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TITLE 7—AGRICULTURE

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

Subchapter G—Determination of Proportionate Shares

[Sugar Det. 855.2]

PART 855—MAINLAND CANE SUGAR AREA

PROPORTIONATE SHARES FOR SUGARCANE FARMS FOR 1955 CROP

Pursuant to the provisions of section 302 of the Sugar Act of 1948, as amended (herein referred to as "act"), the following determination is hereby issued:

§ 855.2 *Proportionate shares for sugarcane farms in the Mainland Cane Sugar Area for the 1955 crop*—(a) *Farm proportionate share.* A 1955 crop proportionate share for each sugarcane farm in the Mainland Cane Sugar Area shall be established in terms of acres (acreage or acres as used herein means the area of sugarcane grown for the production of sugar or liquid sugar and for seed, and the area of sugarcane abandoned and classified as bona fide abandonment under procedure issued by the Commodity Stabilization Service), as follows:

(1) *Farms with bases.* The proportionate share for any farm for which a farm base is established under subparagraph (4) of this paragraph shall be the largest of (i) 10 acres; (ii) the 1953 acreage, but not in excess of 25.0 acres; (iii) the base, but not in excess of 25.0 acres; (iv) 73.0 percent of the 1953 acreage; and (v) 82.0 percent of such base.

(2) *Farms having production in 1954-crop year only.* The proportionate share for any farm on which there was 1954-crop acreage but no acreage during the base period shall be the smaller of such 1954-crop acreage and 10 acres, but not less than 5.0 acres.

(3) *New farms.* The proportionate share for any farm without a farm base and on which there was no acreage during the 1954-crop year, shall be 5.0 acres.

(4) *Farm bases.* A base shall be established for each farm on which there was acreage in any of the crop years 1949 through 1953 (herein referred to as "base period") by adding (i) 50 percent of the largest acreage on the farm in any one of the crop years within the base period, and (ii) 12.5 percent of the total acreage on the farm for the other four years within the base period.

(5) *Delegation.* Farm bases and farm proportionate shares shall be established by the county Agricultural Stabilization and Conservation Committees, in accordance with this determination and instructions issued by the Deputy Administrator for Production Adjustment, Commodity Stabilization Service.

(6) Appeals. A producer of sugarcane who believes that the proportionate share established for his farm pursuant to this determination is inequitable may file an appeal in writing at the local county office not later than July 1, 1955. The county committee shall make such adjustments as are necessary due to the use of any incorrect data in determining the proportionate share. In other cases, the county committee shall, after review of all of the facts, forward the case, together with its recommendation to the State Agricultural Stabilization and Conservation Committee. The State committee shall consider the appeal and the county committee's recommendation in light of the interest of the appellant as related to the interest of all other producers of sugarcane in the State and shall return the case to the county committee, indicating the appropriate disposition. Upon receipt thereof, the county committee shall notify the producer in writing as soon as possible regarding the decision on his appeal. If the producer is dissatisfied with the decision, he may appeal in writing before September 1, 1955, to the Director of the Sugar Division, Commodity Stabilization Service, U. S. Department of Agriculture, Washington 25, D. C., whose decision shall be final.

(b) *Share tenant and share cropper protection.* In addition to compliance with the proportionate share for the farm in accordance with this determination, eligibility for payment of any producer of sugarcane shall be subject to the following conditions:

(1) That the number of share tenants or share croppers engaged in the production of sugarcane of the 1955 crop on the farm shall not be reduced below the number so engaged with respect to the previous crop, unless such reduction is approved by the State Committee of the Commodity Stabilization Service; and

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(2) That such producer shall not have entered into any leasing or cropping agreement for the purpose of diverting to himself or any other producer any payments to which share tenants or share croppers would be entitled if their leasing or cropping agreements for the previous crop were in effect.

STATEMENT OF BASES AND CONSIDERATIONS

Sugar Act requirements. Section 301 (b) of the act provides as a condition for payment to producers that there shall not have been marketed (or processed) an amount (in terms of planted acreage, weight or recoverable sugar content) of sugarcane grown on the farm and used for the production of sugar or liquid sugar in excess of the proportionate share for the farm as determined by the Secretary pursuant to section 302 of the act. For the mainland cane sugar area, the term "proportionate share" means the individual farm's share of the total acreage of sugarcane required to enable the area to meet the quota (and provide a normal carryover inventory) as estimated by the Secretary, for the calendar year during which the larger part of the sugar from such crop normally would be marketed.

