rumania.* The provisions of § 501.15 with respect to the service of process or notice shall not be applicable to any service of process or notice on any person within Bulgaria, Hungary, Italy or Rumania who is not a citizen or subject of Germany or Japan, in any court or administrative action or proceeding within the United States originally initiated or commenced after April 15, 1946.

§ 501.17 *Copy of process required to be sent to the Office of Alien Property in certain cases.* (a) A copy of any process or notice in any court or administrative action or proceeding involving property in the United States in which, on December 31, 1946, a person within Germany or Japan or a German or Japanese citizen or subject within Hungary, Bulgaria, Rumania or Italy had an interest, or income from such property accruing on or after December 31, 1946, which process or notice is to be served upon any such person, must in addition be sent by registered mail to the Office of Alien Property, Department of Justice, Washington 25, D. C., not less than 30 days prior to the date on which action pursuant to such process or notice is to be taken.

(b) Such process or notice shall otherwise conform to the rules, orders, or practice of the court or administrative body issuing such process or notice.

(c) For the purpose of this section:

(1) "Person" shall mean any individual, partnership, association, corporation, or body politic;

(2) "Income" shall include, without limitation, any interest, dividend, increment, proceeds, exchange, conversion, or other derivative, direct or indirect;

(3) Heirs-at-law and next-of-kin shall be deemed to have an interest in the estate of their decedent whether or not they are legatees under the will of said decedent.

(d) The receipt by the Office of Alien Property of a copy of any process or notice sent to it pursuant to this regulation shall not be considered service of such process or notice upon a person in an enemy country as provided for in § 501.15 unless:

(1) Specific request is made that it be so considered, and

(2) The Attorney General, or his duly authorized representative, files acceptance of such process or notice in the manner provided for in § 501.15.

§ 501.20 *Extension of application of § 501.15 to Territory of Hawaii.* (a) In any court or administrative action or proceeding within the Territory of Hawaii in which service of process or notice is to be made upon any person in any designated enemy country or enemy-occupied territory, the receipt by the Alien Property Custodian of a copy of such process or notice sent by registered mail to the Alien Property Custodian at Honolulu, Territory of Hawaii, shall be service of such process or notice upon any such person, if, and not otherwise, the Alien Property Custodian within sixty days from the receipt thereof shall file with the court or administrative body issuing such process or notice, a written acceptance thereof.

(b) Such process or notice shall otherwise conform to the rules, orders or practice of the court or administrative body issuing such process or notice.

(c) This section shall not be construed to limit the authority of the Alien Property Custodian to take any measures in connection with representing any such person in any action or proceeding as in his judgment and discretion is or may be in the interest of the United States.

(d) For the purposes of this section the terms:

(1) "Person" shall mean any individual, partnership, association or corporation;

(2) "Designated enemy country" shall mean any foreign country against which the United States has declared the existence of a state of war (Germany, Italy, Japan, Bulgaria, Hungary and Rumania) and any other country with which the United States is at war in the future;

(3) "Enemy-occupied territory" shall mean any place under the control of any designated enemy country or any place with which, by reason of the existence of a state of war, the United States does not maintain postal communication.

(e) This section shall not be deemed to amend, modify or supersede § 501.15, except with respect to the Territory of Hawaii.

§ 501.21 *Non-applicability of § 501.20 to service of process on persons within Bulgaria, Hungary, Italy or Rumania.* The provisions of § 501.20 with respect to the service of process or notice shall not be applicable to any service of process or notice on any person within Bulgaria, Hungary, Italy, or Rumania who is not a citizen or subject of Germany or Japan, in any court or administrative action or proceeding within the Territory of Hawaii originally initiated or commenced after April 15, 1946.

§ 501.25 *Regulations governing sales of property by the Office of Alien Property.* The Director, Office of Alien Property, determining

That in the course of the operation of the Office of Alien Property Custodian many types of property have been vested; and

That the public interest requires that such property be liquidated and sold in manners best suited to the type of property involved and at prices consistent with present price structures and furtherance of the war effort; and

That public sales with written bids publicly opened at a designated place are in general best calculated to protect both the interests of the United States and the purchasers; and that such sales have the advantage of providing complete records of the proceedings; and that in the case of such sales by written bids the place of sale may most advantageously be determined by considerations of administrative convenience without injury to the interest of the United States or of the bidders or other interested persons; and that it is therefore not necessary in the public interest that such bids be opened at the place where the property or a major portion thereof is situated; and

That properties in lots of small value cannot be sold to best advantage at public sale, but are most efficiently disposed of at time and place of the most favorable demand and upon such terms and conditions as may be necessary to secure the best market price; and that in such cases by such informal procedure unnecessary expense, delay and inconvenience may be avoided; and

That real estate may be disposed of at the most favorable prices through the medium of recognized brokers; and

That many properties will be sold at the request of other departments and agencies of the United States under regulations fully protecting the United States; and

That perishable or expendable commodities must be quickly sold in order to preserve the value of the property; and

That many goods are best disposed of in government-regulated securities and commodity markets where the rules and regular quotation of prices on the exchange offer more complete protection to the interest of the United States than would a public sale; and

That the public interest and the furtherance of the war effort so require;

for the above-stated reasons in the public interest, hereby issues the following sales regulations:

(a) *General Sales.* Unless otherwise determined by the Director, Office of Alien Property, all sales by the Office of Alien Property, other than those treated in paragraphs (b) and (c), of this section, shall be public sales, conducted under the procedure set forth in subparagraphs (1) to (9) of this paragraph.

(1) *Advertising.* Each sale shall be advertised in a newspaper of general circulation in the place where the property or a major portion thereof is located, and in such trade and other publications, if any, as the Chief of the Branch conducting the sale may deem appropriate. The initial advertisement shall appear at least fifteen days before the date set for opening bids or at such other time as in the opinion of the Chief of the Branch affords to interested parties an adequate opportunity for bidding.

(2) *Information.* The Chief of the Branch involved may designate one or more of the employees of the Office of Alien Property to be present at the places and times specified in the advertisement to furnish such available information as may be requested with respect to the property to be sold. Confidential information or matter which might be of benefit to competitors, or information with respect to formulae, processes, or trade secrets, will be furnished in appropriate cases only upon direct approval of the Director, Office of Alien Property.

(3) *Inspection.* Appropriate opportunity for inspection of the property to be sold will be afforded.

(4) *Bids.* Bids shall be submitted to the Director, Office of Alien Property, at the appropriate office designated in the advertisement of sale. All bids shall be in writing and sealed in plain envelopes suitably marked to identify the sale in connection with which they are submitted and, until the award is made or the bids are rejected, shall constitute irrevocable offers to purchase the property. Bids will be opened in public at the hour and place, and by the persons, appointed by the Chief of the Branch involved, in the presence of such bidders as may desire to attend. The absence of bidders at the time and place of the opening shall not prevent the making of the award.

(5) *Award.* Within thirty days after the opening of bids or such lesser period as may be set forth in the terms and conditions of sale, the Director, Office of Alien Property, will make the award to the highest qualified bidder or reject the bids, stating the reasons therefor.

(6) *Notification.* The successful bidder will be notified in writing of the award.

(7) *Execution of documents.* All papers and documents issued in consummating such sales may be executed and delivered on behalf of the Director, Office of Alien Property, by his duly authorized representative.

(8) *Return of checks.* Where earnest money checks are required to accompany the bid, the checks shall be returned to the unsuccessful bidders together with notice of the rejection of their bids.

(9) *Methods of payment.* Unless otherwise determined by the Director, Office of Alien Property, the sales price or any part thereof shall be paid by certified, cashier's or banker's check. Each such instrument shall be made payable to the "Director, Office of Alien Property," and shall be delivered to a duly authorized representative of the Director, Office of Alien Property.

(b) *The sale of property of a value determined to be not in excess of $10,000*—(1) *Methods of sale.* The Chief of the Branch having jurisdiction thereof may, after authorization by the Director, Office of Alien Property, sell at public or private sale, with or without public or other advertisement, any right, title, interest or estate the Director, Office of Alien Property, has vested in chattels, land, securities, contracts, claims, choses-in-action, or any other property whether tangible or intangible, in items, lots, or quantities having a value, determined as provided in subparagraph (2) of this paragraph not exceeding $10,000 for each item, lot or quantity to be sold.

(2) *Determination of value.* The Director, Office of Alien Property, will determine whether the value of any item, lot or quantity of property is not in excess of $10,000. If the Director, Office of Alien Property, determines the value of any item, lot, or quantity of property to be an amount not exceeding $10,000, the sale shall be made by the Chief of the Branch on such terms and in such manner as the Director, Office of Alien Property, shall direct.

(3) *Execution of documents.* All papers and documents issued in consummating such sales may be executed and delivered on behalf of the Director, Office of Alien Property, by his duly authorized representative.

(4) *Methods of payment.* Unless otherwise determined by the Director, Office of Alien Property, the sales price or any part thereof shall be paid by certified, cashier's or banker's check. Each such instrument shall be made payable to the "Director, Office of Alien Property", and shall be delivered to a duly authorized representative of the Director, Office of Alien Property.

(c) *Special sales*—(1) *Types of special sales.* Sales of the following types involving property of any value whatsoever are hereby designated as "Special Sales":

(i) Sales pursuant to regulations, requests or instructions of any Department or Agency of the United States;

(ii) Sales to the United States or any Agency thereof;

(iii) Sales of property which is perishable, or the preservation, storage or retention of which entails undue expense or loss;

(iv) Sales of any rights which lapse unless exercised within a limited time, including, but not limited to, rights appurtenant to the ownership of securities;

(v) Sales of securities or any commodities which are made upon public exchanges under government regulation;

(vi) Sales of real estate.

(2) *Methods of special sales.* Such sales shall be made in compliance with the applicable provisions of this section governing sales of property of a value determined by the Director, Office of Alien Property, to be not in excess of $10,000, and such other terms and conditions as the Director, Office of Alien Property, shall determine in each case.

(d) *Miscellaneous.* (1) Unless the Director, Office of Alien Property, shall otherwise direct, no person or business organization shall be qualified to bid for or purchase property if he is not an American citizen or is not a business enterprise controlled by American citizens and organized under the laws of the United States, or any State or Territory thereof.

(2) Sales by corporations, all or part of the shares of which have been vested by the Director, Office of Alien Property, or sales in the normal course of operation (not liquidation) of unincorporated business enterprises, the assets of or interests in which have been vested, in whole or in part, by the Director, Office of Alien Property, shall not be subject to this section.

(3) Sales shall be made in conformity with the applicable regulations of any other Department or Agency of the United States.

(4) No representative of the Director, Office of Alien Property, is authorized to make any warranty or guaranty, expressed or implied, respecting or in any way concerning any property or enterprise being sold.

(5) The Director, Office of Alien Property, reserves the right to waive, change, amend or modify any or all of this sec-

tion and the terms and conditions of sale at any time; the Director, Office of Alien Property, also reserves the right to withdraw any property from sale at any time or to reject any or all bids.

§ 501.26 *Delegation to designated officers of functions and powers under § 501.25 (General Order No. 26).* The functions and powers conferred upon Chiefs of Branches by § 501.25 (General Order No. 26), shall be exercised by the following officers: the Chief, Operations Branch, the Chief, Business Management Section, and the Chief, Real Estate and Liquidation Section, the Manager, New York Office, the Manager, Hawaii Office.

§ 501.40 *Public participation in substantive rule making*—(a) *Submission of written or oral views on proposed rule.* Within 15 days after the Director, Office of Alien Property, has published in the FEDERAL REGISTER notice of proposed substantive rule making, any person may submit in writing to Secretary, Office of Alien Property, Washington 25, D. C., a statement of his views, arguments, or other data concerning the proposed rule. The statement must be submitted in duplicate, typewritten double-spaced, and must set forth the writer's interest. Any person may, within the same period, apply in writing to the Secretary for permission to be heard orally in connection with a proposed rule, setting forth his interest and the gist of the subject-matter which he intends to present. Hearings will be allowed in the discretion of the Director, Office of Alien Property, and will be informal.

(b) *Petitions on rules.* Any person may submit to Secretary, Office of Alien Property, Washington 25, D. C., a petition for issuance, amendment, or repeal of a rule. The petition must be in duplicate, typewritten double-spaced, and must set forth petitioner's interest, the desired change or proposal, and supporting reasons. If the Director, Office of Alien Property, deems the petition meritorious, appropriate action will be taken to effectuate the petitioner's proposal. If the petition is denied, in whole or in part, prompt notice of denial will be given.

§ 501.45 *Renewal of licenses.* Application for renewal of any license, authorization, permit, certificate, approval, registration, or other form of permission, with reference to an activity of a continuing nature, shall be filed with the appropriate branch or section of the Office of Alien Property, Washington 25, D. C., not less than 30 days prior to the expiration date thereof, unless otherwise provided therein. In the case of permissions originally granted for less than 45 days, the activity shall be deemed not to be of a continuing nature, and the permission shall be non-renewable, except as may be otherwise expressly provided.

§ 501.50 *Licensing.* (a) Licenses with respect to transactions, transfers, or other dealings prohibited under Executive Order No. 8389, as amended, or under the regulations of the Office of Alien Property, are issued by the Director or any agency, instrumentality, agent, delegate, assistant or other personnel, appointed or designated by him.

(b) Transactions with respect to property over which jurisdiction has been transferred by Executive Order No. 9989, not authorized by general licenses or other public documents, may be effected only under specific licenses. Specific licensing activities are performed by the Foreign Funds Section of the Operations Branch and by the Federal Reserve Bank of New York. Applications for specific licenses may be filed on Treasury Department form TFE–1 or on such other forms as may from time to time be designated. Application forms may be obtained from the Federal Reserve Bank of New York or the Office of Alien Property, Washington, D. C. Applications for specific licenses shall be filed in duplicate with the Federal Reserve Bank of New York.

(c) Applications for licenses and authorizations, other than those pursuant to paragraph (b) of this section, are to be filed with the Office of Alien Property. No particular forms are prescribed therefor.

(d) In cases where the allowance of a claim under section 32 or section 34 of the Trading With the Enemy Act requires the granting of a license, the Notice of Claim shall be deemed to include an application for such license, and no separate application for such license need be filed.

§ 501.60 *Reporting concerning certain property.* All reports, forms, and other communications concerning property over which jurisdiction has been transferred by Executive Order No. 9989, which have been required to be made or filed with the Treasury Department, are on and after October 1, 1948, required to be made or filed with the Office of Alien Property. Reports, forms, and other communications that on or before September 30, 1948, have been required to be made or filed with the Federal Reserve Bank of New York, shall continue to be made or filed with that Bank.

§ 501.80 *Forms.* The following forms have been authorized for use by the public and may be obtained upon request to the Secretary, Office of Alien Property, Washington 25, D. C.

Form APC–1 *Notice of Claim under section 9.*

Purpose: Originally issued for use by persons seeking return, under section 9 of the Trading With the Enemy Act, of property vested by the Alien Property Custodian or the Attorney General. [Use of this form is not recommended because it has been substantially superseded by Forms APC–1A, 1B, and 1C, and persons who file on this form will be required to supply the additional information called for by Forms APC–1A, 1B, and 1C. This form has not been revoked because copies are outstanding and the filing of notice of claim on this form will be considered as timely filing if done within the bar dates of sections 33 and 34 of the Trading With the Enemy Act.]

Contents: Name, address and citizenship of the claimant; description of vested property; nature of claims; set-offs, counterclaims and defenses; interests of others in the claim.

Form APC–1A *Notice of Claim under section 32.*

Purpose: For use by persons seeking return, under section 32 of the Trading With the Enemy Act, of property vested by the Alien Property Custodian or the Attorney General.

Contents: Claimant's name and address; claimant's agent and fees; identification and value of property claimed; characterization of claimant; characterization of owner at date of vesting; chain of title.

Form APC–1B *Notice of Claim by Inventor under Section 32.*

Purpose: For use by living inventors seeking return, under section 32 of the Trading with the Enemy Act, of patents or patent applications vested by the Alien Property Custodian or the Attorney General. This is a specialized version of Form APC–1A.

Contents: Inventor's name and address; inventor's agent and fees; identification and value of patent claimed; identification of inventor.

Form APC–1C—*Notice of Claim under Section 34.*

Purpose: For use by persons seeking payment of debts under section 34 of the Trading with the Enemy Act.

Contents: Claimant's name, address, citizenship, claimant's agent, fees, identification of debtor and property, amount, nature and date of debt.

Form APC–2 *Report of Interests in Patents.*

Purpose: For use, by persons claiming interests in unexpired United States patent or patent applications, to report the interests of designated foreign nationals, as described in § 510.10.

Contents: Number of patent; name of inventor; name of assignee and terms of assignment; nature of reporter's license; nature of invention; rights retained by foreign nationals.

Form APC–3 *Report by Persons Acting under Judicial Supervision.*

Purpose: For use by persons acting under judicial supervision, or in any court or administrative action or proceeding, to report property or interests of designated enemy nationals.

Contents: Person reporting and capacity in which he acts; designated enemy national and nature of his interest; nature of property; interests of unknown designated nationals.

Form APC–6 *Notice of Claim Arising From Supervisory Order.*

Purpose: For use in submitting claim in connection with property supervised by the Alien Property Custodian or the Attorney General.

Contents: Name, address, citizenship of claimant; description of supervised properties; nature of claim; set-offs, counterclaims and defenses, if any, against the claim; interest of others in the claim.

Form APC–13P *Report of Enemy (or Former Enemy) Interest in New Patent Application.*

Purpose: For use in reporting to the Director, Office of Alien Property, an interest of an enemy or former enemy national in a patent application which is being filed in the Patent Office.

Contents: Citizenship of inventor; title of invention; citizenship of assignee and interest assigned; interest held by reporter.

Form APC–13T *Report of Enemy (or Former Enemy) Interest in New Trademark Application.*

Purpose and Contents. Same as Form APC–13P, except that it is used when filing trademark applications.

Form APC–14P *Report of Recording of Transfer of Interest in Patent.*

Purpose: For use upon recording in the Patent Office any instrument transferring an interest in a patent or application, in order to report to the Director, Office of Alien Property, an interest therein of an enemy or former enemy national. The form is filed in the Patent Office with a copy of the

instrument to be recorded attached. It is forwarded to the Director, Office of Alien Property, by the Patent Office with a notation of the recording.

Contents: Number of patent, name of inventor; title and date of invention; name, address and citizenship of assignor and assignee; nature of interest transferred; other agreements not expressed in instrument.

Form APC–14T *Report of Recording of Transfer of Interest in Trademark.*

Purpose and Contents: Same as Form APC–14P, except that it is used when recording the transfer of an interest in a trademark.

Form APC–15 *Attachment to Instrument Transferring Interest in Patent.*

Purpose and Contents: To be attached to each instrument, recorded in the Patent Office, which records the transfer of an interest in a patent or trademark in which an enemy or former enemy national has an interest, in order to give notice that the Attorney General has reserved the right to set aside the agreement.

Form APC–16 *Notice of Claim by Inventor for Return of Patent.*

Purpose: For use by inventors, now residing in the United States, when requesting the return of vested patents or patent applications in accordance with § 501.1. [Use of this form is not recommended because it has been substantially superseded by Form APC–1B, and persons who file on this form will be required to supply the additional information called for by Form APC–1B. This form has not been revoked because copies are outstanding and the filing of notice of claim on this form will be considered as timely filing if done within the bar dates of section 33 of the Trading with the Enemy Act.]

Contents: Description of patent; citizenship of inventor at time of application; present citizenship of inventor; status of inventor in United States.

Form APC–17 *Notice of Claim by Assignee for Return of Patent.*

Purpose: For use by an assignee, who claims full legal title to a vested patent or patent application, when requesting a return in accordance with § 501.1. [Use of this form is not recommended because it has been substantially superseded by Form APC–1B, and persons who file on this form will be required to supply the additional information called for by Form APC–1B. This form has not been revoked because copies are outstanding and the filing of notice of claim on this form will be considered as timely filing if done within the bar dates of section 33 of the Trading With the Enemy Act.]

Contents: Description of patent; record of assignments; consideration for assignment to claimant; citizenship of claimant.

Form APC–18 *Report of Foreign Interest in Copyright.*

Purpose: For use in reporting to the Custodian, in accordance with § 510.60, the interests of designated foreign nationals in copyrights.

Contents: Interest of designated foreign national; interest of reporter; financial transactions between reporter and foreign national since January 1, 1939; writings evidencing payments; list of works in which foreign national has interest and on which sums have been due since January 1, 1939; copies of contracts.

Form APC–19 *Report of Liability for Royalty Payments on Patents.*

Purpose: For use in reporting to the Director, Office of Alien Property, in accordance with § 510.30, liability for royalty payments under vested patent rights.

Contents: Patent number; royalty agreement; description of reporter; statement of royalties paid since January 1, 1939, and payments now due; dates when payments fall due.

Form APC–20 *Report of Royalty Payment on Patent.*

Purpose: For use by persons making payments of royalties due the Attorney General.

Contents: Name and address of reporter; patent number; due date and period covered by payment; computation of royalties due; explanation, if payment does not accompany report; party to whom payment was due prior to vesting.

Form APC–21 *Report of Recording of Transfer of Interest in Copyright.*

Purpose and Contents: Substantially the same as Form APC–14P, except that it is used when recording in the Copyright Office the transfer of an interest in a copyright.

Form APC–22 *Attachment to Instrument Transferring Interest in Copyright.*

Purpose and Contents: Same as Form APC–15, except that it is attached to instruments recorded in the Copyright Office. § 507.53 (a) (2) (iv).

Form APC–23 *Report of Foreign Interest in Copyright Application.*

Purpose and Contents: Same as Form APC–13P, except that it is used when filing an application for registration or renewal of a copyright in the Copyright Office. Use of this form is not required in applications for registration or renewal of copyrights made after August 21, 1946.

Form APC–25 *Royalty-bearing Copyright License Agreement.*

Purpose: Generally used by the Director, Office of Alien Property, in the licensing of commercial or royalty-bearing copyrights.

Contents: A long form covering the varied circumstances which generally arise in the licensing of royalty-bearing copyrights and containing a number of special features resulting from the peculiar nature of the Attorney General's title to vested property.

Form APC–26 *Royalty-free Copyright License Agreement.*

Purpose: Generally used by the Director, Office of Alien Property, in licensing copyrights on a non-royalty and non-exclusive basis.

Contents: A short form covering the licensed use, the term of the license and the fee to be paid, and containing several further clauses protecting the rights of the Attorney General.

Form APC–30 *Royalty-free Patent License Agreement.*

Purpose: For use by the Director, Office of Alien Property in granting royalty-free, non-exclusive and non-transferable licenses unvested patents to Americans.

Contents: The form contains a statement of the terms under which the license is granted.

Form APC–31 *Report of Foreign Interest in Trademark.*

Purpose and Contents: This form is substantially similar to Form APC–18, except that it is used in reporting to the Director, Office of Alien Property, pursuant to § 510.40, the interests of foreign nationals in trademarks and commercial prints and labels.

Form APC–40 *Application for License to Republish Books.*

Purpose: For use in applying to the Director, Office of Alien Property, for a license to republish war urgent books.

Contents: Description of applicant; description of original work; description of proposed reproduction.

Form APC–41 *Application for License to Republish Musical Composition.*

Purpose and Contents: This form is substantially the same as Form APC–40, except that it is used in applying for a license to republish a musical composition.

Form APC–43 *Offer to Purchase Vested Real Property.*

Purpose: For use by persons submitting to the Director, Office of Alien Property, an offer to purchase real property.

Contents: Offer to purchase; description of property; terms of offer; affidavit that offeror is citizen of the United States and is not buying in order to circumvent provisions of Trading With the Enemy Act.

Form APC–45 *Report of Royalty Payments on Copyrights Prior to Vesting.*

Purpose: For use, pursuant to § 510.70, in reporting royalties on vested copyrights which became due and payable prior to the date of vesting.

Contents: Name of reporter; foreign national whose interest was vested; copyrighted items covered; computation of royalties; explanation of method of computation; itemization of royalties.

Form APC–46 *Report of Royalty Payments on Copyrights Subsequent to Vesting.*

Purpose and contents: This form is substantially similar to Form APC–45, except that it is used to report royalties on vested copyrights which became due subsequent to the date of vesting.

Form APC–48 *Report of Property of Repatriates.*

Purpose: For use in inventorying the property of persons who are to be repatriated.

Contents: Personal history of repatriate; description of all property owned, controlled or claimed by repatriate; signature of repatriate; attest of examiner.

Form APC–50 *Report of Royalty Payments on Trademarks Prior to Vesting.*

Purpose: For use, pursuant to § 510.46, in reporting royalties on vested trademarks which became due and payable prior to the date of vesting.

Contents: Name of reporter; foreign national whose interest was vested; trademarks and agreements covered; explanation of royalties paid after January 1, 1939; computation of royalties due; explanation of method of computation; itemization of royalties.

Form APC–51 *Report of Royalty Payments on Trademarks Subsequent to Vesting.*

Purpose and contents: This form is substantially similar to Form APC–50, except that it is used to report royalties on vested trademarks which become due subsequent to the date of vesting.

Form APC–53 *Request by Licensee of Custodian for Loan of Motion Picture Film.*

Purpose: For use in requesting the loan of a motion picture film from the Director, Office of Alien Property; also used as a loan agreement.

Contents: Terms of the loan agreement.

Form APC–53A *Request by Non-Licensee of Custodian for Loan of Motion Picture Film.*

Purpose: For use in requesting the loan of a motion picture film from the Director, Office of Alien Property; also used as a loan agreement.

Contents: Terms of the loan agreement.

Form APC–54 *Report on Use of Licensed Patent.*

Purpose: For use by a licensee under Form APC–30 in reporting the use he has made of the patent during the calendar year.

Contents: Name and address of licensee; patents covered in report; uses of patents; goods made, used, and sold; other operations.

Form APC–55 *Motion Picture Film License.*

Purpose: For use by the Director, Office of Alien Property, in granting a license for the exploitation rights of a copyrighted motion picture film.

Contents: Similar to Form APC–25, with variations to fit the difference in subject-matter.

Form APC–56 Series A, B, C, D, E, F, G and H—*Report of German or Japanese Property in the U. S.*

Purpose: For use in reporting to the Director, Office of Alien Property, the present location and identity of property in the United States in which Germany or Japan, or any national thereof, has any interest.

Contents: Series A, financial securities; Series B, interests in real estate; Series C, other types of property; Series D, report by issuer of financial securities; Series E, bank's report of deposits; Series F, bank's report of

safe deposit boxes; Series G, report by executors and other fiduciaries; Series H, report by insurers. Separately printed directions for use of Form APC–56 are available upon request.

Form APC–57 *Report of Assets of Patent Licensee.*

Purpose: For use by licensees of patents in reporting to the Director, Office of Alien Property, the amount of the licensee's assets.

Contents: Size of business based upon total assets as shown by latest balance sheet.

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## PART 502—RULES OF PROCEDURE FOR CLAIMS

### SUBPART A—GENERAL RULES



### SUBPART B—TITLE CLAIMS



### SUBPART C—DEBT CLAIMS



### SUBPART D—GENERAL CLAIMS



AUTHORITY: §§ 502.1 to 502.300 issued under 40 Stat. 411, 55 Stat. 839, 60 Stat. 50, 925; U. S. C. App. and Sup., 616; E. O. 9142, Apr. 21, 1942, E. O. 9725, May 16, 1946, E. O. 9788, Oct. 14, 1946, 3 CFR, Supps.

### SUBPART A—GENERAL RULES

§ 502.1 *Scope of part.* (a) Sections in Subpart A of this part shall be applicable solely to title and to debt claims.

(b) Sections in Subpart B of this part shall be applicable solely to title claims.

(c) Sections in Subpart C of this part shall be applicable solely to debt claims.

(d) Sections in Subpart D of this part shall be applicable to all claims other than title and debt claims as defined in § 502.2 (e) and (f).

§ 502.2 *Definitions.* As used in this part, unless the context otherwise requires,

(a) The term "act" means the Trading With the Enemy Act, as amended. The term "section" refers to a section of the act.

(b) The term "Office" means the Office of Alien Property.

(c) The term "rules" means the rules of the Office set forth in this part.

(d) The term "Director" means the Director, Office of Alien Property, or other person duly authorized to perform his functions.

(e) The term "title claim" means a notice of claim under section 32.

(f) The term "debt claim" means a claim under section 34.

(g) The term "claim" refers to a title claim or a debt claim.

(h) The term "claimant" means the person in whose behalf a claim is filed.

(i) The term "claim proceeding" means the administrative processing of a claim and includes the claim.

(j) The term "parties" includes the claimant and the Chief of the Claims Branch and, in debt claim proceedings, includes all related claimants as defined in § 502.200 (g).

(k) The term "vested property" means any property or interest vested in or transferred to the Attorney General of the United States or his predecessor, the Alien Property Custodian (other than any property or interest acquired by the United States prior to December 18, 1941) or the net proceeds thereof.

(l) The term "filing" means receipt by the Office or appropriate officer or employee thereof.

(m) The term "Chief Hearing Examiner" refers to the Chief Hearing Examiner in charge of title claims in matters concerning title claims, and to the Chief Hearing Examiner in charge of debt claims in matters concerning debt claims.

§ 502.3 *Indispensable party.* The Chief of the Claims Branch shall be a necessary party in all claim proceedings.

§ 502.4 *Appearance.* (a) An individual may appear in a claim proceeding in his own behalf; a member of a partnership may represent the partnership; a bona fide officer of a corporation, trust or association may represent the corporation, trust or association, and an officer or employee of a federal, state or territorial agency, office or department may represent the agency, office or department.

(b) A person may be represented in a claim proceeding by an attorney at law admitted to practice before the Supreme Court of the United States or the highest court of any state or territory of the United States, or the Court of Appeals, or the District Court of the United States for the District of Columbia.

(c) Any person appearing in a claim proceeding may be required to file a power of attorney showing his authority to act in such capacity.

CROSS REFERENCE: For limitations on representative activities by former employees, see § 505.60 of this chapter.

For powers of attorney, see § 505.1 (d) of this chapter.

§ 502.5 *Leave to be heard.* (a) Unless waived by the Hearing Examiner, requests for leave to be heard shall be in writing, shall set forth the nature and extent of the applicant's interest in the proceeding and shall be filed with the Chief Hearing Examiner not later than two (2) days prior to the date fixed for the commencement of the hearing.

(b) Leave to be heard may include leave to call and examine witnesses, to offer documentary evidence, to cross-examine witnesses, to file briefs, to submit proposed findings and conclusions and to make oral argument. The Hearing Examiner or the Director shall determine the time and extent of such participation.

§ 502.6 *Forms.* (a) Claims shall be filed on forms authorized or prescribed by the rules of this Office.

(b) Unless expressly waived by the Director, only claims filed in accordance with paragraph (a) of this section shall be considered as claim or notices of claim filed with this Office.

§ 502.7 *Amendment and withdrawal of claim.* (a) The claimant may amend his claim prior to hearing. After the opening of a hearing in a claim proceeding, amendment of the claim may be made with the consent of all parties or as allowed by the Hearing Examiner or the Director.

(b) The claimant may at any time withdraw his claim by notice in writing to that effect.

§ 502.8 *Order for hearing.* The Director or the Chief Hearing Examiner may issue an order for hearing in a claim proceeding. In fixing the time for hearing, due regard shall be given to the status of the claim proceeding and the convenience of the parties. The order shall specify the time, place, and nature of the hearing. The order shall be served by the Chief Hearing Examiner on all parties a reasonable time, but not less than ten (10) days, in advance of the hearing, unless the parties shall agree to a shorter time.

§ 502.9 *Designation of Hearing Examiner.* Prior to hearing, a Hearing Examiner shall be designated by the Director or the Chief Hearing Examiner. The Chief Hearing Examiner may be designated to act as a Hearing Examiner.

§ 502.10 *Removal of a claim proceeding and hearing by the Director.* (a) The Director may personally conduct a hearing and may exercise the other functions

appropriate to the Hearing Examiner. The Director, at any stage of a claim proceeding before a Hearing Examiner, may remove the claim proceeding from the Hearing Examiner. Decisions of the Director under this section shall first be issued in tentative form.

§ 502.11 *Pre-hearing conferences.* (a) At any time prior to hearing, the Hearing Examiner may arrange for the parties to appear before him for a conference at a designated time and place to consider, among other things, simplification of the issues and any other matter which would tend to expedite the disposition of the proceeding.

(b) The action taken at the conference may be recorded in summary form or otherwise, for use at the hearing. Such record, when agreed to by the parties and approved by the Hearing Examiner, shall be conclusive as to the action embodied therein. Stipulations and admissions of fact and amendments shall be made a part of the record of the claim proceeding.

§ 502.12 *Consolidation of claims.* The Director or the Chief Hearing Examiner, upon his own motion or upon motion of any party, may, where such action will expedite the disposition of claims and further the ends of justice, consolidate claim proceedings.

§ 502.13 *Hearings.* (a) All hearings, except hearings before the Director, shall be conducted by a Hearing Examiner. At any time prior to hearing, a Hearing Examiner may be designated to take the place of the Hearing Examiner previously designated to conduct the hearing. In the case of the death, illness, disqualification or unavailability of the Hearing Examiner presiding in any claim proceeding, another Hearing Examiner may be designated to take his place. Hearing Examiners shall, so far as practicable, be assigned to cases in rotation.

(b) The Hearing Examiner may withdraw from a case when he deems himself disqualified or he may be withdrawn by the Director after affidavits alleging personal bias or other disqualifications have been filed with the Director and the matter has been considered by the Director or by a Hearing Examiner.

(c) Hearings shall be held as ordered by the Director or the Chief Hearing Examiner and shall be open to the public unless otherwise ordered by the Director or the Hearing Examiner.

(d) Subject to the rules of the Office, Hearing Examiners presiding at hearings shall have the hearing powers set forth in section 7 (b) of the Administrative Procedure Act.

(e) Hearing Examiners shall act independently in the performance of their duties as examiners and perform no duties inconsistent with their duties and responsibilities as examiners. Save to the extent required for the disposition of ex parte matters, no Hearing Examiner shall consult any person or party as to any fact in issue unless upon notice and opportunity for all parties to participate.

(f) The claimant shall be the moving party and shall have the burden of proof on all the issues involved in the claim proceeding. The claimant shall proceed first at the hearing in title claim proceedings. In debt claim proceedings the Hearing Examiner shall determine who shall first proceed.

(g) A presumption of the accuracy and the validity of the findings in a vesting order as to ownership of the property immediately prior to vesting shall be operative in all claims. Such findings shall be deemed accurate and valid unless contested or put in issue by a party, in which event such party shall have the burden of proving his allegations as to ownership of the property involved immediately prior to vesting.

(h) Any party and the Hearing Examiner shall have the right and power to call, examine and cross-examine witnesses, and to introduce into the record documentary or other evidence.

(i) In a claim proceeding, the rules of evidence prevailing in courts of law and equity shall not be controlling. However, it shall be the policy to exclude irrelevant, immaterial or unduly repetitious evidence.

(j) Any record, document or other writing, or any portion thereof, from the files of any foreign industrial, business or commercial enterprise, or from the official files of a foreign government, or any subdivision or agency thereof, shall, if otherwise relevant, be admissible in evidence in a claim proceeding as competent evidence of the matters therein contained, when authenticated by a certificate of a duly designated representative of the allied military or civilian authority of occupation, stating that such record, document or other writing came from the files of such enterprise, or from the official files of such foreign government and is in the custody of such allied authority of occupation. All circumstances in the making of such record, document or writing, as well as the lack of opportunity for cross-examination, shall be considered by the Director or the Hearing Examiner in determining its weight, but shall not affect its admissibility. A copy of such record, document or writing shall be equally admissible as the original, when accompanied by a certificate of the allied authority of occupation having custody thereof, stating that it conforms with the original.

(k) In the discretion of the Hearing Examiner, the hearing may be adjourned from day to day or adjourned to a later date, or to a different place by announcement thereof at the hearing by the Hearing Examiner or by appropriate notice.

(l) Contemptuous conduct at any hearing before a Hearing Examiner shall be ground for exclusion from the hearing. Failure or refusal of a witness to appear at any such hearing or to answer any question which has been ruled to be proper may be ground for the striking out of all testimony which may have been previously given by such witness on related matters.

(m) Hearings shall be stenographically reported by a reporter designated by the Director or Chief Hearing Examiner and a transcript of such report shall be a part of the record and the sole official transcript of the proceeding. Such transcript shall include a verbatim report of the hearings. Nothing shall be omitted therefrom except as directed on the record by the Director or the Hearing Examiner. Corrections in the official transcript may be made with the consent of the Hearing Examiner to make it conform to the evidence presented at the hearing. Parties desiring copies of the transcript may obtain such copies from the official reporter upon payment of the fees fixed therefor.

(n) Hearing may be waived by the parties and the claim submitted on briefs to the Hearing Examiner, or to the Director with his consent.

§ 502.14 *Witnesses.* (a) Witnesses shall be examined orally under oath, except that, for good cause shown, testimony may be taken by deposition.

(b) Witnesses summoned before the Hearing Examiner shall be paid the same fees and mileage which are paid witnesses in the Courts of the United States. Witness fees and mileage shall be paid by the party at whose instance the witnesses appear.

§ 502.15 *Subpoenas.* (a) The Director, Chief Hearing Examiner or the Hearing Examiner shall, upon application by any party, and upon a showing of general relevance and reasonable scope of the evidence sought, issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence under oath, including books, records, correspondence or documents. Application for the issuance of subpoenas duces tecum shall specify the books, records, correspondence or other documents sought.

(b) The Director, Chief Hearing Examiner or the Hearing Examiner, before issuing any subpoena, may require a deposit of an amount adequate to cover the fees and mileage involved.

§ 502.16 *Depositions.* (a) Any party desiring to take a deposition shall make application therefor in writing, setting forth the reasons why such deposition should be taken, the name and residence of the witness, the matters concerning which it is expected the witness will testify, and the time and place proposed for the taking of the deposition. Thereupon, the Director, the Chief Hearing Examiner or the Hearing Examiner, as the case may be, may, in his discretion, issue an order which will name the witness whose deposition is to be taken, state the scope of the testimony to be taken, and specify the time when, the place where, and the Officer before whom the witness is to testify. Such order shall be served upon all parties by the Chief Hearing Examiner a reasonable time in advance of the time fixed for taking testimony.

(b) The testimony shall be reduced to writing by the Officer or under his direction, after which the deposition shall be subscribed by the witness and certified by the Officer. Any part of a deposition not received in evidence shall not constitute a part of the record in such proceeding unless the parties so agree, or the Director so orders.

(c) Depositions may also be taken and submitted on written interrogatories in substantially the same manner as depositions taken by oral examination. When a deposition is taken upon written interrogatories and cross-interrogatories,

none of the parties shall be present or represented, and no person, other than the witness, a stenographic reporter and the Officer, shall be present at the examination of the witness, which fact shall be certified by the Officer, who shall propound the interrogatories and cross-interrogatories to the witness in their order and reduce the testimony to writing in the witness's own words.

(d) Where the deposition is taken in a foreign country, it may be taken before a secretary of an embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or before such person or officer as may be designated in the authorization or agreed upon by the parties by stipulation in writing filed with and approved by the Director, Chief Hearing Examiner or the Hearing Examiner.

(e) A witness whose deposition is taken pursuant to these rules and the Officer taking the deposition, unless he be employed by the Office, shall be entitled to the same fee and mileage paid for like service in the Courts of the United States, which fee shall be paid by the party at whose instance the deposition is taken, who may be required to deposit in advance an amount adequate to cover the fees and mileage involved.

§ 502.17 *Documents in a foreign language.* Every document, exhibit or paper written in a language other than English, which is filed in any claims proceeding, shall be accompanied by an English translation thereof duly verified under oath to be a true and accurate translation. Each copy of every such document, exhibit or paper filed shall be accompanied by a separate copy of the translation.

§ 502.18 *Motions.* (a) All motions and requests for rulings addressed to the Director, Chief Hearing Examiner or the Hearing Examiner shall state the purpose of and the relief sought, together with the reasons in support thereof.

(b) All motions and requests for rulings made during a hearing in a claims proceeding may be stated orally and shall be made a part of the transcript.

(c) Motions and requests which relate to the introduction or striking of evidence, or which relate to procedure during the course of the hearings, or to any other matters within the authority of the Hearing Examiner, may be stated orally and shall be ruled on by the Hearing Examiner. No exception need be taken to any ruling in order to entitle a party to urge on objection thereafter in the claim proceeding. Except as otherwise provided in this part, all other motions and requests shall be addressed to and ruled upon by the Director.

§ 502.19 *Withdrawal of papers.* The granting of a request to dismiss or withdraw a paper, document or pleading shall not authorize the removal of the paper, document, or pleading from the records of the Office. No paper, document or pleading or pleading officially filed shall be returned unless the Director shall, for good cause, allow such return.

§ 502.20 *Oral argument and closing of hearing.* Any party shall be entitled, upon request, at the close of the hearing to a reasonable period for oral argument before the Hearing Examiner which oral argument may, with the consent of the Hearing Examiner, be included in the stenographic report of the hearing.

§ 502.21 *Proposed findings and conclusions.* (a) At the close of the reception of evidence before the Hearing Examiner or within a reasonable time thereafter, to be fixed by the Hearing Examiner, any party may submit to the Hearing Examiner proposed findings and conclusions together with a brief in support thereof. Such proposals shall be in writing and shall contain appropriate references to the records. Copies thereof shall be furnished to all parties. Reply briefs may be filed with the permission of the Hearing Examiner within a reasonable time, to be fixed by him. As far as practicable, procedure shall be followed of having claimant's brief filed first, followed by the brief of the Chief of the Claims Branch, with any reply briefs filed in the same order.

(b) Except where he shall have become unavailable to the Office, the decision shall be made by the Hearing Examiner who presided at the hearing. Where such Hearing Examiner shall have become unavailable to the Office the decision shall be made by the Director, which decision shall first be issued in tentative form.

§ 502.22 *Hearing Examiner's decision.* (a) The Hearing Examiner, as soon as practicable after receipt of the complete transcript and all exhibits, shall make a decision which shall become a part of the record and include a statement of: (1) Findings and conclusions as well as the reasons or basis therefor upon all the material issues of fact, law, or discretion presented on the record; (2) determination of the claim proceeding.

(b) At any time prior to the filing of his decision, the Hearing Examiner may, for good cause, re-open the case for the reception of further evidence.

(c) A copy of the Hearing Examiner's decision shall be served upon each party.

(d) Unless review has been undertaken in accordance with § 502.23 the decision of the Hearing Examiner shall be final and shall be the decision of this Office.

§ 502.23 *Review of the Hearing Examiner's decision*—(a) *In title claims proceedings.* Within thirty (30) days after service of a copy of the Hearing Examiner's decision, any party seeking review thereof shall petition the Director to review such decision. Such petition shall state the objections to the decision of the Hearing Examiner and the reasons in support of such objections. Within thirty (30) days after the filing of such petition, any party opposing the petition for review may file a memorandum to such effect. If the petition for review is granted, the Director shall fix a time for the filing of briefs and may provide for oral argument pursuant to § 502.25.

(b) *In debt claims proceedings and in proceedings concerning Attorneys' fees under section 20.* Within thirty (30) days after service of a copy of the Hearing Examiner's decision any party seeking appeal thereof shall file such appeal with the Director. The Director shall fix a time for the filing of briefs and may provide for oral argument pursuant to § 502.25.

§ 502.24 *Briefs before the Director.* Briefs shall be confined to the particular matters at issue. Reply briefs shall be confined to matters in original briefs of opposing parties.

§ 502.25 *Oral argument before the Director.* Oral argument may, in the discretion of the Director, be heard upon the request of any party. The Director will determine in each instance the time to be allowed for argument and the allocation thereof to the parties interested.

§ 502.26 *Waiver by the Director.* The Director may, with the consent of the parties, waive any of the requirements of this part when, in his opinion, the ends of justice would thereby be served.

§ 502.27 *Motion to dismiss.* (a) Motion to dismiss may be made by the Chief of the Claims Branch prior to the commencement of hearing. Such motion shall be in writing, shall state the reasons in support thereof and shall be filed with the Chief Hearing Examiner. A copy of the motion shall be served upon all parties by the Chief of the Claims Branch.

(b) Hearing on the motion shall be held at a time and place as ordered by the Director or Chief Hearing Examiner.

(c) Briefs may be submitted before the hearing, at the hearing, or if the Hearing Examiner has reserved ruling on the motion, within a time fixed by the Hearing Examiner after the close of hearing.

(d) Hearing before a Hearing Examiner may be waived by the parties and the matter submitted to the Director on briefs.

(e) Motion to dismiss a claim proceeding shall be granted by the Hearing Examiner, when the claim on its face is not allowable or when it appears that the claim has been abandoned.

(f) Unless review is undertaken by the Director, the decision of the Hearing Examiner upon the motion shall be final and shall be the decision of this Office. The review and appeal provisions of § 502.23 shall apply to decisions of the Hearing Examiner upon such motions.

§ 502.28 *Service*—(a) *By the Chief Hearing Examiner.* Orders, notices, rulings, decisions, and any other action taken by the Hearing Examiner requiring service shall be served by the Chief Hearing Examiner by registering and mailing a copy thereof to the parties, addressed to the person or persons designated in the notice of claim. When notice is not accomplished by registered mail, it may be effected by the Chief Hearing Examiner or anyone duly authorized by the Director by delivering a copy of the document at the principal office or place of business of the party to be served. The return post office receipt for said document or other paper registered and mailed or the verified return of the person accomplishing service, shall be proof of such service.

(b) *By the Director.* Any action taken by the Director in a claim proceeding shall be served by the Director in the

manner provided in paragraph (a) of this section.

(c) *By parties.* Motions, briefs, proposed findings and conclusions, notices and all other papers filed in a claim proceeding, when filed with the Chief Hearing Examiner or the Director, shall show service thereof upon the parties to the claim proceeding. Such service shall be made by delivering in person or by mailing.

(d) *Service upon attorneys.* When any party has appeared by attorney, service upon the attorney shall be deemed service upon the party.

(e) *Date of service.* The date of service shall be the day when the matter is deposited in the United States mail or delivered in person, as the case may be.

§ 502.29 *Continuances and extensions.* Continuance with respect to any claim proceeding or hearing and extension of time for filing, or performing any act required or allowed to be done within a specified time, may be granted by the Director, Chief Hearing Examiner or the Hearing Examiner upon motion, for good cause shown, except where time for performance or filing is limited by the act.

§ 502.30 *Rehearing, reargument.* Any party seeking rehearing, reargument or any desired relief not specifically covered by this part, may petition the Director therefor, stating the relief sought and the reasons in support thereof. The Director may allow the petition in whole or in part and upon such conditions as he deems proper.

§ 502.31 *Fees.* (a) Prior to the return of vested property and prior to the payment of any debt claim, and after completion of the services in connection with such return or payment rendered by claimant's agents, attorneys at law or in fact or representatives, the Director, Chief Hearing Examiner or Hearing Examiner may, upon his own motion or upon the motion of any party, direct that any such agent, attorney at law or in fact or representative furnish a schedule of the fees to be paid.

(b) Unless hearing has been waived by all the parties and the attorneys involved, the determination required under section 20 shall be made by the Director or the Hearing Examiner, after notice of and opportunity for hearing. At such hearing the parties and their counsel shall have the right to offer evidence and oral and written argument. The review provisions of § 502.23 (b) shall be applicable to the decision of the Hearing Examiner with respect to fees.

SUBPART B—TITLE CLAIMS

§ 502.100 *Definitions.* As used in the sections applicable solely to title claims, unless the context otherwise requires:

(a) The term "taxes" refers to taxes as defined under section 36 (d).

(b) The term "national interest" means the interest of the United States under section 32 (a) (5).

(c) The term "conservatory expenses" means expenses expended or incurred in the conservation, preservation or maintenance of vested property.

§ 502.101 *Order of processing.* Except in cases where hardship or other special circumstances exist, claims shall be processed, as nearly as practicable, in the order of their filing.

§ 502.102 *Procedure for allowance without hearing.* (a) The Chief of the Claims Branch may initiate a proceeding for allowance of a claim, or a separable part thereof, which he deems entitled to allowance without the necessity of a hearing thereon, by submitting to the Director a recommendation for allowance together with proposed findings and conclusions.

(b) The record in a claim proceeding under this procedure shall include the notice of claim and the evidence submitted by the claimant with respect thereto, the recommendation for allowance and the proposed findings and conclusions.

(c) The Director shall consider the record and may allow the claim.

(d) If the Director shall disagree with the recommendation of the Chief of the Claims Branch, the claim proceeding shall be remanded by the Director and restored to its former status.

(e) A claim under this procedure may be allowed notwithstanding the fact that the Chief of the Claims Branch makes no recommendation with respect to taxes, conservatory expenses or attorneys' fees. However, no return will be made prior to a determination of such matters and adequate provision made therefor.

§ 502.103 *Requirement for hearing.* No claim shall be allowed or disallowed except after hearing, unless the claim has been determined pursuant to § 502.102 or § 502.105.

§ 502.104 *Hearing calendar.* The Chief Hearing Examiner shall maintain a hearing calendar of all claim proceedings set for hearing.

§ 502.105 *National interest.* (a) Anything in this part to the contrary notwithstanding, the Director may (1) by order disallow the claim by citation of this rule or (2) by order suspend, for a fixed or indefinite time, further action by the Office in the claim proceeding by citation of this section, whenever it appears to his satisfaction that return of property claimed is not in the national interest for reasons of national security or foreign affairs or other matters falling within the scope of section 32 (a) (5).

(b) The Director may, upon his own motion or upon the motion of any party, direct, with respect to any question of fact relating to national interest, that hearing be held before a Hearing Examiner or the Director. The Hearing Examiner in such a hearing shall prepare recommended findings of fact only which shall be submitted to the Director with the transcript of the hearing.

§ 502.106 *Service and availability of decision.* Copies of the Decision of the Office shall be served on the parties. Copies of such decision will be filed with the Division of the Federal Register and will be available for public examination at the office.

§ 502.107 *Publication of notice of intention to return vested property.* Prior to the return of vested property, the Director will issue and file for publication with the FEDERAL REGISTER a notice of intention to return vested property.

§ 502.108 *Revocation of notice of intention to return vested property.* (a) The notice of intention to return vested property may be revoked by the Director, upon his own motion or the motion of any party, at any time prior to return.

(b) Notice of such revocation shall be served on the parties and filed for publication with the FEDERAL REGISTER.

§ 502.109 *Objections during publication period.* (a) Within thirty (30) days after publication of notice of intention to return vested property, objectors to the return of property set forth in the notice may file with the Director a written statement of the objections.

(b) Any objection so filed shall be considered by the Director prior to return of the property. The Director may reopen the claim proceeding as a result of such objections.

§ 502.110 *Return orde..* Except in a claim proceeding where notice of intention to return vested property has been revoked in accordance with § 502.108 or objection has been filed pursuant to § 502.109 and has not been disposed of by the Director, an order directing return will issue as soon as practicable after the expiration of thirty (30) days following the publication of the notice. Such order shall be filed for publication with the FEDERAL REGISTER.

§ 502.111 *Final audit.* Prior to making full and final return of property pursuant to a return order, a final audit with respect to the property involved will be made. Any transactions occurring in the administration of such property shall be given effect in determining the actual amount of cash and other property to be returned pursuant to the return order.

§ 502.112 *Return of vested property.* After publication of the return order, completion of the final audit and final administrative determination with respect to taxes, fees and conservatory expenses, appropriate instruments and papers will issue returning the property claimed. The claimant receiving such property shall execute papers in such form as the Director shall determine, acknowledging receipt of the property returned.

SUBPART C—DEBT CLAIMS

§ 502.200 *Definitions.* As used in the sections applicable solely to debt claims, unless the context otherwise requires:

(a) The term "vested property of a debtor" means property of a debtor which he owned immediately prior to its becoming vested property.

(b) The term "money available for payment of claims" means such money included in, or received as net proceeds from the sale, use, or other disposition of vested property of a debtor as shall remain after deduction of expenses and taxes.

(c) The term "expenses" means the amount of the expenses of the Office of Alien Property and the former Office of Alien Property Custodian, including both expenses in connection with vested property of the debtor involved and such

portion as the Attorney General shall fix of the other expenses of the Office of Alien Property and the former Office of Alien Property Custodian, and such amount, if any, as the Attorney General may establish as a cash reserve for the future payment of such expenses.

(d) The term "taxes" means taxes as defined in section 36, and includes taxes paid by the Attorney General in respect of vested property of the debtor involved and such amount, if any, as the Attorney General may establish as a cash reserve for the uture payment of such taxes.

(e) The term "debtor's solvent estate" means money available for payment of claims which money at the time of computation exceeds the aggregate of claims filed against a particular debtor.

(f) The term "debtor's insolvent estate" means money available for payment of claims which money at the time of computation is less than the aggregate of claims filed against a particular debtor.

(g) The term "related claimants" refers to all claimants with respect to a particular debtor's insolvent estate.

(h) The term "proposed payment" refers to payment proposed to be made to claimants whose claims against a debtor's insolvent estate have been allowed in whole or in part.

§ 502.201 *Procedure for allowance and payment without hearing of claims against debtors' solvent estates.* (a) With respect to claims against debtors' solvent estates, the Chief of the Claims Branch may initiate a proceeding for allowance of a claim, or a separable part thereof, which he deems entitled to allowance, by submitting to the Director a recommendation for allowance, together with proposed findings and conclusions.

(b) The record in a claim proceeding under this procedure shall include the notice of claim and any evidence submitted by the claimant with respect thereto, the recommendation for allowance and the proposed findings and conclusions.

(c) The Director shall consider the record and may allow the claim.

(d) If the Director shall disagree with the recommendation of the Chief of the Claims Branch, the claim proceeding shall be remanded by the Director and restored to its former status.

(e) A claim under this procedure may be allowed notwithstanding the fact that the Chief of the Claims Branch makes no recommendation with respect to attorneys' fees. However, no payment will be made prior to a determination of attorneys' fees.

§ 502.202 *Requirement for hearing.* No claim shall be allowed or disallowed except after hearing, unless hearing has been waived by the parties or unless the claim has been allowed pursuant to § 502.201.

§ 502.203 *Hearing docket.* (a) A separate hearing docket of claims set for hearing will be maintained by the Chief Hearing Examiner for debt claims against debtor's solvent estates and debt claims against debtors' involvent estates.

(b) The Chief Hearing Examiner shall transfer a debt claim from the debtors' insolvent estates docket to the debtors' solvent estates docket, or vice versa, as the need for change appears. A claim transferred at any time prior to the payment thereof from the debtor's solvent estate docket to the debtor's insolvent estate docket, irrespective of the stage of the administrative process at the time of the transfer, shall be processed as a claim against a debtor's insolvent estate.

§ 502.204 *Claims against debtor's insolvent estates.* (a) With respect to claims against a particular debtor's insolvent estate, the Chief of the Claims Branch may prepare a list of the claims filed and a schedule of the claims he will move for allowance at the hearing and the claims he will contest together with the priorities and payments proposed by him. Such schedule shall be made available to all related claimants by the Chief of the Claims Branch a reasonable time prior to hearing.

(b) All related claimants shall be given opportunity to oppose the allowance, priority or payment of the claim of any related claimant.

(c) At the close of the hearing and after opportunity for oral argument, proposed findings and conclusions and briefs, pursuant to §§ 502.20 and 502.21, the Hearing Examiner, as soon as practicable after receipt of the complete transcript and all exhibits, shall issue his decision which shall include a determination as to allowance or disallowance, and a schedule of the claims allowed with priorities assigned thereto and the payment to be made to each claimant. The Hearing Examiner may issue such schedule either in tentative or final form. If issued in tentative form it shall thereafter be issued in final form with any modifications the Hearing Examiner may see fit to make after having afforded an opportunity for hearing on such tentative schedule.

(d) Unless appealed, the decision, including the schedule, of the Hearing Examiner shall be the decision of the Office. The decision of the Hearing Examiner is subject to appeal in accordance with the provisions of § 502.23.

§ 502.205 *Cases of no vested property of debtor.* Where there does not exist any vested property of a debtor with respect to which debt claims have been filed, the claimant shall be notified thereof and the claim, after opportunity for hearing before a Hearing Examiner, shall be ordered dismissed.

§ 502.206 *Determination of the aggregate of claims filed against a debtor.* In determining the aggregate of claims filed against a debtor, there shall be excluded claims which have been withdrawn and claims which have been dismissed pursuant to § 502.27 or § 502.205 as to which no complaint for review has been filed within sixty (60) days after the date of service of the dismissal.

§ 502.207 *Payment of allowed claims—*(a) *Claims against a debtor's solvent estate.* As soon as practicable after the allowance of a claim, in whole or in part, against a debtor's solvent estate, the claim will be paid to the extent allowed.

(b) *Claims against a debtor's insolvent estate.* To the extent that the proposed payment of a claim against a debtor's insolvent estate has not been made the subject of a complaint for review under section 34 (f), the Director may order payment thereof, after the time for the filing of such complaint for review has expired. To the extent that the allowance and disallowance of claims and proposed payments with respect thereto have been made the subject of a complaint for review under section 34 (f), payment will be made in accordance with the final adjudication thereof.

§ 502.208 *Future payments.* (a) If additional moneys become available for the payment of claims after the first payment on allowed claims against a debtor's insolvent estate, the Chief of the Claims Branch shall submit to the Chief Hearing Examiner notice thereof and the suggested payments to be made. Copies thereof shall be served on each claimant whose claim was allowed and has not been discharged in full.

(b) At the request of any such claimant, a hearing shall be held before a Hearing Examiner with respect to the suggested payments, at which hearing all such claimants shall be entitled to be heard.

(c) The Hearing Examiner shall prepare a decision setting forth the payments to be made to claimants in accordance with the priorities previously assigned. Unless appealed, such decision shall be final and shall be the decision of the Office. The appeal provisions of § 502.23 apply to the decision of the Hearing Examiner.

SUBPART D—GENERAL CLAIMS

§ 502.300 *General claims.* All claims against the Attorney General of the United States relating to the Office of Alien Property or against his predecessor, the Alien Property Custodian, other than title and debt claims as defined in § 502.2 (e) and (f), shall be known as "general claims" under this part. Unless forms have been prescribed or authorized for the filing or assertion thereof, general claims may be filed or asserted by letter addressed to the Director of the Office of Alien Property containing a statement of the details of the claim.

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PART 503—AVAILABILITY OF RECORDS

Sec.
503.1 Official records available to public.
503.17 General rule as to non-availability of records of the Office of Alien Property.

§ 503.1 *Official records available to public—*(a) *Records available for inspection and distribution.* The following documents are available for inspection and, in so far as supply permits, for distribution on application to Secretary, Office of Alien Property, Washington 25, D. C.:

(1) Annual Reports of the Office of Alien Property Custodian and the Office of Alien Property.

(2) Instructions and forms for filing claims, and for reporting information which the Director, Office of Alien Property, requires. See § 501.80 of this chapter.

(3) Final determination, opinions, and orders in cases heard or reviewed by the Vested Property Claims Committee, the Hearing Examiners Branch or the Director, Office of Alien Property.

(4) Notices of public sale, prospectuses, and terms and conditions of sale.

(5) Rules issued by the Office of Alien Property Custodian and the Office of Alien Property.

(6) Documents which have been published in the FEDERAL REGISTER.

(7) Formal Opinions of the General Counsel, Office of Alien Property Custodian, and of the Legal Branch, Office of Alien Property, issued for the guidance of the public.

(b) *Records available for inspection.* The following documents are available for inspection by persons properly and directly concerned on application to Secretary, Office of Alien Property, Washington 25, D. C.

(1) Claims filed with the Office of Alien Property Custodian or the Office of Alien Property.

(2) Records in cases heard or reviewed by the Vested Property Claims Committee or the Hearing Examiners Branch or the Director, Office of Alien Property.

(3) Records of bids in public sales, notifications of acceptance, and orders for sale.

(c) *Copies of contracts.* Copies of contracts in which the Alien Property Custodian or the Attorney General has vested the interest of a foreign national are available for inspection in the United States Patent Office in accordance with the provisions of Executive Order 9424 of February 18, 1944, 3 CFR, 1944 Supp.

(d) *Patent applications.* Any person may petition for permission to inspect or copy a patent application filed by a national of a "designated enemy country" as defined in section 10 of Executive Order 9095, as amended, 3 CFR, 1943 Cum. Supp. Petitions should be submitted to Patent Section, Office of Alien Property, Washington 25, D. C., on a form which that section will provide on request. Petitions will ordinarily be granted upon a showing of proper interest unless:

(1) A title claim has been filed with respect to such patent application, or

(2) The patent application is involved in litigation, or

(3) An American national has filed a patent application which may be in interference with the patent application of the enemy national.

(Sec. 5 (b), 40 Stat. 411, as amended; 50 U. S. C., App., 616, E. O. 9193, July 6, 1942, 3 CFR, 1943 Cum. Supp.)

§ 503.17 *General rule as to nonavailability of records of the Office of Alien Property.* All official files, documents, records and information in the Office of Alien Property, or in the custody or control of any officer, employee, agent or delegate of the Office of Alien Property, are to be regarded as confidential. No officer, employee, agent or delegate may permit the disclosure or use of the same for any purpose other than for the performance of his official duties, except in the discretion of the Attorney General, the Assistant to the Attorney General, the Director, or the Deputy Director, of the Office of Alien Property: *Provided, however,* That each Branch Chief, and the Manager, New York Office, in the conduct of affairs of his Branch or Office, is authorized to make available or disclose such official files, documents, records and information in the Office of Alien Property, in accordance with the Delegations of Final Authority, unless otherwise instructed by the Director. Whenever a subpoena duces tecum is served to produce any such files, documents, records or information, the officer, or employee, or agent, or delegate on whom such subpoena is served, unless otherwise expressly directed by the Attorney General, will appear in court in answer thereto and respectfully decline to produce the records specified therein, on the ground that the disclosure of such records is prohibited by this section.

(Sec. 5 (b), 40 Stat. 411, as amended; 50 U. S. C., App., 616, E. O. 9193, July 6, 1942, 3 CFR, 1943 Cum. Supp.)

## PART 504—VESTING ORDERS

§ 504.1 *Time of effectiveness of vesting orders.* (a) Any property or interest shall be deemed to have vested at the time of the filing with the Division of the Federal Register of an order vesting such property or interest: *Provided,* That any property or interest, the conveyance, transfer or assignment of which may be filed, registered or recorded in the United States Patent Office or Copyright Office, shall be deemed to have vested at the time of the filing, registering, or recording in such Office of the order vesting such property or interest, or at the time of the filing of such order with the Division of the Federal Register, whichever is earlier: *Provided further,* That, as to subsequent purchasers or lienors without actual notice, an order vesting real property or an interest in such property shall be deemed effective from the time of the recordation of such order in the public office designated by law for the recordation of a conveyance, transfer or assignment of such property or interest.

(b) Actual notice, by service or otherwise, of the execution of an order vesting any property or interest shall be deemed (1) notice that the Alien Property Custodian or the Attorney General has undertaken supervision of such property or interest, and (2) notice of the vesting of such property or interest as of the time specified in paragraph (a) of this section.

(c) This section shall be deemed applicable to all vesting orders heretofore or hereafter executed by the Alien Property Custodian or the Attorney General.

(Sec. 5 (b), 40 Stat. 411, as amended; 50 U. S. C. App. 616, E. O. 9193, July 6, 1942, 7 F. R. 5205; 3 CFR, 1943 Cum. Supp.)

## PART 505—SPECIFIC PROHIBITIONS

Sec.



§ 505.1 *Prohibition of transactions; applicability of regulations and licenses, etc.* (a) The following transactions, transfers, or other dealings are prohibited, except to the extent that they are authorized by paragraph (b) of this section or are or shall be authorized by the Attorney General, or any agency, instrumentality, agent, delegate, assistant or other personnel, appointed or designated by him:

(1) Transactions, transfers, or other dealings in or relating to any property or interest that has been vested, or as to which an outstanding supervisory order has been issued, by the Attorney General or the Alien Property Custodian or the Office of Alien Property Custodian;

(2) Transactions, transfers, or other dealings by, or with, or on behalf of, or pursuant to the direction of, or the exercise of any right, powers, or privilege with respect to, any business enterprise regarding which the Attorney General or the Alien Property Custodian or the Office of Alien Property Custodian has issued an outstanding supervisory order, or which has been vested, or assets of or interests in which have been vested, or involving any property in which such business enterprise has any interest, where control of such property or business enterprise was released by the Secretary of the Treasury, subject to the power and authority conferred upon the Attorney General or the Alien Property Custodian or the Office of Alien Property Custodian, on or prior to September 30, 1948, or where jurisdiction over such property or business enterprise has been transferred by Executive Order No. 9989;

(3) Transactions, transfers, or other dealings, prohibited on September 30, 1948, under or pursuant to the Trading With the Enemy Act, as amended, or Executive Order No. 8389, 3 CFR, 1943 Cum. Supp., as amended, or Executive Order No. 9095, 3 CFR, 1943 Cum. Supp., as amended, regarding property, over which jurisdiction has been transferred by Executive Order No. 9989, Title 3, 1948.

(b) All orders, regulations, rulings, instructions, or licenses of any nature whatsoever, issued by the Secretary of the Treasury under the authority of Executive Order No. 8389, as amended, and Executive Order No. 9095, as amended, concerning property over which jurisdiction has been transferred by Executive Order No. 9989, shall continue in full force and effect in accordance with their terms, subject to the authority of the Attorney General, or any agency, instrumentality, agent, delegate, assistant of other personnel, appointed or designated by him, to amend, modify or re-

voke, in whole or in part, such orders, regulations, rulings, instructions and licenses: *Provided*, That, wherever in such orders, regulations, rulings, instructions or licenses, or in regulations of the Office of Alien Property, the Treasury Department, Foreign Funds Control, the Secretary of the Treasury or other officers of the Department of the Treasury are referred to, the reference shall be deemed to be made to the Office of Alien Property and the appropriate officers thereof.

(c) Additional prohibitions provided for in Parts 506 and 507 of this chapter, and licenses and other authorizations, issued thereunder, shall remain unaffected by this section. The former § 503.5 (General Order No. 31, as amended), since it concerns merely the transfer of authority from the Treasury Department to the Office of Alien Property and its predecessor in specific cases, is no longer necessary and is hereby revoked as of September 30, 1948, midnight, without affecting the validity of its prohibitions and of licenses and other authorizations issued thereunder prior to that date.

(d) Powers of attorney given for the purpose of filing claims under the Trading With the Enemy Act, as amended, and transactions that may be necessary to facilitate the filing and proving of such claims are hereby exempted from the prohibitions of this section: *Provided, however*, That nothing herein shall affect the prohibitions of R. S. 3477; 31 U. S. C. 203.

(40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, 1943 Cum. Supp.; E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp.; E. O. 9788, Oct. 14, 1946, 3 CFR, 1946 Supp.; E. O. 9989, Aug. 20, 1948, 13 F. R. 4891)

§ 505.10 *Regulation restricting the retransfer of shares of stock vested, and sold by the Office of Alien Property.* (a) The Attorney General will designate from time to time by order issued pursuant to this section certain corporations subject to his supervision, jurisdiction and control, which are of importance in fields closely related to the defense economy of the United States. Corporations so designated are referred to in this section as "key corporations."

(b) The term "vested stock" as used in this section shall be deemed to mean shares of stock in key corporations vested by the Alien Property Custodian or the Attorney General and hereafter sold by the Attorney General, and shall also include any shares issued in exchange for vested stock or issued by way of stock dividend thereon or split-up thereof or shares acquired pursuant to any rights or warrants accruing to the holders of vested stock notwithstanding any recapitalization, consolidation, merger or reclassification.

(c) Only American Nationals shall be qualified to become owners or holders, directly or indirectly, by mesne conveyance or otherwise, of any interest in vested stock.

"American National" shall mean: (1) The United States, any state or territory thereof, as well as any political subdivision, agency or instrumentality of the United States or any such state or territory, (2) any individual who is a citizen of and resident in the United States, (3) any partnership organized and having its principal place of business in the United States or a territory thereof, 75% of the members of which are citizens of and resident in the United States who own at least a 75% interest in the partnership, and (4) any corporation, association or other organization organized under the laws of the United States or any state or territory thereof and having its principal place of business therein, 75% of the voting stock of which is owned or held for the benefit of American Nationals, and which corporation, association or other such organization is not controlled by persons other than American Nationals: *Provided, however*, That individuals, partnerships, corporations, associations or organizations which have been determined by the Alien Property Custodian or the Attorney General to be acting for or on behalf of a national of Germany or Japan, and persons who, by order of the Alien Property Custodian or the Attorney General issued pursuant to this section, are determined not to be qualified to own or hold vested stock, shall not be deemed American Nationals for purposes of this section, irrespective of whether they would otherwise qualify under subparagraphs (1), (2), (3) or (4) of this paragraph: *And provided further*, That any individual, partnership, corporation, association or organization acting, holding, or purporting to act or hold, directly or indirectly, for or on behalf of or for the benefit of any country, individual, partnership, corporation, association, or organization which is not an American National shall not be deemed an American National for purposes of this section.

(d) No right, title or interest in vested stock may be transferred to or acquired by, or held for the benefit of, or held by, any person not an American National. Any such transfer, acquisition, or holding of any such right, title or interest is prohibited and shall be null and void. No right, title or interest in any such stock shall pass by such transfer or acquisition: *Provided*, That any person not an American National to whom any such right, title or interest devolves or is transferred by will, descent or operation of law shall have the right to receive, hold and sell the same as the owner thereof for a period not exceeding two years from such devolution or transfer; *Provided further*, That any American National holding any such right, title or interest, who ceases to be an American National, shall have the right to hold and sell vested stock for a period not exceeding two years from the date on which he ceases to be an American National.

(e) In order to insure that all purchasers of vested stock shall have notice of the restrictions imposed by this section upon such vested stock, every key corporation, whenever it is so directed by the Director, Office of Alien Property, shall stamp or print a legend, containing a statement of or reference to the prohibitions and restrictions imposed by and pursuant to this section in such form as shall be approved or prescribed by the Director, Office of Alien Property, on all certificates hereafter issued representing shares of vested stock. Any key corporation, whenever it is so directed by the Director, Office of Alien Property, shall amend its charter or certificate or articles of incorporation to include therein, in such form as shall be approved or prescribed by the Director, Office of Alien Property, a prohibition or restriction against the issuance or transfer of vested stock or any interest therein except to American Nationals. Except as authorized by the Director, Office of Alien Property, a key corporation shall not at any time hereafter amend its charter or certificate or articles of incorporation so as to delete therefrom any such prohibition or restriction upon the issuance or transfer of such vested stock or interest therein.

(f) Except as authorized in this paragraph or as otherwise authorized by the Director, Office of Alien Property, a key corporation, its transfer agents and registrars, shall not issue or transfer, or recognize, record or register the issuance or transfer, or ownership, of vested stock in violation of this regulation or of the prohibition or restriction incorporated in its charter or certificate or articles of incorporation pursuant to paragraph (e) of this section. A key corporation, its transfer agents and registrars are hereby authorized to issue or transfer, and recognize, record and register the issuance or transfer, or ownership, of vested stock in the name of any person who certifies, in a manner authorized or approved by the Director, Office of Alien Property, that such person is an American National: *Provided*, That such key corporation, transfer agent or registrar, as the case may be, does not have knowledge that such person is not an American National; but no rights in derogation of paragraph (d) of this section shall be created thereby. No corporate action shall be invalid on the ground of any invalidity, by reason of the provisions of paragraph (d) of this section, of any vote, consent or exercise of a right accepted by the corporation in respect of vested stock registered in good faith in the name of any such person in reliance on certificates supplied in accordance with this paragraph. No key corporation, transfer agent or registrar shall be held liable for or in respect to anything done or omitted in good faith in reliance on the provisions of this paragraph, or any order issued by the Alien Property Custodian or the Director, Office of Alien Property, pursuant to this section.

(g) Each key corporation shall, at least once in each calendar year, and at such other times as may be requested by the Director, Office of Alien Property, furnish to the Director, Office of Alien Property, a list of the names and addresses of the holders of record of its outstanding vested stock. Whenever requested by the Director, Office of Alien Property, each holder of record of vested stock shall furnish to the Director, Office of Alien Property, the name and address of the beneficial owner or owners of the stock so held of record by such person.

(h) The provisions of this section and of orders issued pursuant thereto shall

continue in effect until rescinded or superseded, notwithstanding the end of the present war or the end of the present emergency or the termination of supervision of the corporation affected.

(Sec. 5 (b), 40 Stat. 411, as amended; 50 U. S. C. App. 616, E. O. 9193, July 6, 1942, 3 CFR, 1943 Cum. Supp.)

§ 505.11 *Order No. 1 under § 505.10.* American Bosch Corporation, a New York corporation, is hereby designated as a key corporation within the meaning of § 505.10.

(Sec. 5 (b), 40 Stat. 411, as amended; 50 U. S. C. App. 616, E. O. 9193, July 6, 1942, 3 CFR, 1943 Cum. Supp.)

§ 505.12 *Order No. 2 under § 505.10.* Schering Corporation, a New Jersey corporation, is hereby designated as a key corporation within the meaning of § 505.10.

(Sec. 5 (b), 40 Stat. 411, as amended; 50 U. S. C. App. 616, E. O. 9193, July 6, 1942, 3 CFR, 1943 Cum. Supp.)

§ 505.13 *Order No. 3 under § 505.10.* General Aniline & Film Corporation, a Delaware corporation, is hereby designated as a key corporation within the meaning of § 505.10.

(Sec. 5 (b), 40 Stat. 411, as amended; 50 U. S. C. App. 616, E. O. 9193, July 6, 1942, 3 CFR, 1943 Cum. Supp.)

§ 505.14 *Order No. 4 under § 505.10.* North American Rayon Corporation, a Delaware corporation, is hereby designated as a key corporation within the meaning of § 505.10.

(Sec. 5 (b), 40 Stat. 411, as amended; 50 U. S. C. App. 616, E. O. 9193, July 6, 1942, E. O. 9788, Oct. 14, 1946; 3 CFR, 1943 Supps.)

§ 505.15 *Order No. 5 under § 505.10.* American Bemberg Corporation, a Delaware corporation, is hereby designated as a key corporation within the meaning of § 505.10.

(Sec. 5 (b), 40 Stat. 411, as amended; 50 U. S. C. App. 616, E. O. 9193, July 6, 1942, E. O. 9788, Oct. 14, 1946; 3 CFR, 1943 Supps.)

§ 505.50 *Prohibition of transactions by personnel of the Office of Alien Property.* (a) No person connected directly or indirectly with the Office of Alien Property shall effect or cause to be effected for personal profit or benefit any sale or purchase of, or other transaction in, or otherwise deal or participate in any property or interest therein concerning which, the Alien Property Custodian or the Attorney General has acted, or may hereafter act under the provisions of the Trading with the Enemy Act of October 6, 1917, as amended, or pursuant to the powers delegated to the Alien Property Custodian or the Attorney General by the President under Executive Order No. 9095, Mar. 11, 1942, 3 CFR, 1943 Cum. Supp., as amended, Executive Order No. 9788 of October 14, 1946, 3 CFR, 1946 Supp., and Executive Order No. 9989 of August 20, 1948, 13 F. R. 4891.

(b) This section shall apply to all transactions of the kind described in paragraph (a) of this section whether made directly by, for or on account or behalf of any person connected directly or indirectly with the Office of Alien Property, or in which such person has any beneficial interest. Employees are considered to have a beneficial interest in transactions of their husbands or wives, and therefore such transactions shall be deemed to come within the provisions of this section.

(c) Any person connected directly or indirectly with the Office of Alien Property who owns or has any interest in any property or interest therein concerning which the Alien Property Custodian or the Attorney General has acted or may hereafter act shall notify the Director, Office of Alien Property, of such ownership or interest immediately upon the execution of this section or the taking of such action by the Alien Property Custodian or the Attorney General, as the case may be.

(Sec. 5 (b), 40 Stat. 411, as amended; 50 U. S. C., App. 616, E. O. 9193, July 6, 1942, 3 CFR, 1943 Cum. Supp.)

§ 505.60 *Limitations on representative activities by former employees.* (a) No person shall appear in a representative capacity before the Office of Alien Property in a particular matter if such person, or one associated with him in the particular matter, personally considered it or gained personal knowledge of the facts thereof while connected with the Office of Alien Property Custodian, or with alien property functions of the Department of Justice, or with foreign funds control functions of the Treasury Department or any Federal Reserve Bank.

(b) No former officer, clerk, or employee of the Office of Alien Property, nor any former officer, clerk, or employee of the Treasury Department or any Federal Reserve Bank who performed duties in connection with Foreign Funds Control, may appear in a representative capacity before the Office of Alien Property within two years after the termination of his incumbency of such position unless he obtains the prior approval of the Director of the Office of Alien Property in each matter. To obtain such approval he must file an affidavit in duplicate stating:

(1) His former connection with the Office of Alien Property, or with the Treasury Department, or with any Federal Reserve Bank;

(2) That while he was connected with the Office of Alien Property, or with the Treasury Department, or with any Federal Reserve Bank, the matter was not pending therein, or if it was so pending:

(i) That he gave no personal consideration to it and gained no personal knowledge of the facts thereof while so connected, and

(ii) That he is not, and will not be, associated in the particular matter with any person who has personally considered it or gained personal knowledge of the facts thereof while connected with the Office of Alien Property, or with the Treasury Department, or with any Federal Reserve Bank.

(3) That his employment in the matter is not prohibited by Rev. Stat. section 190 (5 U. S. C. sec. 99), or by sec. 19 (e) of the Contract Settlement Act of 1944 (41 U. S. C. sec. 119).

§ 505.61 *Interpretation of § 505.60.* The following interpretation is hereby issued by the Director, Office of Alien Property, with respect to § 505.60 (General Order No. 32), as amended.

Revised Statutes section 190, 5 U. S. C. 99, is applicable only to officers, clerks, or employees of the executive departments. See 40 Opinions of the Attorney General, No. 74, December 9, 1943, p. 2. Accordingly it is not applicable to former officers, clerks and employees of the Office of Alien Property Custodian who ceased their employment before October 15, 1946, when the Office of Alien Property Custodian was transferred to the Department of Justice.

Section 19 (e) of the Contract Settlement Act of 1944, 58 Stat. 667, 41 U. S. C. 119, is applicable to all persons employed in any Government "agency" and accordingly is applicable to former employees of the Office of Alien Property Custodian as well as to employees of the Office of Alien Property, Department of Justice.

It may be noted that these statutory provisions are applicable only to claims. Representative activities other than in the prosecution of claims are subject only to the provisions of § 505.60.

Attention is called to the fact that § 505.60 (a) imposes a permanent bar on representative activities in all matters, including claims, where the former employee, or one associated with him, personally considered it or gained personal knowledge of the facts of the particular matter while connected with the Office of Alien Property Custodian or the Office of Alien Property.

(40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Sup. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR 1943 Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981)

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## PART 506—PROPERTY IN PROCESS OF JUDICIALLY SUPERVISED ADMINISTRATION, OR IN COURT OR ADMINISTRATIVE PROCEEDINGS

Sec.



AUTHORITY: §§ 506.1 and 506.2 issued under sec. 5 (b), 40 Stat. 411, as amended; 50 U. S. C. App. 616, E. O. 9193, July 6, 1942, 7 F. R. 5205, 3 CFR, 1943 Cum. Supp., E. O. 9788, Oct. 14, 1946, 12 F. R. 11981, 3 CFR, 1946 Supp.

§ 506.1 *Payment, transfer or distribution of property in the process of administration by any person acting under judicial supervision, or in court or administrative actions or proceedings.* (a) No designated person shall pay, transfer or distribute, or cause to be paid, transferred or distributed, any property of any nature whatsoever to or for the benefit of any designated enemy country or designated national, unless:

(1) The Alien Property Custodian has issued to the designated person a written consent to the payment, transfer or distribution, or

(2) The Alien Property Custodian has:

(i) Filed a written statement in the court or administrative action or proceeding in connection with which the payment, transfer or distribution is proposed, that he has determined not to represent the designated national, or

(ii) Represented the designated national in such action or proceeding by the appearance therein of a representative on behalf of the designated national, and such representative has been served by the designated person with written notice of the proposed payment, transfer or distribution, and ninety days have expired without the exercise of any other power or authority by the Alien Property Custodian with respect to such property.

(b) Any payment, transfer, or distribution pursuant to paragraph (a) of this section may be made only if licensed or otherwise authorized pursuant to the provisions of Executive Order No. 8389 (3 CFR, 1943 Cum. Supp.), as amended.

(c) For the purpose of this section the terms:

(1) "Designated person" shall mean a person or officer acting under judicial supervision, or in any court or administrative action or proceeding, or in partition, libel, condemnation or other similar proceedings, including, but not by way of limitation, (i) executor, (ii) administrator, (iii) guardian, (iv) committee, (v) curator, (vi) trustee under will, deed or settlement, (vii) receiver, (viii) trustee in bankruptcy, (ix) assignee for the benefit of creditors, (x) United States marshal, (xi) sheriff, (xii) commissioner, (xiii) person acting under trust agreement, and (xiv) all other persons or officers acting in a similar capacity.

(2) "Designated enemy country" shall mean any foreign country against which the United States has declared the existence of a state of war (Germany, Italy, Japan, Bulgaria, Hungary and Rumania) and any other country with which the United States is at war in the future.

(3) "Designated national" shall mean any person in any place under the control of a designated enemy country.

§ 506.2 *Consent to transfer of property acquired after specified dates.* (a) For the purposes of § 506.1 (a) (1) (General Order No. 20), the Director of the Office of Alien Property, acting for the Attorney General, hereby consents, subject to the provisions of paragraph (b) of this section, to the payment, transfer, or distribution, by a designated person as defined in § 506.1, of any property of any nature whatsoever, except the following:

(1) Property which on December 31, 1946 was located in the United States, or any territory or possession thereof, and in which on that date any of the following had any interest:

(i) The Government of Germany or Japan, or any agent, instrumentality, or representative of either Government;

(ii) A person within Germany or Japan, or a citizen or subject of either country within Italy, Bulgaria, Hungary or Rumania;

(2) Property which on December 7, 1945 was located in the United States, or any territory or possession thereof, and in which on that date any of the following had any interest:

(i) The Government of Italy, Bulgaria, Hungary or Rumania, or any agent, instrumentality, or representative of any of such Governments;

(ii) A person (other than a citizen or subject of Germany or Japan) within Italy, Bulgaria, Hungary or Rumania;

(3) Income from the property described in subparagraph (1) of this paragraph accruing on or after December 31, 1946, or from the property described in subparagraph (2) of this paragraph accruing on or after December 7, 1945.

(b) Any payment, transfer, or distribution pursuant to paragraph (a) of this section may be made only if licensed or otherwise authorized pursuant to the provisions of Executive Order No. 8389, 3 CFR, 1943 Cum. Supp. as amended.

(c) For the purpose of this section:

(1) "Person" shall mean any individual, partnership, association or corporation;

(2) "Income" shall include, without limitation, any interest, dividend, increment, proceeds, exchange, conversion, or other derivative, direct or indirect.

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## PART 507—PATENTS, TRADEMARKS AND COPYRIGHTS

Sec.



AUTHORITY: §§ 507.1 to 507.99 issued under sec. 5 (b), 40 Stat. 411, as amended; 50 U. S. C. App. 616. E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp.; E. O. 9989, Aug. 20, 1948, 13 F. R. 4891. Special authority is cited to text in parentheses.

§ 507.1 *Licensing certain transactions respecting foreign-owned patents and trademarks.* (a) The following transactions are hereby generally licensed, unless such transactions are by, or on behalf of, or pursuant to the direction of, any foreign country specified in paragraph (c) of this section, or any national of any such country:

(1) The filing and prosecution in the United States Patent Office of applications for Letters Patent or for the registration of Trademarks;

(2) The receipt of Letters Patent or Trademark Registrations issued by the United States Patent Office;

(3) The execution of, or the recording of, any assignment, grant, encumbrance, license, or other agreement of, under, or with respect to, any invention, or any patent, trademark, or application therefor, issued by, or filed in or intended for filing in the United States Patent Office; provided, that this subparagraph does not license the payment or receipt of any funds or credits with respect to the transactions specified in this subparagraph, but such funds or credits shall be subject to Parts 511 and 512 of this chapter.

(b) Any transaction specified in paragraph (a) of this section by, or on behalf of, or pursuant to the direction of, any foreign country specified in paragraph (c) of this section, or any national of any such country, is specifically prohibited, unless authorized by the Attorney General or the Director, Office of Alien Property.

(c) The following countries are specified:

(i) Germany.

(ii) Japan.

(iii) Rumania.

(iv) Hungary.

(v) Bulgaria.

(d) The terms "foreign country" and "national" shall have the meanings prescribed in Section 5 of Executive Order No. 8389, as amended, except that the following, for the purposes noted, shall be deemed not to be nationals of a foreign country specified in paragraph (c) of this section:

(1) For the purpose of any transaction prohibited by this section, any individual who was a resident of the United States on December 7, 1941, and who is a national of such foreign country solely by reason of the fact that such individual has been domiciled in, or a subject, citizen, or resident of, such country at any time on or since the effective date of Executive Order No. 8389, as amended, and any partnership, association, corporation, or other organization which is a national of such foreign country specified in paragraph (c) of this section solely by reason of the interest therein of such person or persons.

(2) For the purpose of receiving an assignment of a United States patent or patent application, or an undivided interest therein, any partnership, association, corporation, or other organization which is organized under the laws of the United States, or of any of them, or any resident of the United States.

§ 507.26 *Authorizing the filing and prosecution of patent applications and transactions relating thereto.* A general license is hereby granted authorizing:

(a) The filing in the United States Patent Office of the following applications:

(1) Applications for Letters Patent filed pursuant to the provisions of Public Law 380, 80th Cong., 1st Sess., approved August 6, 1947, by, or on behalf of, or pursuant to the direction of, Germany or Japan, or any national of either such country, which are based on inventions made after January 1, 1946;

(2) Applications for Letters Patent by, or on behalf of, or pursuant to the direction of, Bulgaria, Rumania, or Hungary, or any national of any such country, which were received in the United States after May 15, 1946, or which are based on any blueprints, drawings, sketches, or other information received in the United States after May 15, 1946; and

(b) The prosecution in the United States Patent Office of applications specified under paragraph (a) of this section, and the receipt of Letters Patent thereon; and

(c) The execution or recording of any instrument, agreement, or understanding affecting title to, or interest in, any application specified in paragraph (a) of this section, or any Letters Patent issued under paragraph (b) of this section;

*Provided, however,* that any application filed pursuant to subsection paragraph (a) (1) of this section and any Letters Patent issued thereon pursuant to subsection (b) hereof shall be subject to any conditions and limitations with respect to duration, revocation, utilization, assignment, or licensing which may be imposed by Congress, or by the President in accordance with the provisions of any treaty hereafter entered into with Germany or Japan.

§ 507.41 *Authorizing the filing, prosecution, and transactions respecting trademark applications.* A general license is hereby granted authorizing:

(a) The filing in the United States Patent Office of the following applications:

(1) Applications by, or on behalf of, or pursuant to the direction of, Germany or Japan, or any national of either such country, for the registration of trademarks not adopted or used in any country prior to January 1, 1947.

(2) Applications by, or on behalf of, or pursuant to the direction of, Bulgaria, Rumania, or Hungary, or any national of any such country, for the registration of trademarks not adopted or used in any country prior to May 15, 1946.

(b) The prosecution in the United States Patent Office of applications specified under paragraph (a) of this section, and the receipt of trademark registration certificates thereon.

(c) The execution or recording of any instrument, agreement, or understanding affecting title to, or interest in, any trademark registered pursuant to paragraph (b) of this section.

§ 507.51 *Licensing certain transactions respecting foreign-owned interests in works subject to copyright.* (a) The following transactions are hereby generally licensed, unless such transactions are by, or on behalf of, or pursuant to the direction of, any foreign country specified in paragraph (c) of this section, or any national of any such country:

(1) The execution of, or the recording of, any application for copyright or renewal thereof under the copyright laws of the United States.

(2) The execution of, or the recording of, any assignment, grant, encumbrance, license, or other agreement with respect to any interest in any work subject to copyright in the United States; provided, that this subparagraph does not license the payment or receipt of any funds or credits with respect to the transactions specified in this subparagraph, but such funds or credits shall be subject to Parts 511 and 512 of the Regulations of this Office.

(b) Any transactions specified in paragraph (a) of this section by, or on behalf of, or pursuant to the direction of, any foreign country specified in paragraph (c) of this section, or any national of either such country, is specifically prohibited unless authorized by the Attorney General or the Director, Office of Alien Property.

(c) The following countries are hereby specified:

(i) Germany.

(ii) Japan.

(d) The terms "foreign country" and "national" shall have the meanings prescribed in section 5 of Executive Order No. 8389, as amended, except that any person within the following categories shall be regarded, for the purposes of this section, as a person within the United States who is not a national of a foreign country designated in paragraph (c) of this section:

(1) Any individual who is a resident of the United States on the date of making application in the United States Copyright Office for registration or renewal of a copyright or executing any instrument recordable in the United States Copyright Office and who is also a national of a foreign country designated in paragraph (c) of this section solely by reason of the fact that such individual has been domiciled in, or a subject, citizen or resident of, such foreign country designated in paragraph (c) of this section at any time on or since the effective date of Executive Order No. 8389, as amended.

(2) Any partnership, association, corporation, or other organization which is a national of a foreign country designated in paragraph (c) of this section solely by reason of the interest therein of a person or persons described in subparagraph (1) of this paragraph.

(e) "Interest" in a work subject to copyright shall mean ownership, part ownership, or claim of ownership, in whole or in part, of any subsisting copyright or claim of copyright, and any right, license, privilege or property in or to or with respect to such work; and any right, title, or interest in, to or under any contract or other instrument, and any royalty, share of profits, license fees, or other emolument or compensation reserved with respect thereto. Such interest shall also include, but not by way of limitation, any interest as hereinbefore described which is held or claimed as trustee, agent, representative or nominal proprietor.

§ 507.56 *Authorizing the execution and recording of applications for copyrights and renewals.* A general license is hereby granted authorizing the execution of, or the recording of, any application for copyright or renewal thereof under the copyright laws of the United States by Germany or Japan or any national of either such country: *Provided,* (1) That any such copyrights or renewals of copyright shall be subject to the authority of the Attorney General to take such action as he deems necessary in the national interest and that nothing in this regulation shall be deemed to limit the authority of the Attorney General to direct, manage, supervise, control or vest any of such copyrights or renewals of copyright; and (2) that nothing in this regulation shall be deemed to waive the requirements of appropriate military government laws, orders and regulations.

§ 507.99 *Past transactions previously licensed or prohibited not affected.* (a) Unless specifically provided, nothing in this Part shall be deemed to license retroactively any act or transaction prohibited by, or pursuant to, section 3 of the Trading With the Enemy Act, as amended, Executive Order No. 8389, as amended, Executive Order No. 9095, as amended, or orders and regulations thereunder, which was not authorized by an appropriate general or special license issued by the Secretary of the Treasury, the Alien Property Custodian, the Director, Office of Alien Property, or the Attorney General, and in effect at the time such act or transaction was performed, or attempted to be performed.

(b) Nothing in this Part shall be deemed to prohibit the performance of any agreement, if such action is authorized at the time performed by the terms of any general or special license issued by the Secretary of the Treasury, the Alien Property Custodian, the Director, Office of Alien Property, or the Attorney General, and in effect at the time such agreement was entered into.