Section 302 (a) of the act provides that the amount of sugar with respect to which payment may be made shall be the amount of sugar commercially recoverable from the sugarcane grown on the farm and marketed (or processed by the producer) not in excess of the proportionate share for the farm.

Section 302 (b) provides that in determining the proportionate share for a farm, the Secretary may take into consideration the past production on the farm of sugarcane marketed (or processed) for the extraction of sugar or liquid sugar and the ability to produce such sugarcane, and that the Secretary shall, insofar as practicable, protect the interests of new producers and small producers, and the interests of producers who are cash tenants, share tenants or share croppers.

General. Pursuant to the foregoing provisions of the act, proportionate shares for sugarcane farms must be established for each crop since the marketing of sugarcane within such shares by producers constitutes one of the conditions for payment. Restrictive proportionate shares are required in any area when the indicated production will be greater than the quantities needed to fill the quota and provide a normal carryover inventory for such area.

The average yield of sugar per acre in the mainland cane area has increased considerably during recent years with a resultant increase in the effective inventory of sugar (i. e., sugar on hand at the beginning of a calendar year, plus sugar made after January 1 from the sugarcane crop of the previous year's designation). To provide each processor of mainland sugarcane an equitable opportunity to market sugar within the quota, the Department imposed marketing allotments for each of the 1953 and 1954 calendar years. Individual farm proportionate shares were established for the 1954 crop to keep sugar production more in line with marketing quotas and to restrict the accumulation of excessive stocks.

Situation indicated for 1955. At the time the 1954-crop proportionate shares determination was prepared in early August 1953, the Agricultural Marketing Service, U. S. Department of Agriculture, estimated that 1953-crop production would be 542,000 tons. However, the outturn actually amounted to about 631,000 tons. Therefore, the effective inventory on January 1, 1954, was approximately 290,000 tons, or about 90,000 tons higher than a year earlier.

The July 1954 estimate of the Agricultural Marketing Service indicates a 1954 crop in the mainland cane area of 540,000 tons. A crop of this size, together with the effective inventory on January 1, 1954, of 290,000 tons and marketings within the quota of 500,000 tons would result in an effective inventory of 330,000 tons on January 1, 1955. This would exceed the average for the six-year period, 1948 through 1953, by approximately 163,000 tons. Under these conditions, restrictions are required on the 1955 crop to prevent the accumulation of stocks greater than those needed to fill the quota and provide for a normal carryover inventory.

1955 crop production. In determining the level of 1955 sugarcane acreage, the basic problem is to arrive at a quantity which will meet the requirements of the act and at the same time prevent the accumulation of excessive stocks. Consideration must be given to the factors which affect production and the quantities which may be marketed against the mainland quota. Among those factors are the possibilities of damage from freeze and other causes, variations in yields of sugar per acre, and the quantity of sugar to be carried over to meet requirements in the next marketing year.

Considering the foregoing factors, this determination is designed to result in a 1955 crop approximately equal to the quota of 500,000 tons of sugar. It is estimated that 294,000 acres will produce this quantity of sugar. This production should enable the area to meet its quota and provide a carryover inventory which can be considered normal under present conditions.

Public hearing. An informal hearing was held in New Orleans on July 8, 1954, for the purpose of receiving information and recommendations for establishing farm proportionate shares for the 1955 crop. To provide a basis for discussion at the hearing, the Department issued a press release on June 9, 1954, suggesting that the provisions of the 1955-crop determination be similar to those issued for the 1954 crop, but adjusted for current conditions. This hearing was attended by approximately 70 persons from Louisiana and Florida. Testimony was presented by three persons, with one individual appearing on behalf of growers producing a large percentage of the sugarcane in the area. In addition, one brief was filed. Although there was general concurrence with the Department's proposal, there were several recommended changes, relating to small and new farms and the level of 1955 proportionate shares for farms which did not fill their 1954 proportionate shares. Other recommendations included (a) a 1955-acreage objective equal to the 1953 acreage, provided the Department anticipates that the Congress will increase the quota for the Mainland Cane Sugar Area effective with 1955, or lacking such anticipation, a 1955 crop of about present quota size; (b) utilization of sugar in the area in excess of quota and carryover requirements under foreign aid programs of the United States Government; and (c) a liberal allowance for possible freeze or other crop damage in determining carryover requirements.