(c) Any money or other property in any special account heretofore established pursuant to §§ 503.11–2, 503.11–4, 503.11–7, 503.11–8, 503.13–3, 503.13–5, or 503.13–6 of this Chapter (in the form of 8 CFR, 1946 Supp.), General Orders Nos. 11 and 13 and Regulations thereunder, shall hereafter be subject to Parts 511 and 512 of the Regulations of this Office.

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## PART 508—ADMINISTRATION OF ALIEN PROPERTY SEIZED DURING WORLD WAR I

Sec.



AUTHORITY: §§ 508.1 to 508.3 issued under 40 Stat. 411, 45 Stat. 254; E. O. 6694, May 1, 1934, and Attorney General's Order 2575, July 2, 1936.

§ 508.1 *Removal of certain restrictions on payments and transfers.* For the purposes of Public Resolution No. 53 of June 27, 1934 (48 Stat. 1267), it is hereby determined that Germany has been and is now in arrears in payments of principal and interest under the debt-funding agreement between Germany and the United States dated June 23, 1930, with respect to the obligations of Germany on account of awards entered and to be entered by the Mixed Claims Commission, United States and Germany. The period in which Germany is in arrears shall be deemed to continue for the purpose of this order until it is determined by the President that such period has terminated.[1] (E. O. 6981, Mar. 2, 1935)

[1] E. O. 6981 of Mar. 2, 1935, as amended by E. O. 7111 of July 22, 1935, removed, in certain cases, restrictions imposed by Public Resolution 53, of June 27, 1934 (48 Stat. 1267), as to payments, transfers, and deliveries of property under the Trading With the Enemy Act (40 Stat. 411) and the Settlement of War Claims Act of 1928 (45 Stat. 254).

§ 508.2 *Restrictions still imposed thereon.* The restrictions imposed by 48 Stat. 1267 are hereby removed except as to the following payments, conveyances, transfers, or deliveries of money or property or of the income, issues, profits, or avails thereof:

(a) To any person who was on April 6, 1917, or who at any time since that date has been, a German national, unless such person is entitled to receive payment under section 9, subsection (b) (1), of the Trading With the Enemy Act, as amended, or unless such person is a national of the United States at the time of payment, conveyance, transfer, or delivery, and was on June 1, 1934, the legal and beneficial owner of the claim to the money or property or the income, issues, profits, or avails thereof, and on or before June 1, 1934, the United States received written notice of such ownership.

(b) To any corporation, association, or partnership, or other unincorporated body of individuals, or a body politic which on or at any time since April 6, 1917, was organized or existed under the laws of Germany or had its principal place of business in Germany.

(c) To any corporation, association, or partnership, or other unincorporated body of individuals, or a body politic in which a substantial legal or beneficial interest is owned directly or indirectly by any person to whom payment, conveyance, transfer, or delivery continues to be postponed under paragraph (a) or (b) of this section, or to any person who is a trustee of such money or property for a person to whom payment, conveyance, transfer, or delivery continues to be postponed under paragraph (a) or (b) of this section.

(d) To the heirs, devisees, legatees, executors, administrators, representatives, creditors, successors, or assigns of any person to whom payment, conveyance, transfer, or delivery continues to be postponed under paragraph (a), (b), or (c), except to such heirs, devisees, or legatees as are natural persons and have been nationals of the United States from June 1, 1934, to the time of payment, conveyance, transfer, or delivery, and except to such creditors as are not German nationals and are eligible claimants under section 9, subsections (a) and (e) of the Trading With the Enemy Act, as amended. (E. O. 7111, July 22, 1935)

§ 508.3 *Determination of qualifications of claimants.* For the purposes of the preceding section, (a) the nationality, residence, domicile, or other qualification of claimants under the Trading With the Enemy Act, as amended, shall be that determined by the Attorney General; and (b) the nationality, residence, domicile, or other qualification of claimants to money or property or the income, issues, profits, or avails thereof, held in the German Special Deposit Account, and in the Austrian and Hungarian Special Deposit Accounts, shall be that determined by the Secretary of the Treasury. (E. O. 6981, Mar. 2, 1935)

## PART 509—FOREIGN EXCHANGE RATES

§ 509.1 *Valuation of rates of exchange of monetary units of enemy countries.* (a) That for the purpose and solely for the purpose of discharging claims and rights of foreign countries and nationals thereof against citizens and residents of the United States which by contract or agreement made or entered into by the parties prior to vesting are dischargeable by payment in monetary units of certain enemy countries and which have heretofore been or shall hereafter be vested by the Alien Property Custodian or the Attorney General, the equivalent of the monetary units of such enemy countries shall be computed as follows:

(1) German Reichsmarks at forty (40) cents, United States currency, each.

(2) Japanese Yen at twenty-three and four-tenths (23.4) cents, United States currency, each.

(3) Hungarian Pengo at nineteen and six-tenths (19.6) cents, United States currency, each.

(4) Bulgarian Lev at one and two-tenths (1.2) cents, United States currency, each.

(5) Rumanian Leu at seven tenths of one cent (0.7), United States currency, each.

(b) All persons now indebted or who shall hereafter be indebted to the Attorney General on any claims as aforesaid are hereby ordered and directed to pay such debts, as they become due and payable, in United States currency, computed as set forth in paragraph (a) of this section.

(c) Any payment made and computed pursuant to this section shall be and constitute a full acquittance and discharge for all purposes of the person making the same for the obligation paid thereby.

(d) Nothing in this section shall be deemed in any way to affect or alter any provisions of any contract or agreement made or entered into by the parties prior to vesting by the Alien Property Custodian or the Attorney General whereby there is established a method of computing such equivalents.

(e) The Director, Office of Alien Property, reserves the right to vary or modify the provisions of paragraph (a) of this section from time to time by General Order or by amendment of this section, or in specific cases upon a finding by the Director, Office of Alien Property, that application of this section would be inequitable.

(Sec. 5 (b), 40 Stat. 411, as amended; 50 U. S. C. App. 616. E. O. 9193, July 6, 1942, 7 F. R. 5205, 3 CFR 1943 Cum. Supp.)

## PART 510—REPORTS

Sec.



AUTHORITY: §§ 510.1 to 510.92 issued under sec. 5 (b), 40 Stat. 411, as amended; 50 U. S. C. app. 616, E. O. 9193, July 6, 1942, 3 CFR, 1943 Cum. Supp. Special authority is cited to text in parentheses.

§ 510.1 *Report of persons under judicial supervision.* (a) All designated persons shall file a report of any property or interest in which there is reasonable cause to believe a designated enemy country or a designated national has an interest.

(b) Such reports shall be submitted in duplicate on Form APC–3, shall be executed under oath and shall contain complete information in the manner provided in Form APC–3.

(c) For the purposes of this section the terms:

(1) "Designated persons" shall mean persons or officers acting under judicial supervision, or in any court or administrative action or proceeding, or in partition, libel, condemnation or other similar proceedings, including, but not by way of limitation, (i) executors, (ii) administrators, (iii) guardians, (iv) committees, (v) curators, (vi) trustees under wills, deeds or settlements, (vii) receivers, (viii) trustees in bankruptcy, (ix) assignees for the benefit of creditors, (x) United States marshals, (xi) sheriffs, (xii) commissioners, (xiii) persons acting under trust agreements, and (xiv) all other persons or officers acting in a similar capacity;

(2) "Designated enemy country" shall mean any foreign country against which the United States has declared the existence of a state of war (Germany, Italy, Japan, Bulgaria, Hungary and Rumania) and any other country with which the United States is at war in the future;

(3) "Designated national" shall mean any person in any place under the con-

trol of a designated enemy country or in any place with which, by reason of the existence of a state of war, the United States does not maintain postal communication.

(d) Upon the execution of such report it shall be forwarded on or before October 1, 1942, to the Office of Alien Property Custodian, Estates and Trusts Section, Washington, D. C.

(e) Subsequent to October 1, 1942, such report shall be filed on Form APC–3 by any designated person within thirty days from the date upon which such designated person qualifies. (See § 506.1 of this chapter. See also § 501.80 of this chapter, Form APC–3)

§ 510.2 *Non-applicability of § 510.1 for property acquired after a specified date.* (a) A designated person, as defined in § 510.1 (General Order No. 5), shall hereafter be required to file a report on Form APC 3 pursuant to § 510.1 only with respect to:

(1) Property which on December 31, 1946 was located in the United States, or any territory or possession thereof, and in which on that date any of the following had any interest:

(i) The Government of Germany or Japan, or any agent, instrumentality, or representative of either Government;

(ii) A person within Germany or Japan, or a citizen or subject of either country within Italy, Bulgaria, Hungary or Rumania;

(2) Income from the property described in subparagraph (1) of this paragraph accruing on or after December 31, 1946.

(b) For the purpose of this section:

(1) "Person" shall mean any individual, partnership, association or corporation;

(2) "Income" shall include, without limitation, any interest, dividend, increment, proceeds, exchange, conversion, or other derivative, direct or indirect.

(Sec. 5 (b), 40 Stat. 411, as amended; 50 U. S. C. app. 616. E. O. 9193, 7 F. R. 5205, July 6, 1942, Cum. Supp.; E. O. 9788, Oct. 14, 1946, 11 F. R. 11981; 3 CFR, 1946 Supp.)

§ 510.8 *Report of property or interest within Territory of Hawaii of an enemy country or a designated national.* (a) All designated persons shall file a report of any property or interest in which there is reasonable cause to believe a designated enemy country or a designated national has an interest.

(b) Such reports shall be submitted in duplicate on Form APC–3, shall be executed under oath and shall contain complete information in the manner provided in Form APC–3.

(c) For the purposes of this section the terms:

(1) "Designated persons" shall mean persons or officers within the Territory of Hawaii acting under judicial supervision, or in any court or administrative action or proceeding, or in partition, libel, condemnation or other similar proceedings, including, but not by way of limitation, (i) executors, (ii) administrators, (iii) guardians, (iv) committees, (v) curators, (vi) trustees under wills, deeds or settlements, (vii) receivers, (viii) trustees in bankruptcy, (ix) assignees for the benefit of creditors, (x) United States marshals, (xi) sheriffs, (xii) commissioners, (xiii) persons acting under trust agreements, and (xiv) all other persons or officers acting in a similar capacity;

(2) "Designated enemy country" shall mean any foreign country against which the United States has declared the existence of a state of war (Germany, Italy, Japan, Bulgaria, Hungary and Rumania) and any other country with which the United States is at war in the future;

(3) "Designated national" shall mean any person in any place under the control of a designated enemy country or in any place with which, by reason of the existence of a state of war, the United States does not maintain postal communication.

(d) Upon the execution of such report it shall be forwarded on or before November 30, 1943, to the Office of Alien Property Custodian, Estates and Trusts Section, Honolulu, Territory of Hawaii.

(e) Subsequent to November 30, 1943, such report shall be filed on Form APC–3 by any designated person within thirty days from the date upon which such designated person qualifies.

(f) This section shall not be deemed to amend, modify or supersede § 510.1 of this chapter, except with respect to the Territory of Hawaii. (See § 506.1. See also § 501.80 of this chapter, Form APC–3)

§ 510.9 *Non-applicability of § 510.8 to certain property or interests of nationals of Bulgaria, Hungary, Italy or Rumania.* No report on Form APC–3 shall be required to be filed with respect to the property or interests of any person within Bulgaria, Hungary, Italy or Rumania who is not a citizen or subject of Germany or Japan, pursuant to § 510.8, by any designated person as defined in that section, who shall become such designated person by appointment, qualification or otherwise in any court or administrative action or proceeding within the Territory of Hawaii originally instituted or commenced after April 15, 1946.

§ 510.10 *Reports concerning patents and patent applications in which there is an enemy or foreign national interest.* On or before August 15, 1942, the information and exhibits required by Form APC–2 shall be filed under oath by any person claiming any right, title or interest, including any claims of ownership in whole or in part, any license or any agreement, whether written or unwritten, whether enforceable or not, and whether or not recorded in the United States Patent Office in or to any patents or patent applications in any of the following categories:

(a) Unexpired United States letters patent for inventions and designs:

(1) If granted to a designated foreign national; or

(2) If a designated foreign national has or, at any time since January 1, 1939, has had, any interest in such patent; or

(3) If the inventor or any of them is a designated foreign national, and the patent issued after January 1, 1939.

(b) Any application for United States letters patent for inventions and designs now pending in United States Patent Office, or which has been pending at any time since January 1, 1939:

(1) If the inventor, or any of them, is a designated foreign national; or,

(2) If a designated foreign national has or had at any time an interest in such application.

*Provided*, That no person shall be required to file a report under this section who claims such right, title or interest in any such patent or patent application merely as a licensee (and without the right to grant sub-licenses) of a resident of the United States and its possessions who has title to or the right to grant licenses under the patent, provided that such licensee has ascertained that a report has been filed by such resident.

(c) For the purpose of this section the term "designated foreign national" shall include:

(1) Any resident of any country other than the American Republics, the British Commonwealth of Nations, and the Union of Soviet Socialist Republics.

(2) Any business organization, organized under the laws of, or having its principal place of business in, any foreign country other than those enumerated in subparagraph (1) of this paragraph.

(3) Any person included in The Proclaimed List of Certain Blocked Nationals on June 1, 1942 (22 CFR, Supps., Chapter III). (See § 507.1 of this chapter. See also § 501.80, Form APC–2.)

§ 510.11 *Reports of persons having an interest in patents or patent applications concerning changes in status as foreign national.* Any individual person to whom an unexpired United States Letters Patent has been granted upon an application filed when such person was a citizen or resident of a foreign country and any individual person claiming any interest in such patent, and who has since the date of filing such application either:

(a) Moved out of any foreign country other than an American Republic, a country of the British Commonwealth of Nations or the Union of Soviet Socialist Republics; or

(b) Changed his citizenship;

Shall on or before August 15, 1942, file with the Alien Property Custodian a statement under oath containing the number of the patent involved, the present residence and citizenship of the person reporting and the manner in which any new citizenship was acquired. This statement may be filed by an attorney and confirmed within a reasonable time by the person concerned.

§ 510.12 *Report of unfiled patent applications and disclosures of enemy nationals.* (a) It is ordered that every person in the United States who has custody, control or possession of any models, blueprints, drawings, sketches, correspondence, memoranda of invention, reports or other written information received in the United States on or after January 1, 1939, and prior to the date (Nov. 17, 1942) of this section, for the purpose of preparing an application for United States Letters Patent which has not been filed in the United States Patent Office for an invention or inventions disclosed

in any of the above-mentioned models or papers, and in which the consignor or the inventor or any of them is an enemy national; and that every person in the United States who has custody, control or possession of any documents constituting an unfiled application for U. S. Letters Patent, whether complete or not, received or substantially prepared in the United States on or after January 1, 1939, and prior to the date (Nov. 17, 1942) of this section, and in which the consignor or the inventor or any of them is an enemy national shall, on or before December 31, 1942, either:

(1) Report the same to the Alien Property Custodian or Director, Office of Alien Property, giving an enumeration of the models, papers or documents mentioned in paragraph (a) of this section, sufficient to identify the same, including the name, residence and nationality of the inventor, the date of execution of any papers or documents, the title of the invention and its field of use, the number and name of any corresponding foreign patent or application if known to the reporter, and the name and nationality of the person or organization from whom the papers were received (if received from an attorney, state for whom he is acting); or

(2) File such application in the United States Patent Office upon the terms and conditions set forth in § 507.3 of this chapter.

(3) Submit such models, papers or documents to the Alien Property Custodian or Director, Office of Alien Property.

(b) It is ordered that every person in the United States receiving, directly or indirectly, from an enemy national on or after the date of this section an application for United States Letters Patent or Trade-mark Registration or any models, blueprints, drawings, sketches, correspondence, memoranda of invention, reports, or other written information for the purpose of preparing an application for United States Letters Patent, shall within thirty days of the receipt thereof, or within such further time as may be allowed by the Director, Office of Alien Property, submit such models, papers or documents to the Director, Office of Alien Property.

(c) If a report is filed or models, papers or documents submitted under paragraph (a), (1) or (3) or paragraph (b) of this section and any claim of right with respect to such models, papers or documents is asserted by the reporter or is known to the reporter to exist on the part of any person other than the inventor, such claim shall be set forth and the basis for such claim of right briefly explained.

(d) It is ordered that any person presenting for recording in the United States Patent Office any instrument which constitutes an assignment, grant, encumbrance, license or other agreement of, under or with respect to any invention, or any patent, trade-mark, or application therefor issued by, or filed in or intended to be filed in the United States Patent Office, if:

(1) Such instrument was executed prior to the effective date of Executive Order No. 8389, (3 CFR, 1943 Cum. Supp.), as amended, and

(2) Any of the parties to such instrument is a national of a foreign country designated in section 3 of Executive Order No. 8389, Apr. 10, 1940, as amended and not within the categories of § 507.2 of this chapter, shall file with such instrument a report on Form APC–14P for patents or APC–14T for trade-marks, setting forth under oath the information called for therein.

(e) The term "enemy national" shall have the meaning defined in § 507.3 (g) of this chapter.

(f) The terms "foreign country" and "national" shall have the meanings defined in sections 5D and 5E, respectively, of Executive Order No. 8389, as amended. (See § 501.80, Forms APC–14P, 14T.)

§ 510.13 *Exemption of patent applications of certain consignors or inventors from requirements of § 510.12.* Any application for United States Letters Patent or Trade-Mark Registration or any model, blueprint, drawing, sketch, correspondence, memorandum of invention, report or other written information for the purpose of preparing an application for United States Letters Patent, if received by a person within the United States from an inventor and consignor within Italy, Bulgaria, Rumania, or Hungary, is hereby exempted from the requirement of § 510.12 (b) provided such application is filed with the United States Patent Office pursuant to § 507.9 of this chapter.

§ 510.14 *Exemption of certain patent applications from requirements of § 510.12.* Any application for United States Letters Patent, filed or to be filed in accordance with section 3 of Public Law 380, 80th Cong., 1st Sess., of August 6, 1947, is hereby exempted from the requirement of § 510.12 (b) (General Order No. 12).

(Sec. 5 (b), 40 Stat. 411, as amended; 50 U. S. C. app. 616. E. O. 9193, July 6, 1942, 7 F. R. 5205; 3 CFR, 1943 Cum. Supp.; E. O. 9788, Oct. 14, 1946, 11 F. R. 11981; 3 CFR, 1946 Supp.)

§ 510.30 *Report of royalties due and payable under vested patent rights.* (a) In any case in which the Attorney General is entitled to receive royalties by virtue of the vesting of a patent or patent application or of an interest in an agreement with respect to a patent or patent application, any person who is obligated to pay such royalties shall, upon demand by the Director, Office of Alien Property, within the period provided in such demand, execute and file with the Office of Alien Property, on Form APC–19, a report of all such royalties which are due.

(b) Unpaid royalties reported in Form APC–19 shall be paid to the Office of Alien Property, Washington, D. C., not later than the next date following the filing of Form APC–19 upon which payment is due under the agreement. Such payment shall include all royalties due on such date.

(c) Subsequent royalties shall be paid to the Office of Alien Property, Washington, D. C., as they become due under the agreement.

(d) All payments of royalties to the Office of Alien Property shall be accompanied by a report executed and filed in duplicate on Form APC–20.

(e) As used in this section, the terms:

(1) "Royalty" shall include serial payments under a license, assignment or other agreements; and

(2) "Agreement" shall include, without limitation, any contract of purchase or sale, any contract granting a right to obtain an assignment, any agreement to use or not to use, any license held or granted, any cross-license agreement, any royalty agreement, and any agreement as to quantity, price, territorial restrictions or field of use. (See § 501.80, Forms APC–19, 20.)

§ 510.40 *Report regarding interests of foreign nationals in trademarks and commercial prints and labels.* (a) Every person having or claiming any interest in any trade-mark, whether or not registered in the United States Patent Office, or in any commercial print or label subject to copyright under the laws of the United States, shall file a report on or before February 1, 1944 with respect to each such trade-mark, commercial print or label, if:

(1) Such person has obtained any interest, whether or not recorded in the United States Patent Office or in the United States Copyright Office, in such trade-mark, commercial print or label from any designated foreign national or anyone on his behalf at any time on or since January 1, 1939, or

(2) Regardless of the date on which such interest was obtained, (i) any designated foreign national or anyone on his behalf holds or claims on the date of the report made under this section any interest in such trade-mark, commercial print or label, and (ii) monies or other things of value with respect thereto, exclusive of offset, were or are owing, have been paid or have become payable by such person to any designated foreign national or to anyone on his behalf at any time from January 1, 1939, to the date of the report made under this section. Such report shall be executed in duplicate and under oath on Form APC 31, shall be filed with the Office of Alien Property, Washington, D. C., and shall contain complete information as provided in said form.

(b) If any trademark, commercial print or label, otherwise required to be reported under paragraph (a) (2) of this section, is not reported because no monies or other things of value with respect thereto were owing, paid or had become payable from January 1, 1939, to the date of any report otherwise required thereunder, and monies or other things of value with respect to such trade-mark, commercial print or label, exclusive of offset, subsequently are paid or become payable by any person having or claiming any interest therein to any designated foreign national or to anyone on his behalf, such person shall file a report on Form APC 31 with respect to such trade-mark, commercial print or label. Such report shall be filed with the Office of Alien Property, Washington, D. C., within thirty days after the close of any accounting period during which such sums are paid or become payable.

(c) For the purpose of this section, the terms:

(1) "Person" shall mean any individual, partnership, association, enterprise, joint-stock company, trust, corporation or any other organization or body politic.

(2) "Interest" shall mean ownership, part ownership, or claim of ownership, in whole or in part, of any trade-mark, registration or application for registration thereof, and of any copyright or claim of copyright in any commercial print or label, and any right, license, privilege or property in or to such trade-mark, commercial print or label; and any right, title and interest in, to or under any contract or any other instrument, and any royalty, share of profits, license fees or other emolument or compensation reserved with respect thereto. Such interest shall also include, without limitation, any interest as described in this subparagraph which is held or claimed as trustee, agent, representative or nominal proprietor.

(3) "Trade-mark" shall mean any trade-mark, trade name, commercial name, service mark, collective mark or certification mark, whether a word, name, symbol or device, or combination thereof, used or adapted to be used by any person or persons in connection with the manufacture, sale or offering for sale of goods, wares, merchandise or services, to identify the source or origin thereof and to distinguish such goods, wares, merchandise and services from those of others.

(4) "Print" shall mean any artistic work subject to copyright with or without accompanying text matter, published in a periodical or separately, used in connection with the sale or advertisement of an article or articles of merchandise.

(5) "Label" shall mean any artistic and/or literary work subject to copyright impressed or stamped directly upon the article of merchandise or upon a piece of paper or other material to be attached in any manner to articles of merchandise or to bottles, boxes or other containers thereof, to indicate the nature of the goods.

(6) "Designated foreign national" shall mean:

(i) Any resident of any country other than the American Republics, the British Commonwealth of Nations and the Union of Soviet Socialist Republics.

(ii) Any business organization, organized under the laws of, or having its principal place of business in, any foreign country other than those enumerated in subdivision (i) of this subparagraph.

(d) The reporting requirements of this section have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942. (See § 510.80, Form APC–31.)

§ 510.46 *Report of royalties due and payable under vested interest in trademarks and commercial prints and labels.* (a) In all cases in which the Attorney General is entitled to receive royalties by virtue of having vested an interest in a trade-mark, whether or not registered in the United States Patent Office, or in any commercial print or label, or right thereunder, or an interest in an agreement with respect to such trademark, commercial print or label, the persons who are obligated to pay such royalties shall execute and file in duplicate with the Office of Alien Property, Washington, D. C., reports on Forms APC–50 and APC–51; such reports shall be accompanied by the payment of royalties due and payable and shall be executed as follows:

(1) Royalties which became due and payable for all accounting periods prior to the date of vesting shall be reported on Form APC–50 and paid within thirty days after receipt of demand from the Director, Office of Alien Property, for such report and payment;

(i) Federal withholding taxes on such royalties shall be paid in the usual manner by the reporter directly to the Collector of Internal Revenue;

(ii) Charges specifically authorized by the agreement under which the royalties are payable may be deducted by the reporter. No other amounts may be deducted; but claims for refund of such amounts may be filed on Form APC–1, copies of which will be supplied on request.

(2) Royalties which become due and payable for all accounting periods subsequent to the date of vesting shall be reported on Form APC–51 and paid within ten days after the date they become due and payable; except that in the event one or more accounting periods subsequent to the date of vesting have passed previous to receipt of demand from the Director, Office of Alien Property, under subparagraph (1) of this paragraph, royalties for such periods shall be reported on Form APC–51 and paid to the Office of Alien Property within thirty days after receipt of such demand;

(i) Federal withholding taxes on such royalties shall not be paid by reporter to the Collector of Internal Revenue and the amounts ordinarily withheld for such purposes shall be included in payments to the Office of Alien Property.

(ii) Charges specifically authorized by the agreement under which the royalties are payable may be deducted by the reporter. Charges which are incurred subsequent to vesting and which are not specifically authorized by the agreement shall not be deducted unless approved by the Director, Office of Alien Property, in writing.

(b) For the purposes of this section the terms:

(1) "Person" shall mean any individual, partnership, association, enterprise, joint-stock company, trust, corporation or any other organization or body politic;

(2) "Interest" shall mean ownership, part ownership, or claim of ownership, in whole or in part, of any trade-mark, registration or application for registration thereof, and of any copyright or claim of copyright in any commercial print or label, and any right, license, privilege or property in or to such trade-mark, commercial print or label, and any right, title and interest in, to or under any contract or any other instrument, and any royalty, share of profits, license fees or other emolument or compensation reserved with respect thereto. Such interest shall also include, without limitation, any interest as described in this subparagraph which is held or claimed as trustee, agent, representative or nominal proprietor.

(3) "Trade-mark" shall mean any trade-mark, trade name, commercial name, service mark, association mark, collective mark or certification mark, whether a word, name, symbol or device, or combination thereof, used or adapted to be used by any person or persons in connection with the manufacture, sale or offering for sale of goods, wares, merchandise or services, to identify the source or origin thereof and to distinguish such goods, wares, merchandise and services from those of others.

(4) "Print" shall mean any artistic work subject to copyright under the laws of the United States with or without accompanying text matter, published in a periodical or separately, used in connection with the sale or advertisement of an article or articles of merchandise.

(5) "Label" shall mean any artistic and/or literary work subject to copyright under the laws of the United States impressed or stamped directly upon the article of mechandise or upon a piece of paper or other material to be attached in any manner to articles of merchandise or to bottles, boxes or other containers thereof, to indicate the nature of the goods.

(6) "Royalties" shall include, without limitation, fees, serial or other payments, shares or profits and any and all other emoluments or compensation.

(7) "Agreement" shall include, without limitation, any contract of purchase or sale, any contract granting the right to obtain an assignment, any agreement to use or not to use, any license held or granted, any cross-license agreement, any royalty agreement, and any agreement as to quantity, price, territorial restrictions or field of use with respect to any trade-mark, commercial print or label.

(c) The reporting requirements of this section have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942. (See § 501.80, Forms APC–50, 51.)

§ 510.60 Report of interest of *designated foreign nationals in copyrights.* (a) Every person having or claiming any interest in any work subject to copyright under the laws of the United States shall file a report on or before January 15, 1943, with respect to each such work, if

(1) Such person has obtained any interest in such work from any designated foreign national or anyone on his behalf at any time on or since January 1, 1939, or

(2) Such interest, regardless of when obtained, has been recorded in the Office of the Register of Copyrights at any time on or since January 1, 1939, or

(3) Regardless of the date on which such interest was obtained, any designated foreign national or anyone on his behalf now holds or claims any interest in such work, and moneys or other things of value, exclusive of offset, were or are owing, have been paid or have become payable by such person to any desig-

nated foreign national or to anyone on his behalf at any time from January 1, 1939, to the date of the report made under this section.

Such report shall be executed in duplicate and under oath on Form APC–18, shall be filed with the Office of Alien Property, Washington, D. C., and shall contain complete information as provided in said form.

(b) If any work, otherwise required to be reported under paragraph (a) (3) of this section, is not reported because no moneys or other things of value were owing, paid, or had become payable with respect to such work, from January 1, 1939, to the date of any report otherwise required under paragraph (a) (3) of this section, and moneys or other things of value, exclusive of offset, subsequently are paid or become payable by any person, to a designated foreign national or anyone in his behalf, such persons shall file a report with respect to such work. Such report shall be made within thirty days after the close of any accounting period during which such sums become payable and shall contain a statement of the title of such work, the dates of the contracts or other writings under which such sums were paid or have become due, the names of all parties to said contracts or other writings, and the method used and amounts established in computing payments arising therefrom.

(c) For the purpose of this section:

(1) "Person" shall mean any individual, partnership, association or corporation.

(2) "Interest" in a work subject to copyright shall mean: ownership, part ownership, or claim of ownership, in whole or in part, of any subsisting copyright or claim of copyright, and any right, license, privilege, or property in or to or with respect to such work; and any right, title or interest in, to or under any contract or other instrument, and any royalty, share of profits, license fees, or other emolument or compensation reserved with respect thereto. Such interest shall also include, but not by way of limitation, any interest as described in this subparagraph which is held or claimed as trustee, agent, representative or nominal proprietor.

(3) "Work subject to copyright" shall mean: all the writings of an author within the meaning of the Copyright Act including, but not by way of limitation, literary, artistic, dramatic, musical and dramatico-musical compositions, and any and all versions, adaptations, arrangements, transcriptions, translations, and recordings thereof, whether or not copyright has been obtained thereon in the United States: *Provided, however,* That such term shall not include commercial prints and labels.

(4) "Designated foreign national" shall mean:

(i) Any individual who is a resident of, and

(ii) Any business organization organized under the laws of or having its principal place of business within,

Albania, Austria, Bulgaria, Czechoslovakia, Danzig, Esthonia, Germany, Greece, Hungary, Italy, Japan, Latvia, Lithuania, Luxembourg, Norway, Poland, Rumania, San Marino, and Yugoslavia; and those portions of Belgium, Denmark, France and The Netherlands within continental Europe.

§ 510.65 *Report of copyrights or interests therein.* Any individual who has obtained a copyright or who holds an interest as author or composer in a copyrighted work, and

(a) Such copyright or interest therein was obtained when such person was a citizen or resident of a foreign country, and

(b) Such person has, since the date of obtaining such copyright or interest therein, either

(1) Moved out of any foreign country other than an American Republic, a country of the British Commonwealth of Nations or the Union of Soviet Socialist Republics, or

(2) Changed his citizenship,

may on or before July 1, 1943, file with the Office of Alien Property Custodian, Washington, D. C., a statement under oath containing the name of the author and the title of the work on which the copyright was obtained, the registration number, if any, of the copyright involved, the present residence and citizenship of the person reporting and the manner in which each, if any, new citizenship was acquired. This statement may be filed by an attorney and confirmed within a reasonable time by the person concerned.

§ 510.70 *Report of royalties due and payable under vested interests in works subject to copyright.* (a) In all cases in which the Attorney General is entitled to receive royalties by virtue of having vested an interest in a work subject to copyright, the persons who are obliged to pay such royalties shall execute and file in duplicate with the Office of Alien Property, Washington, D. C., reports on Forms APC–45 and APC–46; such reports shall be accompanied by the payment of royalties due and payable and shall be executed as follows:

(1) Royalties which became due and payable prior to the date of vesting shall be reported on Form APC–45 and paid, within thirty days after receipt of demand from the Director, Office of Alien Property, for such report and payment;

(i) Federal withholding taxes on such royalties shall be paid in the usual manner by the reporter directly to the Collector of Internal Revenue;

(ii) Commissions and other charges may be deducted by the reporter if authorized by the agreement under which the royalties are payable. No other amounts may be deducted; but claims for refund of such amounts may be filed on Form APC–1, copies of which will be supplied on request.

(2) Royalties which become due and payable subsequent to the date of vesting shall be reported on Form APC–46 and paid, within ten days after the date they become due and payable;

(i) Federal withholding taxes on such royalties shall not be paid by reporter to the Collector of Internal Revenue and the amounts ordinarily withheld for such purposes shall be included in the payments to the Office of Alien Property;

(ii) Commissions and other charges may be deducted if authorized by the agreements under which the royalties are payable. Charges which are incurred subsequent to vesting and which are not authorized by the agreement shall not be deducted unless approved by the Director, Office of Alien Property, in writing.

(b) For the purposes of this section, the definitions contained in § 510.60 (General Order No. 14 of the Alien Property Custodian) shall be applicable; "royalties" shall be deemed to include, but not by way of limitation, fees, serial or other payments, shares of profits, and any and all other emoluments or compensation.

(c) The reporting requirements in this section have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942. (See § 501.80, Form APC–1, 45, 46.)

§ 510.85 *Report of property owned by persons to be repatriated.* (a) Any person proposed for repatriation to an enemy country shall, upon demand by a duly authorized representative of the Director, Office of Alien Property, prepare (or assist the representative of the Director, Office of Alien Property, in preparing), sign and certify a report on Form APC–48 of all property of any nature whatsoever within the United States, its territories and possessions, which is owned or controlled by, payable or deliverable to, held on behalf or for the account of such person or in which such person has any interest of any nature whatsoever.

(b) Such duly authorized representatives of the Director, Office of Alien Property, are hereby authorized to accept any books of account, records, contracts, letters, documents, memoranda, or other papers held in the custody of any person proposed for repatriation, which are useful in establishing the ownership or control of any such property.

(c) For the purposes of this section:

(1) "Person proposed for repatriation" shall mean any person who has been designated by the Department of State of the United States as one who may be repatriated to a designated enemy country;

(2) "Designated enemy country" shall mean any foreign country against which the United States has declared the existence of a state of war (Germany, Italy, Japan, Bulgaria, Hungary, and Rumania) and any other country with which the United States is at war in the future.

(3) "A duly authorized representative of the Director, Office of Alien Property" shall include any person who possesses an identification card (bearing his signature and photograph) certifying that he is employed as an investigator, attorney, examiner, business analyst, or in any other responsible position in the Office of Alien Property. (See § 501.80, Form APC–48)

§ 510.90 *Report of property of Germany and Japan and any national thereof.* (a) Every person in the United States who, on or after December 31, 1945, has any interest in or legal title to or custody or control or possession of

any property or interest of any nature whatsoever within the United States, and believes or has cause to believe that such property or interest is or may be directly or indirectly owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or claimed by, or is evidence of ownership or control of property or interest by, Germany or Japan or any national thereof, shall file with the Office of Alien Property on or before February 28, 1946, a report of Alien Property Custodian Form APC–56, containing the information called for and in conformity with instructions, whether or not a report with respect to any such property or interest shall have been filed previously with any government agency: *Provided*, That if such belief or cause to believe is acquired after February 28, 1946, such reports shall be filed within 60 days after such belief or cause to believe; *And provided further*, That no report on Form APC–56 need be filed with respect to the following: (1) interests in or relating to patents, reportable pursuant to §§ 510.10, 510.11, 507.3, 510.12 and 510.30; (2) interests in or relating to coyprights, reportable pursuant to §§ 507.53, 510.60, 510.65 and 510.70; (3) interests in or relating to trade-marks, commercial prints, and labels, reportable pursuant to §§ 507.3, 510.40 and 510.46; and (4) any property being administered under judicial supervision, or which is in partition, libel, condemnation or other such proceedings, reportable pursuant to § 510.1. For the purposes of this paragraph, safe deposit boxes shall be deemed to be in the "custody" not only of all lessees thereof and all persons having access thereto, but also of the lessors of such boxes, whether or not such lessors have access thereto.

(b) A report on Form APC–56 in accordance with the requirements specified in paragraph (a) of this section, shall be filed by every person with respect to all securities and obligations, including, but not limited to, shares of stock, debentures, notes, bonds, trust certificates, coupons, debts, contracts of insurance, issued or incurred by such person, which are registered or recorded on the books of such person as, or which such person believes or has cause to believe are or may be, directly or indirectly owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to or claimed by, Germany or Japan or any national thereof.

(c) As used in paragraphs (a) and (b) of this section:

(1) The term "person" shall include, but not by way of limitation, an individual, partnership, association, corporation, company or other incorporated or unincorporated body or body politic;

(2) The term "property" shall include, but not by way of limitation, money, checks, drafts, bullion, bank deposits, savings accounts, obligations, financial securities commonly dealt in by bankers, brokers and investment houses, notes, debentures, stocks, bonds, coupons, bank acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidence of title, ownership or indebtedness, goods, wares, merchandise, chattels, stock on hand, real estate, vendors' sales agreements, land contracts, leaseholds, ground rents, options, negotiable instruments, trade acceptances, book accounts, accounts payable (to Germany or Japan or any national thereof), judgments, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, contracts of any nature whatsoever, interest in trusts;

(3) The term "United States" means the continental United States and any territory which was subject to the jurisdiction thereof on December 7, 1941, including the Philippine Islands;

(4) The term "Germany", when used in a territorial sense, means that territory which constituted Germany on March 1, 1938; and when used in a governmental sense, means the Government of Germany or any political subdivision agency or instrumentality thereof;

(5) The term "Japan", when used in a territorial sense, means that territory which constituted Japan on December 7, 1941, including the mandated islands of Japan and Manchuria, but excluding all other areas in China occupied by the military forces of Japan on that date; and when used in a governmental sense, means the Government of Japan or any political subdivision, agency or instrumentality thereof;

(6) The phrase "national of Germany or Japan" means:

(i) Any person who, at any time on or since June 14, 1941, has been domiciled or resident in, or has been a citizen or subject of, Germany or Japan, except (*a*) persons domiciled or resident in the United States on December 31, 1945, and (*b*) members of the armed forces of, and civilians (other than citizens or subjects of Germany or Japan) on official duty for the United States, China, France, the Union of Soviet Socialist Republics, or the United Kingdom, or organizations acting officially on behalf of any of such nations;

(ii) Any partnership, association, corporation or other organization, organized under the laws of, or which at any time on or since June 14, 1941, has had its principal place of business in, Germany or Japan; and

(iii) Any partnership, association, corporation or other organization, organized under the laws of, or whose principal place of business is located in, any country other than Germany, Japan or the United States, in which at any time on or since January 1, 1939, Germany or Japan or any national thereof has had any direct or indirect interest, or any direct or indirect control other than such control as prevailed solely by virtue of the military occupation by Germany or Japan of the territory in which such partnership, association, corporation or other organization is located.

(d) Alien Property Custodian Form APC–56 and instructions may be obtained from the Office of Alien Property, Washington 25, D. C.

(e) Reports shall be executed and filed in duplicate with the Office of Alien Property, Washington 25, D. C. A report shall be deemed to have been filed when it is received by the Office of Alien Custodian or when it is properly addressed and mailed to the Office of Alien Property, Washington 25, D. C., and bears a postmark dated prior to midnight of the date upon which the report is due. The Director, Office of Alien Property, reserves discretion to grant such extensions of time as he deems advisable for the making of any or of all of the reports required by this section. (See § 501.80, Form APC–56.)

§ 510.91 *Extension of time for filing reports required by § 510.90.* The time within which reports required by § 510.90 (General Order No. 34) may be filed is hereby extended to March 31, 1946: *Provided*, That if belief or cause to believe within the meaning of the said section is acquired after February 28, 1946, such reports shall be filed within 60 days after such belief or cause to believe. (See § 501.80; Form APC–56.)

§ 510.92 *Non-applicability of § 510.90 to property acquired on or after January 1, 1947.* (a) No report on Form APC–56 shall be required to be filed pursuant to § 510.90 (General Order No. 34) with respect to any property or interest

(1) Which is initially brought into the United States after December 31, 1946, unless such property or interest represents, directly or indirectly, ownership or control of, or an interest in, any property or interest in the United States on December 31, 1946, or

(2) Which is initially acquired by Germany or Japan or any national thereof after December 31, 1946; *Provided*, That no such property or interest shall be considered initially acquired after December 31, 1946, if such property or interest is, in whole or in part, the income, interest, increment, dividends, or proceeds from, or has been converted from, exchanged for, acquired with the proceeds of, or is in any other way directly or indirectly derived from, any property or interest in the United States in which on December 31, 1946, Germany or Japan, or any national thereof, had any interest.

(b) The definition of terms in § 510.90 shall be applicable to this section. (Sec. 51b), 40 Stat. 411, as amended; 50 U. S. C. App. 616, E. O. 9193, July 6, 1942, 7 F. R. 5205; 3 CFR, 1943 Cum. Supp.; E. O. 9788, Oct. 14, 1946, 11 F. R. 11981; 3 CFR, 1946 Supp.)

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## PART 511—BLOCKED ASSETS: REGULATIONS ISSUED ORIGINALLY BY THE TREASURY DEPARTMENT

NOTE: By Executive Order 9989, Aug. 20, 1948, 13 F. R. 4891, jurisdiction over certain blocked assets has been transferred from the Secretary of the Treasury to the Attorney General. Section 505.1 (b) of this chapter provides: "All orders, regulations, rulings, instructions, or licenses of any nature whatsoever, issued by the Secretary of the Treasury under the authority of Executive Order No. 8389, as amended, and Executive Order No. 9095, as amended, concerning property over which jurisdiction has been transferred by Executive Order No. 9989, shall continue in full force and effect in accordance with their terms, subject to the authority of the Attorney General, or any agency, instrumentality, agent, delegate, assistant or other personnel, appointed or designated by him, to amend, modify or revoke, in whole

or in part, such orders, regulations, rulings, instructions and licenses: *Provided*, That, wherever in such orders, regulations, rulings, instructions or licenses, or in regulations of the Office of Alien Property, the Treasury Department, Foreign Funds Control, the Secretary of the Treasury or other officers of the Department of the Treasury are referred to, the reference shall be deemed to be made to the Office of Alien Property and the appropriate officers thereof."

The regulations contained in this part were previously contained in Parts 130 and 131 (including Appendices A and B) and Part 132 of Title 31 of the Code of Federal Regulations.

See Part 512 for regulations issued by Office of Alien Property concerning blocked assets.

SUBPART A—REGULATIONS



SUBPART B—GENERAL LICENSES



SUBPART C—GENERAL RULINGS



SUBPART D—PUBLIC CIRCULARS



SUBPART E—GENERAL LICENSES AND PUBLIC CIRCULARS ISSUED BY THE GOVERNOR OF HAWAII



SUBPART A—REGULATIONS

AUTHORITY: §§ 511.1 to 511.4, issued under 40 Stat. 415, 966, 48 Stat. 1, 54 Stat. 179; 12 U. S. C. 95a. E. O. 8389, April 10, 1940, as amended by E. O. 8785, June 14, 1941, 8832, July 26, 1941, 8963, Dec. 9, 1941, 8998, Dec. 26, 1941; 5 F. R. 1400, 6 F. R. 2897, 3715, 6348, 6785. Special authority is cited to text in parentheses.

§ 511.1 *Definitions.* (a) The term "order" shall refer to Executive Order No. 8389 of April 10, 1940, as amended.

(b) The term "regulations" shall refer to the regulations in this part.

(c) The terms "property" and "property interest" or "property interests" shall include, but not by way of limitation, money, checks, drafts, bullion, bank deposits, savings accounts, any debts, indebtedness or obligations, financial securities commonly dealt in by bankers, brokers, and investment houses, notes, debentures, stocks, bonds, coupons, bankers' acceptances, mortgages, pledges, liens or other right in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, vendors' sales agreements, land contracts, real estate and any interest therein, leaseholds, ground rents, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks, copyrights, contracts or licenses affecting or involving patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, contracts of any nature whatsoever, et cetera.

(d) Safe deposit boxes shall be deemed to be in the "custody" not only of all persons having access thereto but also of the lessors of such boxes whether or not such lessors have access to such boxes. The foregoing shall not in any way be regarded as a limitation upon the meaning of the term "custody."

(e) For the meaning of other terms reference should be made to the definitions contained in the order. In interpreting rulings, licenses, instructions, etc., issued pursuant to the order and regulations, particular attention is directed to the provisions of General Ruling No. 4, as from time to time hereafter amended.

§ 511.2 *Licenses.* All applications for licenses to engage in any transaction prohibited by the order or otherwise prohibited pursuant to sections 3 (a) or 5 (b) of the act of October 6, 1917 (40 Stat. 415), as amended, shall be filed in duplicate with the Federal Reserve Bank of New York, with the exception of applications from the territory of Hawaii which shall be filed directly with the Secretary of the Treasury, Washington, D. C. The applicant shall furnish such information as shall be requested of him by the Secretary of the Treasury or the Federal Reserve Bank of New York. Licenses will be issued by the Secretary of the Treasury, acting directly or through any officers or agencies that he may designate, and by the Federal Reserve Bank of New York, acting in accordance with such regulations, rulings and instructions, as the Secretary of the Treasury may from time to time prescribe, in such cases or classes of cases as the Secretary of the Treasury may determine. The Federal Reserve Bank of New York or the Secretary of the Treasury will advise the applicant of the decision respecting the application. Appropriate forms for applications and licenses will be prescribed by the Secretary of the Treasury. Licensees may be required to file reports upon the consummation of transactions. The decision of the Secretary of the Treasury with respect to an application for license shall be final.

(Sec. 5 (b), 40 Stat. 415, 966, sec. 2, 48 Stat. 1, 54 Stat. 179, sec. 301, 55 Stat. 839; 12 U. S. C. 95a, 50 U. S. C. App. 5 (b); E. O. 8389, April 10, 1940, E. O. 8785, June 14, 1941, E. O. 8832, July 26, 1941, E. O. 8963, Dec. 9, 1941, E. O. 8998, Dec. 26, 1941, E. O. 9193, July 6, 1942, E. O. 9567, June 8, 1945, 3 CFR, Supps.)

NOTE: Licensing with respect to assets blocked on September 30, 1948, jurisdiction as to which was transferred to the Attorney General by Executive Order No. 9989, is governed by § 501.50 of this chapter.

§ 511.3 *Penalties.* Section 5 (b) of the Trading With the Enemy Act of October 6, 1917, as amended, provides in part:

* * * Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than $10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both

In addition to the provisions of section 5 (b) of the act, section 35 (A) of the United States Criminal Code provides in part:

• • • whoever shall knowingly and willfully falsify or conceal or cover up by any trick, scheme, or device a material fact, or make or cause to be made any false or fraudulent statements or representations, or make or use or cause to be made or used any false bill, receipt, voucher, roll account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry in any matter within the jurisdiction of any department or agency of the United States • • • shall be fined not more than $10,000 or imprisoned not more than ten years, or both. Act of April 4, 1938, ch. 69, 52 Stat. 197. (18 U. S. C. 80)

§ 511.4 *Conflicting regulations.* The regulations in this part and any rulings, licenses, or instructions issued hereunder shall not be deemed to authorize any transaction prohibited by reason of any other law, proclamation, order or regulation.

SUBPART B—GENERAL LICENSES

AUTHORITY: §§ 511.101 to 511.197 issued under sec. 5 (b), 40 Stat. 415, 966, sec. 2, 48 Stat. 1, sec. 1, 54 Stat. 179, sec. 301, 55 Stat. 839; 12 U. S. C. and Sup., 95a, 50 U. S. C. App., Sup., 5 (b); E. O. 8389, Apr. 10, 1940, as amended by E. O. 8785, June 14, 1941, E. O. 8832, July 26, 1941, E. O. 8963, Dec. 9, 1941, and E. O. 8998, Dec. 26, 1941, E. O. 9193, July 6, 1942, as amended by E. O. 9567, June 8, 1945; §§ 511.1–511.7, of this part. Special authority is cited to text in parentheses.

NOTE: In §§ 511.101 to 511.197, the last two digits correspond with the number of the general license from which the section is derived.

§ 511.101 *General license No. 1.* A general license is hereby granted authorizing any payment or transfer of credit to a blocked account in a domestic bank in the name of any blocked country or national thereof providing the following terms and conditions are complied with:

(a) Such payment or transfer shall not be made:

(1) From any blocked account in a domestic bank; or

(2) From any other blocked account if such payment or transfer represents, directly or indirectly, a transfer of the interest of a blocked country or national thereof to any other country or person.

(b) This general license shall not be deemed to authorize:

(1) Any payment or transfer to any blocked account held in a name other than that of the blocked country or national thereof who is the ultimate beneficiary of such payment or transfer; or

(2) Any foreign exchange transaction including, but not by way of limitation, any transfer of credit, or payment of an obligation, expressed in terms of the currency of any foreign country.

This general license should not be employed to make any payment or transfer of credit comprising an integral part of a transaction which cannot be effected without the subsequent issuance of a further license.

NOTE: For additional material relating to § 511.101, see §§ 511.302 and 511.321.

CROSS REFERENCE: For general ruling with respect to payments or transfers between

A general license is hereby granted:

tion within the United States to debit blocked accounts, see § 511.220.

(1) Authorizing any banking institu-

§ 511.102 *General license No. 2.* (a) any blocked account with such banking institution (or with another office within the United States of such banking institution) in payment or reimbursement for normal service charges owed to such banking institution by the owner of such blocked account;

(2) Authorizing any banking institution within the United States to make book entries against any foreign currency account maintained by it with a banking institution in any blocked country for the purpose of responding to debits to such account for normal service charges in connection therewith.

(b) Any banking institution within the United States which during any quarterly period enters any single item in excess of $500 to any account under the authority of this general license shall file with the appropriate Federal Reserve Bank at the end of such quarterly period a report showing the name of such account and the nature and amount of each item in excess of $500 entered to such account under the authority of this general license during such quarterly period.

(c) As used in this general license, the term "normal service charges" shall include charges in payment or reimbursement for interest due; cable, telegraph, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, account carrying charges, notary and protest fees, and charges for reference books, photostats, credit reports, transcripts of statements, registered mail insurance, stationery and supplies, checkbooks, and other similar items.

NOTE: Section 511.102 was made applicable to accounts referred to under § 511.206 (General Ruling No. 6) by § 511.129. For general rulings see §§ 511.201 to 511.220.

§ 511.104 *General license No. 4.* (a) A general license is hereby granted authorizing the bona fide sale of securities on a national securities exchange by banking institutions within the United States for the account, and pursuant to the authorization, of nationals of any of the foreign countries designated in Executive Order No. 8389 of April 10, 1940, as amended, and the making and receipt of payments, transfers of credit, and transfers of such securities which are necessary incidents of any such sale: *Provided,* That:

(1) The proceeds of the sale are credited to an account in the name of the national for whose account the sale was made and in the banking institution within the United States which held the securities for such national; and

(2) This general license shall not be deemed to authorize the sale of any security registered or inscribed in the name of any of the foreign countries designated in Executive Order No. 8389 of April 10, 1940, as amended, or any national thereof, irrespective of the fact that at any time (whether prior to, on, or subsequent to April 10, 1940) the registered or inscribed owner thereof may have, or appears to have, assigned, transferred or otherwise disposed of the security.

(b) Each banking institution making any sales herein authorized is required to file promptly with the appropriate Federal Reserve bank weekly reports showing the details of the transactions, including a description of the securities sold, the dates of sales, the persons for whose account the sales were made, and the prices obtained.

(c) This amendment of General license No. 4 of June 3, 1940 shall not be deemed to prevent the completion on or prior to June 6, 1940 of purchases and sales, which were made prior to June 4, 1940 pursuant to General license No. 4 of securities other than securities registered or inscribed in the name of any of the foreign countries designated in Executive Order No. 8389 of April 10, 1940, as amended, or any national thereof.

(d) Securities issued or guaranteed by the Government of the United States or any state, territory, district, county, municipality or other political subdivision thereof (including agencies and instrumentalities of the foregoing) need not be sold on a national securities exchange: *Provided,* That such securities are sold at market value and pursuant to all other terms and conditions prescribed in this general license.

NOTE: Section 511.104 was made applicable to accounts referred to under § 511.206 (General Ruling No. 6) by § 511.129. For general rulings see §§ 511.201 to 511.220.

NOTE: For additional material relating to § 511.104 see § 511.321.

§ 511.105 *General license No. 5.* (a) A general license is hereby granted authorizing the payment from any blocked account to the United States or any agency or instrumentality thereof or to any state, territory, district, county, municipality or political subdivision in the United States, of customs duties, taxes, and fees payable thereto by the owner of such blocked account.

(b) Banking institutions within the United States making any single payment in excess of $1,000, pursuant to the terms of this section shall file promptly with the appropriate Federal Reserve Bank a report setting forth the details of such transaction.

NOTE: Section 511.105 was made applicable to accounts referred to under § 511.206 (General Ruling No. 6) by § 511.129. For general rulings see §§ 511.201 to 511.220.

§ 511.111 *General license No. 11*—(a) *Certain payments for living expenses from certain blocked accounts authorized.* A general license is hereby granted authorizing payments and transfers of credit in the United States from blocked accounts in domestic banking institutions held in the name of an individual within the United States to or upon the order of such individual, *Provided,* That:

(1) Such payments and transfers of credit are made for the living, traveling, and similar personal expenses in the United States of such individual or his family; and

(2) The total of all such payments and transfers of credit made under this general license from the accounts of such individual does not exceed $250 in any one calendar month.

(b) *Duty of banking institutions acting under this license.* Banking institu-

tions effecting any such payment or transfer of credit shall satisfy themselves that the terms of this license are complied with.

(c) *Restrictions of General Ruling No. 11A.* Attention is directed to the special restrictions contained in General Ruling No. 11A pertaining to dealings in certain property in which there is any interest of Germany or Japan or certain nationals thereof.

(Sec. 5 (b), 40 Stat. 415, 966, sec. 2, 48 Stat. 1, 54 Stat. 179, sec. 301, 55 Stat. 839; 12 U. S. C. 95a, 50 U. S. C. Sup., 5 (b); E. O. 8389, Apr. 10, 1940, as amended by E. O. 8785, June 14, 1941, E. O. 8832, July 26, 1941, E. O. 8963, Dec. 9, 1941, and E. O. 8998, Dec. 26, 1941, E. O. 9193, July 6, 1942, as amended by E. O. 9567, June 8, 1945; 3 CFR, Cum. Supp., 10 F. R. 6917; Regs. Apr. 10, 1940, as amended June 14, 1941, Feb. 19, 1946, June 28, 1946 and Jan. 1, 1947; §§ 511.1–511.7 of this part)

§ 511.113 *General license No. 13.* A general license is hereby granted licensing as generally nationals:

(a) The Bombay and Calcutta offices of the Nederlandsch Indische Handelsbank;

(b) The Djeddah, Calcutta, Bombay and Paramaribo offices of the Nederlandsche Handel Maatschappij;

(c) The Willemstad (Curacao) offices of:

(1) The Curacaosche Bank,
(2) The Maduro & Curiel's Bank,
(3) The Edwards Henriquez & Co.;

(d) The Oranjestad (Aruba) office of the Aruba Bank;

(e) The Buenos Aires, Caracas and Maracaibo offices of Banco Holandes Unido;

(f) The Rio de Janeiro, Santos and Sao Paulo offices of Banco Hollandez Unido;

(g) The Willemstad and Oranjestad offices of Hollandsche Bank-Unie;

(h) The Haifa and Istanbul offices of Holland Bank Union;

(i) The Netherlands Trading Society East, Ltd., London;

(j) The London office of the Banque Belge pour l'Etranger (Overseas), Limited;

(k) The offices within the generally licensed trade area, as defined in § 511.153 (General License No. 53), of the Hong Kong & Shanghai Banking Corporation.

§ 511.113a *General license No. 13A.* A general license is hereby granted licensing as generally licensed nationals:

(a) The New York offices of:

(1) The French American Banking Corporation,
(2) The Banque Belge pour l'Etranger (Overseas), Limited,
(3) The Hellenic Bank Trust Company,
(4) The Bank of Athens Trust Company.
(5) The Bank of Athens Safe Deposit Company of New York,
(6) The Bank of China,
(7) The Philippine National Bank,
(8) The Nederlandsche Handel-Maatschappij;

(b) The New York agencies of:

(1) Credit Suisse,
(2) Swiss Bank Corporation;

(c) Netherlands Trading Society East, Inc., Delaware;

(d) Swiss American Corporation, New York;

(e) China Defense Supplies, Inc., 1601 V Street, N.W., Washington, D. C.;

(f) Universal Trading Corporation, 630 Fifth Avenue, New York, New York;

(g) The offices in the territory of Hawaii of:

(1) The American Security Bank,
(2) The Honolulu Trust Company,
(3) The Liberty Bank of Honolulu;

(h) The San Francisco office of the Bank of Canton;

(i) The offices within the United States of the Hong Kong and Shanghai Banking Corporation.

§ 511.125 *General license No. 25.* A general license is hereby granted exempting all transactions from the provisions of section 2A (1) of the order.

§ 511.126 *General license No. 26.* A general license is hereby granted under section 2A (2) of Executive Order No. 8389, of April 10, 1940, as amended, authorizing the acquisition by, or transfer to, any person within the United States of any interest in any American Depositary Receipt or American Share physically situated within the United States representing any security or evidence thereof not physically situated within the United States which Receipt or Share was admitted to dealings on a national securities exchange on and prior to July 25, 1940: *Provided, however,* That this general license shall not be deemed to authorize the issuance of American Depositary Receipts or American Shares against the deposit after July 25, 1940 of any security or evidence thereof not physically situated within the United States: *And, provided,* That this general license shall not be deemed to authorize any transaction prohibited by reason of any provision (or ruling or regulation thereunder) of such order other than section 2A (2).

§ 511.127 *General license No. 27.* A general license is hereby granted authorizing:

(a) The payment to, and receipt by, a banking institution within the United States of funds or other property representing dividends or interest on securities held by such banking institution in a blocked account; *Provided,* That the funds or other property are credited to or deposited in a blocked account in the name of the national for whose account the securities were held, and in the banking institution within the United States which held such securities; and

(b) The payment to, and receipt by, a banking institution within the United States of funds payable in respect of securities (including coupons) presented by such banking institution to the proper paying agents within the United States for redemption or collection for the account and pursuant to the authorization of nationals of any blocked country, *Provided,* That:

(1) The proceeds of the redemption or collection are credited to a blocked account in the name of the national for whose account the redemption or collection was made and in the banking institution within the United States which held the securities for such national; and

(2) This general license shall not be deemed to authorize the presentment for redemption of any security registered or inscribed in the name of any blocked country, or any national thereof, irrespective of the fact that at any time (whether prior to, on, or subsequent to April 10, 1940) the registered or inscribed owner thereof may have, or appears to have, assigned, transferred or otherwise disposed of the security; and

(c) The performance of such other acts, and the effecting of such other transactions, as may be necessarily incident to any of the foregoing.

This general license shall not be deemed to authorize any payment, transfer or withdrawal from a blocked account in which the issuer of, or other obligor with respect to, a security has an interest if such issuer or obligor is a blocked country or national thereof.

NOTE: Section 511.127 was made applicable to accounts referred to under § 511.206 (General Ruling No. 6) by § 511.129. For general rulings see §§ 511.201 to 511.220.

NOTE: For additional material relating to § 511.127 see § 511.321.

§ 511.128 *General license No. 28.* (a) A general license is hereby granted licensing as a generally licensed national any individual who is:

(1) A citizen of the United States and residing only in the United States; and

(2) A national of any foreign country solely by reason of having been domiciled or resident therein on or since the effective date of the order;

*Provided, however,* That this license shall not be deemed to license as a generally licensed national any individual citizen of the United States who is a national of a foreign country by reason of any fact other than that such individual has been domiciled or resident in such foreign country on or since such effective date.

(b) Reports on Form TFR–300 are not required to be filed with respect to the property interests of any individuals licensed herein as generally licensed nationals.

(c) This general license shall not be deemed to affect securities or evidences thereof delivered, or required to be delivered, to a Federal Reserve Bank under the provisions of General Ruling No. 5, as supplemented, or to authorize any transaction with respect to any such securities or evidences thereof or the proceeds thereof.

NOTE: For General Ruling No. 18 affecting the status of the Philippines, see § 511.218.

§ 511.129 *General license No. 29.* The provisions of the following sections are hereby made applicable to General Ruling No. 6 (§ 511.206) accounts:

(a) Section 511.102 only with respect to the payment or reimbursement for normal service charges (as therein defined) other than interest due;

(b) Section 511.104;

(c) Section 511.105 only with respect to the payment of withholding taxes on income derived from securities in General Ruling No. 6 accounts; and

(d) Section 511.127;

*Provided, however,* That this section shall not be deemed to authorize the removal of any coupons for collection or otherwise from any General Ruling No. 6 account unless the bonds to which such coupons relate are in such General Ruling No. 6 account.

§ 511.130 *General license No. 30.* A general license is hereby granted authorizing any bank or trust company incorporated under the laws of the United States or of any state, territory or district of the United States, or any private bank subject to supervision and examination under the banking laws of any state of the United States, acting as trustee of any trust administered in the United States or as legal representative of any estate administered in the United States, in which trust or estate one or more persons who are nationals of one of the foreign countries designated in Executive Order No. 8389, as amended, have an interest, beneficial or otherwise, or are co-trustees or co-representatives, to engage in the following transactions:

(a) Payments of distributive shares of principal or income to all persons legally entitled thereto who are not nationals of any of the foreign countries designated in such Executive order, as amended; and

(b) Other transactions arising in the administration of such trust or estate which might be engaged in if no national of any of the foreign countries designated in such Executive order, as amended, were a beneficiary, co-trustee or co-representative of such trust or estate;

*Provided, however,* That this section shall not be deemed to authorize such trustee or legal representative to engage in any transaction at the request, or upon the instructions, of any beneficiary, co-trustee or co-representative of such trust or estate or other person who is a national of any of the foreign countries designated in such Executive order, as amended.

NOTE: For additional material relating to § 511.130, see § 511.320.

§ 511.130a *General license No. 30A.* (a) A general license is hereby granted authorizing all transactions incident to the administration of the assets situated within the United States of any blocked estate in which any one of the following conditions is present:

(1) The decedent was not a national of a blocked country at the time of his death;

(2) The decedent was a citizen of the United States and a national of a blocked country at the time of his death solely by reason of his presence in a blocked country as a result of his employment by or service with the United States Government; or

(3) The gross value of the assets within the United States does not exceed $5,000;

*Provided, however,* That any property paid or distributed to a national of a blocked country pursuant to this general license shall be subject to all the provisions of the order: *And provided further,* That any payment or distribution of any funds, securities or other choses in action to a national of a blocked country shall be made by deposit in a blocked account in a domestic bank or with a public officer, agency, or instrumentality designated by a court having jurisdiction of the estate (i) in the name of the national who is the ultimate beneficiary thereof; (ii) in the name of a person who is not a national of a blocked country in trust for the national who is the ultimate beneficiary; or (iii) under any other designation which clearly shows the interest therein of such national.

(b) This general license also authorizes all transactions incident to the following limited acts of administration of the assets situated within the United States of any other blocked estate:

(1) The appointment and qualification of a personal representative;

(2) The collection and preservation of such assets by such personal representative and the payment of all costs, fees and charges in connection therewith; and

(3) The payment by such personal representative of funeral expenses and expenses of the last illness.

(c) This general license shall not be deemed to authorize:

(1) Any national of a blocked country to act as personal representative or co-representative of any estate;

(2) Any national of a blocked country to represent, directly or indirectly, any person who has an interest in an estate;

(3) Any transaction directly or indirectly at the request or upon the instructions of any national of a blocked country; or

(4) Any transaction which could not be effected if no national of a blocked country had any interest in such estate.

(d) As used in this general license, the term "blocked estate" shall mean any decedent's estate in which a national of a blocked country has an interest. A person shall be deemed to have an interest in a decedent's estate if he (1) was the decedent; (2) is a personal representative; or (3) is a creditor, heir, legatee, devisee, distributee, or beneficiary.

(e) This general license authorizes all transactions incident to the collection, conservation, administration, liquidation, and distribution of any blocked estate engaged in since the effective date of the order, provided such transactions comply with the terms and conditions of this general license.

(f) Any transfer or other dealing in any property authorized under this general license shall not be deemed to limit or restrict the exercise of any power or authority under section 5 (b) of the Trading With the Enemy Act, as amended.

(g) Attention is directed to the provisions of § 511.320 (Public Circular No. 20).

§ 511.132 *General license No. 32*—(a) *Certain remittances for living expenses authorized.* A general license is hereby granted authorizing remittances by any person to any individual who is within any foreign country, provided the following terms and conditions are complied with:

(1) Such remittances are made only for the necessary living expenses of the payee and his household and do not exceed $250 in any one calendar month to any one household;

(2) Such remittances are not made from a blocked account other than from an account in a banking institution within the United States in the name of, or in which the beneficial interest is held by, the payee or members of his household;

(3) Notwithstanding § 511.194 (b) (General License No. 94), if the payee is within Austria, Belgium, Denmark, France, Greece, Italy, Luxembourg, the Netherlands, Norway, or Sweden, the remittance may be effected only by the payment of the dollar amount of the remittance to a domestic bank for credit to an account in the name of a bank within such country;

(4) If the payee is within Portugal, such remittances must be made through a domestic bank and any domestic bank is authorized to effect such remittances which, however, may be effected only:

(i) By the payment of the dollar amount of the remittance to a domestic bank for credit to a blocked account in the name of a banking institution within Portgual; or

(ii) By the acquisition of foreign exchange from a person in the United States having a license specifically authorizing the sale of such exchange.

(5) If the payee is within any foreign country other than a foreign country specified in subparagraphs (3) and (4) of this paragraph, the remittances may be effected in any manner.

(b) *Duty of persons and domestic banks acting under this license.* All persons making such remittances and all domestic banks effecting such remittances shall satisfy themselves that the foregoing terms and conditions are complied with.

(c) *Definition.* As used in this section the term "household" shall mean:

(1) Those individuals sharing a common dwelling as a family; or

(2) Any individual not sharing a common dwelling with others as a family.

(d) *Restrictions of § 511.211a (General Ruling No. 11A).* Attention is directed to the special restrictions contained in § 511.211a pertaining to dealings in certain property in which there is any interest of Germany or Japan or certain nationals thereof.

(e) *Restrictions of § 511.325 (Public Circular No. 25).* Attention is directed to § 511.325 (d) providing that this section shall not be deemed to authorize any remittance to any citizen or subject of Germany, Japan, Bulgaria, Hungary or Rumania who is within any such country or to any citizen or subject of Germany or Japan within Italy.

(Sec. 5 (b), 40 Stat. 415, 966, sec. 2, 48 Stat. 1, 54 Stat. 179, sec. 301, 55 Stat. 839; 12 U. S. C. 95a, 50 U. S. C. App., 5 (b); E. O. 8389, Apr. 10, 1940, as amended by E. O. 8785, June 14, 1941, E. O. 8832, July 26, 1941, E. O. 8963, Dec. 9, 1941, and E. O. 8998, Dec. 26, 1941, E. O. 9193, July 6, 1942, as amended by E. O. 9567, June 8, 1945; 3 CFR, Cum. Supp., 10 F. R. 6917; Regs., Apr. 10, 1940, as amended June 14,

1941, Feb. 19, 1946, June 28, 1946 and Jan. 1, 1947, §§ 511.1–511.7 of this part)

NOTE: Section 511.325 (Public Circular No. 25) provides in part: "The provisions of §§ 511.132 and 511.133 (General Licenses Nos. 32 and 33) shall not be deemed to authorize any remittances to any person within the territory of Italy, Bulgaria, Hungary, or Rumania."

NOTE: Section 511.325 (Public Circular No. 25) provides in part as follows:

The provisions of § 511.132 (General License No. 32) shall not be deemed to authorize any remittance to any citizen or subject of any country against which the United States has declared war (Germany, Italy, Japan, Bulgaria, Hungary, and Rumania) who is within any such country.

§ 511.132a *General license No. 32A*—(a) *Certain remittances for living expenses authorized.* A general license is hereby granted authorizing remittances from blocked accounts by any person to any individual within Bulgaria, Hungary or Rumania who is a citizen or subject of any such country, *Provided,* That:

(1) Such remittances are made only for the necessary living expenses of the payee and his household and are not made from any account other than an account in the name of, or in which the beneficial interest is held by, the payee or a member of his household; and

(2) Such remittances do not exceed $100 in any one calendar month plus an additional sum of not more than $25 for each member of the payee's household in addition to the payee, but in no event shall more than $200 per calendar month be remitted to any such individual and his household.

(b) *Refunds.* Any person in the United States receiving the amount of any remittance ordered pursuant to this general license for transmittal to Bulgaria, Hungary, or Rumania may refund such amount when advised that the remittance cannot be effected.

(c) *Definition.* As used in this section, the term "household" shall mean:

(1) Those individuals sharing a common dwelling as a family; or

(2) Any individual not sharing a common dwelling with others as a family.

(Sec. 5 (b), 40 Stat. 415, 966, sec. 2, 48 Stat. 1, 54 Stat. 179, sec. 301, 55 Stat. 839; 12 U. S. C. 95a, 50 U. S. C. App., 5 (b); E. O. 8389, Apr. 10, 1940, as amended by E. O. 8785, June 14, 1941, E. O. 8832, July 26, 1941, E. O. 8963, Dec. 9, 1941, and E. O. 8998, Dec. 26, 1941, E. O. 9193, July 6, 1942, as amended by E. O. 9567, June 8, 1945; 3 CFR, Cum. Supp., 10 F. R. 6917; Regs., Apr. 10, 1940, as amended June 14, 1941, Feb. 19, 1946, June 28, 1946, and Jan. 1, 1947; §§ 511.1–511.7)

§ 511.133 *General license No. 33*—(a) *Certain remittances to United States citizens in foreign countries authorized.* A general license is hereby granted authorizing remittances by any person through any domestic bank to any individual who is a citizen of the United States within any foreign country and any domestic bank is authorized to effect such remittances, provided the following terms and conditions are complied with:

(1) Such remittances do not exceed $1,000 in any one calendar month to any payee and his household and are made only for the necessary living and traveling expenses of the payee and his household, except that an additional sum not exceeding $1,000 may be remitted once to such payee if such sum will be used for the purpose of enabling the payee or his household to return to the United States;

(2) Such remittances are not made from a blocked account other than from an account in a banking institution within the United States in the name of, or in which the beneficial interest is held by, the payee or members of his household.

(b) *Methods of effecting remittances.* Remittances herein authorized shall be effected pursuant to the terms and conditions of § 511.132 (a) (3) or (4), as the case may be. If remittances cannot be effected pursuant to § 511.132 (a) (3), domestic banks are authorized to effect such remittances in any of the following three ways:

(1) By establishing or maintaining free dollar accounts;

(2) By payment of the dollar amount of the remittance to a domestic bank for credit to a blocked account in the name of a banking institution within any blocked country; or

(3) By payment of the dollar amount of the remittance to a domestic bank for credit to the dollar account of a banking institution which is not a national of any blocked country.

(c) *Duty of persons and domestic banks acting under this section.* All persons making such remittances and all domestic banks effecting such remittances shall satisfy themselves that the foregoing terms and conditions are complied with.

(d) *Reports by domestic banks effecting remittances.* With respect to each remittance made pursuant to this section, reports shall be executed and filed in the manner and form and under the conditions prescribed in § 511.132.

(e) *Definition.* As used in this section the term "household" shall be deemed to have the meaning prescribed in § 511.132.

NOTE: Section 511.325 (Public Circular No. 25) provides in part: "The provisions of §§ 511.132 and 511.133 shall not be deemed to authorize any remittances to any person within the territory of Italy, Bulgaria, Hungary, or Rumania."

§ 511.137 *General license No. 37.* A general license is hereby granted authorizing banking institutions within the United States to make all payments, transfers and withdrawals from accounts in the name of citizens of the United States while such citizens are within any foreign country in the course of their employment by the Government of the United States.

§ 511.142 *General license No. 42*—(a) *Persons licensed.* A general license is hereby granted licensing as a generally licensed national

(1) Any invidual in the United States, except an individual who on October 5, 1945, was in a blocked country other than a member of the generally licensed trade area, and

(2) Any partnership, association, corporation, or other organization which is a national of a blocked country solely by reason of the interest of persons licensed hereby.

(b) *Definition.* The term "blocked country" shall be deemed to include all countries licensed by § 511.194 (General License No. 94) except a country licensed by General License No. 96.

NOTE: For General Ruling No. 18, changing the status of the Philippines, see § 511.218.

NOTE: § 511.329 (Public Circular 29), provides in part as follows:

The accounts of internees blocked pursuant to specific directions from the Treasury Department are not unblocked by virtue of § 511.142, as amended.

NOTE: General License No. 96 has been revoked (12 F. R. 97).

§ 511.144 *General license No. 44.* The Roman Curia (or Curia Romana) of the Vatican City State is hereby licensed as a generally licensed national and all persons to the extent that they are acting for and on behalf of the Vatican City State are hereby licensed as generally licensed nationals.

§ 511.151 *General license No. 51.* (a) A general license is hereby granted licensing the Union of Soviet Socialist Republics as a generally licensed country.

(b) As used in this general license: Any foreign country licensed as a "generally licensed country", and nationals thereof, shall be regarded for all purposes as if such foreign country were not a foreign country designated in Executive Order 8389.

§ 511.153 *General license No. 53.* (a) A general license is hereby granted licensing all transactions ordinarily incident to the importing and exporting of goods, wares and merchandise between the United States and any of the members of the generally licensed trade area or between the members of the generally licensed trade area if (i) such transaction is by, or on behalf of, or pursuant to the direction of any national of a blocked country within the generally licensed trade area, or (ii) such transaction involves property in which any such national has at any time on or since the effective date of Executive Order 8389 had any interest: *Provided,* The following terms and conditions are complied with:

(1) Such transaction is not by, or on behalf of, or pursuant to the direction of (i) any person whose name appears on "The Proclaimed List of Certain Blocked Nationals," or (ii) any blocked country or national thereof not within the generally licensed trade area;

(2) Such transaction does not involve property in which (i) any person whose name appears on "The Proclaimed List of Certain Blocked Nationals," or (ii) any blocked country or national thereof not within the generally licensed trade area, has at any time on or since the effective date of the order had any interest; and

(3) Any banking institution within the United States, prior to issuing, confirming or advising letters of credit, or accepting or paying drafts drawn, or reimbursing themselves for payments made, under letters of credit, or making any other payment or transfer of credit, in connection with any importation or exportation pursuant to this general li-

cense, or engaging in any other transaction herein authorized, shall satisfy itself (from the shipping documents or otherwise) that; (i) any such transaction is incident to a bona fide importation or exportation and is customary in the normal course of business, and that the value of such importation or exportation reasonably corresponds with the sums of money involved in financing such transaction; and (ii) such importation or exportation is or will be made pursuant to all the terms and conditions of this license.

(b) Subject to all other terms and conditions of this general license any national of a blocked country doing business within the United States pursuant to a license is also hereby authorized, while so licensed, to engage in any transaction referred to in paragraph (a) of this section to the same extent that such national is licensed to engage in such transaction involving persons within the generally licensed trade area who are not nationals of a blocked country.

(c) This general license shall also authorize any transaction engaged in by a bank within the generally licensed trade area pursuant to the order of or for the account of any national of a blocked country within the generally licensed trade area to the same extent, and under the same circumstances, as though such transaction were solely for the account of such bank: *Provided, however,* That this paragraph shall not be deemed to permit any payment, transfer or withdrawal from any blocked account: *And provided, further,* That the following terms and conditions are complied with:

(1) Such transaction is not by, or on behalf of, or pursuant to the direction of (i) any person whose name appears on "The Proclaimed List of Certain Blocked Nationals", or (ii) any blocked country or national thereof not within the generally licensed trade area;

(2) Such transaction does not involve property in which (i) any person whose name appears on "The Proclaimed List of Certain Blocked Nationals", or (ii) any blocked country or national thereof not within the generally licensed trade area, has at any time on or since the effective date of the order had any interest.

(d) As used in this section:

(1) The term "generally licensed trade area" shall include all foreign countries except the following:

(i) Germany and Japan;

(ii) Bulgaria, Hungary, Rumania, and Italy;

(iii) Sweden, Switzerland and Liechtenstein;

(iv) France (including Monaco), Belgium, Norway, Finland, the Netherlands, Czechoslovakia, Luxembourg, Denmark, Greece, Poland, Estonia, Latvia, Lithuania, and Austria, but not including any colony or other non-European territory subject to the jurisdiction of any such country except French West Africa, Algeria, Tunisia, and French Morocco.

(2) The term "member" of the generally licensed trade area shall mean any of the foreign countries or political subdivisions comprising the generally licensed trade area.

(3) The term "The Proclaimed List of Certain Blocked Nationals" shall mean "The Proclaimed List of Certain Blocked Nationals" as amended and supplemented promulgated pursuant to the Proclamation of July 17, 1941, 3 CFR, 1943 Cum. Supp.

NOTE: The Philippine Commonwealth is included in the "generally licensed trade area" defined in § 511.153. See § 511.218 (General Ruling No. 18).

NOTE: For additional material relating to § 511.153, see § 511.303 (Public Circular 3).

§ 511.153a *General license No. 53A*—(a) *Members of generally licensed trade area licensed.* Notwithstanding the proviso of § 511.194 (a) (General License No. 94), members of the generally licensed trade area are hereby licensed to be regarded for all purposes as not blocked.

(b) *Persons licensed.* This section also licenses as a generally licensed national:

(1) Any individual in the generally licensed trade area, except an individual who on October 5, 1945 was in a blocked country other than a member of the generally licensed trade area, and

(2) Any partnership, association, corporation, or other organization which is a national of a blocked country solely by reason of the interest of persons licensed hereby.

*Provided,* That this section shall not apply with respect to any person whose name appears on the Proclaimed List of Certain Blocked Nationals.

(c) *Definitions.* As used in this section.

(1) The terms "member" and "generally licensed trade area" shall have the meaning prescribed in § 511.153 (General License No. 53); and

(2) The term "blocked country" shall be deemed to include countries licensed by § 511.194 (General License No. 94) except a country licensed by General License No. 96.

NOTE: General License No. 96 has been revoked (12 F. R. 97).

§ 511.172 *General license No. 72.* (a) A general license is hereby granted authorizing the following transactions, in which a blocked country or any national thereof has, on or since the effective date of the order, had an interest:

(1) The filing and prosecution in the United States Patent Office of applications for letters patent for inventions and designs and for the registration of trademarks and the receipt of letters patent and trademark registration certificates issued pursuant to any such application;

(2) The securing and registration of United States copyrights and the registration of claims to United States copyrights in prints and labels and the receipt of copyright certificates therefor;

(3) The payment from blocked accounts or otherwise, except from accounts in which an enemy national has an interest, of fees currently due to the United States Government in connection with any transactions authorized herein;

(4) The payment from blocked accounts or otherwise, except from accounts in which an enemy national has an interest, of the reasonable and customary fees and charges currently due to attorneys or representatives within the United States in connection with the transactions referred to in subparagraphs (1), (2), and (3) of this paragraph: *Provided* That such payment shall not exceed:

(i) $100 for the preparation, filing, and prosecution of any application for letters patent; or

(ii) $50 for the preparation, filing, and prosecution of any application for a trademark registration; or

(iii) $25 for the securing and registration of any copyright; or

(iv) $35 for the preparation and filing of any amendment to a pending application for letters patent or for a trademark registration; and

(5) The execution of, or the recording of, any assignment, grant, encumbrance, license, or other agreement or arrangement of, under, or with respect to, any United States patent, trademark, or copyright, or application therefor.

(b) Notwithstanding the provisions of § 511.211 (General Ruling No. 11), the transactions specified in paragraph (a) of this section may be effected even though they involve a communication from an enemy national after March 18, 1942. No other transaction which, directly or indirectly, involves any trade or communication with an enemy national is authorized by this general license.

(c) Attention is directed to § 511.305 (Public Circular No. 5) as amended November 17, 1942, issued by the Treasury Department, and to § 507.1.

NOTE: This section has been revoked Dec. 29, 1948. See F. R. Doc. 48-11540, *infra*. See Part 507 of this chapter.

§ 511.172a *General license No. 72A*—(a) *Certain transactions with respect to any blocked foreign patent, trademark, or copyright authorized.* A general license is hereby granted authorizing the following transactions by any person who is not a national of any blocked country:

(1) The filing and prosecution of any application for a blocked foreign patent, trademark, or copyright, or for the renewal thereof;

(2) The receipt of any blocked foreign patent, trademark, or copyright;

(3) The filing and prosecution of opposition or infringement proceedings with respect to any blocked foreign patent, trademark, or copyright, and the prosecution of a defense to any such proceedings;

(4) The payment of fees currently due to the government of any foreign country, either directly or through an attorney or representative, in connection with any of the transactions authorized by subparagraphs (1), (2), or (3) of this paragraph or for the maintenance of any blocked foreign patent, trademark, or copyright; and

(5) The payment of reasonable and customary fees currently due to attorneys or representatives in any foreign country incurred in connection with any of the transactions authorized by subparagraphs (1), (2), (3), or (4) of this paragraph.

(b) *Terms and conditions to which payments are subject.* Payments effected pursuant to the terms of paragraph (a) (4) and (5) of this section may not be made from any blocked account.

Such payments shall be subject to the following terms and conditions:

(1) Payments to the government of any country referred to in § 511.325 or to any attorney or representative within any such country shall be made in the manner specified in any general license, now outstanding or hereafter issued, which authorizes remittances to such country;

(2) Payments to any other government, attorney or representative shall be made in the manner and under the conditions specified in § 511.133 (b).

(c) *Reports by domestic banks effecting remittances.* With respect to payments authorized by paragraph (a) (4) and (5) of this section, reports shall be executed and filed in the manner and form and under the conditions prescribed in § 511.132, *Provided, however,* That in cases where Form TFR–132 is required to be executed item No. 6 hereof shall be left blank.

(d) *Definition.* As used in this section the term "blocked foreign patent, trademark, or copyright" shall mean any patent, petty patent, design patent, trademark, or copyright issued by any foreign country, in which a blocked country or national thereof has an interest, including any patent, petty patent, design patent, trademark, or copyright issued by a blocked country, *Provided,* That the term "blocked foreign patent, trademark, or copyright" shall not be deemed to include any patent, petty patent, design patent, trademark, or copyright in which an enemy national, other than the government of a country referred to in § 511,325 or a person within such country, has an interest.

§ 511.174 *General license No. 74; certain United States citizens generally licensed and payments from accounts by certain other persons authorized*—(a) *Certain United States citizens licensed as generally licensed nationals.* A general license is hereby granted licensing as a generally licensed national any citizen of the United States who is within any foreign country and who is a national of a blocked country solely by reason of having established residence in a blocked country subsequent to June 6, 1944.

(b) *Limited payments from accounts of other United States citizens authorized.* This section also authorizes payments and transfers of credit from blocked accounts in the United States for expenditures within the United States or the Generally Licensed Trade Area, as defined in § 511.153 (General License No. 53), of any citizen of the United States who is within any foreign country and who is not entitled to the benefits of paragraph (a) of this section: *Provided,* That the following terms and conditions are complied with:

(1) Such payments and transfers are made only from blocked accounts in the name of, or in which the beneficial interest is held by, such citizen or his family;

(2) The total of all such payments and transfers made under this section does not exceed $1,000 in any one calendar month for any such citizen or his family.

(c) *Certain transactions not authorized.* This section shall not be deemed to authorize any remittance to any blocked country or, except as expressly authorized above, any other payment, transfer, or withdrawal which could not be effected without a license by a person within the United States who is not a national of any blocked country.

(Sec. 5 (b), 40 Stat. 415, 966, sec. 2, 48 Stat. 1, 54 Stat. 179, sec. 301, 55 Stat. 839, 12 U. S. C. 95a, 50 U. S. C. App., 5 (b); E. O. 8389, Apr. 10, 1940, as amended by E. O. 8785, June 14, 1941, E. O. 8832, July 26, 1941, E. O. 8963, Dec. 9, 1941, and E. O. 8998, Dec. 26, 1941, E. O. 9193, July 6, 1942, as amended by E. O. 9567, June 8, 1945; 3 CFR, Cum. Supp., 10 F. R. 6917; Regs., Apr. 10, 1940, as amended June 14, 1941, Feb. 19, 1946, June 28, 1946, and Jan. 1, 1947; 31 CFR, Cum. Supp., 130.1–7, 11 F. R. 1769, 7184, 12 F. R. 6)

§ 511.185 *General license No. 85.* (a) A general license is hereby granted authorizing the following transactions with respect to Mexican securities of the classes specified in the Decree of August 4, 1942, of the United States of Mexico and which are held in blocked or General Ruling No. 6 accounts (§ 511.206) in banking institutions within the United States, notwithstanding the fact that Form TFEL–2 may not have been previously attached to such securities:

(1) The presentation of such securities to an appropriate registry agent within the United States pursuant to the terms of such Decree;

(2) The receipt and registration of such securities by such registry agent pursuant to the terms of such Decree; and

(3) The performance of such other acts as are necessarily incident to such registration;

*Provided, however,* That any registry agent receiving any such security pursuant to this general license shall hold such security within the United States and subject to the provisions of section 5 (b) of the Trading With the Enemy Act, as amended, and the order; and shall, within a reasonable period of time after such security has been received, return it to the banking institution previously holding such security, and such banking institution shall return such security to the account in which it was previously held.

(b) This general license shall also authorize the transactions, above described, with respect to securities of the type referred to in section 2A (1) of the order when such securities have been in the custody or possession of the same banking institution within the United States, continuously since July 25, 1940, notwithstanding the fact that Treasury Department Form TFEL–2 may not have been previously attached to such securities.

§ 511.186 *General license No. 86.* (a) A general license is hereby granted authorizing the following transactions:

(1) The payment of premiums and interest on policy loans with respect to any blocked life insurance policy;

(2) The issuance, servicing or transfer of any blocked life insurance policy in which the only blocked interest is that of one or more of the following:

(i) A member of the armed forces of the United States or a person accompanying such forces (including personnel of the American Red Cross, United Service Organizations and similar organizations);

(ii) An officer or employee of the United States; or

(iii) A citizen of the United States resident in a blocked country not within enemy territory; and

(3) The issuance, servicing or transfer of any blocked life insurance policy in which the only blocked interest (other than that of a person specified in subparagraph (2) of this paragraph) is that of a beneficiary:

*Provided, however,* That this paragraph does not authorize (i) any payment to the insurer from any blocked account in which an enemy national (other than a person specified in subparagraph (2) of this paragraph) has an interest, or from any other blocked account except a blocked account of the insured or beneficiary, or (ii) any payment by the insurer to a national of a blocked country unless payment is made by deposit in a blocked account in a domestic bank in the name of the national who is the ultimate beneficiary thereof.

(b) Notwithstanding the provisions of § 511.211 (General Ruling No. 11), the transactions authorized by paragraph (a) (2) of this section may be effected even though they involve a communication from a person specified in paragraph (a) (2) (i) or (a) (2) (ii) of this section while such person is within enemy territory.

(c) This general license further authorizes the application, in accordance with the provisions of the policy or the established practice of the insurer, of the dividends, cash surrender value, or loan value, of any blocked life insurance policy for the purpose of:

(1) Paying premiums;

(2) Paying policy loans and interest thereon;

(3) Establishing paid-up insurance; or

(4) Accumulating such dividends or values to the credit of the policy on the books of the insurer.

(d) As used in this general license:

(1) The term "blocked life insurance policy" shall mean any life insurance policy or annuity contract, or contract supplementary thereto, in which there is a blocked interest.

(2) Any interest of a national of a blocked country shall be deemed to be a "blocked interest".

(3) The term "servicing" shall mean the following transactions with respect to any blocked life insurance policy:

(i) The payment of premiums, the payment of loan interest, and the repayment of policy loans;

(ii) The effecting by a life insurance company or other insurer of loans to an insured;

(iii) The effecting on behalf of an insured of surrenders, conversions, modifications, and reinstatements; and

(iv) The exercise or election by an insured of nonforfeiture options, optional modes of settlement, optional disposition of dividends, and other policy options and privileges not involving payment by the insurer.

(4) The term "transfer" shall mean the change of beneficiary, or the assignment or pledge of the interest of an insured in any blocked life insurance policy subsequent to the issuance thereof.

(e) This section shall not be deemed to authorize any transaction with respect to any blocked life insurance policy issued by a life insurance company or other insurer which is a national of a blocked country or which is not doing business or effecting insurance in the United States.

§ 511.188 *General license No. 88; certain transactions with respect to checks, drafts, etc., authorized*—(a) *Sending of checks, drafts, etc.* The sending, mailing, exporting, or otherwise taking of any check, draft, bill of exchange, promissory note, currency, or any security from the United States to Spain or Portugal may be effected pursuant to the terms and conditions of General Licenses Nos. 52 or 70.

(b) *Carrying of travelers checks, and currency by persons departing from the United States.* Persons departing from the United States for Spain or Portugal are hereby authorized to carry:

(1) Travelers checks and checks drawn on the Treasury of the United States provided such checks are issued in the name of the person carrying them;

(2) All currency.

(Sec. 5 (b), 40 Stat. 415, 966, sec. 2, 48 Stat. 1, 54 Stat. 179, sec. 301, 55 Stat. 839; 12 U. S. C. 95a, 50 U. S. C. App. Sup., 5 (b); E. O. 8389, April 10, 1940, as amended by E. O. 8785, June 14, 1941, E. O. 8832, July 26, 1941, E. O. 8963, Dec. 9, 1941, and E. O. 8998, Dec. 26, 1941, E. O. 9193, July 6, 1942, as amended by E. O. 9567, June 8, 1945, 3 CFR, Cum. Supp., and 1945 Supp., Regs. Apr. 10, 1940, as amended June 14, 1941, Feb. 19, 1946, June 28, 1946, and Jan. 1, 1947; § 511.1 to 511.7 of this part)

NOTE: General Licenses Nos. 52 and 70 have been revoked. (13 F. R. 2914 and 5118.)

§ 511.187 *General license No. 87; exemption from section 2A (2) of the order*—(a) *Transactions exempted from section 2A (2) of the order.* A general license is hereby granted exempting all transactions from the provisions of section 2A (2) of the order, except transactions with respect to scheduled securities as defined in § 511.205 (General Ruling No. 5). (Sec. 5 (b), 40 Stat. 415, 966, sec. 2, 48 Stat. 1, 54 Stat. 179, sec. 301, 55 Stat. 839; 12 U. S. C. 95a, 50 U. S. C. App. Sup., 5 (b); E. O. 8389, April 10, 1940, as amended by E. O. 8785, June 14, 1941, E. O. 8832, July 26, 1941, E. O. 8963, Dec. 9, 1941, and E. O. 8998, Dec. 26, 1941, E. O. 9193, July 6, 1942, as amended by E. O. 9567, June 8, 1945, 3 CFR, Cum. Supp., and 1945 Supp., Regulations, April 10, 1940, as amended June 14, 1941, February 19, 1946, June 28, 1946, and January 1, 1947, §§ 511.1 to 511.7)

NOTE: For interpretation of § 511.187, see § 511.335.

§ 511.189 *General license No. 89*—(a) *Exportation of powers of attorney or instructions relating to certain types of transactions authorized.* A general license is hereby granted authorizing the exportation to any foreign country of powers of attorney or other instruments executed or issued by any person within the United States who is not a national of a blocked country which are limited to authorizations or instructions to effect transactions incident to the following:

(1) The representation of the interest of such person in a decedent's estate which is being administered in any blocked country and the collection of the distributive share of such person in such estate;

(2) The maintenance, preservation, supervision or management of any real estate or tangible personal property located in any blocked country in which such person has an interest; and

(3) The conveyance, transfer, release, sale or other disposition of any property specified in subparagraphs (1) or (2) of this paragraph: *Provided*, That if such property is located within any country not included in the United Nations, the value thereof does not exceed the sum of $5,000 or its equivalent in foreign currency.