Determination. In developing this determination consideration has been given to the testimony presented at the hearing within the limitations of the act, to the statistical situation and to experience under the current year's program. This determination repeats in large part the provisions issued for the 1954 crop. Farm bases will be established as provided in the 1954-crop determination, using the same crop years (1949 through 1953) and weightings of the standards of " past production" and "ability to produce."

The adjustment factor of 0.82, which will be applied to farm bases generally, was obtained by subtracting the estimated 1955 acreage resulting from the provisions relating to small farms, new farms, appeals and minimum shares from the estimated total acreage required to produce a crop approximating the quota (500,000 tons) and dividing the result by the total of the bases of the farms subject to such factor. This factor compares with 0.90 applicable to the 1954 crop. The percentage of 73 to be applied to the 1953 acreage for those who find this more favorable compares with 80 percent provided in the 1954 determination.

The proportionate share for any farm on which there was an acreage during the 1954 crop year but no acreage during the base period will be the smaller

of the 1954 acreage on such farm and 10 acres but not less than 5 acres. The proportionate share for any farm without a farm base and on which there was no acreage during the 1954 crop year (new farm) will be five acres. Although the Department's proposal at the hearing suggested 10 acres as a minimum share for small farms and new farms, as was the case the year before, the weight of testimony at the hearing favored the adoption of a 5-acre minimum and this recommendation has been adopted. While part of the determination has been rewritten for purposes of simplicity, the results are similar except for the above-mentioned changes.

Careful consideration has been given to the proposal at the hearing relating to limiting the 1955 proportionate share for any farm on which the planted acreage in 1954 was less than 90 percent of the farm's 1954 proportionate share to a stated percentage of the 1954 acreage. Although this proposal has considerable merit, it has not been adopted because of the belief that one year is not a sufficient period to enable all growers to adjust their operations to conditions of a restricted program.

Provision has been made for the consideration by local county and State committees of appeals for adjustment in proportionate shares. Authority to decide appeals except those resulting from the use of inaccurate data has been vested in the State Committee in order to insure uniformity of treatment within the numerous producing counties in the area.

Provision has also been made for share tenant and share cropper protection in accordance with the act.

Because of differences in farming operations, including crop rotation and other practices, no restrictive program which is based primarily upon production records will be completely satisfactory in its application to all farms. However, it is believed that this determination, with its various special provisions, provides an equitable basis for establishing proportionate shares.

Accordingly, I hereby find and conclude that the foregoing determination will effectuate the applicable provisions of the act.

(Sec. 403, 61 Stat. 932; 7 U. S. C. 1153. Interprets or applies sec. 302, 61 Stat. 930; 7 U. S. C. 1132)

Issued this 26th day of August 1954.

[SEAL] J. EARL COKE,
Acting Secretary.

[F. R. Doc. 54-6811; Filed, Aug. 30, 1954; 8:46 a. m.]

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

PART 927—MILK IN THE NEW YORK METROPOLITAN MARKETING AREA

SUBPART—CLASSIFICATION AND ACCOUNTING RULES AND REGULATIONS

APPROVAL OF TEMPORARY AMENDMENT AS EMERGENCY MEASURE

Pursuant to provisions of § 927.36 of the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area (7 CFR 927.1 et seq.), it is hereby determined that an emergency exists which requires the immediate adoption of the temporary amendment issued by the Acting Market Administrator, New York metropolitan milk marketing area, on August 23, 1954 amending rules and regulations (7 CFR 927.100 et seq.), heretofore issued by him pursuant to said order. Said temporary amendment, set forth below and made a part hereof, is hereby approved to become effective September 1, 1954.

It is necessary that the said temporary amendment to the rules and regulations issued by the Market Administrator be made effective on September 1, 1954, in order to effectuate the terms and provisions of the said order as amended effective September 1, 1954, and to avoid the existence of rules and regulations inconsistent with provisions of the order, as so amended. The changes effected by this amendment do not require substantial or extensive preparation by handlers prior to the effective date. Accordingly, notice of proposed rule making, public procedure thereon, and publication hereof 30 days prior to the effective date specified herein are found to be impracticable, unnecessary, and contrary to the public interest.