(b) *Conditions.* This section shall be subject to the following conditions:

(1) No instrument may be exported under this section unless it contains an express stipulation that the person authorized to act thereunder is not empowered to engage in any transactions which involve, directly or indirectly, any trade or communication with an enemy national as defined in § 511.211 (General Ruling No. 11), other than transactions which are exempted from the provisions of such general ruling; and

(2) No instrument which authorizes the conveyance, transfer, release, sale or other disposition of any property located within a country not included in the United Nations may be exported under this section unless it contains an express stipulation that such authority may not be exercised if the value of such property exceeds the sum of $5,000 or the equivalent thereof in foreign currency.

(c) *Definition.* As used in this section, the term "tangible personal property" shall not include cash, bullion, deposits, credits, securities, patents, or copyrights.

§ 511.194 *General license No. 94; certain countries generally licensed*—(a) *Blocked countries generally licensed subject to certain conditions.* A general license is hereby granted licensing all blocked countries and nationals thereof (excepting the following countries and nationals thereof: Portugal, Spain, and Tangier) to be regarded as if such countries were not foreign countries designated in the order, *Provided*, That

(1) Any property in which on the effective date hereof any of the following had an interest; (i) any blocked country (including countries licensed hereby) or person therein; or (ii) any other partnership, association, corporation, or other organization, which was a national of a blocked country (including countries licensed hereby) by reason of the interest of any such country or person therein; or

(2) Any income from such property accruing on or after the effective date hereof shall continue to be regarded as property in which a blocked country or national thereof has an interest and no payment, transfer, or withdrawal or other dealing with respect to such property shall be affected under, or be deemed to be authorized by, this paragraph.

(b) *Transactions under other licenses authorized without regard to certain restrictions.* With respect to property subject to the proviso of paragraph (a) of this section any transaction not involving any excepted country or national thereof which is authorized under any license (other than §§ 511.101, 511.104, 511.127 and 511.130a (General Licenses Nos. 1, 4, 27 and 30A) or any other license to the extent that it merely authorizes transfers between blocked accounts of the same person or changes in the form of property held in a blocked account) may be effected without regard to any terms of such license relating to the method of effecting such transaction.

(c) *Certain other transactions authorized.* This license also authorizes any transaction which could be effected under § 511.153 (General License No. 53) if the countries licensed hereby were members of the generally licensed trade area, *Provided*, That this paragraph shall not be deemed to authorize any payment, transfer, or withdrawal, or other dealing with respect to any property which is subject to the proviso of paragraph (a) of this section.

(d) § 511.217 (*General Ruling No. 17*) *not waived with regard to certain countries.* This license shall not be deemed to waive the requirements of § 511.217 with respect to blocked property held in any account maintained in the name of any bank or other financial institution located in Switzerland, Liechtenstein, or Sweden unless such property has been certified under § 511.195 (a) (General License No. 95).

(e) *Applicability of license to nationals of countries licensed hereby who are also nationals of excepted countries.* Paragraphs (a) and (b) of this section shall not apply with respect to any national of a country licensed hereby who is also a national of any excepted country, *Provided, however*, That for the purpose only of this license the following shall be deemed not to be nationals of an excepted country:

(1) Any individual residing in a country licensed hereby;

(2) Any partnership, association, corporation, or other organization, organized under the laws of a country licensed herbey.

(f) *Definition.* As used in this license, the term "excepted country" shall mean any country excepted in paragraph (a) of this section.

(g) *Effective date.* The effective date of this general license shall be December 7, 1945, except that it shall be October 5, 1945 as to France, November 20, 1945 as to Belgium, November 30, 1946 as to Switzerland and Liechtenstein, December 31, 1946 as to Germany and Japan, and March 28, 1947 as to Sweden.

(h) *Restrictions of § 511.211a (General Ruling No. 11A).* Attention is directed to the special restrictions contained in General Ruling No. 11A pertaining to dealings in certain property in

which there is any interest of Germany or Japan or certain nationals thereof.

(Sec. 5 (b), 40 Stat. 415, 966, sec. 2, 48 Stat. 1, 54 Stat. 179, sec. 301, 55 Stat. 839; 12 U. S. C. 95a, 50 U. S. C. App. 5 (b); E. O. 8389, Apr. 10, 1940, as amended by E. O. 8785, June 14, 1941, E. O. 8832, July 26, 1941, E. O. 8963, Dec. 9, 1941, and E. O. 8998, Dec. 26, 1941, E. O. 9193, July 6, 1942, as amended by E. O. 9567, June 8, 1945; 3 CFR, Cum. Supp., and 1945 Supp., Regulations, Apr. 10, 1940, as amended June 14, 1941, Feb. 19, 1946, June 28, 1946, and Jan. 1, 1947; §§ 511.1–511.7)

NOTE: For interpretation of § 511.194, see § 511.335 (Public Circular No. 35). § 511.194 has been amended by § 512.194 of this chapter.

§ 511.195 *General license No. 95; property certified by governments of specified countries*—(a) *Certification by governments of countries specified in this section.* Whenever a designated agent of the government of any country specified in this section has certified in writing that no foreign country designated in the order or national thereof, other than a country specified in this section or national thereof, has at any time between the effective date of the order and the date of certification had any interest in any property subject to the proviso of § 511.194 (a) (General License No. 94) the property so certified is hereby licensed to be regarded as property in which no blocked country or national thereof has or has had any interest.

(b) *Waiver of section 2A of the order and §511.205 (General Ruling No. 5).* The provisions of section 2A of the order and of § 511.205 are waived with respect to any security to which a certification under the preceding paragraph is attached.

(c) *Application of license to certain nationals of countries specified in this section.* This license shall not apply with respect to any national of a country specified in this section who is a national of another foreign country designated in the order and not specified in this section: *Provided, however,* That for the purposes only of this license the following shall be deemed nationals only of a country specified in this section:

(1) Any individual residing in a country specified in this section.

(2) Any partnership, association, corporation, or other organization, organized under the laws of a country specified in this section.

(d) *Definitions.* As used in this section:

(1) The term "country" specified in this section means the following:

(i) France, effective October 5, 1945;

(ii) Belgium, effective November 20, 1945;

(iii) Norway, effective December 29, 1945;

(iv) Finland, effective December 29, 1945;

(v) The Netherlands, effective February 13, 1946;

(vi) Czechoslovakia, effective April 26, 1946;

(vii) Luxembourg, effective April 26, 1946;

(viii) Denmark, effective June 14, 1946;

(ix) Greece, effective October 15, 1946;

(x) Switzerland, effective November 30, 1946;

(xi) Liechtenstein, effective November 30, 1946;

(xii) Poland, effective January 7, 1947;

(xiii) Austria, effective January 16, 1947;

(xiv) Sweden, effective March 28, 1947;

(xv) Italy, effective August 29, 1947;

and each country specified in this section shall be deemed to include any colony or other territory subject to its jurisdiction.

(2) The term "foreign country designated in the order" shall be deemed to include countries licensed by § 511.194 (General License No. 94).

(e) *Restrictions of § 511.211a (General Ruling No. 11A).* Attention is directed to the special restrictions contained in § 511.211a, pertaining to dealings in certain property in which there is any interest of Germany or Japan or certain nationals thereof.

(Sec. 5 (b), 40 Stat. 415, 966, sec. 2, 48 Stat. 1, 54 Stat. 179, sec. 301, 55 Stat. 839; 12 U. S. C. 95a, 50 U. S. C. App. 5, (b); E. O. 8389, April 10, 1940, as amended by E. O. 8785, June 14, 1941, E. O. 8832, July 26, 1941, E. O. 8963, Dec. 9, 1941, and E. O. 8998, Dec. 26, 1941, E. O. 9193, July 6, 1942, as amended by E. O. 9567, June 8, 1945, 3 CFR, Cum. Supp., and 1945 Supp., Reg., Apr. 10, 1940, as amended June 14, 1941, Feb. 19, 1946, June 28, 1946, and Jan. 1, 1947; §§ 511.1–511.7)

NOTE: See revocation of § 511.195, General license No. 95, Dec. 22, 1948, 13 F. R. 8326.

§ 511.197 *General license No. 97*—(a) *Property licensed.* A general license is hereby granted licensing, subject to the exceptions of paragraph (b) of this section, the following property to be regarded as property in which no blocked country or national thereof has or has had any interest: Property in any account on February 1, 1948, and any income subsequently accruing from such property, where the total value of the property in the account on such date was not more than $5,000.

(b) *Exceptions.* This license shall not apply to any property of any person resident or organized in Germany, Japan, Hungary, Rumania, or Bulgaria, regardless of the citizenship of such person.

(c) *Restrictions of § 511.211a (General Ruling No. 11A).* Attention is directed to the special restrictions contained in § 511.211a pertaining to dealings in certain property in which there is any interest of Germany or Japan or certain nationals thereof.

(Sec. 5 (b), 40 Stat. 415, 966, sec. 2, 48 Stat. 1, 54 Stat. 179, sec. 301, 55 Stat. 839; 12 U. S. C. 95a, 50 U. S. C. App. Sup. 5 (b); E. O. 8389, April 10, 1940, as amended by E. O. 8785, June 14, 1941, E. O. 8832, July 26, 1941, E. O. 8963, Dec. 9, 1941, and E. O. 8998, Dec. 26, 1941, E. O. 9193, July 6, 1942, as amended by E. O. 9567, June 8, 1945, 10 F. R. 6917, 3 CFR, 1945 Supp.; §§ 511.1–511.7)

## SUBPART C—GENERAL RULINGS

CROSS REFERENCES: Executive Order No. 8998, as amended, See 31 CFR, Part 127.

Regulations issued under Executive Order No. 8389, as amended, See §§ 511.1 to 511.7.

General licenses under Executive Order No. 8389, as amended, and regulations issued pursuant thereto, See §§ 511.101 to 511.197.

AUTHORITY: §§ 511.201 to 511.220 issued under sec. 5 (b), 40 Stat. 415, 966, sec. 2, 48 Stat. 1, sec. 1, 54 Stat. 179, sec. 301, 55 Stat. 839; 12 U. S. C. and Sup., 95a, 50 U. S. C. App., Sup., 5 (b); E. O. 8389, Apr. 10, 1940, as amended by E. O. 8785, June 14, 1941, E. O. 8832, July 26, 1941, E. O. 8963, Dec. 9, 1941, and E. O. 8998, Dec. 26, 1941, E. O. 9193, July 6, 1942, as amended by E. O. 9567, June 8, 1945; §§ 511.1–511.7.

NOTE: In §§ 511.201 to 511.220, the last two digits correspond with the number of the general ruling from which the section is derived.

§ 511.201 *General Ruling No. 1.* The Secretary of State has advised as follows:

Denmark and Iceland are two separate political entities. Acting under the authority of a provision of the Icelandic Constitution the Icelandic Parliament has within the past few days passed a resolution stating that since the King of Iceland is not now in a position to carry out his Constitutional duties with respect to Iceland, the Icelandic Government has assumed for the time being the exercise of the Royal prerogatives and the entire control of Icelandic foreign relations.

In view of the foregoing it would not appear that Iceland falls within the definition of the term 'Denmark' in Section 11 of the above-mentioned Executive Order.

In view of the foregoing, the Treasury Department construes the term "Denmark" as used in Executive Order No. 8389, April 10, 1940, as amended, and regulations as not applying to Iceland.

§ 511.202 *General Ruling No. 2.* Inquiry has been made as to whether the following are prohibited by Executive Order No. 8389, April 10, 1940, as amended and the regulations issued thereunder except under license:

(a) The transfer by a banking institution within the United States of stock certificates from or into the names of "nationals" of Norway or Denmark; and

(b) The delivery out of custody accounts or the receipt in custody accounts, by a banking institution within the United States, of securities held or to be held in custody for "nationals" of Norway or Denmark.

The Treasury Department construes the Executive Order and regulations as prohibiting such transactions, except under license.

§ 511.203 *General Ruling No. 3.* The attention of banks, brokers, transfer agents, registrars and all other persons and banking institutions in the United States is invited to the fact that the Treasury Department construes Executive Order No. 8389, April 10, 1940, as amended, and the regulations issued pursuant thereto as prohibiting the acquisition, transfer, disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guarantee of signatures on, or otherwise dealing in, or with respect to, any security (or evidence thereof) registered or inscribed in the name of any country designated in Executive Order No. 8389, April 10, 1940, as amended, or any national thereof, except pursuant to a specific license, irrespective of the fact that at any time (either prior to, on, or subsequent to April 10, 1940) the registered

or inscribed owner thereof may have, or appears to have, assigned, transferred or otherwise disposed of any such security. Applications for licenses should be made in the manner provided in the regulations issued under Executive Order No. 8389, April 10, 1940, as amended.

§ 511.204 *General Ruling No. 4.* (a) Except as specifically provided in this section or otherwise, all definitions appearing in Executive Order No. 8389 of April 10, 1940, as amended, and the regulations issued thereunder, shall apply to the terms employed in all rulings, licenses, instructions, etc., and, in addition, the following definitions and rules of interpretation are prescribed:

(1) The term "order" shall mean Executive Order No. 8389, as amended.

(2) The term "license" shall mean a license issued under the order.

(3) The term "interest" when used with respect to property shall mean an interest of any nature whatsoever, direct or indirect.

(4) The term "blocked country" shall mean any foreign country designated in the order.

(5) The term "Netherlands East Indies" shall mean the following: Java and Madura, Sumatra, Riouw-Lingga Archipelago, Banka, Billiton, Celebes, Borneo (West, South and East Divisions), Timor Archipelago, Bali and Lombok, Lesser Sunda Islands and Dutch New Guinea.

(6) The term "Netherlands West Indies" shall mean the following: Dutch Guiana, Dutch St. Martin, Curacao, Bonaire, Aruba, St. Eustatius and Saba.

(7) Any person licensed as a "generally licensed national" shall, while so licensed, be regarded as a person within the United States who is not a national of any blocked country; *Provided, however*, That the licensing of any person as a "generally licensed national" shall not be deemed to suspend in any way the requirements of the order and regulations relating to reports, and the production of books, documents, records, etc. (see section 4 of the order).

(8) The term "blocked account" shall mean an account in which any blocked country or national thereof has an interest, with respect to which account payments, transfers or withdrawals or other dealings may not be made or effected except pursuant to a license authorizing such action. The term "blocked account" shall not be deemed to include free dollar accounts of the type referred to in § 511.132, or the accounts of generally licensed nationals.

(9) The term "banking institution" shall have the meaning prescribed in section 5F of the order.

(10) The term "domestic bank" shall mean any branch or office within the United States of any of the following which is not a national of any blocked country; any bank or trust company incorporated under the banking laws of the United States or of any state, territory, or district of the United States, or any private bank or banker subject to supervision and examination under the banking laws of the United States or of any state, territory or district of the United States. The Treasury Department may also authorize any other banking institution to be treated as a "domestic bank" for the purpose of this definition or for the purpose of any license, ruling, or instruction.

(11) The term "national securities exchange" shall mean an exchange registered as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (48 Stat. 885; 15 U. S. C. 78f).

(12) Reference to any general license or general ruling which has been amended shall be deemed to refer to such license or ruling as amended.

(13) Any person who by virtue of any definition in the order is a national of more than one blocked country shall be deemed to be a national of each of such blocked countries.

(14) In any case in which a person is a national of two or more blocked countries, a license with respect to nationals of one of such blocked countries shall not be deemed to include such person unless a license of equal or greater scope is outstanding with respect to nationals of each other blocked country of which such person is a national.

(15) The Secretary of the Treasury reserves the right to exclude from the operation of any license or from the privileges therein conferred or to restrict the applicability thereof with respect to, particular persons, transactions or property or classes thereof. Such action shall be binding upon all persons receiving actual notice thereof, or constructive notice if in any case notice is filed pursuant to the provisions of the Federal Register Act (49 Stat. 500, as amended by 50 Stat. 304; 44 U. S. C. 301 et seq.).

(16) No license shall be deemed to authorize any transaction prohibited by reason of the provisions of any law, proclamation, order or regulation, other than the order and regulations.

(17) Any amendment, modification, or revocation of any order, regulation, ruling, instruction, or license issued by or under the direction of the Secretary of the Treasury pursuant to sections 3 (a) or 5 (b) of the Trading With the Enemy Act, as amended, shall not be deemed to affect any act done or omitted to be done, or any suit or proceeding had or commenced in any civil or criminal case, prior to such amendment, modification, or revocation, and all penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license shall continue and may be enforced as if such amendment, modification, or revocation had not been made.

(18) No license or other authorization issued by or under the direction of the Secretary of the Treasury pursuant to the order or sections 3 (a) or 5 (b) of the Trading With the Enemy Act, as amended, shall be deemed to authorize or validate any transaction effected prior to the issuance thereof, unless such license or other authorization specifically so provides.

GENERAL RULING NO. 5

§ 511.205 *General Ruling No. 5*—(a) *Prohibitions with respect to bringing, receiving or holding of scheduled securities.* Except as authorized in this section, or as authorized by a license or other authorization of the Secretary of the Treasury, the following are prohibited:

(1) The sending, mailing, or otherwise bringing into the United States from any foreign country of any scheduled securities; or

(2) The receiving by any person in the United States of any scheduled securities mailed or otherwise sent directly to such person from any foreign country; or

(3) The receiving or holding in the United States of any scheduled securities by any individual (whether for himself or for any other person, including any corporation or other organization) having actual knowledge that such securities are scheduled securities: *Provided however*, (i) That no such individual shall be deemed to have such actual knowledge solely by reason of the publication in any manner of a list of such securities, or by reason of the fact that he has possession of a list of such securities, or by reason of any obligation express or implied to consult a list of such securities and (ii) that without limitation of the provisions of paragraph (b) of this section, the rights of any holder of scheduled securities who would otherwise be a bona fide holder shall not be affected or impaired hereby or by the publication hereof or of the list of scheduled securities.

(b) *Duty of persons bringing or receiving securities.* (1) Scheduled securities brought from a foreign country to the United States by any person entering the United States shall be forwarded by such person within five (5) days after his arrival in the United States to the Federal Reserve Bank of New York together with a statement in triplicate setting forth the following:

(i) His name and address;

(ii) A complete description of the securities;

(iii) The name and address of the person from whom he received the securities and the date of receipt; and

(iv) The circumstances under which the securities were received.

(2) Scheduled securities mailed or otherwise sent from a foreign country directly to any person in the United States shall be forwarded by such person within five (5) days after receipt thereof to the Federal Reserve Bank of New York together with the above-specified statement in triplicate.

(3) Scheduled securities delivered to any individual (whether for himself or for any other person, including any corporation or other organization) in the United States who, at the time he receives such securities has actual knowledge within the meaning of paragraph (a) (3) of this section that they are scheduled securities or who subsequently acquires such knowledge while the securities are still in his possession shall be forwarded by such individual within five (5) days after he acquires such securities or such knowledge, as the case may be, to the Federal Reserve Bank of New York, together with the above-specified statement, in triplicate: *Provided however*, (i) That the foregoing provision, insofar as it concerns the subsequent acquisition of such knowledge, shall not affect any person who holds such securities as security for any obligation owing to such person; and (ii) that any individual who would otherwise be required by the provisions of this subparagraph to forward

securities to the Federal Reserve Bank of New York may return the securities to the person from whom he received them if such person is in the United States. The individual initiating such return shall file a report with the Federal Reserve Bank of New York giving the name and address of the person originally delivering such securities to him, and shall advise the person to whom he returns such securities that they are scheduled securities which should be deposited with the Federal Reserve Bank of New York pursuant to this ruling unless they are returned with a similar notice to a person in the United States from whom they were received. The last person in the United States to whom such securities are returned shall forward them to the Federal Reserve Bank of New York together with the statement in triplicate provided in paragraph (b) of this section. In case securities are returned under the rules of a securities exchange, an association of securities dealers, or a similar organization, the last person to whom such securities are returned under such procedure, although he may not be the last person to whom such securities are returned hereunder, shall file with the Federal Reserve Bank of New York the above-specified statement in triplicate with respect to his original receipt of the securities in question together with the date on which he returned such securities to the person from whom he received them.

Securities forwarded to the Federal Reserve Bank of New York or returned to the person from whom received, in compliance with this paragraph, shall not be deemed to have been received or held in violation of this general ruling by the person forwarding or returning such securities. Such securities nevertheless shall be subject to all other provisions hereof.

(c) *Duty of persons to whom securities tendered.* Any person to whom scheduled securities are offered or tendered for the purpose of effecting any transaction with respect thereto who refuses to receive or accept delivery thereof having actual knowledge that they are scheduled securities shall file with the Federal Reserve Bank of New York a statement in triplicate setting forth:

(1) His name and address;

(2) A complete description of the securities;

(3) The name and address of the person who offered or tendered such securities and the date thereof; and

(4) The circumstances under which the securities were offered or tendered.

(d) *Disposition of securities delivered to Federal Reserve Bank of New York.* Except as otherwise instructed by the Treasury Department, the Federal Reserve Bank of New York shall hold securities which are delivered pursuant to this general ruling until the Treasury Department is satisfied as to their status under the Order. Applications for release of securities so held may be filed with the Federal Reserve Bank of New York.

The Federal Reserve Bank of New York shall act only as fiscal agent of the United States under this section, and shall receive and hold securities delivered to it pursuant to this section as such fiscal agent, subject to the further order of the Secretary of the Treasury.

(e) *Definition.* As used in this section, the term "scheduled securities" shall include all securities appearing on the list appended hereto entitled "Scheduled Securities" and evidence thereof, including coupons appertaining thereto.

NOTE: § 511.205 as presented herewith is revised except for the list of scheduled securities appended thereto.

NOTE: For interpretation of § 511.205, see § 511.335 (Public Circular No. 35).

For waiver of § 511.205 with respect to certain securities, see §§ 511.187 and 511.195.

§ 511.206 *General Ruling No. 6.* (a) The provisions of § 511.205 (General Ruling No. 5 of June 6, 1940), and all instructions issued pursuant thereto, are hereby continued in full force and effect: *Provided,* That any Federal Reserve Bank to whom securities or evidences thereof (hereinafter referred to as securities) have been forwarded under such general ruling may, as fiscal agent of the United States, deliver the securities, at any time, under appropriate arrangements with the addressee of the securities, to a domestic bank.

(b) Prior to such delivery by a Federal Reserve Bank of any such security, a complete description of the security shall be made or received and retained by such Federal Reserve Bank, and in any case in which a security bears a stamp, seal or other mark not lending itself to precise description, a photostat of such mark shall be made at the expense of the addressee and retained by such Federal Reserve Bank. This requirement may be dispensed with in any case in which appropriate arrangements are entered into for furnishing such Federal Reserve Bank with this description within a reasonable time after such delivery.

(c) Upon the delivery of any such security by a Federal Reserve Bank to any domestic bank, such bank shall execute such form of receipt as may be prescribed by the Secretary of the Treasury.

(d) Any domestic bank to which any such security shall be delivered by a Federal Reserve Bank shall place such security in a General Ruling No. 6 account in such bank.

(e) Any outstanding account in which securities or the proceeds thereof have been placed pursuant to the provisions of General Ruling No. 6 prior to this amendment shall be deemed to be a General Ruling No. 6 account.

(f) Federal Reserve Banks shall release any security referred to in paragraph (a) hereof, or shall authorize the release of the contents of any General Ruling No. 6 account, if and when the Treasury Department is satisfied that no blocked country, or national thereof, has, at any time, on or since the effective date of Executive Order 8389, had any interest in such security or in such account.

(g) Any application for a license authorizing any transaction or dealing with respect to a General Ruling No. 6 account (including the contents thereof) shall specifically indicate that such account is a General Ruling No. 6 account.

(h) As used in this general ruling and in any other rulings, licenses, instructions, etc., the term "General Ruling No. 6 account" shall mean an account of the type referred to in paragraphs (d) and (e) of this section, and no payments, transfers, or withdrawals may be made from, and no other transaction or dealing may be effected with respect to, any such account except pursuant to paragraph (f) of this section or pursuant to license, *Provided,* That:

(1) No license shall be deemed to authorize transactions with respect to a General Ruling No. 6 account unless the provisions of such license are specifically made applicable to a General Ruling No. 6 account.

(2) In the event that any security placed in a General Ruling No. 6 account is sold or otherwise dealt with under license, except a license of the type referred to in subparagraph (3) of this paragraph, the proceeds thereof shall be placed in a General Ruling No. 6 account in the same domestic bank and in the same name in which the security sold or otherwise dealt with was held.

(3) The contents of a General Ruling No. 6 account cannot be transferred to a blocked account, except pursuant to a license specifically authorizing such transfer. Applications for licenses authorizing the transfer of the contents of any General Ruling No. 6 account to a blocked account shall be accompanied by adequate evidence respecting the interest therein of blocked countries or nationals thereof.

(i) Domestic banks maintaining General Ruling No. 6 accounts in which securities, the proceeds of securities, or income derived from securities are held, shall keep detailed records with respect to each such General Ruling No. 6 account which will indicate clearly and accurately the specific security or securities with respect to which each payment or transfer to or from such General Ruling No. 6 account is made, except that the foregoing requirement shall not be applicable to payments or transfers representing service charges.

§ 511.207 *General Ruling No. 7.* The provisions of § 511.205 (General Ruling No. 5, as amended), are extended to currency and securities or evidences thereof coming from the Panama Canal Zone into any other part of the United States.

§ 511.208 *General Ruling No. 8.* Inquiry has been made as to whether the following is prohibited, except under license, by Executive Order No. 8389, as amended, and the regulations issued pursuant thereto:

A request or authorization made by or on behalf of a bank or other person within the United States to a bank or other person in a foreign country other than one of the countries designated in Executive Order No. 8389, as amended, as a result of which request or authorization such latter bank or person makes a payment or transfer of credit either directly or indirectly to one of the foreign countries designated in the Executive order, as amended, or a national thereof.

The Treasury Department construes the Executive order, as amended, and

regulations as prohibiting such a transaction except under license.

§ 511.209 *General Ruling No. 9.* Inquiry has been made as to whether a person within Tangiers may engage in transactions pursuant to General License No. 52 relating to Spain.

General License No. 52 does not permit such transactions and, accordingly, any such transactions which are not authorized by a general license other than General License No. 52 may only be effected pursuant to a specific license.

NOTE: General License No. 52 has been revoked. (13 F. R. 2914.)

§ 511.211 *General Ruling No. 11*—(a) *Regulations relating to trade or communication with or by an enemy national*—(1) *Trade and communication with an enemy national prohibited.* Unless authorized by a license expressly referring to this general ruling, no person shall, directly or indirectly, enter into, carry on, complete, perform, effect, or otherwise engage in, any trade or communication with an enemy national, or any act or transaction which involves, directly or indirectly, any trade or communication with an enemy national.

(2) *Acts and transactions by an enemy national prohibited.* Unless authorized by a license expressly referring to this general ruling, no enemy national who is within the United States shall, directly or indirectly, enter into, carry on, complete, perform, effect, or otherwise engage in, any financial business, trade, or other commercial act or transaction.

(3) *Certain transactions licensed under section 3 (a).* Every act or transaction prohibited by section 3 (a) of the Trading With the Enemy Act, as amended, is hereby licensed thereunder unless such act or transaction is prohibited by paragraph (a) (1) or (2) of this section or otherwise prohibited pursuant to section 5 (b) of that act and not licensed by the Secretary of the Treasury. Attention is directed to the fact that the General License under section 3 (a) of the act, issued by the President on December 13, 1941, does not license any act or transaction not authorized hereunder.

(b) *Definitions.* As used in this section and in any other rulings, licenses, instructions, etc.:

(1) The term "enemy national" shall mean the following:

(i) The Government of any country against which the United States has declared war (Germany, Italy, Japan, Bulgaria, Hungary, and Rumania) and any agent, instrumentality, or representative of the foregoing Governments, or other person acting therefor, wherever situated (including the accredited representatives of other governments to the extent, and only to the extent, that they are actually representing the interests of the governments of Germany, Italy, and Japan and Bulgaria, Hungary, and Rumania);

(ii) The government of any other blocked country having its seat within enemy territory, and any agent, instrumentality, or representative thereof, or other person acting therefor, actually situated within enemy territory;

(iii) Any individual within enemy territory except any individual who is with the armed forces of any of the United Nations in the course of his service with such forces or who is accompanying such armed forces in the course of his employment by any of the Governments of the United Nations or organizations acting on their behalf;

(iv) Any partnership, association, corporation or other organization to the extent that it is actually situated within enemy territory;

(v) Any person whose name appears on The Proclaimed List of Certain Blocked Nationals, and any person to the extent that he is acting, directly or indirectly, for the benefit or on behalf of any such person: *Provided,* That no person so acting shall be deemed to be an enemy national if he is acting pursuant to license issued under the order or expressly referring to this general ruling; and

(vi) Any person to the extent that he is acting, directly or indirectly, for the benefit or on behalf of an enemy national (other than a member of the armed forces of the United States captured by the enemy) if such enemy national is within any country against which the United States has declared war: *Provided,* That no person so acting shall be deemed to be an enemy national if he is acting pursuant to license issued under the order or expressly referring to this general ruling.

(2) The term "enemy territory" shall mean the following:

(i) The territory of Germany, Italy, Japan, Bulgaria, Hungary, and Rumania; and

(ii) The territory controlled or occupied by the military, naval, or police forces or other authority of Japan. Such territory shall be deemed to be those portions of Burma, China, French Indo-China, Hong Kong, British Malaya, the Netherlands East Indies, the Philippine Islands and Thailand occupied by Japan, and any other territory controlled or occupied by Japan.

(3) The term "The proclaimed list of certain blocked nationals" shall mean The Proclaimed List of Certain Blocked Nationals, as amended and supplemented, promulgated pursuant to the President's Proclamation of July 14, 1941.

(4) The term "trade or communication with any enemy national" shall mean any form of business or commercial communication or intercourse with an enemy national after March 18, 1942, including, without limitation, the sending, taking, obtaining, conveying, bringing, transporting, importing, exporting, or transmitting, or the attempt to send, take, obtain, convey, bring, transport, import, export, or transmit,

(i) Any letter, writing, paper, telegram, cablegram, wireless message, telephone message, or other communication, whether oral or written, of a financial, commercial, or business character; or

(ii) Any property of any nature whatsoever, including any goods, wares, merchandise, securities, currency, stamps, coin, bullion, money, checks, drafts, proxies, powers of attorney, evidences of ownership, evidences of indebtedness, evidences of property, or contracts;

directly or indirectly to or from an enemy national after March 18, 1942; *Provided, however,* That with respect to any government or person becoming an enemy national after March 18, 1942, the date upon which such government or person became an enemy national shall be substituted for the date March 18, 1942.

NOTE: For an exception to the provisions of General Ruling 11, see 19 CFR 51.1, and § 511.325 of this part (Public Circular 25).

For interpretations of General Ruling No. 11, see §§ 511.330 and 511.333 (Public Circulars Nos. 30, 33).

§ 511.211a *General Ruling No. 11a*—(a) *Special restrictions on dealings in certain German and Japanese property.* Except as authorized by a license expressly referring to this general ruling, the transfer, or withdrawal of, or other dealings in, or the exercise of any right, power or privilege with respect to, or the effecting of any payment or transfer of credit involving, any property in the United States on December 31, 1946 in which on that date any of the following had any interest, or any income from such property accruing on or after December 31, 1946, is hereby prohibited:

(1) The Government of Germany or Japan, and any agent, instrumentality, or representative of either Government;

(2) Any individual who is a citizen or subject of Germany or Japan and who at any time on or since January 1, 1945 has been within the territory of any country against which the United States has declared war (Germany, Italy, Japan, Bulgaria, Hungary and Rumania);

(3) Any partnership, association, corporation, or other organization which is organized under the laws of, or which at any time on or since January 1, 1945 has had its principal place of business in, any territory of Germany or Japan;

(4) Any partnership, association, corporation, or other organization which is organized under the laws of any foreign country other than Germany or Japan and which is a national of Germany or Japan by reason of the interest therein of any Government or person specified in subparagraphs (1), (2), or (3) of this paragraph.

(b) *Continued applicability of certain general licenses and general rulings.* The following general licenses and general rulings shall continue applicable notwithstanding the provisions of paragraph (a) of this section:

(1) Section 511.101 (General License No. 1);

(2) Section 511.102 (General License No. 2) only with respect to payment or reimbursement for normal service charges (as therein defined) other than interest due;

(3) Section 511.105 (General License No. 5);

(4) Section 511.127 (General License No. 27);

(5) Section 511.129 (General License No. 29) only with respect to §§ 511.102, 511.105 and 511.127 (General Licenses Nos. 2, 5 and 27);

(6) Section 511.130 (General License No. 30);

(7) Section 511.130a (General License No. 30A);

(8) General Ruling No. 16 (§ 511.216);

(9) General Ruling No. 19 (§ 511.219).

(c) *Continued applicability of certain specific licenses.* Any specific license conferring general licensed national status on any person shall continue applicable, notwithstanding the provisions of paragraph (a) of this section.

(d) *Definitions.* As used in this section:

(1) The term "property" shall have the meaning prescribed in § 511.2 (c).

(2) The term "transfer" shall have the meaning prescribed in § 511.212 (e) (5). (General Ruling No. 12).

§ 511.212 *General Ruling No. 12.* (a) Unless licensed or otherwise authorized by the Secretary of the Treasury, (1) any transfer after the effective date of the order is null and void to the extent that it is (or was) a transfer of any property in a blocked account at the time of such transfer; and (2) no transfer after the effective date of order shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any property while in a blocked account (irrespective of whether such property was in a blocked account at the time of such transfer).

(b) Unless licensed or otherwise authorized by the Secretary of the Treasury, no transfer before the effective date of order shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any property while in a blocked account unless the person with whom such blocked account is held or maintained had written notice of the transfer or by any written evidence had recognized such transfer prior to the effective date of the order.

(c) Unless otherwise provided, an appropriate license or other authorization issued by the Secretary of the Treasury before, during or after a transfer shall validate such transfer or render it enforceable to the same extent as it would be valid or enforceable but for the provisions of section 5 (b) of the Trading With the Enemy Act, as amended, and order, regulations, instructions and rulings issued thereunder.

(d) Any transfer affected by the order and/or this general ruling and involved in, or arising out of, any action or proceeding in any Court within the United States shall, so far as affected by the order and/or this general ruling, be valid and enforceable for the purpose of determining for the parties to the action or proceeding the rights and liabilities therein litigated; *Provided, however,* That no attachment, judgment, decree, lien, execution, garnishment, or other judicial process shall confer or create a greater right, power, or privilege with respect to, or interest in, any property in a blocked account than the owner of such property could create or confer by voluntary act prior to the issuance of an appropriate license.

(e) For the purposes of this general ruling:

(1) The term "transfer" shall mean any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and without limitation upon the foregoing shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the appointment of any agent, trustee, or other fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or the levy of or under any judgment, decree, attachment, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition, or the exercise of any power of appointment, power of attorney, or other power: *Provided, however,* That the term "transfer" shall not be deemed to include transfers by operation of law.

(2) The term "property" includes gold, silver, bullion, currency, coin, credit, securities (as that term is defined in section 2 (1) of the Securities Act of 1933, as amended), bills of exchange, notes, drafts, acceptances, checks, letters of credit, book credits, debts, claims, contracts, negotiable documents of title, mortgages, liens, annuities, insurance policies, options and futures in commodities, and evidences of any of the foregoing. The term "property" shall not, except to the extent indicated, be deemed to include chattels or real property.

(3) The term "blocked account" shall refer to a blocked account (including safe deposit box) of a party to the transfer and shall have the meaning prescribed in § 511.204 (General Ruling No. 4) except that it shall not be deemed to include an account not treated as a blocked account by the person with whom such account is held or maintained.

(4) The term "effective date of the order" shall have the meaning prescribed in § 511.204 except that "the effective date of the order" as applied to any person whose name appears on The Proclaimed List of Certain Blocked Nationals shall be the date upon which the name of such person first appeared on such list.

(5) The term "transfer by operation of law" shall be deemed only to mean any transfer of any dower, courtesy, community property, or other interest of any nature whatsoever: *Provided,* That such transfer arises solely as a consequence of the existence or change of marital status; any transfer to any person by intestate succession; any transfer to any person as administrator, executor, or other fiduciary by reason of any testamentary disposition; any transfer to any person as administrator, executor, or fiduciary by reason of judicial appointment or approval in connection with any testamentary disposition or intestate succession; and any transfer pursuant to (i) Netherlands Royal Decree of May 24, 1940, and (ii) Norwegian Provisional Decree of April 22, 1940, concerning the monetary system, etc.

(f) Nothing contained in this section shall be deemed to affect in any way criminal liability for violation of the order, or the regulations, rulings, circulars, or instructions issued thereunder, or in connection therewith, or to otherwise modify any provision thereof.

NOTE: For interpretation of General Ruling No. 12, see § 511.331 (Public Circular No. 31).

§ 511.212 *General Ruling No. 12A.* (a) Reference is made to transfers of property in a blocked account which are null and void, or unenforceable, by virtue of the provisions of § 511.212 (General Ruling No. 12). Such transfers shall not be deemed to be null and void, or unenforceable, under § 511.212 as to the person with whom such blocked account was held or maintained (and as to such person only) in cases in which such person is able to establish each of the following:

(1) Such transfer did not represent a wilful violation of the order by the person with whom such blocked account was held or maintained;

(2) The person with whom such blocked account was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer was not licensed or authorized by the Secretary of the Treasury, or if a license did purport to cover the transfer, that such license had been obtained by misrepresentation or the withholding of material facts or was otherwise fraudulently obtained; and

(3) Promptly upon discovery that such transfer was in violation of the order, or was not licensed or authorized by the Secretary of the Treasury, or if a license did purport to cover the transfer, that such license had been obtained by misrepresentation or the withholding of material facts or was otherwise fraudulently obtained, the person with whom such blocked account was held or maintained filed with the appropriate Federal Reserve Bank a report on Form TFR–12A in triplicate setting forth in full the information called for therein: *Provided, however,* That such report should not be regarded as evidence of compliance with subparagraphs (1) and (2) of this paragraph.

(b) Except as otherwise provided by regulations, rulings, licenses, or instructions expressly referring to this general ruling, no license will be required to validate the authority of any person to act or purport to act in a transaction directly or indirectly for the benefit or on behalf of any blocked country or any national thereof: *Provided,* That the transaction in which such person acts or purports to act is licensed or authorized by the Secretary of the Treasury or is not prohibited pursuant to section 5 (b) of the Trading With the Enemy Act, as amended.

(c) As used in this section, the term "blocked account" shall have the same meaning as that prescribed in § 511.212.

§ 511.213 *General Ruling No. 13.* (a) This section relates to the procedure to be followed in connection with the filing

of applications for the unblocking of accounts or other property in which applications it is alleged that no person having an interest in the property involved is a national of a blocked country.

(b) Any interested party is entitled to file such an application. Such application shall be filed in the manner provided in § 511.3, and shall contain full information in support of the administrative action requested. The application for administrative action may be filed on Form TFU–1 or on Form TFE–1 (even though the request for administrative action is not a request for a license), and any documents or other data as may be relevant to the application should be attached to and made a part of the application.

(c) The applicant is entitled to be heard on the application. If the applicant desires to be heard on the application, either before or after the Treasury Department has taken action on such application, he should so notify the Treasury Department. Such notice should contain an appropriate reference to the application involved and the names of the parties desiring to be heard with respect to the application.

§ 511.215 *General Ruling No. 15.* (a) Unless authorized by license issued by the Secretary of the Treasury expressly referring to this general ruling:

(1) No person shall exercise within the United States any right, remedy, power, or privilege (by self-help, judicial process, or otherwise), directly or indirectly against or with respect to any Mexican railroad property; and

(2) Any seizure by attachment or otherwise of Mexican railroad property, and any judgment, decree, lien, execution, garnishment, or other judicial process against or with respect to such property is null and void.

(b) The provisions of paragraph (a) of this section shall not apply to claims arising out of, or with respect to, current repair, maintenance, and similar charges, in connection with the operation or servicing, within the United States, of Mexican railroad property on or after the date of this general ruling.

(c) As used in this section, the term "Mexican railroad property" shall include:

(1) All railroad rolling stock and equipment brought into the United States from Mexico or acquired in the United States by a railroad in Mexico, and with respect to which Mexico or a national thereof has an interest;

(2) All earnings, income, or other rights, payable to, or in favor of, Mexico or a national thereof and created by reason of, or otherwise resulting from, the employment or use of such rolling stock or equipment within the United States after the date hereof.

§ 511.216 *General Ruling No. 16.* Regulations relating to safe deposit boxes leased to nationals of blocked countries or containing property in which nationals of blocked countries have an interest.

(a) *Access to certain safe deposit boxes prohibited.* Except as authorized in this section or as specifically licensed or authorized by the Secretary of the Treasury, no person shall be granted access to any safe deposit box within the United States leased to any blocked country or national thereof or containing any property in which any blocked country or national thereof has any interest or which there is reasonable cause to believe contains property in which any blocked country or national thereof has an interest.

(b) *Access authorized under certain conditions.* (1) Access to any safe deposit box leased to a blocked country or national thereof or containing property in which any blocked country or national thereof has an interest, and the deposit therein or removal therefrom of any property is hereby authorized: *Provided,* That both of the following conditions are complied with:

(i) Access shall be permitted only in the presence of an authorized representative of the lessor of such box;

(ii) In the event that any property in which any blocked country or national thereof has any interest is to be removed from such box, access shall be permitted only in the presence of an authorized representative of a banking institution within the United States, which may be the lessor of such box, which shall receive such property into its custody immediately upon removal from such box and which shall hold the same in a blocked account under an appropriate designation indicating the interests therein of blocked countries or nationals thereof.

Subdivisions (i) and (ii) of this subparagraph shall not apply to access granted to a representative of the Office of the Alien Property Custodian pursuant to any rule, regulation or order of such Office.

(2) The lessee or other person granted access to any safe deposit box under this general ruling (except an agent or representative of the Office of the Alien Property Custodian) shall furnish to the lessor a certificate in triplicate that he has filed or will promptly file a report on Form TFR–300 with respect to such box, if leased to a national of a foreign country, and with respect to all property contained in the box to which access is had in which any foreign country or national thereof has an interest. The lessor shall deliver two copies of such certificate to the Federal Reserve Bank of the District in which the box is located. The certificate is required only on the first access to the box and need not be furnished if a certificate has been filed pursuant to General License No. 12 prior to the revocation thereof. In case a report on Form TFR–300 was not made before August 20, 1943, a report is hereby required to be filed on Series L in accordance with the provisions of § 511.304c (Public Circular No. 4C), excluding paragraph (b) (4) thereof, which shall be inapplicable, but any reports required under Public Circular No. 4 and not already rendered shall also be filed. When no other date is applicable, the effective date of reporting for Series L shall be the date of access. If none of the entries specified in § 511.304c (d) (5) (iii) is applicable, the phrase "General Ruling No. 16, access to box on ----------, 194--" shall be entered in Part A.

NOTE: Public Circular No. 4 has been revoked [11 F. R. 7184].

§ 511.217 *General Ruling No. 17*—(a) *Scope of ruling.* This ruling is applicable to (1) every sale of securities held in any account maintained in the name of any bank or other financial institution which is located in a blocked country and which is not licensed as a generally licensed national, (2) every purchase of securities where the cost thereof is to be debited to any account maintained in the name of any such bank or financial institution, and (3) the receipt of dividends or interest or other income on securities held in any account maintained in the name of any such bank or financial institution, except:

(i) Transactions effected under General Licenses Nos. 49, 50, 52, or 70; or

(ii) Sales of securities or the receipt of dividends, interest or other income on securities effected under any other general license or under any specific license, provided that the proceeds thereof are deposited in a General Ruling No. 6 account (§ 511.206) in the name of such bank or other financial institution; or

(iii) Transactions effected pursuant to certification as provided in paragraph (c) of this section.

(b) *Purchase and sales of securities and the receipt of dividends, interest or other income on securities not authorized in the absence of certain information.* No purchase or sale of securities or the receipt of dividends, interest or other income on securities to which this ruling is applicable may be effected under any specific or general license which does not expressly refer to this General Ruling unless the person with whom the account is maintained is in possession of the following information:

(1) In the case of any proposed sale of securities or the receipt of dividends, interest or other income on securities:

(i) The name, address and nationality of each person having an interest in the securities on the date when such securities were received into the account or on April 8, 1940, whichever is later; and

(ii) The name, address and nationality of each person having an interest in the securities on the date when the transaction is effected; and

(iii) If the information submitted with respect to subdivisions (i) and (ii) of this subparagraph discloses that there has been any change in any interest in such securities, the name, address and nationality of each transferee of any such interest, the date of each such transfer, and the license under the order, if any, pursuant to which it is claimed that each such transfer was effected; or

(2) In the case of any proposed purchase of securities:

(i) The name, address and nationality of each person who will have an interest in such securities as a result of such transaction.

(c) *Certification.* Notwithstanding paragraph (b) of this section, this ruling shall not be applicable to any purchase or sale of securities or the receipt of dividends, interest or other income on

securities if the bank or other financial institution in whose name the account is maintained has certified to the person with whom such account is maintained:

(1) In the case of any proposed sale of securities or the receipt of dividends, interest or other income on securities:

(i) That no person who is a national of any blocked country other than the country in which such bank or other financial institution is located, and that no person whose name appears on The Proclaimed List of Certain Blocked Nationals has an interest in the securities, and that no such person has had an interest in such securities since April 8, 1940, or the date when such securities were received into the account, whichever is later; and

(ii) That such bank or other financial institution will upon request at any time promptly submit to the diplomatic or consular representatives of the Government of the United States, duly accredited to the country in which it is located, satisfactory evidence of, and, in any event, will submit to the Treasury Department, Washington, D. C., in duplicate, not later than one year after the termination of the present war, a verified statement disclosing (*a*) the name, address and nationality of each person having an interest in the securities on the date when such securities were received into the account or on April 8, 1940, whichever is later; (*b*) the name, address and nationality of each person having an interest in the securities on the date when the transaction was effected; and (*c*) if the information submitted with respect to (*a*) and (*b*) discloses that there has been any change in any interest in such securities, the name, address and nationality of each transferee of any such interest, the date of each such transfer, and the license under the order, if any, pursuant to which it is claimed that each such transfer was effected; or

(2) In the case of any proposed purchase of securities:

(i) That no person who is a national of any blocked country other than the country in which such bank or other financial institution is located, and that no person whose name appears on The Proclaimed List of Certain Blocked Nationals will have an interest in such securities as a result of such transaction; and

(ii) That such bank or other financial institution will upon request at any time promptly submit to the diplomatic or consular representatives of the Government of the United States duly accredited to the country in which it is located, satisfactory evidence of, and, in any event, will submit to the Treasury Department, in Washington, D. C., in duplicate, not later than one year after the termination of the present war, a verified statement disclosing (*a*) the name, address and nationality of each person who acquired an interest in the securities at the time of their purchase; (*b*) the name, address and nationality of each person having an interest in the securities as of any date or dates (hereafter prescribed) subsequent to the deposit of such securities in, and prior to their withdrawal from the account; and (*c*) if the information submitted with respect to (*a*) and (*b*) discloses that there has been any change in any interest in such securities, the name, address and nationality of each transferee of any such interest, the date of each such transfer, and the license under the Order, if any, pursuant to which it is claimed that each such transfer was effected.

(d) *Recording and reporting of information and the effectuation of transactions under paragraph (b) of this section.*

(1) When any sale of securities or the receipt of any dividends, interest or other income to which this ruling is applicable has been effected, the proceeds may be credited to any account authorized by license: *Provided*, That, if such account is not maintained in the name or names of the beneficial owner or owners of the securities, a memorandum record is kept of the amount so credited and of the name, address and nationality of each such beneficial owner. In the case of the receipt of dividends, interest or other income on securities, a memorandum record shall also be kept with respect to such securities in the manner prescribed in subparagraph (2) of this paragraph.

(2) When any purchase of securities to which this ruling is applicable has been effected, the securities may be deposited in any account authorized by license: *Provided*, That, if such account is not maintained in the name or names of the beneficial owner or owners of the securities, a memorandum record is kept of the securities so deposited and of the name, address and nationality of each such beneficial owner.

(3) Any information specified in paragraph (b) (1) of this section required to be reported on Form TFR–300 by the person holding the securities, but which has not heretofore been so reported, shall be reported on Form TFR–300, as provided in § 130.4 of the Regulations and Public Circular No. 4, not later than thirty days after a sale of the securities or the receipt of dividends, interest, or other income thereon effected under paragraph (b) of this section. All information specified in paragraph (b) of this section with respect to securities in an account maintained in the name of a bank or other financial institution which is located in a blocked country, and which is not licensed as a generally licensed national, not otherwise required to be reported on Form TFR–300, shall be reported by the person with whom such account is maintained on Form TFR–300, Series L, in the manner provided in § 511.304c as of the date of the receipt of such securities in such account. Every such report on Form TFR–300, Series L, shall be filed within thirty days after a purchase or sale of the securities or the receipt of dividends, interest or other income thereon effected under paragraph (b) of this section, whichever occurs first, and shall state that it is made in accordance with this section.

(e) *Effectuation and recording of certified transactions.* When any purchase or sale of securities or the receipt of any dividends, interest, or other income thereon to which this section would otherwise be applicable has been effected pursuant to the certification specified in paragraph (c) of this section, the proceeds of the securities sold, or the dividends, interest or other income received may be credited to, or the securities purchased may be deposited in, any account authorized by license: *Provided, however*, That a memorandum record is kept of the transaction and that it was effected pursuant to certification under paragraph (c) of this section. Each such memorandum record shall bear the name of the bank or other financial institution making the certification, and the number of such certification.

(f) *Form of certification and continuing effect of certain certifications.* (1) No form is prescribed for the certification specified in paragraph (c) of this section, but the certifications of each bank or other financial institution shall be numbered consecutively and every statement submitted to the Treasury Department in accordance with paragraph (c) (1) (ii) and (c) (2) (ii) of this section shall refer to the number of the certification pursuant to which the transaction was effected. The certification specified in paragraph (c) of this section may be made by a cable or wireless message which clearly identifies the transaction, and states, in code or otherwise, that the sender makes the certification specified in paragraph (c) of this section.

(2) A certification made under paragraph (c) (1) of this section with respect to the receipt of dividends, interest or other income on securities will, unless the bank or other financial institution making the certification expressly stipulates otherwise, be deemed to be a continuing certification applicable to the further receipt of dividends, interest or other income on the same securities, and the phrase "the date when the transaction was effected" in paragraph (c) (1) (ii) (*b*) of this section shall be deemed, in the case of such certification, to mean the date of each receipt of dividends, interest or other income on such securities effected under such certification.

(g) *Proceeds of sales and income from securities to be deposited in General Ruling No. 6 accounts.* All proceeds of sales of securities and all dividends, interest or other income received on securities held in any account maintained in the name of any bank or other financial institution which is located in a blocked country, and not licensed as a generally licensed national, shall be deposited in a General Ruling No. 6 account § 511.206 in the name of such bank or other financial institution, unless:

(1) The person with whom the account is maintained is in possession of the information specified in paragraph (b) (1) of this section with respect to such securities; or

(2) The bank or other financial institution in whose name the account is maintained has made the certification specified in paragraph (c) (1) of this section with respect to such securities; or

(3) The sale of such securities or the receipt of such dividends, interest, or

other income was effected under General Licenses Nos. 49, 50, 52, or 70.

(h) *Savings provision.* None of the provisions of this General Ruling shall be applicable (1) to purchases or sales of securities effected within thirty calendar days after the date hereof pursuant to orders to buy or to sell specific securities: *Provided, however,* That such orders are outstanding on the date hereof; or (2) to the receipt of dividends, interest or other income on securities within thirty calendar days after the date hereof.

(i) *Dollar accounts maintained with a bank or other financial institution which is a national of a blocked country.* The Secretary of the Treasury may, in his discretion, as a condition to the exercise of the privileges of a license issued, or the issuance of a license, under the Order, or otherwise, require a verified statement from any bank or other financial institution which is a national of a blocked country and maintains a dollar or securities account with a person within the United States, disclosing the names, nationalities and such other information as may be prescribed, concerning any or all persons who have maintained dollar accounts with such bank or other financial institutions since the effective date of the Order with respect to such persons.

(j) *Definitions.* For the purposes of this section:

(1) The term "bank or other financial institution" shall include every person engaged in the business of (i) banking, (ii) insurance, (iii) buying, selling or otherwise dealing in securities, or (iv) managing, operating, conducting or otherwise holding securities or securities accounts for others;

(2) The term "dividends, interest or other income on securities" shall include payments of principal and payments on account of the retirement or redemption of securities; and

(3) The term "nationality" shall mean the names of all countries of which a person is a national within the meaning of the order.

NOTE: General Licenses Nos. 49, 50, 52, and 70, Public Circular No. 4, and § 130.4, of the Regulations of the Treasury Department have been revoked (13 F. R. 2043, 12 F. R. 6459, 13 F. R. 2914, 5118, 11 F. R. 7184).

§ 511.218 *General Ruling No. 18*—(a) *Status of the Philippines.* For the purpose of administering and complying with the provisions of sections 3 (a) and 3 (c) of the Trading With the Enemy Act, as amended, Executive Order No. 8389 (3 CFR 1943 Cum. Supp.), as amended, and the regulations, rulings, instructions and licenses issued by or under the direction of the Secretary of the Treasury pursuant to Executive Orders Nos. 8389 and 9095, as amended, the Philippines shall not be included within the term "United States" but shall be deemed to be a foreign country not designated in Executive Order No. 8389, as amended, and to be included in the "generally licensed trade area" as defined in § 511.153 (General License No. 53).

(b) *Effect of previous status.* No person shall be deemed a national of a blocked country solely by reason of the fact that at any time on or since the effective date of the order the Philippines were regarded as a blocked country.

§ 511.219 *General Ruling No. 19*—(a) *Control of vested German and Japanese property released to Alien Property Custodian.* All control under Executive Order No. 8389, as amended, and Executive Order No. 9193, as amended, of any property or interest of Germany or Japan or any national thereof vested by the Alien Property Custodian is hereby released to the Alien Property Custodian. The release of any such property or interest shall take effect on the effective date of the vesting order of the Alien Property Custodian covering the property or interest.

(b) *Effect on pending applications of release of control to Alien Property Custodian.* A release of control over any vested property or interest to the Alien Property Custodian constitutes a final denial by the Secretary of the Treasury of any pending application for license or other authorization with respect to any such property or interest. No application for license or other authorization with respect to any such property or interest will thereafter be entertained or granted by the Secretary of the Treasury.

NOTE: For interpretation of § 511.219, see § 511.331 (Public Circular No. 31). See revocation of § 511.219, General Ruling No. 19, Dec. 22, 1948, 13 F. R. 8327.

§ 511.220 *General Ruling No. 20*—(a) *Certain payments not authorized.* General Licenses Nos. 1 (§ 511.101) and 1A and any other license to the extent that it merely authorizes payments or transfers between blocked accounts of the same person do not authorize any payment or transfer of property from an account regarded as blocked under the proviso of § 511.194 (a), (General License No. 94) except to an account which is also regarded as blocked under the proviso.

(b) *Responsibility for giving notice.* Persons effecting any payment or transfer of property held in a blocked account pursuant to General Licenses Nos. 1 or 1A or any other license to the extent that it merely authorizes payments or transfers between blocked accounts of the same person are required to notify the recipient that the property transferred must be placed in a blocked account.

NOTE: General License No. 1A has been revoked (13 F. R. 2913).

## SUBPART D—PUBLIC CIRCULARS

CROSS REFERENCES: Executive Order No. 8389, as amended, 31 CFR, Part 127.

Regulations issued under Executive Order No. 8389, as amended: See §§ 511.1 to 511.7.

General licenses under Executive Order No. 8389, as amended, and regulations issued pursuant thereto, §§ 511.101 to 511.197.

General rulings under Executive Order No. 8389, as amended, and regulations issued pursuant thereto, §§ 511.201 to 511.220.

AUTHORITY: §§ 511.302 to 511.337 issued under sec. 5 (b), 40 Stat. 415, 966, sec. 2, 48 Stat. 1, sec. 1, 54 Stat. 179, sec. 301, 55 Stat. 839; 12 U. S. C. and Sup., 95a, 50 U. S. C. App., Sup., 5 (b); E. O. 8389, Apr. 10, 1940, as amended by E. O. 8785, June 14, 1941, E. O. 8832, July 26, 1941, E. O. 8963, Dec. 9, 1941, and E. O. 8998, Dec. 26, 1941, E. O. 9193, July 6, 1942, as amended by E. O. 9567, June 8, 1945; §§ 511.1–511.7.

NOTE: In §§ 511.302 to 511.337 the last two digits correspond with the number of the public circular from which the section is derived.

§ 511.302 *Public Circular No. 2.* The following are replies which the Treasury Department has made to inquiries:

(a) Drafts or other orders for payment drawn under irrevocable letters of credit issued in favor or on behalf of any blocked country or national thereof may not be presented, accepted or paid except pursuant to license.

(b) Drafts or other orders for payment, in which any blocked country or national thereof has on or since the effective date of the order had any interest, drawn under any irrevocable letter of credit may not be presented, accepted or paid except pursuant to license.

(c) Documentary drafts in which any blocked country or national thereof has on or since the effective date of the order had any interest may not be presented, accepted or paid except pursuant to license.

(d) Section 511.101 does not authorize any such payment into blocked accounts.

§ 511.303 *Public Circular No. 3.* The Treasury Department has made the following reply to inquiries relative to General Licenses 15, 53 (§ 511.153), and 58;

Transactions may be engaged in pursuant to the terms and conditions of such general licenses, irrespective of the ownership, control or documentation of the vessel on which the goods, wares and merchandise are shipped, and irrespective of whether or not freight on such goods, wares and merchandise has been prepaid.

NOTE: General Licenses 15 and 58 have been revoked (12 F. R. 97).

§ 511.304c *Public Circular No. 4C; instructions for preparation of reports of property subject to United States jurisdiction*—(a) *Introduction.* Series L of Form TFR–300 is to be used for certain kinds of reports supplementary or additional to the reports required on Series A through Series H of the Form, which Series were issued in 1941 pursuant to § 130.4 of the Regulations of April 10, 1940, as amended, under Executive Order No. 8389, as amended.

Paragraph (b) of this section specifies the cases in which reports are to be filed on Series L and also gives general instructions concerning the reports. Paragraph (c) of this section consists of a classification of property, which must be followed strictly in reporting. Detailed instructions for filling out Series L are provided by paragraph (d) of this section, and paragraph (e) of this section, gives special instructions for persons previously reporting on Series C through Series H. A table of exchange rates appears in paragraph (f) of this section.

Before attempting to prepare a report, a person required to report on Series L should read completely paragraphs (b), (c) and (d) of this section, and also paragraph (e) when it is pertinent.

Persons obliged to file a report on Series L are required in certain cases also to report on Series A through Series H, as appropriate, in accordance with para-

graph (b) of this section. Series L is not to be used in any case as a substitute for a report required on Series A through Series H. Detailed instructions for the preparation of reports on Series A through Series H are given in Public Circular No. 4.

Copies of Executive Order No. 8389, as amended, the regulations issued pursuant thereto, this Circular and Public Circular No. 4, and Series L and all other Series of Form TFR–300 may be obtained from any Federal Reserve Bank, the Governor of any territory or possession of the United States, or the Secretary of the Treasury, Washington, D. C.

(b) *General instructions*—(1) *Who must make report.* Report must be made on Series L of Form TFR–300 by:

(i) Nationals of foreign countries acquiring residence in the United States after February 23, 1942, who apply to be licensed as generally licensed nationals under § 511.142;

(ii) Persons in the United States whose property is blocked by specific direction of the Treasury Department under Executive Order No. 8389, as amended, except that a report is not required from a person obliged to report on Form TFR–30, relating to internees;

(iii) Persons in the United States having custody, control, or possession of property of other persons whose property is blocked by specific direction of the Treasury Department under Executive Order No. 8389, as amended;

(iv) Persons in the United States having custody, control, or possession of property of other persons (*a*) whose names appeared in the Proclaimed List of Certain Blocked Nationals on September 1, 1942, or (*b*) whose names are added to the list thereafter;

(v) Such other persons or groups or classes of persons, and in such cases or kinds of cases, as the Treasury Department may provide by regulation, circular, ruling, license, specific direction, or other means.

(2) *Effective date for reporting property*—(i) *Applicants for license under § 511.142.* A person applying to be licensed under § 511.142 must report all property subject to the jurisdiction of the United States on the opening of business on the date of the application for license in which property he has any interest of any nature whatsoever, direct or indirect.

(ii) *Persons whose property is blocked under Treasury direction.* A person in the United States whose property is blocked by specific direction of the Treasury Department under Executive Order No. 8389, as amended, must report all property subject to the jurisdiction of the United States on the opening of business on the date of the letter or other communication from the Treasury Department, a Federal Reserve Bank, or the Governor of a territory or possession of the United States, informing him of the blocking, in which property he has any interest of any nature whatsoever, direct or indirect.

(iii) *Persons holding property of other persons whose property is blocked under Treasury direction.* A person in the United States having custody, control, or possession of property subject to the jurisdiction of the United States in which another person whose property is blocked by specific direction of the Treasury Department under Executive Order No. 8389, as amended, has any interest of any nature whatsoever, direct or indirect, must report all of such property in his custody, control, or possession on the opening of business on the date specified for reporting in the letter or other communication from the Treasury Department, a Federal Reserve Bank, or the Governor of a territory or possession of the United States, notifying him of the blocking. A person having custody, control, or possession of such property who is not so notified of the blocking shall report the property held on the date he actually learns of the blocking. A report under the last sentence should include a detailed statement of the circumstances relating to the filing of the report.

(iv) *Persons holding property of other persons whose names are listed in The Proclaimed List of Certain Blocked Nationals.* A person in the United States having custody, control, or possession of property subject to the jurisdiction of the United States in which another person whose name appeared in The Proclaimed List of Certain Blocked Nationals on September 1, 1942, had any interest of any nature whatsoever, direct or indirect, must report all of such property in his custody, control, or possession on the opening of business on that date. A person in the United States having custody, control or possession of property subject to the jurisdiction of the United States in which another person whose name is added to The Proclaimed List of Certain Blocked Nationals after September 1, 1942, has any interest of any nature whatsoever, direct or indirect, must report all of such property in his custody, control, or possession on the opening of business on the date on which the addition of the person's name to the list is promulgated.

(v) *Other persons, directed by Treasury Department to file reports.* Other persons, directed by the Treasury Department to file reports on Series L, shall report such property on such date as may be required by the Department.

(3) *Amount of property.* Reports on Series L required under this section shall be made without any exemption whatever with respect to the amount of property involved.

(4) *Reports on previous Series of Form TFR–300*—(i) *Basic requirement of reports*—(*a*) *Persons reporting their own property.* Except as provided in (iii) and (iv) of this subparagraph, every person reporting his own property on Series L must also file a report on Series A or Series B, as appropriate, of Form TFR–300 with respect to all property subject to the jurisdiction of the United States on the opening of business on either June 1, 1940, or on June 14, 1941, or both, in which the person had any interest of any nature whatsoever, direct or indirect, even though such a report previously has not been required.

(*b*) *Persons reporting the property of other persons.* Except as provided in (iii) and (iv) of this subparagraph, every person reporting the property of another person on Series L must also file a report or reports on the appropriate series of Series A through Series H of Form TFR–300 with respect to all property in the custody, control, or possession of the person reporting and subject to the jurisdiction of the United States on the opening of business, on either June 1, 1940, or June 14, 1941, or both, in which the person whose property is reported on Series L had any interest of any nature whatsoever, direct or indirect, even though such a report or reports previously have not been required.

(ii) *Instructions for reporting on Series A through Series H.* Reports on Series A through Series H required under this paragraph shall be prepared in accordance with the instructions in Public Circular No. 4, except as said instructions are inconsistent with the provisions of this paragraph. Questions 8 through 16 in Part E of Series B may be disregarded. At the top of the first page of each report on Series A through Series H there shall be written the phrase required to be inserted in Part A of the corresponding report on Series L by paragraph (d) (iii) of this section.

(iii) *Exemptions.* The reports on Series A through Series H required under this paragraph shall be made without any exemptions whatever, except that if the total value of any property of any national which any one person would otherwise be required to report was on both June 1, 1940, and June 14, 1941, less than $1,000, the property need not be reported: *Provided,* That this exemption shall not apply to the lease of a safe-deposit box, to patents, trade-marks, copyrights, and franchises, to interest in partnerships and profit-sharing agreements, nor to property the value of which cannot readily be determined: *And provided further,* That in arriving at the value of $1,000, no deduction shall be made for offsets, liens, or other deductions from gross value. If a person held property of a kind which must be reported without exemption by virtue of the first proviso in the preceding sentence, he must also report all other property held, regardless of the value of such other property.

(iv) *Reports previously filed on Series A through Series H.* If a report or reports on Series A through Series H have previously been filed in a case where a report or reports are otherwise required by this paragraph, no report need be filed under this paragraph; *Provided,* That the report or reports previously filed are substantially identical with those required under this paragraph. In this respect, only, a difference in entries under the nationality caption shall not be regarded as substantial, but if such a difference appears it should be fully explained in the report on Series L.

(v) *Reports previously required but not filed.* The provisions of this section in no way excuse the filing of any report on Series A through Series H of Form TFR–300 which would be required if this section had not been issued, but which is not required under this section.

(5) *Definitions*—(i) *"Person," "foreign country," and "national."* The terms "person," "foreign country," and "national" are defined as follows in section

5 of Executive Order No. 8389, as amended:

C. The term "person" means an individual, partnership, association, corporation, or other organization.

D. The term "foreign country" shall include, but not by way of limitation,

(i) The state and the government thereof on the effective date of this Order as well as any political subdivision, agency, or instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion, possession or place subject to the jurisdiction thereof,

(ii) Any other government (including any political subdivision, agency, or instrumentality thereof) to the extent and only to the extent that such government exercises or claims to exercise de jure or de facto sovereignty over the area which on such effective date constituted such foreign country, and

(iii) Any territory which on or since the effective date of this Order is controlled or occupied by the military, naval or police forces or other authority of such foreign country,

(iv) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since such effective date, acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing.

Hong Kong shall be deemed to be a foreign country within the meaning of this subdivision.

E. The term "national" shall include,

(i) Any person who has been domiciled in, or a subject, citizen or resident of a foreign country at any time on or since the effective date of this Order.

(ii) Any partnership, association, corporation or other organization, organized under the laws of, or which on or since the effective date of this Order had or has had its principal place of business in such foreign country, or which on or since such effective date was or has been controlled by, or a substantial part of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of which, was or has been owned or controlled by, directly or indirectly, such foreign country and/or one or more nationals thereof as herein defined,

(iii) Any person to the extent that such person is, or has been, since such effective date, acting or purporting to act directly or indirectly for the benefit or on behalf of any national of such foreign country, and

(iv) Any other person who there is reasonable cause to believe is a "national" as herein defined.

In any case in which by virtue of the foregoing definition a person is a national of more than one foreign country, such person shall be deemed to be a national of each such foreign country. In any case in which the combined interests of two or more foreign countries designated in this Order and/or nationals thereof are sufficient in the aggregate to constitute, within the meaning of the foregoings, control of 25 per centum or more of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of a partnership, association, corporation or other organization, but such control or a substantial part of such stock, shares, bonds, debentures, notes, drafts, or other securities or obligations is not held by any one such foreign country and/or national thereof, such partnership, association, corporation or other organization shall be deemed to be a national of each of such foreign countries. The Secretary of the Treasury shall have full power to determine that any person is or shall be deemed to be a "national" within the meaning of this definition, and the foreign country of which such person is or shall be deemed to be a national. Without limitation of the foregoing, the term "national" shall also include any other person who is determined by the Secretary of the Treasury to be, or to have been, since such effective date, acting or purporting to act directly or indirectly for the benefit or under the direction of a foreign country designated in this Order or national thereof, as herein defined.

(ii) *United States.* With respect to reports on Series L, the term "United States" means the United States and any place subject to the jurisdiction thereof except the Philippine Islands.

(iii) *Custody, control, or possession.* The term "custody, control, or possession of property" includes holding or holding title to property in any manner whatsoever, having authority over property as agent, attorney, trustee, or otherwise, owing a debt or other obligation, or having been informed or notified of or subjected to a claim, demand, action, suit, or proceeding, being party to a contract of any nature whatsoever, or having issued financial securities or being subject to any right or claim by way of ownership, control, or participation, in the nature of a proprietorship interest or otherwise.

(iv) *Persons whose property is blocked.* The term "person whose property is blocked" shall include a national who claimed to be licensed under General Licenses Nos. 28 (§ 511.128), 42 (§ 511.142), 68, 73 or 80 but who is specifically ruled by the Treasury Department not to have been entitled to the privileges of the license involved.

(6) *Separation of reports for different nationals.* A separate report shall be made with respect to each person whose property is to be reported on Series L. For example, if the person reporting owes debts to two nationals whose property is to be reported, he will make two separate reports, listing on each report all of his debts to the particular person for whom that report is made. If he owes one debt jointly to two persons whose property is to be reported, he will again make two separate reports, entering the whole debt on each. Any duplication in reporting the same property on several reports or duplication by reason of several persons reporting the same property shall not excuse anyone from rendering all reports required of him.

(7) *Time and place of filing report—*

(i) *Place.* Reports on Series L, and reports on Series A through Series H required by subparagraph (4) of this paragraph, must be executed and filed in quadruplicate with the Federal Reserve Bank of the district or the Governor of the territory or possession of the United States in which the person filing the report resides or has a principal place of business or principal office or agency, or if such person has no legal residence or place of business or principal office or agency in a Federal Reserve district or a territory or possession of the United States, then with the Federal Reserve Bank of New York or the Federal Reserve Bank of San Francisco. Persons reporting should retain a copy of each report filed by them.

(ii) *Time.* (*a*) Reports by an applicant for license under § 511.42 shall be filed at the same time as the license application.

(*b*) Reports by a person whose property is blocked under Treasury direction shall be filed at such time as shall be required in the letter or other communication informing the person of the blocking.

(*c*) Reports by a person having custody, control, or possession of property of another person whose property is blocked by direction of the Treasury Department shall be filed at such time as shall be required in the letter or other communication notifying the person reporting of the blocking. A person who is not notified of the blocking shall file reports within fifteen days from the date on which he actually learns of the blocking.

(*d*) Reports by a person having custody, control, or possession of property of another person whose name appeared in the Proclaimed List of Certain Blocked Nationals on September 1, 1942, shall be filed on or before October 31, 1942. Reports with respect to property of a person whose name is added to the list after September 1, 1942, shall be filed within fifteen days from the date on which the addition of the person's name to the list is promulgated.

(*e*) Other persons directed by the Treasury Department to report shall file reports within such time as may be directed by the Department.

(8) *Penalties.* Section 5 (b) of the Act of October 6, 1917 (40 Stat. 415; 50 U. S. C. App. 5), as amended, applicable hereto, provides in part:

* * * Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than $10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director or agent, of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

(9) *Information regarding preparation of reports.* Anyone desiring information as to whether or not he is required to make a report on any series of Form TFR–300 may apply to any Federal Reserve Bank. Questions and answers relating to Public Circular No. 4 and Series A through Series H which were published after consultation with the Treasury Department may be relied upon in preparing Series L where not inconsistent with this section or Series L.

(c) *Property classes.* Before preparing any report, read this paragraph in detail. This section requires reports on Form TFR–300, Series L, of all property subject to the jurisdiction of the United States in which persons specified in paragraph (b) (2) of this section, had any interest on the effective dates provided by paragraph (b) of this section. In this paragraph property is classified for purposes of the reports. It is imperative that all property be entered under the correct type on Series L, which requires that the person reporting state whether or not he has reported the value of all property he is called upon to report therein.

The classification herein is identical with that provided in section III of Public Circular No. 4.

Class A. *Bullion, currency, and deposits.* (1) Bullion, both gold and silver; (2) Currency and coin, United States

and foreign; (3) Demand deposits payable in the United States in United States dollars or foreign currency, including any and all demands deposits or accounts maintained with any bank or broker, or others, in the national's own name or jointly with one or more other persons, or on which he has authority to draw, or maintained in some other name for the present or future benefit of the national, or in which the national has an interest, whether or not he has the right to draw thereon; (4) Other deposits payable in the United States in United States dollars or foreign currency, maintained with any bank, broker, or others, including savings accounts, compound interest accounts, accounts represented by certificates of deposit, postal savings accounts, and any and all other accounts, other than demand deposits, maintained in the national's own name or jointly with one or more other persons, or on which he has authority to draw, or maintained in some other name for the present or future benefit of the national, or in which the national has an interest, whether or not he has the right to draw thereon.

Class B. *Financial securities.* (5) United States Government obligations, including all United States bonds, registered or bearer, notes, bills, certificates of indebtedness, savings stamps, matured coupons, attached or detached, and every other such direct obligation of the United States Government, and all obligations evidenced by financial securities guaranteed as to principal or interest by the United States Government, but not obligations not so guaranteed as to principal or interest; (6) State, municipal, and other local government obligations, including bonds, registered or bearer, matured coupons, attached or detached, notes, certificates of indebtedness, and any other such obligations of any state, territory, district, or possession of the United States, and of any agency or instrumentality or subdivision thereof, and of all municipal corporations, including, without limitation, cities, towns, townships, counties, parishes, irrigation districts, school, water, drainage, and tax districts, special authorities, and any other similar obligations, and including certificates of deposit with respect to any of the foregoing; (7) Bonds of domestic corporations, including mortgage bonds, registered or bearer, and matured coupons, attached or detached, debentures, notes, income bonds, and any other evidences of funded debt, past due or to become due, and all receiver's or trustee's certificates and similar instruments, and any other obligation evidenced by an instrument, negotiable or otherwise, representing funded corporate debt, executed or issued by or in the name of any corporation organized under the laws of the United States or of any State, territory, district, or possession thereof, including all such obligations of any agency or instrumentality of the United States not guaranteed as to principal or interest by the United States Government and including certificates of deposit with respect to any of the foregoing; (8) Common stocks of domestic corporations, of whatever class, voting or nonvoting, including debenture stock, participating stock, and any other type or kind of stock [other than preferred stock], interests in voting trusts, stock pools, and similar interests, and any trustee's certificates, by whatever name called, representing shares or beneficial interests in any business trust or other type of unincorporated business organization except a partnership; (9) Preferred stocks of domestic corporations, including all stock, voting or nonvoting, issued by any domestic corporation to which any preference of any kind attaches, over any other issue of stock of that same corporation; (10) Foreign securities held in the United States, including mortgage and other bonds, registered or bearer, and matured coupons, attached or detached, debentures, notes, and any other evidences of funded debt, past due or to become due, negotiable or otherwise, executed or issued either within or without the United States by a foreign government or any subdivision, instrumentality, or agency thereof, whether or not incorporated, or by any corporation or other association or organization, business or otherwise, organized and existing under the laws of any country other than the United States, representing funded debt thereof and all stock, common or preferred of all types or kinds, and any other instrument by whatever name called, representing shares or beneficial interests in any such corporation, organization, or association and including certificates of deposit with respect to any of the foregoing; (11) Warrants, scrip, rights, and options; other securities, warrants, scrip, rights, options, or other instruments evidencing the right to receive, purchase, or acquire any financial security or interest therein, absolutely or upon contingency, and all other contracts relating to the purchase or sale of financial securities, issued or unissued; and any other financial securities whatsoever or rights therein, commonly dealt in by bankers, brokers, and investment houses in the United States or elsewhere.

Class C. *Notes and drafts; debts to and claims by nationals.* (12) Checks, drafts, acceptances, and notes, including all checks, cashier's or official bank checks, sight drafts, time drafts, banker's acceptances, trade acceptances, promissory notes, and any and all other notes, drafts, or bills of exchange, and payment orders and remittances; (13) Letters of credit, including all similar instruments or agreements, wherein the obligation of any bank thereunder arises directly or indirectly at the request of, or for the account of, a national or extends to any national named in the letter of credit, or otherwise known, who has any rights, contingent or absolute, to receive any payments in any amount pursuant to the terms of the letter of credit or in reimbursement for any unused portion thereof; (14) Debts, claims, demands, and contracts, including book accounts, accounts receivable, judgments, awards; indebtedness and claims arising under contracts, policies of insurance, and surety and indemnity bonds, draw-backs, rebates, and refunds; and including all other debts, claims, and demands due or past due for the payment of money whether or not secured in any manner whatsoever (other than any represented by an instrument evidencing funded debt, or classified under some other type), due or claimed to be due to a national from any person or corporation residing or doing business in the United States or subject to the jurisdiction thereof, except where the debt was payable only on special demand and the place where due demand therefor could be made is not within the United States; and any and all contracts and rights under contracts, not otherwise classified, to which a national was a party or in which a national had any interest whatever, present or future, vested or contingent, executory or partly executed, liquidated or unliquidated, regardless of the nature of the contract or the nature and extent of the national's interest therein.

Class D. *Miscellaneous personal property; personal property liens.* (15) Warehouse receipts, bills of lading, and any and all other instruments, negotiable or otherwise, representing claims to or on personal property; (16) Options and futures in commodities, traded on any commodity exchange, including any interest in, or present or future claims to, any commodities or the proceeds of the sale of any commodities; (17) Goods and merchandise for business use, except jewelry, etc., including stocks of raw materials, agricultural products, goods in process, finished goods in stock or on consignment, goods on vessels or otherwise in transit, other than jewelry, precious stones, and precious metals; (18) Jewelry, precious stones, and precious metals, other than bullion, whether held for personal use, or as stock in trade, or for other commercial purposes; (19) Machinery, equipment, and livestock, for business use, all machinery or equipment on hand, stored, or in use, automobiles (business), trucks, automotive or otherwise, and other vehicles, office equipment and furnishings, and whatever else of like or similar type, customarily classified as machinery and equipment, vessels of any type and tonnage, charter parties, and all other interests represented by instrument or otherwise in the ownership, rights to possession, use, or control of any vessel (other than maritime or other liens thereon); farm machinery and equipment, livestock, and all other tangible personal property used in the operation of any business or occupation; (20) Objects of art and furnishings for personal use, including all art objects, coin and stamp collections, household furniture and furnishings, automobiles (personal), and all other tangible personal property not used for commercial purposes; (21) Liens on and claims to personal property, not otherwise classified, including trust receipts, bills of sale, contracts for conditional sale or resale, lease-sale arrangements, repurchase agreements, chattel mortgages, pledges; maritime, cattle, timber, and crop liens; and all other instruments not otherwise classified evidencing any lien on, or claim to, personal property, and all other liens on or claims to personal property, not represented by any instrument by whatever name called, arising by agreement or by operation of law.

Class E. *Real property; mortgages; other rights to land.* (22) Lands and

buildings for personal use, including only property used exclusively as a dwelling by the national and his family and not more than one other family; (23) Lands and buildings other than for personal use, including all property used as a dwelling other than that classified under type 22 preceding, all lands and the buildings, structures, and other improvements thereon used for commercial, manufacturing, mercantile, agricultural, and other business purposes, and interests therein; ground rents, leaseholds, together with rents, accrued or to accrue, tax warrants, easements, mineral rights, oil rights, timber and other rights in or to land or the products thereof or a share therein, royalties, and any other rights in the lands of another; (24) Mortgages on real property; other rights to land, mortgage bonds, mortgage notes (other than corporate mortgage bonds or notes represented by financial securities), mortgage participation certificates, guaranteed or otherwise, deeds of trust, and any other bond, note, or other instrument secured by a lien on any real property or interest therein; contracts for the purchase and sale of real property, whether or not partially executed, options, and any and all other rights or interests in or liens, vested or contingent, upon real property or upon an interest in real property.

Class F. *Patents, trade-marks, and copyrights; franchises.* (25) Patents, trade-marks, copyrights, and inventions, including patents, trade-marks, registered or unregistered, copyrights, inventions, and secret processes, or any present, future, or contingent interest therein and agreements pertaining thereto; all rights incidental to the ownership of patents, trade-marks, or copyrights, including applications therefor and licenses, by definition or otherwise, immunities, and assignments, relating thereto, and any other contracts affecting or involving the foregoing such as, but not by way of limitation, the right to receive royalties, including any royalties due and unpaid, royalties paid in advance, reciprocal licensing arrangements and contracts by which any information in the nature of technical data, know-how, or otherwise, is transmitted or exchanged, or any right therein by which any license or privilege is granted or may be exercised, to examine the operations of any plant, factory, or other productive unit, to examine or supervise the books thereof, to inspect any finished product, or to have the right of visitation or any other such right incidental to or separate from the right to receive royalties or other compensation; (26) Franchises, concessions, licenses, and permits, by any of which any special right or privilege may be exercised affecting the commencement, continuation, or conduct of a business, or as an incident thereto.

Class G. *Estates and trusts.* (27) Interests in estates and trusts, each and every right or interest, present or future, absolute or contingent, in or to any of the property or estate of a deceased person, which may belong to the national or in which he has an interest, whether the same exists by reason of the provisions of a last will and testament or by operation of law in case of the intestacy of the deceased, and all other rights or interests, present or future, absolute, revocable, or contingent, belonging to the national or in which he has an interest, in or to any property or fund held or controlled by a trustee or other fiduciary by whatever name described.

Class H. *Partnership and profit-sharing agreements.* (28) Interests under partnership and profit-sharing agreements, all partnership agreements, general, special, limited, or other type, agreements for joint adventures; profit-pooling and profit-sharing agreements and any and all other rights to receive, or share in, profits of partnerships, business trusts, or other nonincorporated business organizations (not represented by a financial security), whether or not the rights granted under such agreement are security for a debt due, or as a manner or method of liquidating such debt or otherwise.

Class I. *Insurance policies; annuities.* (29) Surrender value of insurance policies; present value of annuities, of all types, including pensions and endowments and pension and endowment contracts, determined in accordance with standard actuarial practice.

Class J. *Other property.* (30) Other property, not classifiable under types 1 to 29, including any and all other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent; debts due or to become due, claims, demands, actions, causes or things in action, or interest therein, not specified, mentioned, or referred to in any of the foregoing property classes designated "Class A" to "Class I," inclusive.

(d) *Detailed instructions for filling out form*—(1) *Purpose of form.* Series L is to be used to report property of certain persons as required under this section. See particularly paragraph (b) (1) and (2) of this section.

(2) *Instructions applicable to entire series*—(i) *Reading circular.* If you have not already read carefully paragraphs (a), (b) and (c), of this section, do so before reading this paragraph. Persons reporting property which previously should have been reported on Series C through Series H of Form TFR-300 and not on Series A or Series B should also read paragraph (e) of this section before attempting to prepare a report.

(ii) *Answers required.* Each question on the Series must be answered, and all the specific information called for must be given. When there is nothing to report under any question or if information is lacking, state "No," "None," or "Unknown," as the case may be, with an explanation if required, except that in Part C spaces not needed for reporting should be left blank. No person is excused from furnishing any information he reasonably should have.

(iii) *Number of copies required.* File each report in quadruplicate. You should retain for yourself an additional copy of each report.

(3) *Effective date of report.* Each person reporting shall enter in this space the effective date of the report as provided by paragraph (b) (2) of this section. Great care should be taken that the proper date is entered. Do not enter the date on which the report is filled out or the date on which the affidavit to the report is subscribed and sworn.

(4) *Nationality*—(i) *General.* Enter in this space the name of each country of which the person whose property is being reported is a national, as defined in section 5E of Executive Order No. 8389, as amended. If the person is a national of any foreign country by reason of any fact other than that such person has been a subject or citizen of the country, the facts determining the person's nationality must be stated in question 5 of Part E. In answering question 5, state all the facts concerning the nationality of the person, including those relating to his status as a national of the country, if any, of which he has been a subject or citizen.

(ii) *Proclaimed list.* If the person whose property is being reported is listed on The Proclaimed List of Certain Blocked Nationals, insert the words "Proclaimed List" under the nationality caption, in addition to the name of each foreign country of which the person is a national. Do not insert the name of any foreign country merely because the person is listed on the Proclaimed List of Certain Blocked Nationals.

(5) *Part A.* (i) *Name.* If the national is an individual doing business under a trade name, give that name in addition to his actual name.

(ii) *Citizenship.* If the national is not an individual, enter the name of the country, State, district, territory, or possession under the laws of which it is incorporated, or, if unincorporated, in which it has its principal place of business. When the national is a subject or citizen of more than one country, state the name of each country, including the United States when that is one of the countries.

(iii) *Reason for report.* (*a*) An applicant for license under § 511.142 should make a statement in the following form: "General License No. 42 Application report—application dated _____, 1942," with the appropriate date.

(*b*) A person whose property is blocked by specific direction of the Treasury Department should make a statement in the following form: "Filed pursuant to blocking letter from Federal Reserve Bank of _____, dated _____, 194__," with appropriate insertions. If notice of the blocking is received from a source other than a Federal Reserve Bank, the insertion should be modified accordingly.

(*c*) A person holding property of another person, whose property is blocked by specific direction of the Treasury Department should make a statement in the following form: "Filed pursuant to blocking letter from the Federal Reserve Bank of _____, dated _____, 1942," with appropriate insertions. If notice is received from a source other than a Federal Reserve Bank, the statement should be modified accordingly. A person reporting without having received any notice should utilize this space for the explanation required under paragraph (b) (2) (iii) of this section.

(*d*) A person holding property of another person whose name appeared on

The Proclaimed List of Certain Blocked Nationals on September 1, 1942, should enter "Proclaimed List—September 1, 1942." A person holding property of a person whose name is added to the List after September 1, 1942, should make a statement in the following form: "National's name added to Proclaimed List on ----------, 1942," with the appropriate date.

(e) Other persons, reporting by direction of the Treasury Department, shall make such statement as may be required by the Department.

(6) *Part B—(i) Person reporting his own property.* A person reporting his own property need not fill out this part further than to enter his name in the part.

(ii) *Persons reporting property of others.* A person reporting the property of another should state in Part B, as indicated in the margin thereof: (a) his name; (b) his address; (c) his business; (d) the state or country of which he is a citizen or under the laws of which it is incorporated or, if unincorporated, in which it has its principal place of business; (e) if the person reporting is a national as defined in section 5E of Executive Order No. 8389, as amended, the name of each country of which he is a national; and (f) his relationship to the national whose property is being reported, e. g., as agent, nominee, trustee, custodian, banker, etc. The information may be given by any method producing a readily legible impression.

(7) *Part C. Schedule I—(i) General.* This schedule requires the valuation of all the property of the person whose property is being reported within each property type contained in the classification set out in paragraph (c) of this section, which must be followed strictly. Property not falling under any of the other types of the classification must be reported under type 30, but no property shall be reported under type 30 if it constitutes property reportable under any other type.

(ii) *Valuation.* Enter in the column for property holdings the total value of the items of each type of property held on the effective date of the report, at the market price at the close of business on the preceding day, or, if such price is not available, at the estimated value on the effective date. In estimating value, the last sale price or bid, if reasonably close to the effective date, may be used as a basis. Concerning the effective date, see subparagraph (3) of this paragraph.

All amounts reported should be given in dollars to the nearest dollar. Do not enter fractions of a dollar on the report. However, in determining the value of a property item consisting of more than one unit, fractions of a dollar in the unit value should not be disregarded. For example, if 10 shares of a particular stock are to be reported and the value of each share was $116\frac{3}{8}$, so that the exact total value was $1,163.75, the amount entered on the report should be $1,164.

(iii) *Value expressed in foreign currency.* Property, the value of which was expressed in a foreign currency, or which was to be paid or liquidated in a foreign currency, shall be valued at the dollar value if dollar market value existed for such property itself; if not, the foreign currency value thereof shall be converted into dollars, in accordance with the instructions relating to exchange rates given in paragraph (f) of this section.

(iv) *Property of indeterminable value.* In reporting property of indeterminable value, enter "indeterminable" under the appropriate property type in Schedule I and describe the property in Schedule III, as required by subparagraph (9) of this paragraph. When property of determinable value and property of indeterminable value are to be reported under one property type in Schedule I, the determinable amount should be entered under the property type without indication of the property having indeterminable value, but descriptions of the items should be given in Schedule III in accordance with subparagraph (9) of this paragraph.

(v) *Inventories.* If in the regular course of its business, a person engaged in business prepared an inventory of merchandise, and machinery and equipment, or either, within a year of the effective date of the report, and if the information required to be furnished in Schedule I is not available from other existing records of the national, such inventory prepared nearest to the effective date and the values indicated thereon may be used in filling out Schedule I, with appropriate notation of such use, including the date of the inventory.

(vi) *Orders for goods.* Orders for goods and contracts for the sale of goods need not be reported, but report must be made of long-term merchandise contracts.

(vii) *Goods in transit.* Goods in transit need be reported only by nationals reporting their own property, but goods in storage must be reported by any person having custody, control, or possession of the goods, including carriers holding goods in storage.

(8) *Part C. Schedule II.* This schedule requires a statement of the indebtedness of the national payable to persons in the United States, within each indebtedness type as classified and described in the schedule. State under each type only the total amount of indebtedness of that type being reported. Nationals reporting for themselves should enter all their indebtedness of each type. Persons reporting concerning nationals should enter only the indebtedness owed by the national to them. All amounts should be given in dollars to the nearest dollar. Do not enter fractions of a dollar. Indebtedness payable in foreign currency should be converted into dollars in accordance with the instructions relating to exchange rates given in paragraph (f) of this section.

(9) *Part C. Schedule III—(i) Property items to be listed.* List in this schedule, in the order in which the property types are given in Schedule I subparagraph (7) of this paragraph, each item of property, concerning which report is being made, having a value of $1,000 or more on the effective date of the report: *Provided*, That persons reporting by virtue of paragraph (b) (1) (ii) and (iii) of this section shall list all items of property, without exception as to value. Property items included in Class F, i. e., patents, trademarks, copyrights, and franchises, and in Class H, i. e., partnership and profit-sharing agreements, shall be listed, even though valued at less than $10,000. However, no reference whatever should be made to any invention with respect to which a secrecy order has been issued by the Commissioner of Patents pursuant to the act of October 6, 1917 (40 Stat. 394; 35 U. S. C. 42), as amended. Also, list all items of property, the value of which is not readily determinable. Except as provided in this paragraph, property items of a value less than $1,000 should not be listed in this schedule, although the value of each must be included in the total value of property of the appropriate type in Schedule I.

(ii) *Definition of property item.* A property item is any unit of property commonly bought, sold, assigned, released, or alienated, except that the total of wholly similar units of the same kind is regarded as one item, such as a number of certificates each for shares of stock of the same issue, or a number of bonds of the same issue, or several head of cattle. The total number of units of such property shall be stated, but in other respects the property may be treated entirely as one item. Several bank accounts with the same institution, or several debts payable by the same debtor, shall be itemized separately in this schedule if the aggregate amount thereof exceeds $1,000, even though each individual item is less than $1,000.

(iii) *Method of listing.* Enter in Column (a) the number of the property type in which the item is included. Enter in Column (b) a short description or identification of the property item. In case of property, such as a patent, commonly referred to by number or other similar designation, state briefly the object or nature of the property in addition to the number or other designation. With regard to property other than debts and claims, enter in Column (c) in addition to other appropriate information, the name and address of the person, if any, with whom the property was deposited or by whom it was held, and give the number or other designation of any safe deposit box or similar receptacle, if any, in which the property was kept. Respecting deposits, debts, etc., owed to the national, state the name and address of the debtor and disregard the location of the evidence of indebtedness. If the property was held by or owned by the person reporting, it will suffice to state "Person reporting" in place of the name and address. Enter in Column (d) the value of each property item on the effective date of the report, as determnied in accordance with the provision for valuation in subparagraph (7) of this paragraph.

(iv) *Continuation sheets.* Continuation sheets identical in form with Schedule III are provided for the use of persons reporting who find the space in Schedule III insufficient.

(10) *Part D. Section I.* All the information called for in the questions under this part must be given as of the effective date of the report for each of the prop-

erty items listed in subparagraph (9) of this paragraph, Schedule III. In the answers, each item of property shall be designated by the number of its type and by its description, or a summary of the description, subparagraph (9) of this paragraph, Schedule III.

(11) *Part D, Section II.* The questions in this section must be answered by every person reporting on Series L. The purpose of the section is to obtain definite information whether a report or reports on Series A through Series H of Form TFR–300, in accordance with paragraph (b) (4) of this section, should be filed by the person reporting on Series L. Persons who answer the applicable part of question 1 in the affirmative and who answer question 2 (a) in the negative must file a report or reports on Series A through Series H unless the property comes within the exemption provided by paragraph (b) (4) (iii) of this section.

(12) *Affidavit*—(i) *Necessity and manner of execution.* The report must be signed and sworn (affirmed) to before an officer authorized to administer oaths whose seal must be affixed. Reports will not be accepted unless properly executed. The affidavit need be attested only on the original of the report but the affidavits on copies must be fully conformed except as to the notarial seal.

(ii) *Who shall execute.* Affidavits on behalf of partnerships shall be executed by a partner. Affidavits on behalf of any other organization shall be executed by the president, vice-president, secretary, or some other principal officer authorized to make the report on behalf of the organization.

(e) *Special instructions to persons previously reporting on Series C through Series H.* Persons holding property which they should have reported on Series C through Series H of Form TFR–300, if the reporting dates for those series had extended to the date for reporting on Series L, should prepare Part C and Part D, section I, of Series L as nearly as possible in the same manner as they would have reported on Series C through Series H. It is intended that the reports on Series L of property which previously would have been made on Series C through Series H shall be as closely comparable as possible in data and presentation to reports on those Series. Persons who would have reported safe-deposit boxes on Series D should utilize Part E, questions 6, 7, and 8 of Series L, instead of Part C and Part D, section I.

The provisions of this paragraph in no way excuse the filing of reports on Series C through Series H which are required under this Circular or under Public Circular No. 4.

(f) *Table of exchange rates.* Where the value of property expressed in terms of foreign currency is required to be converted into dollars, the rates of exchange set forth below should be used. If no rate is given for a country, the latest rate next before the effective date of the report, as generally quoted by foreign exchange dealers or other recognized sources of information, shall be used. Such rate should be clearly stated in the report.

The exchange rates given in this table are for use only in preparing reports on Form TFR–300, Series L, and are not intended to be used or relied upon in any other connection or for any other purpose whatsoever. In making reports on Series A through Series H of Form TFR–300 in accordance with paragraph (b) (4) of this section, the instructions and table of exchange rates set forth in section XIII of Public Circular No. 4 should be employed.

| Country | Monetary unit | U. S. cents per unit |
|---|---|---|
| Argentina | Peso | 23.7 |
| Australia | Pound | 323.0 |
| Belgium | Belga | 17.0 |
| Bolivia | Boliviano | 2.1 |
| Brazil | Milreis | 4.9 |
| British India | Rupee | 30.0 |
| Bulgaria | Lev | 1.2 |
| Canada | Dollar | 91.0 |
| Chile | Peso | 3.2 |
| China | Yuan | 5.3 |
| Colombia | Peso | 57.0 |
| Cuba | Peso | 100.0 |
| Denmark | Krone | 19.3 |
| Ecuador | Sucre | 7.1 |
| Egypt | Pound | 406.0 |
| Eire | Pound | 403.0 |
| Finland | Markka | 2.0 |
| France | Franc | 2.3 |
| French Indo China | Piaster | 23.0 |
| Germany | Reichsmark | 40.0 |
| Greece | Drachma | .7 |
| Hong Kong | Dollar | 25.0 |
| Hungary | Pengo | 19.8 |
| Italy | Lira | 5.3 |
| Japan | Yen | 23.4 |
| Mexico | Peso | 20.6 |
| Netherlands<br>Netherlands East Indies<br>Netherlands West Indies | Guilder | 53.0 |
| New Zealand | Pound | 323.0 |
| Norway | Krone | 23.0 |
| Panama | Balboa | 100.0 |
| Peru | Sol | 15.4 |
| Philippine Islands | Peso | 50.0 |
| Poland | Zloty | 19.0 |
| Portugal | Escudo | 4.0 |
| Rumania | Leu | .5 |
| Russia | Ruble | 19.0 |
| South Africa | Pound | 398.0 |
| Spain | Peseta | 9.0 |
| Straits Settlement | Dollar | 47.0 |
| Sweden | Krona | 23.8 |
| Switzerland | Franc | 23.2 |
| Turkey | Pound | 75.0 |
| United Kingdom | Pound | 403.0 |
| Uruguay | Peso | 52.6 |
| Venezuela | Bolivar | 30.0 |
| Yugoslavia | Dinar | 2.0 |

NOTE: § 130.4 of Title 31, General Licenses Nos. 68, 73, and 80, and Public Circulars Nos. 4, 4A, and 4B were revoked (11 F. R. 7184, 6 F. R. 6304, 12 F. R. 97, 11 F. R. 9617, 11 F. R. 7184, 10 F. R. 4063, respectively).

§ 511.305 *Public Circular No. 5.* (a) Reference is made to §§ 511.172 and 511.172a (General Licenses Nos. 72 and 72a) issued by the Treasury Department, and to General Orders Nos. 11, 12 and 13, and the regulations issued thereunder, issued by the Alien Property Custodian.

(b) Pursuant to section 2 (d) of Executive Order No. 9095, as amended July 6, 1942, the Alien Property Custodian has assumed full power and authority over the filing and prosecution of applications for United States patents, trade-marks and copyrights, and transfers and other dealings with respect thereto, in which a blocked country or national thereof has, on or since the effective date of Executive Order No. 8389, as amended, had an interest. This action was taken through the issuance by the Alien Property Custodian of General Orders Nos. 11, 12 and 13 and regulations thereunder. At the same time, the Treasury Department amended § 511.172 so that, to the extent that the Alien Property Custodian has assumed jurisdiction, the Treasury Department relinquishes it under Executive Order No. 8389, as amended.

(c) In addition, § 511.172 has been amended to authorize the payment of fees to the United States Government and, with limitations, the customary fees and charges of attorneys in the United States arising in connection with the filing and prosecution in the United States of patent, trade-mark and copyright applications. Payment is not permitted from an account in which an enemy national has an interest. These provisions will facilitate the administration of General Orders Nos. 11, 12 and 13 and regulations issued thereunder by the Alien Property Custodian.

(d) It is to be noted, in connection with § 511.172, that transactions relating to United States patents, trade-marks and copyrights, which involve communication from an enemy national have been authorized notwithstanding § 511.211 (General Ruling No. 11). This action was taken by the Treasury Department at the request of the Alien Property Custodian.

(e) Jurisdiction over patents, trade-marks or copyrights in which a blocked interest exists and which are issued by any foreign country remains in the Treasury Department and dealings therein are subject to Executive Order No. 8389, as amended.

(f) Section 511.172a authorizes transactions relating to the filing and prosecution of applications for patents, trade-marks or copyrights in any foreign country, the receipt of documents issued in connection therewith, the payment of fees currently due to the government of any foreign country not within enemy territory, and, within limitations, the payment of reasonable and customary attorneys' fees, in which a blocked country or national, except an enemy national, has an interest.

(g) Section 511.172a does not authorize any transaction involving trade or communication with an enemy national and the Treasury Department will continue to observe its general policy of denying applications to effect such transactions.

(h) Public Circular No. 5A is hereby revoked.

NOTE: Public Circular No. 5A appears at 7 F. R. 3471.

CROSS REFERENCE: For the text of regulations issued by the Alien Property Custodian, see Parts 501–510 of this chapter.

§ 511.305b *Public Circular No. 5B.* (a) Reference is made to the provisons of the regulations issued by the Alien Property Custodian under General Orders Nos. 11 and 13 (§§ 507.1 and 507.51 of this chapter), relating to the establishment of special accounts and the prohibition of transfers of interests in such special accounts.

(b) Any special account established pursuant to such regulations shall hereafter be deemed not to be a blocked account as that term is defined in § 511.204 (General Ruling No. 4), and payments, transfers, or withdrawals from any such special account upon the approval or other authorization of the Alien Property

Custodian may be effected in the same manner and to the same extent as payments, transfers, or withdrawals may be effected from an account in which no national of any blocked country has an interest. Payments or transfers of credit may be made to any such special account pursuant to such regulations without a Treasury license to the same extent that payments and transfers thereto could be made under § 511.101 (General License No. 1) if such special account were a blocked account.

§ 511.308 *Public Circular No. 8.* All general licenses, specific licenses, and authorizations of whatsoever character are hereby revoked insofar as they authorize, directly or indirectly, any transaction by, on behalf of, or for the benefit of, Japan, or any national thereof.

§ 511.308a *Public Circular No. 8A.* All general licenses other than those listed below are hereby reinstated to the extent that they were revoked by Public Circular No. 8.

| | |
|---|---|
| General License No. | 56 |
| General License No. | 58 |
| General License No. | 59 |
| General License No. | 60 |
| General License No. | 61 |
| General License No. | 63 |
| General License No. | 65 |
| General License No. | 66 |
| General License No. | 68 |
| General License No. | 69 |
| General License No. | 75 |

NOTE: General Licenses Nos. 56, 58, 59, 60, 61, 63, 65, 66, 68, 69, and 75 were revoked (6 F. R. 6304, 8 F. R. 15228, 12 F. R. 97).

§ 511.310 *Public Circular No. 10.* (a) The privileges of all general licenses are hereby extended to Hong Kong to the same extent as though Hong Kong were a part of China.

(b) The offices within Hong Kong of banks named in Schedule A of General License No. 58 are hereby reinstated as appointed banks for the purposes of such license and as generally licensed nationals within the meaning of General Licenses Nos. 59, 60 and 61.

(c) No transaction shall be deemed to require a license solely because it involves property in which a blocked country or national thereof had an interest which was extinguished prior to the date of the extension of the order to such country. In view of the provisions of this paragraph General Licenses Nos. 54, 76 and 78 have been revoked.

NOTE: General Licenses Nos. 58, 59, 60 and 61 have been revoked (12 F. R. 97).

§ 511.314 *Public Circular No. 14*—(a) *Acquisitions of securities not authorized in certain cases.* No license or other authorization now outstanding or hereafter issued, unless expressly referring to this public circular, shall be deemed to authorize any blocked country or any national thereof to acquire, directly or indirectly, securities of any one issue of a corporation if the securities so acquired together with the aggregate of all other securities held, directly or indirectly, by such blocked country or national, constitute more than three percent of the outstanding securities of that issue. Banking institutions shall not effect any such acquisitions if they have reasonable cause to believe that the terms hereof are being violated.

(b) *Reports required on Form TFR–14.* Beginning with the quarter ending June 30, 1944, banking institutions shall file quarterly reports on Form TFR–14 with respect to securities of domestic corporations held for any blocked country or national thereof which aggregate, at the end of the quarter, one percent or more of the outstanding securities of the issue of which they form a part. A separate report for each blocked country or national shall be filed in duplicate with the appropriate Federal Reserve Bank on or before the end of the month following the calendar quarter. This reporting requirement shall be deemed to be in lieu of that required under any license now outstanding or hereafter issued so far as such license requires the filing of reports with respect to securities held for any blocked account or to the acquisition or sale of securities for any blocked account, unless such license specifically requires reports notwithstanding this circular.

(c) *Sub-account regarded as part of entire account.* For the purposes of this section, securities in a sub-account shall be regarded as held for the national in whose name the entire account is maintained.

NOTE: The reporting requirements of § 511.314 were waived by § 511.315 (Public Circular No. 15).

§ 511.315 *Public Circular No. 15*—(a) *Reports under licenses.* All requirements for reports under general or other licenses are hereby waived, except as to General Licenses Nos. 42 (§ 511.142), 49, 50, 52, 58, 59, 60, 61, 68A, 70 and 75.

(b) *Reports under § 511.314 (Public Circular No. 14).* The reporting requirements of § 511.314 are also waived.

NOTE: General Licenses Nos. 49, 50, 52, 58, 59, 60, 61, 68A, 70 and 75 have been revoked (11 F. R. 9340, 12 F. R. 97, 6459, 13 F. R. 2043, 2914).

§ 511.318 *Public Circular No. 18.* (a) Reference is made to § 511.211 (General Ruling No. 11) relating to transactions involving trade or communication with an enemy national. Inquiry has been made as to the standard of conduct which United States concerns doing business within Latin America are required to follow with respect to transactions involving enemy nationals.

(b) Any person within the Western Hemisphere who is subject to the jurisdiction of the United States shall not engage in any financial, business, trade or other commercial transaction which is directly or indirectly with, by, on behalf of, or for the benefit of an enemy national, except as specifically authorized by the Secretary of the Treasury, by means of regulations, rulings, instructions, licenses or otherwise.

(c) As used in this section, the term "person subject to the jurisdiction of the United States" shall include:

(1) Any citizen of the United States whether within the United States or within any foreign country;

(2) Any person within the United States;

(3) Any partnership, association, corporation, or other organization

(i) Which is organized under the laws of the United States; or

(ii) Which has its principal place of business within the United States; or

(iii) Which is owned or controlled by, directly or indirectly, one or more persons subject to the jurisdiction of the United States as defined in this section; and

(4) Any agent, subsidiary, affiliate or other person owned or controlled, directly or indirectly, by any person subject to the jurisdiction of the United States as defined in this section.

(d) In appropriate cases, United States diplomatic and consular officers in the other American Republics should be consulted with respect to the matters referred to in this section and applications for licenses to engage in transactions referred to in this section may be filed with such officers in lieu of filing such applications in the United States. The Treasury Department has delegated authority to such officers through the State Department, and accordingly such officers are in a position to take action on applications in certain cases without first referring such applications to the Treasury Department.

§ 511.318a *Public Circular No. 18A*—(a) *Subject and scope.* Section 511.318 (Public Circular No. 18) prescribes the standard of conduct to be observed with respect to transactions involving enemy nationals. This section supplements § 511.318 (Public Circular No. 18) and prescribes the standard of conduct to be observed by United States concerns located within Latin America with respect to transactions involving other nationals of blocked countries. It does not purport to prescribe standards for concerns not located within Latin America.

(b) *Authorized transactions by United States concerns located within Latin America.* Subject to the exceptions noted in paragraph (c) of this section, United States concerns located within Latin America are authorized to engage in transactions involving blocked nationals located within the generally licensed trade area, or within Spain, Portugal, Switzerland or Sweden, without further license. Such United States concerns will, of course, be expected to comply with all local controls in engaging in such transactions.

(c) *Transactions by United States concerns located within Latin America which are not authorized.* The following transactions shall not be engaged in by any United States concern located within Latin America except pursuant to general or specific licenses issued by the Treasury Department:

(1) Any transaction involving a dollar account of a blocked national located outside the generally licensed trade area, if such account is held on the books of a United States concern located within Latin America which is a bank or other financial institution;

(2) Any transaction involving an enemy national (see § 511.318, Public Circular No. 18).

In addition to the foregoing, the Treasury Department or any United States Mission in the other American Republics at any time may stipulate

that any particular transaction or class of transactions requires a specific license. Any such stipulation shall be binding upon all persons having notice thereof.

(d) *Filing of applications.* Applications for specific licenses to engage in any transaction may be filed with any United States diplomatic and consular officer in the other American Republics or with a Federal Reserve Bank in the United States.

(e) *Definitions.* (1) The term "transaction involving a blocked national" shall include any transaction with, by, on behalf of, or at the direction of a blocked country or national thereof, or which involves property in which such national or country has an interest.

(2) The term "United States concern located within Latin America" shall mean any person subject to the jurisdiction of the United States located within Latin America, and the term "person subject to the jurisdiction of the United States" shall have the meaning prescribed in § 511.318 (Public Circular No. 18).

(3) The term "generally licensed trade area" shall have the meaning prescribed in § 511.153.

§ 511.320 *Public Circular No. 20.* (a) Reference is made to § 511.130a relative to the administration of estates of decedents.

(b) All transactions incident to the administration of a blocked estate, including the appointment and qualification of a personal representative, the collection and liquidation of assets, the payment of claims, and the distribution to the beneficiaries, may be effected only pursuant to license. As used in this section, the term "blocked estate" shall have the meaning prescribed in § 511.130a.

(c) Attention is directed to the fact that in instances where the decedent was not a national of a blocked country, or was a United States citizen and a national of a blocked country solely by reason of his presence in a blocked country as a result of his employment by or service with the United States Government, or whenever the gross value of the assets within the United States does not exceed $5,000, such general license authorizes the complete administration of a blocked estate. This includes the appointment and qualification of a personal representative, the collection and liquidation of assets, the payment of debts and claims, and the distribution of the remaining assets to the persons entitled thereto. Property distributable to nationals of blocked countries must be distributed in accordance with the provisions of such general license.

(d) In instances where the decedent was a national of a blocked country (other than a United States citizen who was a national of a blocked country solely by reason of his presence in a blocked country as a result of his employment by or service with the United States Government) and the gross value of the assets situated within the United States of the estate of such decedent exceeds $5,000, such general license permits certain limited acts of administration. These acts are confined to transactions incident to the appointment and qualification of a personal representative, the collection and preservation of the assets and the payment of all costs, fees and charges incident thereto, and the payment of funeral expenses and expenses of last illness. All other transactions incident to the administration of such estates, including the liquidation of assets, the payment of claims and the distribution of any of the assets, may be effected only pursuant to special license.

(e) Attention is directed to the fact that no national of a blocked country may, except pursuant to special license, act as personal representative of any estate, nor may he act as attorney or attorney in fact for or represent, directly or indirectly, any personal representative, creditor, heir, next of kin, legatee, devisee, distributee, or beneficiary therein.

(f) In any estate in which distribution is authorized under this general license, property may be transferred to the trustee of any testamentary trust or to the guardian of the estate of a minor or of an incompetent, provided such trustee or guardian is not a national of a blocked country. The administration of such testamentary trust or such estate of a minor or of an incompetent shall conform to all applicable provisions of the order.

(g) General Licenses Nos. 30 (§ 511.130), 49, 50, 52 and 70 are amended so as to be inapplicable to the administration of decedents' estates.

(h) Application for special license authorizing any transaction, or series of transactions, in connection with any blocked estate not authorized by § 511.130a may be made to the appropriate Federal Reserve Bank on license application Form TFE–1. Such application should contain a complete statement of all relevant facts, including, as accurately as possible, an inventory of the assets, the names and nationality of all persons who have an interest in, or have made any claim against, the estate, and the probable method of distribution.

(i) Section 511.130a authorizes all transactions incident to the collection, conservation, administration, liquidation, and distribution of any blocked estate engaged in since the effective date of the order, provided such transactions comply with the terms and conditions of such general license.

(j) Attention is directed to the fact that § 511.130a does not affect any orders, rules or regulations of the Alien Property Custodian relating to estates. In this connection, see General Orders 5 and 6 issued by the Alien Property Custodian.

NOTE: Several Licenses Nos. 49, 50, 52 and 70 have been revoked (12 F. R. 6459, 13 F. R. 2043, 2914 and 5118).

§ 511.321 *Public Circular No. 21*—(a) *Status of sub-accounts.* Each subaccount of a blocked account is deemed to be a separate blocked account.

(b) *Certain transactions not authorized by General Licenses 1, 4, 27 (§§ 511.101, 511.104, and 511.127) and 1A.* (1) On and after January 16, 1943, §§ 511.101, 511.104 and 511.127 (General Licenses Nos. 1, 4 and 27) shall not be deemed to authorize the crediting of the proceeds of the sale of securities held in a blocked account or a sub-account thereof, or the income derived from such securities, to a blocked account or subaccount under any name or designation which differs from the name or designation of the specific blocked account or sub-account in which such securities were held;

(2) On and after January 16, 1943, General License 1A shall not be deemed to authorize the transfer of securities held in a blocked account or subaccount thereof to a blocked account or sub-account under any name or designation which differs from the name or designation of the specific blocked account or sub-account in which such securities were held.

(c) *Certain transactions not authorized by specific licenses.* On and after January 16, 1943, no specific license shall be deemed to authorize (1) the crediting of the proceeds of the sale of securities held in a blocked account or sub-account thereof, (2) the crediting of the income derived from such securities or (3) the transfer of such securities, to a blocked account or sub-account under any name or designation which differs from the name or designation of the specific blocked account or sub-account in which such securities were held, unless such specific license by its terms expressly authorizes such crediting or transfer.

NOTE: General License No. 1A has been revoked (13 F. R. 2913).

§ 511.323 *Public Circular No. 23.* (a) The provisions of § 511.3 issued under Executive Order No. 8389, as amended, relating to applications for licenses, are hereby waived in the following respects:

(1) Applications for licenses may be filed in duplicate instead of in triplicate.

(2) Applications executed by persons within the United States need not be executed under oath.

(b) In addition to the provisions of section 5 (b) of the Trading With the Enemy Act, cited in § 511.5, 1943, attention is directed to section 35 (A) of the United States Criminal Code, which provides, in part:

* * * whoever shall knowingly and willfully falsify or conceal or cover up by any trick, scheme, or device a material fact, or make or cause to be made any false or fraudulent statements or representations, or make or use or cause to be made or used any false bill, receipt, voucher, roll account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry in any matter within the jurisdiction of any department or agency of the United States * * *, shall be fined not more than $10,000 or imprisoned not more than ten years, or both. Act of April 4, 1938, ch. 69, 52 Stat. 197 (U. S. C., ti. 18, sec. 80).

§ 511.325 *Public Circular No. 25; exemption from § 511.211 (General Ruling No. 11)*—(a) *Term "enemy national" not applicable with respect to Italy, Bulgaria, Hungary, or Rumania.* In view of the ratification of treaties of peace with Italy, Bulgaria, Hungary and Rumania, the term "enemy national", within the meaning of § 511.211 (General Ruling No. 11), shall not be deemed to include

the Government of Italy, Bulgaria, Hungary or Rumania, or any agent, instrumentality, representative, individual, organization, or other person, who would be an enemy national solely by reason of a relationship to any such country or its government, or to any national thereof, *Provided*, That any license which, by its terms is not applicable to any transaction or transactions involving any enemy national or nationals shall be regarded as not applicable to any transaction involving the Government of Bulgaria, Hungary or Rumania or any national of any such country who, except for the provisions of this circular, would be considered as an enemy national.

(b) *Communications and transactions with or by enemy nationals exempted from General Ruling No. 11 under certain conditions.* There are hereby exempted from the prohibitions contained in paragraph (a) (1) and (2) of General Ruling No. 11:

(1) Any trade or communication with an enemy national;

(2) Any act or transaction involving any trade or communication with an enemy national;

(3) Any financial, business, trade, or other commercial act or transaction by or on behalf of an enemy national.

(c) *Exemption not applicable to certain transactions. The exemption* granted in paragraphs (a) and (b) of this section shall not apply to any transaction which is prohibited by the order or § 511.211a (General Ruling No. 11A) or by any other ruling or regulation (other than General Ruling No. 11) issued by the Secretary of the Treasury pursuant to section 5 (b) of the Trading With the Enemy Act, as amended, unless such transaction is licensed by the Secretary of the Treasury. A license authorizing any prohibited transaction will not require a waiver of General Ruling No. 11.

(d) *Section 511.132 (General License No. 32) not applicable to certain remittances.* The provisions of § 511.132 (General License No. 32) shall not be deemed to authorize any remittance to any citizen or subject of Germany, Japan, Bulgaria, Hungary, or Rumania who is within any such country or to any citizen or subject of Germany or Japan within Italy.

(e) *Attention directed to rules of Office of Alien Property.* Attention is directed to (1) § 501.17 of this chapter which requires that when legal notice is sent to enemy countries, a copy must in certain cases be sent to the Office of Alien Property and (2) § 506.2 of this chapter which requires the consent of the Office of Alien Property to any distribution, payment, or transfer to the governments or persons described therein.

§ 511.326 *Public Circular No. 26; status of Northern Bukovina and Bessarabia under Executive Order No. 8389, as amended, and General Ruling No. 11, as amended.* For the purposes of Executive Order No. 8389, as amended, and § 511.211 (General Ruling No. 11), as amended, Northern Bukovina and Bessarabia shall be deemed to be subject to the jurisdiction of the Union of Socialist Soviet Republics, in accordance with the terms of the Armistice of September 12, 1944, between Rumania and the United Nations.

§ 511.329 *Public Circular No. 29*—(a) *Status of accounts upon parole or release of internee.* Instructions or notifications by or in behalf of the Treasury Department blocking the property of any person as an internee shall be regarded as revoked upon the parole or release of the person from internment: *Provided*, That if the person was paroled or released prior to March 15, 1946, that date shall be regarded as the effective date of revocation. However, the provisions hereof shall not apply to any person released into the custody of the Immigration and Naturalization Service for deportation proceedings nor to any person who is the subject of a "removal order" issued pursuant to Presidential Proclamation 2655 of July 14, 1945 (3 CFR, 1945 Supp.).

(b) *Applicability of § 511.142 (General License No. 42).* The accounts of internees blocked pursuant to specific directions from the Treasury Department are not unblocked by virtue of General License No. 42 as amended on August 27, 1946.

§ 511.330 *Public Circular No. 30*—(a) *Status of Korea in general.* For the purposes of the order (Executive Order 8389) and General Ruling No. 11 (§ 511.211):

(1) Korea shall not be deemed to be a blocked country or to be enemy territory;

(2) Nationals of Korea shall not be deemed to be nationals of a blocked country solely by reason of the fact that Korea was regarded as subject to the jurisdiction of Japan.

(b) *Under § 511.211a (General Ruling No. 11A).* Section 511.211a (a) (3) shall not be deemed to apply to a partnership, association, corporation, or other organization solely by reason of the fact that it is organized under the laws of Korea, or has had its principal place of business therein.

§ 511.331 *Public Circular No. 31.* (a) Reference is made to § 511.212 (General Ruling No. 12) relating to unlicensed transfers of blocked property. Reference is also made to § 511.219 (General Ruling No. 19) relating to the release of Treasury controls over property vested by the Alien Property Custodian. This section deals with the effect of such release on unlicensed attachments levied with respect to blocked property prior to the vesting thereof by the Custodian.

(b) Under § 511.212 (a) (General Ruling No. 12), interests in blocked property cannot be acquired, transferred, or created by unlicensed "transfers". Nor may an unlicensed transfer be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any blocked property.

(c) An attachment is a "transfer". See § 511.212 (e) (General Ruling No. 12) where the term "transfer" is defined as including "the issuance, docketing, filing, or other levy of or under any judgment, decree, attachment, execution, or other judicial or administrative process or order, or the service of any garnishment". An unlicensed attachment, therefore, cannot operate to transfer or create any interest in blocked property. Nor can it serve as a basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any blocked property.

(d) Section 511.212 (d) (General Ruling No. 12) does not constitute a license authorizing the seizure or creation of any interest in blocked property by attachment proceedings or other legal process. This paragraph merely is a formal statement of the position which the Treasury Department has always taken with respect to litigation affecting blocked property—that it does not desire to interfere with such litigation so long as it is clearly understood that the judicial process cannot, without a license or other authorization from the Secretary of the Treasury, operate to transfer or create any interest in blocked property. Thus the proviso of § 511.212 (d) specifies that "no attachment, judgment, decree, lien, execution, garnishment, or other judicial process shall confer or create a greater right, power, or privilege with respect to, or interest in, any property in a blocked account than the owner of such property could create or confer by voluntary act prior to the issuance of an appropriate license." In issuing § 511.212 (d) the Treasury Department did not undertake to decide for the courts whether they should exercise jurisdiction. It simply prescribed that jurisdiction could be exercised only on the basis that if a Treasury license was not issued, the judicial process could not operate to transfer or create any interest in blocked property, nor could it be the basis for the assertion or recognition of any other right, remedy, power, or privilege with respect to the property.

(e) The Treasury Department has always considered that when the Alien Property Custodian has vested any property, it would not be in the national interest for the Treasury Department thereafter to grant licenses authorizing the creation or acquisition of any interest in the property. Formerly it was the practice of the Department, whenever it was notified by the Custodian that a particular property had been vested, to issue a specific release to the Custodian of all control of the property under Executive Orders Nos. 8389 and 9193. Section 511.219 (a) (General Ruling No. 19) constitutes a general release of such control in the case of all German and Japanese property vested by the Custodian. Section 511.219 (b) is intended to make it clear that a release of control over any vested property to the Alien Property Custodian, whether by specific release or by reason of the General Ruling, operates as a final denial by the Secretary of the Treasury of any pending application for license or other authorization relating to such property and that no application for a license authorizing the creation, acquisition, or transfer of any interest in such property will thereafter be entertained or granted. The paragraph is thus a formal statement of what has always been the position of the Treasury Department—namely, that once blocked property has been vested

by the Custodian, there is no longer any possibility that an unlicensed attachment may ripen through the issuance of a Treasury license into a seizure and acquisition of an interest in such blocked property.

(f) In view of the fact that the Alien Property Custodian has publicly announced his intention of vesting all German and Japanese property in the United States, it will be the general policy of the Treasury Department not to grant any licenses authorizing the creation or acquisition through legal process of any interest in blocked German or Japanese property.

§ 511.332 *Public Circular No. 32.* Notwithstanding § 511.211a (General Ruling No. 11A), property returned by the Alien Property Custodian under section 32 of the Trading With the Enemy Act, as amended, shall not be regarded as subject to the restrictions of the order solely by reason of the interest of any blocked country or national thereof resulting from the return.

§ 511.333 *Public Circular No. 33*—(a) *In general.* For the purposes of the order and § 511.211 General Ruling No. 11:

(1) Taiwan (Formosa) shall be deemed to be subject to the jurisdiction of China;

(2) No person shall be deemed a national of Japan solely by reason of the fact that, at any time on or since the effective date of the order, Taiwan (Formosa) was regarded as part of Japan.

(b) *Under § 511.211a (General Ruling No. 11A).* Section 511.211a (a) (3) shall not be deemed to apply to a partnership, association, corporation, or other organization solely by reason of the fact that it is organized under the laws of Taiwan (Formosa) or has had its principal place of business therein.

§ 511.335 *Public Circular No. 35*—(a) *Reference.* Reference is made to § 511.187 (General License No. 87), exempting certain transactions from section 2A (2) of the order, to § 511.194 (General License No. 94), generally licensing certain countries, to § 511.205 (General Ruling No. 5) relating to the importation of securities, and to § 511.212 (General Ruling No. 12) relating to unlicensed transfers of property in a blocked account.

(b) *Registered securities.* Securities issued by any person subject to the jurisdiction of the United States which were registered in the name of a national of a blocked country on or prior to the effective date of § 511.194 (General License No. 94) for such country are subject to the proviso of § 511.194 (a) and constitute property in a blocked account unless transfer of registry has been appropriately authorized under the order.

(c) *Property of blocked foreign corporations and other organizations.* Property in the United States which is blocked by reason of the interest of any partnership, association, corporation, or other organization, organized under the laws of any foreign country, which is a national of a blocked country because of the stock or other interest therein of a blocked country (including the countries licensed under § 511.194 (General License No. 94)) or nationals thereof, shall continue to be regarded as property in a blocked account, notwithstanding the transfer of such stock or other interest to a non-blocked country or a national thereof.

(d) *Consequences of certain documents.* With respect to paragraphs (b) and (c) of this section, attention is directed to the fact that neither § 511.187 (General License No. 87), exempting certain transactions from section 2A (2) of the order, nor § 511.205 (General Ruling No. 5 of July 25, 1947), removing the restrictions on the importation of securities not specified in the list attached to such ruling, authorizes any transfer of property in a blocked account. Regarding the paragraphs (b) and (c) of this section, attention is also expressly directed to the provisions of § 511.212 (General Ruling No. 12) concerning the effect of unlicensed transfers of property in a blocked account.

§ 511.336 *Public Circular No. 36*—(a) *Certain specific licenses and authorizations revoked.* To the extent that they authorize any transactions set forth in this section, all licenses and authorizations of whatsoever character, other than those contained in general rulings, general licenses and public circulars, are hereby revoked effective June 30, 1948, and all licenses and authorizations hereafter issued except those which expressly refer to this public circular, shall be ineffective to the extent that they purport to authorize any such transactions after June 30, 1948:

(1) Withdrawals from blocked accounts for payments or remittances for the purpose of living, traveling or other similar personal expenses;

(2) Withdrawals from blocked accounts for remittances, regardless of the purpose, to Austria, Belgium, Denmark, France, Greece, Italy, Luxembourg, the Netherlands, Norway or Sweden by any means other than by the payment of the dollar amount of the remittance to a domestic bank for credit to an account in the name of a bank within such country.

(b) *Exceptions.* The provisions of this section shall not apply to any license under which all payments, transfers and withdrawals may be effected from an account, including any license which permits an account to be treated as the account of a generally licensed national.

§ 511.337 *Public Circular No. 37*—(a) *Requirement that reports be filed on Form TFR–600.* Reports on Form TFR–600 are hereby required to be filed on or before July 15, 1948, with respect to all property subject to the jurisdiction of the United States on the opening of business on June 1, 1948, in which on that date, any blocked country or national thereof had an interest, except that no report shall be required with respect to property specifically exempted by paragraph (c) of this section. As used throughout this section the term "blocked country" shall mean Austria, Belgium, Bulgaria, Czechoslovakia, Denmark, Estonia, Finland, France (including Monaco), Germany, Greece, Hungary, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, The Netherlands, Norway, Poland, Portugal, Rumania, Sweden, Switzerland, and Yugoslavia.

(b) *Who must make report.* Except as provided in paragraph (c) of this section, a report must be filed by:

(1) Every individual in the United States who is a national of a blocked country with respect to all property subject to the jurisdiction of the United States in which on June 1, 1948, he had any interest of any nature whatsoever, direct or indirect.

(2) Every person in the United States with respect to all property whatsoever held by him or in his custody, control, or possession, directly or indirectly, in trust or otherwise, and all debts or other obligations whatsoever owed by or asserted against him, and all contracts of any nature whatsoever to which he was a party, subject to the jurisdiction of the United States on June 1, 1948, in which on such date any blocked country or any national thereof had any interest of any nature whatsoever, direct or indirect.

(3) Every partnership, trust, association, corporation, or other organization organized or existing under the laws of the United States or of any State, territory, or district of the United States, or having its principal place of business in the United States, with respect to any shares of its stock, including any right or claim to ownership or control or participation in ownership or control thereof or profits or income derived therefrom, or any equity in any of the foregoing, whether or not expressed by written agreement or evidenced by any instrument, and with respect to all bonds, debentures, notes, or other funded obligations or any equity therein, and with respect to any other outstanding securities or equity therein, in any of which any blocked country or any national thereof had on June 1, 1948, any interest of any nature whatsoever, direct or indirect.

(4) Every agent or representative in the United States for any blocked country or for any national thereof, having any information with respect to property subject to the jurisdiction of the United States on June 1, 1948, in which the blocked country or national thereof for which he was agent or representative had any interest of any nature whatsoever, direct or indirect, but such an agent or representative who files a report in behalf of the national under subparagraph (1) of this paragraph need not file a duplicate report under this paragraph.

(5) Such other persons or groups or classes of persons, and in such cases or kinds of cases, as the Treasury Department may provide by regulation, circular, ruling, license, specific direction, or other means.

(c) *Exemptions from report requirement.* No report need be filed with respect to:

(1) Property of any person who has been given generally licensed national status by the Treasury Department. However, nothing herein contained shall be deemed to waive any requirement with respect to reporting any blocked property, including any property subject to the proviso of § 511.194 (a) (General

License No. 94), owned by any person who has been given generally licensed status with respect to other property.

(2) Property which has been given generally licensed status by the Treasury Department, or in connection with which the Treasury Department has authorized all payments, transfers and withdrawals.

(3) Property which prior to the date of reporting is unblocked pursuant to any license issued by the Treasury Department even though such unblocking may be subsequent to June 1, 1948.

(4) Property of any business enterprise the operation of which is licensed by the Treasury Department. However, nothing contained herein shall be deemed to waive any requirement with respect to the reporting of the interest of any blocked national in such enterprise or in any property held for such blocked national.

(5) Property of any national which any one person would otherwise be required to report if the total value of all such property was on June 1, 1948, less than $1,000. In arriving at the value of $1,000, no deduction shall be made for offsets, liens, or other deductions from gross value.

(6) Property of a blocked national if the reporter otherwise required to make such report has actual knowledge that another person has filed a report with respect to the same interests in property of the blocked national and that such report is as full and complete as that which the reporter would otherwise be required to file: *Provided*, That nothing in this section shall be deemed to waive the reporting requirement with respect to the person who has primary responsibility for reporting such property. For the purpose of this subsection the person who has primary responsibility for reporting property shall be the person having actual custody of the property in connection with which a report is required, except that with respect to any trust the trustee shall have the primary responsibility, with respect to any estate the executor or administrator shall have the primary responsibility and with respect to any safe deposit box the lessee shall have the primary responsibility for reporting. However, where the primary responsibility for reporting rests with more than one person, as, for example, where there are joint trustees or executors, one such person may report for all persons who would otherwise be obliged to report.

(7) Property of the following descriptions:

(i) Any security blocked pursuant to the provisions of § 511.205 (General Ruling No. 5), including securities blocked pursuant to General Ruling No. 5 which are held in General Ruling No. 6 accounts.

(ii) Patents, trademarks, copyrights and inventions, but this shall not constitute a waiver of any reporting requirement with respect to royalties due and unpaid.

(iii) Franchises, concessions, licenses and permits by any of which any special right or privilege may be exercised affecting the commencement, continuation, or conduct of a business, or as an incident thereto.

(iv) Interests in non-producing oil and gas leases.

Property shall not be deemed to be unblocked by reason of the fact that reports are not required with respect to such property.

(d) *General instructions with respect to reporting on Form TFR–600*—(1) *Obtaining forms.* Copies of this public circular and of Form TFR–600 may be obtained by application to the Federal Reserve Bank of New York.

(2) *Number of copies.* Reports on Form TFR–600 shall be prepared in quadruplicate.

(3) *Separation of reports for different countries or nationals.* A separate report shall be made with respect to each blocked country or national which has any interest in any property to be reported but all items of property of each such person shall be included in one report. For example, if the person reporting owes debts to five different nationals, he will make five separate reports, listing on each report all of his debts to the particular national for whom that report is made. If he owes one debt jointly to five nationals, he will also make five separate reports, entering the whole debt on each. If it is known or there is reasonable cause to believe that a national other than the national in whose name any property is carried has an interest in or adverse claim upon the property, the property must be shown on a report for each such national interested or adverse claimant as well as for the national in whose name it is carried. Any duplication in reporting the same property or debt on several reports, shall not excuse anyone from rendering all reports required of him.

(e) *Detailed instructions for filling out form*—(1) *Reading circular.* If you have not already read carefully paragraphs (a)–(d) of this section, do so before reading this paragraph.

(2) *Answers required.* Each question on the report must be answered, and all the specific information called for must be given. When there is nothing to report under any question or if information is lacking, state "No", "None", or "Unknown", as the case may be, with an explanation if required, except that in Part B spaces not needed for reporting should be left blank. If the space provided on the form for answers should prove inadequate, the answer may be made or continued on a blank sheet of paper securely atttached to the form. No person is excused from furnishing any information he reasonably should have.

(3) *Part A*—(i) *Country of residence.* Enter in the space provided in the upper right hand corner of the form the name of the country in which the person whose property is being reported resides at the time the report is prepared.

(ii) *Name.* If the national is an individual doing business under a trade name, give that name in addition to his actual name.

(iii) *Nationality.* State the nationality or nationalities, as defined in section 5E of Executive Order No. 8389, as amended, of the person whose property is being reported. If the person is a national of any foreign country by reason of any fact other than that such person has been a subject or citizen of the country, the facts determining the person's nationality must be stated including all the facts concerning the nationality of the person, including those relating to his status as a national of the country, if any, of which he has been a subject or citizen.

(iv) *Citizenship.* If the national is not an individual, enter the name of the country, state, district, territory, or possession under the laws of which it is incorporated, or, if unincorporated, in which it has its principal place of business. When the national is a subject or citizen of more than one country, state the name of each country, including the United States when that is one of the countries.

(4) *Part B*—(i) *Classification of property.* In stating the values called for under property types 1 to 10, reporters should be careful to classify correctly the property which they are reporting. No property should be reported under type 10 if it constitutes property reportable under any other type.

It should be noted that type 5 calls for the reporting of miscellaneous personal property, as distinguished from real property. This type includes: Warehouses receipts, bills of lading, options and futures in commodities, goods and merchandise, jewelry, precious stones and precious metals, machinery, equipment and livestock, objects of art, furnishings for personal use, as well as liens on and claims to personal property not otherwise classified, as, for example, trust receipts, lease-sale arrangements, chattel mortgages, pledges, and crop liens.

(ii) *Valuation.* Enter in the valuation column opposite each property type from 1 to 10 the total value of the items reportable under that type. Such value shall be the market price at the close of business on May 28, 1948. If such price is not available, enter value at the estimated value on June 1, 1948.

All amounts reported should be given in dollars to the nearest dollar.

(iii) *Value expressed in foreign currency.* Property, the value of which is expressed in a foreign currency, or which is to be paid or liquidated in a foreign currency, shall be valued at the dollar value if dollar market value exists for such property itself; if not, the foreign currency value thereof shall be converted into dollar value, in accordance with the instructions relating to exchange rates given in section 7 of this circular, and such dollar value shall be used in the report. In no case shall a value be entered upon the report in a foreign currency.

(iv) *Property of indeterminable value.* In reporting property of indeterminable value, enter "indeterminable" in the space opposite the appropriate property type and describe the property briefly in Part C, question 1. When both property of determinable value and property of indeterminable value are to be reported under any one property type, only the determinable value should be reported. However, in response to Part C, question 1, both kinds of property should be de-

scribed and the property of indeterminable value should be so described.

(5) *Part C—Brief description of the property set forth in Part B.* The property, the value of which has been set forth in Part B, shall be briefly described in answer to question 1 of Part C. Breakdowns into specific property items and detailed descriptions are unnecessary. The property may be described in some general but reasonably descriptive manner, as e. g., "silver bullion," "U. S. dollar currency," "Swiss franc currency," "bank deposit," "postal savings account," "miscellaneous portfolio of stocks and bonds," "bonds issued by the reporter," "Pound Sterling securities," "letters of credit," "goods and merchandise," "land," "mortgage," "life estate," "cash surrender value of insurance policy," etc.

(6) *Part D*—(i) *Person reporting his own property.* A person reporting his own property need not fill out this part further than to enter his name in the appropriate space and to state, "Same person as national whose property is reported."

(ii) *Persons reporting property of others.* A person reporting the property of another should state in Part D, as indicated in the margin thereof: (*a*) his name; (*b*) his address; (*c*) his business; and (*d*) his relationship to the national whose property is being reported, e. g., as agent, nominee, trustee, custodian, banker, etc. The information may be given by any method producing a readily legible impression.

(iii) *Space provided for number.* Persons submitting only one report may ignore the space provided for a number. Persons submitting more than one report but who do not wish to use the separate certification provided for and described in subparagraph (7) of this paragraph, may likewise ignore the space provided for a number. Persons submitting more than one report and who desire to use the separate certification shall number their reports consecutively in the space provided on the form starting with the number 1.

(7) *Part E—Certification.* Any person who does not use the separate certification provided for and described in this subparagraph shall execute on each copy of every report filed by him the certification set forth in Part E of TFR–600.

Any person executing more than one report and who has numbered each report consecutively, as provided for in subparagraph (6) (iii) of paragraph, may execute a separate certification in connection with such reports. Such separate certification shall be in the following form:

CERTIFICATION

I, _____, certify that I am the person, or that I am the _____
(State relationship of _____
signatory to the person making this report) of the _____
(Name of partnership, association, corporation, or other entity making this report) making the reports on Form TFR–600 consecutively numbered _____ to _____, and attached hereto and made a part hereof, that I am authorized to make this certificate, and to the best of my knowledge and belief that the statements set forth in said report forms are true and accurate and all material facts in connection with said reports have been set forth therein.

_____
(Signature)

_____
(Address)

_____
(Date)

This separate certification shall be prepared by the reporter and shall be attached to the reports to which it relates and submitted together with such reports. Such a certification shall be prepared and submitted in triplicate.

Any deviation from the form of separate certification set forth above shall render totally ineffective the reports to which such defective certification relates and the submission of such reports shall not constitute compliance with the reporting requirement of this public circular.

(f) *Manner in which Form TFR–600 should be filed.* As indicated in paragraph (d) (2) of this section, reports on Form TFR–600 shall be prepared in quadruplicate. Three copies shall be sent in a set, on or before July 15, 1948, to Unit 600, Foreign Funds Control, Treasury Department, Washington 25, D. C. (Reports covered by the same certification shall be transmitted together.)

If between the date of reporting and October 1, 1948, any property reported shall have been unblocked pursuant to Treasury license, the reporter shall make a brief endorsement to that effect on the bottom of page 2 of the fourth copy of the report or on a separate sheet of paper which he shall attach securely to the fourth copy of the report. His endorsement shall consist of a brief description of the property released, a statement of its value, and a statement of the authority under which it was unblocked, e. g., certification under § 511.195 (General License No. 95), special license from the Treasury Department, etc. On or before October 10, 1948, the fourth copy appropriately endorsed shall be sent to Room 601, Office of Alien Property, Department of Justice, Washington 25, D. C. If none of the property reported on Form TFB–600 has been unblocked between the date of reporting and October 1, 1948 the fourth copy of the report may be retained by the reporter or may be destroyed.

(g) *Table of exchange rates.* Where the value of property expressed in terms of foreign currency is required to be converted into dollars, the rates of exchange set forth below should be used. If no rate is given for a country, the latest rate next before the effective date of the report, as generally quoted by foreign exchange dealers or other recognized sources of information, shall be used.

The exchange rates given in this table are for use only in preparing reports on Form TFR–600, and are not intended to be used or relied upon in any other connection or for any other purpose whatsoever.

TABLE OF RATES

| Country | Monetary unit | U. S. cents per unit |
|---|---|---|
| Argentina | Peso | 29.78 |
| Australia | Australian pound | 323.50 |
| Belgium | Belgian franc | 2.28 |
| Bolivia | Boliviano | 2.38 |
| Brazil | Cruzeiro | 5.44 |
| Bulgaria | Lev | .35 |
| Canada | Canadian dollar | 100.00 |
| Chile | Peso | 3.23 |
| China | Yuan | .0003 |
| Colombia | Peso | 57.30 |
| Cuba | do | 100.00 |
| Denmark | Krone | 20.87 |
| Ecuador | Sucre | 7.46 |
| Egypt | Egyptian pound | 415.14 |
| Eire | Irish or Soorstat pound. | 403.25 |
| Finland | Markka | .74 |
| France | French franc | .33 |
| French Indo-China | Piaster | 7.92 |
| Germany | Reichsmark | 40.02 |
| Greece | Drachma | .02 |
| Hong Kong | Hong Kong dollar | 25.51 |
| Hungary | Forint | 8.58 |
| India | Rupee | 30.30 |
| Italy | Lira | .17 |
| Japan | Yen | 23.43 |
| Mexico | Peso | 20.02 |
| Netherlands | Guilder | 27.78 |
| Netherlands East Indies. | do | 37.78 |
| Netherlands West Indies. | do | 53.33 |
| New Zealand | New Zealand pound | 325.22 |
| Norway | Krone | 20.16 |
| Panama | Balboa | 100.00 |
| Peru | Sol | 15.42 |
| Philippine Islands | Peso | 50.00 |
| Poland | Zloty | 1.00 |
| Portugal | Escudo | 4.04 |
| Rumania | Leu | .67 |
| Russia | Ruble | 18.87 |
| South Africa | South African pound | 403.25 |
| Spain | Peseta | 09.13 |
| Straits Settlement | Straits dollar | 47.18 |
| Sweden | Krona | 27.86 |
| Switzerland | Swiss franc | 23.36 |
| Turkey | Lira, or Turkish pound | 35.71 |
| United Kingdom | Pound | 403.25 |
| Uruguay | Peso | 65.83 |
| Venezuela | Bolivar | 30.03 |
| Yugoslavia | Dinar | 2.00 |

## SUBPART E—GENERAL LICENSE AND PUBLIC CIRCULAR ISSUED BY THE GOVERNOR OF HAWAII

§ 511.401 *General license H–1.* (a) A general license is hereby granted authorizing any national of a blocked country to engage in transactions (including the importing of goods, wares and merchandise from the continental United States) incident to the normal conduct of the professional, commercial, or agricultural activities of such national in the Territory of Hawaii.

(b) With respect to any enterprise controlled by an enemy national or in which an enemy national has a substantial interest, this general license shall not be deemed to authorize:

(1) Any purchase, sale, transfer or other dealing in, or with respect to, securities or fixed assets;

(2) Any modification in capital structure;

(3) Any loan other than loans incident to the financing of an importation into the Territory of Hawaii;

(4) Any unusual accumulation of inventory;

(5) Any payment of dividends or bonuses other than bonuses to bona fide employees in an annual amount not exceeding the equivalent of one month's wages;

(6) Any payment or transfer of credit from a blocked account in any banking

institution not within the Territory of Hawaii.

(c) Any person exercising the privileges of this general license shall file such reports as may from time to time be required by the Office of the Governor of Hawaii, Foreign Funds Control.

(d) This section shall not be deemed to authorize any transaction which could not be effected without a license if the person exercising the privileges of this section were not a national of a blocked country.

(e) Attention is directed to the provisions of Public Circular No. H–6, as amended.

NOTE: Public Circular H–6 was revoked (11 F. R. 7719).

(40 Stat. 415, 966, 48 Stat. 1, 54 Stat. 179, 55 Stat. 838; 12 U. S. C. 95a, 50 U. S. C. App., Sup., 5 (b). E. O. 6560, Jan. 15, 1934, as amended by E. O. 8389, Apr. 10, 1940, E. O. 8785, June 14, 1941, E. O. 8832, July 26, 1941, E. O. 8963, Dec. 9, 1941, E. O. 8998, Dec. 26, 1941, E. O. 9193, July 6, 1942; 3 CFR Cum. Supp. §§ 511.1–511.7)

§ 511.510 *Public Circular No. H–10.* Notwithstanding the provisions of § 511.211a (General Ruling No. 11A), § 511.401 (General License No. H–1) continues applicable to blocked accounts in the Territory of Hawaii.

CROSS REFERENCE: For General Ruling No. 11A, see § 511.211a.

(40 Stat. 415, 966, 48 Stat. 1, 54 Stat. 179, 55 Stat. 838; 12 U. S. C. 95a, 50 U. S. C. App. Supp. 5 (b); E. O. 6560, Jan. 15, 1934, as amended by E. O. 8389, Apr. 10, 1940, E. O. 8785, June 14, 1941, E. O. 8832, July 26, 1941, E. O. 8963, Dec. 9, 1941, E. O. 8998, Dec. 26, 1941, E. O. 9193, July 6, 1942; 3 CFR Cum. Supp., §§ 511.1–511.7)

Executed at Washington, D. C., this 29th day of December 1948.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
*Deputy Director,*
*Office of Alien Property.*

[F. R. Doc. 48–11541; Filed, Dec. 30, 1948; 10:47 a. m.]

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PART 511—BLOCKED ASSETS: REGULATIONS ISSUED ORIGINALLY BY THE TREASURY DEPARTMENT

REVOCATION OF GENERAL LICENSE NO. 72

Section 511.172 of this chapter, as amended, General License No. 72, is hereby revoked.

(40 Stat. 411, 55 Stat. 839, 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp.; E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp.; E. O. 9788, October 14, 1946, 3 CFR, 1946 Supp.; E. O. 9989, August 20, 1948, 13 F. R. 4891)

Executed at Washington, D. C., this 29th day of December, 1948.

[SEAL] HAROLD I. BAYNTON,
*Deputy Director,*
*Office of Alien Property.*

[F. R. Doc. 48–11540; Filed, Dec. 30, 1948; 10:47 a. m.]

PART 512—BLOCKED ASSETS: REGULATIONS ISSUED BY OFFICE OF ALIEN PROPERTY

NOTE: By Executive Order 9989, Aug. 20, 1948, 13 F. R. 4891, jurisdiction over certain blocked assets has been transferred from the Secretary of the Treasury to the Attorney General. See Part 511 for regulations issued originally by the Treasury Department.

SUBPART B—GENERAL LICENSES

§ 512.194 *Amendment to General License No. 94.* Section 511.194 of this chapter, as amended, General License No. 94, is hereby amended to read as follows:

CERTAIN COUNTRIES GENERALLY LICENSED

(1) *Blocked countries generally licensed subject to certain conditions.* A general license is hereby granted licensing all blocked countries and nationals thereof to be regarded as if such countries were not foreign countries designated in the order: *Provided,* That

(a) Any property in which on the effective date hereof any of the following had an interest: (1) any blocked country (including countries licensed hereby) or person therein; or (ii) any other partnership, association, corporation, or other organization, which was a national of a blocked country (including countries licensed hereby) by reason of the interest of any such country or person therein; or

(b) Any income from such property accruing on or after the effective date hereof

shall continue to be regarded as property in which a blocked country or national thereof has an interest and no payment, transfer, or withdrawal or other dealing with respect to such property shall be effected under, or be deemed to be authorized by, this paragraph.

(2) *Transactions under other licenses authorized without regard to certain restrictions.* With respect to property subject to the proviso of paragraph (1), any transaction which is authorized under any license (other than §§ 511.101, 511.104, 511.127 and 511.130a of this chapter, General Licenses Nos. 1, 4, 27, and 30A or any other license to the extent that it merely authorizes transfers between blocked accounts of the same person or changes in the form of property held in a blocked account) may be effected without regard to any terms of such license relating to the method of effecting such transaction, provided, however, that remittances to payees in Austria, Belgium, Denmark, France, Greece, Italy, Luxembourg, the Netherlands, Norway, or Sweden, shall continue to be effected in the manner set forth in paragraph (a) (3) of § 511.132 of this chapter, General License No. 32, as amended May 29, 1948.

(3) *Certain other transactions authorized.* This license also authorizes any transaction which can be effected under § 511.153 of this chapter, General License No. 53, if the countries licensed hereby were members of the generally licensed trade area, provided that this paragraph shall not be deemed to authorize any payment, transfer, or withdrawal, or other dealing with respect to any property which is subject to the proviso of paragraph (1) hereof.

(4) *Section 511.217, General Ruling No. 17, not waived with regard to certain countries.* This license shall not be deemed to waive the requirements of § 511.217 of this chapter, General Ruling No. 17, with respect to blocked property held in any account maintained in the name of any bank or other financial institution located in Switzerland, Liechtenstein, or Sweden unless such property has been certified under paragraph (1) of § 511.195 of this chapter, General License No. 95.

(5) *Effective date.* The effective date of this general license shall be December 7, 1945, except that it shall be October 5, 1945 as to France, November 20, 1945 as to Belgium, November 30, 1946 as to Switzerland and Liechtenstein, December 31, 1946 as to Germany and Japan, and March 28, 1947 as to Sweden.

(6) *Restrictions of § 511.211a, General Ruling No. 11A.* Attention is directed to the special restrictions contained in § 511.211a of this chapter, General Ruling No. 11A, pertaining to dealings in certain property in which there is any interest of Germany or Japan or certain nationals thereof.

(40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR Cum. Supp.; E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp.; E. O. 9788, October 14, 1946, 3 CFR, 1946 Supp.; E. O. 9989, August 20, 1948, 13 F. R. 4891)

Executed at Washington, D. C., this 29th day of December 1948.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
*Deputy Director,*
*Office of Alien Property.*

[F. R. Doc. 48–11541; Filed, Dec. 30, 1948; 10:47 a. m.]

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# TITLE 33—NAVIGATION AND NAVIGABLE WATERS

## Chapter II—Corps of Engineers, Department of the Army

PART 202—ANCHORAGE REGULATIONS

PART 204—DANGER ZONE REGULATIONS

PART 207—NAVIGATION REGULATIONS

MISCELLANEOUS AMENDMENTS

1. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917, chapter XIX of the Army Appropriation Act of July 9, 1918, and section 7 of the River and Harbor Act of March 4, 1915 (33 U. S. C. 1, 3, and 471), all remaining regulations contained in Part 6, 33 CFR Chapter I (which were adopted and continued in full force and effect by the Secretary of the Army by an order published in the FEDERAL REGISTER June 5, 1947, 12 F. R. 3664), are hereby revoked, as follows:

SUBPART A—GENERAL REGULATIONS

Sec.
6.1 to 6.34, inclusive. [Revoked.]

SUBPART C—ANCHORAGE AND RESTRICTED AREAS

*First Naval District*

Sec.
6.1–1 to 6.1–175, inclusive. [Revoked.]

*Third Naval District*

6.3–1 New London Harbor, Connecticut. [Revoked.]

*Fourth Naval District*

6.4–1 Philadelphia, Pennsylvania. [Revoked.]

*Fifth Naval District*

6.5–280 to 6.5–320, inclusive. [Revoked.]
6.5–340 Virginia-North Carolina seacoast, target danger areas, restricted areas. [Revoked.]
6.5–345 North Carolina; vicinity of New River, seaward, firing sector, restricted area. [Revoked.]

*Sixth Naval District*

6.6–5 to 6.6–115, inclusive. [Revoked.]

*Seventh Naval District*

6.7–1 to 6.7–28, inclusive. [Revoked.]

*Eighth Naval District*

6.8–1 to 6.8–120, inclusive. [Revoked.]

*Ninth Naval District*

6.9–1 to 6.9–64, inclusive. [Revoked.]

*Tenth Naval District*

6.10–10 to 6.10–120, inclusive. [Revoked.]

2. Pursuant to the provisions of section 1 of the act of April 22, 1940 (54 Stat. 150; 33 U. S. C. 180) and section 7 of the River and Harbor Act of March 4, 1915 (38 Stat. 1053; 33 U. S. C. 471), §§ 202.1, 202.5, 202.10, 202.15, 202.25, 202.27, 202.45, 202.50, 202.55, 202.65, and 202.110 are hereby amended, and §§ 202.4, 202.6, 202.8, 202.17, 202.66, 202.66a, 202.68, 202.77, 202.78, 202.115, and 202.120 are hereby prescribed, as follows:

§ 202.1 *Special anchorage areas.* * * *

(b) The areas hereinafter described are designated as special anchorage areas. (All bearings are referred to true meridian.)

* * * * *

THE PORT OF NEW YORK

* * * * *

*Bowery Bay.* On the west side of Bowery Bay, * * *

* * * * *

§ 202.4 *Rockland Harbor, Me.*—(a) *The anchorage grounds*—(1) *Anchorage A.* Beginning at a point bearing 158°, 1,075 yards, from Rockland Breakwater Light; thence 255°, 2,000 yards, to a point bearing 225° from Rockland Breakwater Light; thence 345°, 700 yards, to a point bearing 244° from Rockland Breakwater Light; thence 75°, 1,200 yards, to a point bearing 222° from Rockland Breakwater Light; and thence 120°, 1,000 yards, to the point of beginning.

NOTE: All bearings in this section are referred to true meridian.

(2) *Anchorage B.* Beginning at a point bearing 273°, 400 yards, from Rockland Breakwater Light; thence 273°, 700 yards, to a point bearing 273° from Rockland Breakwater Light; thence 349°, 850 yards, to a point bearing 305° from Rockland Breakwater Light; thence 89°, 700 yards, to a point bearing 328° from Rockland Breakwater Light; and thence 169°, 900 yards, to the point of beginning.

(3) *Anchorage C.* Beginning at a point bearing 244°, 1,715 yards, from Rockland Breakwater Light; thence 260°, 490 yards, to a point bearing 248° from Rockland Breakwater Light; thence 350°, 580 yards, to a point bearing 263° from Rockland Breakwater Light; thence 83°, 480 yards, to a point bearing 263° from Rockland Breakwater Light; and thence 169°, 550 yards, to the point of beginning.

(b) *The regulations.* (1) Anchorages A and B are general anchorages reserved for merchant vessels over 100 feet in length. Anchorage C is reserved for small commercial and pleasure craft.

(2) A distance of approximately 500 yards shall be left between Anchorages A and B for vessels entering or departing from the Port of Rockland. Any vessel not anchoring in these areas shall be ready to move on short notice when ordered to do so by the Captain of the Port.

(3) All other vessels within the Rockland Harbor area are prohibited from anchoring within 300 yards or operating within 100 feet of any navy yard, shipbuilding plant, power plant, oil terminal, marine terminal, munitions plant, military or naval arsenal or depot, warehouse, or freight pier without permission from the Captain of the Port, Rockland, Maine, or his authorized representative.

§ 202.5 *Kennebec River in vicinity of Bath, Me.*—(a) *The anchorage grounds.* Vessels may anchor only within the following limits:

(1) Northward of a line bearing 54° true and extending from a point on Passmore's wharf in prolongation with the north side of Commerce Street, Bath, Maine, to a point on the shore in Woolwich, approximately 1,200 feet north of the Maine Central Railroad wharf.

(2) Southward of a line drawn from the derrick on the Bath Iron Works wharf to Sassanoa Point in Woolwich.

(b) *The regulations.* (1) Vessels in the north anchorage shall be so anchored as to leave a clear fairway of 150 feet channelward of the established harbor lines at Bath, and a clear fairway 200 feet from the east or Woolwich shore, for the passage of steamers, tows, rafts, and other watercraft.

(2) The launching of vessels into the waters between the anchorages or the bringing up of such vessels by their anchors will be permitted: *Provided,* that the vessels so launched shall be removed therefrom within 12 hours from the time of anchorage.

§ 202.6 *Portland Harbor, Me.*—(a) *The anchorage grounds.*—(1) *Anchorage A (general).* Beginning at the eastern corner of Grand Trunk Railway Company pier No. 3; thence approximately 90°, 1,700 yards, to Brooklyn Ledge Buoy 16; thence 330°, 350 yards; thence 25°, 780 yards; thence 303°, 750 yards; thence 254°, 560 yards; thence 186°, 750 yards; and thence to the point of beginning.

NOTE: All bearings in this section are referred to true meridian.

(2) *Anchorage B (general and quarantine).* Beginning at Brooklyn Ledge Buoy 16; thence 58° to Little Diamond Island; thence along the southwestern shore to the pier on the southern end of Little Diamond Island; thence 143°, 1,200 yards; thence 270° to House Island Light; thence along the western shore of House Island to Fort Scammel Point Light; and thence 329°, 1,620 yards, to the point of beginning.

(3) *Anchorage C.* Bounded on the northwest by House Island; on the north by a line running 90° from House Island Light to Peak Island; on the east by the western shore of Peak Island, by a line running 198° from the westernmost point on Peak Island to Cushing Island, and by the shore of Cushing Island to its westernmost point; and on the southwest by a line running from the westernmost point on Cushing Island to Fort Scammel Point Light.

(4) *Anchorage D.* Southerly and westerly of a line beginning at Lighthouse Channel Buoy 1; thence 35° to Anchorage Buoy E; and thence 145° to the mainland.

(b) *The regulations.* (1) Anchorage B is intended for general purposes, but especially for use by oil tankers and other large deep-draft ships entering harbor at night and intending to proceed to the dock allotted at daylight the following morning or as soon as practicable.

This area is also to be used for quarantine anchorage. Vessels must be so anchored in this area as to leave at all times an open usable channel at least 100 feet wide for passage of ferry and other boats between Portland, Peak Island, and Bay Points. Any vessels anchored in this area shall be ready to move on short notice when ordered to do so by the Captain of the Port.

(2) Anchorage C is intended for use only by small vessels and for temporary anchorage.

(3) Anchorage D is for use only by small yachts and pleasure craft and small light-draft coastwise freighters.

§ 202.8 *Boston Harbor, Mass.*—(a) *The anchorage grounds.*—(1) *Bird Island Anchorage.* Beginning at a point bearing 93°, 1,400 yards, from the aerial beacon on top of the Boston Custom House tower; thence to a point bearing 81°, 1,600 yards, from the aerial beacon on top of the Boston Custom House tower; thence to a point bearing 102°, 3,100 yards, from the aerial beacon on top of the Boston Custom House tower; thence to a point bearing 109°, 3,050 yards, from the aerial beacon on top of the Boston Custom House tower; and thence to the point of beginning.

NOTE: All bearings in this section are referred to true meridian.

(2) *President Roads Anchorage.* Beginning at a point bearing 261°, 350 yards, from Deer Island Light; thence to a point bearing 261°, 2,900 yards, from Deer Island Light; thence to a point bearing 272°, 2,600 yards, from Deer Island Light; thence to a point bearing 319°, 650 yards, from Deer Island Light; and thence to the point of beginning.

(3) *Long Island Anchorage.* East of Long Island, bounded as follows: Beginning at the southwesternmost point of Gallups Island; thence 270° to Long Island; thence southerly along the eastern shore line of Long Island to Bass Point; thence to the northernmost point of Rainsford Island; thence to Georges

Island Gong Buoy 6; and thence to the point of beginning.

(4) *Castle Island Anchorage.* Bounded on the north by Castle Island and adjacent land; on the east by a line between Castle Rocks Fog Signal Light and Old Harbor Shoal Buoy 2; on the southeast by a line between Old Harbor Shoal Buoy 2 and Old Harbor Buoy 4; and on the west by a line running due north from Old Harbor Buoy 4 to the shore line at City Point.

(5) *Explosives anchorage.* In the lower harbor, bounded on the northeast by a line between the northeast end of Peddocks Island and the northeast end of Rainsford Island; on the northwest by Rainsford Island; on the southwest by a line between the western extremity of Rainsford Island and the westernmost point of Peddocks Island; and on the southeast by Peddocks Island.

(b) *The regulations.* (1) The Captain of the Port may authorize the use of the President Roads Anchorage as an explosives anchorage when he finds that the interests of commerce will be promoted and that safety will not be prejudiced thereby. Vessels anchored in this area shall move promptly upon notification by the Captain of the Port.

(2) In the Long Island Anchorage vessels shall anchor in the position designated by the Captain of the Port.

(3) Floats or buoys for marking anchors or moorings in place will be allowed in all areas. Fixed mooring piles or stakes are prohibited.

§ 202.10 *New Bedford Outer Harbor, Buzzards Bay, Vineyard and Nantucket Sounds, Mass.*—(a) *The anchorage grounds.*

NEW BEDFORD OUTER HARBOR

(1) *Anchorage A.* West of Sconticut Neck, and shoreward of a line described as follows: Beginning at a point 100 yards southwest of Fort Phoenix Point; thence 154° along a line which passes 100 yards east of New Bedford Channel Buoys, 8, 6, and 4, to a point bearing approximately 130°, 225 yards, from New Bedford Channel Buoy 4; thence 87°, 340 yards; thence 156° along a line approximately one mile to its intersection with a line ranging 87° from the cupola on Clarks Point; thence 87° to Sconticut Neck.

NOTE: All bearings in this section are referred to true meridian.

(2) *Anchorage B.* Southeast of a line ranging 222° from the southwest corner of Fort Phoenix to the New Bedford shore; west of a line ranging 154° from Palmer Island Light to Butler Flats Light; and north of a line bearing 267° from Butler Flats Light to the shore.

BUZZARDS BAY NEAR ENTRANCE TO APPROACH CHANNEL TO CAPE COD CANAL

(3) *Anchorage C.* West of a line parallel to and 850 feet westward from the centerline of Cleveland Ledge Channel; north of a line bearing 129° from the tower on Bird Island; east of a line bearing 25° 30′ and passing through Bird Island Reef Bell Buoy 13; and south of a line bearing 270° from Wings Neck Light.

(4) *Anchorage D.* Beginning at a point bearing 135°, 1,200 yards, from Hog Island Channel 4 Light; thence 129° to a point bearing 209°, approximately 733 yards, from Wings Neck Light; thence 209° to Southwest Ledge Buoy 10; thence 199° along a line to its intersection with a line bearing 129° from the tower on Bird Island; thence 309° to a point 850 feet easterly, right angle distance, from the centerline of Cleveland Ledge Channel; thence northeasterly along a line parallel to and 850 feet eastward from the centerline of Cleveland Ledge Channel to its intersection with a line bearing 218° 30′ from the point of beginning; thence 38° 30′ to the point of beginning.

VINEYARD AND NANTUCKET SOUNDS

(5) *Anchorage E.* South of a line beginning at a point bearing 180°, about 3.25 miles, from Cuttyhunk Light, thence 65° to a point bearing 180°, 0.625 mile, from Nashawena Lighted Whistle Buoy, thence 57° 30′, passing 600 yards northerly of Middle Ground Lighted Bell Buoy 25A, to a point bearing 145°, 1.25 miles, from Nobska Point Light; southwest of a line ranging 113° through West Chop Buoy 25 to East Chop Flats Bell Buoy 23; and west of a line bearing 163° between East Chop Flats Bell Buoy 23 and Lone Rock Buoy 1.

(6) *Anchorage F.* Southeast of the Elizabeth Islands, north of a line ranging 97° 30′ from Cuttyhunk Light toward Nashawena Lighted Whistle Buoy to a point 0.375 mile from that buoy; northwest of a line bearing 57° 30′ from the last-named point to a point opposite the entrance to Woods Hole; and southwest of a line from the shore of Nomamesset Island bearing 114° and ranging through West Chop Light and East Chop Light.

(7) *Anchorage G.* South of a line bearing 113° from Lone Rock Buoy 1 to Outer Flats Bell Buoy 17, thence 86° to Cross Rip Lightship, thence 118° 30′ to Tuckernuck Shoal Bell Buoy 7, thence ranging 149° toward Brant Point Light to the breakwater at Brant Point.

(8) *Anchorage H.* In the vicinity of Squash Meadow shoal, east of a line ranging 163° through Squash Meadow West Eng Buoy 21; north of lines parallel to and 0.5 mile northerly from lines joining Lone Rock Buoy 1, Outer Flats Bell Buoy 17, and Cross Rip Lightship; and south of a line ranging 97° from East Chop Light toward Cross Rip Lightship.

(9) *Anchorage I.* Northerly of a line ranging 109° from Nobska Point Light toward Hedge Fence Lighted Horn and Gong Buoy 16, and of a line ranging 97° 30′ through Hedge Fence East Eng Buoy to Halfmoon Shoal Lighted Bell Buoy 12, thence 73° to Handkerchief Shoal Buoy 16, and thence to the westernmost point of Monomoy Island.

(10) *Anchorage J.* East of a line bearing 329°, parallel to and 0.875 mile northeasterly of a line running from Brant Point Light through Tuckernuck Shoal Bell Buoy 7, from Coatue Beach to a point 1.25 miles southeasterly from a line between Halfmoon Shoal Lighted Bell Buoy 12 and Handkerchief Shoal Buoy 16; thence 73°, parallel to and 1.25 miles southeasterly from a line running from Halfmoon Shoal Lighted Bell Buoy 12 through Handkerchief Shoal Buoy 16, to a point bearing 215° from Stone Horse North End Lighted Bell Buoy 9; thence 35° to Stone Horse North End Lighted Bell Buoy 9; thence 70° to a point bearing 207° from Pollock Rip Lightship; and thence 27° through, and to a point 5.0 miles northeasterly from, Pollock Rip Lightship.

(11) *Anchorage K.* North of a line tangent to the southeasterly edge of Monomoy Point and extending to Bearse Shoal North End Buoy 2A; and west of a line bearing 7° from Bearse Shoal North End Buoy 2A to Chatham Bar Buoy 2.

(b) *The regulations.* (1) Floats or buoys for marking anchors or moorings in place will be allowed in all areas. Fixed mooring piles or stakes are prohibited.

(2) Except in cases of great emergency, no vessels shall be anchored in New Bedford Outer Harbor, Buzzards Bay near the entrance to the approach channel to Cape Cod Canal, or Vineyard and Nantucket Sounds, outside of the anchorage areas defined in paragraph (a) of this section.

(3) Anchors must not be placed outside the anchorage areas, nor shall any vessel be so anchored that any portion of the hull or rigging will at any time extend outside the boundaries of the anchorage area.

(4) Any vessel anchoring under the circumstances of great emergency outside any anchorage area must be placed near the edge of the channel and in such position as not to interfere with the free navigation of the channel, nor obstruct the approach to any pier nor impede the movement of any boat, and shall move away immediately after the emergency ceases or upon notification by an officer of the Coast Guard.

(5) A vessel upon being notified to move into the anchorage limits or to shift its position in anchorage grounds must get under way at once or signal for a tug, and must change position as directed with reasonable promptness.

(6) Whenever the maritime or commercial interests of the United States so require, any officer of the Coast Guard is hereby empowered to shift the position of any vessel anchored within the anchorage areas, of any vessel anchored outside the anchorage areas, and of any vessel which is so moored or anchored as to impede or obstruct vessel movements in any channel.

(7) Nothing in this section shall be construed as relieving the owner or person in charge of any vessel from the penalties of the law for obstructing navigation or for obstructing or interfering with range lights, or for not complying with the navigation laws in regard to lights, fog signals, or for otherwise violating the law.

§ 202.15 *Narragansett Bay, R. I.*—(a) *The anchorage grounds.*

EAST PASSAGE

(1) *Anchorage A.* East of Conanicut Island, west of a line bearing 9° from the easternmost of The Dumplings to latitude 41°30′30″, thence ranging 12° toward Fiske Rock Buoy, a line ranging 311°30′ from Bishop Rock Shoal Lighted Bell Buoy 8A, and a line ranging 351° from Rose Island Light; and south of latitude 41°32′07″ which parallel passes

through a point 130 yards north of Gould Island Light; excluding the approach of the Jamestown Ferry, a zone 300 yards wide to the southward of a line ranging 103° from a point 100 yards north of the existing ferry landing toward the spire of Trinity Church, Newport.

(i) That portion of the area to the northward of the approach of the Jamestown Ferry shall be restricted for the anchorage of vessels of the United States Navy. In that portion of the area to the southward of the approach of the Jamestown Ferry the requirements of the Navy shall predominate.

(ii) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

NOTE: All bearings in this section are referred to true meridian.

(2) *Anchorage B.* Off the west shore of Aquidneck Island from Coasters Harbor Island to north of Coggeshall Point, northeast of a line ranging 303° from the north end of the breakwater west of Coasters Harbor Island toward Torpedo Range buoy 1; east of a line ranging 19° from the eastermost of The Dumplings through Dyer Island North Point Shoal Lighted Bell Buoy 12A to a point bearing 219° from Coal Mine Rocks Lighted Bell Buoy 16, thence ranging 39° toward Coal Mine Rocks Lighted Bell Buoy 16; southwest of a line bearing 132° from the southeast corner of the pier at Homestead, Prudence Island; west of a line ranging 205° through a point on the southwestern boundary of the U. S. Naval measured nautical mile Trial Course 1,070 yards from the western shore of Aquidneck Island; and southwest of a line running from the last-described point to the shore at the easterly end of the north boundary of the cable area in the vicinity of Coggeshall Point; excluding the area between the south limit of the cable area to Gould Island and latitude 41°32'15", the area between latitude 41°33'12" and latitude 41°33'30" which parallels pass through points 490 yards south and 117 yards north of the north end of Midway Pierhead, respectively, and the cable area in the vicinity of Coggeshall Point.

(i) In this area the requirements of the Navy shall predominate.

(ii) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(3) *Anchorage C.* (i) East of Rose Island, southwest of a line ranging 338° toward Gull Rocks South Buoy; southeast of a line bearing 248° through Tracey Ledge Buoy 5; northeast of a line bearing 158° through, and to a point 100 yards southeasterly of, Mitchell Rock Buoy 3; and northwest of a line bearing 68° from a point 100 yards southeasterly of Mitchell Rock Buoy 3.

(ii) West of Coasters Harbor Island, west of a line bearing 351° from Tracey Ledge Buoy 5 through Seventeen-foot Spot Buoy northeast of Gull Rocks; south of a line bearing 292° from the cupola at the Naval War College; east of a line ranging 19° from the easternmost of The Dumplings toward Dyer Island North Point Shoal Lighted Bell Buoy 12A; and north of latitude 41°30'22" which parallel passes through a point 230 yards north of Rose Island Shoal Northeast End Buoy 8.

(iii) In these areas the requirements of the Navy shall predominate.

(iv) Temporary floats or buoys for marking anchors or moorings in place will be allowed in these areas. Fixed mooring piles or stakes will not be allowed.

(4) *Anchorage D.* West of Goat Island, south of a line bearing 247° from Newport Harbor Light; east of a line ranging 176° 30' from Rose Island Aviation Light toward the northerly radio tower at Fort Adams, and north of a line bearing 117° from the cupola with gables at Jamestown to longitude 71°20', thence 95° to Goat Island Shoal Light.

(i) In this area the requirements of the Navy shall predominate from May 1 to October 1, subject at all times to such adjustments as may be necessary to accommodate all classes of vessels which may require anchorage room.

(ii) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(5) *Anchorage E.* South of Coasters Harbor Island, east of a line bearing 341° from the outer end of Briggs Wharf to the southwestern shore of Coasters Harbor Island near the War College Building; and north of a line ranging 265° from the flagstaff at Fort Greene toward Rose Island Light.

(i) In this area the requirements of the naval service will predominate from May 1 to October 1, but will at all times be subject to such adjustment as may be necessary to accommodate all classes of vessels that may require anchorage room.

(ii) Temporary floats or buoys for marking anchors or mooring in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(6) *Anchorage F.* In the central and southerly part of Newport Harbor proper, east of a line ranging 34° through a point 75 yards easterly of the end of the south wharf at Fort Adams toward Goat Island Shoal Light, a line ranging 329° through a point 35 yards east of the north end of the north wharf at Fort Adams toward the northeast corner of the Fort Adams wharf, and a line ranging 23° from the south corner of the north wharf at Fort Adams toward Newport Harbor Light; south of a line ranging 116° from Fort Adams Light to Ida Lewis Rock Light, and a line ranging 74° from the south end of the north wharf at Fort Adams toward the spire of the St. Spyridon Hellenic Orthodox Church; east of a line ranging 4° from the city stone pier at King Park toward the end of the Navy Section Base Fleet Wharf; south of a line ranging 95° from the south end of the wharf of the United States Naval Torpedo Station on Goat Island toward the northwest corner of Bowen's wharf; and west of a line ranging 176° from the southwest corner of the city wharf toward the southwest corner of Wellington and Houston Avenues opposite King Park, a line ranging 132° from the south end of the Torpedo Station wharf, Goat Island, toward the powerhouse chimney, Newport, and a line ranging 177° from the southeast corner of the city wharf through a point 50 yards westerly from the outer end of Commercial Wharf.

(i) Floats or buoys for marking anchors or moorings in place and fixed mooring piles or stakes are prohibited in this area:

(7) *Anchorage G.* In Newport Inner Harbor, northeast of a line ranging 108° from the southeast corner of the city wharf toward the northwest corner of the Government wharf.

(i) Floats or buoys for marking anchors or moorings in place and fixed mooring piles or stakes are prohibited in this area.

WEST PASSAGE

(8) *Anchorage H.* North of a line 1,000 yards long bearing 88° from Bonnet Point; west of a line bearing 3° from the eastern end of the last-described line; and south of a line ranging 302° through a point 200 yards south of the Kearny wharf toward the church spire at South Ferry, Boston Neck.

(i) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(9) *Anchorage I.* North of a line 1,000 yards long bearing 88° from Bonnet Point to the shore at Austin Hollow; east of a line bearing 183° from Dutch Island Light; and south of a line ranging 302° through a point 200 yards south of the Kearny wharf toward the church spire at South Ferry, Boston Neck.

(i) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(10) *Anchorage J.* At Saunderstown, south of a line ranging 110° from the south side of the ferry wharf toward the cable crossing sign on Dutch Island; west of a line ranging 192° from Plum Beach Shoal Buoy 1 PB toward the east shore of The Bonnet; and north of a line from the shore ranging 108° toward Dutch Island Light and the north end of the wharf at Beaver Head.

(i) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(11) *Anchorage K.* In the central and southern portion of Dutch Island Harbor, north of a line ranging 106° from Beaver Head Point Shoal Buoy 2 toward the Jamestown standpipe; east of a line ranging 14° from Beaver Head Point Shoal Buoy 2 toward the inshore end of the engineer wharf, Dutch Island; southeast of a line ranging 50° from Dutch Island Light toward the windmill north of Jamestown; and south of a line parallel to and 100 yards southwesterly from a line ranging 132° from the engineer wharf, Dutch Island, and the west ferry wharf, Jamestown.

(i) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(12) *Anchorage L.* North of a line ranging 101° from a point on shore 300 yards northerly of the Saunderstown ferry wharf toward the entrance to

Round Swamp, Conanicut Island; west of a line bearing 15° parallel to and 1,000 feet westerly from a line joining the western point of Dutch Island and Twenty-three Foot Rock Buoy 4, and a line ranging 6° from Dutch Island Light toward Warwick Light; and south of a line ranging 290° from Sand Point, Conanicut Island, to Wickford Harbor Light, and a line bearing 226° from Wickford Harbor Light to Poplar Point tower.

(i) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(13) *Anchorage M.* East and north of Dutch Island, northeast of a line ranging 316° from the inshore end of the west ferry wharf, Jamestown, toward the north end of Dutch Island to a point bearing 88°, 200 yards, from the engineer wharf, Dutch Island, thence ranging 3° toward the shore of Conanicut Island at Slocum Ledge; north of a line 200 yards off the Dutch Island shore ranging 281° from the entrance to Round Swamp toward a point on shore 300 yards northerly from the Saunderstown ferry wharf; east of a line ranging 15° from the western point of Dutch Island to Twenty-three Foot Rock Buoy 4; and south of a line bearing 77° from Twenty-three Foot Rock Buoy 4 to the shore.

(i) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(14) *Anchorage N.* West of the north end of Conanicut Island, south of a line bearing 262° from Conanicut Island Light; east of a line bearing 8° from Twenty-three Foot Rock Buoy 4; and north of a line ranging 290° from Sand Point toward Wickford Harbor Light.

(i) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

BRISTOL HARBOR

(15) *Anchorge O.* South of the south line of Franklin Street extended westerly; west of a line bearing 164° 30′ parallel to and 400 feet westerly from the State harbor line between Franklin and Constitution Streets, and of a line ranging 244° from a point on the north line of Constitution Street extended 400 feet beyond the State harbor line toward Usher Rock Buoy 3; and north of the north line of Union Street extended to the Popasquash Neck shore.

(i) Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes will not be allowed.

(b) *The regulations.* (1) Except in cases of great emergency, no vessel shall be anchored in the entrances to Narragansett Bay, in Newport Harbor, or in Bristol Harbor, outside of the anchorage areas defined in paragraph (a) of this section.

(2) Anchors must not be placed outside the anchorage areas, nor shall any vessel be so anchored that any portion of the hull or rigging shall at any time extend outside the boundaries of the anchorage area.

(3) Any vessel anchoring under the circumstances of great emergency outside the anchorage areas must be placed near the edge of the channel and in such position as not to interfere with the free navigation of the channel, nor obstruct the approach to any pier, nor impede the movement of any boat, and shall move away immediately after the emergency ceases, or upon notification by an officer of the Coast Guard.

(4) A vessel upon being notified to move into the anchorage limits or to shift its position on anchorage grounds must get under way at once or signal for a tug, and must change position as directed with reasonableness promptness.

(5) Whenever the maritime or commercial interests of the United States so require, any officer of the Coast Guard is hereby empowered to shift the position of any vessel anchored within the anchorage areas, of any vessel anchored outside the anchorage areas, and of any vessel which is so moored or anchored as to impede or obstruct vessel movements in any channel.

(6) Nothing in this section shall be construed as relieving the owner or person in charge of any vessel from the penalties of the law for obstructing navigation or for obstructing or interfering with range lights, or for not complying with the navigation laws in regard to lights, fog signals, or for otherwise violating the law.

§ 202.17 *New London Harbor, Conn.*—(a) *The anchorage grounds*—(1) *Anchorage A (Naval).* In the Thames River east of Shaws Cove, bounded by lines connecting points which are the following bearings and distances from Monument, Groton (latitude 41°21′18″, longitude 72°04′48″): 243°, 1,400 yards; 246°, 925 yards; 217°, 1,380 yards; and 235°, 1,450 yards.

NOTE: All bearings in this section are referred to true meridian.

(2) *Anchorage B.* In the Thames River southward of New London, bounded by lines connecting points which are the following bearings and distances from New London Harbor Light (latitude 41°18′59″, longitude 72°05′25″): 2°, 2,460 yards; 9°, 2,480 yards; 26°, 1,175 yards; and 8°, 1,075 yards.

(3) *Anchorage C.* In the Thames River southward of New London Harbor, bounded by lines connecting a point bearing 100°, 450 yards, from New London Harbor Light, a point bearing 270°, 575 yards, from New London Ledge Light (latitude 41°18′21″, longitude 72°04′41″), and a point bearing 270°, 1,450 yards, from New London Ledge Light.

(4) *Anchorage D.* In Long Island Sound approximately two miles westsouthwest of New London Ledge Light, bounded by lines connecting points which are the following bearings and distances from New London Ledge Light; 246°, 2.6 miles; 247°, 2.1 miles; 233°, 2.1 miles; and 235°, 2.6 miles.

(b) *The regulations.* (1) Anchorage A is for barges and small vessels drawing less than 12 feet. This anchorage shall be used only by naval vessels, and by other vessels holding special permits issued by the Captain of the Port when he finds that such special permits to anchor are not inimical to the requirements of the Navy.

(2) Except in emergencies, vessels shall not anchor in New London Harbor or the approaches thereto outside the anchorages defined in paragraph (a) of this section unless authorized to do so by the Captain of the Port.

§ 202.25 *The Port of New York.* * * *

(b) *East River.* * * *

(5) *Anchorage No. 10.* In Flushing Bay southeast of a line ranging through Rikers Island Channel Lighted Bell Buoy 1A and tangent to the northwest corner of College Point.

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(c) *Hudson River.*—(1) *Anchorage No. 16.* * * *; west of a line ranging 25° from a point 120 yards east of the east end of said pier to a point (500 yards from the shore and 915 yards from the Fort Lee flagpole) on a line ranging approximately 100° 22′ from the Fort Lee flagpole toward the square chimney on the Medical Center Building at 168th Street, Manhattan; * * *

* * * * *

(4) *Anchorage No. 18–B.* North of the south side of West 181st Street, prolonged; east of a line ranging 28° from the northwest corner of the east tower of George Washington Bridge and tangent to the east shore of the river at Inwood Hill Park; and south of the prolongation of the south side of Dyckman Street, Manhattan, New York, where it passes beneath the tracks of the New York Central Railroad.

* * * * *

(d) *Upper Bay*—(1) *Anchorage No. 20.* Northeast of Ellis Island; southeast of a line ranging approximately 51° 15′ from the northwest corner of Ellis Island toward the end of Central Railroad of New Jersey Pier No. 7; south of a line ranging approximately 96° 20′ from the southeast corner of Central Railroad of New Jersey Pier No. 11, toward the outer end of the Staten Island Ferry rack on the Manhattan shore; west of a line ranging approximately 183° 30′ from the southeast corner of Lehigh Valley Railroad Pier "A" to latitude 40°41′54.3″, longitude 74°01′59″; and north of a line ranging approximately 85° 10′ from the southeast corner of the northerly half of Ellis Island toward the outer end of the Staten Island Ferry rack on the Manhattan shore.

* * * * *

(2) *Anchorage No. 20–A.* * * *; west of a line bearing 194° 30′ from latitude 40°41′42″, longitude 74°02′02″, to Main Channel Lighted Bell Buoy 31, thence 206° to latitude 40°40′05″, longitude 74°02′55″; * * *

* * * * *

(3) *Anchorage No. 20–B.* South of a line bearing 129° * * *

* * * * *

(f) *Lower Bay.* * * *

(2) *Anchorage No. 27*—(i) *Atlantic Ocean.* South of Gedney Channel, west of a line ranging due north and south through Scotland Lightship, and north of a line ranging due east from Navesink Light: *Provided,* That no vessel shall anchor in South Channel.

(ii) *Romer Shoal.* Beginning at Gedney Channel Lighted Bell Buoy 2;

thence to Ambrose Channel Entrance Lighted Whistle Buoy 1A; thence along the southwest side of Ambrose Channel to Ambrose Channel Lighted Whistle Buoy 9, and thence to Ambrose Channel Lighted Whistle Buoy 13; thence along a line ranging toward West Bank Light to its intersection with a line ranging from Ambrose Channel Lighted Buoy 15 to Chapel Hill Channel Buoy 14; thence to Chapel Hill Channel Buoy 14; thence to Swash Channel Lighted Gong Buoy 6; thence to Swash Channel Buoy 4A; thence to Romer South Edge Buoy 2S; and thence to Gedney Channel Lighted Bell Buoy 6 and along the north side of Gedney Channel to the point of beginning.

(iii) *Flynns Knoll.* Beginning at Sandy Hook Channel Lighted Bell Buoy 18; thence along the north side of Sandy Hook Channel to Sandy Hook Channel Lighted Buoy; thence along the southwest side of Swash Channel to Junction Buoy; thence along the east side of Chapel Hill Channel to Chapel Hill Channel Buoy 2; and thence to the point of beginning.

* * * * *

(h) *Newark Bay*—(1) *Anchorage No. 34.* South of the bridge of the Central Railroad Company of New Jersey; west of lines from a point on the bridge 100 yards west of the west pier of the west lift span to Newark Bay Channel Buoy 5, thence to the east end of the dike north of Shooters Island; north of the dike and a line ranging from the west end of the dike through Kill Van Kull Light 18 and Kill Van Kull Buoy 20; and east of a line 250 feet east of and parallel to the Singer Manufacturing Company bulkhead.

* * * * *

(5) *Anchorage No. 38.* North of the Pennsylvania-Lehigh Valley Railroad bridge; east of lines ranging through a point 200 yards east of the east end of the lift span of the said bridge and the red channel buoys marking the dredged channel in Newark Bay and Hackensack River; and south of the Central Railroad Company of New Jersey bridge.

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(j) *Raritan Bay.* * * *

(5) *Anchorage No. 47.* South of the Raritan River Channel from opposite the Sun Oil Company pier at South Amboy to Raritan River Buoy 3; thence south of a line in the direction of Boundary Daybeacon to latitude 48°28'48.5'', longitude 74°14'31.6''; thence south of lines through Raritan Bay Light 7B, Raritan Bay Light 3A, and the buoys marking the south side of Raritan Bay Channel Off Seguine Point to the west limit of Anchorage No. 28 as defined by a line bearing 353° from the head of the Keansburg Steamboat Pier through Great Kills Flat Buoy 4 to the Staten Island shore; and west of the latter line.

* * * * *

(m) *Anchorages for vessels carrying explosives*—(1) *Anchorage No. 49–B.* On the New Jersey Flats, south of a line parallel to and 500 yards south of the National Docks (Black Tom) dredged channel; west of a line bearing 208° from the Torch, Statue of Liberty, and ranging through National Docks Channel Buoy 1 and New Jersey Pierhead Channel North Entrance Buoy 4; north of a line ranging through the latter buoy and New Jersey Pierhead Channel North Entrance Lighted Buoy 6; northeast of a line bearing 313° being parallel to and 500 yards north of Caven Point Pier; and east of a line bearing 38° from the twin chimneys on Constable Rock, New Jersey, through the brick pump house on the inshore end of the trestle to Caven Point Pier.

* * * * *

(3) *Anchorage No. 49–D.* In Raritan Bay, south of a line bearing 250° from West Bank Light; west of a line ranging 137° from the tower of former Princess Bay Light to the tower of former Waackaack Light; north of a line ranging 250° from Old Orchard Shoal Light to Boundary Daybeacon; and east of a line bearing 306° from Boundary Daybeacon.

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§ 202.27 *Delaware River*—(a) *The anchorage grounds*—(1) *Explosives anchorage.* Between the upper end of Artificial Island and Reedy Island, bounded on the southwest by a line bearing 103° true from Reedy Island Light; on the northwest by a line 500 feet southeast of and parallel to the southeast edge of the channel along Reedy Island Range; on the northeast by a line bearing 110° true from the tank on Reedy Island; and on the southeast by the line of 26-foot depth.

(2) *General anchorages in vicinity of Reedy Point*—(i) *South anchorage.* Northwestward of the channel along Reedy Island Range, upstream from a point 4,000 feet above the upper end of Reedy Island, and downstream from a line bearing 135° true from the South Jetty Light at the entrance to the Chesapeake and Delaware Canal.

(ii) *North anchorage.* Southwestward of the channel along New Castle Range, upstream from a line perpendicular to the channel off the North Jetty Light at the entrance to the Chesapeake and Delaware Canal, and downstream from a line perpendicular to the channel midway between the entrance to the Chesapeake and Delaware Canal and the entrance to the branch channel of the canal at Delaware City, Delaware.

(b) *The regulations*—(1) *Explosives anchorage.* (i) This anchorage is reserved for vessels engaged in the transportation and handling of explosives and other dangerous articles. No vessel not so engaged shall anchor in this area except in case of emergency.

(ii) The anchoring of vessels in this area shall be subject to supervision and approval of the Captain of the Port.

(iii) Vessels shall be so anchored within this anchorage that no portion of the hull or rigging shall at any time extend outside the boundaries of the anchorage.

(iv) Vessels within this anchorage shall not be anchored within 500 feet of one another or of the edge of the channel.

(v) Every vessel whose crew may be reduced to such number that it will not have sufficient men on board to weigh anchor at any time shall be anchored with two anchors, with mooring swivel put on before the crew shall be reduced or released.

(vi) The Captain of the Port may shift the position of any vessel within this anchorage whenever the maritime or commercial interests of the United States so require. A vessel upon being notified to move or shift its position must get under way at once and change position as directed with reasonable promptness.

(vii) The owners of vessels or interests using the anchorage shall comply with all Federal, State, and local rules and regulations governing the transportation, storage, stowage, and handling of explosives and other dangerous articles.

(viii) Nothing in the regulations in this paragraph shall be construed as relieving the owner or person in charge of any vessel or plant from the penalties of law for obstructing navigation or for obstructing or interfering with range lights, or for not complying with the navigation laws in regard to lights, for signals, or for otherwise violating law.

(2) *General anchorages.* (i) Vessels shall be so anchored within these anchorges that no portion of the hull or rigging shall at any time extend outside the boundaries of the anchorages.

(ii) Every vessel whose crew may be reduced to such number that it will not have sufficient men on board to weigh anchor at any time shall be anchored with two anchors, with mooring swivel put on before the crew shall be reduced or released.

(iii) The position of any vessel within these anchorages may be shifted whenever the maritime or commercial interests of the United States so require. A vessel upon being notified to move or shift the position must get under way at once and change position as directed with reasonable promptness.

(iv) Nothing in the regulations in this paragraph shall be construed as relieving the owner or person in charge of any vessel or plant from the penalties of law for obstructing navigation or for obstructing or interfering with range lights, or for not complying with the navigation laws in regard to lights, fog signals, or for otherwise violating law.

(v) The anchoring of vessels in these anchorages shall be subject to the supervision and approval of the Captain of the Port.

§ 202.45 *Port of Charleston, S. C.*—(a) *The anchorage grounds.* The anchorage grounds for general use shall include all the navigable portions of the harbor and the portions of Cooper, Ashley, and Wando Rivers adjacent thereto, except the following:

(1) *Areas of prohibited anchorage.* (i) A ship channel 1,000 feet wide between the jetties, thence 400 feet to 800 feet wide (or as much wider as an improved channel may thereafter be dredged), following the established ranges and usual courses and passing east of Drum Island to Goose Creek. Between the north Customhouse Wharf and the northernmost building ways of the Todd Shipyard Corporation, this shall include all the area between the western limit of the Channel and the eastern waterfront of Charleston.

(ii) A ship channel 500 feet wide from the northernmost building ways of the Todd Shipyards Corporation north through Town Creek, following the established ranges and usual courses and connecting at both ends with the main channel.

(iii) A ship channel in Ashley River from its mouth to Standard Wharf 300 feet wide following the established ranges and usual courses and widened at bends and at the upstream and downstream ends.

(iv) The commonly used channel in Wando River, with width of 200 feet.

(v) The commonly used channel in Hog Island Channel with a width of 200 feet from Cooper River to the area opposite Shem Creek.

(vi) A cable area 1,200 feet wide in Cooper River south of a line bearing 290° true from the northernmost point of Shutes Folly Island, bounded on the west by the waterfront of Charleston and on the east by the shore line of Shutes Folly Island.

(vii) A cable area 1,200 feet wide extending 321° true from Ripley Day Beacon No. 32, and bounded on the north by a true east-west line through the Carolina Yacht Club Wharf, with its axis passing through Ripley Day Beacon No. 32.

(viii) A cable area 1,200 feet wide, extending from Ripley Day Beacon No. 32 to Fort Sumter Light, with its axis connecting these structures.

(ix) A cable area 1,200 feet wide, extending from Fort Sumter Light to Old Fort Moultrie, with its axis connecting the centers of these structures.

(x) A cable area 1,200 feet wide extending in a true north direction from a true east-west line through the U. S. Quarantine Station dock. The west side is 900 feet east of the dock and the north side coincident with the southerly edge of South Channel.

(2) *Anchorage for explosives.* Vessels carrying explosives may anchor only in that section of the Wando River designated as "Anchorage for Explosives," which lies on the west side of that river in the area one mile upstream of the south end of Daniel Island: *Provided,* That vessels carrying explosives shall not anchor within 400 yards of each other, but this provision is not intended to prohibit lighters from lying alongside ships for the transfer of cargo.

(3) *Special anchorages.* Two special anchorages are provided in Cooper River along the eastern waterfront of Charleston. The use of these special anchorages is limited to loaded vessels for a period of not more than 72 hours. The bearings and distances for the centers of these special anchorages are from the tank atop the Fort Sumter Hotel on the Battery at Charleston:

(i) 30° 30′ true; 2,687 yards; diameter of anchorage, 1,400 feet.

(ii) 37° 00′ true; 2,017 yards; diameter of anchorage, 1,400 feet.

(4) *Restricted anchorage (quarantine).* The area between the yellow buoys, of which the northerly side is coincident with the southerly edge of South Channel, in the vicinity of the U. S. Quarantine Station on the northerly shore of James Island. Anchorage in this area is restricted to vessels having business with the U. S. Quarantine Station.

NOTE: This anchorage was established by the Surgeon General, Public Health Service, Federal Security Agency, and is under the jurisdiction of the Medical Officer in Charge of the Port of Charleston. Its description is included in these regulations as information only.

(b) *The regulations.* (1) Except in cases of great emergency, no vessel shall be anchored in the prohibited areas described in paragraph (a) of this section, nor shall any vessel be so anchored that it can swing within 400 feet of any wharf or pier on the eastern waterfront of Charleston.

(2) Vessels using the two special anchorages opposite the eastern waterfront of Charleston shall place their anchors as near as possible in the center of the anchorage. Vessels not using a special anchorage shall not place their anchors within the areas of prohibited anchorage, but vessels may be so anchored as to swing into these areas: *Provided,* That that they are so placed, with reference to the customary winds, tides, and currents of the harbor, that they will swing only during slack water, and at this period there shall remain in the waters adjacent to the channel an area providing sufficient depth so as to permit the safe passage of loaded vessels.

(3) Vessels must be anchored in such a way as not to interfere with the free navigation of channels of the port, including Cooper, Ashley, and Wando Rivers, Town Creek, and Hog Island Channel, or to obstruct the approach to any pier or entrance to any slip, or to impede the movement of any vessel or craft.

(4) Dragging of anchors in or across the areas of prohibited anchorage is prohibited.

(5) Vessels which, through force of great emergency, are anchored contrary to the foregoing regulations in this section shall be shifted to new berths in accordance with such regulations at the earliest opportunity.

(6) A vessel, upon notification from the Captain of the Port to shift its position in anchorage grounds or out of areas of prohibited anchorage, must get under way at once or signal for a tug, and must change position as directed with reasonable promptness.

(7) Vessels carrying explosives shall be anchored only within the anchorage ground described in paragraph (a) (2) of this section, which may be used also by vessels carrying other classes of freight when proper anchorage space is not available elsewhere in the harbor, including the connecting rivers.

(8) Vessels carrying explosives shall be at all times in charge of competent persons, and must display by day a red flag, of at least 16 square feet, at the masthead, or at least 10 feet above the upper deck if the vessel has no mast; at night a red light shall be displayed in the same positions specified for the red flag. No smoking will be permitted on or near such vessels, and no persons under the influence of liquor will be allowed on board any vessel, barge, or scow carrying explosives, nor will they be allowed to approach such vessels.

(9) Nothing in this section shall be construed as relieving the owner or person in charge of any vessel from the penalties of law for obstructing navigation, or for obstructing or interfering with range lights, or for not complying with the navigation laws in regard to lights, fog signals, etc.

§ 202.50 *Wilmington River, Ga.*—(a) *The anchorage grounds*—(1) *Turner Creek anchorage.* An area in Turner Creek in the vicinity of its mouth to the southwestward of a line beginning at a point on the northerly high water shore line of Wilmington Island 750 feet northwesterly from the Savannah Yacht Club Wharf; thence 34° 25′ true, 200 feet, to a buoy; thence 124° 25′ true, 1,800 feet, to a buoy; and thence 214° 25′, true, 150 feet, to the high water line of Wilmington Island.

(2) *Thunderbolt Harbor anchorage.* An area in Wilmington River in the vicinity of Thunderbolt Harbor to the westward of a line beginning at the southeasterly corner of the outer end of the wharf of the Shrine Club; thence 183° true, 480 feet, to a buoy; and thence 204° 30′ true, 2,280 feet, to the Maggioni Packing Plant.

NOTE: Temporary floats or buoys for marking anchors or moorings in place will be allowed in these areas. Fixed mooring piles or stakes are prohibited.

(b) *The regulations.* (1) Except in cases of great emergency, no vessels shall anchor in Turner Creek between its mouth in Wilmington River and a point 4,000 feet to the eastward, or in Wilmington River between the State Highway Bridge, Thunderbolt, and 4,000 feet to the southward, except in the anchorage described in paragraph (a) of this section: *Provided,* That vessels may moor to any lawfully constructed wharf.

(2) Anchors must not be placed outside the anchorage area, nor shall any vessel be so anchored that any portion of the hull or rigging shall at any time extend outside the boundary of the anchorage area.

(3) Any vessel anchoring under circumstances of great emergency outside of the anchorage area should be placed near the edge of the channel and in such position as not to interfere with the free navigation of the channel nor obstruct the approach to any pier nor impede the movement of any boat, and shall move away immediately after the emergency ceases or upon notification by the District Engineer, Corps of Engineers, Savannah, Georgia, charged with the enforcement of the regulations in this section.

(4) A vessel, upon being notified to move into the anchorage limits or to shift its position in anchorage grounds, must get under way at once and must change position as directed with reasonable promptness.

(5) Whenever the maritime or navigation interests of the United States so require, the District Engineer is hereby empowered to shift the position of any vessel anchored within the anchorage area and of any vessel which is so moored or anchored as to impede or obstruct vessel movements in any channel.

(6) Nothing in this section shall be construed as relieving the owner or person in charge of any vessel from the penalties of law for obstructing navigation or for not complying with the navigation laws in regard to lights, fog signals, etc., or for otherwise violating the law.

§ 202.55 *St. Johns River, Jacksonville, Fla.*—(a) *The anchorage grounds*—(1) *Anchorage A.* Bounded on the north by an east-west line about 1,200 yards south of the drawbridge crossing the St. Johns River at Jacksonville and extending through Grassy Point Middle Ground Lower End Light No. 31; on the east by a line running between Hedricks Point and La Vista Point, South Jacksonville; on the south by a line running east from Grassy Point Middle Ground Light No. 34 to the eastern edge of the anchorage; and on the west by a line from Grassy Point Middle Ground Light No. 34 to Winter Point, Jacksonville.

(2) *Anchorage B.* Bounded on the north by the southern limits of Anchorage A; on the east by the continuation of the eastern limits of Anchorage A; on the south by an east-west line from La Vista Point, South Jacksonville, to Sadler Point, Ortega, Jacksonville; and on the west by the continuation of the western limits of Anchorage A.

(3) *Anchorage C.* Bounded on the west and north by a line from a point on the shore line north to Twenty Foot Rock Buoy No. 81, thence to Commodore Point Lighted Buoy No. 79, thence 33° 45′ true, 600 yards, thence 90° true to Empire Point; and on the east and south by the shores of the St. Johns River.

(4) *Anchorage D.* Beginning at Terminal Channel Light No. 7; thence to Cross Channel Buoy No. 78; thence to Arlington Cut Buoy No. 76; thence to Terminal Channel Light No. 5; and thence to Terminal Channel Light No. 7. No vessels shall anchor within 300 feet of Terminal Channel or Arlington Cut.

(5) *Anchorage E.* Beginning at Six Mile Creek Cut Range Front Light No. 73; thence 270° true to Texas Company Wharf; thence to Chaseville Middle Ground Black and Red Buoy; thence 56° 15′ true to the shore line 1,100 yards south of Chaseville.

(6) *Anchorage F.* Beginning at Six Mile Creek Cut Range Front Light No. 73; thence to Chaseville Middle Ground Black and Red Buoy; and thence 56° 15′ true to the shore line 1,100 yards south of Chaseville.

(7) *Anchorage G.* To the westward of the Trout River Cut, Maine Ship Channel, St. Johns River; and to the northward of Red Nun Buoy No. 66. No vessels shall anchor within 200 yards of the Trout River Cut.

(b) *The regulations.* (1) Anchorages A, B, D, and F are permanent anchorages. Anchorage A is reserved for deep-draft vessels, Anchorage B is reserved for shallow-draft vessels, Anchorage D is reserved for light-draft barges and schooners, and Anchorage F is reserved for deep-draft barges and schooners.

(2) Anchorage C is a temporary anchorage for deep-draft vessels. This anchorage shall be an anchorage for vessels exceeding 24 feet in draft. No vessel shall remain in the anchorage more than 24 hours without obtaining a permit from the Captain of the Port.

(3) Anchorage E shall be used only by vessels awaiting quarantine inspection, or by special permit from the Captain of the Port. Anchorage G is an explosives anchorage.

§ 202.65 *Tampa Bay, Fla.*—(a) *The anchorage grounds*—(1) *Explosives anchorage east of Mullet Key.* Beginning at a point bearing 65° 30′ true, 4,480 yards, from Mullet Key Shoal Light; thence to a point bearing 85° true, 4,900 yards, from Mullet Key Shoal Light; thence to a point bearing 152° 30′ true, 1,600 yards, from Mullet Key Shoal Light; thence to a point bearing 152° 30′ true, 220 yards, from Mullet Key Shoal Light; and thence to the point of beginning.

(2) *Temporary explosives anchorage south of Interbay Peninsula.* Beginning at a point bearing 107° true, 1,750 yards from Cut F Range Front Light; thence to a point bearing 125° true, 2,050 yards, from Cut F Range Front Light; thence to a point bearing 180° true, 1,725 yards, from Cut F Range Front Light; thence to a point bearing 222° true, 2,180 yards, from Cut F Range Front Light; thence to a point bearing 251° true, 1,540 yards, from Cut F Range Front Light; and thence to the point of beginning.

(3) *Quarantine examination anchorage.* Southeast of the temporary explosives anchorage, beginning at a point bearing 94° true, 3,900 yards, from Cut F Range Front Light; thence to a point bearing 111° true, 4,950 yards, from Cut F Range Front Light; thence to a point bearing 163° true, 3,790 yards, from Cut F. Range Front Light; thence to a point bearing 171°30′ true, 2,100 yards, from Cut F Range Front Light; and thence to the point of beginning.

(b) *The regulations.* (1) The explosives anchorage east of Mullet Key shall be used by vessels awaiting loading or unloading at Port Tampa that have explosives actually on board and where the duration of anchorage will exceed 12 hours.

(2) The explosives anchorage south of Interbay Peninsula shall be used as a temporary anchorage for vessels engaged in loading explosives at Port Tampa and when the duration or the anchorage period is less than 12 hours.

§ 202.66 *Mobile Bay, Ala., at entrance*—(a) *The anchorage grounds.* The waters within a radius of 750 yards from a point located 1,000 yards true north from Fort Morgan Light.

(b) *The regulations.* (1) This anchorage shall be used by vessels loading or discharging high explosives. It shall also be used by vessels carrying dangerous or inflammable cargoes requiring an anchorage. It may be used for a general anchorage when not required for vessels carrying explosives or dangerous or inflammable cargoes.

(2) No vessel shall occupy this anchorage without obtaining a permit from the Captain of the Port.

§ 202.66a *Mississippi River, south of New Orleans, La.*—(a) *The anchorage grounds.* Located 1.4 miles up river from Oak Point Navigation Light. The Captain of the Port will designate anchorages up or down river from this point. The achorage area extends from the west bank of the river to a point 1,000 feet to the eastward.

(b) *The regulations.* (1) This anchorage shall be reserved for vessels carrying explosives, without limits as to quantity.

(2) No vessel shall occupy this anchorage without obtaining a permit from the Captain of the Port.

(3) The masters and pilots of all seagoing steamers, tugboats, and other vessels plying the Mississippi River south of New Orleans in the vicinity of the explosives anchorage shall regulate the speed of their vessels over the bed of the river so as not to exceed seven miles per hour going downstream or five miles per hour going upstream, whenever any vessel is anchored or moored within the explosives anchorage and engaged in handling explosives.

§ 202.68 *Galveston Harbor, Tex.*—(a) *The anchorage grounds*—(1) *Explosives anchorage.* A rectangular area in Bolivar Roads bounded by a line ranging from a point bearing 180°, 250 yards, from No. 9 channel buoy, 90°, 1,300 yards; and between the lines ranging 180° from each end of the northern boundary to the sand flats along the south jetty.

NOTE: All bearings in this section are referred to true meridian.

(2) *Temporary anchorage.* A triangular area in Bolivar Roads to the southward of a line connecting No. 9 and No. 11 channel buoys; westward of a line bearing 180° from No. 9 channel buoy; and eastward of No. 11 channel buoy.

(3) *Permanent anchorage.* An area in Bolivar Roads to the northward of the ship channel within the following lines: Northwestward of a line bearing 62° from No. 8 channel buoy; north of a line bearing 271° from No. 8 channel buoy; east of a line bearing 20° from the Quarantine Station cupola on Pelican Island.

(4) *Quarantine anchorage.* An area in Bolivar Roads to the northward of the ship channel within the following lines: Southeastward of a line bearing 223° from the old tower on Bolivar Point; east of a line bearing 359° from No. 4 channel buoy; north of a line bearing 115° from No. 4 channel buoy; west of the westerly boundary of the permanent anchorage.

(b) *The regulations.* (1) The temporary anchorage shall be for the general use of naval and merchant vessels, and also for the use of vessels undergoing examination by quarantine, customs, or immigration authorities. This anchorage is intended for periods of less than 30 days.

(2) The permanent anchorage is to be used by merchant vessels remaining at anchor for a period of time greater than 30 days. It may also be used by merchant vessels when the temporary anchorage is overcrowded.

(3) The quarantine anchorage is to be used by vessels awaiting quarantine inspection, and by such other vessels as the Captain of the Port may permit.

§ 202.77 *Cleveland Harbor, Ohio*—(a) *The anchorage grounds*—(1) *West an-*

*chorage.* The northwesterly portion of the West Basin between the northwest limits of the West Basin and a line parallel to and 1,050 feet distant from the West Breakwater; and from the southwest limits of the West Basin to a line perpendicular to the West Breakwater, 2,050 feet southwesterly along the West Breakwater from Cleveland West Breakwater Light.

(2) *East anchorage.* The southeasterly portion of the East Basin between the mainland and a line parallel to and 1,250 feet distant from the East Breakwater; from opposite Cleveland East Entrance Light to a due north line passing through the flashing white light on the Allied Oil Company dock.

(3) *Explosives anchorage.* In Lake Erie, northwest of Cleveland Harbor East Breakwater, and including a rectangular area marked by four white spar buoys at the following true bearings and distances from Cleveland East Pierhead Light: 38° 30', 2,050 feet; 68°, 2,050 feet; 57°, 7,050 feet; and 49°, 7,050 feet.

(b) *The regulations.* (1) The west and east anchorages are general anchorages.

(2) Use of the explosives anchorage shall be subject to the supervision of the Captain of the Port.

§ 202.78 *Buffalo Harbor, N. Y.*—(a) *The anchorage grounds*—(1) *Explosives Anchorage A.* Inside the south section of the main breakwater 700 feet wide starting at a point 500 feet southerly from the south end of the north section and extending approximately 153° true 3,000 feet parallel to the line of the south section of the main breakwater.

(2) *Explosives and Inflammables Anchorage B.* The area bounded by a line extending from the South Buffalo Pier Head Light 180° true, 2,000 feet; thence 270° true, 2,000 feet; thence due north, 2,000 feet; and thence 90° true, 2,000 feet.

(b) *The regulations.* (1) Both anchorages may be used either day or night.

(2) Anchorage B is intended primarily for explosives loading, but when no such loading is being carried on therein it may be used for the transfer of inflammables.

§ 202.110 *San Juan Harbor, P. R.*—(a) *The anchorage grounds*—(1) *Yacht, Schooner, and small-craft anchorage.* That part of San Antonio Channel eastward of longitude 66°45'45".

(2) *Temporary anchorage (general).* Beginning at the intersection of the east line of the San Juan Harbor turning basin with the south line of San Antonio Channel, which point bears 337° 18' true, 32 yards, from Isla Grand Light; thence along the east line of the turning basin 204° 23' true, 457 yards, to the north limit line of the west non-instrument approach zone to the San Juan Air Terminal; thence along the north limit line 268° 21' true, 508 yards; thence 24° 23' true, 457 yards; thence 83° 21' true, 508 yards, to the point of beginning.

(3) *Restricted anchorage.* Beginning at the southwest corner of the San Juan Harbor Turning Basin, which point bears 180° true, 1,058 yards, from Puntilla Point Daybeacon, and 227° true, 1,700 yards, from Isla Grande Light; thence along the west line of the turning basin 330° 13' true, 339 yards, to the south limit line of the west non-instrument approach zone to the San Juan Air Terminal; thence along the south limit line 77° 32' true, 419 yards; thence 150° 13' true, 456 yards, to the south line of the turning basin; thence along the south line 271° 23' true, 467 yards, to the point of beginning.

(b) *The regulations.* (1) The anchorage described in paragraph (a) (1) of this section shall be reserved for the anchorage of yachts, schooners, and small craft.

(2) The anchorage described in paragraph (a) (2) of this section shall be a general anchorage. Vessels awaiting customs or quarantine shall use this anchorage. No vessel shall remain in this anchorage more than 12 hours without a permit from the U. S. Coast Guard Captain of the Port.

(3) No vessel shall anchor in the restricted anchorage without a permit from the U. S. Coast Guard Captain of the Port.

§ 202.115 *Vieques Passage and Vieques Sound, north of Vieques Island*—(a) *The anchorage grounds*—(1) *Vieques Passage explosives anchorage and ammunition handling berth.* A circular area having a radius of 2,000 yards with its center at latitude 18°11'12", longitude 65°33'12".

(2) *Vieques Sound explosives anchorage and ammunition handling berth.* A circular area having a radius of 2,000 yards with its center at latitude 18°11'48", longitude 65°26'06".

(b) *The regulations.* No vessel or craft shall enter or remain in these anchorages while occupied by vessels having on board explosives or other dangerous cargo.

§ 202.120 *St. Thomas Harbor, Charlotte Amalie, Virgin Islands*—(a) *The anchorage grounds*—(1) *Inner harbor anchorage.* Beginning at a point bearing 85°, 450 yards, from the center of Ballast Island; then 146°, 800 yards; thence 70°, 860 yards; thence 340°, 500 yards; and thence to the point of beginning.

NOTE: All bearings in this section are referred to true meridian.

(2) *Outer harbor anchorage.* Beginning at Scorpion Rock Lighted Buoy No. 1; thence 180°, 860 yards; thence 253°, 1,530 yards; thence due north to the southerly tip of Sprat Point, Water Island; thence to Cowell Point, Hassel Island; and thence to the point of beginning.

(3) *East Gregerie Channel anchorage (explosives).* Bounded on the northeast by Hassel Island; on the southeast by the northwest boundary of the outer harbor anchorage; on the southwest by Water Island; and on the northwest by a line running from Banana Point Light, Water Island, 55° to Hassel Island.

(4) *Small-craft anchorage.* All the waters north of a line passing through the center of Ballast Island and ranging 85°.

(b) *The regulations.* (1) The outer harbor anchorage shall be used by vessels undergoing examination by quarantine, customs, immigration, and Coast Guard officers. Upon completion of these examinations, vessels shall move promptly to anchorage. This anchorage shall also be used by vessels having drafts too great to permit them to use the inner harbor anchorage. No vessel shall remain more than 48 hours in this anchorage without a permit from the Captain of the Port.

(2) The small-craft anchorage shall be used by small vessels undergoing examination and also by small vessels anchoring under permit from the Captain of the Port.

3. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U. S. C. 1), and chapter XIX of the Army Appropriation Act of July 9, 1918 (40 Stat. 892; 33 U. S. C. 3), §§ 204.6, and 204.8 are hereby revoked, §§ 204.10, 204.36, 204.40, 204.55, 204.90, and 204.93c are hereby amended, and §§ 204.5, 204.54, 204.56, 204.82, 204.84, 204.85b, 204.87b, 204.89b, 204.91a–1, 204.91a–3, 204.94c, 204.94e, and 204.130 are hereby prescribed; as follows:

§ 204.5 *Nantucket Sound, Buzzards Bay, and adjacent waters, Mass.; danger zones for naval operations*—(a) *Nantucket Sound at east end of Dogfish Bar*—(1) *The area.* A circular area with a radius of 1,000 yards having its center on the breakwater at the east end of Dogfish Bar at latitude 41°38'18", longitude 70°10'38".

(2) *The regulations.* No vessel shall enter or remain in the area at any time, except as authorized by the enforcing agency. The regulations in this paragraph shall be enforced by the Commandant, First Naval District, and such agencies as he may designate.

(b) *Nantucket Sound in vicinity of Horseshoe Shoal*—(1) *The area.* An area one mile square located on Horseshoe Shoal, bounded on the north by latitude 41°31'12", on the east of longitude 70°21'38", on the south by latitude 41°30'12", and on the west by longitude 70°22'58". The center of the area, at latitude 41°30'42", longitude 70°22'18", bears approximately 167° true, 11,900 yards, from West Bay Entrance Light at Osterville, Massachusetts. Vessels used as bombing targets within this area, whether anchored or grounded, will be properly secured and marked.

(2) *The regulations.* During the period from November 1 to June 1, inclusive, no vessel shall enter or remain in the area unless authorized to do so by the enforcing agency. The regulations in this paragraph shall be enforced by the Commander, Naval Air Bases, First Naval District, Quonset Point, Rhode Island, and such agencies as he may designate.

(c) *Atlantic Ocean in vicinity of No Mans Land*—(1) *The area.* The waters within a rectangular area bounded on the north by latitude 41°16'00", on the east by longitude 70°47'30", on the south by latitude 41°12'30", and on the west by longitude 70°50'30".

(2) *The regulations.* No vessel shall enter or remain in the area at any time except by permission of the enforcing agency. The regulations in this paragraph shall be enforced by the Com-

mandant, First Naval District, and such agencies as he may designate.

(d) *Buzzards Bay northeasterly of Weepecket Island*—(1) *The area.* The waters within a circular area with a radius of 1,000 yards having its center on a rock northeasterly of Weepecket Island at latitude 41°31'06", longitude 70°44'06".

(2) *The regulations.* No vessel shall enter or remain in the area at any time except as authorized by the enforcing agency. The regulations in this paragraph shall be enforced by the Commandant, First Naval District, and such agencies as he may designate.

(e) *Vineyard Sound in vicinity of Quicks Hole*—(1) *The area.* The waters within a circular area with a radius of 900 yards having its center on Nashawena Island at latitude 41°26', longitude 70°51'.

(2) *The regulations.* No vessel shall enter or remain in the area from 10:00 a. m. to sunset except as authorized by the enforcing agency. The regulations in this paragraph shall be enforced by the Commandant, First Naval District, and such agencies as he may designate.

(f) *Buzzards Bay in vicinity of Gull Island*—(1) *The area.* The waters within a circular area with a radius of 1,000 yards having its center on Gull Island at latitude 41°26'46", longitude 70°54'26".

(2) *The regulations.* No vessel shall enter or remain in the area at any time except as authorized by the enforcing agency. The regulations in this paragraph shall be enforced by the Commandant, First Naval District, and such agencies as he may designate.

(g) *Atlantic Ocean in vicinity of Sow and Pigs Reef*—(1) *The area.* A circular area located on Sow and Pigs Reef with a radius of 2,000 feet having its center at latitude 41°24'12", longitude 70°57'48", which bears approximately 222° true, 1,800 yards, from Cuttyhunk Light on the southwest point of Cuttyhunk Island. Vessels used as bombing targets within this area, whether anchored or grounded, will be properly secured and marked.

(2) *The regulations.* During the period from November 10, to April 30, inclusive, no vessel shall enter or remain in the area unless authorized to do so by the enforcing agency. The regulations in this paragraph shall be enforced by the Commander, Naval Air Bases, First Naval District, Quonset Point, Rhode Island, and such agencies as he may designate.

(h) *Buzzards Bay in vicinity of Hen and Chickens Reef*—(1) *The area.* A circular area located on Hen and Chickens Reef with a radius of 2,000 feet having its center at latitude 41°28'12", longitude 71°01'42", which bears approximately 151° true, 1,670 yards, from the southern end of Gooseberry Neck. Vessels used as bombing targets within this area, whether anchored or grounded, will be properly secured and marked.

(2) *The regulations.* No vessel shall enter or remain in the area at any time unless authorized to do so by the enforcing agency. The regulations in this paragraph shall be enforced by the Commander, Naval Air Bases, First Naval District, Quonset Point, Rhode Island, and such agencies as he may designate.

§ 204.10 *Narragansett Bay, R. I.; danger zones for naval operations*—(a) *Torpedo-testing range and prohibited area, Naval Operating Base, Newport*—(1) *The torpedo-testing range.* The waters within an area east of Conanicut Island and west of Prudence Island bounded as follows: Beginning at a point on the east shore of Conanicut Island at latitude 41°31'00"; thence 90° to longitude 71°20'48"; thence to latitude 41°31'45", longitude 71°20'09"; thence to latitude 41°33'56", longitude 71°19'30"; thence 346° to the south shore of Prudence Island; thence northerly along the west shore of Prudence Island to the north side of Coggeshall Cove; thence to the easternmost point of Patience Island; thence southwesterly and northwesterly along the shore of Patience Island to North West Point; thence 177° to the east shore of Conanicut Island; and thence southerly along the east shore of Conanicut Island to the point of beginning.

NOTE: All bearings in this section are referred to true meridian.

(2) *The prohibited area.* An area overlapping the torpedo-testing range bounded as follows: Beginning at a point on the east shore of Conanicut Island at latitude 41°33'15"; thence to latitude 41°32'14" longitude 71°20'58": thence to latitude 41°32'17", longitude 71°20'32"; thence due north to latitude 41°37'17"; thence 270° to longitude 71°21'03"; thence to latitude 41°37'15", longitude 71°21'26"; thence to a point on the north shore of Hope Island at longitude 71°22'00"; thence along the north, east, and southeast shore of Hope Island to longitude 71°22'03"; thence to a point on the northeast shore of Conanicut Island at longitude 71°22'00"; thence southerly along the east shore of Conanicut Island to the point of beginning.

(3) *The regulations.* (i) No vessel shall at any time, under any circumstances, anchor or fish or tow a drag of any kind in the prohibited area because of the extensive cable system located therein.

(ii) Anchoring in the torpedo-testing range outside the prohibited area is forbidden except in cases of great emergency, and vesels anchoring therein under such conditions shall move out of the area as soon as possible.

(iii) The danger zone shall be given a wide berth when possible in order to avoid danger from running torpedoes, damage to range installations, or interference with range operations.

(iv) The danger zone may, in case of necessity, be entered by vessels proceeding to or from the Naval Air Station, Quonset Point, the advanced Base Depot, Davisville, or other points in the western part of Narragansett Bay, and passing between Conanicut Island and Gould Island, under the following conditions:

*When firing is in progress.* In the case of major vessels making this passage, firing will be suspended on their approach to the danger zone or on request to the Proof Officer, Firing Pier, Gould Island. Minor vessels making this passage must proceed with caution, avoid torpedoes, and observe orders from craft patrolling the zone which are identified by a square red flag. Other than as specified in this subparagraph, vessels shall not enter the danger zone while firing is in progress except by special arrangement through the Proof Officer, Firing Pier, Gould Island, or through the Officer in Charge, Magnetic Range, if entering for operations on the Magnetic Range:

*When firing is not in progress.* Vessels may make this passage without special precautions, except that diving tenders with divers down shall be given a wide berth and passed at slow speed.

(v) A large red flag by day, an all around green light by night, will be displayed from the Firing Pier at the north end of Gould Island to indicate that torpedo firing is in progress or is about to begin. Torpedo firing may be expected at any time of the day or night, Sundays and holidays included.

(vi) When torpedo firing is in progress, a patrol boat will be kept in readiness and will give timely warning to vessels approaching the danger zone and will issue necessary orders and instructions regarding the navigation of the danger zone. Craft patrolling the danger zone are identified by a square red flag.

(vii) Orders and instructions issued by patrol craft or other authorized representatives of the enforcing agency shall be promptly carried out by vessels in or in the vicinity of the danger zone. The following emergency signals will be employed by patrolling aircraft:

*Emergency, stop and await instructions.* Plane lands in front of, or drops smoke flat directly ahead of, the vessel.

*Emergency, torpedo heading toward you, maneuver to avoid.* Plane zooms over the vessel in danger.

(viii) Nothing in this paragraph shall prevent the setting of fish traps outside the prohibited area under permits issued by the Department of the Army, nor shall the passage of fishing vessels to and from authorized traps be unreasonably interfered with or restricted.

(ix) The regulations in this paragraph shall be enforced by the Commandant, United States Naval Operating Base, Newport, Rhode Island, and such agencies as he may designate.

(b) *Antisubmarine practice bombing area in vicinity of Gull Point, Prudence Island, Naval Operating Base, Newport*—(1) *The area.* The waters within a circular area with a radius of 880 yards having its center on Gull Point at latitude 41°38'36", longitude 71°20'06", off the northeastern side of Prudence Island. The area includes all of Potter Cove and extends about one-half mile easterly therefrom into Narragansett Bay.

(2) *The regulations.* (i) No vessel shall enter or remain in the area at any time except as authorized by the enforcing agency or as provided in subdivision (ii) of this subparagraph.

(ii) The area is released for the use of surface craft during the periods beginning at midnight before Saturday and ending at midnight after Sunday, both local time, and similarly from midnight before, to midnight after, Independence Day, Labor Day, Armistice Day, Thanksgiving Day, Christmas Day, New Year's

Day, Washington's Birthday, and Memorial Day.

(iii) Orders and instructions from patrol craft shall be promptly obeyed by vessels in or near the area.

(iv) The regulations in this paragraph shall be enforced by the Commandant, First Naval District, and such agencies as he may designate.

(c) *Prohibited area in vicinity of Ohio Ledge*—(1) *The area.* A circular area with a radius of 900 yards having its center on Ohio Ledge at latitude 41°41'00", longitude 71°19'30".

(2) *The regulations.* (i) No vessel shall enter or remain in the area at any time except as authorized by the enforcing agency or as provided in subdivision (ii) of this subparagraph.

(ii) The area is released for the use of surface craft during the periods beginning at midnight before Saturday and ending at midnight after Sunday, both local time, and similarly from midnight before, to midnight after, Independence Day, Labor Day, Armistice Day, Thanksgiving Day, Christmas Day, New Year's Day, Washington's Birthday, and Memorial Day.

(iii) The regulations in this paragraph shall be enforced by the Commandant, First Naval District, and such agencies as he may designate.

§ 204.36 *Chesapeake Bay, in vicinity of Bloodsworth Island, Md.; shore bombardment, air bombing, air strafing, and rocket firing area, U. S. Navy.* * * *

(b) *The regulations.* * * *

(8) The regulations in this section shall be enforced by the Commandant, Fifth Naval District, and such agencies as he may designate.

§ 204.40 *Potomac River.* * * *

(b) *United States Naval Proving Ground, Dahlgren, Va.*—(1) *The danger zones.* * * *

(ii) *Middle zone.* * * *; thence to line of fire Buoy O, about 1,150 yards southwest by west of Swan Point; thence to line of Fire Buoy M, about 1,700 yards south of Potomac View; thence to Line of Fire Buoy K, about 1,300 yards south by west of the lower end of Cobb Island; thence to Blakiston Island Shoal Buoy 4A, abreast of Blakiston Island abandoned lighthouse; thence southwesterly to a point on the northeast shore of Hollis Marsh at latitude 38°10'; thence northwesterly to Line of Fire Buoy J, about 3,000 yards off Popes Creek, Virginia; thence to Line of Fire Buoy L, about 3,500 yards off Church Point; thence to Line of Fire Buoy N, about 800 yards off Colonial Beach; thence to Line of Fire Buoy P, about 1,000 yards off Bluff Point; * * *.

(iii) *Upper zone.* Beginning at Mathias Point, Virginia; thence north to Mathias Point Shoal Light; thence north by east to Port Tobacco River Flats Light; then east-southeast to Popes Creek Flats Lighted Buoy 26; thence east-southeast to Stone Pile Buoy 24 SP abreast of Popes Creek, Maryland; thence to the Maryland shore on an extension of the line connecting Buoys 26 and 24; thence southerly with the Maryland shore to a line passing through Persimmon Point Shoal Light to the Virginia shore, parallel to the Potomac River Bridge; thence northerly with the Virginia shore to the point of beginning. Aerial bombing and strafing is normally conducted in this zone at infrequent intervals.

* * * * *

§ 204.53 *Albemarle Sound, Pamlico Sound, and adjacent waters, N. C.; danger zones for naval operations*—(a) *The areas*—(1) *Target area in northern part of Currituck Sound.* Beginning at a point bearing 65° 30' 1,025 yards, from Currituck Sound Light 69; thence 86°, 6,000 yards; thence 193°, 4,425 yards; thence 267°30', 2,775 yards; and thence to the point of beginning. The target is located at latitude 36°27'16", longitude 76°56' 30".

NOTE: All bearings in this section are referred to true meridian.

(2) *Target area north of Currituck Beach Light.* The waters of Currituck Sound and the Atlantic Ocean within a radius of 1,000 yards from a target located at latitude 36°25'24", longitude 75°50'09".

(3) *Target area south of Caffey Inlet Coast Guard Station.* The waters of Currituck Sound and the Atlantic Ocean within a radius of 1,000 yards from a target located at latitude 36°12'15", longitude 75°45'57".

(4) *Target area southeast of Caffey Inlet Coast Guard Station.* The waters of Currituck Sound and the Atlantic Ocean within an area described as follows: Beginning at a point bearing 170°, 5,900 yards, from Caffey Inlet Coast Guard Station; thence 55° 30', 7,650 yards; thence 177°, 8,700 yards; and thence to the point of beginning. The target is located at latitude 36°10'28", longitude 75°45'04".

(5) *Target area in Albemarle Sound south of Powell Point.* A circular area two miles in diameter with its center at latitude 36°02'42", longitude 75°48'21".

(6) *Target and bombing area along north shore of Albemarle Sound.* Beginning at a point on the north shore of Albemarle Sound where the eastern highway bridge intersects the shore at Sandy Point; thence southerly along the eastern side of the bridge to the northern end of the draw; thence easterly to a point bearing 180°, 3,200 yards, from Pasquotank River Slue Light 1; thence due north to Pasquotank River Slue Light 1; thence 270°, 3,700 yards to the shore at Wade Point; thence following the shore line westerly to a point where the highway extension intersects the shore east of Mill Point; thence 166°, 3,600 yards, to a point southeastward of Stevenson Point Flats Buoy; thence 235°, 5,250 yards to a point south of Reed Point Light; thence 280° to Perquimans Bluff Flats Buoy; thence 323° 30' to the shore at Harvey Point; thence westward along the shore line to the point of beginning.

(7) *Target and bombing area along south shore of Albemarle Sound.* Beginning at the northernmost point of Laurel Point; thence to Laurel Point Light; thence to latitude 36°02'40", longitude 76°04'26"; thence to Lewis Point; thence westerly along the shore line to a point bearing 68°, 2,200 yards, from Scuppernong River Entrance Light; thence 263° to the shore south of Bull Creek entrance; thence northerly along the shore line, and across the entrance to Bull Creek, to the point of beginning; excluding from this area a passage 600 yards in width running due north from Scuppernong River Entrance Light.

(8) *Target area on Bodie Island.* Waters within a radius of 1,000 yards from a target located on Bodie Island at latitude 35°51'44", longitude 75°34'47".

(9) *Naval Aviation Ordnance test area in Pamlico Sound in vicinity of Long Shoal.* A circular area with a radius of 1.5 miles having its center at latitude 35°32'16", longitude 75°40'49".

(b) *The regulations*—(1) *Target areas.* No person is allowed to fish nor are any boats, except boats attached to and operated by United States Government bases in the vicinity, allowed to operate in the target areas defined in paragraphs (a) (1) to (5), and (8) of this section. The regulations in this subparagraph shall be enforced by the Commanding Officer, Naval Air Station, Norfolk, Virginia, the Commanding Officer, Naval Auxiliary Air Station, Oceana, Virginia, and such agencies as they may designate.

(2) *Target and bombing areas.* (i) The areas defined in paragraphs (a) (6) and (7) of this section will be used as target and bombing areas by naval aircraft. Live and dummy ammunition will be used. All operations will be conducted during daylight hours and the areas will be open to navigation at night.

(ii) No vessel shall enter these areas during the hours of daylight without special permission obtained from the enforcing agency.

(iii) Vessels wishing to enter or leave Perquimans River, Little River, and Scuppernong River shall use the area excluded from the danger zones.

(iv) The areas will be patrolled and vessels will be warned not to enter. "Buzzing" by plane will warn vessels that they are in a danger zone, and upon being so warned they shall immediately leave the area.

(v) The regulations in this subparagraph shall be enforced by the Commanding Officer, Fleet Air Wing No. 5, Naval Air Station, Norfolk, Virginia, and such agencies as he may designate.

(3) *Naval Aviation Ordnance test area.* The area defined in subparagraph (a) (9) of this section shall be closed to navigation except for such military vessels as may be directed by the enforcing agency to enter on assigned duties. The regulations in this subparagraph shall be enforced by the Commanding Officer, Naval Aviation Ordnance Test Station, Chincoteague, Virginia, and such agencies as he may designate.

§ 204.55 *Core Sound, Bogue Sound, and adjacent waters, N. C.; Marine Corps bombing target areas*—(a) *The danger zones*—(1) *Core Sound in vicinity of Hog Island.* The waters within a circular area with a radius of 2,000 yards having its center at latitude 34°58'50", longitude 76°15'13", which bears approximately 43°, 1,785 yards, from Hog Island Bay Light 2.

NOTE: All bearings in this section are referred to true meridian.

(2) *Core Sound in vicinity of Harkers Island.* The waters of Eastmouth Bay within a circular area with a radius of

1,000 yards having its center at latitude 34°42'26", longitude 76°31'39", which bears approximately 182°, 1,690 yards, from Core Sound Light 44.

(3) *Bogue Sound and adjacent waters in Atlantic Ocean.* The waters of Bogue Sound and the Atlantic Ocean within a rectangular area described as follows: Beginning at latitude 34°42'12", longitude 76°53'48", bearing approximately 330°, 2,030 yards, from the spire southeastward of Rock Point; thence to latitude 34°38'17", longitude 76°53'10", bearing approximately 180°30', 6,140 yards, from the spire; thence to latitude 34°38'05", longitude 76°54'55" bearing approximately 204°30', 7,150 yards, from the spire; thence to latitude 34°42'00", longitude 76°55'35", bearing approximately 289°, 4,200 yards, from the spire; and thence to the point of beginning. A float is located within the danger zone at a point bearing 262°, 2,290 yards, from the Rock Point spire, and 12 white buoys are placed at intervals of 50 feet bearing 340° from the float, the buoy closest to the float being 600 feet distant.

(4) *Atlantic Ocean in vicinity of Bear Inlet.* The waters within a rectangular area described as follows: Beginning at latitude 34°38'03", longitude 77°10'06"; thence to latitude 34°32'53", longitude 77°06'30"; thence to latitude 34°31'15", longitude 77°09'41"; thence to latitude 34°36'33", longitude 77°13'18"; and thence to the point of beginning. The area includes all of the entrance to Bear Inlet, and extends westward to a point approximately 1,000 yards east of Browns Inlet and seaward approximately 5.5 miles from Bear Inlet.

(b) *The regulations.* (1) The danger zones defined in paragraphs (a) (1), (2) and (4) of this section shall be closed to navigation except for vessels proceeding along established waterways. Adequate safety precautions will be taken before and during target practice. Operations will be suspended, if necessary, to insure the safety of craft proceeding along established waterways.

(2) No vessel shall enter the danger zone defined in subparagraph (a) (3) of this section for any purpose other than operations or maintenance work ordered by the enforcing agency. Adequate safety precautions will be taken.

(3) The regulations in this section shall be enforced by the Commanding Officer, Marine Corps Air Bases, Cherry Point, North Carolina, and such agencies as he may designate.

§ 204.56 *New River, N. C., and vicinity; Marine Corps firing ranges*—(a) *Atlantic Ocean east of New River Inlet.* The waters within a sector of a circle bounded by radii of 25,000 yards bearing 85° and 220°, respectively, from latitude 34°34'15", longitude 77°16'10", on Hurst Beach, Onslow County, North Carolina, and the included arc.

NOTE: All bearings in this section are referred to true meridian.

(b) *New River.* The firing ranges include all waters to the high water line within eight sectors described as follows:

(1) *Traps Bay sector.* Bounded on the south by a line running from Cedar Point 280° to New River Light 70, thence 254° to Hatch Point; and on the northwest by a line running from Wilkins Bluff 232° to Hall Point.

(2) *Courthouse Bay sector.* Bounded on the southeast by the northwest boundary of the Traps Bay sector; and on the west by Sneads Ferry Bridge.

(3) *Stone Bay sector.* Bounded on the east by Sneads Ferry Bridge; and on the north by a line running from a point on the east side of New River opposite the head of Sneads Creek 291°30' to the south side of the mouth of Stone Creek.

(4) *Stone Creek sector.* The northwest portion of Stone Bay, bounded on the south by the north boundary of the Stone Bay sector; and on the east by longitude 77°26'.

(5) *Grey Point sector.* Bounded on the south by the north boundary of the Stone Bay sector; on the west by the east boundary of the Stone Creek sector; and on the northeast by a line running from Town Point 113° to the south side of the mouth of French Creek.

(6) *Farnell Bay sector.* Bounded on the south by the northeast boundary of the Grey Point sector, including French Creek up to longitude 77°20'; and on the north by a line running from Hadnot Point 285°30' to Holmes Point.

(7) *Morgan Bay sector.* Bounded on the south by the north boundary of the Farnell Bay sector, including Wallace Creek up to longitude 77°22'; and on the northwest by a line running from Paradise Point 243°30'; to Ragged Point.

(8) *Jacksonville sector.* Bounded on the southeast by the northwest boundary of the Morgan Bay sector, including Southwest Creek up to the point where it narrows to 200 feet in width, and Northeast Creek up to longitude 77°23'30"; and on the north by an east-west line passing through New River Daybeacon 41.

(c) *The regulations.* (1) Sailing vessels and any watercraft having a speed of less than five knots shall keep clear of any closed sector at all times after notice of firing therein has been given. Vessels propelled by mechanical power at a speed greater than five knots may enter the sectors without restriction except when the firing signals are being displayed. When these signals are displayed, vessels shall clear the closed sectors immediately and no vessel shall enter such sectors until the signals indicate that firing has ceased.

(2) Firing will take place both day and night at irregular periods throughout the year.

(3) Two days in advance of the day when firing in any sector except the Stone Creek sector is scheduled to begin, the enforcing agency will warn the public of the contemplated firing, stating the sector or sectors to be closed, through the public press and the United States Coast Guard and, in the case of the sector defined in paragraph (a) of this section, the Cape Fear Pilots Association at Southport, and the Pilots Association at Morehead City, North Carolina. The Stone Creek sector may be closed without advance notice.

(4) A tower at least 50 feet in height will be erected near the shore in the sector defined in paragraph (a) of this section, and a tower 25 feet in height will be erected near the easterly shore at the upper and lower limits of each New River sector. On days when firing is to take place a red flag will be displayed on each of the towers bordering the sectors to be closed. These flags will be displayed not later than 8:00 a. m., and will be removed when firing ceases for the day.

(5) During night firing red lights will be displayed on the towers, and in the case of the sector defined in paragraph (a) of this section searchlights will be employed as barrier lights to enable safety observers to detect vessels which may attempt to enter the danger zone.

(6) The regulations in this section shall be enforced by the Commanding Officer, Marine Barracks, New River, North Carolina, and such agencies as he may designate.

§ 204.82 *Atlantic Ocean and Indian River, Fla., north of Fort Pierce Inlet; naval and military training area*—(a) *The danger zone.* The waters of the Atlantic Ocean and Indian River inclosed by a line beginning at latitude 27°36'18", longitude 80°21'15"; thence to latitude 27°37'04", longitude 80°19'45"; thence to latitude 27°28'30", longitude 80°16'42"; thence to latitude 27°28'16", longitude 80°18'00"; and thence to the point of beginning.

(b) *The regulations.* (1) The danger zone is closed to navigation at all times, and no vessel or other craft shall enter or remain within this area.

(2) Naval and military training operations will take place in the area at frequent and regular intervals throughout the year regardless of the season. At intervals of not more than three months, notice will be sent out that operations are continuing. Such notices will appear in the local newspapers and in "Notice to Mariners".

(3) The activities within the area include both land and water operations. These operations are continually in progress at all times and all land and watercraft are warned not to enter the area until such time as operations have ceased without proper permission from the Commanding Officer, Amphibious Training Base, Fort Pierce, Florida, or his duly authorized representative.

(4) The regulations in this section shall be enforced by the Commandant, Seventh Naval District, Miami, Florida, and such agencies as he may designate.

§ 204.84 *Florida Bay northeast of Pine Islands, Fla., live firing area for strafing*—(a) *The danger zone.* (1) Bounded on the north by latitude 24°51'08"; on the east by longitude 81°13'52"; on the south by latitude 24°48'52"; and on the west by longitude 81°16'21".

(2) The hull of an ex-naval vessel (PE–19) is located in the center of the area and is used by United States Fleet Aircraft for live strafing.

(b) *The regulations.* (1) The area is closed to all vessels at all times.

(2) The regulations in this section shall be enforced by the Captain of the Port, Key West, Florida.

§ 204.85b *Straits of Florida; Navy restricted area surrounding Woman Key and Ballast Key*—(a) *The danger zone.* The waters within a rectangular area, approximately 3.0 nautical miles long from

east to west and 2.4 nautical miles wide from north to south, with Woman Key at or near the center, bounded on the north by latitude 24°32'37" (approximately one nautical mile north of the north shore of Woman Key); on the east by longitude 81°56'40" (approximately one nautical mile east of the east shore of Ballast Key); on the south by latitude 24°30'12" (approximately one nautical mile south of the south shore of Ballast Key); and on the west by longitude 81°59'53" (approximately one nautical mile west of the west shore of Woman Key). The danger zone will be marked by buoys located at the four corners.

(b) *The regulations.* (1) The danger zone is open to navigation except when naval operations are in progress, when no vessel or other craft shall enter or remain within the area.

(2) Since naval operations will take place in the area at frequent and irregular intervals throughout the year regardless of season, advance notice will be given of the date on which the first such operations will begin. At intervals of not more than three months thereafter, notice will be sent out that operations are continuing. Such notices will appear in the local newspapers and in "Notice to Mariners."

(3) Prior to the conduct of operations the area will be patrolled by naval craft which will warn navigation to leave the area. Upon receiving such warning any watercraft within the danger zone shall leave it and no craft shall enter the area until operations have ceased.

(4) The regulations in this section shall be enforced by the Commandant, Seventh Naval District, Miami, Florida, and such agencies as he may designate.

§ 204.87b *Tampa Bay south of Port Tampa, Fla.; small-arms firing range, United States Air Force, MacDill Field*—(a) *The danger zone.* Shoreward of a line beginning at Little Mangrove Point, latitude 27°51'06", longitude 82°32'52"; thence southwesterly approximately 2,900 yards to latitude 27°50'00", longitude 82°33'55"; thence southeasterly approximately 5,200 yards to latitude 27°47'27", longitude 82°33'29"; thence northeasterly approximately 3,800 yards to latitude 27°47'46", longitude 82°31'25"; and thence northeasterly approximately 5,100 yards to the shore line at latitude 27°49'20", longitude 82°29'10". The area will be marked by suitable boundary signs or buoys.

(b) *The regulations.* (1) Vessels and other watercraft are prohibited from entering the danger zone at all times.

(2) Advance notice will be given of the date on which the first firing practice shall begin. At intervals of not more than three months thereafter, notice will be sent out that firing practice is continuing. Such notices will appear in local newspapers and in "Notice to Mariners."

(3) The regulations in this section shall be enforced by the Commanding Officer, MacDill Field, Tampa, Florida, and such agencies as he may designate.

§ 204.89b *Choctawhatchee Bay, Fla.; aerial bombing ranges, Air Force Proving Ground Command, Eglin Field*—(a) *The danger zones*—(1) *South of Alaqua Point.* Beginning at latitude 30°28'20", longitude 86°16'11"; thence to latitude 30°28'12", longitude 86°14'14"; thence to latitude 30°28'06", longitude 86°14'14"; thence to latitude 30°27'32", longitude 86°16'03"; and thence to the point of beginning.

(2) *South of Motes Point.* Beginning at latitude 30°27'22", longitude 86°13'10"; thence to latitude 30°27'00", longitude 86°11'14"; thence to latitude 30°26'48", longitude 86°11'14"; thence to latitude 30°26'25", longitude 86°13'08"; and thence to the point of beginning.

(b) *The regulations.* (1) These areas will be in continuous use from 6:00 a. m. to 6:00 p. m. every day and all watercraft are prohibited from using the waters in the areas during those hours.

(2) The fact that aerial target practice is to take place over the areas will be advertised to the public through the usual media for the dissemination of information. Inasmuch as such practice is to be engaged in throughout the year, without regard to season, such advertising will be repeated at frequent intervals not exceeding three months and at more frequent intervals when, in the opinion of the enforcing agency, such frequent repetition is advisable in the interest of public safety.

(3) Prior to conducting each target practice, the areas will be patrolled by Air Force aircraft to insure that no watercraft are within the danger zones and any watercraft in the vicinity will be warned by means of signals that target practice is about to take place. The patrol aircraft will employ the method of warning known as "buzzing" which consists of low flight by the airplane and repeated opening and closing of the throttle. Any such watercraft shall, upon being so warned, immediately leave the vicinity and shall, until the conclusion of the practice, remain at such distance that it will be safe from falling projectiles.

(4) No marking of the areas is proposed and all aircraft and watercraft shall be presumed to know their location by distance and direction from land marks or other topographical features along the shore.

(5) The regulations in this section shall be enforced by the Commanding Officer, Air Force Proving Ground Command, Eglin Field, Florida, and such agencies as he may designate.

§ 204.90 *Gulf of Mexico in vicinity of Pensacola, Fla.; firing range, United States Military Reservations, Fort Pickens and Fort McRee*—(a) *The danger zone.* The waters of the Gulf of Mexico within the following two sectors:

(1) A sector the easterly limit of which bears 135° true from a point on Santa Rosa Island 2,500 yards east of the Coast Guard Station, and the westerly limit of which bears 225° true from the western end of Santa Rosa Island, the outer limits of this sector describing an arc 30,000 yards from the shore line of Santa Rosa Island.

(2) An adjacent sector the easterly limit of which bears 225° true from the western end of Santa Rosa Island, and the westerly limit of which bears 245° true from the western end of Santa Rosa Island, both limits having a length of 17,000 yards.

(b) *The regulations.* (1) Any vessel capable of being propelled by mechanical power at a speed greater than five miles per hour may enter and proceed directly through the danger zone without hindrance, except for reasonable delays when notified by a patrol boat that firing for a brief period is about to commence or is in progress.

(2) Except under unusual circumstances, the danger zone is open throughout the year to the public for fishing and traffic without restriction from 12:00 noon Saturday to 7:30 a. m. Monday, and on National (not State) holidays from 6:00 p. m. of the day preceding to 7:30 a. m. of the day following the holiday. The danger zone is also open to the public for fishing and traffic without restriction on other days when firing is not to be conducted.

(3) On days when firing is to be conducted which will require restrictions on the use of all or part of the danger zone, a large red flag will be displayed from a mast on or in the vicinity of the lookout tower of the Coast Guard Station on Santa Rosa Island, and from a mast on or in the vicinity of the parapet of Old Fort Pickens, Santa Rosa Island. These flags will be displayed not later than 7:30 a. m. of the day on which firing is to be held, and will be removed when firing ceases for the day.

(4) When night firing is scheduled, large white flags will be displayed from the same towers at 4:00 p. m. of that day, and will remain displayed until the termination of firing on that day.

(5) On days and nights when firing is in progress and flags are displayed as provided in subparagraphs (3) and (4) of this paragraph, no boat or vessel shall, except as provided in subparagraph (1) of this paragraph, enter or remain in the danger zone, except under the written authority of the enforcing agency: *Provided,* That the enforcing agency may designate by suitable public notices a small part of the danger zone as the restricted area for certain firings, in which case any boat or vessel may enter or remain in waters of the danger zone outside of the designated limits of such restricted area of lesser area as may be specified.

(6) The regulations in this section shall be enforced by the Commanding Officer, Fort Barrancas, Florida, and such agencies as he may designate.

§ 204.91a–1 *Mississippi Sound; machine gun firing range, Merchant Marine Cadet Basic School, Henderson Point, Miss.*—(a) *The danger zone.* The waters within a triangular area bounded by a line beginning at the water tank on Henderson Point; thence 232° true, 4.7 miles; thence 98° true, 3.8 miles; and thence approximately 344° true, 3.5 miles to the point of beginning.

(b) *The regulations.* (1) No vessel or other craft shall enter or remain within the danger zone during its use for firing practice. Firing will ordinarily take place between the hours of 8:00 a. m. and 4:00 p. m., Monday through Friday of each week.

(2) Prior to the conduct of each firing practice a red flag will be displayed from the water tank on Henderson Point and watercraft in the vicinity will be warned by patrol boats.

(3) Any such watercraft shall, upon being so warned, immediately vacate the danger zone and shall remain outside the area until the conclusion of firing practice.

(4) The regulations in this section shall be enforced by the Commanding Officer, United States Merchant Marine Cadet Basic School, and such agencies as he may designate.

§ 204.91a–3 *Gulf of Mexico and Mississippi Sound, in vicinity of Horn Island, Miss.; area for conducting of experimental field tests, Chemical Warfare Service*—(a) *The danger zone.* An area in the Gulf of Mexico south of Horn Island, Mississippi, and in Mississippi Sound, bounded as follows: Beginning at latitude 30°14'30", longitude 88°46'15"; thence southwesterly to latitude 30°07'21", longitude 88°49'08"; thence southeasterly to latitude 30°03'00", longitude 88°41'55"; thence due east to longitude 88°32'20"; thence due north to the southern shore of Horn Island; thence easterly, northerly, and westerly along the southern, eastern, and northern shore of Horn Island to longitude 88°40'00"; thence due north to latitude 30°16'00"; thence due west to longitude 88°46'15"; and thence due south to the point of beginning.

(b) *The regulations.* (1) Navigation in the danger zone is prohibited at all times when the area is in use. Patrol boats provided by the United States Coast Guard will exercise full control in the interest of safety to navigation.

(2) The regulations in this section shall be enforced by the Commanding Officer, Chemical Warfare Service, United States Army, Horn Island, Pascagoula, Mississippi, and such agencies as he may designate.

§ 204.93c *Gulf of Mexico southeast of Corpus Christi Bay; bombing, machine gunnery, and rocket firing range, Naval Air Station, Corpus Christi, Tex.*—(a) *The danger zone*—(1) *North area.* An area in the Gulf of Mexico approximately 25 statute miles long from north to south and five statute miles wide, bounded on the north by latitude 27°45', on the east by longitude 96°50', on the south by latitude 27°23', and on the west by longitude 96°55'.

(2) *South area.* An area in the Gulf of Mexico approximately 45 statute miles long from east to west and 11 statute miles wide, bounded on the north by latitude 27°20', on the east by longitude 96°30', on the south by latitude 27°10', and on the west by longitude 97°14'.

(b) *The regulations.* (1) The areas will be used from sunrise to sunset daily except Sundays for bombing, machine gunnery, and rocket firing.

(2) During such operations vessels may pass through the areas at their own risk, except when warned not to enter or when warned to leave the immediate danger area by surface patrol craft or by air patrol planes buzzing low over the vessel. Upon being so warned vessels shall not enter the areas or, if they are in the areas, they shall leave as soon as possible.

(3) The boat towing a bombing or gunnery target will display a red flag during operations.

(4) The regulations in this section shall be enforced by the Commanding Officer, United States Naval Air Station, Corpus Christi, Texas, and such agencies as he may designate.

§ 204.94c *Lake Michigan; small-arms range adjacent to United States Naval Training Station, Great Lakes, Ill.*—(a) *The danger zone.* An area extending in a north and south direction from an east-west line projected eastward from the outer end of the innermost leg of the Great Lakes, Illinois, north breakwater to the breakwater at Waukegan, Illinois, and extending three miles into Lake Michigan.

(b) *The regulations.* (1) When firing affecting the danger zone is in progress, the enforcing agency will post guards at such locations that the waters in the danger zone may be observed and arrange signals whereby these guards may stop the firing should any person or vessel be seen in the waters of the danger zone. When firing is in progress, the enforcing agency will cause red flags to be displayed on shore near the rifle butts, and red streamers at other points along the shore which may be readily discernible to a person in a vessel within the danger zone.

(2) The enforcing agency is hereby authorized to use such agencies as shall be necessary to prohibit vessels from entering the area until such time as shall be convenient.

(3) Is such streamers are displayed it will indicate that firing is in progress, and that the waters in the danger zone are covered by rifle fire and should not be entered until the flags and streamers are lowered.

(4) Wherever possible, the enforcing agency will warn the public of the contemplated times of firing and the areas involved two days in advance of the scheduled date, through the public press and the United States Coast Guard. The danger zone may, however, be closed without advance notice.

(5) The regulations in this section shall be enforced by the Commandant of the United States Naval Training Station, Great Lakes, Illinois, and such agencies as he may designate.

§ 204.94e *Lake St. Clair; United States Army Rifle Range, Selfridge Field, Mich.*—(a) *The danger zone.* An area approximately 1,500 yards in width and extending 4,000 yards into Lake St. Clair at Selfridge Field, Michigan.

(b) *The regulations.* (1) No vessel or other craft shall enter or remain within the danger zone during its use for target practice.

(2) The fact that target practice will take place will be indicated by the displaying of a red flag from the flagpole at the rifle range when firing is in progress.

(3) The area will be marked by buoys.

(4) The regulations in this section shall be enforced by the Commanding Officer, Selfridge Field, Michigan, and such agencies as he may designate.

§ 204.130 *Atlantic Ocean and Vieques Sound, in vicinity of Culebra Island; bombing and gunnery target area*—(a) *The danger zone.* The waters of the Atlantic Ocean and Vieques Sound within an area described as follows: Beginning at the northernmost extremity of Fungy Bowl; thence northeasterly approximately seven miles to latitude 18°26'30", longitude 65°16'48"; thence approximately 107°30' true to latitude 18°25'-06"; longitude 65°12'06"; thence southwesterly approximately seven miles to Matojo Cay; thence southwesterly across Culebra Island to Scorpion Point; thence approximately 180° true to latitude 18°11'00", longitude 65°18'42"; thence approximately 300° true to Hodgkins Shoal buoy; thence approximately 47° true to the point of beginning.

(b) *The regulations.* (1) The danger zone is subject to use as a target area for bombing and gunnery practice. Appropriate notices will be issued to the public in advance of this activity by the officer in charge of such activity.

(2) The regulations in this section shall be enforced by the Commander, Training Group, Guantanamo Bay, Cuba, and such agencies as he may designate.

4. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U. S. C. 1), §§ 207.30, 207.150, 207.201 (c), 207.430, 207.495, 207.500, 207.520, 207.540, 207.615, and 207.630 are hereby revoked, §§ 207.162, 207.220, 207.260, 207.440, 207.510, and 207.590 are hereby amended, and §§ 207.5, 207.23, 207.25, 207.165, 207.171, 207.176, 207.182, 207.475, 207.565, and 207.815 are hereby prescribed, as follows:

§ 207.5 *Sheepscot Bay, Me.; naval restricted area*—(a) *The area.* Beginning at latitude 43°47'00", longitude 69°43'20"; thence to latitude 43°47'00", longitude 69°42'36"; thence to latitude 43°45'25", longitude 69°40'00"; thence to latitude 43°43'50"; longitude 69°42'50"; thence to latitude 43°46'18", longitude 69°44'30"; and thence northeasterly along the shore to the point of beginning.

(b) *The regulations.* (1) This area is restricted to all vessels.

(2) This section shall be enforced by the Commandant, First Naval District, and such agencies as he may designate.

§ 207.23 *Narragansett Bay, East Passage, west of Gould Island; naval prohibited area*—(a) *The area.* Beginning at Gould Island South Light (latitude 41°32', longitude 71°21'); thence 256° true, 710 yards; thence 346° true, 1,000 yards; thence 76° true, 850 yards, to the northern end of Gould Island; and thence southerly along the line of mean high water to the point of beginning.

(b) *The regulations.* (1) No vessel shall at any time, under any circumstances, anchor, fish, or tow a drag of any kind in the prohibited area because of the extensive cable system located therein.

(2) No vessel shall enter the prohibited area except under the direction of appropriate United States Naval authority.

(3) This section shall be enforced by the Commandant, Naval Operating Base, Newport, Rhode Island, and such agencies as he may designate.

§ 207.25 *Block Island Sound; naval restricted area*—(a) *The area.* Beginning at Montauk Point Light (latitude 41°04'18", longitude 71°51'24"); thence to Weekapaug Point; thence easterly along the line of mean high water on the southern shore of Rhode Island to the west side of the entrance to Charlestown Inlet; thence to Block Island North Light (latitude 41°13'42", longitude 71°34'36"); thence southerly along the line of mean high water on the western shore of Block Island to Southwest Point at longitude 71°36'00"; and thence to the point of beginning.

(b) *The regulations.* (1) Within the restricted area the following are prohibited at any time: Anchoring, loitering, maneuvering unnecessarily, or fishing in any manner, including dragging, trawling, purse seining, and line fishing, except that fish traps may be installed and maintained under the supervision of the enforcing agency within the following described area west of Block Island only: Beginning at a point bearing 242° true, 865 yards, from Great Salt Pond Breakwater Outer End Light; thence 242° true, 1,715 yards; thence 189° 30' true, 1,000 yards; thence 57° true, 2,000 yards; and thence due north to the point of beginning. Vessels engaged in serving fish traps as permitted herein will moor to the fish traps. No vessels are permitted to anchor in the fish-trap area.

(2) The regulations in this section shall be enforced by the Commandant, First Naval District, and such agencies as he may designate.

§ 207.162 *Pasquotank River, N. C.; seaplane restricted area*—(a) *The restricted area.* That part of the Pasquotank River bounded on the east by a line from Pasquotank River Obstruction Light B (approximately latitude 36°16'18", longitude 76°07'16") to Pasquotank River Light 5 (approximately latitude 36°15'14.5", longitude 76°07'44.5"); on the west by a line bearing due north from Pasquotank River Light 7 (approximately latitude 36°17'19", longitude 76°11'20.5"); and on the north and south by the lines of seven-foot depth.

(b) *The regulations.* (1) Vessels without proper lights shall not operate within the area.

(2) Vessels shall not anchor or moor within the area.

(3) Fishing, oystering, clamming, crabbing, and similar activities are prohibited within the area.

(4) All vessels traversing the area shall navigate as near the northeast shore of the river as practicable, and shall remain in the area a minimum length of time.

(5) The regulations in this section shall be enforced by the Commanding Officer, Coast Guard Air Station, Elizabeth City, North Carolina, and such agencies as he may designate.

§ 207.165 *St. Johns River, Fla., Ribault Bay, prohibited area*—(a) *The area.* All waters constituting the Turning Basin within the Mayport Coast Guard Reservation, Mayport, Florida, and inclosed by a line bearing approximately 180° true from Ribault Channel Light 4 to the shore line at a point connecting with the United States Coast Guard Training Station boundary line fence.

(b) *The regulations.* (1) All vessels and craft except those operated by the United States Navy or Coast Guard are prohibited from entering this area except in cases of extreme emergency.

(2) The regulations in this section shall be enforced by the Commanding Officer, United States Coast Guard Training Station, Mayport, Florida, and such agencies as he may designate.

§ 207.171 *Banana River, Fla.; naval restricted area*—(a) *The area.* The waters within 300 yards of the easterly shore line of Banana River adjacent to the Banana River Naval Air Station, between the northerly property line thereof which lies along the northerly boundary of Government lot 4, section 35, township 25 South, range 37 East (approximate latitude 28°15'52"), and the southerly property line which lies along the southerly boundary of Government lot 3, sections 10 and 11, township 26 South, range 37 East, a distance of approximately 2.1 miles. The area will be marked by appropriate buoys.

(b) *The regulations.* (1) This area shall be closed to all classes of navigation, except vessels of the United States Government.

(2) The regulations in this section shall be enforced by the Commanding Officer, United States Naval Air Station, Banana River, Florida, and such agencies as he may designate.

§ 207.176 *Pensacola Bay, Fla.; seaplane restricted area*—(a) *The area.* Beginning at latitude 30°22'28", longitude 87°16'00"; thence to latitude 30°21'02", longitude 87°14'20"; thence to latitude 30°20'02", longitude 87°15'16"; thence to latitude 30°19'52", longitude 87°16'12"; thence to latitude 30°20'11", longitude 87°17'58"; and thence 250° true to the shore.

(b) *The regulations.* (1) This area is established as a naval seaplane landing area.

(2) Vessels and small craft, except crash boats, plane rearming boats, and similar craft ordered into the area on specific missions in connection with the servicing of planes or patrol of the area, are prohibited from entering or being in the area at any time.

(3) The regulations in this section shall be enforced by the Commander, Naval Air Training Bases, Pensacola, Florida, and such agencies as he may designate.

§ 207.182 *Biloxi Bay, Biloxi, Miss.; seaplane restricted area*—(a) *The area.* Beginning at the northeast end of the Coast Guard Air Station seaplane ramp; thence 90° true, 1,500 feet, thence due north to a point 250 feet south of the highway bridge; thence along a line parallel to the highway bridge to the dredged channel; thence following the inside of the dredged channel to a point 1,500 feet west of Channel Beacon No. 36; thence 315° true, 1,000 feet; thence 270° true to the beach; and thence along the beach to the point of beginning.

(b) *The regulations.* (1) No vessels except those operated by the United States Navy, United States Coast Guard, and vessels otherwise under the direct control of the United States shall moor or anchor within the seaplane restricted area at any time.

(2) No vessels except those operated by the United States Navy, United States Coast Guard, and vessels otherwise under the direct control of the United States shall enter the seaplane restricted area at any time between sunset and sunrise.

(3) No vessel shall engage in fishing, placing of fishing stakes, or similar activities at any time within the limits of the seaplane restricted area.

(4) All vessels moving within the seaplane restricted area shall immediately proceed to leave the area when warned by aircraft employing the "buzzing" method, which consists of low-flying by the airplane and repeated opening and closing of the throttle.

(5) The regulations in this section shall be enforced by the Commanding Officer, Coast Guard Air Station, Biloxi, Mississippi, who may grant specific exemptions from the regulations, and such agencies as he may designate.

§ 207.220 *Mississippi River in the vicinity of Algiers Point, Port of New Orleans, La.; movement of vessels.* (a) When the Carrollton gage reads 12 feet on a rising stage of the Mississippi River and until the gage reaches 15 feet on a falling stage, the movement of vessels on the Mississippi River in the vicinity of Algiers Point shall be governed by red and green traffic signal lights in the vicinity of Governor Nicholls Street and Gretna.

(b) *Signals.* (1) A green light revolving through 60° once every five seconds so as to sweep the entire width of the river displayed ahead of a vessel in the direction of travel indicates that Algiers Point is clear.

(2) A red light revolving through 60° once every five seconds so as to sweep the entire width of the river displayed ahead of a vessel in the direction of travel indicates that Algiers Point is not clear.

(3) Absence of lights, or lack of visibility thereof, will be considered a danger signal.

(c) *Ascending vessels.* (1) An ascending vessel shall not proceed farther up the river than the Pauline Street Wharf either when a red light is being displayed or when no lights are being displayed from the Governor Nicholls Street tower.

(2) Whenever an ascending vessel reaches the Pauline Street Wharf and cannot see any signal, the pilot of the vessel shall use his own judgment about getting the vessel clear of a possible descending vessel.

(d) *Descending vessels.* (1) A descending vessel reaching the vicinity of Southport shall not endeavor to pass through the harbor during thick weather.

(2) Whenever a descending vessel reaches Napoleon Avenue and either a red light is being displayed or no lights are being displayed from the Gretna tower the vessel shall immediately slow down and be placed in position to round to if the signal remains against the vessel.

(e) Whenever Algiers Point is considered unsafe for navigation, the tower lights will be extinguished. If under such conditions a vessel signals the towerman a short, long, and short blast, a red light will be displayed for two minutes and then extinguished to confirm the accuracy of the danger signal.

(f) Any descending vessel destined to a wharf between Napoleon Avenue and Erato Street wharf shall signal the Gretna towerman three long blasts and one short blast to indicate that he is bound to a wharf between these points.

(g) The pilot of any vessel scheduled to leave any wharf above Governor Nicholls Street signal tower, bound downstream around Algiers Point, shall communicate with the Governor Nicholls Street towerman by telephone to determine whether the channel at Algiers Point is clear before leaving.

(h) The term "vessel" shall include all ships, whether under their own power or in tow, and all barges in tow, but shall not include tugs or towboats without tows or river craft of comparable size and maneuverability operating under their own power.

(i) The District Engineer, Corps of Engineers, will, sufficiently in advance, issue notice in the press or otherwise, warning navigation interests when it is expected that the Mississippi River will reach 12 feet on the Carrollton gage on a rising stage.

§ 207.260 *Yazoo Diversion Canal, Vicksburg, Miss., from its mouth at Kleinston Landing to Fisher Street; navigation*—(a) *Signals.* Vessels navigating the canal will be governed by the Pilot Rules for Western Rivers (rivers emptying into the Gulf of Mexico and their tributaries) prescribed by the United States Coast Guard. (See 33 CFR Part 332.)

(b) *Rafts.* Rafts will be permitted to navigate the canal only if properly and securely assembled. Each section of a raft shall be so secured within itself as to prevent the sinking of any log, and so fastened with chains or wire rope that it cannot be separated or bag out or materially change its shape. All logs, chains, and other means used in assembling rafts shall be in good condition and of ample size and strength to accomplish their purpose. No section of a raft will be permitted to be towed unless the logs float sufficiently high in the water to make it evident that the section will not sink en route. Rafts shall not be of greater dimensions than 50 feet wide by 600 feet long, and if longer than 300 feet they shall be handled by two tugs; and in all cases they must be handled by sufficient tug power to make headway and guide the raft so as to give half the channel to passing vessels.

(c) *Mooring.* No vessel or raft shall moor along the banks of the canal for a period longer than five days without written permission from the District Engineer, Corps of Engineers, P. O. Box 60, Vicksburg, Mississippi. At stages below 20 feet on the canal gage no boats, barges, or rafts shall be moored or tied up abreast of or overlapping each other in the canal if the overall width exceeds 50 feet: *Provided,* That temporary permits may be issued at the discretion of the District Engineer for boats or barges with widths exceeding 50 feet to moor in the canal. When tied up, boats or barges shall be moored by bow and stern lines parallel to the bank and as close in as practicable. Rafts shall be secured at sufficiently close intervals to insure their not being drawn away from the bank by winds, current, or the suction of passing vessels.

(d) *Speed.* Excessive speeding is prohibited. A vessel shall reduce its speed sufficiently to prevent any damage when approaching another vessel in motion or tied up, a wharf or other structure, works under construction, plant engaged in river and harbor improvement, levees, floodwalls withstanding flood waters, buildings submerged or partially submerged by high waters, or any other structure or improvement likely to be damaged by collision, suction, or wave action.

(e) *Refuse in canal.* No person shall roll or throw any stones, ashes, cinders, barrels, logs, log butts, sawdust, shavings, refuse, or any other material into the canal or the approach thereto, or place any such material on the bank or berm so that it is liable to be rolled, thrown, or washed into the canal.

(f) *Preservation of works of improvement.* Masters and pilots of all craft using the canal shall avoid damaging any revetment, dike, floodwall, or other work of improvement placed in or adjacent to the canal. They shall not disturb any gages or marks set as aids to navigation in the canal or approaches thereto.

(g) *Fairway.* A clear channel not less than 175 feet wide shall at all times be left open to permit free and unobstructed navigation by all types of vessels and rafts. The District Engineer will specify the width of fairway required.

§ 207.440 *St. Marys Falls Canal and Locks, Mich.; use, administration, and navigation.* (a) * * *

NOTE: Rules and regulations governing the movements of vessels and rafts in St. Marys River from Point Iroquois, on Lake Superior, to Point Detour, on Lake Huron, prescribed by the United States Coast Guard pursuant to 33 U. S. C. 475, are contained in 33 CFR, Part 323.

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§ 207.475 *Lake Michigan; naval restricted area, United States Naval Training Station, Great Lakes, Ill.*—(a) *The area.* An area extending in a north and south direction from the Great Lakes, Illinois, south breakwater to an east-west line projecting eastward from the shore termination of the north fence of the United States Naval Training Station, Great Lakes, Illinois, and extending into Lake Michigan for a distance of one mile from the shore line.

(b) *The regulations.* No vessel of any kind, except those engaged in naval operations, shall enter, navigate, anchor, or moor in the restricted area without first obtaining permission to do so from the Commandant, United States Naval Training Station, Great Lakes, Illinois, or his authorized representative.

§ 207.510 *Connecting Waters of the Great Lakes from Lake Huron to Lake Erie; use, administration, and navigation*—(a) *General*—(1) *Supervision.* All the connecting waters of the Great Lakes from Lake Huron to Lake Erie on the United States side of the International Boundary shall be under the general supervision of the District Engineer, Corps of Engineers, Detroit, Michigan, detailed by the Secretary of the Army for the maintenance and improvement of such waters. Waters on the Canadian side of the International Boundary are under the general supervision of the Supervisor of Nautical Services, Department of Transport, Ottawa, Ontario, except the lower Detroit River which is under the general supervision of the Harbormaster of the Port of Amherstburg, Ontario. These three officials will make such local arrangements as may be necessary to avoid conflicts of authority.

(2) *Local representatives.* Duly authorized representatives of the three supervisory officials are charged with the enforcement under their direction, respectively, of the regulations in this section. These representatives shall, in all cases of emergency, have authority to take such steps as may be considered by them immediately necessary without waiting for specific instructions. With a view to facilitating traffic and avoiding disputes as to jurisdiction, all orders given by representatives of either Government in the absence of representatives of the other shall be obeyed.

(3) *Patrol vessels.* The anchorage and movement of all vessels shall be under the direction and subject to the orders of officers in charge of patrol vessels of the United States Coast Guard or of a designated Canadian agency engaged in the enforcement of the regulations in this section. The following sound signals will be used by patrol vessels:

(i) Three long blasts of a whistle or horn, which signal may also be used by dredges, drill scows, derrick scows, sweep scows, and other floating plant engaged in the maintenance and improvement or investigation of channels, to indicate that the vessel to which it is given is moving at too high a rate of speed; such vessel shall immediately slacken its speed.

(ii) Four long blasts of a whistle or horn, to indicate that the vessel to which the signal is given must stop until further orders are received from the patrol vessel.

(iii) One long blast, followed by four short blasts, of a whistle or horn, to indicate that the vessel to which the signal is given may proceed on its course.

(4) *Other obligations.* The regulations in this section shall not be considered to cover all of the obligations imposed by law upon vessels and their operators, and shall not be construed as relieving the owners or operators of vessels from any penalties which may be incurred in the violation of the laws relating to navigation on the Great Lakes and their connecting waters or the regulations issued pursuant to such laws.

(5) *Definitions.* As used in this section, the term "St. Clair River" shall apply to the connecting waters of the Great Lakes from Fort Gratiot Light at the foot of Lake Huron to the lakeward end of the dike along the east side of the St. Clair Flats Canal at the upper end of Lake St. Clair; "Lake St. Clair" shall

apply to the channels lying westerly of the International Boundary from the lower end of the dike along the east side of the St. Clair Flats Canal to Windmill Point Light at the head of the Detroit River; the "upper Detroit River" shall apply to that portion of the Detroit River extending from Windmill Point Light to Fighting Island North Light; and the "lower Detroit River" shall apply to that portion of the river between Fighting Island North Light and the lakeward limits of the improved navigation channels at the head of Lake Erie.

(b) *Length of towlines.* On the connecting waters of the Great Lakes between the Lake Huron Lightship and the southerly limits of the improved channels of the Detroit River, terminating in Lake Erie, the length of towlines shall not exceed by more than 50 feet the length of the scow, barge, vessel, or other craft being towed: *Provided,* That no scow, barge, vessel, or other craft shall be required to have a towline less than 250 feet. The length of the towline shall be measured from the stern of one vessel to the bow of the following vessel.

(c) *Routes.* (1) *St. Clair River in vicinity of Port Huron and Sarnia.* Vessels in transit shall keep the black and white vertical striped buoy, situated just above the mouth of the Black River and known as Port Huron Traffic Lighted Buoy, to their left. Downbound vessels shall navigate the west or American channel below Sarnia Elevator Light. Upbound vessels shall navigate the Canadian channel east of the Port Huron Traffic Lighted Buoy.

(2) *St. Clair River in vicinity of Stag Island.* Vessels in transit shall keep Stag Island to their left. Downbound vessels shall navigate the American channel west of Stag Island. Upbound vessels shall navigate the Canadian channel east of Stag Island.

(3) *St. Clair River in vicinity of St. Clair.* Vessels in transit shall keep the St. Clair Middle Ground, extending from the St. Clair Middle Ground Upper Lighted Buoy opposite Moore, Ontario, to the St. Clair Middle Ground Lower Lighted Buoy opposite Courtright, Ontario, to their left. Downbound vessels shall navigate the American channel west of the Middle Ground. Upbound vessels shall navigate the Canadian channel east of the Middle Ground.

(4) *Lower Detroit River south of Livingstone Channel Upper Entrance Light.* Downbound vessels shall navigate the Livingstone Channel (west of Bois Blanc Island), except that downbound passenger vessels may use the Amherstburg Channel (east of Bois Blanc Island). Deep-laden vessels shall enter Lake Erie through the channel east of Detroit River Light, but downbound vessels of moderate draft may enter Lake Erie through the old channel west of Detroit River Light. Upbound vessels shall enter from Lake Erie by way of the channel east of Detroit River Light and shall use the Amherstburg Channel.

(5) *Vessels exempted.* The regulations in this paragraph shall not apply to vessels under 100 gross tons or to vessels making local stops along these routes.

(d) *Speed.* (1) In the St. Clair River in front of Sarnia, Ontario, the speed of vessels shall not exceed nine miles per hour over the bottom.

NOTE: The city limits of Sarnia extend from a point just below the international tunnel to a point about opposite Bay Point.

(2) In the St. Clair River, the speed of vessels of 500 gross tons or over shall not exceed 12 miles per hour over the bottom within the following limits.

(i) *Downbound.* From Stag Island Upper Light to St. Clair Middle Ground Lower Lighted Buoy; and from Walpole Island Upper Light to the lower end of the St. Clair Flats Canal.

(ii) *Upbound.* From the lower end of the St. Clair Flats Canal to Russell Island Light; and from Stag Island Shoal Light to Stag Island Upper Light.

(3) In the lower Detroit River, the speed of vessels of 500 gross tons or over shall not exceed 12 miles per hour over the bottom within the following limits:

(i) *Downbound.* From Livingstone Channel Upper Entrance Light to Bar Point Lighted Bell Buoy.

(ii) *Upbound.* From Bois Blanc Light at the lower end of Bois Blanc Island to Livingstone Channel Upper Entrance Light.

(e) *Passing.* (1) In the St. Clair River and the lower Detroit River, any vessel overtaking a tug with a tow moving in the same direction may pass such tow by giving a signal indicating on which side the vessel desires to pass, and the pilot of the tug shall haul with the tow to the proper side of the channel to provide passing room.

(2) In the St. Clair River no vessel of 500 gross tons or over shall pass or attempt to pass another vessel of 500 gross tons or over moving in the same direction within the following limits:

(i) *Downbound.* From the first buoy above Fort Gratiot Light to Port Huron Traffic Lighted Buoy; from Stag Island Upper Light to St. Clair Middle Ground Lower Lighted Buoy; and from Walpole Island Upper Light to the lower end of the St. Clair Flats Canal.

(ii) *Upbound.* From the lower end of the St. Clair Flats Canal to Walpole Island Upper Light; from Stag Island Shoal Light to Stag Island Upper Light; and from Port Huron Traffic Lighted Buoy to the first buoy above Fort Gratiot Light.

(3) In the lower Detroit River between Fighting Island South Light and Bar Point Lighted Bell Buoy, no vessel shall pass or attempt to pass another vessel or vessels moving in either the same or opposite direction where more than two vessels would be abreast.

(4) There shall be a time interval of not less than five minutes between any two vessels entering or navigating the Livingstone Channel between the Upper Entrance Light and Bar Point Lighted Bell Buoy, except that tugs without tows and vessels under 100 gross tons are exempted from this rule.

(f) *Obstruction of traffic.* (1) No person shall willfully or carelessly obstruct the free navigation of any of the waterways to which the regulations in this section apply, or delay any vessel having the right to use the waterway.

(2) No vessel shall anchor within the limits of any of the improved channels except in distress or under stress of weather. Any vessel so anchored shall be moved as quickly as possible to such anchorage as will leave the channel clear for the passage of vessels.

(3) Motorboats (as defined by the Motorboat Act of April 25, 1940), sailboats, rowboats, and other small craft shall not anchor or drift in the regular ship channels except under stress of weather or in case of break-down. Such craft shall be so operated that they will not interfere with or endanger the movement of commercial vessels.

(4) Whenever vessels collect in any of the channels by reason of fog, smoke, ice, or other obstruction, their anchorage and movement shall be under the direction and control of the official in whose jurisdiction they have collected and his authorized representatives. Regular scheduled vessels carrying passengers or mail may be advanced in order, and any vessel not ready to move when directed to do so may lose its position. The masters of all vessels shall yield prompt obedience to the orders of the proper authorities.

(5) In the case of any vessel, boat, watercraft, or raft, or other similar obstruction, sinking or grounding, or being unnecessarily delayed in any channel in such manner as to stop, seriously interfere with, or specially endanger navigation, in the opinion of the Government officers in charge of navigation, such officers shall have, in addition to any other authority granted by their respective Governments, full power to stop all vessels and direct their anchorage, clear the channel, designate the order in which all vessels shall proceed after the channel is open, and shall do all things necessary and proper to safeguard and expedite the passage of vessels.

(g) *Vessels aground or not under command.* (1) A vessel aground or disabled in or near a channel, except a rowboat, sailboat, or Class I or Class II motorboat (as defined by the Motorboat Act of April 25, 1940), shall display the lights and day signals prescribed by paragraphs (b) and (c) of Rule 30, added to the Navigation Rules for Great Lakes and Their Connecting and Tributary Waters (33 U. S. C. Chapter 4) by an Act of Congress approved March 18, 1948 (33 U. S. C. 295), and in addition shall give the following sound signals:

(i) If blocking the channel, the stranded or disabled vessel shall warn any approaching vessel by sounding the danger signal of several short and rapid blasts of the whistle, not less than five. The approaching vessel shall immediately acknowledge this signal by repeating it, and shall come to a stop at a safe distance from the stranded or disabled vessel. Other approaching vessels shall be similarly warned, each in turn by the vessel preceding, shall acknowledge the signal by repeating it, and shall keep a safe distance from the vessel ahead until the channel has been cleared.

(ii) If not blocking the channel, the stranded or disabled vessel shall sound to any approaching vessel a signal of three short, distinct blasts of the whistle, whereupon the approaching vessel shall answer by the same signal, and shall reduce its speed and pass with caution.

(iii) A vessel aground or disabled in or near a channel shall in no case give a passing signal without preceding it with the danger signal of several short and rapid blasts of the whistle, not less than five.

(2) *Reports.* It shall be the duty of the first vessel passing a stranded or disabled vessel to report the location and nature of the accident to the next marine reporting station or patrol boat.

§ 207.565 *Vermilion Harbor, Ohio; use, administration, and navigation.* (a) No vessel shall exceed a speed of six miles per hour.

(b) No vessel shall while moored or at anchor, or by slow passage or otherwise while underway, unreasonably obstruct the free passage and progress of other vessels.

(c) No vessel or other craft shall moor or anchor to any structure of the United States without the consent of the District Engineer, Corps of Engineers.

(d) No vessel or other craft shall moor or anchor in or along any improved channel or basin in such a manner as to interfere with the improvement or maintenance operations therein. Whenever in the opinion of the District Engineer any vessel or craft is so moored or anchored, the owner therof shall cause such vessel or craft to be moved upon notification from, and within the time specified by, the District Engineer.

§ 207.590 *Black Rock Canal and Lock and Ferry Street Bridge at Buffalo, N. Y., and Niagara River from Black Rock Lock to Tonawanda, N. Y.; use, administration, and navigation.* * * *

*Black Rock Channel*

(mm) All vessels, other than small craft, desiring to leave the Black Rock Channel portion of Niagara River and enter into the river proper from any point between the north end of the West Guide Pier at the downstream end of Black Rock Lock and the angle in Black Rock Channel approximately 1,000 feet downstream therefrom, shall obtain clearance from the lockmaster at Black Rock Lock within 10 minutes previous to such entrance. Intent to make such entrance shall be indicated by three long blasts of the vessel's whistle. This signal will be answered by flag signal on a flagpole on the north end of the West Guide Pier at the downstream end of Black Rock Lock. The hoisting of a white flag will indicate clearance for a 10-minute period. The hoisting of a red flag will indicate that such entrance is prohibited and vessels desiring entrance shall wait until the white flag indicating clearance is hoisted. Flag signals will be illuminated at night by flood lights.

§ 207.815 *Vieques Passage and Atlantic Ocean, off east coast of Puerto Rico and coast of Vieques Island; naval restricted areas*—(a) *The restricted areas.* (1) A strip, 1,500 yards wide, off the naval reservation shore line along the east coast of Puerto Rico extending from Point Figuera south to Point Puerca, and thence west to Point Cascajo and the mouth of the Daguada River.

(2) A strip, 1,500 yards wide, off the naval reservation shore line along the west end of Vieques Island extending from Caballo Point on the north shore, west around the breakwater to Point Arenas, and thence south and east to a point on the shore line one mile east of the site of the abandoned central at Playa Grande.

(3) A strip, 1,500 yards wide, off the naval reservation shore line along the south coast of Vieques Island extending from the entrance to Port Mosquito east to Conejo Point.

(4) An area inclosed by an arc with a radius of 3,000 yards centered on Cabras Island Lighthouse and extending from Point Puerca to Point Cascajo.

(b) *The regulations.* No vessel shall enter or remain within the restricted areas at any time unless on official business, except that fishing vessels are permitted to anchor in Playa Blanca, passing through the restricted area described in paragraph (a) (1) of this section to and from anchorage on as near a north-south course as sailing conditions permit. Under no conditions will fishing be permitted in the restricted areas.

(40 Stat. 266, 892, 38 Stat. 1053, 54 Stat. 150; 33 U. S. C. 1, 3, 180, 471)

[SEAL] EDWARD F. WITSELL,
*Major General,*
*The Adjutant General.*

[F. R. Doc. 48-11456; Filed Dec. 30, 1948; 8:55 a. m.]

# TITLE 43—PUBLIC LANDS: INTERIOR

## Subtitle A—Office of the Secretary of the Interior

### PART 6—PATENT REGULATIONS

#### PROCEDURE; ACTION BY SOLICITOR

Section 6.8 (12 F. R. 5728) is revised to read as follows:

§ 6.8 *Action by Solicitor.* (a) If an employee inventor requests, pursuant to paragraph (b) of § 6.4, that such a determination be made, the Solicitor shall determine the respective rights of the employee and of the Government in the invention.

(b) In respect to an invention made by an employee inventor, the Solicitor may take such action as he deems necessary or advisable to protect the interests of the United States. (R. S. 161, 48 Stat. 190; 5 U. S. C. 22, 30 U. S. C. 321; E. O. 9865, June 14, 1947, 12 F. R. 3907)

J. A. KRUG,
*Secretary of the Interior.*

DECEMBER 24, 1948.

[F. R. Doc. 48-11543; Filed, Dec. 30, 1948; 11:46 a. m.]

## Chapter I—Bureau of Land Management, Department of the Interior

### Subchapter B—Applications and Entries

[Circular 1716]

### PART 101—GENERAL REGULATIONS INVOLVING APPLICATIONS AND ENTRIES

#### APPLICATIONS FOR LANDS CONTAINING RANGE OR OTHER IMPROVEMENTS

Section 101.20 is amended to read as follows:

§ 101.20 *Action on applications.* When an application under the public land laws for lands upon which range or other improvements have been placed by the United States, or pursuant to an agreement with it, is filed in a district land office or other authorized office of the Bureau of Land Management, it should be referred to the appropriate official for determination as to whether it may be allowed, notwithstanding such improvements, and if so, with or without a reservation. No right is acquired to such lands merely by the filing of an application, since any part of a legal subdivision thus improved is considered appropriated within the meaning of sections 7, 8, and 14 of the Taylor Grazing Act. See 84 F. 2d, 232 and 44 L. D. 359, 513. (R. S. 453, 2478; 43 U. S. C. 2, 1201)

MARION CLAWSON,
*Director.*

Approved: December 28, 1948.

C. GIRARD DAVIDSON,
*Assistant Secretary of the Interior.*

[F. R. Doc. 48-11497; Filed, Dec. 30, 1948; 8:58 a. m.]

### Subchapter H—Grazing

[Circular 1714]

### PART 164—UNLAWFUL ENCLOSURES

#### REVOCATION OF PART

Part 164 of Title 43 relating to unlawful enclosures of public lands in grazing districts is deleted from Chapter I of Title 43.[1]

(48 Stat. 1271; 43 U. S. C. 315c)

MARION CLAWSON,
*Director.*

Approved: December 28, 1948.

C. GIRARD DAVIDSON,
*Assistant Secretary of the Interior.*

[F. R. Doc. 48-11495; Filed, Dec. 30, 1948; 8:58 a. m.]

[Circular 1720]

### PART 181—PUBLIC LAND RIGHTS OF SOLDIERS AND SAILORS

The following text is substituted for §§ 181.36 to 181.41, inclusive (Circulars 1588, 1609 and 1635, of December 7, 1944, November 16, 1945 and February 11, 1947):

#### PUBLIC LAND RIGHTS OF VETERANS OF WORLD WAR II, AND OF OTHER PERSONS ENTITLED TO CREDIT FOR SERVICE OF SUCH VETERANS

Sec.



[1] For regulations governing the unlawful enclosure or occupancy of the public lands, see Part 289 of this chapter.

AUTHORITY: §§ 181.35 to 181.47 issued under 58 Stat. 748, 62 Stat. 305, 45 Stat. 1063, 60 Stat. 36; 43 U. S. C. 284, 617h.

PUBLIC LAND RIGHTS OF VETERANS OF WORLD WAR II AND OF OTHER PERSONS ENTITLED TO CREDIT FOR SERVICE OF SUCH VETERANS

§ 181.35 *Statutory authority.* The act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279–284), as amended, grants to veterans of World War II, certain benefits in connection with the public lands, in addition to those conferred by the Soldiers' and Sailors' Civil Relief Act of 1940 (54 Stat. 1178, 1186; 50 U. S. C. App. 560–572), as amended, and the regulations thereunder, contained in §§ 181.20 to 181.34.

The benefits conferred by the act of 1940 in connection with the public lands relate for the most part to rights initiated or acquired under the public land laws prior to the entrance of the claimant into the military or naval service. The benefits granted by the act of 1944, as amended, are set forth in §§ 181.35 to 181.46.

§ 181.36 *Credit for military or naval service in connection with homestead entries and homesites in Alaska; computation of service.* (a) Any person who has served in the military or naval forces of the United States for a period of at least ninety days between September 16, 1940 and the termination of World War II[1] and is honorably discharged from the military or naval forces, and who subsequent to such discharge makes entry under the general homestead laws is entitled to have the period of such service, not exceeding two years, construed to be equivalent to residence and cultivation upon the land for the same length of time. Where application is made under the Alaska homesite act of May 26, 1934 (48 Stat. 869; 48 U. S. C. 461), the veteran is not required to cultivate the land and he may claim credit on the period of residence required by that act for the period of the military or naval service in like manner as is provided in the case of homestead entries. Any person who has served in the military or naval forces of the United States between September 16, 1940, and the termination of World War II will similarly be entitled to credit for two years' service without regard to the actual length of such service, (1) if such person is discharged on account of wounds received or disability incurred between those dates in the line of duty, or (2) if such person is regularly discharged and subsequently is furnished hospitalization or is awarded compensation by the Government on account of such wounds or disability.

(b) In computing the period of such service, the entrance of the veteran into the service will be considered as dating from the time of commencing active duty with the armed forces of the United States. Service with State troops or in the National Guard prior to the mustering of such troops into the service of the United States will not be included.

(c) An honorable discharge within the meaning of the act of September 27, 1944 as amended shall mean: (1) Separation from the service by means of an honorable discharge, or by the acceptance of resignation or a discharge under honorable conditions; or (2) release from active duty under honorable conditions to an inactive status whether or not in a reserve component, or retirement. Any person who obtains an honorable discharge as herein defined shall be entitled to the benefits of the act of September 27, 1944, even though such person thereafter resumes active military duty.

§ 181.37 *Evidence required of military or naval service.* A person claiming the benefit of military or naval service must file with his application, if a preference right of entry is claimed, and with his final proof, if the entry or Alaska homesite claim is not based on a preference right application, a complete photostatic, or other copy (both sides), of his certificate of honorable discharge, or of an official document of his respective branch of the service which shows clearly an honorable discharge as defined in § 181.36, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service.[2]

§ 181.38 *Homesites in Alaska under act of May 26, 1934.* While a veteran who establishes a homesite claim in Alaska under the act of May 26, 1934 (48 Stat. 869; 48 U. S. C. 461) is not required to cultivate the land, he must as a basis for purchase, reside upon the land in a habitable house for the periods specified in, § 181.39. Credit may be allowed for military or naval service in connection with these claims as set forth in §§ 181.40 to 181.43, relating to such credit in the case of homestead entries. In order to secure a preference right of application upon the opening or restoration of surveyed public land in Alaska, the veteran must file an application in accordance with § 64.7a of this chapter.

§ 181.39 *Residence and cultivation required on homesteads.* Before satisfactory final proof may be submitted on a homestead entry, a veteran will be required to comply with the homestead laws for a period of at least one year and for such additional period as, added to the term of the military or naval service, equals three years. During this period a veteran with 19 months or more military service will be required to reside on the land at least seven months during the first entry year; with more than 12 and less than 19 months, he must reside on the land seven months during the first entry year and such part of the second year, as added to his excess over 12 months' service, will equal seven months, and must cultivate one-sixteenth of the area the second year; with seven and not more than 12 months, he must reside upon the land seven months during each of the first and second entry years, and cultivate one-sixteenth of the area the second year; with 90 days and less than seven months, he must reside upon the land seven months during each year for the first and second years, and such part of the third as, added to his service, will equal seven months, and cultivate one-sixteenth of the area the second year and one-eighth the third year; and with less than 90 days' service, will receive no credit therefor in lieu of residence and cultivation. A veteran will not be required to cultivate the land after he has met the requirements as set forth above, provided he promptly files notice of intention to submit proof. If, however, he delays the submission of proof beyond the period for which residence is required, the cultivation necessary during each annual cultivable season elapsing or reached before the submission of proof must be shown. He may apply for and receive a reduction in the area required to be cultivated, the same as other entrymen. In computing the required periods of residence, set forth above, there has been excluded the five months' absence each year from the land which may be taken by a homestead entryman in not more than two periods during each year after establishing residence, by giving notice to the manager as set forth in § 166.38 of this chapter. The veteran must have a habitable house on the land at the date of submitting homestead proof.

§ 181.40 *Credit for service of spouse of homestead entryman or entrywoman.* When the homestead entry is made by a husband or wife whose spouse is entitled to service credit under this part, such credit will, with the written consent of the spouse entitled thereto, be available to the husband or wife making the entry, in addition to any service credit to which he or she individually may be entitled. The total period for which service may be allowed may not, however, exceed two years.

§ 181.41 *Homestead entry by surviving spouse, or minor orphan children, of a deceased veteran; evidence required.* (a) The surviving spouse or the minor children of any person who dies as the result of wounds received or disability incurred in line of duty while serving in the military or naval forces of the United States from September 16, 1940 to the termination of World War II, shall be entitled to credit for two years' residence

[1] The termination of World War II had not yet occurred as of the date of the issuance of these regulations.

[2] Section 35 (a) of the Criminal Code (18 U. S. C. 80), makes it a crime for any person knowingly and willfully to submit or cause to be submitted to any agency of the United States any false or fraudulent statement as to any matter within its jurisdiction.

and cultivation on a homestead entry. The surviving spouse or the minor children of any person who dies after performing service that would be a basis for credit under the provisions of § 181.36 shall be entitled to the amount of credit which would have been allowable to such person. The credit provided by this section shall be available to the surviving spouse, or, in the case of the death or marriage of the surviving spouse, to the minor child or children, upon application therefor by a guardian duly appointed and officially credited at the Department of the Interior. If both spouses have performed service for which credit is given, the surviving spouse, or, in the case of the death of both spouses, the minor children, may utilize the combined credit of both spouses. An entry made by such surviving spouse or guardian shall be subject to the requirement of residence and other compliance with the provisions of the homestead laws for the period for which credit cannot be claimed.

(b) in the case of a spouse of a deceased veteran, the prescribed evidence of military service of the veteran must be furnished together with a statement showing (1) the facts as to any homestead entry made by him, (2) the date of the veteran's death, and (3) that the spouse has not remarried.[3]

Where a homestead entry is made in behalf of the minor child, or children, of a veteran, in addition to the prescribed evidence of military service of the veteran, satisfactory evidence must be furnished showing (1) the facts as to any homestead entry made by the veteran, (2) the death of the veteran and the death or remarriage of the other parent, and (3) the name, address, and age of each such minor. Evidence of death may be the testimony of two witnesses or a physician's certificate, duly attested. Evidence of marriage may be a certified copy of the marriage certificate or the record of same, or testimony of two witnesses to the marriage ceremony.

§ 181.42 *Rights of minor orphan children, or widow, or heirs or devisees of deceased veteran.* Upon the death of a veteran entitled to claim credit for military or naval service as set forth in § 181.36, his rights under a homestead entry pass, if there is no widow, to his minor orphan child, or minor orphan children, if any. Patent under the entry will issue to such minor or minors, upon proof of such facts, without any proof of compliance with the law in the matter of residence, cultivation or improvements.

Upon the death of such a veteran, his rights under a homesite claim in Alaska, established under authority of the act of May 26, 1934 pass to his minor orphan child, or minor orphan children, if any. Patent under the claim will issue to them, upon proof of such facts, without any proof of compliance with the law in the matter of residence or improvements.

Where the widow, heirs or devisees of a homestead entryman succeed to his rights under his entry, she or they, are not required to reside upon the land, but, in order to submit satisfactory proof, must continue cultivation for such period as, added to the term of the military or naval service, meets the requirements as to cultivation, as set forth in § 181.39. The widow, heirs or devisees must also show that she, or they, are citizens of the United States, that the entryman complied with the Law in all respects to the date of his death, and that there is a habitable house on the land.

Where the heirs or devisees of a homesite claimant, in Alaska, succeed to his rights under his claim, they must, in order to perfect the claim by purchase under §§ 64.6 to 64.10 of this chapter, continue residence upon the land in a habitable house for such period as, added to the term of the military or naval service, meets the requirements as to residence, as set forth in § 181.39. In addition, they must show that they are citizens of the United States.

§ 181.43 *Rights of minor veteran under the homestead laws.* A person who has served or may serve in the military or naval forces of the United States for a period of at least 90 days between September 16, 1940 and the termination of World War II, has received an honorable discharge, as defined in § 181.36, and who is under 21 years of age, is entitled to the benefits, rights and privileges, with respect to homestead entries and applications, conferred by the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. Sup. 279–284), as amended, and the regulations contained in §§ 181.35 to 181.46.

§ 181.44 *Preference right of application on restoration or opening of surveyed public lands; preference right of settlement on restoration or opening of unsurveyed public lands in Alaska.* From September 27, 1944 to September 26, 1954, inclusive, upon revocation of any order of withdrawal of surveyed public lands or the filing of a plat of survey or resurvery opening lands to application or entry, the order or notice taking such action will afford all persons of the classes entitled to credit under the provisions of §§ 181.35 to 181.45, a preferred right for a period of not less than ninety days, of application under the homestead or desert land laws, the Small Tract Act of June 1, 1938 (52 Stat. 609) as amended (59 Stat. 467; 43 U. S. C. sec. 682a), or the Alaska homesite act of May 26, 1934 (48 Stat. 809; 48 U. S. C. 461), subject to the requirements of applicable law.

During the above-mentioned period, on the revocation of any order of withdrawal of unsurveyed public lands in Alaska, persons entitled to the preference-right provisions mentioned above, will have a preference for a ninety day period before the lands are opened to settlement by the general public, to settle on such lands under the homestead laws and to make homesite settlement on such lands under the act of May 26, 1934.

§ 181.45 *Cases in which preference right provisions apply.* The preference right provisions extend, subject to the exceptions stated in the next section, to all cases where the lands are withdrawn or withheld from application under the public land laws, and by an order are opened or restored to such application. Thus, the preference right provisions apply (a) where lands not subject to application become subject thereto by reason of the filing of township plats of survey or resurvey, (b) where lands are restored from an order of withdrawal or reservation, (c) for small tract application only, where lands not classified for entry under the Small Tract Act of June 1, 1938, cited above, are so classified by the Secretary of the Interior on his own motion, (d) where lands are restored from segregation under the Carey Act, (e) where lands patented to a State under the Carey Act are reconveyed to the United States by the State, (f) where lands are reconveyed to the United States as a result of court proceedings or a demand for reconveyance, (g) where lands are conveyed to the United States by a State or a private owner in an exchange of lands, except where the acquired lands are situated in a national forest, a national park or an Indian reservation, or in any other reservation which precludes the filing of an application therefor under the public land laws, (h) where lands in national forests are opened under the act of June 11, 1906 (34 Stat. 233; 16 U. S. C. 506–509), and (i) where Indian or other lands withheld from application are opened thereto.

§ 181.46 *Cases in which preference right provisions do not apply.* The preference right provisions do not apply where (a) lands were open to application on September 27, 1944, and they continue to occupy the same status, (b) lands are embraced in an entry which is canceled by contest, or by reason of the expiration of the statutory period, (c) lands are embraced in an entry or selection and under the law the lands become subject to application upon the filing of a relinquishment of the entry or selection in the land office, except lands in entries made under the act during the preference right period, which are relinquished before the expiration of the period, as to which excepted lands application may be made only by veterans during such period, (d) a revocation of an order of withdrawal is made in order to assist in a Federal land program other than one authorized by the homestead or desert land laws or by the Small Tract Act of June 1, 1938, as amended, (e) lands are subject to prior existing valid settlement rights or preference rights conferred by existing laws or equitable claims subject to allowance and confirmation and (f) the lands are eliminated from national forests and are covered by the claims of holders of permits issued by the Department of Agriculture whose permits have been terminated only because of such elimination and who own valuable improvements on such lands (act of June 3, 1948, Public Law 596—80th Cong., 62 Stat. 305).

§ 181.47 *Preference right accorded to veterans in connection with certain reclamation lands.* Under the terms of section 9 of the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1063),

[3] Section 35 (a) of the Criminal Code (18 U. S. C. 80), makes it a crime for any person knowingly and willfully to submit or cause to be submitted to any agency of the United States any false or fraudulent statement as to any matter within its jurisdiction.

as amended by the act of March 6, 1946 (60 Stat. 36, 43 U. S. C. 617h), all persons who served in the Army, Navy, Marine Corps, or Coast Guard during World War II, the War with Germany, the War with Spain, or in the suppression of the insurrection in the Philippines, and who have been honorably separated or discharged therefrom or placed in the regular Army or Naval Reserve, will have a preference right for a period of three months to enter lands reclaimed by irrigation and reclamation under that act, subject to such qualifications as to industry, experience, character, and capital, as are deemed necessary to give reasonable assurance of success by the prospective settler. Such exclusive preference right is also given by the act cited to veteran settlers on lands watered from the Gila Canal in Arizona and on lands watered from the All-American Canal in California.

MARION CLAWSON,
*Director.*

Approved: December 30, 1948.

C. GIRARD DAVIDSON,
*Assistant Secretary of the Interior.*

[F. R. Doc. 48-11551; Filed, Dec. 30, 1948; 4:15 p. m.]

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## Subchapter L—Mineral Lands

[Circular 1719]

## PART 192—OIL AND GAS LEASES

### MISCELLANEOUS AMENDMENTS

1. Section 192.1 is revised to read as follows:

§ 192.1 *Applicability of amendatory act to existing leases.* Prior to the filing of the notice of election hereinafter referred to, the act of August 8, 1946 (60 Stat. 950; 30 U. S. C. 181) applies to leases issued prior to the date of that act only where the amendatory act so provides. The owner of any lease issued prior to August 8, 1946, may elect pursuant to section 15 to come entirely under the provisions of that act by filing a notice of election to have his lease governed by the amendatory act, accompanied by the consent of the surety if there is a bond covering the lease. A notice of election so filed shall constitute an amendment of all provisions of the lease to conform with the provisions of the amendatory act and the regulations issued hereunder.

2. Section 192.3 is amended by inserting "192.42 (a) (2) and (a) (3)" in lieu of "192.42 (b) and (c)" in the last paragraph.

3. Section 192.40a is revised to read as follows:

§ 192.40a *Dating of competitive and noncompetitive oil and gas leases.* All competitive and noncompetitive oil and gas leases, excepting renewal leases, will be dated as of the first day of the month following the date the leases are signed on behalf of the lessor except that where prior written request is made a lease may be dated the first of the month within which it is so signed.

4. Section 192.42 is revised to read as follows:

§ 192.42 *Applications for noncompetitive leases.* Applications for noncompetitive leases may be filed in the proper district land office, or, for lands or deposits in States in which there is no district land office, in the Bureau of Land Management, addressed to the Director of the Bureau of Land Management, Washington, D. C. All applications must be filed in duplicate and must be accompanied by the filing fee prescribed in § 191.11 of this chapter, and at least one-half of the first year's rental. After March 1, 1949, each application must be accompanied by the full rental payment for the first year. Any application not accompanied by the required fee and rental payment will be rejected. No specific form of application is required and no blanks will be furnished. An application executed by an attorney in fact must be accompanied by the power of attorney and the applicant's own statement as to his citizenship and acreage holdings. A lease executed by an attorney in fact in behalf of the applicant must be accompanied by evidence of the attorney's authority to execute the lease. Proof of the authority of the officer who makes application in behalf of a corporation must be furnished. An application by a minor will be rejected.

(a) The application must contain in substance the following:

(1) The applicant's name and address.

(2) A statement as to citizenship; in case of an individual whether native born or naturalized and, if naturalized, date of naturalization, court in which naturalized, and number of certificate, if known; if a woman, whether she is married or single, if married, the date of her marriage and the citizenship of her husband; if a corporation, by certified copy of the articles of incorporation and a statement of its duly authorized officer listing the names of all stockholders known to be non-citizens or whose addresses are not within the United States, its territories or possessions, giving the amount of stock held by each, if 20 percent or more of the stock of any class if owned or controlled by any one stockholder, a separate showing of his citizenship and holdings.

(3) A statement of the interests, direct or indirect, held by the applicant in oil and gas leases issued under the act of February 25, 1920 (41 Stat. 437; 30 U. S. C. 181) as amended, and applications for such leases, covering lands in the same State, identifying by serial number the records wherein such interests may be found, together with a statement that such interests, with the acreage applied for, do not exceed in the aggregate 15,360 acres in the State.

(4) Description of the lands for which a lease is desired, describing the lands by legal subdivisions or, if unsurveyed, by metes and bounds description connected with a corner of the public surveys by courses and distances, and where possible, a description of the land by approximate legal subdivisions of the future survey. Each application shall be for one lease only, which may not exceed 2,560 acres except where the rule of approximation applies.

(5) A statement that the applicant is ready upon demand to furnish such bond or bonds as may be required under the lease or regulations.

Where any required information or statements are already on file with the Department, the showing required by these regulations may to that extent be made by approximate reference to the information or statements already on file.

(b) If an applicant dies before the lease is issued, the lease will be issued to the executor or administrator of the estate if probate of the estate has not been completed, and if probate has been completed, or is not contemplated, to the heirs or devisees: *Provided*, That there is filed:

(1) Where probate of the estate has not been completed:

(i) Evidence that the person who as executor or administrator signs the lease forms, and bond form if a bond is required, has authority to act in that capacity and to sign the lease and bond forms.

(ii) A statement over the signature of each heir or devisee, similar to that required under paragraphs (a) (2) and (a) (3) of this section concerning citizenship and holdings.

(iii) Evidence that the heirs or devisees are the heirs or devisees of the deceased applicant and are the only heirs or devisees of the deceased.

(2) Where the executor or administrator has been discharged or no probate proceedings are contemplated:

(i) A certified copy of the will or decree of distribution, if any, and if not, a statement signed by the heirs that they are the only heirs of the applicant.

(ii) A statement over the signature of each of the heirs or devisees with reference to holdings and citizenship, similar to that required under paragraph (a) (2) and (a) (3) of this section.

5. Section 192.43 is completely revised so as to read:

§ 192.43 *Opening of lands to further filings, where a noncompetitive oil and gas lease is canceled or relinquished.* Where a noncompetitive lease is canceled or relinquished and the lands involved are not on the known geologic structure of a producing oil or gas field or are not withdrawn from further leasing, immediately upon the notation of the cancellation or relinquishment on the tract book of the district office or on the tract book of the Bureau of Land Management if there is no district office in the State, the lands shall be open to further oil and gas leasing. Applications received in the same mail or over the counter at the same time, will be considered simultaneously filed and priority to the extent of the conflicts between them will be determined by a public drawing in accordance with the procedure prescribed by § 295.8 of this chapter.

6. Section 192.52 is amended by inserting "192.42 (a) (2)" and "192.42 (a) (3)" in lieu of "192.42 (b)" and "192.42 (c)", respectively.

7. The first paragraph of § 192.53 is amended by adding thereto the following: "If the lease awarded to the successful bidder is executed by an attorney

acting in behalf of the bidder, the lease must be accompanied by evidence that the bidder authorized the attorney to execute the lease."

8. The third paragraph of § 192.100 is amended by adding thereto the following: "An operator's bond will not be accepted unless the operator holds an operating agreement which has been approved by the Department or has pending an operating agreement in proper condition for approval. The mere designation as operator will not suffice."

9. Section 192.140 is amended by inserting the following sentence immediately preceding the last one in the section: "A minor, except a minor heir or devisee of a lessee, is not qualified to hold a lease and an assignment to a minor will not be approved."

10. The following text is substituted for the first paragraph of § 192.141:

§ 192.141 *Requirements for filing of operating agreements, assignments or transfers.* All instruments of transfer of a lease or of an interest therein, including assignments of record title, working, or royalty interests, operating agreements and subleases, must be filed for approval within 90 days from the date of final execution and must contain all of the terms and conditions agreed upon by the parties thereto, together with evidence of the qualifications of the operator, assignee or transferee, consisting of the same showing required of a lease applicant by § 192.42 (a) (2) and (a) (3). An application for approval of any such instrument, except those concerning royalty interests, must be accompanied after March 1, 1949, by a fee of $10 00 and an application thereafter, not accompanied by a certified check, money order or cash of that amount, will be rejected by the manager. Such fee will not be returned even though the application later be withdrawn or rejected in whole or in part.

Where an attorney in fact, in behalf of the holder of a lease, operating agreement or of a royalty interest in a producing lease, signs an assignment of the agreement, lease or interest, or signs the application for approval, there must be furnished evidence of the authority of the attorney to execute the assignment or application.

If a bond is necessary, it must be furnished. Where an assignment does not create separate leases, the assignee, if the assignment so provides, may become a joint principal on the bond with the assignor. If any overriding royalty or payments out of production are created which are not shown in the instrument or agreement, a statement must be submitted describing them. Assignments of record title interests must be filed in triplicate. A single executed copy of all other instruments of transfer, or of an operating agreement, is sufficient.

In order for the heirs or devisees of a deceased holder of a lease, an operating agreement or a royalty interest in a producing lease to be recognized by the Department as the holder of the lease, agreement, or interest, there must be furnished the appropriate showing required under § 192.42 (b).

(Sec. 32, 41 Stat. 450; 30 U. S. C. 189)

MARION CLAWSON,
*Director.*

Approved: December 29, 1948.

C. GIRARD DAVIDSON,
*Assistant Secretary of the Interior.*

[F. R. Doc. 48-11546; Filed, Dec. 30, 1948; 1:46 p. m.]

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**Subchapter R—Records**

[Circular 1715]

## PART 240—PUBLIC LAND RECORDS

### FILING OF TOWNSHIP PLATS

The footnote to the title of Part 240 is deleted, and the first paragraph of § 240.3 is amended to read as follows:

§ 240.3 *Filing of township plats.* After acceptance of a survey, the original plat thereof will be returned to the public survey office, the duplicate plat will be retained in the files of the Bureau of Land Management in Washington, D. C., and the triplicate plat will be forwarded to the appropriate district land office. The plat will be placed of record in the open files of the respective offices immediately upon receipt thereof and will then be available to the public as a matter of information only with respect to the technical data and descriptions appearing thereon; copies of such plat and the related field notes will be furnished upon request and payment of the costs as provided in § 240.4. When the manager of the district land office is instructed to file the plat without the usual public notice, such plat will be regarded as officially filed in his office on the date of receipt thereof and immediate report of such date will be made to the Director.

(R. S. 453, 2478; 43 U. S. C. 2, 1201)

MARION CLAWSON,
*Director.*

Approved: December 23, 1948.

C. GIRARD DAVIDSON,
*Assistant Secretary of the Interior.*

[F. R. Doc. 48-11496; Filed, Dec. 30, 1948; 8:58 a. m.]

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**Subchapter I—Withdrawals, Restorations, Classifications, and Executive Orders**

[Circular 1717]

## PART 295—WITHDRAWALS AND RESTORATIONS

### PROCESSING OF SIMULTANEOUS APPLICATIONS

§ 295.8 *Processing of simultaneous applications.* All applications filed pursuant to the regulations in any part of this chapter will be regarded as having been filed simultaneously within the meaning of this section where by reason of an order of restoration or opening, or a notice of the filing of a plat of survey or resurvey, they are filed in the manner and within the period of time provided for in such order or notice. Where no order of restoration or notice of opening is involved, the applications will be treated as having been filed simultaneously where they are received by a district land office (or, if there is no such office in the State, by the Bureau of Land Management), over the counter at the same time, or are received in the same mail. Applications which are filed simultaneously will be processed in accordance with the following rules:

(a) All such applications received will be examined and appropriate action will be taken on those which do not conflict in whole or in part.

(b) All such applications which conflict in whole or in part will be included in a drawing which, except as provided in this paragraph, will fix the order in which the applications will be processed. For the purpose of the drawing, the manager will write on cards the names of the several applicants and each of these cards will be placed in an envelope upon which there is no distinguishing or identifying mark, and at 2:00 p. m. on the date of the restoration or opening, if practicable, otherwise at such other time as may be fixed by the manager, with reasonable notice to the applicants, all the envelopes containing the names of the applicants will be thoroughly mixed in the presence of such persons as may desire to be present. Where no order of restoration or notice of opening is involved, a drawing for any simultaneous applications, except as provided in paragraph (c) of this section, will be held at such time after the applications are filed as may be fixed by the manager. The envelopes containing the cards prepared as stated will be drawn and opened and the cards therein will be numbered in order. The cards, as numbered, will be fastened securely to the applications of the respective persons and, subject to any priority to which any particular applicant may be entitled on account of a preference right conferred by law or regulations, the numbers will fix and determine the order of priority for action on the applications.

(c) No drawing shall be held in connection with simultaneous applications which conflict with applications entitled to priority because of prior filing, unless and until appropriate action on the prior applications has been taken and a drawing for the subsequent simultaneously filed applications is found to be necessary. The applicants will be given reasonable notice of any such drawing.

(d) Where an applicant fails to obtain all of the land applied for, he will be permitted to elect whether he will retain the lands secured and amend his application to embrace other lands not affected by pending applications and otherwise subject to appropriation, or withdraw his original application. Applications conflicting in whole or in part with those previously allowed will be rejected. (R. S. 453, 2478; 43 U. S. C. 2, 1201)

MARION CLAWSON,
*Director.*

Approved: December 28, 1948.

C. GIRARD DAVIDSON,
*Assistant Secretary of the Interior.*

[F. R. Doc. 48-11498; Filed, Dec. 30, 1948; 8:58 a. m.]

[Circular 1718]

PART 296—CLASSIFICATIONS

Part 296 of 43 CFR is revised to read as follows:

CLASSIFICATIONS OF PUBLIC LANDS UNDER SECTION 7 OF THE TAYLOR GRAZING ACT OR UNDER THE SMALL TRACT ACT

Sec.
296.1 Statutory authority.
296.2 Classification of public lands.
296.3 Notice of proposed classification and opening to be given to grazing permittee; classification and opening of land in a grazing lease.
296.4 Classifications of irrigable land for homestead entry.
296.5 When applicant may occupy and improve the land.
296.6 Preference-right of applicant; order of opening to be issued where preference-right application is rejected.
296.7 Requirements to earn title.
296.8 Cases of conflict with applications for mineral prospecting permits or leases.
296.9 Appeal.

AUTHORITY: §§ 296.1 to 296.9 issued under sec. 2, 48 Stat. 1270; 43 U. S. C. 315a.

CLASSIFICATION OF PUBLIC LANDS UNDER SECTION 7 OF THE TAYLOR GRAZING ACT OR UNDER THE SMALL TRACT ACT

§ 296.1 *Statutory authority.* Section 7 of the act of June 28, 1934 (48 Stat. 1272), as amended by the act of June 26, 1936 (49 Stat. 1976; 43 U. S. C. 315f), authorizes the Secretary of the Interior in his discretion to examine and classify any lands withdrawn or reserved by Executive Order 6910 of November 26, 1934, or Executive Order 6964 of February 5, 1935, and amendments thereto, or within a grazing district, which are more valuable or suitable for the production of agricultural crops than for the production of native grasses and forage plants, or more valuable or suitable for any other use than the use provided for under said act, or proper for acquisition in satisfaction of any outstanding lien, exchange, or scrip rights or land grant, and to open such lands to entry, selection, or location for disposal in accordance with such classification under applicable land laws. Executive Order 6910, Executive Order 6964 and section 7 of the Taylor Grazing Act, do not apply to public lands in the Territory of Alaska.

The Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a), as amended, authorizes the classification for small tract purposes, as set forth in Part 257 of this chapter, of any vacant, unreserved, surveyed public land, or surveyed public land withdrawn or reserved by the Secretary of the Interior for any purpose, or surveyed lands withdrawn by Executive Orders Nos. 6910 of November 26, 1934, and 6964 of February 5, 1935. The act, as amended, applies to the Territory of Alaska.

§ 296.2 *Classification of public lands.* Classification may be made of the lands without an application having been filed for such lands.

Where classification is required under section 7 of the Taylor Grazing Act, an application to enter, select, or lease the land will be considered as a petition for its classification. Where, however, the land or any part thereof, is withdrawn or classified or is valuable for deposits of coal, oil, gas, potash, phosphate, sodium, oil shale, or (in Louisiana and New Mexico) sulphur, the applicant must show:

(a) Whether the purpose for which the title is sought is necessary and not contrary to the interest of the public;

(b) Whether the applicant lawfully could devote the land to the proposed use without obtaining title; and

(c) Whether the applicant reasonably could obtain other land, either public or privately owned, which could serve the purpose desired substantially as well as the land applied for.

§ 296.3 *Notice of proposed classification and opening to be given to grazing permittee; classification and opening of land in a grazing lease.* In the case of public lands in a grazing district, reasonable notice of a classification or a proposed classification and opening of the lands will be given to any permittees entitled to participate in the grazing use of the land. Lands embraced in a grazing lease are subject to classification and other lease or disposal under the conditions set forth in § 160.12 of this chapter.

§ 296.4 *Classifications of irrigable land for homestead entry.* Public lands which are desert in character within the meaning of sections 2 and 3 of the desert-land law (act of March 3, 1877, 19 Stat. 377, 43 U. S. C. 322) and are subject to classification under section 7 of the Taylor Grazing Act may, on the filing of an application under the general homestead laws, be classified for entry under those laws, provided the applicant makes a satisfactory showing that the land is susceptible of successful cultivation by irrigation and that the cultivation requirements of the homestead laws will be met. The applicant in such a case will be required to furnish satisfactory evidence of a water right and plans of irrigation. The available water supply, and the plan of irrigation, however, need be sufficient only to enable the applicant to meet the cultivation requirements of the homestead laws.

§ 296.5 *When applicant may occupy and improve the land.* The filing of an application which cannot be allowed unless the land is first classified does not give the applicant the right to occupy or settle upon the land. The applicant shall be entitled to the possession and use of the land only after his entry, selection or location has been allowed, or a lease has been issued. Settlement on the land prior to that time constitutes a trespass.

§ 296.6 *Preference-right of applicant; order of opening to be issued where preference-right application is rejected.* Where public land is classified under section 7 of the Taylor Grazing Act pursuant to an application, the applicant is entitled to a preference-right of entry. If, however, after classification of the land and prior to the allowance of the application, it should be necessary for any reason to reject the application, the land will not become subject to application by persons other than the preference-right applicant until an appropriate order of opening has been issued.

CROSS REFERENCE: For preference-right of applicant under the Small Tract Act, see § 257.9 of this chapter.

§ 296.7 *Requirements to earn title.* Upon allowance of an application to make entry, location or selection of public land classified as provided in §§ 296.1–296.9, all the laws and regulations governing the particular kind of entry, location or selection applied for must be complied with in order to earn title to the land.

§ 296.8 *Cases of conflict with applications for mineral prospecting permits or leases.* In all cases of applications to make nonmineral entries or selections of public lands, which conflict with applications for mineral prospecting permits or leases, the instructions in §§ 102.34 to 102.38 of this chapter must be observed.

§ 296.9 *Appeal.* An appeal from a decision of the manager to the Director, or from a decision of the Director to the Secretary of the Interior may allege errors of law, or the applicant may make a showing as to the facts, accompanied by evidence tending to disprove the adverse conclusions reached.

The §§ 296.1 to 296.9 contained in this Circular, supersede §§ 296.1 to 296.14 of Title 43, as amended (Cum. Supp.).

MARION CLAWSON,
*Director.*

Approved: December 28, 1948.

C. GIRARD DAVIDSON,
*Assistant Secretary of the Interior.*

[F. R. Doc. 48-11499; Filed, Dec. 30, 1948; 8:58 a. m.]

## Chapter II—Bureau of Reclamation, Department of the Interior

[Order 2504]

PART 401—APPLICATIONS FOR ENTRY ON LANDS IN FEDERAL RECLAMATION PROJECTS

The following revision of Part 401 (superseding Order 2195, Secretary of the Interior, May 10, 1946 (11 F. R. 6142) contains the general regulations relating to the opening of land for entry within Federal reclamation projects. Each public notice issued will also contain specific information with respect to the particular opening, including the amount of capital required by applicants, date of opening, location of lands available for entry, and repayment charges to be assumed by successful applicants.

Sec.
401.1 Availability of water and opening lands to entry.
401.2 Limit of acreage.
401.3 Nature of preference.
401.4 Persons entitled to veterans' preference.
401.5 Definition of honorable discharge.
401.6 Submission of proof of veterans' status.
401.7 Examining Board.
401.8 Minimum qualifications.
401.9 References.
401.10 Restriction or ownership of project lands.
401.11 Principal qualifications required by homestead laws.
401.12 Application blanks.
401.13 Filing of application and supporting evidence.

Sec.
401.14 Applications become permanent records.
401.15 Importance of complete applications.
401.16 Selection of applications.
401.17 Preliminary examination to determine first priority group; right of appeal.
401.18 Public drawing.
401.19 Final examination.
401.20 Order of selection of farm units.
401.21 Failure to select.
401.22 Payment of charges and filing homestead applications.
401.23 Warning against unlawful settlement.
401.24 Construction, operation, and maintenance charges.
401.25 Reservation of rights-of-way for public lands.
401.26 Reservation of rights-of-way for publicly owned utilities.
401.27 Waiver of mineral rights.
401.28 Effect of cancellation by relinquishment.

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401.50 Individual water-right applications.
401.51 Temporary water service.
401.52 Amendment of farm units.

AUTHORITY: §§ 401.1 to 401.52 issued under sec. 4 (c), 43 Stat. 702, sec. 5, 58 Stat. 748, 43 U. S. C. 433, 283. Statutes interpreted or applied and statutes giving special authority are cited to text in parenthesis.

§ 401.1 *Opening lands to entry.* The opening of public lands to entry within Federal reclamation projects is announced by the Secretary of the Interior by public notice published in the FEDERAL REGISTER. The announcement is given as wide dissemination as possible through established news media and other information channels and by direct mail to those persons who have requested such information.

§ 401.2 *Limit of acreage.* The public lands opened to entry by public notice are divided into farm units. Each of the farm units represents the acreage which, in the opinion of the Secretary of the Interior, may reasonably be required for the support of a family upon such land. The areas in the different units are fixed at the amounts announced in the public notice and as shown on the farm unit plats on file in the appropriate office of the Bureau of Reclamation and the District Land Office, the location of which is given in each such notice. (Applies, sec. 4, 32 Stat. 389, 43 U. S. C. 419)

§ 401.3 *Nature of preference.* (a) Preference is given to applications which are made by veterans of World War II (and in some cases by their wives or husbands or minor children) and which are filed within 90 days after the opening of the lands. The five classes of persons who are entitled to the veterans' preference are set forth in § 401.4. In order to be eligible to receive farm units, applicants, whether or not entitled to veterans' preference, must possess the necessary qualifications as to industry, experience, character, capital, and physical fitness set forth in § 401.8 and (except for duly appointed guardians) must be qualified to make entry under the homestead laws.

(b) In regard to lands subject to the Boulder Canyon Project Act, as amended (43 U. S. C., Ch. 12A), preference is also given to applicants who served in the United States Army, Navy, Marine Corps, or Coast Guard during World War II, the War with Germany, the War with Spain, or in the suppression of the insurrection in the Philippines and have been honorably discharged. (Applies, sec. 4, 58 Stat. 748, as amended, 43 U. S. C. 282; and 60 Stat. 36, 43 U. S. C. 617h)

§ 401.4 *Persons entitled to veterans' preference.* The classes of persons who are entitled to the veterans' preference described in § 401.3 (a) are as follows:

(a) Persons, including those under 21 years of age, who have served in the Army, Navy, Marine Corps, or Coast Guard of the United States for a period of at least 90 days at any time on or after September 16, 1940, and prior to the termination of World War II, and have been honorably discharged.

(b) Persons, including those under 21 years of age, who have served in the Army, Navy, Marine Corps or Coast Guard during the period described in paragraph (a) of this section, regardless of length of service, and who have been discharged on account of wounds received or disability incurred during such service in the line of duty, or, subsequent to a regular discharge, have been furnished hospitalization or awarded compensation by the Government on account of such wounds or disability.

(c) The spouse of any person in either of the first two classes listed in this section, if the spouse has the consent of such person to exercise his or her preference right. (See § 401.11 regarding the provision that a married woman must be head of a family.)

(d) The surviving spouse of any person in either of the first two classes listed in this section, or in the case of the death or marriage of such spouse, the minor child or children of such person, by a guardian duly appointed and officially accredited at the Department of the Interior.

(e) The surviving spouse of any person whose death has resulted from wounds received or disability incurred in line of duty while serving in the Army, Navy, Marine Corps or Coast Guard during the period described in paragraph (a) of this section, or in the case of the death or marriage of such spouse, the minor child or children of such person, by a guardian duly appointed and officially accredited at the Department of the Interior. The classes of persons who are entitled to the veterans' preference described in § 401.3 (b) will be set forth in each particular public notice opening lands subject to the Boulder Canyon Project Act. (Applies, secs. 1–3, incl., 58 Stat. 747, as amended, 43 U. S. C. 279–281, incl.)

§ 401.5 *Definition of honorable discharge.* An honorable discharge means:

(a) Separation from the service by means of an honorable discharge or a discharge under honorable conditions;

(b) Transfer with honorable service from such service to a reserve or retired status prior to the termination of the war; or

(c) Ending of the period of war service by reason of the termination of the war, even though the veteran remains in the military or naval service of the United States. (Interpret, sec. 1, 58 Stat. 747, 43 U. S. C. 279)

§ 401.6 *Submission of proof of veterans' status.* All applicants for farm units who claim veterans' preference must attach to their applications a photostatic, certified or authenticated complete copy (both sides) of an official document of the respective branch of the service which shows clearly an honorable discharge, as defined in § 401.5, or constitutes evidence of other facts on which the claim for preference is based, and which clearly shows the period of service.

If the preference is claimed by a surviving spouse on behalf of the minor child or children of a deceased veteran, proof of the relationship aserted and of the veteran's service and death must be attached to the application. If the preference is claimed by the spouse of a living veteran, proof of such relationship and of the veteran's service and written consent to the exercise of the preference right must be attached to the application.

§ 401.7 *Examining Board.* (a) Authority has been delegated to the Commissioner of the Bureau of Reclamation to appoint Boards of Examiners to assist in the selection of settlers. Each Board shall consist of not less than two citizens residing on or in the vicinity of the project who are deemed to have public-spirited interest in successful development of the project, the welfare of project settlers, and the special problems of veterans desiring opportunities to homestead on Federal reclamation projects. A third member of each Board, who shall be the secretary of the Board, shall be a Bureau of Reclamation official, preferably a senior member of the local project staff. Citizen members, additional to the minimum number of two, may be appointed to any Board when, in the judgment of the Commissioner of Reclamation, such additional membership is desirable in view of the volume of work or the variety of problems involved in the selection of settlers.

(b) The Boards of Examiners shall be called into active status by the Regional Director sufficiently in advance of the opening of any project lands to settlement so that the members of the Board will have opportunity (1) to be fully informed of the character of the settlement opportunities and any special problems connected therewith, and (2) to make suitable plans for the conduct of the work for which it is responsible.

(c) The duties of the Boards of Examiners include:

(1) Recommendation, through the Regional Director and Commissioner of the Bureau of Reclamation, for approval by the Secretary of the Interior, of the amount of capital required of applicants.

(2) The examination, approval, or rejection in accordance with established procedures of applications for Reclamation homesteads and the award of farm units to qualified applicants.

(3) Recommendation to the Commissioner of Reclamation, or other appropriate official of the Bureau of Reclama-

tion, concerning any matters connected with the settlement of the project, with a view to increasing the opportunities for success by the prospective settlers, for the establishment of family-size farms, and for carrying out the preference provisions of reclamation laws.

(d) Recommendations concerning the amount of capital required of applicants, the selection of applicants and the award of farm units shall be made by the Boards of Examiners only by action of a majority of the members of said Boards. The board will make careful investigations to verify the statements made by applicants. Any false statement may constitute grounds for rejection of an application, cancellation of award or cancellation of an entry.

§ 401.8 *Minimum qualifications.* The minimum qualifications set forth in paragraphs (a) to (d) of this section are necessary to give reasonable assurance of success of an entryman or entrywoman on a reclamation farm unit. Applicants must, in the judgment of the examining board, meet these qualifications in order to be considered for entry. Failure to meet them in any single respect will be sufficient cause for rejection of an application. No credit will be given for qualifications in excess of the required minimum.

(a) *Character and industry.* An applicant must be possessed of honesty, temperate habits, thrift, industry, seriousness of purpose, record of good moral conduct, and a bona fide intent to engage in farming as an occupation.

(b) *Farm experience.* Except as otherwise provided in this paragraph, an applicant must have had a minimum of two years (24 months) full-time farm experience, which shall consist of participation in actual farming operations after attaining the age 15 of years. Time spent in agricultural courses in an accredited agricultural college or time spent in work closely associated with farming, such as teaching vocational agriculture, agricultural extension work or field work in the production or marketing of farm products which, in the opinion of the board, will be of value to an applicant in operating a farm, may be substituted for full-time farm experience. Such substitution shall be on the basis of one year (academic year of at least nine months) of agricultural college courses or one year (twelve months) of work closely associated with farming for six months of full-time farm experience. Not more than one year of full-time farm experience of this type will be allowed. A farm youth who actually resided and worked on a farm after attaining the age of 15 while attending school may credit such experience as full-time experience. Applicants who have acquired their experience on an irrigated farm will not be given preference over those whose experience was acquired on a non-irrigated farm, but all applicants must have had farm experience of such a nature as, in the judgment of the examining board, will qualify the applicant to undertake the development and operation of an irrigated farm by modern methods.

(c) *Health.* An applicant must be in such physical condition as will enable him to engage in normal farm labor. Any person who is physically handicapped or afflicted with any condition which makes such ability questionable must attach to his or her application a detailed statement of an examining physician which defines the limitations upon such ability and its causes.

(d) *Capital.* The minimum amount of cash or assets readily convertible into cash, or assets such as livestock, farm machinery and equipment, which, in the opinion of the board, will be useful in the development and operation of a new irrigated farm, will be announced in each public notice opening public lands to entry. In considering the practical value of property which will be useful in the development of a farm, the board will not value household goods at more than $500 or a passenger car at more than $500. If the applicant proposes to convert items into cash, total cash value of such items should be shown with a full explanation. An applicant shall furnish, in the appropriate section of the farm application blank, a financial statement listing all of his assets and all of his liabilities. Prior to the issuance of a certificate of qualification, and not later than at the time of the personal interview, the applicant will be required to corroborate his statement of net worth by the statement of an officer of a bank or other responsible and reputable credit agency or by other proof satisfactory to the examining board.

§ 401.9 *References.* (a) An applicant shall list in the appropriate section of the farm application blank the names, occupations, positions or titles and complete current addresses of five persons who are qualified and willing to give their frank opinions as to the applicant's personal qualifications and farm experience. Persons named as references must be responsible citizens who are permanent residents in their communities.

(b) At least one of these five persons must be an agricultural leader who holds one or more of the following positions: County Agent, Farmers Home Administration County Supervisor; Production and Marketing Administration County Committeeman; Soil Conservationist; Vocational Agriculture Teacher; manager or agricultural representative of an agricultural marketing or processing association or institution; loan officer or agricultural representative of a credit agency or institution in an agricultural community, or an officer of any recognized farm organization.

(c) The other four persons named as references may be successful farmers who own and operate their own farms and are well known in the community where the farm experience was acquired.

(d) Persons in occupations other than those listed in this section and relatives of the applicant are not acceptable.

(e) The applicant shall also be responsible for furnishing to at least three of the five persons listed as references the reference forms provided for that purpose and for the return by these persons to the board of three complete signed statements. At least one of these three statements must be prepared and signed by one of the agricultural leaders listed in this section.

§ 401.10 *Restriction on ownership of project lands.* (a) Applicants for farm units must not hold or own, within any Federal reclamation project, irrigable land for which construction charges payable to the United States have not been fully paid, except that this restriction does not apply to small tracts used exclusively for residential purposes.

(b) Prior to the issuance of a certificate of qualification and not later than the time of the personal interview, an applicant who owns land in a Federal reclamation project must furnish satisfactory evidence that the total construction charges allocated against the land owned by the applicant have been paid in full.

§ 401.11 *Principal qualifications required by homestead laws.* All applicants (except guardians) must meet the requirements of the homestead laws. The homestead laws require that an entryman or entrywoman:

(a) Must be a citizen of the United States or have declared an intention to become a citizen of the United States;

(b) Must not have exhausted the right to make homestead entry on public land;

(c) Must not own more than 160 acres of land in the United States;

(d) Must, if a married woman, or a person under 21 years of age who is not eligible for veterans' preference, be the head of a family. The head of a family is ordinarily the husband, but the wife or a minor child who is obliged to assume major responsibility for the support of a family may be the head of a family. Any applicant who is required to be the head of a family must submit with the application evidence of such status which is satisfactory to the board. Complete information concerning qualification for homesteading may be obtained from District Land Offices or from the Bureau of Land Management, Washington 25, D. C. (Applies, R. S. sec. 2289; sec. 5, 26 Stat. 1097, 43 U. S. C. 161)

§ 401.12 *Application blanks.* Any person desiring to enter any public land farm units described in a public notice must fill out a farm application blank which may be obtained from the appropriate project or regional offices, or Commissioner of Reclamation, Department of the Interior, Washington 25, D. C. The public notice opening lands to entry will contain the address of all offices of the Bureau of Reclamation where farm application blanks may be obtained. Full and frank answers must be made to each question on the farm application blank.

§ 401.13 *Filing of application and supporting evidence.* The address of the office of the Bureau of Reclamation where application for a certificate of qualification for a farm unit must be filed, in person or by mail, will be contained in the public notice opening lands to entry. No advantage will accrue to an applicant who presents an application in person.

Every application must be accompanied by:

(a) Proof of veteran's status if veteran's preference is claimed (see § 401.6);

(b) Statement of examining physician, in case of disability (see paragraph (c) of § 401.8);

(c) Evidence of citizenship or of declared intention if applicant is not native born (see § 401.11);

(d) Evidence of status as head of family if applicant is a married woman statements of his qualifications (see § 401.11).

The applicant also must see that three of his references submit complete signed statements of his qualifications (see § 401.9).

§ 401.14 *Applications become permanent records.* Each application submitted, including corroborating evidence, will become a part of the permanent records of the Department of the Interior and cannot be returned to the applicant. For this reason, original discharge or citizenship papers should not be submitted. In case an applicant is awarded a farm his discharge papers will be attached to his certificate of eligibility (see § 401.22) for submission to the Bureau of Land Management.

§ 401.15 *Importance of complete applications.* It shall be the sole responsibility of an applicant to submit a complete application, including the corroborating evidence required by the public notice. Failure of an applicant to provide answers to all questions in the farm application blank within the periods specified in the public notice, .or failure to provide all other information required by the public notice, will subject an application to rejection.

§ 401.16 *Selection of applications.* All applications will be classified for priority purposes and considered in the following order:

(a) *First priority group.* All complete applications filed prior to the time and date specified in the public notice, which are accompanied by proof sufficient, in the opinion of the examining board, to establish eligibility for veterans' preference. All such applications will be treated as simultaneously filed.

(b) *Second priority group.* All complete applications filed prior to the time and date specified in the public notice, from applicants without veterans' preference or which are not accompanied by proof sufficient, in the opinion of the examining board, to establish eligibility for veterans' preference. All such applications will be treated as simultaneously filed.

(c) *Third group.* All complete applications filed after the time and date specified in the public notice, whether or not accompanied by proof of veterans' preference. Such applications will be considered in the order in which they are filed if any farm units are available for award to applicants within this group.

§ 401.17 *Preliminary examination to determine first priority group; right of appeal.* (a) Each application will be examined for the purpose of ascertaining (1) that the application is complete; (2) that all of the corroborating evidence required by the public notice to be submitted in advance of the drawing has been furnished; and (3) that the applicant's right to veterans' preference has been fully established. Any incomplete application or any application not accompanied by the required corroborating evidence will be rejected. Any applicant claiming veterans' preference but failing to establish proof of eligibility for such preference shall be placed in the second priority group.

(b) In case of rejection or placement in the second priority group, the applicant shall be notified by the board by registered mail, with return receipt requested, of such rejection or placement; the reasons therefor and of the right of appeal in writing to the Regional Director, Bureau of Reclamation, in whose region the land opening is available. All appeals must be received in the office of the Bureau of Reclamation specified in the public notice, within 15 days of the applicant's receipt of such notice or in any event, within 30 days from the date when the notice is mailed to the last address furnished by the applicant. The official in charge of the office of the Bureau of Reclamation specified in the public notice will forward the appeals promptly to the Regional Director. If an appeal is decided by the Regional Director in favor of the applicant, the application will be referred to the board for inclusion in the drawing. All decisions or appeals will be based exclusively on information obtained prior to rejection of applications or placement in second priority group. The Regional Director's decision on all appeals shall be final.

§ 401.18 *Public drawing.* After the expiration of the appeal periods fixed by the public notice and after decision on all appeals, the board will conduct a public drawing of the names of the applicants remaining in the First Priority Group as defined in Section 401.16. Applicants need not be present at the drawing in order to participate therein. The names of a sufficient number of applicants (not less than three times the number of farm units to be awarded) shall be drawn and numbered consecutively in the order drawn for the purpose of establishing the order in which the applicants drawn will be further examined by the board to determine whether the applicants meet the minimum qualifications prescribed in the public notice, and to establish the priority of qualified applicants for the selection of farm units. After such drawing, the board shall notify each applicant of his respective standing as a result of the drawing.

§ 401.19 *Final examination.* (a) The board shall examine, in the order drawn, a sufficient number of applications to determine the applicants to whom the farm units will be awarded. This examination will determine the sufficiency, authenticity and reliability of the information and evidence submitted by the applicants. If such examination indicates that an applicant is qualified, such applicant shall be so notified and shall be required to submit the statement of a credit agency corroborating his statement relative to his net worth, described in paragraph (d) of § 401.8, and if an applicant owns land on a Federal reclamation project, satisfactory evidence that all construction charges against such land have been paid as required in § 401.10.

(b) The applicant may be required to appear for a personal interview with the board for the purpose of: (1) Affording the board any additional information desired relative to his qualifications; (2) affording the applicant any information desired relative to conditions in the area and the problem and obligations relative to development of a farm unit; and (3) affording the applicant an opportunity to examine the farm units.

(c) If the board finds that an applicant's qualifications fulfill the requirements prescribed in the public notices, such applicant shall be notified, in person or by registered mail, that he is a successful applicant and shall be given an opportunity to select one of the farm units then available. If the board finds that an applicant's qualifications do not meet the requirements prescribed in the public notice, or if he fails to supply the corroborating evidence, the applicant shall be disqualified and shall be notified by the board, by registered mail, of such disqualification and the reasons therefor and of the right to appeal to the Regional Director as prescribed in § 401.17.

§ 401.20 *Order of selection of farm units.* (a) The applicants who have been notified of their qualifications for the award of a farm unit will successively exercise the right to select a farm unit in accordance with the priority established by the drawing. If a farm unit becomes available through failure of a successful applicant to exercise his right of selection or failure to complete his entry filing with the Bureau of Land Management, it will be offered to the next qualified applicant in accordance with the priority established by the drawing. An applicant who is considered to be disqualified as a result of the personal interview will be permitted to exercise his right to select, notwithstanding his disqualification, unless he voluntarily surrenders this right in writing. If, on appeal, the action of the board in disqualifying an applicant as a result of the personal interview is reversed by the Regional Director, the applicant's selection shall be effective, but if such action of the board is upheld by the Regional Director, the farm unit selected by this applicant will become available for selection by successful applicants who have not exercised their right to select.

(b) If any of the farm units listed in the public notice remain unselected after all qualified applicants in the First Priority Group have had an opportunity to select a farm unit, the board will follow the same procedure to select applicants from the Second Priority Group and they will be permitted to exercise their right to select a farm unit in the manner prescribed for the successful applicants from the First Priority Group.

(c) Any farm units remaining unselected after all qualified applicants in the Second Priority Group have had an opportunity to select a farm unit will be offered to applicants in the Final Group in the order in which their applications were filed, subject to the determination by the board, made in accordance with the procedure prescribed in this part, that such applicants meet the minimum

qualifications prescribed by the public notice.

§ 401.21 *Failure to select.* If any applicant refuses to select a farm unit or fails to do so within the time specified by the board, such applicant shall forfeit his position in his priority group and his name shall be placed last in that group.

§ 401.22 *Payment of charges and filing homestead applications.* After each successful applicant has advised the board of his selection of a farm unit he shall be notified by the board of the annual construction, water rental, and other charges, payment of which must be received at the office of the Bureau of Reclamation prescribed in the public notice within 15 days of the receipt by the applicant of such notice. Upon receipt by the official of the Bureau of Reclamation named in the public notice of such payment from the applicant before the expiration of said 15-day period, the board shall furnish each applicant, by registered mail or by delivery in person, a certificate of eligibility stating that the applicant's qualifications to enter public lands have been examined and approved by the board. Such certificate must be attached by the applicant to the homestead application, which application must be filed at the District Land Office, Bureau of Land Management, named in the public notice. Such homestead application must be filed within 15 days from the date of the receipt by the applicant of such certificate. Failure to pay the annual construction, water rental or other charges required and to make application for homestead entry within the period specified in the public notice will render the application subject to rejection.

§ 401.23 *Warning against unlawful settlement.* No person shall be permitted to gain or exercise any right under any settlement or occupation of any of the public land covered by the public notice except under the terms and conditions prescribed by the public notice.

§ 401.24 *Construction, operation and maintenance charges.* Each public notice will contain general information as to the construction, operation and maintenance charges applicable to each particular public land opening and announcement of availability of water.

§ 401.25 *Reservation of rights-of-way for public roads.* Rights-of-way are reserved for County, State, or Federal highways and access roads to the farm units shown on the farm unit plats along section lines and other lines shown in red on the farm unit plats.

§ 401.26 *Reservation of rights-of-way for publicly owned utilities.* Rights-of-way are reserved for Government-owned telephone, electric transmission, water and sewer lines, and water treating and pumping plants, as constructed on the date of issuance of the public notice, and the Secretary of the Interior reserves the right to locate such other Government-owned facilities over and across the farm units described in the public notice as hereafter, in his opinion, may be necessary for the proper construction, operation and maintenance of the Federal reclamation project.

§ 401.27 *Waiver of mineral rights.* All homestead entries for farm units described in public notices will be subject to the laws of the United States governing mineral land, and all homestead applicants under the public notice must waive the right to the mineral content of the land, if required to do so by the Bureau of Land Management; otherwise, the homestead applications will be rejected or the homestead entry or entries cancelled.

§ 401.28 *Effect of cancellation by relinquishment.* In the event that any entry of public land made pursuant to public notice is cancelled by relinquishment at any time prior to full compliance with the homestead laws, the lands in the entry so relinquished shall become available to entry by the next numbered qualified applicant who will be treated as a standing applicant therefor under the public notice. Such applicant shall be required to furnish such additional information as may be necessary to satisfy the board that he is still qualified under the terms of the public notice.

FORMS

§ 401.50 *Individual water-right applications.* On a limited number of the older Federal reclamation projects individual water-right application contract forms continue to be used. Form A–7–272, as applicable, is for use by public land entrymen as a basis for initiating project water rights. Form B–7–273, as applicable, is for use by private landowners as a basis for initiating project water rights. (Act of June 17, 1902, 32 Stat. 388, as amended and supplemented)

§ 401.51 *Temporary water service.* Application for temporary water service, Form 7–289, may be used when applicable as a basis for furnishing water to entrymen and private landowners prior to the initiation of payment of construction and operation and maintenance charges. (Act of August 13, 1914, 38 Stat. 689, 43 U. S. C. 465)

§ 401.52 *Amendment of farm units.* Application form (7–503) for amendment of farm units may be obtained from and filed with project offices.

Dated: December 28, 1948.

J. A. KRUG,
*Secretary of the Interior.*

[F. R. Doc. 48–11476; Filed, Dec. 30, 1948; 8:56 a. m.]

# TITLE 39—POSTAL SERVICE

## Chapter I—Post Office Department

PART 127—INTERNATIONAL POSTAL SERVICE; POSTAGE RATES, SERVICE AVAILABLE, AND INSTRUCTIONS FOR MAILING

*Correction*

In Federal Register Document 48–11448, appearing in Part II of the issue for Thursday, December 30, 1948, paragraph (c) (1) of § 127.231 should read as follows:

(1) *Table of rates.* (Surface only.)

| Pounds: | Rate | Pounds: | Rate |
|---|---|---|---|
| 1 | $0.14 | 26 | $3.64 |
| 2 | .28 | 27 | 3.78 |
| 3 | .42 | 28 | 3.92 |
| 4 | .56 | 29 | 4.06 |
| 5 | .70 | 30 | 4.20 |
| 6 | .84 | 31 | 4.34 |
| 7 | .98 | 32 | 4.48 |
| 8 | 1.12 | 33 | 4.62 |
| 9 | 1.26 | 34 | 4.76 |
| 10 | 1.40 | 35 | 4.90 |
| 11 | 1.54 | 36 | 5.04 |
| 12 | 1.68 | 37 | 5.18 |
| 13 | 1.82 | 38 | 5.32 |
| 14 | 1.96 | 39 | 5.46 |
| 15 | 2.10 | 40 | 5.60 |
| 16 | 2.24 | 41 | 5.74 |
| 17 | 2.38 | 42 | 5.88 |
| 18 | 2.52 | 43 | 6.02 |
| 19 | 2.66 | 44 | 6.16 |
| 20 | 2.80 | 45 | 6.30 |
| 21 | 2.94 | 46 | 6.44 |
| 22 | 3.08 | 47 | 6.58 |
| 23 | 3.22 | 48 | 6.72 |
| 24 | 3.36 | 49 | 6.86 |
| 25 | 3.50 | 50 | 7.00 |

# TITLE 47—TELECOMMUNICATION

## Chapter I—Federal Communications Commission

[Docket No. 9122]

PART 8—SHIP RADIO SERVICE

SHIP SERVICE

In the matter of amendment of § 8.195 (h) of the Commission's rules governing ship service.

At a session of the Federal Communications Commission held at its offices in Washington, D C., on the 22d day of December 1948;

The Commission having under consideration the matter of the proposed amendment of Part 8 of its rules governing ship service by setting forth a more specific requirement for the frequency tolerance of ship radar stations than that now contained in the Rules, both as a guide to interested equipment manufacturers and users, and as an aid to the Commission in the administration of the service; and

It appearing, that on September 17, 1948, general notice of proposed rule making with respect thereto was published in accordance with section 4 (a) of the Administrative Procedure Act; and

It further appearing, that the period in which interested persons were afforded an opportunity to submit comments expired October 25, 1948, and during that period the Commission received no comments in opposition to the proposed amendment as above mentioned; and

It further appearing; that authority for the proposed amendment is contained in sections 303 (e), (f) and (r) of the Communications Act of 1934, as amended;

*It is ordered,* That effective February 1, 1949, § 8.195 (h) of Part 8 of the Commission's rules governing ship service, be amended, to read as follows:

§ 8.195 *Requirements for ship radar installations.* * * *

(h) *Frequency tolerance.* The frequency at which maximum emission occurs shall be within the assigned frequency band and shall not be closer than 1.5/T megacycles per second to the upper and lower limits of the assigned frequency band, where T is the pulse duration in microseconds.

(Sec. 303 (e), (f), 48 Stat. 1082, sec. 6 (b), 50 Stat. 191; 47 U. S. C. 303 (e), (f) (r))

Released: December 23, 1948.

[SEAL] FEDERAL COMMUNICATIONS COMMISSION,
T. J. SLOWIE,
*Secretary.*

[F. R. Doc. 48-11503; Filed, Dec. 30, 1948; 9:30 a. m.]

# TITLE 49—TRANSPORTATION AND RAILROADS

## Chapter I—Interstate Commerce Commission

[Rev. S. O. 95]

### PART 95—CAR SERVICE

CONTROL OF REFRIGERATOR CARS, APPOINTMENT OF AGENT

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 28th day of December A. D. 1948.

It appearing, that certain representations having been made to this Commission by the Office of Defense Transportation with respect to the necessity of further conservation in the use of refrigerator cars and locomotives; in the opinion of the Commission an emergency exists requiring immediate action in all sections of the country: It is ordered, that:

§ 95.302 *Control of refrigerator cars*—(a) *Appointment of Agent.* Charles W. Taylor, Manager, Refrigerator Car Section, Car Service Division, Association of American Railroads, 59 East Van Buren Street, Chicago, Illinois, is hereby designated and appointed as agent of the Interstate Commerce Commission, subject to the direction of the Director of the Bureau of Service and vested with authority to control the movement of refrigerator cars and to carry out the Commission's directions as to refrigerator car service.

(b) *Outline of duties.* As agent, he is authorized and directed to set up, subject to the approval of the Commission, and utilize the services of an Advisory Committee consisting of at least one representative of the Office of Defense Transportation, of the Association of American Railroads, of the railroad industry, of railroad controlled refrigerator car companies, of non-railroad controlled refrigerator car companies and a representative of shipper-owned refrigerator car companies. As agent of the Commission, he is authorized and directed to supervise, coordinate, and direct the distribution of all refrigerator cars according to the needs of the various loading areas and with due regard to economy in their use and mileage. As agent, acting on instructions of the Director of the Bureau of Service, he is hereby authorized and directed to require any common carrier by railroad subject to the Interstate Commerce Act, to deliver, accept or transport empty refrigerator cars for the purpose of equalizing the supply of such empty refrigerator cars on railroads serving points where fresh fruits and vegetables are tendered for loading. When necessary he shall direct the distribution of all refrigerator cars, without regard to ownership or assignment, so as to accomplish the following purposes:

(1) The elimination of unnecessary hauls and reduction in cross-hauling of refrigerator cars:

(2) Such reduction as may be necessary or advisable in the use of refrigerator cars for the transportation of canned goods, bottled goods, barreled goods, and other similar commodities in areas where seasonal or weather conditions permit the movement of such commodities without special protection from heat or cold.

(c) *Exemptions.* Refrigerator cars owned or operated by or leased to, any of the military or naval authorities of the United States are exempted from the operation of this section.

(d) *Rules, regulations and practices suspended.* The operation of all rules, regulations and practices insofar as they conflict with the provisions of this section is hereby suspended.

(e) *Effective date.* This order shall become effective at 12:01 a. m., January 1, 1949.

(f) *Expiration date.* This section shall expire at 11:59 p. m., June 30, 1949, unless otherwise modified, changed, suspended or annulled by order of this Commission.

It is further ordered, that this order shall vacate and supersede Service Order No. 95, as amended on the effective date hereof; that a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901; 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL] W. P. BARTEL,
*Secretary.*

[F. R. Doc. 48-11500; Filed, Dec. 30, 1948; 8:58 a. m.]

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### Subchapter A—General Rules and Regulations

### PART 73—REGULATIONS APPLYING TO SHIPPERS

### PART 77—REGULATIONS APPLYING TO SHIPMENTS MADE BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

### Subchapter B—Carriers by Motor Vehicle

### PART 197—TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES, MOTOR CARRIER SAFETY REGULATIONS

Ex parte No. MC-13—Motor Carriers Safety Regulations, Revised: In the matter of regulation governing the transportation of explosives and other dangerous articles by motor vehicle.

No. 3666: In the matter of regulations for transportation of explosives and other dangerous articles.

Ex Parte No. MC-3: In the matter of need for establishing reasonable requirements to promote safety of operation of motor vehicles used in transporting property by private carriers.

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 28th day of December A. D. 1948.

It appearing, that an order herein on December 31, 1943, (49 CFR, 1944 Supp., 197.01), amended a prior order herein of April 20, 1943 (49 CFR, Cum. Supp., Parts 71-85 and 197.01), by modifying the applicability rule, § 197.01 covering the transportation of explosives and other dangerous articles in interstate, foreign, and intrastate commerce, by common, contract and private carriers, and by granting certain exceptions thereto applicable to private carriers because of allocation of insufficient steel sheets for cargo tanks, both for new construction and for maintenance; and

It further appearing, that the effectiveness of the order of December 31, 1943 (49 CFR, 1944 Supp., 197.01), and (49 Cum. Supp., Parts 71-85 and 197.01), was further extended to December 31, 1948 (49 CFR 1947 Supp. 197.01), for reason stated therein; and

It further appearing, that upon showing by the American Petroleum Institute, that because of the continued short supply of steel for equipment, parts and materials, it is necessary that the order of December 31, 1943, be further extended:

*It is ordered,* That pursuant to the authority of section 835, of Title 18, U. S. C. (62 Stat. 738-739), so far as common carriers by motor vehicle are concerned, and section 204 of the Interstate Commerce Act (49 Stat. 546, 54 Stat. 921; 49 U. S. C. 304), as far as private carriers of property by motor vehicles and contract carriers by motor vehicles are concerned, the effectiveness of said order of December 31, 1943 (49 CFR, 1944 Supp., 197.01), be and it hereby is, extended until December 31, 1949, unless otherwise ordered by the Commission; and

*It is further ordered,* That this order shall be effective on and after December 31, 1948, and that notice hereof shall be given to motor carriers and the general public by depositing a copy in the office of the Secretary of the Commission in Washington, D. C., and by filing a copy with the Director, Division of the Federal Register.

(Sec. 204, 49 Stat. 546, 54 Stat. 921, sec. 835, 62 Stat. 738-739; 49 U. S. C. 304)

By the Commission, Division 3.

[SEAL] W. P. BARTEL
*Secretary.*

[F. R. Doc. 48-11549; Filed, Dec. 30, 1948; 1:46 p. m.]

# TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

## Chapter I—Patent Office, Department of Commerce

CERTAIN AMENDMENTS AND ADDITIONS TO REGULATIONS

Part 1 is revised, effective March 1, 1949, § 5.11 is superseded effective July 1, 1949, Part 9 is revoked, Part 10 (Organization and Functions) is removed from codification, new Part 10 is added, and Part 100 is amended, as set forth below.

### Subchapter A—Patents

PART 1—RULES OF PRACTICE IN PATENT CASES

Part 1, Patents, is hereby amended, revised and rewritten, and replaced by new Part 1. The text of new Part 1, Rules of Practice in Patent Cases, is set forth in full below. The revisions and amendments introduce various changes in the procedure in the Patent Office and in the rules relating to the recognition of attorneys and agents, and are made after publication of proposed rules and a hearing, and consideration of the material and arguments submitted. (The published proposed changes in the rule relating to advertising by attorneys and agents are still under consideration and the former rule on this subject is included without change in this revision, pending such consideration.)

The new rules shall take effect March 1, 1949, except as otherwise indicated.

These rules shall apply to further proceedings in applications pending on such date and also to further inter partes action in contested cases pending on such date, except to the extent that, in the opinion of the Commissioner, their application to a particular case pending when these rules take effect, or to a particular action or paper in such case, would not be feasible or would work injustice, in which event the rules in effect immediately prior to March 1, 1949, shall apply to such case, action or paper.

Sections 1.192 to 1.195 shall not apply to appeals from final rejections of the primary examiners made before March 1, 1949, and appeals to the Board of Appeals from such rejections shall be governed by the applicable rules in effect prior to March 1, 1949.

Section 1.302 shall not apply to cases in which the time for appeal had expired prior to March 1, 1949.

GENERAL INFORMATION AND CORRESPONDENCE



RECORDS AND FILES OF THE PATENT OFFICE



FEES AND PAYMENT OF MONEY



PROSECUTION OF APPLICATION AND APPOINTMENT OF ATTORNEY OR AGENT



WHO MAY APPLY FOR A PATENT



THE APPLICATION



PETITION



THE OATH



SPECIFICATION



THE DRAWINGS



MODELS, EXHIBITS, SPECIMENS



EXAMINATION OF APPLICATIONS



ACTION BY APPLICANT AND FURTHER CONSIDERATION



AMENDMENTS



AFFIDAVITS OVERCOMING REJECTIONS



INTERVIEWS



TIME FOR RESPONSE BY APPLICANT; ABANDONMENT OF APPLICATION



JOINDER OF INVENTIONS IN ONE APPLICATION; DIVISION



DESIGN PATENTS



PLANT PATENTS



REISSUES



PETITIONS AND ACTION BY THE COMMISSIONER

AUTHORITY: §§ 1.1 to 1.352 issued under R. S. 483; 35 U. S. C. 6. Statutes giving additional and special authority are cited in parentheses at the end of particular sections.

NOTE: In Patent Office publications and usage the part number is omitted from the numbers of §§ 1.1 to 1.352 and the numbers to the right of the decimal point correspond with the respective rule numbers.

GENERAL INFORMATION AND CORRESPONDENCE

§ 1.1 *All communications to be addressed to The Commissioner of Patents.* All letters and other communications intended for the Patent Office must be addressed to "The Commissioner of Patents," Washington 25, D. C. When appropriate, a letter may be marked for the attention of a particular officer or individual.

§ 1.2 *Business to be transacted in writing.* All business with the Patent Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent Office is unnecessary. The action of the Patent Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

§ 1.3 *Business to be conducted with decorum and courtesy.* Applicants and their attorneys or agents are required to conduct their business with the Patent Office with decorum and courtesy. Papers presented in violation of this requirement will be submitted to the Commissioner and will be returned by his direct order. Complaints against examiners and other employees must be made in communications separate from other papers.

§ 1.4 *Nature of correspondence.* (a) Correspondence with the Patent Office comprises (1) correspondence relating to services and facilities of the Office, such as general inquiries, requests for publications supplied by the Office, orders for printed copies of patents, orders for copies of records, transmission of assignments for recording, and the like, and (2) correspondence in and relating to a particular application or other proceeding in the Office. See particularly the rules relating to the filing and prosecution of applications or other proceedings (§ 1.31 and following sections).

(b) Since different matters may be considered by different branches or sections of the Patent Office, each distinct subject, inquiry or order should be contained in a separate letter to avoid confusion and delay in answering letters dealing with different subjects.

§ 1.5 *Identification of application or patent.* (a) When a letter concerns an application for patent, it should state the name of the applicant, the title of the invention, the serial number of the application, the date of filing the same, and, if known, the division to which it has been assigned (see § 1.55).

(b) When the letter concerns a patent, it should state the number and date of issue of the patent, the name of the patentee, and the title of the invention.

§ 1.6 *Receipt of letters and papers.* (a) Letters and other papers received in the Patent Office are stamped with the date of receipt.

(b) Mail placed in the Patent Office pouch up to midnight on weekdays, excepting holidays, by the post office at Washington, D. C., serving the Patent Office, is considered as having been received in the Patent Office on the day it was so placed in the pouch.

(c) In addition to being mailed or delivered by hand during office hours, letters and other papers may be deposited up to midnight in a box provided at the guard's desk at the 14th and E Street entrance of the Patent Office on weekdays except Saturdays, and at the main entrance of the Commerce Building on Saturdays, excepting holidays, and all papers deposited therein are considered as received in the Patent Office on the day of deposit.

(d) No papers are received in the Patent Office on Sundays or holidays within the District of Columbia.

§ 1.7 *Times for taking action; expiration on Sunday or holiday.* Whenever periods of time are specified in this part in days, calendar days are intended unless otherwise indicated. When the day, or the last day, fixed by statute or by or under this part for taking any action or paying any fee falls on Sunday, or on a holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding day which is not a Sunday or a holiday.

RECORDS AND FILES OF THE PATENT OFFICE

§ 1.11 *Patent files open to the public.* After a patent has been issued, the specification, drawings, and all papers relating to the case in the file of the patent are open to inspection by the general public, and copies may be furnished upon paying the fee therefor. The file of any terminated interference involving a patent, or an application on which a patent has subsequently issued, is similarly open to public inspection and procurement of copies.

§ 1.12 *Assignment records open to public inspection.* The assignment records, including digests and indexes, are open to public inspection and copies of any instrument recorded may be obtained upon payment of the fee therefor. An order for a copy of an assignment should give the liber and page of the record. If identified only by the name of the patentee and number of the patent, or by name of the applicant and serial number of the application, an extra charge will be made for the time consumed in making a search for such assignment.

§ 1.13 *Copies and certified copies.* (a) Copies of patents and of any records, books, papers, or drawings belonging to the Patent Office and open to the public, will be furnished by the Patent Office to any person, and copies of other records or papers will be furnished to persons entitled thereto, upon payment of the fee therefor.

(b) Such copies will be authenticated by the seal of the Patent Office and certified by the Commissioner, or in his name attested by a chief of division, duly designated by the Commissioner, upon payment of the fee for the authentication certificate in addition to the fee for the copies.

§ 1.14 *Applications preserved in secrecy.* (a) Pending applications are preserved in secrecy. No information will be given by the Office respecting the filing by any particular person of an application for a patent, the pendency of any particular case before it, or the subject matter of any particular application, nor will access be given to or copies furnished of any pending application or papers relating thereto, without written authority of the applicant, or his assignee or attorney or agent, unless it shall be necessary to the proper conduct of business before the Office or as provided by this part.

(b) Abandoned applications are likewise not open to public inspection, except that if an application referred to in a United States patent is abandoned and is available, it may be inspected or copies obtained by any person on written request, without notice to the applicant. Abandoned applications may be destroyed after twenty years from their filing date, except those to which particular attention has been called and which have been marked for preservation. Abandoned applications will not be returned.

(c) Applications for patents which disclose, or which appear to disclose, or which purport to disclose, inventions or discoveries relating to atomic energy are reported to the Atomic Energy Commission and the Commission will be given access to such applications, but such reporting does not constitute a determination that the subject matter of each application so reported is in fact useful or an invention or discovery or that such application in fact discloses subject matter in categories specified by sec. 11 (d) of the Atomic Energy Act of 1946, 60 Stat. 768, 42 U. S. C. 1811.

FEES AND PAYMENT OF MONEY

§ 1.21 *Fees and charges.* The following is the schedule of fees and charges to be paid to the Patent Office:

| | |
|---|---|
| 1. Filing fee. On filing each original application for a patent having 20 claims or less, except in design cases | $30.00 |
| For each additional claim over 20 | 1.00 |
| 2. Final fee. On issuing each original patent having 20 claims or less, except in design cases | 30.00 |
| For each additional claim over 20 | 1.00 |
| 3. Filing fee, designs. In design cases: | |
| For term of 3 years and 6 months | 10.00 |
| For term of 7 years | 15.00 |
| For term of 14 years | 30.00 |
| 4. Filing fee, reissues. On every application for the reissue of a patent | 30.00 |
| 5. On filing each petition for the revival of an abandoned application for patent | 10.00 |
| 6. On filing each petition for the delayed payment of the final fee | 10.00 |
| 7. On an appeal for the first time from the Primary Examiner to the Board of Appeals | 15.00 |
| 8. On filing each disclaimer | 10.00 |
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| Classification Bulletins published from time to time (also supplied by the Patent Office), price varies for different numbers, according to size, from 10 to 35 cents. | |
| Manual of Classification of Patents (July 1947) | 4.00 |

(R. S. 4934; 35 U. S. C. 78, 56 Stat. 1067; 5 U. S. C. 606)

§ 1.22 *Fees payable in advance.* Fees and charges payable to the Patent Office are required to be paid in advance, that is, at the time of making application for any action by the Office for which a fee or charge is payable.

§ 1.23 *Method of payment.* All payments of money required for Patent Office fees should be made in United States specie, Treasury notes, national bank notes, post office money orders or postal notes payable in Washington, D. C., or by certified checks. If sent in any other form, the Office may delay or cancel the credit until collection is made. Money orders and checks must be made payable to the Commissioner of Patents. Remittances from foreign countries must be payable and immediately negotiable in the United States for the full amount of the fee required. Money sent by mail to the Patent Office will be at the risk of the sender; letters containing money should be registered.

§ 1.24 *Coupons.* Coupons in denominations of ten cents and twenty-five cents are sold by the Patent Office for the convenience of regular purchasers of printed copies of patents and designs (and also of trade-mark registrations); these coupons may also be used for small remittances. The ten-cent coupons are sold individually and in pads of 20 for $2.00 and books of 100 with stubs for record for $10.00. The twenty-five cent coupons are sold individually and in pads of 20 for $5.00 and in books of 100 with stubs for record for $25.00. These coupons are good until used; they may be transferred but cannot be redeemed.

NOTE: Public document coupons issued by the Superintendent of Documents cannot be used in the Patent Office, nor can the coupons issued by the Patent Office be used at the Government Printing Office or elsewhere.

§ 1.25 *Deposit accounts.* (a) For the convenience of attorneys, agents and the general public, in ordering services offered by the Office, copies of records, etc., special deposit accounts may be established in the Patent Office. A minimum deposit of $25 or more, depending on the activity of the individual account, is required. At the close of each month's business, a statement will be rendered. Whenever the statement shows that the account has fallen below the required minimum balance, a remittance must be made to cover the deficiency. An amount sufficient to cover all services, copies, etc., requested must always be on deposit.

(b) Filing, final, appeal and petition fees will not be charged against these accounts.

§ 1.26 *Refunds.* Money paid by actual mistake or in excess, such as a payment not required by law, will be refunded, but a mere change of purpose after the payment of money, as when a party desires to withdraw his application for a patent or to withdraw an appeal, will not entitle a party to demand such a return. Amounts of ten cents or less will not be returned unless specifically demanded, within a reasonable time, nor will the payer be notified of such amount; amounts over ten cents but less than one dollar may be returned in postage stamps, and other amounts by check.

PROSECUTION OF APPLICATION AND APPOINTMENT OF ATTORNEY OR AGENT

§ 1.31 *Applicants may be represented by an attorney or agent.* An applicant for patent may file and prosecute his own case, or he may be represented by an attorney or agent authorized to practice before the Patent Office in patent cases. The Patent Office cannot aid in the selection of an attorney or agent.

§ 1.32 *Prosecution by assignee.* The assignee of record of the entire interest in an application for patent is entitled to conduct the prosecution of the application to the exclusion of the inventor.

§ 1.33 *Correspondence when no attorney or agent.* When no attorney or agent has been appointed, all notices, official letters and other communications in the case will be sent to the applicant, or to the assignee of the entire interest if the applicant or such assignee so request, or to the assignee of an undivided part if the applicant so request, at the post office address of which the Office has been notified in the case. Amendments and other papers filed in the application must be signed by the applicant, or if there is an assignee of an undivided part interest, by the applicant and such assignee, or if there is an assignee of the entire interest, by such assignee.

§ 1.34 *Power of attorney or authorization.* Before any attorney or agent, original or associate, will be allowed to inspect papers or take action of any kind in any application or proceeding, a written power of attorney or authorization, from the person or persons entitled to prosecute the application or from the principal attorney or agent in the case of an associate attorney or agent, must be filed in that particular application or proceeding.

§ 1.35 *Correspondence held with attorney.* When an attorney or agent shall have filed his power of attorney, or authorization, duly executed, the correspondence will be held with him; notices, official letters and other communications in the case intended for the applicant will be sent to the attorney or agent at the address of which notice shall have been given in the case, and replies to Office actions, or other actions in the case, will be received from him. Double correspondence with an applicant and his attorney or agent, or with two representatives, will not be undertaken. If more than one attorney or agent be appointed, correspondence will be held with the one last appointed unless otherwise requested.

§ 1.36 *Revocation of power of attorney or authorization; withdrawal of attorney or agent.* A power of attorney or authorization of agent may be revoked at any stage in the proceedings of a case, and an attorney or agent may withdraw, upon application to and approval by the Commissioner; and when it is so revoked, or the attorney or agent so withdrawn, the Office will communicate directly with the applicant, or with such other attorney or agent as he may appoint. An attorney or agent will be notified of the revocation of his power of attorney or authorization and the applicant will be notified of the withdrawal of the attorney or agent. An assignment will not of itself operate as a revocation of a power or authorization previously given, but the assignee of the entire interest may revoke previous powers and be represented by an attorney or agent of his own selection.

WHO MAY APPLY FOR A PATENT

§ 1.41 *Only inventor may apply for patent.* Only the actual inventor may apply for a patent and the application papers must be signed and the necessary oath executed by the inventor, unless the inventor is dead or insane. See § 1.147.

§ 1.42 *When the inventor is dead.* In case of the death of the inventor, the executor or administrator of the deceased inventor may sign the application papers and make the necessary oath, and apply for and obtain the patent. Where the inventor dies during the time intervening between the filing of his application and the granting of a patent thereon, the letters patent may be issued to the executor or administrator upon proper intervention by him.

§ 1.43 *When the inventor is insane.* In case an inventor becomes insane, the legally appointed guardian, conservator, or representative of the insane inventor may sign the application papers and make the necessary oath, and apply for and obtain the patent.

§ 1.44 *Proof of authority.* In the cases mentioned in §§ 1.42 and 1.43, proof of the power or authority of the executor or administrator, or of the guardian, conservator, or representative, must be recorded in the Patent Office before the grant of a patent.

§ 1.45 *Joint inventors.* (a) Joint inventors must apply for a patent jointly and each must sign the application papers and make the required oath; neither of them alone, nor less than the entire number, can apply for a patent for an invention invented by them jointly.

(b) If an application for patent has been made inadvertently or by mistake and without fraudulent intention by two or more persons as joint inventors when they were not in fact joint inventors, the application may be amended to remove the name of those not inventors upon filing a statement of the facts verified by all of the original applicants, and an oath as required by § 1.65 by the applicant who is the actual inventor, provided the amendment is diligently made. An application can not be amended to add the name of a joint inventor who was omitted, but a new independent application must be filed.

§ 1.46 *Assigned inventions and patents.* In case the whole or a part interest in the invention or in the patent to be issued is assigned, the application must still be made by the inventor as indicated in §§ 1.41 and 1.45, or by one of the persons mentioned in §§ 1.42 and 1.43. However, the patent may be issued to the assignee or jointly to the inventor and the assignee as provided in § 1.334.

§ 1.47 *Applicant.* Unless the contrary is indicated, the word "applicant" when used in this part refers to the inventor (§ 1.41), joint inventors who have applied for a patent (§ 1.45), or to the person mentioned in § 1.42 or § 1.43 who has applied for a patent in place of the inventor.

THE APPLICATION

§ 1.51 *General requisites of an application.* Applications for patents must be made to the Commissioner of Patents. A complete application comprises:

(a) A petition or request for a patent, see § 1.61.

(b) A specification, including a claim or claims, see §§ 1.71 to 1.77.

(c) An oath, see § 1.65.

(d) Drawings, when necessary, see §§ 1.81 to 1.88.

(e) The prescribed filing fee. (See § 1.21 for filing fees.)

§ 1.52 *Language, paper, writing, margins.* (a) The petition, specification, and oath must be in the English language. All papers which are to become a part of the permanent records of the Patent Office must be legibly written or printed in permanent ink.

(b) The specification and claims, and also papers subsequently filed, must be plainly written on but one side of the paper. A wide margin must be reserved on the left-hand side and on the top of each page and the lines must not be crowded too closely together. Legal paper, 8 to 8½ by 12½ to 13 inches, typewritten and double spaced with margins of one and one-half inches on the left-hand side and top is deemed preferable. Typewritten or printed papers suitable for use by the Office may be required if the papers originally filed are not correctly, legibly and clearly written.

(c) Any interlineation, erasure or cancellation or other alteration made beore the application was signed and sworn to should be clearly referred to in a marginal note or footnote on the same sheet of paper, and initialed or signed and dated by the applicant to indicate such fact. (See § 1.56.)

§ 1.53 *Application accepted and filed for examination only when complete.* An application for a patent will not be accepted and placed upon the files for examination until all its required parts, complying with the rules relating thereto, are received, except that certain minor informalities may be waived subject to subsequent correction whenever required.

If the papers and parts are incomplete, or so defective that they cannot be accepted as a complete application for examination, the applicant will be notified; the papers will be held six months for completion and, if not by then completed, will be stored as an abandoned incomplete application and eventually destroyed or otherwise disposed of; the fee submitted will be refunded.

§ 1.54 *Parts of application to be filed together.* It is desirable that all parts of the complete application be deposited in the Office together; otherwise a letter must accompany each part, accurately and clearly connecting it with the other parts of the application.

§ 1.55 *Serial number and filing date of application.* Complete applications are numbered in regular order, and the applicant will be informed of the serial number and filing date of the application by a filing receipt. The filing date of the application is the date on which the complete application, acceptable for placing on the files for examination, is received in the Patent Office; or the date on which the last part completing such application is received in the case of an incomplete or defective application completed within six months.

NOTE: See R. S. 4887; 35 U. S. C. 32, second paragraph, for right to rely on filing date of foreign application.

§ 1.56 *Improper applications.* Any application signed or sworn to in blank, or without actual inspection by the applicant, and any application altered or partly filled in after being signed or sworn to, and also any application fradulently filed or in connection with which any fraud is practiced or attempted on the Patent Office, may be stricken from the files.

§ 1.57 *Signatures.* The petition, the specification and claim, and the oath, must be signed by the applicant in person. Full names must be given, including the full first name without abprevia-tion, and the middle initial or name if any.

§ 1.58 *Single signature form.* The petition, oath, specification and claim, and power of attorney may be included in a single document and may be executed by a single signature of the applicant if an approved single signature form supplied by the Office or approved by the Office is used.

§ 1.59 *Papers of complete application not to be returned.* The papers in a complete application will not be returned for any purpose whatever. If applicants have not preserved copies of the papers, the Office will furnish copies at the usual cost. See § 1.87 for return of drawing.

PETITION

§ 1.61 *Petition.* The petition must be addressed to the Commissioner of Patents and must state the name, residence, and post office address of the petitioner and request the grant of a patent; designate by title the invention sought to be patented; contain a reference to the specification for a full disclosure of such invention; and must be signed by the applicant in person.

The power of attorney or authorization of agent may be incorporated in the petition.

In the single signature form, the statements above required for a separate petition do not all appear in the petition paragraph and are differently arranged. (See § 1.58.)

THE OATH

§ 1.65 *Oath of applicant.* (a) The applicant, if the inventor, must make oath or affirmation that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement, or of the variety of plant, for which he solicits a patent; that he does not know and does not believe that the same was ever known or used before his invention or discovery thereof, and shall state of what country he is a citizen and where he resides, and whether he is a sole or joint inventor of the invention claimed in his application. In every original application the applicant must distinctly state under oath that to the best of his knowledge and belief the invention has not been in public use or on sale in the United States for more than one year prior to his application, or patented or described in any printed publication in any country before his invention or more than one year prior to his application, or patented in any foreign country on an application filed by himself or his legal representatives or assigns more than twelve months prior to his application in this country. If any application for patent has been filed in any foreign country by the applicant in this country, or by his legal representatives or assigns, prior to his application in this country, he shall state the country or countries in which such application has been filed, giving the date of

such application, and shall also state that no application has been filed in any other country or countries than those mentioned, and if no application for patent has been filed in any foreign country, he shall so state. This oath must be subscribed to by the affiant.

(b) If the application be made by an executor or administrator of a deceased person or the guardian, conservator, or representative of an insane person, the oath shall state the relationship of the affiant to the inventor and, upon information and belief, the facts which the inventor is required by this section to make oath to.

(c) An additional oath may be required if the application has not been filed in the Patent Office within a reasonable time after the execution of the original oath.

(d) In the case of applications for patent for inventions to which section 3 of 61 Stat. 794; Public Law 390, August 6, 1947; 35 U. S. C., Sup., 101 note, applies, the oath should include a statement that the invention was not made before January 1, 1946, or was not made before January 1, 1946 in Germany or Japan or in the territory of any other of the Axis Powers or in any territory occupied by the Axis forces. If not included in the oath, a separate affidavit will be required.

§ 1.66 *Officers authorized to administer oaths.* (a) The oath or affirmation may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, chargé d'affaires, consul, or commercial agent holding commission under the Government of the United States, or before any notary public, judge, or magistrate having an official seal and authorized to administer oaths in the foreign country in which the applicant may be, whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States, the oath being attested in all cases in this and other countries, by the proper official seal of the officer before whom the oath or affirmation is made, except that no oath or affirmation may be administered by any attorney or agent appearing in the case. When the person before whom the oath or affirmation is made in this country is not provided with a seal, his official character shall be established by competent evidence, as by a certificate from a clerk of a court of record or other proper officer having a seal.

(b) When the oath is taken before an officer in a country foreign to the United States, all the application papers, except the drawings, must be attached together and a ribbon passed one or more times through all the sheets of the application, except the drawings, and the ends of said ribbon brought together under the seal before the latter is affixed and impressed, or each sheet must be impressed with the official seal of the officer before whom the oath is taken. If the papers as filed are not properly ribboned or each sheet impressed with the seal, the case will be accepted for examination, but before it is allowed, duplicate papers, prepared in compliance with the foregoing sentence, must be filed.

§ 1.67 *Supplemental oath for matter not originally claimed.* (a) When an applicant presents a claim for matter originally shown or described but not substantially embraced in the statement of invention or claim originally presented, he shall file a supplemental oath to the effect that the subject matter of the proposed amendment was part of his invention; that he does not know and does not believe that the same was ever known or used before his invention or discovery thereof, or patented or described in any printed publication in any country before his invention or discovery thereof, or more than one year before his application, or in public use or on sale in the United States for more than one year before the date of his application, that said invention has not been patented in any foreign country on an application filed by himself or his legal representatives or assigns more than twelve months prior to his application in the United States, and has not been abandoned. Such supplemental oath should accompany and properly identify the proposed amendment, otherwise the proposed amendment may be refused consideration.

(b) In proper cases the oath here required may be made on information and belief by an executor or administrator of a deceased person or a guardian, conservator, or representative of an insane person.

SPECIFICATION

§ 1.71 *Detailed description and specification of the invention.* (a) The specification must include a written description of the invention or discovery and of the manner and process of making, constructing, compounding, and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make, construct, compound, and use the same.

(b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode devised by the inventor of carrying out his invention must be set forth.

(c) In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

§ 1.72 *Title of the invention.* The title of the invention, which should be as short and specific as possible, should appear as a heading on the first page of the specification.

§ 1.73 *Summary of the invention.* A brief summary of the invention indicating its nature and substance, which may include a statement of the object of the invention, should precede the detailed description. Such summary should, when set forth, be commensurate with the invention as claimed and any object recited should be that of the invention as claimed.

§ 1.74 *Reference to drawings.* When there are drawings, there shall be a brief description of the several views of the drawings and the detailed description of the invention shall refer to the different views by specifying the numbers of the figures, and to the different parts by use of reference letters or numerals (preferably the latter).

§ 1.75 *Claim.* (a) The specification must conclude with a claim particularly pointing out and distinctly claiming the part, improvement, or combination which the applicant regards as his invention or discovery.

(b) More than one claim may be presented, provided they differ substantially from each other and are not unduly multiplied.

(c) When more than one claim is presented, they may be placed in dependent form in which a claim may refer back to and further restrict a single preceding claim.

(d) The claim or claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description.

See §§ 1.141 to 1.47 as to claiming different inventions in one application.

§ 1.76 *Signature to the specification.* The specification and claim must be signed by the applicant in person. See §§ 1.57 and 1.58.

§ 1.77 *Arrangement of specification.* The following order of arrangement should be observed in framing the specification:

(a) Title of the invention; or a preamble stating the name, citizenship and residence of the applicant and the title of the invention may be used.

(b) Brief summary of the invention.

(c) Brief description of the several views of the drawing, if there are drawings.

(d) Detailed description.

(e) Claim or claims.

(f) Signature.

§ 1.78 *Cross-references to other applications.* (a) When an applicant files an application claiming an invention disclosed in a prior filed application of the same applicant, the second application must contain a reference to the prior application, identifying it by serial number and filing date and indicating the relationship of the applications. When an applicant files, or a common assignee owns, two or more applications relating to the same subject matter of invention, with one or more of the applications disclosing unclaimed matter that is disclosed and claimed in another

of the applications, the applications not claiming it must refer to and identify the application claiming it. Cross-references to other related applications may be made when appropriate. See § 1.14 (b).

(b) Where two or more applications filed by the same applicant, or owned by the same party, contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention in more than one application.

§ 1.79 *Reservation clauses not permitted.* A reservation for a future application of subject matter disclosed but not claimed in a pending application will not be permitted in the pending application.

THE DRAWINGS

§ 1.81 *Drawings required.* The applicant for patent is required by statute to furnish a drawing of his invention whenever the nature of the case admits of it; this drawing must be filed with the application. Illustrations facilitating an understanding of the invention (for example, flow sheets in cases of processes, and diagrammatic views) may also be furnished in the same manner as drawings, and may be required by the Office when considered necessary or desirable.

1.82 *Signature to drawing.* The drawing must either be signed by the applicant in person or have the name of the applicant placed thereon followed by the signature of the attorney or agent as such.

§ 1.83 *Content of drawing.* The drawing must show every feature of the invention specified in the claims. When the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

§ 1.84 *Standards for drawings.* The complete drawing is printed and published when the patent issues, and a copy is attached to the patent. This work is done by the photolithographic process, the sheets of drawings being reduced about one-third in size. In addition, a reduction of a selected portion of the drawings of each application is published in the Official Gazette. It is therefore necessary for these and other reasons that the character of each drawing be brought as nearly as possible to a uniform standard of execution and excellence, suited to the requirements of the reproduction process and of the use of the drawings, to give the best results in the interests of inventors, of the Office, and of the public. The following regulations with respect to drawings are accordingly prescribed:

(a) *Paper and ink.* Drawings must be made upon pure white paper of a thickness corresponding to two-ply or three-ply Bristol board. The surface of the paper must be calendered and smooth and of a quality which will permit erasure and correction. India ink alone must be used for pen drawings to secure perfectly black solid lines. The use of white pigment to cover lines is not acceptable.

(b) *Size of sheet and margins.* The size of a sheet on which a drawing is made must be exactly 10 by 15 inches. One inch from its edges a single marginal line is to be drawn, leaving the "sight" precisely 8 by 13 inches. Within this margin all work and signatures must be included. One of the shorter sides of the sheet is regarded as its top, and, measuring down from the marginal line, a space of not less than 1¼ inches is to be left blank for the heading of title, name, number, and date, which will be applied subsequently by the Office in a uniform style.

(c) *Character of lines.* All drawings must be made with drafting instruments or by photolithographic process which will give them satisfactory reproduction characteristics. Every line and letter (signatures included) must be absolutely black. This direction applies to all lines however fine, to shading, and to lines representing cut surfaces in sectional views. All lines must be clean, sharp, and solid, and fine or crowded lines should be avoided. Solid black should not be used for sectional or surface shading. Free-hand work should be avoided wherever it is possible to do so.

(d) *Hatching and shading.* Hatching should be made by oblique parallel lines, which may be not less than about one-twentieth inch apart.

Heavy lines on the shade side of objects should be used except where they tend to thicken the work and obscure reference characters. The light should come from the upper left hand corner at an angle of 45°. Surface delineations should be shown by proper shading, which should be open.

(e) *Scale.* The scale to which a drawing is made ought to be large enough to show the mechanism without crowding when the drawing is reduced in reproduction, and views of portions of the mechanism on a larger scale should be used when necessary to show details clearly; two or more sheets should be used if one does not give sufficient room to accomplish this end, but the number of sheets should not be more than is necessary.

(f) *Reference characters.* The different views should be consecutively numbered figures. Reference numerals (and letters, but numerals are preferred) must be plain, legible and carefully formed, and not be encircled. They should, if possible, measure at least one-eighth of an inch in height so that they may bear reduction to one-twenty-fourth of an inch; and they may be slightly larger when there is sufficient room. They must not be so placed in the close and complex parts of the drawing as to interfere with a thorough comprehension of the same, and therefore should rarely cross or mingle with the lines. When necessarily grouped around a certain part, they should be placed at a little distance, at the closest point where there is available space, and connected by lines with the parts to which they refer. They should not be placed upon hatched or shaded surfaces but when necessary, a blank space may be left in the hatching or shading where the character occurs so that it shall appear perfectly distinct and separate from the work. The same part of an invention appearing in more than one view of the drawing must always be designated by the same character, and the same character must never be used to designate different parts.

(g) *Symbols, legends.* Graphical drawing symbols for conventional elements may be used when appropriate, subject to approval by the Office. The elements for which such symbols are used must be adequately identified in the specification. While descriptive matter on drawings is not permitted, suitable legends may be used, or may be required, in proper cases, as in diagrammatic views and flow sheets. The lettering should be as large as, or larger than, the reference characters.

(h) *Location of signature and names.* The signature of the applicant, or the name of the applicant and signature of the attorney or agent, should be placed in the lower right hand corner of each sheet within the marginal line. Signatures of witnesses are not required. The title of the invention must not be placed on the drawing but may be written in pencil below the lower marginal line.

(i) *Views.* The drawing must contain as many figures as may be necessary to show the invention; the figures should be consecutively numbered if possible in the order in which they appear. The figures may be plan, elevation, section, or perspective views, and detail views of portions or elements, on a larger scale if necessary, may also be used. Exploded views, with the separated parts of the same figure embraced by a bracket, to show the relationship or order of assembly of various parts are permissible. When necessary, a view of a large machine or device in its entirety may be broken and extended over several sheets if there is no loss in facility of understanding the view (the different parts should be identified by the same figure number but followed by the letters, *a*, *b*, *c*, etc., for each part). The plane upon which a sectional view is taken should be indicated on the general view by a broken line, the ends of which should be designated by numerals corresponding to the figure number of the sectional view and have arrows applied to indicate the direction in which the view is taken. A moved position may be shown by a broken line superimposed upon a suitable figure if this can be done without crowding, otherwise a separate figure must be used for this purpose. Modified forms of construction can only be shown in separate figures. Views should not be connected by projection lines nor should center lines be used.

(j) *Arrangement of views.* All views on the same sheet must stand in the same direction and should, if possible, stand so that they can be read with the sheet held in an upright position. If views longer than the width of the sheet are necessary for the clearest illustration of the invention, the sheet may be turned on its side. The space for a heading must then be reserved at the right and the signatures placed at the left, occupying the same space and position

on the sheet as in the upright views and being horizontal when the sheet is held in an upright position. One figure must not be placed upon another or within the outline of another.

(k) *Figure for Official Gazette.* The drawing should, as far as possible, be so planned that one of the views will be suitable for publication in the Official Gazette as the illustration of the invention.

(l) *Extraneous matter.* An agent's or attorney's stamp, or address, or other extraneous matter, will not be permitted upon the face of a drawing, within or without the marginal line, except that the title of the invention in pencil, and identifying indicia, to distinguish from other drawings filed at the same time, may be placed below the lower margin.

(m) *Transmission of drawings.* Drawings transmitted to the Office should be sent flat, protected by a sheet of heavy binder's board, or may be rolled for transmission in a suitable mailing tube; but must never be folded. If received creased or mutilated, new drawings will be required.

See § 1.152 for design drawings, § 1.165 for plant drawings, and § 1.174 for reissue drawings.

§ 1.85 *Informal drawings.* The requirements of § 1.84 relating to drawings will be strictly enforced. A drawing not executed in conformity thereto may be admitted for purpose of examination, but in such case the drawing must be corrected or a new one furnished, as required. The necessary corrections will be made by the Office upon applicant's request and at his expense. (See § 1.21.)

§ 1.86 *Draftsman to make drawings.* Applicants are advised to employ competent draftsmen to make their drawings.

The Office may furnish the drawings at the applicant's expense as promptly as its draftsmen can make them, for applicants who can not otherwise conveniently procure them. (See § 1.21.)

§ 1.87 *Return of drawings.* The drawing of an accepted application will not be returned to the applicant except for signature.

A photographic print is made of the drawing of an accepted application.

§ 1.88 *Use of old drawings.* If the drawings of a new application are to be identical with the drawings of a previous application of the applicant on file in the Office, or with part of such drawings, the old drawings or any sheets thereof may be used if the prior application is, or is about to be, abandoned, or if the sheets to be used are cancelled in the prior application. The new application must be accompanied by a letter requesting the transfer of the drawings, which should be completely identified.

MODELS, EXHIBITS, SPECIMENS

§ 1.91 *Models not generally required as part of application or patent.* Models were once required in all cases admitting a model, as a part of the application, and these models became a part of the record of the patent. Such models are no longer generally required (the description of the invention in the specification, and the drawings, must be sufficiently full and complete, and capable of being understood, to disclose the invention without the aid of a model), and will not be admitted unless specifically called for.

§ 1.92 *Model or exhibit may be required.* A model, working model, or other physical exhibit, may be required if deemed necessary for any purpose on examination of the application.

§ 1.93 *Specimens.* When the invention is a composition of matter, the applicant may be required to furnish specimens of the composition, and of its ingredients or intermediates, sufficient in quantity for the purpose of experiment.

§ 1.94 *Return of models, exhibits or specimens.* Models, exhibits, or specimens in applications which have become abandoned, and also in other applications on conclusion of the prosecution, may be returned to the applicant upon demand and at his expense, unless it be deemed necessary that they be preserved in the Office. Such physical exhibits in contested cases may be returned to the parties at their expense. If not claimed within a reasonable time, they may be disposed of at the discretion of the Commissioner.

§ 1.95 *Copies of exhibits.* Copies of models or other physical exhibits will not ordinarily be furnished by the Office, and any model or exhibit in an application or patent shall not be taken from the Office except in the custody of an employee of the Office specially authorized by the Commissioner.

EXAMINATION OF APPLICATIONS

§ 1.101 *Order of examination.* Applications filed in the Patent Office and accepted as complete applications (§§ 1.53 and 1.55) are assigned for examination to the respective examining divisions having the classes of inventions to which the applications relate. Applications shall be taken up for examination by the examiner to whom they have been assigned in the order in which they have been filed.

Applications which have been acted upon by the examiner, and which have been placed by the applicant in condition for further action by the examiner (amended applications) shall be taken up for such action in the order in which they have been placed in such condition (date of amendment).

§ 1.102 *Advancement of examination.* Applications will not be advanced out of turn for examination or for further action except as provided by this part, or upon order of the Commissioner to expedite the business of the Office, or upon a verified showing which, in the opinion of the Commissioner, will justify so advancing it.

Applications wherein the inventions are deemed of peculiar importance to some branch of the public service and the head of some department of the Government requests immediate action for that reason, may be advanced for examination; but in this case it shall be the duty of the head of that department to be represented before the Commissioner in order to prevent the improper issue of a patent. (See 29 Stat. 694; 35 U. S. C. 43.)

§ 1.103 *Suspension of action.* Suspension of action by the Office will be granted at the request of the applicant for good and sufficient cause and for a reasonable time specified. Only one suspension may be granted by the primary examiner; any further suspension must be approved by the Commissioner.

If action on an application is suspended when not requested by the applicant, the applicant shall be notified of the reasons therefor.

Action by the examiner may be suspended by order of the Commissioner in the case of applications owned by the United States whenever publication of the invention by the granting of a patent thereon might be detrimental to the public safety or defense, at the request of the appropriate department or agency.

§ 1.104 *Nature of examination, examiner's action.* (a) On taking up an application for examination, the examiner shall make a thorough study thereof and shall make a thorough investigation of the available prior art relating to the subject matter of the invention sought to be patented. The examination shall be complete with respect both to compliance of the application with the statutes and rules and to the patentability of the invention as claimed, as well as with respect to matters of form, unless otherwise indicated.

(b) The applicant will be notified of the examiner's action. The reasons for any adverse action or any objection or requirement will be stated and such information or references will be given as may be useful in aiding the applicant to judge of the propriety of continuing the prosecution of his application.

§ 1.105 *Completeness of examiner's action.* The examiner's action will be complete as to all matters, except that in appropriate circumstances, such as misjoinder of invention, fundamental defects in the application, and the like, the action of the examiner may be limited to such matters before further action is made. However, matters of form need not be raised by the examiner until a claim is found allowable.

§ 1.106 *Rejection of claims.* If the invention is not considered patentable, or not considered patentable as claimed, the claims, or those considered unpatentable will be rejected.

In rejecting claims for want of novelty or for want of invention, the examiner must cite the best references at his command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not obvious, must be clearly explained and each rejected claim specified.

§ 1.107 *Citation of references.* If domestic patents be cited, their numbers and dates, the names of the patentees, and the classes of inventions must be stated. If foreign patents be cited, their nationality or country, numbers and

dates, and the names of the patentees must be stated, and such other data must be furnished as may be necessary to enable the applicant to identify the patents cited. In citing foreign patents, the number of pages of specification and sheets of drawing must be specified, and in case part only of the patent be involved, the particular pages and sheets containing the parts relied upon must be identified. If printed publications be cited, the author (if any), title, date, pages or plates, and place of publication, or place where a copy can be found, shall be given. When a rejection is based on facts within the personal knowledge of an employee of the Office, the data shall be as specific as possible, and the reference must be supported, when called for by the applicant, by the affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons.

§ 1.108 *Abandoned and forfeited applications not cited.* Abandoned and forfeited applications as such will not be cited as references.

ACTION BY APPLICANT AND FURTHER CONSIDERATION

§ 1.111 *Reply by applicant*—(a) After the Office action, if adverse in any respect, the applicant, if he persist in his application for a patent, must reply thereto and may request re-examination or reconsideration, with or without amendment.

(b) In order to be entitled to re-examination or reconsideration, the applicant must make request therefor in writing, and he must distinctly and specifically point out the supposed errors in the examiner's action; the applicant must respond to every ground of objection and rejection in the prior Office action (except that request may be made that objections or requirements as to form not necessary to further consideration of the claims to be held in abeyance until a claim is allowed), and the applicant's action must appear throughout to be a bona fide attempt to advance the case to final action. The mere allegation that the examiner has erred will not be received as a proper reason for such re-examination or reconsideration.

(c) In amending an application in response to a rejection, the applicant must clearly point out the patentable novelty which he thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. He must also show how the amendments avoid such references or objections.

See §§ 1.135 and 1.136 for time for reply.

§ 1.112 *Re-examination and reconsideration.* After response by applicant (§ 1.111) the application will be re-examined and reconsidered, and the applicant will be notified if claims are rejected, or objections or requirements made, in the same manner as after the first examination. Applicant may respond to such Office action, in the same manner provided in § 1.111, with or without amendment, but any amendments after the second Office action must ordinarily be restricted to the rejection or to the objections or requirements made, and the application will be again considered, and so on repeatedly, unless the examiner has indicated that the action is final.

§ 1.113 *Final rejection or action.* (a) On the second or any subsequent examination or consideration, the rejection or other action may be made final, whereupon applicant's response is limited to appeal in the case of rejection of any claim (§ 1.191), or to amendment as specified in § 1.116. Petition may be taken to the Commissioner in the case of objections or requirements not involved in the rejection of any claim (§ 1.181). Response to a final rejection or action must include cancellation of, or appeal from the rejection of, each claim so rejected and, if any claim stands allowed, compliance with any requirement or objection as to form.

(b) In making such final rejection, the examiner shall repeat or state all grounds of rejection then considered applicable to the claims in the case, clearly stating the reasons therefor.

AMENDMENTS

§ 1.115 *Amendment by applicant.* The applicant may amend before or after the first examination and action, and also after the second or subsequent examination or reconsideration as specified in § 1.112 or when and as specifically required by the examiner.

§ 1.116 *Amendments after final action.* (a) After final rejection or action (§ 1.113) amendments may be made cancelling claims or complying with any requirement of form which has been made, and amendments presenting rejected claims in better form for consideration on appeal may be admitted; but the admission of any such amendment or its refusal, and any proceedings relative thereto, shall not operate to relieve the application from its condition as subject to appeal or to save it from abandonment under § 1.135.

(b) If amendments touching the merits of the application be presented after final rejection, or after appeal has been taken, or when such amendment might not otherwise be proper, they may be admitted upon a showing of good and sufficient reasons why they are necessary and were not earlier presented.

(c) No amendment can be made as a matter of right in appealed cases. After decision on appeal, amendments can only be made as provided in § 1.198, or to carry into effect a recommendation under § 1.196.

§ 1.117 *Amendment and revision required.* The specification, claims and drawing must be amended and revised when required, to correct inaccuracies of description and definition or unnecessary prolixity, and to secure correspondence between the claims, the specification and the drawing.

§ 1.118 *Amendment of disclosure.* In original applications, all amendments of the drawings or specifications, and all additions thereto, must conform to at least one of them as it was at the time of the filing of the application. Matter not found in either, involving a departure from or an addition to the original disclosure, cannot be added to the application even though supported by a supplemental oath, and can be shown or claimed only in a separate application.

§ 1.119 *Amendment of claims.* The claims may be amended by cancelling particular claims, by presenting new claims, or by amending the language of particular claims (such amended claims being in effect new claims). In presenting new or amended claims, the applicant must point out how they avoid any reference or ground of rejection of record which may be pertinent.

§ 1.121 *Manner of making amendments.* Erasures, additions, insertions, or alterations of the papers and records must not be made by the applicant. Amendments are made by filing a paper (which should conform to § 1.52), directing or requesting that specified amendments be made. The exact word or words to be stricken out or inserted in the application must be specified and the precise point indicated where the deletion or insertion is to be made.

§ 1.122 *Entry and consideration of amendments.* (a) Amendments are "entered" by the Office by making the proposed deletions by drawing a line in red ink through the word or words cancelled, and by making the proposed substitutions or insertions in red ink, small insertions being written in at the designated place and larger insertions being indicated by reference.

(b) Ordinarily all amendments presented in a paper filed while the application is open to amendment are entered and considered, subsequent cancellation or correction being required of improper amendments. Untimely amendatory papers may be refused entry and consideration in whole or in part.

§ 1.123 *Amendments to the drawing.* (a) No change in the drawing may be made except by permission of the Office. Permissible changes in the construction shown in any drawing may be made only by the Office. A sketch in permanent ink showing proposed changes, to become part of the record, must be filed. The paper requesting amendments to the drawing should be separate from other papers. The drawing may not be withdrawn from the Office except for signature.

(b) Substitute drawings will not ordinarily be admitted in any case unless required by the Office.

§ 1.124 *Amendment of amendments.* When an amendatory clause is to be amended, it should be wholly rewritten and the original insertion cancelled, so that no interlineations or deletions shall appear in the clause as finally presented. Matter cancelled by amendment can be reinstated only by a subsequent amendment presenting the cancelled matter as a new insertion.

§ 1.125 *Substitute specification.* If the number or nature of the amendments shall render it difficult to consider the case, or to arrange the papers for printing or copying, the examiner may require the entire specification or claims,

or any part thereof, to be rewritten. A substitute specification will ordinarily not be accepted unless it has been required by the examiner.

§ 1.126 *Numbering of claims.* The original numbering of the claims must be preserved throughout the prosecution. When claims are cancelled, the remaining claims must not be renumbered. When claims are added by amendment or substituted for cancelled claims, they must be numbered by the applicant consecutively beginning with the number next following the highest numbered claim previously presented (whether entered or not). When the application is ready for allowance, the examiner, if necessary, will renumber the claims consecutively in the order in which they appear or in such order as may have been requested by applicant.

§ 1.127 *Petition from refusal to admit amendment.* From the refusal of the primary examiner to admit an amendment, in whole or in part, a petition will lie to the Commissioner under § 1.181.

AFFIDAVITS OVERCOMING REJECTIONS

§ 1.131 *Affidavit of prior invention to overcome cited patent or publication.* (a) When any claim of an application is rejected on reference to a domestic patent which substantially shows or describes but does not claim the rejected invention, or on reference to a foreign patent or to a printed publication, and the applicant shall make oath to facts showing a completion of the invention in this country before the filing date of the application on which the domestic patent issued, or before the date of the foreign patent, or before the date of the printed publication, then the patent or publication cited shall not bar the grant of a patent to the applicant, unless the date of such patent or printed publication be more than one year prior to the date on which the application was filed in this country.

(b) The showing of facts shall be such, in character and weight, as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from said date to a subsequent reduction to practice or to the filing of the application. Original exhibits of drawings or records, or photographic or photostatic copies thereof, must accompany and form part of the affidavit or their absence satisfactorily explained.

§ 1.132 *Affidavits traversing grounds of rejection.* When any claim of an application is rejected on reference to a domestic patent which substantially shows or describes but does not claim the invention, or on reference to a foreign patent, or to a printed publication, or to facts within the personal knowledge of an employee of the Office, or when rejected upon a mode or capability of operation attributed to a reference, or because the alleged invention is held to be inoperative or lacking in utility, or frivolous or injurious to public health or morals, affidavits traversing these references or objections may be received.

INTERVIEWS

§ 1.133 *Interviews.* (a) Interviews with examiners concerning applications and other matters pending before the Office must be had in the examiners' rooms at such times, within office hours, as the respective examiners may designate. Interviews will not be permitted at any other time or place without the authority of the Commissioner. Interviews for the discussion of the patentability of pending applications will not be had before the first official action thereon. Interviews should be arranged for in advance.

(b) In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for response to Office actions as specified in §§ 1.111, 1.135.

TIME FOR RESPONSE BY APPLICANT; ABANDONMENT OF APPLICATION

§ 1.135 *Abandonment for failure to respond within time limit.* (a) If an applicant fails to prosecute his application within six months after the date when the last official notice of any action by the Office was mailed to him, or within such shorter time as may be fixed (§ 1.136), the application will become abandoned.

(b) Prosecution of an application to save it from abandonment must include such complete and proper action as the condition of the case may require. The admission of an amendment not responsive to the last official action, or refusal to admit the same, and any proceedings relative thereto, shall not operate to save the application from abandonment.

(c) When action by the applicant is a bona fide attempt to advance the case to final action, and is substantially a complete response to the examiner's action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, opportunity to explain and supply the omission may be given before the question of abandonment is considered.

(d) Prompt ratification or filing of a correctly signed copy may be accepted in case of an unsigned or improperly signed paper.

See § 1.7.

§ 1.136 *Time less than six months.* (a) An applicant may be required to prosecute his application in a shorter time than six months, but not less than thirty days, whenever such shorter time is deemed necessary or expedient. Unless the applicant is notified in writing that response is required in less than six months, the maximum period of six months is allowed.

(b) The time for reply, when a time less than six months has been set, will be extended only for good and sufficient cause, and for a reasonable time specified. Any request for such extension must be filed on or before the day on which action by the applicant is due, but in no case will the mere filing of the request effect any extension. Only one extension may be granted by the primary examiner in his discretion; any further extension must be approved by the Commissioner. In no case can any extension carry the date on which response to an action is due beyond six months from the date of the action.

§ 1.137 *Revival of abandoned application.* An application abandoned for failure to prosecute may be revived as a pending application if it is shown to the satisfaction of the Commissioner that the delay was unavoidable. A petition to revive an abandoned application must be accompanied by a verified showing of the causes of the delay, by the proposed response unless it has been previously filed, and by the petition fee.

§ 1.138 *Express abandonment.* An application may be expressly abandoned by filing in the Patent Office a written declaration of abandonment, signed by the applicant himself and the assignee of record, if any, and identifying the application.

JOINDER OF INVENTIONS IN ONE APPLICATION; DIVISION

§ 1.141 *Different inventions in one application.* Two or more independent inventions can not be claimed in one application; but (a) where several distinct inventions are dependent upon each other and mutually contribute to produce a single result they may be claimed in one application, and (b) more than one species of an invention, not to exceed three, may be specifically claimed in different claims in one application, if that application also includes an allowable claim generic to all the claimed species.

§ 1.142 *Requirement for division.* (a) If two or more inventions are claimed in a single application, and they are of such a nature that a single patent may not be issued to cover them, the applicant will be required to limit the claims to whichever invention he may elect, this official action being called a requirement for division. If the divisibility of the inventions be clear, such requirement will be made before any other action on the merits; however, it may be made at any time before final action in the case, at the discretion of the examiner.

(b) Claims to the invention or inventions not elected, if not cancelled, are nevertheless withdrawn from further consideration by the examiner by the election, subject however to reinstatement in the event the requirement for division is withdrawn or overruled.

§ 1.143 *Reconsideration of requirement.* (a) If the applicant disagrees with the requirement for division, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor (see § 1.111). In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final.

(b) The requirement for division will be reconsidered on such a request, but will not be repeated and made final without the written approval of an examiner of classification, a copy of which approval

shall be supplied to the applicant. If the requirement is repeated and made final, the examiner will at the same time act on the claims to the invention elected.

§ 1.144 *Appeal from requirement for division.* After a final requirement for division the applicant, in addition to making any response due on the remainder of the action, may appeal from the requirement. The prosecution of claims to the elected invention may be continued during such appeal. Appeal may be deferred until after final action on or allowance of the claims to the invention elected. Appeal may not be taken if reconsideration of the requirement was not requested.

§ 1.145 *Subsequent presentation of claims for different invention.* If, after an Office action on an application, the applicant presents claims directed to an invention divisible from the invention previously claimed, such claims, if the amendment is entered, will be rejected and the applicant will be required to limit the claims to the invention previously claimed. Such rejection and requirement will not be repeated and made final without the written approval of an examiner of classification.

§ 1.146 *Election of species.* In the first action on an application containing a generic claim and claims restricted separately to each of more than one species embraced thereby, the examiner, if of the opinion after a complete search on the generic claims that no generic claim presented is allowable, shall require the applicant in his response to that action to elect that species of his invention to which his claims shall be restricted if no generic claim is finally held allowable. However, if such application contains claims directed to more than three species, the examiner may require restriction of the claims to not more than three species before taking any further action in the case.

§ 1.147 *Separate application for invention not elected.* The non-elected inventions, those not elected after a requirement for division (§ 1.142), may be made the subjects of separate applications, which must conform to the rules applicable to original applications and which will be examined in the same manner as original applications. However, if such an application is filed before the original application is patented or becomes abandoned, and if it is identical with the original application as filed, the drawings being identical and the papers constituting an exact copy of the original papers which were signed and executed by the applicant, signing and execution by the applicant may be omitted; such application may consist of the filing fee, a copy of the drawings complying to rules relating to drawings and a certified typewritten copy of the original application as filed, together with a proposed amendment canceling the irrelevant claims or other matter.

DESIGN PATENTS

§ 1.151 *Rules applicable.* The rules relating to applications for patents for other inventions or discoveries are also applicable to applications for patents for designs except as otherwise provided.

§ 1.152 *Drawing.* The design must be represented by a drawing made in conformity with the rules laid down for drawings of mechanical inventions and must contain a sufficient number of views to constitute a complete disclosure of the appearance of the article. Appropriate surface shading must be used to show the character or contour of the surfaces represented.

§ 1.153 *Title, description and claim.* The title of the design must designate the particular article. No specific description, other than a reference to the drawing, is ordinarily required or permitted. The claim shall be in formal terms to the ornamental design for the article (specifying name) as shown, or as shown and described. More than one claim is neither required nor permitted.

§ 1.154 *Arrangement of specification.* The following order of arrangement should be observed in framing design specifications:

(a) Preamble, stating name and residence of the applicant and title of the design.

(b) Description of the figure or figures of the drawing.

(c) Description, if any.

(d) Claim.

(e) Signature of applicant.

See § 1.58.

§ 1.155 *Term of design patent.* (a) The petition for a design patent should specify the term, 3½, 7, or 14 years, for which a design patent is sought; but if no term is specified, or if the term specified is greater than that covered by the fee paid, the application will be accepted as filed for a term corresponding to the fee received, and the applicant so notified.

(b) Where the applicant initially requests that the patent issue for one of the shorter terms, he may, at any time before the application is allowed and passed to issue, upon the payment of the additional sum necessary, amend his application by requesting that the patent be issued for a longer term. In order to afford the applicant an opportunity for making such an amendment and paying the additional sum, the Office may notify him before the application is allowed and passed to issue unless otherwise directed, but failure of the Office to send or of the applicant to receive such notification will not warrant any change in the term requested after the application is allowed and passed to issue.

PLANT PATENTS

§ 1.161 *Rules applicable.* The rules relating to applications for patent for other inventions or discoveries are also applicable to applications for patents for plants except as otherwise provided.

§ 1.162 *Applicant, oath.* The applicant for a plant patent must be the person who has invented or discovered and asexually reproduced the new and distinct variety of plant for which a patent is sought (or his executor or administrator, or guardian, as stated in §§ 1.42 and 1.43). The oath required of the applicant, in addition to the averments required by § 1.65, must state that he has asexually reproduced the plant.

§ 1.163 *Specification.* The specification must contain as full and complete a disclosure as possible of the plant and the characteristics thereof that distinguish the same over related known varieties, and its antecedents, and must particularly point out where and in what manner the variety of plant has been asexually reproduced.

Two copies of the specification (including the claim) must be submitted, but only one need be signed and executed; the second copy may be a legible carbon copy of the original.

§ 1.164 *Claim.* The claim shall be in formal terms to the new and distinct variety of the specified plant as described and illustrated, and may also recite the principal distinguishing characteristics. More than one claim is neither required nor permitted.

§ 1.165 *Drawings.* Plant patent drawings are not mechanical drawings and should be artistically and competently executed. Figure numbers and reference characters need not be employed unless required by the examiner. The drawing must disclose all the distinctive characteristics of the plant capable of visual representation.

The drawing may be in color and when color is a distinguishing characteristic of the new variety, the drawing must be in color. Two copies of color drawings must be submitted. Color drawings may be made either in permanent water color or oil, or in lieu thereof may be photographs made by color photography or properly colored on sensitized paper. The paper in any case must correspond in size, weight and quality to the paper required for other drawings.

§ 1.166 *Specimens.* The applicant may be required to furnish specimens of the plant, or its flower or fruit, in a quantity and at a time in its stage of growth as may be designated, for study and inspection. Such specimens, properly packed, must be forwarded in conformity with instructions furnished to the applicant. When it is not possible to forward such specimens, plants must be made available for official inspection where grown.

§ 1.167 *Examination.* Applications may be submitted by the Patent Office to the Department of Agriculture for study and report.

Affidavits from qualified agricultural or horticultural experts regarding the novelty and distinctiveness of the variety of plant may be received when the need of such affidavits is indicated.

REISSUES

§ 1.171 *Application for reissue.* An application for reissue must contain the same parts required for an application for an original patent, complying with all the rules relating thereto except as otherwise provided, and in addition, must comply with the requirements of the rules relating to reissue applications. The application must be accompanied by a certified copy of an abstract of title or an order for a title report, to be placed

in the file, and by an offer to surrender the original patent (§ 1.178).

§ 1.172 *Applicants, assignees.* Reissue applications must be signed and sworn to by the inventors if they be living, and must be accompanied by the written assent of all assignees, if any, owning an undivided interest in the patent. If the inventor is dead, a reissue application may be made by the assignee of the entire interest.

A reissue will be granted to the original patentee, his legal representatives or assigns as the interest may appear.

§ 1.173 *Specification.* The specification of the reissue application must include the entire specification and claims of the patent, with the matter to be omitted by reissue enclosed in square brackets or otherwise indicated as being deleted; and any additions made by the reissue must be underlined, so that the old and the new specifications and claims may be readily compared. Claims should not be renumbered and the numbering of claims added by reissue should follow the number of the highest numbered patent claim. No new matter shall be introduced into the specification.

§ 1.174 *Drawings.* The drawings upon which the original patent was issued may be used in reissue applications if no changes whatsoever are to be made in the drawings. In such cases, when the reissue application is filed, the applicant must submit a temporary drawing which may consist of a copy of the printed drawings of the patent or a photoprint of the original drawings securely mounted by pasting on sheets of drawing board of the size required for original drawing, or an order for the same.

Amendments which can be made in a reissue drawing, that is, changes from the drawing of the patent, are restricted.

§ 1.175 *Reissue oath.* Applicants for reissue, in addition to complying with the requirements of the first sentence of §1.65, must also file with their applications a statement under oath as follows:

(a) That applicant verily believes the original patent to be wholly or partly inoperative or invalid, and the reasons why.

(b) When it is claimed that such patent is so inoperative or invalid "by reason of a defective or insufficient specification," particularly specifying such defects or insufficiencies.

(c) When it is claimed that such patent is inoperative or invalid "by reason of the patentee claiming as his own invention or discovery more than he had a right to claim as new," distinctly specifying the part or parts so alleged to have been improperly claimed as new.

(d) Particularly specifying the errors which it is claimed constitute the inadvertence, accident, or mistake relied upon, and how they arose or occurred.

(e) That said errors arose "without any fraudulent or deceptive intention" on the part of the applicant.

(f) When any reissue claim is broader in any respect than the patent claims, applicant shall explain when and under what circumstances he became aware of the lack of breadth in the patent claims, and shall further explain any delay thereafter up to the filing of such reissue application.

Corroborating affidavits of others may be filed and the examiner may, in any case, require additional information or affidavits concerning the application for reissue and its object.

§ 1.176. *Examination of reissue.* An original claim, if re-presented in the reissue application, is subject to re-examination, and the entire application will be examined in the same manner as original applications, subject to the rules relating thereto, excepting that division will not be required. Applications for reissue will be acted on by the examiner in advance of other applications.

§ 1.177 *Reissue in divisions.* The Commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for each division. Each division of a reissue constitutes the subject of a separate specification descriptive of the part or parts of the invention claimed in such division; and the drawing may represent only such part or parts, subject to the provisions of §§ 1.83 and 1.84. On filing divisional reissue applications, they shall be referred to the Commissioner. Unless otherwise ordered by the Commissioner, all the divisions of a reissue will issue simultaneously; if there be any controversy as to one division, the others will be withheld from issue until the controversy is ended, unless the Commissioner shall otherwise order.

§ 1.178 *Original patent.* The application for a reissue must be accompanied by an offer to surrender the original patent. The application should also be accompanied by the original patent, or if the original is lost or inaccessible, by an affidavit to that effect. The application may be accepted for examination in the absence of the original patent or the affidavit, but one or the other must be supplied before the case is allowed. If a reissue be refused, the original patent will be returned to applicant upon his request.

§ 1.179 *Notice of reissue application.* When an application for a reissue is filed, there will be placed in the file of the original patent a notice stating that an application for reissue has been filed. When the reissue is granted or the reissue application is otherwise terminated, the fact will be added to the notice in the file of the original patent.

PETITIONS AND ACTION BY THE COMMISSIONER

§ 1.181 *Petition to the Commissioner.* (a) Petition may be taken to the Commissioner (1) from any action or requirement of any examiner in the ex parte prosecution of an application which is not subject to appeal to the Board of Appeals or to the court; (2) in cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and (3) to invoke the supervisory authority of the Commissioner in appropriate circumstances.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his decision upon the matters averred in the petition, supplying a copy thereof to the petitioner.

(d) No fee is required for a petition to the Commissioner except in the case of a petition to revive an abandoned application (§ 1.137) or for the delayed payment of a final fee (§ 1.317).

(e) Oral hearing will not be granted except when considered necessary by the Commissioner.

(f) The mere filing of a petition will not stay the period for replying to an examiner's action which may be running against an application, nor act as a stay of other proceedings.

(g) Determination of petitions of various kinds may be delegated by the Commissioner to the Supervisory Examiners or to the Solicitor and Law Examiners.

§ 1.182 *Questions not specifically provided for.* All cases not specifically provided for in the regulations of this part will be decided in accordance with the merits of each case by or under the authority of the Commissioner, and such decision will be communicated to the interested parties in writing.

§ 1.183 *Suspension of rules.* In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner in person on petition of the interested party, subject to such other requirements as may be imposed.

§ 1.184 *Reconsideration of cases decided by former Commissioners.* Cases which have been decided by one Commissioner will not be reconsidered by his successor except in accordance with the principles which govern the granting of new trials.

APPEAL TO THE BOARD OF APPEALS

§ 1.191 *Appeal to Board of Appeals.* (a) Every applicant for a patent or for reissue of a patent, any of the claims of which have been twice rejected, or who has been given a final rejection (§ 1.113), and every applicant who has been twice required to divide his application (§ 1.143), may, upon the payment of the fee required by law, appeal from the decision of the primary examiner to the Board of Appeals within the time allowed for response.

(b) The appeal must identify the rejected claim or claims appealed, and must be signed by the applicant or his duly authorized attorney or agent.

(c) Except as otherwise provided by §§ 1.144 and 1.206, appeal when taken must be taken from the rejection of all claims under rejection which applicant proposes to contest. Questions relating to matters not affecting the merits of the invention may be required to be settled before an appeal can be considered.

§ 1.192 *Appellant's brief.* The appellant shall, within sixty days from the date of the appeal, or within six months from the date of the action appealed from if such time is later, file a brief of the authorities and arguments on which he will rely to maintain his appeal, including a concise explanation of the invention and a copy of the claims involved, at the same time indicating if he desires an oral hearing.

On failure to file the brief within the time allowed, the appeal shall stand dismissed.

§ 1.193 *Examiner's answer.* (a) The primary examiner may, within such time as may be directed by the Commissioner, furnish a written statement in answer to the appellant's brief including such explanation of the invention claimed and of the references and grounds of rejection as may be necessary, supplying a copy to the appellant. If the primary examiner shall find that the appeal is not regular in form or does not relate to an appealable action, he shall so state and a petition from such decision may be taken to the Commissioner as provided in § 1.181.

(b) The appellant may file a reply brief directed only to such new points as may be raised in the examiner's answer, within twenty days from the date of such answer.

§ 1.194 *Hearing.* If no request for oral hearing has been made by the appellant, the appeal will be assigned for consideration and decision. If the appellant has requested an oral hearing, a day of hearing will be set, and due notice thereof given to the appellant. Hearing will be held as stated in the notice, and oral argument will be limited to one-half hour unless otherwise ordered before the hearing begins.

§ 1.195 *Affidavits after appeal.* Affidavits or exhibits submitted after the case has been appealed will not be admitted without a showing of good and sufficient reasons why they were not earlier presented.

§ 1.196 *Decision by the Board of Appeals.* (a) The Board of Appeals, in its decision, may affirm or reverse the decision of the primary examiner in whole or in part on the grounds and on the claims specified by the examiner. The affirmance of the rejection of a claim on any of the grounds specified constitutes a general affirmance of the decision of the primary examiner on that claim, except as to any grounds specifically reversed.

(b) Should the Board of Appeals have knowledge of any grounds not involved in the appeal for rejecting any claim, it may include in its decision a statement to that effect with its reasons for so holding, which statement shall constitute a rejection of the claims. The appellant may submit an appropriate amendment of the claims so rejected or a showing of facts, or both, and have the matter reconsidered by the primary examiner. The statement shall be binding upon the primary examiner unless an amendment or showing of facts not previously of record be made which, in the opinion of the primary examiner, avoids the additional ground for rejection stated in the decision. The applicant may waive such reconsideration before the primary examiner and have the case reconsidered by the Board of Appeals upon the same record before them. Where request for such reconsideration is made the Board of Appeals shall, if necessary, render a new decision which shall include all grounds upon which a patent is refused. The applicant may waive reconsideration by the Board of Appeals and treat the decision, including the added grounds for rejection given by the Board of Appeals, as a final decision in the case.

(c) Should the decision of the Board of Appeals include an explicit statement that a claim may be allowed in amended form, applicant shall have the right to amend in conformity with such statement, which shall be binding on the primary examiner in the absence of new references or grounds of rejection.

§ 1.197 *Action following decision.* After decision by the Board of Appeals, the case shall be returned to the primary examiner, subject to the applicant's right of appeal or other review, for such further action by the applicant or by the primary examiner, as the condition of the case may require, to carry into effect the decision.

Any request or petition for rehearing or reconsideration must be filed before the limit of appeal to the U. S. Court of Customs and Patent Appeals expires. (See § 1.302, for time for appeal to the court).

§ 1.198 *Reopening after decision.* Cases which have been decided by the Board of Appeals will not be reopened or reconsidered by the primary examiner, except under the provisions of § 1.196, without the written authority of the Commissioner, and then only for the consideration of matters not already adjudicated, sufficient cause being shown.

INTERFERENCES; DEFINITION, PREPARATION, DECLARATION

§ 1.201 *Definition, when declared.* (a) An interference is a proceeding instituted for the purpose of determining the question of priority of invention between two or more parties claiming substantially the same patentable invention and may be instituted as soon as it is determined that common patentable subject matter is claimed in a plurality of applications or in an application and a patent.

(b) An interference will be declared between pending applications for patent or for reissue of different parties when such applications contain claims for substantially the same invention which are allowable in the application of each party, and interferences will also be declared between pending applications for patent, or for reissue, and unexpired original or reissued patents, of different parties, when such applications and patents contain claims for substantially the same invention which are allowable in all of the applications involved, in accordance with the provisions of the regulations in this part.

(c) Interferences will not be declared, nor continued, between applications or applications and patents owned by the same party unless good cause is shown therefor. The parties shall make known any and all right, title and interest affecting the ownership of any application or patent involved or essential to the proceedings, not recorded in the Patent Office, when an interference is declared, and of changes in such right, title, or interest, made after the declaration of the interference and before the expiration of the time prescribed for seeking review of the decision in the interference.

§ 1.202 *Preparation for interference between applications; preliminary inquiry of junior applicant.* In order to ascertain whether any question of priority arises between applications which appear to interfere and are otherwise ready to be prepared for interference, any junior applicant may be called upon to state in writing under oath the date and the character of the earliest fact or act, susceptible of proof, which can be relied upon to establish conception of the invention under consideration for the purpose of establishing priority of invention. The statement filed in compliance with this section will be retained by the Patent Office separate from the application file and if an interference is declared will be opened simultaneously with the preliminary statement of the party filing the same. In case the junior applicant makes no reply within the time specified, not less than thirty days, or if the earliest date alleged is subsequent to the filing date of the senior party, the interference ordinarily will not be declared.

§ 1.203 *Preparation for interference between applications; suggestion of claims for interference.* (a) Before the declaration of interference, it must be determined that there is common patentable subject matter in the cases of the respective parties, patentable to each of the respective parties, subject to the determination of the question of priority. Claims in the same language, to form the counts of the interference, must be present or be presented, in each application.

(b) When the claims of two or more applications differ in phraseology, but relate to substantially the same patentable subject matter, the examiner shall, if it has been determined that an interference should be declared, suggest to the parties such claims as are necessary to cover the common invention in the same language. The examiner shall send copies of the letter suggesting claims to the applicant and to the assignee, as well as to the attorney or agent of record in each case. The parties to whom the claims are suggested will be required to make those claims (i. e., present the suggested claims in their applications by amendment) within a specified time, not

less than 30 days, in order that an interference may be declared. The failure or refusal of any applicant to make any claim suggested within the time specified, shall be taken without further action as a disclaimer of the invention covered by that claim unless the time be extended upon a proper showing.

(c) The suggestion of claims for purpose of interference will not stay the period for response to an Office action which may be running against an application, unless the claims are made by the applicant within the time specified for making the claims.

(d) When an applicant presents a claim in his application (not suggested by the examiner as specified in this section) which is copied from some other application, either for purpose of interference or otherwise, he must so state, at the time he presents the claim and identify the other application.

§ 1.204 *Interference with a patent; affidavit by junior applicant.* (a) The fact that one of the parties has already obtained a patent will not prevent an interference. Although the Commissioner has no power to cancel a patent, he may grant another patent for the same invention to a person who, in the interference, proves himself to be the prior inventor.

(b) When the filing date or effective filing date of an applicant is subsequent to the filing date of a patentee, the applicant, before an interference will be declared, shall file an affidavit that he made the invention in controversy in this country, before the filing date of the patentee, or that his acts in this country with respect to the invention were sufficient under the law to establish priority of invention relative to the filing date of the patentee; and, when required, the applicant shall file an affidavit (of the nature specified in § 1.131) setting forth facts which would prima facie entitle him to an award of priority relative to the filing date of the patentee.

§ 1.205 *Interference with a patent; copying claims from patent.* (a) Before an interference will be declared with a patent, the applicant must present in his application, copies of all the claims of the patent which also define his invention and such claims must be patentable in the application. If claims cannot be properly presented in his application owing to the inclusion of an immaterial limitation or variation, an interference may be declared after copying the claims excluding such immaterial limitation or variation.

(b) Where an applicant presents a claim copied or substantially copied from a patent, he must, at the time he presents the claim, identify the patent, give the number of the patented claim, and specifically apply the terms of the copied claim to his own disclosure, unless the claim is copied in response to a suggestion by the Office. The examiner will call to the Commissioner's attention any instance of the filing of an application or the presentation of an amendment copying or substantially copying claims from a patent without calling attention to that fact and identifying the patent.

§ 1.206 *Interference with a patent; claims improperly copied.* (a) Where claims are copied from a patent and the examiner is of the opinion that the applicant can make only some of the claims so copied, he shall notify the applicant to that effect, state why he is of the opinion the applicant cannot make the other claims and state further that the interference will be promptly declared. The applicant may proceed under § 1.233, if he desires to further contest his right to make the claims not included in the declaration of the interference.

(b) Where the examiner is of the opinion that none of the claims can be made, he shall state in his action why the applicant can not make the claims and set a time limit, not less than 30 days, for reply. If, after response by the applicant, the rejection is made final, a similar time limit shall be set for appeal. Failure to respond or appeal, as the case may be, within the time fixed will, in the absence of a satisfactory showing, be deemed a disclaimer of the invention claimed.

§ 1.207 *Preparation of interference notices and statements.* (a) When an interference is found to exist and the applications are in condition therefor, the primary examiner shall forward the files to the Examiners of Interference, together with notices of interference to be sent to all the parties (as specified in § 1.209) disclosing the name and residence of each party and those of his attorney or agent, and of any assignee, and, if any party be a patentee, the date and number of the patent. The notices shall also specify the issue of the interference, which shall be clearly and concisely defined in only as many counts as may be necessary to define the interfering subject matter (but in the case of an interference with a patent all the claims of the patent which can be made by the applicant should constitute the counts), and shall indicate the claim or claims of the respective cases corresponding to the count or counts. If the application or patent of a party included in the interference is a division or continuation of a prior application and the examiner has determined that it is entitled to the filing date of such prior application, the notice to such party shall so state.

(b) The primary examiner shall also forward a statement for the Examiners of Interferences disclosing the applications involved in interference, fully identified, arranged in the inverse chronological order of the filing of the completed applications, and also disclosing the count or counts in issue and the ordinals of the corresponding claims, the name and residence of any assignee, and the names and addresses of all attorneys or agents, both principal and associate.

§ 1.208 *Conflicting parties having same attorney.* Whenever it shall be found that two or more parties whose interests appear to be in conflict are represented by the same attorney or agent, the examiner shall notify each of said principal parties and the attorney or agent of this fact, and shall also call the matter to the attention of the Commissioner. If conflicting interests exist, the same attorney or agent or his associates will not be recognized to represent either of the parties whose interests are in conflict without the consent of the other party or in the absence of special circumstances requiring such representation, in further proceedings before the Patent Office involving the matter or application or patent in which the conflicting interests exist.

§ 1.209 *Declaration of interference; mailing of notices.* (a) When the notices of interference are in proper form, an examiner of interferences shall assign a number to the interference and add to the notices a designation of the time within which the preliminary statements required by § 1.215 must be filed, and shall, pro forma, institute and declare the interference by forwarding the notices to the several parties to the proceeding.

(b) The notices of interference shall be forwarded by the examiner of interferences to all the parties, in care of their attorneys or agents; a copy of the notices will also be sent the applicants or patentees in person and if the application or patent in interference has been assigned, to the assignees. When one of the parties has received a patent, a notice shall be sent to the patentee as well as to the attorney or agent last of record.

(c) When the notices sent in the interest of a patent are returned to the Office undelivered, or when one of the parties resides abroad and his agent in the United States is unknown, additional notice may be given by publication in the Official Gazette for such period of time as the Commissioner may direct.

§ 1.211 *Jurisdiction of interference.* Upon the institution and declaration of the interference, as provided in § 1.209, the Examiners of Interferences will take jurisdiction of the same, which will then become a contested case.

The primary examiner will retain jurisdiction of the case until the declaration of interference is made. See § 1.237 (b).

§ 1.212 *Suspension of ex parte prosecution.* On declaration of the interference, ex parte prosecution of an application is suspended, and amendments and other papers received during the pendency of the interference will not be entered or considered without the consent of the Commissioner, except as provided by the regulations in this part. Proposed amendments directed toward the declaration of an interference with another party will be considered to the extent necessary. Ex parte prosecution as to specified matters may be continued concurrently with the interference, on order from or with the consent of the Commissioner.

INTERFERENCES: PRELIMINARY STATEMENT

§ 1.215 *Preliminary statement required.* Each party to the interference will be required to file a concise preliminary statement giving certain facts and dates, on or before a date fixed by the Office. The preliminary statement must be signed and sworn to by the inventor but in appropriate circumstances, as when the inventor is dead or a showing is made of inability to obtain a state-

ment from the inventor, the preliminary statement may be made by the personal representative or assignee or by someone authorized or entitled to make the statement and having knowledge of the facts.

§ 1.216 *Contents of the preliminary statement.* The preliminary statement must state that the applicant made the invention set forth by each count of the interference, and whether the invention was made in the United States or abroad.

(a) When the invention was made in the United States the preliminary statement must set forth as to the invention defined by each count the following facts relating to conception of the invention, and reduction of the invention to practice:

(1) The date upon which the first drawing of the invention was made; if a drawing of the invention has not been made prior to the filing date of the application, it must be so stated.

(2) The date upon which the first written description of the invention was made; if a written description of the invention has not been made prior to the filing date of the application, it must be so stated.

(3) The date upon which the invention was first disclosed to another person; if the invention was not disclosed to another person prior to the filing date of the application, it must be so stated.

(4) The date of the first act or acts susceptible of proof (other than acts of the character specified in subparagraphs (1), (2), and (3)) of this paragraph which, if proven, would establish conception of the invention, and a brief description of such act or acts; if there have been no such acts it must be so stated.

(5) The date of the actual reduction to practice of the invention; if the invention has not been actually reduced to practice before the filing date of the application, it must be so stated.

(6) The date after conception of the invention when active exercise of reasonable diligence toward reducing the invention to practice began.

(b) The preliminary statement in every case must also set forth:

(1) The serial number and filing date of any prior co-pending application in the United States by the same applicant, not specified by the examiner in the notice of interference, disclosing the invention set forth by the counts of the interference, the benefit of the filing date of which application may be claimed as the effective filing date of the application or patent involved.

(2) The filing date and country (and number, if known) of any application for the same invention in a foreign country, the filing date of which may be claimed under R. S. 4887; 35 U. S. C. 32, second paragraph.

If a party intends to rely solely on a prior application, domestic or foreign, and on no other evidence, the preliminary statement may so state and may then consist only of the identification of the prior application and need not be signed or sworn to by the inventor.

§ 1.217 *Contents of the preliminary statement; invention made abroad.* When the invention was made abroad the facts specified by § 1.216 (a) (1) to (6) are not required, and in lieu thereof there should be stated:

When the invention was introduced into this country by or on behalf of the party, giving the circumstances with the dates connected therewith which are relied upon to establish the fact and, when appropriate, including allegations of activity in this country of the nature of that represented by § 1.216 (a) (1) to (6).

If a party is entitled to the benefit of the proviso in 60 Stat. 943, sec. 9; 35 U. S. C. 109, he must so state and his preliminary statement must include allegations of activity abroad corresponding to those required by § 1.216 (a) (1) to (6).

§ 1.218 *Time for filing preliminary statement.* The time for filing the preliminary statement is ordinarily specified in the notices of interference mailed to the parties (§ 1.209). If either party require a postponement of the time for filing his preliminary statement, he shall present a motion, duly served on the other parties, with his reasons therefor, and such motion should be made, if possible, prior to the day previously set. But an examiner of interferences may, in his discretion, extend the time on ex parte request, on stipulation, or upon his own motion.

§ 1.219 *Statements sealed before filing.* The statement must be filed in a sealed envelope bearing the name of the party filing it and the number and title of the interference. The envelope should contain nothing but this statement and if mailed should be enclosed in an outer envelope. The statements may be opened only by an examiner of interference.

§ 1.221 *Defective statements.* If, on examination, a statement is found to be defective in any particular, the party may be notified of the defects, and a time assigned within which he must cure the same by an amended statement or be restricted in a specified manner; but in no case will the original or amended statement be returned to the party after it has been filed.

If a party shall fail or refuse to file an amended statement, he shall be restricted in the further proceedings in the interference as specified in the notice of the defects.

§ 1.222 *Correction of statement on motion.* In case of material error arising through inadvertence or mistake, the statement may be corrected on motion (see § 1.243), upon a satisfactory showing that the correction is essential to the ends of justice. The motion to correct the statement must be made, if possible, before the taking of any testimony, and as soon as practicable after the discovery of the error.

§ 1.223 *Effect of statement.* (a) The preliminary statement should be carefully prepared, as each of the parties by whom or on whose behalf it is made will be strictly held in his proofs to the dates set forth therein. This includes joint applicants; a new preliminary statement will not be received in the event the application is amended to remove the names of those not inventors, except by motion under § 1.222.

(b) If a party proves any date earlier than alleged in his preliminary statement, such proof will be held to establish the date so alleged and none earlier.

(c) If a party to an interference fails to file a statement, testimony will not be received subsequently from him to prove that he made the invention at a date prior to the filing date of his application.

(d) The preliminary statement can in no case be used as evidence in behalf of the party making it.

§ 1.224 *Reliance on prior application.* A party will not be permitted to rely on a prior application to obtain the benefit of its filing date unless the prior application is specified in the notice of interference or is set forth in the preliminary statement. If a prior foreign application is set forth in the preliminary statement, said foreign application cannot be relied upon unless the necessary papers to prove a date of priority under R. S. 4887; 35 U. S. C. 32, second paragraph, are filed within three months, or within such extension of time as may be granted, from the filing of the preliminary statement, if they have not previously been filed. A motion to amend the preliminary statement to recite a prior application may be brought under § 1.222 but a copy of such prior application must be served on the opposing party with the motion.

§ 1.225 *Failure of junior party to file statement or to overcome filing date of senior party.* If a junior party to an interference fails to file a statement, or if his statement fails to overcome the prima facie case made by the filing date of the application of a senior party, such junior party shall be notified by an examiner of interferences that judgment upon the record will be rendered against him at the expiration of a time fixed by the examiner of interferences, not less than thirty days, unless cause be shown why such action should not be taken. Within this period any of the motions permitted by §§ 1.231 to 1.236 may be brought, except that motions to dissolve (§ 1.232) must be limited to such matters as may be considered at final hearing (§ 1.258), but if a patent is not involved such junior party may file a statement as to his reasons for considering such claim or claims unpatentable, which statement shall be given due consideration by the primary examiner after the termination of the interference before acting on the application of the successful party. If a motion is denied by the primary examiner, the party under order to show cause may, within twenty days from the decision, request that final hearing be set to consider such matters as may be reviewed under § 1.258.

§ 1.226 *Notice and access to applications.* After the preliminary statements have been received and approved, or the time for filing them has expired, the parties will be notified, and given the serial numbers and filing dates of the applications of each adverse party, including any applications which the parties may be entitled to inspect, and the parties will be permitted to see or obtain copies of each other's applications, except copies of affidavits filed under §§ 1.131 and 1.202, which shall be and

remain sealed until preliminary statements are opened under § 1.227. The preliminary statements are re-sealed by an examiner of interferences and shall not be revealed to the opposing parties except as provided in § 1.227.

The notices will also ordinarily specify the motion period (§ 1.231), the times for taking testimony (§ 1.251), and the date of final hearing (§§ 1.251, 1.256), except when an order to show cause is given under § 1.225.

§ 1.227 *Access to preliminary statements.* (a) The preliminary statements shall not be opened to the inspection of the opposing parties until after all motions under §§ 1.231 to 1.236 and proceedings respecting the same have been finally disposed of or the time for filing such motions has expired without such a motion having been filed, and the case is in condition for taking of testimony.

(b) A junior party who fails to file a preliminary statement or a party who alleges no date in his preliminary statement earlier than the filing date of the application of another party shall not have access to the preliminary statement of said other party.

(c) If the interference be terminated by dissolution before the preliminary statements have been opened to the inspection of the parties, the preliminary statements will remain sealed.

(d) Unopened statements will be removed from interference files and preserved by the Office, and in no case will such statements be open to the inspection of the opposing party without authority from the Commissioner.

INTERFERENCES: MOTION PERIOD, DISSOLUTION, REFORMATION

§ 1.231 *Motion period.* After the preliminary statements have been received and approved, or the time for filing they has expired, a period will be fixed within which the various motions specified in §§ 1.232 to 1.236 may be brought by the parties. The period, not less than thirty days, will be fixed by an examiner of interferences in the notice referred to in § 1.226. In the case of a junior party under order to show cause (§ 1.225) the period specified for answer to the order is the motion period and such motions may be brought as constitute an answer to the order.

§ 1.232 *Motions to dissolve.* (a) Motions to dissolve an interference may be brought on the ground (1) that there has been such informality in declaring the same as will preclude the proper determination of the question of priority of invention, or (2) that the claims forming the counts of the interference are not patentable, or are not patentable to a particular applicant, while being patentable to another party, or (3) that a particular party has no right to make the claims, or (4) that there is no interference in fact if the interference involves a design or plant patent or application, or if the interference involves a patent, the claims of which have been copied in modified form.

(b) When one of the parties to the interference is a patentee, motions to dissolve on the ground that the counts are unpatentable, may not be brought.

(c) Motions to dissolve on the ground that the counts are unpatentable, or are unpatentable to the party bringing the motion, must be accompanied by a proposed amendment to the application of the moving party cancelling the claims forming the counts of the interference, which amendment shall be entered by the primary examiner to the extent the motion is not denied, after the interference is terminated.

§ 1.233 *Motions to amend.* (a) Motions may be brought to amend the interference to put in issue any claims which should be made the basis of interference between the moving party and any other party. When a patent is involved, such claims must be claims of the patent (as provided by § 1.205). If the claims are not already in the application of the moving party, the motion must be accompanied by a proposed amendment adding the claims to the application. The preliminary statement for the proposed counts may be required before the motion is considered.

(b) Such motions must, if possible, be made within the time set, but if a motion to dissolve the interference has been brought by another party, such motion may be made within thirty days from the filing of the motion to dissolve, or if the interference is dissolved by the primary examiner on his own motion as provided in § 1.237, within 30 days from the date on which the interference was suspended and referred to the primary examiner under § 1.237 or the date of the decision if there was no such reference.

(c) Where a party opposes the addition of such claims in view of prior patents or publications, full notice of such patents or publications, applying them to the proposed counts, must be given to all parties at least twenty days prior to the date of the hearing.

(d) The proposed claims must be indicated to be patentable in the opinion of the moving party in each of the applications involved in the motion and must, unless they stand allowed, be distinguished from the prior art of record or sufficient other reason for their patentability given. The reason why an additional count is necessary must be stated and when more than one count is proposed, the motion must point out wherein they differ materially from each other and why each proposed count is necessary to the interference. The proposed claims must also be applied to the disclosure of each application involved in the motion, except as to an application in which the claims already appear and the claims identified as originating therein.

(e) On the granting of such motion and the adoption of the claims by the other parties within a time specified, and after the expiration of the time for filing any new preliminary statements, the Primary Examiner shall redeclare the interference or shall declare such other interferences as may be necessary to include said claims. A preliminary statement as to the added claims need not be filed if a party states he intends to rely on the original statement. A second motion period will not be set and subsequent motions with respect to such matters as could have been raised during the motion period will not be considered.

§ 1.234 *Motion to include another application.* (a) Any party to an interference may bring a motion to add (subject to the provisions of § 1.201 (c)) or substitute any other application owned by him, as to the existing issue; or to include any other application or patent owned by him as to any subject matter disclosed in his application or patent involved in the interference and in an opposing party's application or patent in the interference which should be made the basis of interference between himself and such other party.

(b) Such motions are subject to the same conditions and the procedure in connection therewith is the same, so far as applicable, as set forth in § 1.233 for motions to amend.

§ 1.235 *Motions relating to burden of proof.* Any party may bring a motion to shift the burden of proof on the ground that he is entitled to the benefit of the filing date of an earlier domestic or foreign application, or on the ground that an opposing party is not entitled to the benefit of an earlier application of which he has been given the benefit in the declaration. (See § 1.224.)

§ 1.236 *Hearing and determination of motions.* (a) The motions specified must contain a full statement of the grounds therefor, and any briefs or memoranda in support thereof or in opposition thereto shall, except as hereinafter provided, be filed in the Patent Office not less than ten days prior to the date of hearing and, if not so filed, consideration thereof may be refused.

(b) If, in the opinion of an examiner of interferences, such motions, and motions of a similar character, be in proper form, they will be set for hearing before the primary examiner, due notice of the day of hearing being given by the Office to all parties. Appearance at the hearing is not required; any party may waive oral hearing and, in lieu of appearance at the hearing but not in addition thereto, file a reply brief no later than three days following the date of the hearing. If, in the opinion of the examiner of interferences, the motion be not in proper form, or if it be not brought within the time specified and no satisfactory reason given for the delay, it will not be considered and the parties will be so notified. Consideration of matters raised by motion which can be considered at final hearing may, as directed by the Commissioner, be deferred to final hearing.

(c) Setting a motion brought under the provisions of §§ 1.231 to 1.235 for hearing will act as a stay of proceedings pending the determination of the motion.

(d) In the determination of a motion to dissolve an interference between an application and a patent, the prior art of record in the patent file may be referred to for the purpose of construing the issue.

§ 1.237 *Dissolution on motion of examiner.* (a) If, during the pendency of an interference, a reference or other reason be found which, in the opinion of the

primary examiner, renders all or part of the counts unpatentable, the attention of the examiners of interferences shall be called thereto unless the interference is before the primary examiner for determination of a motion. The interference may be suspended and referred to the primary examiner for his determination of the question of patentability, in which case the interference shall be dissolved or continued in accordance with such determination. The consideration of such reference or reason by the primary examiner shall be inter partes as in the case of a motion to dissolve. If such reference or reason be found while the interference is before the primary examiner for determination of a motion, decision thereon may be incorporated in the decision on the motion, but the parties shall be entitled to reconsideration or rehearing if they have not been heard on the matter. (See § 1.236)

(b) Prior to the approval of the preliminary statements and notification of the parties thereof (§ 1.226), an interference may be withdrawn at the request of the primary examiner, in which event the interference shall be considered as not having been declared.

§ 1.238 *Addition of new party by examiner.* If, during the pendency of an interference, another case appears, claiming substantially the subject matter in issue, the primary examiner may request the suspension of the interference for the purpose of adding said case. Such suspension will be granted as a matter of course by an examiner of interferences if no testimony has been taken. If, however, any testimony may have been taken, a notice for the proposed new party, disclosing the issue in interference and the names and addresses of the interferants and of their attorneys or agents, and notices for the interferants disclosing the name and address of the said party and his attorney or agent, shall be prepared by the primary examiner and forwarded to the examiner of interferences, who shall mail said notices and set a time for stating any objections and at his discretion a time of hearing on the question of the admission of the new party. If an examiner of interferences be of the opinion that the interference should be suspended and the new party added, he shall prescribe the terms for such suspension.

INTERFERENCES: MISCELLANEOUS PROVISIONS

§ 1.241 *Copies of part of application.* When an application is involved in an interference in which a part only of the invention is included in the issue, the applicant may file certified copies, one for the record and one for each party, of the part or parts of the specification and drawings, and other papers in the file, which exclude merely the noninterfering disclosure and such copies may be used in the proceedings in place of the complete application.

§ 1.242 *Prosecution by assignee.* When on motion duly made and upon satisfactory proof, it shall be shown that, by reason of the inability or refusal of the inventor to take suitable action in an interference, or from other cause, the ends of justice require that an assignee of an undivided interest in the invention be permitted to prosecute the same, it may be so ordered.

§ 1.243 *Motions before the Examiners of Interferences.* Motions of a character other than specified in §§ 1.232 to 1.236 will be determined by an examiner of interferences or the Board of Interference Examiners, as may be deemed appropriate. Such motions shall be made in writing and shall contain a full statement of the action sought and the grounds therefor, and satisfactory proof of any facts required, if necessary, must accompany the motion. Oral hearings will not be held except on order of the examiner of interferences or Board of Interference Examiners. Briefs or memoranda in support of such motions shall accompany the motion. Any reply to the motion, together with any brief or memorandum in support thereof, shall be filed within ten days unless some other date is set by the examiner of interferences.

§ 1.244 *Motions; miscellaneous provisions.* (a) Typewritten briefs may be used in connection with all motions. By stipulation of the parties subject to approval or by order of the tribunal before whom the motion is pending, briefs may be received if filed otherwise than as prescribed.

(b) In oral hearings on motions, the moving parties shall have the right to make the opening and closing arguments. Unless otherwise ordered before the hearing begins, oral arguments will be limited to one-half hour for each party.

(c) Petitions for reconsideration or modification of the decision must be filed within twenty days after the date of the decision.

(d) There is no appeal from decisions rendered on motions, either of the primary examiners or of the examiners of interferences, but the Commissioner may consider on petition any matter involving abuse of discretion or the exercise of his supervisory authority, or such other matters as he may deem proper to consider. Any such petition must comply with § 1.181 and, if not filed within twenty days from the decision complained of, may be dismissed as untimely.

§ 1.245 *Extensions of time.* Extension of time in any case not otherwise provided for may be had by stipulation of the parties, subject to approval, or on motion duly brought, sufficient cause being shown for such extension.

§ 1.246 *Stay of proceedings.* Except as provided in § 1.236, to effect a stay of proceedings, motion should be made before the tribunal having jurisdiction of the interference, who will, sufficient ground appearing therefor, order a suspension of the interference pending the determination of such motion.

§ 1.247 *Service of papers.* Every paper filed in the Patent Office in interference cases must be served upon the other parties as provided in § 1.248, except the following, (a) the application involved and any papers therein prior to the declaration of the interference, and any application referred to by the examiner in the notice of interference (§ 1.207) or by the party in a timely filed preliminary statement, (b) preliminary statements, (c) ex parte requests for extension of time to file preliminary statements (§ 1.218), (d) documentary exhibits introduced at the taking of a deposition, (e) original transcripts of testimony (but copies of the record must be served (§ 1.253)), (f) statutory disclaimers of entire claims involved in the interference and (g) disclaimers, concessions of priority or abandonments of the invention under § 1.262. The specification in certain rules that a designated paper must be served does not imply that other papers, not enumerated above, need not be served. However, the requirement for service of designated papers may be waived under particular circumstances and service may be required of other designated papers which need not ordinarily be served. Proof of such service must be made before the paper will be considered in the interference by the Office. A statement of the attorney, attached to or appearing in the original paper when filed, clearly stating the time and manner in which service was made will be accepted as prima facie proof of service except as stated in § 1.273.

§ 1.248 *Service of papers; manner of service.* Service of papers must be on the attorney or agent of the party if there be such or on the party if there is no attorney or agent, and may be made in either of the following ways: (a) By delivering a copy of the paper to the person served; (b) by leaving a copy at the usual place of business of the person served with some one in his employment; (c) when the person served has no usual place of business, by leaving a copy at his residence, with a member of his family over 14 years of age and of discretion; (d) transmission by first class or registered mail. Whenever it shall be satisfactorily shown to the Commissioner that none of the above modes of obtaining or serving the paper is practicable, service may be by notice published in the Official Gazette.

INTERFERENCES: TRIAL

§ 1.251 *Assignment of times for taking testimony.* (a) Times will be assigned in which the junior party shall complete his testimony in chief, and in which the other party shall complete the testimony on his side, and a further time in which the junior party may take rebutting testimony, but he shall take no other testimony. If there be more than two parties to the interference, the times for taking testimony will be so arranged that each shall have an opportunity to prove his case against prior parties and to rebut their evidence, and also to meet the evidence of junior parties.

(b) The times for taking testimony will ordinarily be assigned in the notices sent to the parties when the preliminary statements have been received and approved (§ 1.226). The date for final hearing will ordinarily be set in the same notices. If motions under §§ 1.231 to 1.236 have been brought and set for hearing, the times will be reassigned after determination thereof.

(c) Testimony shall be taken during the times assigned in accordance with § 1.271 et seq.

§ 1.252 *Failure of junior party to take testimony.* Upon the filing of a motion for judgment by any senior party to an interference stating that the time for taking testimony on behalf of any junior party has expired and that no testimony has been taken and no other evidence offered by said junior party, an order shall be entered that the junior party show cause within a time set therein, not less than ten days, why judgment should not be rendered against him, and in the absence of a showing of good and sufficient cause, judgment shall be so rendered.

§ 1.253 *Copies of the testimony.* (a) In addition to the original transcript of the testimony (§§ 1.275 to 1.278), three true copies of the record of each party must be filed, for the use of the Patent Office, and one true copy of the record must be served upon each of the opposing parties.

(b) These copies of the record may be submitted either in printed or in typewritten form.

(c) These records, whether printed or typewritten, must include the testimony presented by the party filing the same. A copy of the counts of the interference and the preliminary statement required by § 1.215 et seq. must be included. Each record must contain an index of the names of the witnesses, giving the pages where their examination and cross-examination begin, and an index of the exhibits, briefly describing their nature and giving the pages at which they are introduced and offered in evidence, and also the pages where copies of exhibits are shown when such exhibits are copied in the record. The names of the witnesses must appear at the top of the pages over their testimony, and the pages must be consecutively numbered.

(d) The copies of the record for the junior party or parties must be filed and served not less than seventy days before the day for final hearing, and in the case of the senior party not less than fifty days before the day for final hearing, unless otherwise specified by the examiner of interferences.

(e) When the copies of the record are submitted in printed form, they shall be printed in 11-point type and adequately leaded; the paper must be opaque and unglazed; the size of the page shall be 7⅝ by 10¼ inches; the size of the printed matter shall be 4⅛ by 7⅛ inches; and they shall be bound to lie flat when opened. Twenty-five additional copies for the United States Court of Customs and Patent Appeals, should appeal be taken, may also be filed; if no such appeal be taken, the twenty-five copies will be returned to the party filing them.

(f) When the copies of the record are submitted in typewritten form, they must be clearly legible copies on opaque, unglazed, durable paper approximately 8½ by 11 inches in size (letter-size) and one of the three copies for the Office must be a ribbon copy. The typing shall be on one side of the paper, in not smaller than pica type; and double-spaced with a margin of 1½ inches on the left-hand side of the page. The sheets shall be bound at their left edges, in such manner to lie flat when opened, in a volume or volumes of convenient size (approximately 100 pages per volume is suggested) provided with covers. Multigraphed or otherwise reproduced copies conforming to the standards specified will be accepted.

(g) The testimony of any party failing to supply copies of his record as specified may be refused consideration.

§ 1.254 *Briefs at final hearing.* Briefs at final hearing before the Board of Interference Examiners shall be submitted in printed form, except that when not in excess of fifty legal-size double spaced typewritten pages, or the equivalent thereof, and in any other case where satisfactory reason therefor is shown, they may be submitted in typewritten form. If submitted in printed form, they shall be the same in size and the same as to page and print as is specified for printed copies of testimony. Typewritten briefs shall conform to the requirements for typewritten copies of testimony, except that legal size paper may be used and the binding and covers specified are not required. Three copies of each brief must be filed. Unless other dates are set by an examiner of interferences, the brief of the junior party or parties shall be filed not less than forty days, and that of the senior party not less than twenty days, prior to the hearing. Reply briefs, if filed, shall be due not less than ten days before the hearing.

§ 1.255 *Request for findings of fact and conclusions of law.* Either party may, in his brief, submit concise proposed findings of fact, supported by specific references to and analysis of the record, and conclusions of law, supported by citation of authorities. The opposing party may, in his brief in reply thereto, accept any such proposed findings, or reject any proposed findings giving the reasons therefor, and may likewise submit proposed findings. The Board of Interference Examiners may, in its discretion, adopt the proposed findings in whole or in part.

§ 1.256 *Final hearing.* Final hearings will be held by the Board of Interference Examiners on the day appointed at the designated time. If either party appear at the proper time, he will be heard. After the day of hearing, the case will not be taken up for oral argument except by consent of all parties. If the Board of Interference Examiners be prevented from hearing the case at the time specified, a new assignment will be made, or the case will be continued from day to day until heard. Unless it shall be otherwise ordered before the hearing begins, oral arguments will be limited to not more than one hour for each party. After a contested case has been argued, nothing further relating thereto will be heard unless upon request of the Board of Interference Examiners.

Hearings may be set, advanced, and adjourned, as far as convenient and proper, to meet the wishes of the parties and their attorneys.

Petitions for rehearings or modification of the decision must be filed before the limit of appeal expires.

See § 1.302.

§ 1.257 *Burden of proof.* The parties to an interference will be presumed to have made their inventions in the chronological order of the filing dates of their applications for patents involved in the interference or the effective filing dates which such applications have been accorded; and the burden of proof will rest upon the party who shall seek to establish a different state of facts.

The termination of the interference by dissolution under §§ 1.232 or 1.237, without an award of priority, or by an award of priority based solely upon ancillary matters, shall not disturb this presumption, and a party under these circumstances enjoying the status of a senior party with respect to any subject matter of his application shall not be deprived of any claim to such subject matter solely on the ground that such claim was not added to the interference by amendment under § 1.233.

§ 1.258 *Matters considered in determining priority.* In determining priority of invention, the Board of Interference Examiners will consider only priority of invention on the evidence submitted. Questions of patentability of a claim generally will not be considered in the decision on priority; and neither will the patentability of a claim to an opponent be considered, unless the non-patentability of the claim to the opponent will necessarily result in the conclusion that the party raising the question is in fact the prior inventor on the evidence before the Office, or relates to matters which have been determined to be ancillary to priority and must be considered, but a party shall not be entitled to raise such non-patentability unless he has duly presented and prosecuted a motion under § 1. 232 for dissolution upon such ground or shows good reason why such a motion was not presented and prosecuted.

The matters raised on a motion relating to the burden of proof (§ 1.235) may be reviewed at final hearing.

At final hearing between an application and a patent the prior art of record in the patent file may be referred to for the purpose of construing the issue.

§ 1.259 *Recommendation by Board of Interference Examiners.* The Board of Interference Examiners may, either before or concurrently with their decision on the question of priority, but independently of such decision, direct the attention of the Commissioner to any matter not relating to priority which may have come to their notice, and which in their opinion establishes the fact that no interference exists, or that there has been irregularity in declaring the same, or which amounts to a bar to the grant of a patent to either of the parties for the claim or claims in interference. The Commissioner may suspend the interference and remand the case to the primary examiner for his consideration of the matters to which attention has been directed if such matters have not been considered before by the examiner, or take other appropriate action. If the case is not so remanded, the primary examiner will, after judgment on priority, consider such matters, unless the same shall have been previously disposed of by the Commissioner.

INTERFERENCES: TERMINATION

§ 1.261 *Termination of interference.* An interference will be terminated by judgment of priority after final hearing (§ 1.251 et seq.), or by judgment on the record as provided by § 1.225 or § 1.252, or by dissolution as provided by § 1.232 or § 1.237, or as otherwise provided.

§ 1.262 *Disclaimer, concession, abandonment.* (a) An applicant or a patentee involved in an interference may, at any time, file a written disclaimer or concession of priority, or abandonment of the invention, signed by the inventor in person with the written consent of the assignee when there has been an assignment. Upon the filing of such an instrument by any party, judgment shall be rendered against him.

(b) An applicant, except an applicant for reissue having a claim or claims from his patent in the interference, may at any time prior to the taking of testimony, and at any time thereafter with the consent of all of the other parties involved, avoid the continuance of the interference as to all counts by filing a written abandonment of the contest or of the application, signed by the inventor in person with the written consent of the assignee when there has been an assignment. Upon the filing of such abandonment of the contest or of the application, the interference shall be dissolved as to that party, but such dissolution shall in subsequent proceedings have the same effect with respect to the party filing the same as an adverse award of priority.

(c) Upon a showing of sufficient cause, the disclaimer, or abandonment of the invention, or abandonment of the contest or of the application, above referred to, may be executed and filed by the assignee of the entire interest. A concession of priority may not be made by an assignee.

(d) Such disclaimer, concession of priority, abandonment of the invention, or abandonment of the contest shall operate without further action as a direction to cancel the claims involved from the application of the party making the same on termination of the interference on the basis thereof.

§ 1.263 *Statutory disclaimer by patentee.* The disclaimer referred to in § 1.262, when made by a patentee in interference is not a disclaimer under R. S. 4917; 35 U. S. C. 65. If a disclaimer under the statute, see § 1.321, which has the effect of cancelling the claims from the patent, is made by the patentee, including all assignees as shown by the records of the Patent Office, the interference will be dissolved pro forma.

§ 1.264 *Reissue filed by patentee.* If a patentee in interference files an application for reissue during the interference, omitting the claims involved (for the purpose of avoiding the interference), the application will be examined and such examination will include the question of patentability over the issue of the interference and over the application of the other party. The interference will not be terminated unless a reissue is granted excluding claims to the conflicting subject matter, whereupon the interference will be dissolved. If a reissue application is filed for other purposes, it may be held subject to the outcome of the interference. An application for reissue will not be included in the interference on the basis of new claims presented by the reissue unless a motion to that effect is brought during the motion period or any delay adequately explained.

§ 1.265 *Status of claims of defeated applicant after interference.* Whenever an award of priority has been rendered in an interference proceeding and the limit of appeal from such decision has expired, the claim or claims constituting the issue of the interference in the application of the defeated or unsuccessful applicant or applicants stand finally disposed of without further action by the examiner and are not open to further ex parte prosecution.

§ 1.266 *Action after interference.* After the termination of the interference, the primary examiner will promptly take such action in each of the applications involved as may be necessary. Amendments presented during the interference shall not be entered except as otherwise provided; amendments required to accompany motions to amend shall be entered only to the extent the motion was granted (matter not entered may be subsequently presented by the applicant, subject to the sections relating to amendments, provided the prosecution of the application is not otherwise closed). The examiner will act on any matter requiring action and call for response to any examiner's action unresponded to.

After judgment of priority, the application of any party may be held subject to further examination, including interference with other applications.

§ 1.267 *Second interference.* A second interference between the same parties will not be declared upon another application for patent for the same invention filed by either party.

TESTIMONY IN INTERFERENCES AND OTHER CONTESTED CASES

§ 1.271 *Evidence must comply with rules.* Evidence touching the matter at issue which shall not have been taken and filed in compliance with this part will not be considered in determining the interference or other proceeding. (R. S. 4905; 35 U. S. C. 53)

§ 1.272 *Manner of taking testimony of witnesses.* (a) The testimony of witnesses shall be taken by depositions on oral examination in accordance with the regulations in this part.

(b) If the parties so stipulate in writing, deposition may be taken before any person authorized to administer oaths, at any place, upon any notice, and in any manner, and when so taken may be used like other depositions. By agreement of the parties, provided the Commissioner consent, testimony may be taken before an officer or officers of the Patent Office under such terms and conditions as the Commissioner may prescribe.

(c) By agreement of the parties, the testimony of any witness or witnesses of any party, may be submitted in the form of an affidavit by such witness or witnesses. The parties may stipulate what a particular witness would testify to if called, or the facts in the case of any party may be stipulated. (R. S. 4905; 35 U. S. C. 53)

§ 1.273 *Notice of examination of witnesses.* Before the depositions of witnesses shall be taken by a party, due notice in writing shall be given to the opposing party or parties, as provided in § 1.248, of the time when and place where the depositions will be taken, of the cause or matter in which they are to be used, and of the names and residences of the witnesses to be examined. The opposing party shall have full opportunity, either in person or by attorney, to cross-examine the witnesses. If the opposing party shall attend the examination of witnesses not named in the notice, and shall either cross-examine such witnesses or fail to object to their examination, he shall be deemed to have waived his right to object to such examination for want of notice. Neither party shall take testimony in more than one place at the same time, nor so nearly at the same time that reasonable opportunity for travel from one place of examination to the other cannot be had.

The notice for taking testimony must be served (unless otherwise stipulated in an instrument in writing filed in the case) upon the attorney of record, if there be one, or, if there be no attorney of record, upon the adverse party. Reasonable time must be given therein for such adverse party to reach the place of examination. Such notice shall, with sworn proof of the fact, time, and mode of service thereof, be attached to the deposition or depositions, whether the opposing party shall have cross-examined or not. (R. S. 4905; 35 U. S. C. 53)

§ 1.274 *Persons before whom depositions may be taken.* (a) Within the United States, or within a territory or insular possession of the United States, depositions shall be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held.

(b) No such officer who is a relative or employee of either of the parties, or of their attorneys or agents, or interested, directly or indirectly, in the matter in controversy, either as counsel, attorney, agent or otherwise, shall be competent to take depositions, unless with the written consent of all the parties. (R. S. 4905; 35 U. S. C. 53)

§ 1.275 *Examination of witnesses.* (a) Each witness before testifying shall be duly sworn according to law by the officer before whom his deposition is to be taken.

(b) The testimony shall be taken in answer to interrogatories, with the questions and answers recorded in their regular order by the officer, or by some other person (who shall be subject to the provisions of § 1.274 (b), in the presence of the officer except when his presence is waived on the record by agreement of the parties. The testimony shall be taken stenographically and transcribed, unless the parties present agree otherwise.

(c) In the absence of all opposing parties and their attorneys or agents,

testimony may be taken in longhand, typewriting, or stenographically.

(d) All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections.

(e) When the testimony has been transcribed, the deposition shall be carefully read over by the witness, or by the officer to him, and shall then be signed by the witness in the presence of the officer unless the reading and the signature be waived on the record by agreement of all parties. (R. S. 4905; 35 U. S. C. 53)

§ 1.276 *Certification and filing by officer.* The officer shall annex to the deposition his certificate showing: (a) Due administration of the oath by the officer to the witness before the commencement of his testimony; (b) the name of the person by whom the testimony was taken down, and whether, if not taken down by the officer, it was taken down in his presence; (c) the presence or absence of the adverse party; (d) the place, day, and hour of commencing and taking the deposition; (e) that the deposition was read by or to the witness before he signed the same, and that he signed the same in the presence of the officer; and (f) the fact that the officer was not disqualified as specified in § 1.274. If any of the foregoing requirements are waived, the certificate shall so state. The officer shall sign the certificate and affix thereto his seal of office, if he have such seal. Unless waived on the record by agreement, he shall then, without delay, securely seal in an envelope all the evidence, notices, and paper exhibits, inscribe upon the envelope a certificate giving the number and title of the case, the name of each witness, and the date of sealing, address the package, and forward the same to the Commissioner of Patents. If the weight or bulk of an exhibit shall exclude it from the envelope, it shall, unless waived on the record by agreement of all parties, be authenticated by the officer and transmitted in a separate package, marked and addressed as provided in this section. (R. S. 4905; 35 U. S. C. 53)

§ 1.277 *Form of deposition.* The pages of each deposition must be numbered consecutively, and the name of the witness plainly and conspicuously written at the top of each page. The testimony may be written on legal-size or letter-size paper, with a wide margin on the left-hand side of the page, and with the writing on one side only of the sheet. The questions propounded to each witness must be consecutively numbered and each question must be followed by its answer.

The form of the deposition may be such as to facilitate preparation of the copies of the record required by § 1.253. (R. S. 4905; 35 U. S. C. 53)

§ 1.278 *Depositions must be filed.* All depositions which are taken must be duly filed in the Patent Office. On refusal to file, the Office at its discretion will not further hear or consider the contestant with whom the refusal lies; and the Office may, at its discretion, receive and consider a copy of the withheld deposition, attested by such evidence as is procurable. (R. S. 4905; 35 U. S. C. 53)

§ 1.279 *Inspection of testimony.* After testimony is filed in the Office, it may be inspected by any party to the case, but it cannot be withdrawn for the purpose of printing. It may be printed by someone specially designated by the Office for that purpose, under proper restrictions. (R. S. 4905; 35 U. S. C. 53)

§ 1.281 *Additional time for taking testimony.* If either party shall be unable to procure the testimony of a witness or witnesses within the time limited and said time has expired or is about to expire, and desires additional time for such purpose, he must file a motion, accompanied by a statement under oath setting forth specifically the cause of such inability, the name or names of the witness or witnesses, the facts expected to be proved by such witness or witnesses, the steps which have been taken to procure such testimony, and the dates on which efforts have been made to procure it. (R. S. 4905; 35 U. S. C. 53)

See § 1.245 for extensions of time.

§ 1.282 *Official records and printed publications.* Official records and any special matter contained in a printed publication, if competent evidence and pertinent to the issue, may be introduced in evidence by filing in the Patent Office a notice to that effect, before the closing of the time for taking the testimony of the party (before the time for taking the testimony in chief if such matters are not in rebuttal), specifying the record or the printed publication, the page or pages thereof to be used, indicating generally its relevancy, and accompanied by the record or authenticated copy, or the printed publication or a copy. The notice and copies of the record or publication must be served on each of the other parties.

See §§ 1.216 and 1.224 for introduction of prior applications, the filing date of which is claimed. (R. S. 4905; 35 U. S. C. 53)

§ 1.283 *Testimony taken in another interference or action.* Upon motion duly made and granted, testimony taken in another interference proceeding, or testimony taken in a suit between the same parties or those in interest, may be used in an interference proceeding, so far as relevant and material, subject, however, to the right of any contesting party to recall or demand the recall of witnesses whose testimony has been taken, and to take other testimony in rebuttal of the testimony. (R. S. 4905; 35 U. S. C. 53)

§ 1.284 *Testimony taken in foreign countries.* Upon motion duly made and granted, testimony may be taken in foreign countries, upon complying with the following requirements:

(a) The motion must designate a place for the examination of the witnesses at which an officer duly qualified to take testimony under the laws of the United States in a foreign country shall reside, and it must be accompanied by a statement under oath that the motion is made in good faith, and not for the purposes of delay or of vexing or harassing any party to the case; it must also set forth the names of the witnesses, the particular facts to which it is expected each will testify, and the grounds on which is based the belief that each will so testify.

(b) It must appear that the testimony desired is material and competent, and that it can not be taken in this counry at all, or can not be taken here without hardship and injury to the moving party greatly exceeding that to which the opposite party will be exposed by the taking of such testimony abroad.

(c) Upon the granting of such motion, a time will be set within which the moving party shall file in duplicate the interrogatories to be propounded to each witness, and serve a copy of the same upon each adverse pary, who may, within a designated time, file, in duplicate, cross-interrogatories. Objections to any of the interrogatories or cross-interrogatories may be filed at any time before the depositions are taken, and such objections will be considered and determined upon the hearing of the case.

(d) As soon as the interrogatories and cross-interrogatories are decided to be in proper form, the Commissioner will cause them to be forwarded to the proper officer, with the request that, upon payment of, or satisfactory security for, his official fees, he notify the witnesses named to appear before him within a designated time and make answer thereto under oath; and that he reduce their answers to writing, and transmit the same, under his official seal and signature, to the Commissioner of Patents with the certificate prescribed in § 1.276.

(e) By stipulation of the parties the requirements of paragraph (c) of this section as to written interrogatories and cross-interrogatories may be dispensed with, and the testimony may be taken before the proper officer upon oral interrogatories by the parties, their attorneys or their agents.

(f) Unless false swearing in the giving of such testimony before the officer taking it shall be punishable as perjury under the laws of the foreign state in which it shall be taken, it will not stand on the same footing in the Patent Office as testimony duly taken in the United States; but its weight in each case will be determined by the tribunal having jurisdiction of such case. (R. S. 4905; 35 U. S. C. 53)

§ 1.285 *Effect of errors and irregularities in depositions.* Notice will not be taken of merely formal or technical objections which shall not appear to have wrought a substantial injury to the party raising them; and in case of such injury it must be made to appear that, as soon as the party became aware of the ground of objection, he gave notice thereof.

(a) *As to notice.* All errors and irregularities in the notice for taking a deposition are waived unless objection is promptly made and served in writing upon the party giving the notice.

(b) *As to disqualification of officer.* Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition

begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(c) *As to taking of deposition.* (1) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(2) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of the parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition.

(d) *As to completion and return of deposition.* Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the officer are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained. (R. S. 4905; 35 U. S. C. 53)

§ 1.286 *Objections to admissibility.* Subject to the provisions of § 1.285, objection may be made to receiving in evidence any deposition or part thereof, or any other evidence, for any reason which would require the exclusion of the evidence according to the established rules of evidence, which will be applied strictly by the Office. (R. S. 4905; 35 U. S. C. 53)

PROTESTS AND PUBLIC USE PROCEEDINGS

§ 1.291 *Protests to the grant of a patent.* The patent statutes do not provide for opposition to the grant of a patent on the part of the public. Protests to the grant of a patent are ordinarily merely acknowledged, and filed after being referred to the examiner having charge of the subject matter involved for his information.

§ 1.292 *Public use proceedings.* (a) When a petition for the institution of public use proceedings, supported by affidavits, is filed by one having information of the pendency of an original application and is found, on reference to the primary examiner, to make a prima facie showing that the invention involved in an interference or claimed in an application believed to be on file had been in public use or on sale one year before the filing of the application, or before the date alleged by an interfering party in his preliminary statement or the date of invention established by such party, a hearing may be had before the Commissioner to determine whether a public use proceeding should be instituted. If instituted, times may be set for taking testimony, which shall be taken as provided by §§ 1.271 to 1.286. The petitioner will be heard in the proceedings but after decision therein will not be heard further in the prosecution of the application for patent.

(b) The petition and accompanying papers should be filed in duplicate, or served upon the applicant, his attorney or agent of record, and petitioner should offer to bear any expense to which the Office may be put in connection with the proceeding.

APPEAL TO THE U. S. COURT OF CUSTOMS AND PATENT APPEALS

§ 1.301 *Appeal to court.* Any applicant dissatisfied with the decision of the Board of Appeals, and any party to an interference dissatisfied with the decision of the Board of Interference Examiners, may appeal to the U. S. Court of Customs and Patent Appeals. The appellant must take the following steps in such an appeal: (a) In the Patent Office, give notice to the Commissioner and file the reasons of appeal (see § 1.302); (b) in the court, file a petition of appeal and a certified transcript of the record within a specified time after filing the reasons of appeal, and pay the fee for appeal, as provided by the rules of the court.

§ 1.302 *Notice and reasons of appeal.* When an appeal is taken to the U. S. Court of Customs and Patent Appeals, the appellant shall give notice thereof to the Commissioner, and file in the Patent Office, within sixty days from the date of the decision appealed from, his reasons of appeal specifically set forth in writing. If a petition for rehearing or reconsideration is filed within thirty days after said decision, the notice of appeal may be given and the reasons of appeal filed within thirty days after action on the petition. No petition for rehearing or reconsideration filed more than thirty days after such decision, nor any proceedings on such petition, shall operate to extend the period of sixty days hereinabove provided for appeal.

In interferences and other contested cases, the notice and reasons must be served as provided in § 1.248. (R. S. 4912; 35 U. S. C. 60)

CIVIL ACTION UNDER R. S. 4915

§ 1.305 *Civil action under R. S. 4915.* (a) From adverse decisions by the Board of Appeals in ex parte cases, and from decisions of the Board of Interference Examiners, the appellant, if an applicant, has the option of proceeding under R. S. 4915; 35 U. S. C. 63, instead of appealing to the U. S. Court of Customs and Patent Appeals.

(b) If an applicant in an ex parte case has taken an appeal to the U. S. Court of Customs and Patent Appeals, he thereby waives his right to proceed under R. S. 4915 (U. S. C., title 35, sec. 63).

(c) If a defeated applicant to an interference proceeding has taken an appeal to the U. S. Court of Customs and Patent Appeals, and any adverse party to the interference shall, within twenty days after the appellant shall have filed notice of the appeal to the court (§ 1.302), file notice with the Commissioner that he elects to have all further proceedings conducted as provided in R. S. 4915; 35 U. S. C. 63, certified copies of such notices will be transmitted to the U. S. Court of Customs and Patent Appeals for such action as may be necessary. The notice of election must be served as provided in rule § 1.248.

ALLOWANCE AND ISSUE OF PATENT

§ 1.311 *Notice of allowance.* If, on examination, it shall appear that the applicant is justly entitled to a patent under the law, a notice of allowance will be sent him, his attorney or his agent, calling for the payment of the final fee within six months from the date of such notice of allowance. Upon the receipt of the fee within the time fixed by law, the patent will be prepared for issue. In cases in which no final fee is due (designs, reissues, and patents issued under the act of April 30, 1928, 45 Stat. 467; 35 U. S. C. 45), the patent will be prepared for issue in due course after the notice of allowance is sent.

§ 1.312 *Amendments after allowance.* Amendments after the notice of allowance of an application will not be permitted as a matter of right, but may be made, if the printing of the specification has not begun, on the recommendation of the primary examiner, approved by the Commissioner, without withdrawing the case from issue.

§ 1.313 *Withdrawal from issue.* After the notice of allowance of an application is sent, the case will not be withdrawn from issue except by approval of the Commissioner, and if withdrawn for further action on the part of the Office, a new notice of allowance will be sent if the application is again allowed. When the final fee has been paid, and the patent to be issued has received its date and number, the application will not be withdrawn from issue on account of any mistake or change of purpose of the applicant, his attorney or his agent, nor for the purpose of enabling the inventor to procure a foreign patent, nor for any other reasons except mistake on the part of the Office, or because of fraud or illegality in the application, or for interference. Express abandonment of the application (§ 1.138) may not be recognized by the Office unless it is actually received by appropriate officials in time to act thereon before the date of issue.

§ 1.314 *Issuance of patent.* Every patent shall issue within a period of three months from the date of the payment of the final fee, which fee shall be paid not later than six months from the date on which the application was allowed and the notice of allowance sent; and if the final fee be not paid within that period, the patent shall be withheld. In the absence of request to suspend issue of the patent up to three months, the patent will issue in regular course in about one month. The issue closes weekly on Thursday, and the patents ordinarily bear date as of the fourth Tuesday thereafter.

§ 1.315 *Delivery of patent.* The patent will be delivered or mailed on the day of its date to the attorney or agent of record, if there be one; or if the attorney or agent so request, to the patentee or assignee of an interest therein; or, if there be no attorney or agent, to the patentee or to the assignee of the entire interest, if he so request.

§ 1.316 *Forfeited application.* A forfeited application is one upon which a patent has been withheld for failure to pay the final fee within the prescribed time. (See § 1.314.)

A forfeited application is not considered as pending while forfeited, and, if the final fee is not subsequently paid and accepted as provided in § 1.317, the application is abandoned, as of the date it became forfeited.

§ 1.317 *Delayed payment of final fee.* The Commissioner of Patents may, in his discretion, receive the final fee if paid within one year after the six months' period for payment has passed and the patent shall issue as specified in § 1.314. Each petition for the delayed payment of the final fee shall be accompanied by the final fee and the petition fee, and a verified statement in support of the petition.

DISCLAIMER

§ 1.321 *Statutory disclaimer in patent.* A disclaimer under R. S. 4917; 35 U. S. C. 65, must comply with the requirements of the statute and must also identify the patent, specify that the claiming of more than the patentee had a right to claim occurred through inadvertence, accident or mistake and without any fraudulent or deceptive intention, identify the claim or claims subject to the disclaimer, and be signed by the person making the disclaimer. Such disclaimers are not examined except as to formal matters, but a disclaimer observed not to be a disclaimer in fact may be refused, and the recording of a disclaimer does not indicate that it is considered by the Patent Office to be proper or valid or that the patent after disclaimer, or any claim thereof, is considered valid. A notice of the disclaimer is published in the Official Gazette and attached to the printed copies of the specification. See § 1.21 for fee for disclaimer.

CORRECTION OF ERRORS IN PATENT

§ 1.322 *Certificate of correction.* A certificate of correction under the act of March 4, 1925, 43 Stat. 1268, 35 U. S. C. 88, may be issued at the request of the patentee or his assignee and endorsed on the patent itself. Such certificate will not be issued at the request or suggestion of anyone not owning an interest in the patent, nor on motion of the Office, without first notifying the patentee (including any assignee of record) and affording him an opportunity to be heard.

If the nature of the mistake on the part of the Office is such that a certificate of correction is deemed inappropriate in form, the Commissioner, with the consent of the patentee (or assignee of record, if any) may issue a reissued patent in lieu thereof as a more appropriate form for certificate of correction, without expense to the patentee.

§ 1.323 *Other mistakes not corrected.* Mistakes not incurred through the fault of the Office, and not affording legal grounds for reissue, will not be corrected after the date of the patent.

Changes or corrections will not be made in a patent after the date thereof except as provided in § 1.322.

ASSIGNMENTS AND RECORDING

§ 1.331 *Recording of assignments.* (a) Assignments, including grants and conveyances, of patents or applications for patents under R. S. 4898; 35 U. S. C. 47, will be recorded in the Patent Office in books kept for that purpose. Other instruments affecting title to a patent or application for patent, and licenses, even though the recording thereof may not serve as constructive notice under R. S. 4898, will be recorded as provided in this section or in the discretion of the Commissioner.

(b) No instrument will be recorded which is not in the English language and which does not amount to an assignment, grant, mortgage, lien, incumbrance, or license, or which does not affect the title of the patent or invention to which it relates, and which does not identify the patent or application to which it relates, except as ordered by the Commissioner.

(c) An instrument relating to a patent should identify the patent by number and date (the name of the inventor and title of the invention as stated in the patent should also be given); an instrument relating to an application should identify the application by serial number and date of filing (the name of the inventor and title of the invention as stated in the application should also be given) but if an assignment is executed concurrently with or subsequent to the execution of the application but before the application is filed or before its serial number and filing date are ascertained, it should adequately identify the application, as by its date of execution and name of the inventor and title of the invention; so that there can be no mistake as to the patent or application intended.

§ 1.332 *Receipt and recording.* The receipt of assignments is generally acknowledged by the Office. They are recorded in regular order as promptly as possible, and then transmitted with the date of record and Liber and Page number stamped thereon to the persons entitled to them. The date of the record is the date of the receipt of the assignment at the Office in proper form and accompanied by the full legal fee for recording.

§ 1.333 *Conditional assignments.* Assignments which are made conditional on the performance of certain acts or events, as the payment of money or other condition subsequent, if recorded in the Office are regarded as absolute assignments for Office purposes until cancelled with the written consent of both parties or by the decree of a competent court. The Office has no means for determining whether such conditions have been fulfilled.

§ 1.334. *Issue of patent to assignee.* In case of an assignment of the entire interest in the invention and application, or of the entire interest in the patent to be granted, the patent will normally issue to the assignee; and if the assignee hold an undivided part interest, the patent will normally issue jointly to the inventor and the assignee; if it is desired that the patent so issue the assignment in either case must first have been recorded, and at a day not later than the date of the payment of the final fee; in the case of an application for reissue, the assignment must be recorded before the case is allowed; in the case of an application for a design patent, the assignment must be recorded at least ten days before the case is allowed.

RECOGNITION OF ATTORNEYS AND AGENTS

§ 1.341 *Registration of attorneys and agents.* A register of attorneys and a register of agents are kept in the Patent Office on which are entered the names of all persons recognized as entitled to represent applicants before the Patent Office in the preparation and prosecution of applications for patent. Registration in the Patent Office under the provisions of the regulations in this part shall only entitle the persons registered to practice before the Patent Office.

(a) *Attorneys at law.* Any attorney at law in good standing admitted to practice before any United States Court or the highest court of any State or Territory of the United States who fulfills the requirements and complies with the provisions of these rules may be admitted to practice before the Patent Office and have his name entered on the register of attorneys.

(b) *Agents.* Any citizen of the United States not an attorney at law who fulfills the requirements and complies with the provisions of these rules may be admitted to practice before the Patent Office and have his name entered on the register of agents.

NOTE: All persons registered prior to November 15, 1938, were registered as attorneys, whether they were attorneys at law or not, and such registrations have not been changed.

(c) *Requirements for registration.* No person will be admitted to practice and registered unless he shall apply to the Commissioner of Patents in writing on a prescribed form supplied by the Commissioner and furnish all requested information and material; and shall establish to the satisfaction of the Commissioner that he is of good moral character and of good repute and possessed of the legal and scientific and technical qualifications necessary to enable him to render applicants for patents valuable service, and is otherwise competent to advise and assist them in the presentation and prosecution of their applications before the Patent Office. In order that the Commissioner may determine whether a person seeking to have his name placed upon either of the registers has the qualifications specified, satisfactory proof of good moral character and repute, and of sufficient basic training in scientific and technical matters must be submitted and an examination which is held from time to time must be taken and passed. The taking of an examination may be waived in the case of any person who has served for three years in the examining corps of the Patent Office.

(d) *Registration of firms.* Any firm, the individual members of which are each registered on the register of attorneys, may have its name entered upon the register of attorneys. Any firm, one of the individual members of which is registered on the register of agents and each of the remaining individual members are registered either on the register

of attorneys or the register of agents, may have its name entered on the register of agents. If the membership of the firm is changed, application must be made for registration of the firm as changed.

(e) *Foreign patent attorneys and agents.* Any foreign patent attorney or agent not a resident of the United States who shall file proof to the satisfaction of the Commissioner that he is registered and in good standing before the patent office of the country in which he resides and practices, and is possessed of the qualifications stated in paragraph (c) of this section, may be registered on the register of agents as entitled to represent applicants located in such country before the United States Patent Office in the presentation and prosecution of applications: *Provided*, That the patent office of such country allows substantially reciprocal privileges to those admitted to practice before the United States Patent Office. Such registration shall continue only during the period that the conditions specified obtain.

(f) *Government employees.* Officers and employees of the United States who are disqualified by statute (18 U. S. C. 281) from practicing as attorneys or agents in proceedings or other matters before government departments or agencies, may not be registered, and if any registered attorney or agent becomes such an officer or employee, his name on the register shall be endorsed as inactive during the period of such employment, but officers or employees whose official duties require the preparation and prosecution of applications for patent may be registered (on compliance with the regulations in this part) or recognized to practice, to the extent necessary to carry out their official duties.

(g) *Former examiners.* No person who has served in the examining corps of the Patent Office will be registered after termination of his services, nor, if registered before such service, be reinstated, unless he undertakes (1) not to prosecute or aid in any manner in the prosecution of any application pending in any examining division in which he served, on the date he left said division; and (2) not to prepare or prosecute nor to assist in any manner in the preparation or prosecution of any application of another filed within two years after the date he left such division, and assigned to such division, without the specific authorization of the Commissioner. Associated and related classes in other divisions may be required to be included in the undertaking or designated classes may be excluded. In case application for registration or reinstatement is made after resignation from the Office, the applicant will not be registered, or reinstated, if he has prepared or prosecuted, or assisted in the preparation or prosecution of any such application as indicated in this paragraph.

(h) *Oath and registration fee.* Before his name may be entered on the register of attorneys or on the register of agents, every applicant for registration must, after his application is approved, subscribe and swear to an oath prescribed by the Commissioner of Patents and pay the prescribed registration fee (see § 1.21).

(i) *Committee on Enrollment.* The Commissioner may establish a Committee on Enrollment to receive and act upon applications for registration to practice before the Patent Office, to conduct and supervise the examinations provided for in paragraph (c) of this section, to maintain the registers and to perform such other duties in connection with enrollment and recognition of attorneys and agents as may be necessary; or such functions may be performed by designated officials of the Patent Office. Any action of such committee or official may be reviewed by the Commissioner. (R. S. 487; 35 U. S. C. 11)

§ 1.342 *Limited recognition.* Any person not registered and not entitled to be recognized under § 1.341 as an attorney or agent to represent applicants generally may, upon a showing of circumstances which render it necessary or justifiable, be recognized by the Commissioner to prosecute as attorney or agent a specified application or applications, but this limited recognition shall not extend further than the application or applications specified. (R. S. 487; 35 U. S. C. 11)

§ 1.343 *Persons not registered or recognized.* No person or firm not registered or specifically recognized as provided in § 1.342 will be permitted to prosecute applications of others before the Patent Office. (R. S. 487; 35 U. S. C. 11)

§ 1.344 *Professional conduct.* Attorneys and agents appearing before the Patent Office must conform to the standards of ethical and professional conduct generally applicable to attorneys before the courts of the United States. (R. S. 487; 35 U. S. C. 11)

§ 1.345 *Advertising.* Every attorney, and agent registered to practice before the United States Patent Office shall submit to the Commissioner of Patents for approval copies of all proposed advertising matter, circulars, letters, cards, etc., intended to solicit patent business, and if it be not disapproved by him and the attorney or agent so notified within ten days after submission, it may be considered approved.

No registered agent shall, in advertising matter or in papers filed in the Patent Office, represent himself to be an attorney, solicitor, or lawyer.

Any registered attorney or agent sending out or using any such matter, a copy of which has not been submitted to the Commissioner of Patents in accordance with this rule, or which has been disapproved by the Commissioner of Patents, and any registered agent misrepresenting his status shall be subject to suspension or disbarment.

§ 1.346 *Signature and certificate of attorney.* Every paper filed by an attorney or agent representing an applicant or party to a proceeding in the Patent Office must bear the signature of such attorney or agent, except papers which are required to be signed by the applicant or party in person (such as the application itself and affidavits required of applicants). The signature of an attorney or agent to a paper filed by him, or the filing or presentation of any paper by him, constitutes a certificate that the paper has been read; that its filing is authorized; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. When an applicant or party is represented by a registered firm such papers must carry the signature of an individual member of the firm or an individual registered attorney or agent employed by the firm and duly authorized to sign on behalf of the firm, in addition to the firm name, and the certification shall be a certification by and on behalf of the firm and by the individual. (R. S. 487; 35 U. S. C. 11)

§ 1.347 *Removing names from registers.* Attorneys, agents, and firms, registered to practice before the Patent Office, should notify the Office of any change of address for entry on the register, by letter separate from any notice of change of address filed in individual applications. The Office may address a letter to any person or firm on the registers, at the address of which separate notice for the register was last received, for the purpose of ascertaining whether such person or firm desires to remain on the register. The name of any person or firm failing to reply and give the information requested within a time limit specified will be removed from the register, and the names so removed published in the Official Gazette. Any name so removed may be reinstated, either on the register of attorneys or the register of agents, as may be appropriate. (R. S. 487; 35 U. S. C. 11)

§ 1.348 *Suspension or disbarment proceedings.* Except as otherwise provided, proceedings for suspension, disbarment, or exclusion from practice are before a Commissioner.

(a) *Investigating and prosecuting officer.* The duties of investigation, preparing charges, collecting and presenting testimony, and presenting a case for suspension, exclusion from practice or disbarment shall be performed by the Solicitor of the Patent Office or, at his direction, by a designated law examiner or other person, and neither the Solicitor nor such law examiner or other person shall participate in any manner in the decision of the case. If, upon investigation of a complaint or other information concerning an attorney or agent, it shall appear to the Solicitor that grounds for suspension, exclusion from practice, or disbarment exist, he shall prepare and forward the necessary notice and statement.

(b) *Notice of proceedings.* Proceedings for suspension or disbarment shall be instituted by the Solicitor by mailing to, or otherwise serving on, the respondent a notice of such proceeding with a statement of the charges against him, at the same time forwarding a copy to the Commissioner. It shall be the duty of the respondent to answer the charges as specified in paragraph (c) of this section.

(c) *Answer.* The respondent's answer shall be filed in writing with the Commissioner within thirty days from the

time the notice is served on the respondent, or within such extension of time as may be allowed by the Commissioner for good cause shown. The answer shall be under oath. Failure to answer within the time allowed will be taken as an admission of the charges. The respondent in his answer should specifically admit or deny every material allegation of fact in the statement of charges; every allegation not denied shall be deemed admitted, unless the respondent states that he has no knowledge thereof sufficient to form a belief, which statement shall be considered a denial. Any special matters of defense shall be stated affirmatively in the answer. False statements in the answer may be made the basis of supplemental charges.

(d) *Hearing.* Unless the Commissioner finds the answer sufficient to dispose of the charges, he will set the case for hearing before him, notifying the respondent and the Solicitor of the place, day and time of commencement of the hearing. Evidence as to the matters in issue may be submitted at the hearing, the testimony of witnesses being presented orally, under oath and reported.

The hearing may be advanced and continued by the Commissioner, as far as may be deemed convenient and proper.

Depositions for use at the hearing in lieu of personal appearance of witnesses may be taken by either the Solicitor or the respondent on application to and with the written consent of the Commissioner within such times and under such conditions as the Commissioner may prescribe.

(e) *Hearing officer.* The Commissioner may, in his discretion, delegate the conduct of the hearing to a hearing or trial examiner who shall be the presiding officer and who shall make a recommended decision.

(f) *Administrative Procedure Act.* Proceedings shall be governed, in matters not specifically set forth herein, by the provisions of the Administrative Procedure Act, 60 Stat. 237, 5 U. S. C. 1001–1011, which may be applicable. (R. S. 487; 35 U. S. C. 11)

AMENDMENT OF RULES

§ 1.351 *Amendments to rules will be published.* All amendments to the regulations in this part will be published in the Official Gazette and in the FEDERAL REGISTER.

§ 1.352 *Publication of notice of proposed amendments.* Whenever required by law, and in other cases whenever practicable, notice of proposed amendments to the regulations in this part will be published in the Official Gazette and in the FEDERAL REGISTER. If not published with the notice, copies of the text will be furnished to any person requesting the same. All comments, suggestions, and briefs received within a time specified in the notice will be considered before adoption of the proposed amendments which may be modified in the light thereof.

Oral hearings may be held at the discretion of the Commissioner.

PART 5—TRADE-MARKS

The effective date of the supersedure of § 5.11, fourth and fifth paragraphs, by § 100.44 of this chapter, is further extended to July 1, 1949.

PART 9—PRINTS AND LABELS

Part 9, Prints and Labels, is cancelled as obsolete.

PART 10—ORGANIZATION AND FUNCTIONS

The codification of Part 10—Organization and Functions, is hereby discontinued. Future amendments to description of organization and functions will appear in the Notices section of the FEDERAL REGISTER.

PART 10—FORMS FOR PATENT CASES

New Part 10, Forms for Patent Cases, is hereby established, as follows:

Sec.
10.1 Petition for patent, by a sole inventor.
10.2 Petition for patent, by a sole inventor, for himself and assignee.
10.3 Petition for patent, by a sole inventor, with power of attorney.
10.4 Petition for patent, by joint inventors.
10.5 Petition for patent, by an administrator.
10.6 Petition for patent, by an executor.
10.7 Petition for patent, by the guardian of an insane person.
10.11 Oath to accompany application for patent.
10.14 Supplemental oath for amendment presenting claims for matter disclosed but not originally claimed.
10.16 Combined petition, oath and specification (single signature form), sole inventor.
10.21 Design patent application, petition.
10.22 Design patent application, specification.
10.23 Design patent application, oath.
10.28 Reissue application, petition, by the inventor.
10.29 Reissue application, petition, by the assignee.
10.33 Oath as to loss of letters patent.
10.36 Power of attorney or authorization of agent, not accompanying application.
10.37 Revocation of power of attorney or authorization of agent.
10.41 Appeal from Principal Examiner to the Board of Appeals.
10.43 Disclaimer in patent.
10.44 Interference, preliminary statement of domestic inventor.
10.45 Interference, preliminary statement of foreign inventor.
10.46 Interference, disclaimer during interference.
10.47 Interference, notice of taking testimony.
10.48 Interference, form of deposition.
10.49 Interference, certificate of officer to follow deposition.

AUTHORITY: §§ 10.1 to 10.49 issued under R. S. 493; 35 U. S. C. 6.

NOTE: The following forms illustrate the manner of preparing various papers to be filed in the Patent Office. Applicants and other parties will find their business facilitated by following them. In special situations such alterations as the circumstances may render necessary may be made provided they do not depart from the requirements of Part 1 of the Chapter or of the statute. Before using any form the pertinent sections of Part 1 and sections of the statute should be studied carefully.

§ 10.1 *Petition for patent, by a sole inventor.*

*To the Commissioner of Patents:*

Your petitioner, _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, prays that letters patent may be granted to him for the improvement in _____, set forth in the annexed specification.

_____
(Signature)

§ 10.2 *Petition for patent, by a sole inventor, for himself and assignee.*

*To the Commissioner of Patents:*

Your petitioner, _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, prays that letters patent may be granted to himself and _____, a citizen of the United States and a resident of _____, State of _____, whose post-office address is _____, as his assignee, for the improvement in _____, set forth in the annexed specification.

_____
(Signature)

§ 10.3 *Petition for patent, by a sole inventor, with power of attorney.*

*To the Commissioner of Patents:*

Your petitioner, _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, prays that letters patent may be granted to him for the improvement in _____, set forth in the annexed specification; and he hereby appoints _____, of _____, _____, (Registration No. _____), his attorney (or agent), to prosecute this application and to transact all business in the Patent Office connected therewith.

_____
(Signature)

§ 10.4 *Petition for patent by joint inventors.*

*To the Commissioner of Patents:*

Your petitioners, _____ and _____, citizens of the United States and residents, respectively, of _____, of State of _____, and of _____, State of_____ (or subjects, etc.), whose post-office addresses are, respectively, _____ and _____, pray that letters patent may be granted to them, as joint inventors, for the improvement in _____, set forth in the annexed specification.

_____
_____
(Signatures)

§ 10.5 *Petition for patent, by an administrator.*

*To the Commissioner of Patents:*

Your petitioner, A_____ B _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, administrator of the estate of C _____ D _____, late a citizen of the United States and resident of _____, State of _____, deceased (as by reference to the duly certified copy of letters of administration, hereto annexed, will more fully appear), prays that letters patent may be granted to him for the invention of the said (C _____ D _____ for an improvement in _____, set forth in the annexed specification.

Signed at _____, in the county of _____ and State of _____, this _____ day of _____, 19__.

A_____ B_____,
_____
(Signature)
*Administrator, etc.*

§ 10.6 *Petition for patent, by an executor.*

*To the Commissioner of Patents:*

Your petitioner, A _____ B _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, executor of the last will and testament of C _____ D _____, late a citizen of the United States and resident of _____, State of _____, deceased (as by reference to the duly certified copy of letters testamentary, hereto annexed, will more fully appear), prays that letters patent may be granted to him for the invention of the said C _____ D _____ for an improvement in _____, set forth in the annexed specification.

A _____ B _____,
(Signature)
*Executor, etc.*

§ 10.7 *Petition for patent, by the guardian of an insane person.*

*To the Commissioner of Patents:*

Your petitioner, A _____ B _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, and who has been appointed guardian (or conservator or representative) of C _____ D _____ (as by reference to the duly certified copy of the order of court, hereto annexed, will more fully appear), prays that letters patent may be granted to him for the invention of the said C _____ D _____ for an improvement in _____, set forth in the annexed specification.

A _____ B _____,
(Signature)
*Guardian, etc.*

§ 10.11 *Oath to accompany application for patent.*

_____,
_____, } *ss.*

(1) _____, the above-name petitioner__, being sworn (or affirmed), depose__ and say__ that _____ citizen__ of the United States (2) and resident__ of (3) _____, that _____ verily believe__ (4) _____ to be the original, first, and (5) inventor__ of the improvement in (6) _____ described and claimed in the annexed specification; that (7) _____ do__ not know and do__ not believe that the same was ever known or used before (8) _____ invention or discovery thereof, or patented or described in any printed publication in any country before (8) _____ invention or discovery thereof, or more than one year prior to this application, or in public use or on sale in the United States for more than one year prior to this application; that said invention has not been patented in any country foreign to the United States on an application filed by (9) _____ or (8) _____ legal representatives or assigns more than twelve months prior to this application; and that no application for patent on said improvement has been filed by (9) _____ or (8) _____ representatives or assigns in any country foreign to the United States, except as follows: (10) _____.

Inventor's full name. (11) } _____
(Signature)
_____

Sworn to and subscribed before me this _____ day of _____, 19____.

[SEAL] _____,
(Signature of notary or officer)
(12) _____ _____.
(Official character)

NOTES: See §§ 1.65 and 1.66.

(1) Name of inventor; if the invention is joint, the names of all the joint inventors.

(2) If the applicant be an alien, state of what foreign country he is a citizen or subject.

(3) Give city and state, or if a foreign resident, city and country, of residence. If more than one inventor give residences of each inventor if different. Street address need not be given here as it appears elsewhere.

(4) "Himself", in the case of a sole inventor; "themselves" in the case of joint inventors.

(5) "Sole" in the case of a sole inventor; "joint" in the case of joint inventors.

(6) Title of the invention.

(7) "He" in the case of a sole inventor; "they" in the case of joint inventors.

(8) "His" in the case of a sole inventor; "their" in the case of joint inventors.

(9) "Him" in the case of a sole inventor; "them" in the case of joint inventors.

(10) Name each country in which an application has been filed and in each case give date of filing; the number of the application or other identifying data may also be stated. If no foreign application has been filed, strike out the words "except as follows".

(11) All oaths must bear the signature of the affiant.

(12) See § 1.66 for officers who may administer oaths, and for oaths executed in foreign countries.

§ 10.14 *Supplemental oath for amendment presenting claims for matter disclosed but not originally claimed.*

_____,
_____, } *ss:*

_____, whose application for letters patent for an improvement in _____, Serial No. _____, was filed in the United States Patent Office on or about the _____ day of _____, 19____, being duly sworn (or affirmed) deposes and says that the subject matter of the foregoing (1) amendment was part of his invention, was invented before he filed his original application, above identified, for such invention; that he does not know and does not believe that the same was ever known or used before his invention or discovery thereof, or patented or described in any printed publication in any country before his invention or discovery thereof, or more than one year before his application, or in public use or on sale in the United States for more than one year before the date of his application, that said invention has not been patented in any foreign country on an application filed by himself or his legal representatives or assigns more than twelve months prior to his application in the United States, and has not been abandoned.

_____
(Signature)

Sworn to and subscribed before me this _____ day of _____, 19____.

[SEAL] _____,
(Signature of notary or officer)

_____
(Official character)

NOTE: (1) If the supplemental oath does not accompany the amendment, the amendment should be identified. See § 1.67.

§ 10.16 *Combined petition, oath and specification (single signature form), sole inventor.*

[Title of Invention]

[Specification]

Being duly sworn, I, _____ depose and say that I am a citizen of _____ _____ residing at _____; that I have read the foregoing specification and claims and I verily believe I am the original, first, and sole inventor of the invention or discovery in _____ described and claimed therein; that I do not know and do not believe that this invention was ever known or used before my invention or discovery thereof, or patented or described in any printed publication in any country before my invention or discovery thereof, or more than one year prior to this application, or in public use or on sale in the United States for more than one year prior to this application; that this invention or discovery has not been patented in any country foreign to the United States on an application filed by me or my legal representatives or assigns more than twelve months before this application; and that no application for patent on this invention or discovery has been filed by me or my representatives or assigns in any country foreign to the United States, except as follows:

And I hereby appoint _____ Registration No. ____, my attorney (or agent) with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent Office connected therewith.

Wherefore I pray that Letters Patent be granted to me for the invention or discovery described and claimed in the foregoing specification and claims, and I hereby subscribe my name to the foregoing specification and claims, oath, power of attorney, and this petition.

Inventor_____
First name Middle initial Last name
Post office address:
_____
_____

State of _____ } *ss:*
County of _____ }

Before me personally appeared _____, to me known to be the person described in the above application for patent, who signed the foregoing instrument in my presence, and made oath before me to the allegations set forth therein as being under oath, on the _____ day of _____, 19____.

[SEAL] _____
(Notary Public or Officer)

NOTE: This form may be executed only when attached to a complete application as the last page thereof.

§ 10.21 *Design patent application, petition.*

*To the Commissioner of Patents:*

Your petitioner, _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, prays that letters patent may be granted to him for the term of three and one-half years (or seven years, or fourteen years) for the new and original design for _____, set forth in the annexed specification.

_____
(Signature)

§ 10.22 *Design patent application, specification.*

*To all whom it may concern:*

Be it known that I, _____, a citizen of the United States, residing at _____, State of _____, have invented a new, original, and ornamental Design for (1) _____, as shown in the accompanying drawing, wherein Fig. 1 is a (2) _____ and Fig. 2 is (2) _____

I claim:

The ornamental design for a (1) _____ as shown.

_____
(Signature)

NOTES: (1) Insert specific name of article.

(2) Insert brief description of figure or figures of the drawing.

§ 10.23 *Design patent application, oath.*

_____,
_____, } *ss:*

_____, the above-named petitioner__, being sworn (or affirmed), depose__ and say__ that _____ citizen__ of _____and resident__ of _____, that _____ verily believe _____

to be the original, first and _____ inventor of the design for _____ described and claimed in the annexed specification; that _____ do__ not know and do__ not believe that the same was ever known or used before _____ invention thereof, or patented or described in any printed publication in any country before _____ invention thereof, or more than one year prior to this application, or in public use or on sale in the United States for more than one year prior to this application; that said design has not been patented in any country foreign to the United States on an application filed by _____ or _____ legal representatives or assigns more than six months prior to this application; and that no application for patent on said design has been filed by _____ or _____ representatives or assigns in any country foreign to the United States, except as follows: _____

Inventor's full name: _____

Sworn to and subscribed before me this _____ day of _____, 19____.

[SEAL] _____
(Signature of notary or officer)

_____
(Official character)

NOTE: See applicable notes under § 10.11.

§ 10.28 *Reissue application, petition, by the inventor.*

*To the Commissioner of Patents:*

Your petitioner, _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, prays that he may be allowed to surrender the letters patent for an improvement in _____, No. _____ granted to him _____, 19____, whereof he is now sole owner (or whereof _____, on whose behalf and with whose assent this application is made, is now sole owner, by assignment), and that letters patent may be reissued to him (or the said _____) for the same invention upon the annexed amended specification. With this petition is filed an abstract of title, duly certified (or an order for a title report), as required in such cases.

_____
(Signature)

[Assent of assignee to reissue]

The undersigned, assignee of the entire (or of an undivided) interest in the above-mentioned letters patent, hereby assents to the accompanying application.

_____
(Signature)

§ 10.29 *Reissue application, petition, by the assignee.*

*To the Commissioner of Patents:*

Your petitioner, _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, prays that he may be allowed to surrender the letters patent for an improvement in _____, No. _____, granted _____, 19____, to _____, now deceased, whereof he is now owner, by assignment of the entire interest and that the letters patent may be reissued to him for the same invention, upon the annexed amended specification. With this petition is filed an abstract of title (or an order for a title report).

_____
(Signature)

NOTE: To be used only when the inventor is dead.

§ 10.33 *Oath as to loss of letters patent.*

_____, _____ } ss:

_____, being duly sworn (or affirmed), depose__ and say __ that the letters patent No. _____, granted to him, and bearing date on the ____ day of _____, 19__, has been either lost or destroyed; that he has made diligent search for the said letters patent in all places where the same would probably be found, if existing, and that he has not been able to find it.

_____
(Signature)

Subscribed and sworn to before me this _____ day of _____, 19____.

[SEAL] _____,
(Signature of notary or officer)

_____
(Official character)

§ 10.36 *Power of attorney or authorization of agent, not accompanying application.*

[If the power of attorney or authorization of agent be given at any time other than that of making application for letters patent, it will be in substantially the following form:]

*To the Commissioner of Patents:*

The undersigned having, on or about the _____ day of _____, 19____, made application for letters patent for an improvement in _____ serial number _____, hereby appoints _____ of _____, State of _____, Registration No. _____ his attorney (or agent), to prosecute said application, and to transact all business in the Patent Office connected therewith.

_____
(Signature)

§ 10.37 *Revocation of power of attorney or authorization of agent.*

*To the Commissioner of Patents:*

The undersigned having, on or about the _____ day of _____, 19____, appointed _____, of _____, State of _____, his attorney (or agent) to prosecute an application for letters patent which application was filed on or about the _____ day of _____, 19____, for an improvement in _____, serial number _____, hereby revokes the power of attorney (or authorization of agent) then given.

_____
(Signature)

§ 10.41 *Appeal from the Principal Examiner to the Board of Appeals.*

In re application of_____
Serial Number _____
Title _____
Filed _____
Division Number _____

*To the Commissioner of Patents:*

SIR: Applicant hereby appeals to the Board of Appeals from the decision of the principal examiner finally rejecting claims _____.

_____
(Signature)

§ 10.43 *Disclaimer in patent.*

*To the Commissioner of Patents:*

Your petitioner, _____, a citizen of the United States, residing at _____, in the county of _____ and State of _____ (or subject, etc.), represents that in the matter of a certain improvement in _____, for which letters patent of the United States No. _____ were granted to _____, on the _____ day of _____, 19____, he is (here state the exact interest of the disclaimant; if assignee, set out liber and page where assignment is recorded), and that he has reason to believe that through inadvertence, accident or mistake and without any fraudulent or deceptive intention the specification and claim of said letters patent are too broad.

Your petitioner, therefore, hereby enters this disclaimer to claim _____ of said patent.

Signed at _____, State of _____, this _____ day of _____, 19____.

_____
(Signature)

Witnesses:

_____

_____

§ 10.44 *Interference, preliminary statement of domestic inventor.*

PRELIMINARY STATEMENT OF _____

_____ } Interference No. _____
v.
_____ }
_____ } ss.
_____ }

_____, being duly sworn (or affirmed), deposes and says that he is a party to the above identified interference, that he made the invention set forth by the counts of the interference in the United States; that

(1) The first drawing of the invention was made on _____, 19____.[1]

(2) The first written description of the invention was made on _____, 19____.[1]

(3) The invention was first disclosed to others on _____, 19____.[1]

(4) The date of the first act or acts susceptible of proof, other than acts of the character specified in (1), (2), and (3) which, if proven, would establish conception of the invention, and a brief description of such act or acts are [e. g. the making of a non-operating model on _____ 19____] _____.

(5) The invention was actually reduced to practice on _____, 19____.

(6) Active exercise of reasonable diligence toward reducing the invention to practice began on _____, 19____.[1]

(7) The serial number and filing date of any prior application in the United States disclosing the invention set forth by the counts of the interference are Serial No. _____, filed _____.

(8) The filing date, country, and number of any application for the same invention in a foreign country, the filing date of which may be claimed under the second paragraph of section 4887, R. S. are No. _____, filed _____ in _____.

_____,
(Signature of inventor)

Subscribed and sworn to (or affirmed) before me this _____ day of _____, 19____.

[SEAL] _____
(Signature of notary public or officer)

_____
(Official character)

§ 10.45 *Interference, preliminary statement of foreign inventor.*

PRELIMINARY STATEMENT OF _____

_____ } Interference No. _____
v.
_____ }
_____ } ss.
_____ }

_____, being duly sworn (or affirmed), deposes and says that he is a party to the above identified interference, that he made the invention set forth by the counts of the interference in _____; that

Knowledge of such invention was introduced into the United States under the following circumstances: On _____,

[1] If there was no act corresponding to this allegation prior to the filing date of the application, it must be so stated. Note, however, date of completion of application drawing and specification, date of disclosure to person preparing the application, and diligence in preparing the application.

19____, the said _____ wrote a letter to _____, residing at _____, State of _____, describing such invention and soliciting his services in procuring a patent therefor in the United States. This letter, he is informed and believes, was received by the said _____ on _____, 19____. Also _____, 19____, he wrote a letter to the firm of _____, of _____, State of _____, describing such invention and requesting their assistance in manufacturing and putting it on the market, which letter, he is informed and believes, was received by them on _____, 19____. (If the invention has not been introduced into the United States otherwise than by the application papers, it should be so stated, and the date at which such papers were received in the United States alleged.)

The serial number and filing date of any prior application in the United States disclosing the invention set forth by the counts of the interference are Serial No. _____, filed _____.

The filing date, country, and number of any application for the same invention in a foreign country, the filing date of which may be claimed under the second paragraph of section 4887, R. S. are No. _____, filed _____ in _____.

_____
(Signature of inventor)

Subscribed and sworn to (or affirmed) before me this _____ day of _____, 19____.

[SEAL] _____
(Signature of notary public or officer) (1)

_____
(Official character)

NOTE: (1) The authority of a foreign notary public must be authenticated by a diplomatic or consular certificate.

When acts were performed in the United States corresponding to the allegations (1) through (6), in the preliminary statement of a domestic inventor (§ 10.44) these acts should be included by appropriate allegations in the preliminary statement of a foreign inventor.

§ 10.46 *Interference, disclaimer during interference.*

_____ v. _____ Interference No. ____

In the matter of the above identified interference, under the provisions of and for the purpose set forth in § 1.262, I hereby disclaim the subject matter of all the counts of said interference.

_____
(Signature of inventor)

Date _____

_____ Company, Inc., assignee of the entire right, title, and interest in the application of _____, Serial No. ____, filed _____, hereby assents to the foregoing disclaimer.

[Corporate seal]

_____ Company, Inc.

By _____
(Signature of officer and nature of office)

Date _____

§ 10.47 *Interference, notice of taking testimony.*

_____ v. _____ Interference No. _____

_____, 19____

_____
(Name of opposing attorney)

_____
(Address of opposing attorney)

SIR: You are hereby notified that on _____, _____, 19____, at _____ o'clock in the forenoon at the office of _____, _____ Street, _____, _____, I shall proceed to take testimony on behalf of the party _____ in the above identified interference.

The witnesses to be examined are:

| (Name of witnesses) | (Residences of witnesses) |
|---|---|
| _____ | _____ |
| _____ | _____ |

The examination will continue from day to day until completed. You are invited to attend and cross-examine.

_____
(Signature of attorney)

Proof of Service

_____ } ss.
_____ }

_____ being duly sworn (or affirmed) deposes and says that he served the above notice upon _____, the attorney of the party _____, by mailing a copy of said notice by registered mail addressed as follows: _____, _____ Street _____, _____

_____

Subscribed and sworn to (or affirmed) before me this _____ day of _____, 19____.

[SEAL] _____
(Signature of notary public or officer)

_____
(Official character)

§ 10.48 *Interference, form of deposition.*

IN THE UNITED STATES PATENT OFFICE

_____ v. _____ Interference No. _____

Depositions of witnesses examined on behalf of _____, pursuant to the annexed notice, at the office of _____, _____ Street, _____, _____, on _____, _____, 19____.

Present:

_____, on behalf of _____.
_____, on behalf of _____.

_____, being duly sworn (or affirmed) deposes and says, in answer to interrogatories proposed to him by _____, _____, counsel for _____, as follows:

Q. 1. What is your name, age, occupation, and residence?

A. My name is _____; I am _____ years of age; I am a manufacturer of _____, and reside at _____, in the State of _____.

Q. 2, etc. _____

_____

And in answer to cross-interrogatories proposed to him by _____, counsel for _____, he says:

X Q. 1. _____?

A. _____.

_____
(Signature)

§ 10.49 *Interference, certificate of officer.*

I, _____, a notary public within and for the county of _____ and State of _____ (or other officer, as the case may be), do hereby certify that the foregoing depositions of _____ and _____ were taken on behalf of _____ in pursuance of the notice hereto annexed, before me, at the office of _____, _____ Street, in the city of _____, and said county, on the ____ day (or days) of _____, 19____; that said witnesses were by me duly sworn (or affirmed) before the commencement of their testimony; that the testimony of said witnesses was written out by myself (or by _____ in my presence); that the opposing party, _____, was present (or absent or represented by counsel) during the taking of said testimony; that said testimony was taken at the aforementioned place and was commenced at ____ o'clock ____, on the ____ of _____, 19____, and was continued pursuant to adjournment on the ____, _____ (etc.) and was concluded on the ____ day of _____, 19____, at ____ o'clock ____; that the depositions were read by, or to, each witness before he signed the same and that each witness signed the same in my presence; that I am not related to or employed by either of the parties, or their attorneys or agents, or interested directly or indirectly, in the matter in controversy, either as counsel, attorney, agent or otherwise. (If any of the foregoing requirements are waived, the certificate shall so state.)

In testimony whereof I have hereunto set my hand and affixed my seal of office at _____, in said county, this ____ day of _____, 19____.

[SEAL] _____
(Signature of notary public or officer)

_____
(Official character)

The notary public or other officer will then append to the depositions the notice under which it is taken and will seal up all the evidence, notices, and paper exhibits and direct them to the Commissioner of Patents, placing upon the envelope a certificate in substance as follows:

I hereby certify that the within depositions of _____ and _____, _____, relating to the matter of Interference No. _____, _____ v. _____ were taken, sealed up, and addressed to the Commissioner of Patents by me this _____ day of _____, 19____.

[SEAL] _____
(Signature of notary public or officer)

_____
Official character

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## Subchapter B—Trade-Marks

### PART 100—RULES OF PRACTICE IN TRADE-MARK CASES

Amendments are hereby made to particular sections of Part 100, to change references to, or inclusion by reference of, sections of old Part 1 of this chapter to the corresponding sections of new Part 1, or to conform them to related or corresponding sections of new Part 1. The text of these amendments is given below.

These amendments shall take effect on March 1, 1949 in the same manner as amended Part 1. Former § 5.11, fourth and fifth paragraphs, relating to the same subject, the text of which is included below, shall remain in effect until § 100.44 comes into effect.

1. Section 100.21 is amended by changing the note at the end of said section to read as follows:

NOTE: The Official Gazette and other publications are sold by the Superintendent of Documents, Government Printing Office, Washington 25, D. C., who also sets the prices, to whom all communications respecting the same should be addressed (except with respect to items indicated as supplied by the Patent Office only).

Official Gazette of the United States Patent Office:
Annual subscription, domestic____ $17.50
Including indexes of patents and trade marks, paper bound $21.00; cloth bound $24.50.

| | |
|---|---|
| Official Gazette of the United States Patent Office—Continued | |
| Annual subscription, foreign | $26.50 |
| Including indexes of patents and trade marks, paper bound $31.00; cloth bound $34.50. | |
| Single numbers | .35 |
| Portions of the Official Gazette supplied separately: | |
| Decision leaflets, domestic $2.50 per annum, foreign $4.25 per annum; single numbers | .05 |
| Trade-mark section, domestic $8.00 per annum, foreign $10.00 per annum; single numbers | .20 |
| Weekly index pages (supplied only by the Patent Office), $2.50 per annum; single numbers | .05 |
| Annual index relating to trade-marks; price varies, 1947 volume, $3.00 cloth; paper | 1.75 |
| Decisions of the Commissioner of Patents; price varies, 1946 volume, buckram | 2.00 |

2. Section 100.42, first paragraph. The reference "§ 1.17 of this chapter" is changed to read "§ 1.341 of this chapter."

3. Section 100.44, Advertising, is amended by adding the following note:

NOTE: The following rule, being paragraphs 4 and 5 of § 5.11 of deleted Part 5, the rule currently in effect, shall be in effect until this section comes into effect:

Every attorney prosecuting applications for registration of trade-marks shall submit to the Commissioner of Patents for approval copies of all proposed advertising matter, circulars, letters, cards, etc., intended to solicit trade-mark business, and if it be not disapproved by him and the attorney so notified within 10 days after submission, it may be considered approved.

Any such attorney sending out or using any such matter, a copy of which has not been submitted to the Commissioner of Patents in accordance with this rule, or which has been disapproved by the Commissioner of Patents, shall be subject to suspension or exclusion from practice before the Patent Office, or any division thereof.

4. Section 100.45 is amended to read as follows:

§ 100.45 *Signature and certificate of attorney.* Every paper filed by an attorney at law or other recognized person representing an applicant or party to a proceeding in the Patent Office must bear the signature of such attorney or person, except papers which are required to be signed by the applicant or party in person (such as the application itself and affidavits required of applicants or registrants). The signature of an attorney or such other person to a paper filed by him, or the filing or presentation of any paper by him, constitutes a certificate that the paper has been read; that its filing is authorized; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. When an applicant or party is represented by a firm such papers must carry the signature of an individual member of the firm or an individual attorney employed by the firm and duly authorized to sign on behalf of the firm, in addition to the firm name, and the certification shall be a certification by and on behalf of the firm and by the individual. (60 Stat. 440; 15 U. S. C. 1123, R. S. 487; 35 U. S. C. 11)

5. Section 100.46 is amended by adding the following sentence at the end of the section, preceding the parenthetical note: "Proceedings for suspension, disbarment or exclusion from practice are conducted as provided in § 1.348 of this chapter."

6. Section 100.233 is amended by changing the first sentence thereof to read as follows: "Every paper filed in the Patent Office in contested cases, including appeals, must be served upon the other parties as provided by § 1.248 of this chapter except the notices of interference (§ 100.193), the notice of opposition (§ 100.205), the petition for cancellation (§ 100.213) and the notices of a concurrent use proceeding (§ 100.221), which are mailed by the Patent Office."

7. Section 100.234 is amended by cancelling the last sentence thereof.

8. Section 100.235 is amended by changing the reference "§§ 1.154 to 1.161, of this chapter," to read, "§§ 1.271 to 1.286, of this chapter,".

9. Section 100.236 is amended by changing the first sentence to read: "In addition to the original transcript of the testimony, two true copies of the record of each party must be filed, for the use of the Patent Office, and one true copy of the record must be served upon each of the opposing parties."

10. Section 100.264 is amended by changing the reference "§§ 1.148 to 1.150 of this chapter" in the parenthetical note at the end of said section to read "§§ 1.301, 1.302 and 1.305 of this chapter."

[SEAL] LAWRENCE C. KINGSLAND,
*Commissioner of Patents.*

Approved:

CHARLES SAWYER,
*Secretary of Commerce.*

[F. R. Doc. 48-11539; Filed, Dec. 30, 1948; 10:11 a. m.]

# TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

## Chapter I—Veterans' Administration

REVISION OF REGULATIONS

*Correction*

In Federal Register Document 48-10441, appearing in Part II of the issue for Saturday, November 27, 1948, the following changes are made:

1. A center head *"Provisional Regulations"* should appear immediately before § 21.185.

2. In the 6th line of § 36.4343 and in the 4th-5th line of § 36.4353 "or residential" should read "of residential."

# TITLE 42—PUBLIC HEALTH

## Chapter I—Public Health Service, Federal Security Agency

PART 35—HOSPITAL AND STATION MANAGEMENT

Notice of intention to issue regulations governing the management of stations and hospitals of the Public Health Service having been published in the FEDERAL REGISTER on December 15, 1948 (13 F. R. 7747), and comments on the proposed regulations having been received and considered, the proposed regulations as contained in such notice are hereby issued without change as Part 35, Title 42, Code of Federal Regulations, pursuant to the authority contained in section 321, 58 Stat. 695; 42 U. S. C. 248, as amended by section 2, 62 Stat. 1017. The regulations hereby issued shall become effective 30 days after publication of this notice of issuance in the FEDERAL REGISTER.

SUBPART A—GENERAL



SUBPART B—TRANSFER OF PATIENTS



SUBPART C—DISPOSITION OF ARTICLES PRODUCED BY PATIENTS



SUBPART D—DISPOSAL OF MONEY AND EFFECTS OF DECEASED PATIENTS



AUTHORITY: §§ 35.1 to 35.52 issued under sec. 321, 58 Stat. 695, sec. 2, 62 Stat. 1017; 42 U. S. C. 248.

SUBPART A—GENERAL

§ 35.1 *Hospital and station rules.* The officer in charge of a station or hospital of the Service is authorized to adopt such rules and issue such instructions, not inconsistent with the regulations in this part and other provisions of law, as he deems necessary for the efficient operation of the station or hospital and for the proper and humane care and treatment of all patients therein. All general rules governing the conduct and

privileges of patients, and of members of the public while on the premises, shall be posted in prominent places.

§ 35.2 *Compliance with hospital rules.* All patients and visitors in stations and hospitals of the Service are expected to comply with the rules and instructions issued under the authority of the officer in charge.

§ 35.3 *Noncompliance; deprivation of privileges.* Any patient who wilfully fails or refuses to comply with rules or instructions of a hospital or station or with regulations of the Service, may, by the direction of the officer in charge, be deprived of recreational or other privileges accorded patients. Any visitor who wilfully fails or refuses to comply with any such rules, instructions, or regulations may, by direction of the officer in charge, be denied visiting privileges.

§ 35.4 *Noncompliance; discharge or transfer.* (a) If the officer in charge finds, upon investigation, that a patient, other than a leprosy patient, by wilful and persistent failure or refusal to comply with such rules, instructions, or regulations is seriously impeding the course of his own care and treatment, or that of other patients, he may (1) discharge the patient, or (2) if the patient is not a voluntary patient, arrange for his transfer to the custody of the authority responsible for his admission to the station or hospital. No patient shall be discharged or transferred on account of noncompliance if to do so would seriously endanger his life or health, nor shall any patient be discharged if his failure to comply is due, in the opinion of the officer in charge, to a mental disease or disorder.

(b) If the discharge or transfer of a patient is likely to endanger the health of persons other than the patient or officers or employees of the station or hospital, the officer in charge shall give advance notice to appropriate State, county, or municipal authorities of the discharge or transfer.

§ 35.5 *Entitlement to care after discharge or transfer by reason of noncompliance.* No person otherwise entitled to care, treatment, or hospitalization at Service facilities, or in other facilities at the expense of the Service, shall be denied such care or treatment by reason of his prior discharge or transfer from any such facility under the provisions of § 35.4.

§ 35.6 *Admissions; determination of eligibility for care.* Except as may otherwise be provided for specific classes of patients by the regulations of this chapter, the officer in charge of the station or hospital to which application is made is authorized to determine the eligibility of applicants, as beneficiaries of the Service, for care and for treatment. Such determinations shall be subject to review by the chief of the division of the Service responsible for administration of the station or hospital concerned upon referral made by the officer in charge in doubtful cases or upon appeal made by an applicant who has been denied care or treatment.

§ 35.7 *Admissions; designation of person to be notified.* Every in-patient, at the time of admission to the hospital or station or as soon thereafter as practicable, shall be requested to designate a person or persons to be notified in case of emergency.

§ 35.8 *Safekeeping of money and effects; withdrawals.* (a) A place for the safekeeping of money and effects of patients shall be provided at each station or hospital, and an itemized receipt therefor shall be furnished to the patient and to any other person who places money or effects therein for the benefit of the patient.

(b) Money and effects may be withdrawn only by or on behalf of the patient, by his legally appointed representative authorized to receive or dispose of his property (including the money and effects in the custody of the station or hospital), or by a person who is authorized, under the law of the State in which the station or hospital is located, to receive or dispose of the patient's money and effects. In any case in which the officer in charge has had actual notice of the appointment of a legal representative, withdrawals may be made only by such representative or in accordance with his written directions. No delivery shall be made under this paragraph unless (1) the person receiving the money or effects shall sign an itemized receipt therefor, or (2) the delivery is witnessed by two persons. The provisions of this paragraph do not prohibit withdrawals made necessary by the provisions of this part for the disposition of money and effects left by patients on death or on departure from the station or hospital, or by the provisions of § 35.10.

§ 35.9 *Disposition of money and effects left by other than deceased patients.* Money and effects left on the premises by a patient shall be forwarded promptly to him. If because his whereabouts are unknown his money and effects cannot be delivered to him within 120 days after his departure, his money shall be deposited into the Treasury and credited to the account entitled "Unclaimed Moneys of Individuals Whose Whereabouts are Unknown;" and his effects shall be held for him for six months and then sold at an auction, conducted in accordance with § 35.49, and the proceeds deposited into the Treasury and credited to the above account.

§ 35.10 *Destruction of effects dangerous to health.* The officer in charge shall cause to be destroyed effects brought into or received in the station or hospital area by patients which, in the judgment of such officer, are dangerous as a source of disease to the health or life of patients or personnel of the station or hospital or visitors therein and cannot otherwise be safely disposed of or rendered harmless by disinfection or other means. The destruction of effects shall be witnessed by at least one officer or employee designated for that purpose by the officer in charge, and appropriate records of the destruction shall be maintained.

§ 35.11 *Clinical records; confidential.* A complete clinical record shall be maintained for each patient admitted to a station or hospital of the Service. Such records shall be confidential and shall not be disclosed except as may be provided elsewhere in regulations of the Service.

§ 35.12 *Solicitation of legal business prohibited.* The solicitation, directly or indirectly, of legal business or of a retainer or agreement authorizing an attorney to render legal services, is prohibited in all stations and hospitals of the Service.

§ 35.13 *Entry for negotiation of release or settlement.* (a) No person shall be permitted to enter a station or hospital of the Service for the purpose of negotiating a settlement or obtaining a general or special release or statement from any patient with reference to any illness or personal injury for which the patient is receiving care or treatment, or for the purpose of conferring with him as an attorney or representative of an attorney with reference to such illness or injury, unless the patient has signified his willingness to have such person enter for such purpose and, in the judgment of the officer in charge, the physical or mental condition of the patient will not thereby be impaired.

(b) Any person entering a station or hospital for a purpose enumerated in the previous paragraph shall register in the manner prescribed by the officer in charge, and shall furnish for the records of the station or hospital the name of each patient by whom he has been received for such a purpose.

§ 35.14 *Solicitation of legal business; negotiation of release or settlement; assistance prohibited.* All employees of the Service and all persons attached in any capacity to a station or hospital, including patients, are forbidden to communicate, directly or indirectly, with any person for the purpose of aiding in the solicitation of legal business or in the negotiation of a settlement or the obtaining of a general or special release or statement from any patient with reference to any illness or personal injury for which the patient is receiving care or treatment therein. No patient is prohibited by this section from communicating on his own behalf with an attorney of his choice or with other persons.

§ 35.15 *Consent to operative procedures.* Except in emergencies when the patient is physically or mentally incapable of consenting and the delay required to obtain the consent of his natural or legal guardian would seriously endanger the patient's health, no operative procedure shall be undertaken unless the patient or, in the case of a minor or incompetent, his natural or legal guardian gives his consent, nor shall any major operative procedure or the administration of a general anaesthetic be undertaken unless such consent has been obtained in writing. The consent or any refusal of consent shall be made a part of the clinical record.

§ 35.16 *Autopsies.* An autopsy may be performed on the body of a deceased patient only by direction of the officer in charge and only if consented to in writing by a person authorized under the law of the State in which the station or hospital is located to permit an autopsy under the circumstances of the particular death involved. Restrictions or

limitations imposed by the person consenting thereto on the extent of an autopsy shall be observed. Documents embodying consent shall be made a part of the clinical record.

SUBPART B—TRANSFER OF PATIENTS

§ 35.21 *Authorization of transfer.* Except as otherwise provided by law or regulation with respect to certain classes of patients, the officer in charge of a station or hospital of the Service may provide, without any cost to the patient, for the transfer of the patient either from such station or hospital to another station or hospital of the Service or to any non-Service station or hospital at which the patient may be received, or from any non-Service hospital at which he is receiving care or treatment as a patient of the Service to a station or hospital of the Service.

§ 35.22 *Attendants.* Patients shall be transferred by such means and accompanied by such medical, nursing, or other attendants as may be necessary to protect the health and safety of the patient and other persons likely to come into contact with him, including in the case of a prisoner such guards as may be necessary to assure his safekeeping. A female patient requiring the services of attendants shall be accompanied by at least one female attendant. Medical or nursing attendants shall be qualified to care for persons suffering from the type of disease or disorder with which the patient is afflicted and shall be provided with equipment and medicines necessary for the care of the patient.

SUBPART C—DISPOSITION OF ARTICLES PRODUCED BY PATIENTS

§ 35.31 *Retention by patients.* Subject to the rules of the station or hospital, patients may be accorded the privilege of retaining articles produced by them in the course of their curative treatment with the aid of materials furnished by the Service. Articles not retained by patients shall be disposed of as provided in this subpart. The provisions of this subpart do not apply to the products of industrial activities established for narcotic addicts.

§ 35.32 *Board of appraisers.* The officer in charge shall appoint, from the personnel of the station or hospital, a board of three persons to serve at his pleasure. The board shall provide for the sale of articles having commercial value and shall keep appropriate records of such articles and their disposition.

§ 35.33 *Sale: prices; deposit of proceeds.* The board shall determine and redetermine from time to time the prices at which articles are to be sold, and in doing so shall consider the cost of materials used, reasonable handling charges, and the fair market value of the articles. The sale price shall be indicated on each article by tag or other appropriate means, and a list of articles offered for sale and their respective sale prices shall be posted from time to time in the hospital or station area. In its discretion, the board may offer such articles for purchase by other patients or by charitable organizations before offering them for purchase to the general public. No article shall be sold or resold to any officer or employee of the Service. Moneys received from the sale of articles shall be deposited into the Treasury to the credit of the appropriation from which the materials for making such articles were purchased.

§ 35.34 *Resale.* No article purchased under the provisions of this Subpart shall be resold in the hospital or station area at a price to exceed the sale price fixed by the board for such article.

§ 35.35 *Unsalable articles.* Articles having no commercial value shall be stored, destroyed, or otherwise disposed of as the officer in charge may direct.

SUBPART D—DISPOSAL OF MONEY AND EFFECTS OF DECEASED PATIENTS

§ 35.41 *Inventory.* Promptly after the death of a patient in a station or hospital of the Service, an inventory of his money and effects left therein shall be made by two or more officers or employees of the Service designated for such purpose by the officer in charge.

§ 35.42 *Notice upon death.* The officer in charge shall notify in writing all persons known to him to whom delivery of the patient's money and effects might be made hereunder, and, in the case of an alien patient, a consul of the country of his apparent nationality. Each person so notified shall be requested to furnish information concerning (a) the existence or whereabouts of any persons to whom delivery of the deceased patient's money and effects may be made pursuant to these provisions, and (b) the permanent residence or home of the deceased.

§ 35.43 *Delivery only upon filing claim; forms; procedure.* (a) Delivery of the money and effects of a deceased patient shall be made only to a person who has filed a claim therefor on a form prescribed by the Surgeon General.

(b) A claimant shall furnish, in addition to the information on the prescribed form, such additional information as the officer in charge may consider necessary to establish the identity of the claimant and the truth of his statements.

(c) A person filing a claim as a legal representative shall be required to present letters of administration or a certificate of a court attesting his qualification or appointment.

(d) If a claim is made after the money, or proceeds from the sale of the effects, of a deceased patient have been deposited in the Treasury, the claim shall be referred to the General Accounting Office. If the claim is for checks or evidences of indebtedness of the United States which have been transmitted to the issuing agency pursuant to §§ 35.47 and 35.48, the claimant shall be referred to such agency.

§ 35.44 *Delivery to legal representative; to other claimants if value is $1,000 or less.* The money and effects of the deceased patient shall in all cases be delivered to the legal representative, if any, of his estate. If the value is $1,000 or less, and the officer in charge has neither notice nor other knowledge of the appointment or qualification of a legal representative, nor reason to believe that a legal representative will be appointed or qualified, he shall deliver all the money and effects, as soon as practicable after the expiration of 60 days from the sending of notices, to one of the following in the indicated order of priority:

(a) A person, if any, designated in writing by the patient to receive the same;

(b) The patient's surviving spouse;

(c) The patient's child or children in equal parts;

(d) The patient's parent or parents in equal parts;

(e) Any other person who would be entitled to receive the money and effects under the law of the patient's domicile.

§ 35.45 *Disposition of effects; exceptions.* Irrespective of the provisions of this subpart, the officer in charge may (a) release from among the effects of the deceased patient so much of the patient's clothing as may be necessary for use in preparation of his body for burial and (b) cause to be destroyed, or otherwise disposed of, such used toilet articles of the patient as appear to have no commercial or other value.

§ 35.46 *Conflicting claims.* In any case in which conflicting claims are filed or the officer in charge considers it to be in the interest of persons who may be ultimately entitled thereto, delivery may be withheld from all persons other than a duly qualified legal representative.

§ 35.47 *Disposition of Government checks.* Notwithstanding any other provisions of this subpart, immediately upon completion of the inventory, checks drawn on the Treasurer of the United States shall be sent by safe means to the department, agency, or establishment of the Government of the United States issuing such checks. The transmittal shall be accompanied by a statement of the reasons therefor and of all available information which may aid the issuing unit in the disposition of the check transmitted. Notice of the disposition of any checks, with identifying information, shall be given to the person or persons, if any, to whom money and effects are delivered in accordance with § 35.44.

§ 35.48 *Deposit of unclaimed money; sale of unclaimed effects and deposit of proceeds.* If, within 120 days after sending of notices no claim has been filed pursuant to the provisions of § 35.43, the patient's money, consisting of all types of United States currency and coin, shall be deposited in the Treasury to the credit of the trust-fund account entitled "Money and Effects of Deceased Patients, Public Health Service." If, within six months after the death of a patient, no claim has been filed pursuant to the provisions of § 35.43, his effects (including foreign currency and coin but excluding Postal Savings Certificates and other evidences of indebtedness of the United States) shall be sold at public auction and the proceeds deposited to the credit of the trust-fund account entitled "Money and Effects of Deceased Patients, Public Health Service." Postal Savings Certificates and other evidences of indebtedness of the United States shall be transmitted to the issuing department or agency with a statement of the occasion therefor.

§ 35.49 *Sale at public auction.* The following provisions shall govern the sale of effects at public auction:

(a) *Notice.* Reasonably advance notice of proposed sales shall be posted at such prominent places in the station or hospital area as the officer in charge may designate. In addition, a notice shall be posted at the nearest post office, and notices shall be sent by mail to all known persons to whom delivery of money and effects of the patient may be made under the provisions of this subpart. The officer or employee who posts or sends notices of sales shall make an appropriate affidavit on a copy of the notice as to his action in that respect, including in his affidavit the names of persons to whom copies of the notices were mailed and the mailing dates. The copy of the notice on which the affidavit appears shall be retained in the files of the station or hospital.

(b) *Form and contents of notice.* Notice of proposed sales shall be given on a form prescribed by the Surgeon General. The notice shall include an inventory of the effects to be offered for sale; the names of the patients from whom the effects were received; the precise date, time, and place when and where the sale will be held; a statement that the sale is to be held pursuant to the provisions of the regulations in this part; and that, if otherwise authorized, delivery will be made of effects or proceeds of sales to persons filing claims prior to the sale of effects or prior to the transmittal of proceeds to the Surgeon General.

(c) *Time and place of sales.* All sales shall be held at reasonable hours and at such places within the station or hospital area as the officer in charge may designate.

(d) *Who shall conduct sales.* All sales shall be conducted by the officer in charge or by a responsible officer or employee designated by him.

(e) *Sale and delivery.* All effects offered for sale shall be sold to the highest bidder and delivered to him immediately upon payment of the sale price in cash or by postal money order or certified check and execution of an appropriate receipt by the person to whom delivery is made.

§ 35.50 *Disposition of unsold effects.* The officer in charge shall dispose of effects offered for sale but remaining unsold in such manner as he considers to be proper, but, if practicable, such effects shall be used for the benefit of other patients of the Service.

§ 35.51 *Manner of delivery; costs, receipts.* (a) If a person entitled under this subpart to receive the money and effects of a patient is unable to take possession thereof at the station or hospital, they shall be sent to him at the expense of the United States in the most economical manner available. The records of the station or hospital shall show the names and addresses of persons to whom money or effects have been sent, the date of sending, the means used, an itemized list of the money or effects sent, and a statement by a witnessing officer or employee verifying the foregoing from his own observation.

(b) If not delivered personally by an authorized officer or employee of the Service, money, evidences of indebtedness, and other valuable papers and documents shall be sent by registered mail (or other safe means).

(c) Persons receiving the money and effects of a patient shall be required to execute an itemized receipt therefor.

§ 35.52 *Delivery of possession only; title unaffected.* Except for delivery of effects to purchasers at auction sales held in accordance with § 35.49, delivery or deposit under these regulations of the money or effects, or the proceeds of a sale of the effects, of a deceased patient constitutes only a transfer of possession and is not intended to affect in any manner the title to such money, effects, or proceeds.

[SEAL] W. P. DEARING,
*Acting Surgeon General.*

Approved: December 28, 1948.

OSCAR R. EWING,
*Federal Security Administrator.*

[F. R. Doc. 48-11485; Filed, Dec. 30, 1948; 8:56 a. m.]

# NOTICES

## DEPARTMENT OF JUSTICE

### Office of Alien Property

STATEMENT OF ORGANIZATION AND DELEGATIONS OF FINAL AUTHORITY

The codification of Part 500 of Chapter II of Title 8 of the Code of Federal Regulations, setting forth the organization of the Office of Alien Property and delegations of final authority therein, is hereby discontinued.

Following is a complete statement of the organization of the Office of Alien Property and of final delegations of authority therein. Future amendments to this statement will be published in the Notices section of the FEDERAL REGISTER.

1. *Central and field organization—*(a) *Direction.* The President, pursuant to the Trading with the Enemy Act, as amended, has conferred upon the Attorney General the functions formerly vested in the Alien Property Custodian and the Office of Alien Property Custodian, and has transferred to the Attorney General jurisdiction over certain blocked assets. The Attorney General has placed these functions in an Office created by him in the Department of Justice, which shall be known as "Office of Alien Property." The Office of Alien Property is under the direction of an Assistant Attorney General who is the Director, Office of Alien Property, and who is responsible to the Attorney General. The chain of delegation is set forth in paragraph 4 hereafter. All of the authority, rights, privileges, powers, duties and functions of the Office of Alien Property may be exercised by the Director or by any agencies, instrumentalities, agents, delegates, assistants or other personnel, appointed or designated by him. The Director will act for and on behalf of the Attorney General and will sign in the following form:

For the Attorney General.

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(Name)
*Assistant Attorney General,*
*Director, Office of Alien Property.*

Duly authorized persons appointed or designated by the Director will act for and on behalf of the Attorney General. Delegations of final authority are set forth in this notice.

(b) *Organization.* The Office is composed of the following branches, sections and officers with functions as indicated:

(1) *Director and Deputy Director.* The Director supervises and directs all of the activities of the Office of Alien Property. He may transfer the functions, as provided for in the following subparagraphs, from one branch, section or officer to another. The Deputy Director may exercise any of the functions of the Director. There are within the Office of the Director the following office and section:

(i) *Secretary.* The Secretary provides liaison with other Government agencies and with other Governments. He is Secretary of the Executive Committee and coordinates policies and practices of the Office. He maintains and analyzes statistics on controlled properties and prepares annual and other official reports. He handles miscellaneous correspondence addressed to the Office, and processes formal orders and documents.

(ii) *Business Management Section.* Supervises the operation of business enterprises continuing as going concerns, and conducts sales of vested interests in and of such enterprises.

(2) *Executive Committee.* The Executive Committee is composed of the Director, the Deputy Director, and such staff officers as are named by the Director. It serves in an advisory capacity to the Director in determination of policies and administrative actions.

(3) *Operations Branch.* The Chief, Operations Branch, has general supervision over the sections which comprise the Branch. These sections and their functions are as follows:

(i) *Foreign Funds Section.* Administers controls with respect to property, over which jurisdiction has ben transferred by Executive Order No. 9989, and with respect to transactions relating to such property. It is represented in the field by the Federal Reserve Bank of New York.

(ii) *Vesting Section.* Is responsible for identification and establishment of proof of ownership of all enemy-owned

assets, except patents, copyrights, trademarks, estates, trusts, and insurance policies.

(iii) *Collection and Custody Section.* Reduces to possession vested securities and other tangible personal property. Is in charge of depositary and transfer functions as to vested property. Performs certain functions in connection with the effectuation of returns of property pursuant to Trading with the Enemy Act.

(iv) *Real Estate and Liquidation Section.* Manages and sells real estate, mortgages and personal property except that listed in subparagraph (v) hereof. Supervises liquidation of enterprises not continuing as going concerns.

(v) *Patent Section.* Administers programs relating to patents, copyrights and trade-marks, secret processes and industrial techniques, including identification of enemy ownership, licensing, patent prosecution, royalty collection, contract renegotiation, and dissemination of technical information relating to vested patents.

(4) *Estates and Trusts Branch.* The Chief, Estates and Trusts Branch, has general supervision of an integrated estates and trusts program, which includes:

(i) The pre-vesting participation of the Office of Alien Property in probate matters;

(ii) The vesting program with respect to estates and trusts, other property in the process of administration under judicial supervision or which is in partition, libel, condemnation or other similar proceedings, and interests in insurance policies.

(iii) The post-vesting management of estates and trusts;

(iv) Litigation involving estates and trusts in courts of first instance.

(5) *Litigation Branch.* The Chief, Litigation Branch, is in charge of litigation involving all matters in all courts, except litigation involving estates and trusts in courts of first instance, and of legislation.

(6) *Legal Branch.* The Chief, Legal Branch, advises the Director with respect to legal aspects of office policy and operation. He also supervises liquidation of banking, insurance, and other financial institutions under the control of the Office of Alien Property. In the absence of the Deputy Director, the Chief, Legal Branch, is the Acting Deputy Director.

(7) *Administrative Branch.* The Chief, Administrative Branch, has responsibility for personnel matters within the Office of Alien Property, procurement, mail, files, records, and all other administrative services.

(8) *Overseas Branch.* The Chief, Overseas Branch, has responsibility for the European operations of the Office.

(9) *Comptroller's Branch.* The Chief, Comptroller's Branch, is responsible for the maintenance of all accounting records pertaining to vested property and administrative expenses, the preparation of financial reports, and the review of financial data on vested and supervised business enterprises. He supervises the functions of the Disbursing Officer, who deposits for collection with the Treasurer of the United States currency, checks, and drafts paid to or received by the Office of Alien Property in the New York Office, transfers the proceeds to the Treasurer of the United States for the account of the Attorney General, and makes disbursements by the issuance of checks in payment of all expenses of and claims against the Office of Alien Property.

(10) *Claims Branch.* The Chief, Claims Branch, administers an integrated claims program including the processing of all claims for the return of property pursuant to section 32, and all debt claims pursuant to section 34 of the Trading with the Enemy Act, as well as related fee matters under section 20.

(11) *Hearing Examiners Branch.* The Hearing Examiners Branch is composed of a Chief Hearing Examiner in charge of title claims, a Chief Hearing Examiner in charge of debt claims and other Hearing Examiners. Subject to review by the Director, the Hearing Examiners hear and determine contested claims and claims in which a hearing is deemed necessary by the Director or the Chief, Claims Branch, arising under sections 20, 32 and 34 of the Trading with the Enemy Act, and other matters assigned by the Director.

(12) *Office of Manager, New York.* Coordinates activities of all branches in New York, and handles personnel and service functions in that Office.

(13) *Office of Manager, San Francisco.* Coordinates activities of all branches in San Francisco, and handles personnel and service functions in that Office.

(14) *Office of Manager, Hawaii.* Is responsible for administration of all functions in the Office of Alien Property in the Hawaiian Islands.

(c) *Location of offices.* The Office of Alien Property maintains offices in the following locations:

(1) Washington 25, D. C., Federal Home Loan Bank Board Building, 101 Indiana Avenue NW.

(2) New York 5, N. Y., 120 Broadway.

(3) San Francisco 3, Calif., 208 Federal Office Building, Fulton and Leavenworth Streets.

(4) Honolulu, T. H., Yokohama Specie Bank Building.

(5) Overseas Branch, Munich, Germany.

(d) *Requests and inquiries.* Requests and inquiries may be addressed to the Office of Alien Property, Department of Justice, Washington 25, D. C. Correspondence from the Office includes reference symbols, use of which expedites the handling of reply. Persons, who are located near the New York, San Francisco or Honolulu offices may address the manager of the field office most convenient to them. Requests and inquiries regarding controls with respect to property, over which jurisdiction has been transferred by Executive Order No. 9989, and with respect to transactions relating to such property, may be addressed to Foreign Funds Control Department, Federal Reserve Bank of New York, 33 Liberty Street, New York 45, New York.

2. *Sales program.* Vested properties are offered for sale by the Office of Alien Property at various times and places. Notice of sale is given by publication in newspapers and appropriate trade journals, and, by mail, to persons who may be placed upon request on a mailing list, maintained by the Comptroller's Branch, 120 Broadway, New York 5, N. Y. Information concerning the program is available upon request to the Office of Alien Property, Department of Justice, Washington 25, D. C.

3. *Patent, trade-mark, and copyright programs.* Vested interests in patents, trade-marks, and copyrights have been made available for use by the American public. General information concerning the programs is available upon request to the Patent Section, Office of Alien Property, Department of Justice, Washington 25, D. C.

4. *Delegation to office of alien property.* (a) Authority was delegated to the Alien Property Custodian by the following Executive Orders of the President:

(1) Executive Order 9095 of March 11, 1942 (7 F. R. 1971), as amended by Executive Order 9193 of July 6, 1942 (7 F. R. 5205) and Executive Order 9567 of June 8, 1945 (10 F. R. 6917) and modified by Executive Order 9760 of July 23, 1946 (11 F. R. 7999).

(2) Executive Order 9142 of April 21, 1942 (7 F. R. 2985).

(3) Executive Order 9325 of April 7, 1943 (8 F. R. 4682).

(4) Executive Order 9725 of May 16, 1946 (11 F. R. 5381).

(5) Executive Order 9747 of July 3, 1946 (11 F. R. 7518).

(b) The Office of Alien Property Custodian was terminated and the authority of the Alien Property Custodian and the Office of Alien Property Custodian was transferred to the Attorney General by Executive Order 9788 of October 14, 1946 (11 F. R. 11981).

(c) Reference is made to Executive Order No. 8389 of April 10, 1940 (5 F. R. 1400), as amended by Executive Order No. 8785 of June 14, 1941 (6 F. R. 2897), Executive Order No. 8832 of July 26, 1941 (6 F. R. 3715), Executive Order No. 8963 of December 9, 1941 (6 F. R. 6348), and Executive Order No. 8998 of December 26, 1941 (6 F. R. 6785), blocking certain property.

(d) Jurisdiction with regard to certain blocked assets was transferred to the Attorney General by Executive Order No. 9989 of August 20, 1948 (13 F. R. 4891).

(e) Reference is made to Title 28, § 51.81, as amended, 13 F. R. 5660, providing for the establishment of the Office of Alien Property in the Department of Justice. David L. Bazelon, Assistant Attorney General, has been designated as Director.

(f) Reference is made to Executive Order No. 9818 of January 7, 1947 (12 F. R. 133), establishing the Philippine Alien Property Administration and defining its functions.

5. *Delegation of authority to Deputy Director.* (a) The Deputy Director may exercise any of the authority, rights, privileges, powers, duties and functions of the Director, Office of Alien Property, in the absence of the Director or in the event of his inability to act, or at any other time, to the extent that such an authority may be lawfully delegated by the Director.

(b) The Deputy Director will act for and on behalf of the Attorney General and will sign in the following form:

For the Attorney General:

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(Signature)
(Name)
*Deputy Director.*
*Office of Alien Property.*

6. *Delegation to Chief, Estates and Trusts Branch.* The Chief, Estates and Trusts Branch, is authorized to take such action as he deems necessary in the administration of paragraphs 2 (f) and 5 of Executive Order 9095, as amended, and any orders issued pursuant thereto.

7. *Delegation of Chief, Operations Branch, and others.* (a) The Chief, Operations Branch, the Chief, Estates and Trusts Branch, the Manager, New York Office, and the Chief, Collection and Custody Section, are severally authorized:

(1) To issue any demand, direction, or instruction directed to any person, firm or corporation, or take any other action necessary in order to effectuate any vesting order;

(2) To take custody of and to receipt for any property or interest therein, or to accept payment, conveyance, transfer, assignment or delivery made to or for the account of the Attorney General pursuant to the Trading with the Enemy Act, as amended;

(3) To direct the execution of transfers of vested property.

(b) The Disbursing Officer is authorized to collect moneys for the Office of Alien Property, to transfer the proceeds to the Secretary of the Treasury for the account of the Attorney General, and to make disbursements by the issuance of checks in payment for all necessary and proper expenses of the Office of Alien Property.

8. *Delegation to Chief, Operations Branch, and others, concerning sale of property.* The Chief, Operations Branch, the Manager, New York Office, the Manager, Hawaii Office, the Chief, Business Management Section, and the Chief, Real Estate and Liquidation Section, are severally authorized to exercise the powers including the power of designation, conferred upon officials of the Office of Alien Property by sections 501.25 and 501.26 (General Order No. 26) of the Regulations of the Office of Alien Property.

9. *Delegation to hearing examiners.* The hearing examiners are hereby delegated authority to exercise the powers conferred upon hearing examiners by Part 502 of the Regulations of the Office of Alien Property.

10. *Appointment of agents and delegates and Delegation to Chief, Operations Branch, and others, concerning transactions.* The Chief, Operations Branch, the Chief, Estates and Trusts Branch, the Chief, Legal Branch, the Manager, New York Office, the Manager, Hawaii Office, the Chief, Business Management Section, the Chief, Real Estate and Liquidation Section, and the Chief, Patent Section, are hereby appointed and delegated severally to make and to revoke for and on behalf of the Attorney General authorizations of transactions with respect to any property or business enterprise subject to the authority and power conferred upon the Attorney General; and with respect to any such specific property or business enterprise subject to such authority and power, to appoint and designate supervisors for such specific property or business enterprise who shall have authority to make and to revoke on behalf of the Attorney General authorizations of transactions.

11. *Delegation to Chief, Foreign Funds Section, and others concerning blocked assets.* The Chief, Foreign Funds Section, the Assistant Chief, Foreign Funds Section, and the Federal Reserve Bank of New York are severally authorized to take action with respect to specific licensing matters, by granting or denying applications for specific licenses, and by amending, modifying, renewing, or revoking existing specific licenses, with respect to property over which jurisdiction has been transferred by Executive Order No. 9989.

12. *Delegation of authority to certify documents.* The Secretary and the Assistant Secretary for Records, severally are authorized to exercise the power vested in the Director to authenticate, certify and attest copies of any books, records, papers or other documents in the official custody of the Office of Alien Property and to subscribe the Director's name to such certificates in his behalf.

13. *Delegation of authority to make records available.* Unless otherwise instructed by the Director, each Branch Chief of the Office of Alien Property, and the Manager, New York Office, in the conduct of affairs of his Branch or Office, is authorized to make available or disclose official files, documents, records and information to applicants in accordance with Part 503 of the Regulations of the Office of Alien Property.

14. *Delegation to Chief, Operations Branch, and Chief, Patent Section.* (a) Subject to the provisions of subparagraph (b) of this paragraph, the Chief, Operations Branch, and the Chief, Patent Section, are severally authorized:

(1) To execute licenses under patents, applications for patents, copyrights, and interests therein, and, where appropriate, to fix royalty schedules pertaining thereto (Forms APC 30, 64, 65, 25 and 26);

(2) To approve requests for loans of motion picture films, and enter into agreements concerning the use thereof (Forms APC 53 and 53–A);

(3) To make demand for, and accept payment of, royalties and other moneys due to the Attorney General under patents, applications for patents, copyrights, trade-marks, films, licenses, and interests therein;

(4) To execute powers of attorney and sign all papers necessary for the proper conduct of business of the Office of Alien Property before the United States Patent Office.

(b) The authority delegated in subparagraph (a) (1) and (2) of this paragraph shall be exercised by means of the standard approved forms therein indicated, subject to the terms and conditions of such forms, except that additions may be made consisting only of a more detailed description of the right granted and its field of use (including limitations thereon), so long as such additions do not enlarge the grant, or otherwise affect the full operation of any of the regular provisions of said approved forms.

(c) Whenever the terms of a court decree, or an agreement entered into by the Attorney General, the Director, Office of Alien Property, or the Alien Property Custodian have fixed the terms and conditions upon which particular licenses shall thereafter be issued, the Chief, Operations Branch, and the Chief, Patent Section, are severally authorized to execute licenses which contain or incorporate, in addition to a part or all of the terms of the standard license forms referred to in subparagraph (a) (1) of this paragraph, and the additions permitted by subparagraph (b) of this paragraph, only such terms and conditions as are fixed by said court decree or agreement.

15. *Delegation to Manager, New York Office.* The Manager, New York Office, is authorized to make demand for, and accept payment of, royalties and other moneys due to the Attorney General under patents, applications for patents, trade-marks, licenses, and interests therein.

16. *Ratification of delegations and appointments.* (a) (1) The appointment and designation of all employees, appointees, delegates, designees, agents, supervisors, proxies, attorneys, representatives and other personnel heretofore appointed on behalf of the Alien Property Custodian or in the Office of Alien Property Custodian, together with all powers, authority, functions and duties conferred, granted or delegated by virtue of any Certificate of Appointment, General Order, proxy, letter or other instrument of appointment or delegation by or under the authority of Leo T. Crowley as Alien Property Custodian, and

(2) All Certificates of Appointment, General Orders, Special Orders, orders, regulations, licenses, instructions, directions, delegations, designations, authorizations, and forms executed, issued or promulgated by or under the authority of Leo T. Crowley as Alien Property Custodian, are, except as hereinafter indicated, hereby affirmed, ratified and continued in effect according to their terms until revoked, superseded or terminated by, or by authority of, the Attorney General.

(b) Any instrument which could lawfully be issued by or under the authority of the Alien Property Custodian shall not be deemed invalid for the reason that it contains the printed, or otherwise stamped or affixed, name "Leo T. Crowley" instead of the name "James E. Markham" but shall be construed as though it contained the name "James E. Markham" in place of the name "Leo T. Crowley" unless the context otherwise requires.

(c) The Certificates of Appointment granted to James E. Markham as Deputy Alien Property Custodian dated March 19, 1942 (7 F. R. 2363) and October 30, 1942 (7 F. R. 8911), having no further utility, are hereby terminated and revoked, but without impairment of any action heretofore taken thereunder or by virtue thereof.

17. *Ratification and construction of delegations, appointments, and orders issued by the Alien Property Custodian.*

(a) The appointment and designation of all employees, appointees, delegates, designees, agents, disbursing officers, supervisors, proxies, attorneys, representatives and other personnel heretofore appointed on behalf of the Alien Property Custodian or in the Office of Alien Property Custodian, or pursuant to § 5 of Executive Order No. 9095, as amended, together with all powers, authority, functions, and duties conferred, granted or delegated by virtue of any Special Regulation, Certificate of Appointment, General Order, proxy, letter or other instrument of appointment or delegation by or under the authority of the Alien Property Custodian, including those affirmed, ratified and continued in effect according to their terms by Special Regulation No. 1 executed by James E. Markham, Alien Property Custodian, on March 27, 1944 (9 F. R. 3479), are hereby affirmed, ratified and continued in effect according to their terms, as appointments on behalf of the Attorney General or in the Office of Alien Property, or pursuant to § 5 of Executive Order No. 9095, as amended, as the case may be, until revoked, superseded or terminated by, or by authority of, the Attorney General, or the Director, Office of Alien Property.

(b) All Special Regulations, Certificates of Appointment, Vesting Orders, Supervisory Orders, General Orders, Special Orders, Subordination Orders, Dissolution Orders, orders, regulations, Rules of Procedure, Substantive Rules, licenses, instructions, directions, delegations, designations, demands, authorizations, notices and forms and all other instruments whatsoever, issued by or under the authority of the Alien Property Custodian are hereby affirmed, ratified and continued in effect according to their terms until revoked, superseded or terminated by, or by authority of, the Attorney General, or the Director, Office of Alien Property. In any such instrument any provision having a prospective effect shall be construed as if any reference therein to the Alien Property Custodian were a reference to the Attorney General and any reference therein to the Office of Alien Property Custodian were a reference to the Office of Alien Property, unless the context otherwise requires.

(c) Any instrument which might lawfully be issued by, or under the authority of, the Attorney General shall not be invalid for the reason that it contains the designation "Alien Property Custodian" or "Office of Alien Property Custodian" or the name "Leo T. Crowley" or "James E. Markham" but shall be construed as though it contained the designation of the Attorney General or of the Office of Alien Property, as the case may be, unless the context otherwise requires.

(d) The Certificate of Appointment granted to Francis J. McNamara as Deputy Alien Property Custodian, dated March 28, 1944 (9 F. R. 3522), having no further utility, is hereby terminated and revoked, without impairment, however, of any action heretofore taken thereunder or by virtue thereof.

Executed at Washington, D. C., this 29th day of December 1948.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
*Deputy Director,*
*Office of Alien Property.*

[F. R. Doc. 48-11542; Filed, Dec. 30, 1948; 10:47 a. m.]