Copies of the temporary amendment to the rules and regulations may be procured from the Market Administrator, 205 East 42d Street, New York 17, New York.

Done at Washington, D. C., this 26th day of August 1954.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

The rules and regulations (7 CFR 927.100 et seq.) relating to the accounting procedure for the classification of milk heretofore issued pursuant to the provisions of § 927.36 of the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area (7 CFR 927.1 et seq.) are hereby further amended temporarily as follows:

1. Amend § 927.105 by changing the words "no more than 15 percent" to "but less than 10 percent."

2. Add new section as follows:

§ 927.129 *Half and half.* "Half and *half*" means the product composed of skim milk and of not less than 10 percent nor more than 15 percent butterfat to which may or may not have been added ingredients other than those derived from milk, such ingredients not to exceed 4.0 percent. This definition shall not be deemed to include products that are included in other definitions.

3. Amend § 927.144 by inserting the term "half and half" in the first sentence between the words "milk" and "cultured or flavored milk drinks."

4. Amend § 927.146 by inserting the term "half and half" in the first sentence between the words "milk" and "cultured or flavored milk drinks."

5. Amend § 927.147 by changing the words "packaged cream or sour cream" to "packaged cream, sour cream or half and half."

6. Amend § 927.148 by adding the following sentence: "Deduct butterfat received in the form of packaged half and half pro rata from butterfat leaving the plant or in the closing inventories at the plant in the form of packaged half and half."

7. Amend § 927.154 by adding a new paragraph as follows:

(h) Packaged half and half, 1.5 percent;

8. Amend § 927.169 by adding the following sentences: "Deduct the opening inventories of butterfat in half and half from butterfat leaving the plant or in the closing inventories at the plant in accordance with § 927.220. Deduct butterfat received in the form of half and half pro rata from butterfat leaving the plant or in the closing inventories at the plant in the form of half and half."

9. Amend § 927.170 by inserting the term "half and half" in the first sentence between the words "cream" and "sour cream".

10. Amend § 927.171 by adding the words "or half and half" after the word "cream" in both sentences.

11. Amend § 927.176 by adding a new paragraph as follows:

(r) Half and half, 2.5 percent;

12. Amend § 927.182 by inserting the term "half and half" in the first sentence between the words "milk" and "concentrated fluid milk."

13. Amend § 927.200 (c) by changing the section references from § 927.201 (b) and § 927.202 (c)" to "§§ 927.201 (b), 927.202 (c) and 927.204 (b)."

14. Amend § 927.201 (c) by changing the section references from "§ 927.200 (b) and § 927.202 (c)" to "§§ 927.200 (b), 927.202 (c) and 927.204 (b)."

15. Amend § 927.202 (d) by changing the section references from "§ 927.200 (b) and § 927.201 (b)" to "§§ 927.200 (b), 927.201 (b) and 927.204 (b)."

16. Add a new section as follows:

§ 927.204 *Half and half assignment.* (a) Tabulate the classes of all butterfat received in the form of half and half (total of the butterfat deducted from the several classes pursuant to §§ 927.148, 927.169 and 927.171, as such deductions are modified by any interchanges made pursuant to § 927.182).

(b) Butterfat received in the form of nonpooled half and half shall be assigned as far as possible to Class III, which has been tabulated pursuant to paragraph (a) of this section. Any remaining nonpooled butterfat shall be assigned to Class II.

(c) Classes of butterfat remaining after the assignments pursuant to paragraph (b) of this section may be interchanged with classes of butterfat remaining after the assignments pursuant to §§ 927.200 (b), 927.201 (b) and 927.202 (c) to half and half.

(d) After the assignments pursuant to paragraphs (b) and (c) of this section, at the option of the handler or handlers involved, butterfat in pooled half and half from other plants may be assigned to any of the remaining classes of butterfat received in the form of half and half.

17. Amend § 927.220 by inserting the term "half and half" immediately after the words "inventories of milk" in the first sentence.

18. Amend § 927.230 by adding the following at the end of the table contained therein: "Half and half" in the column headed *Product*, and the numeral "10" in the column headed *Test in Percent*.

19. Amend the table contained in § 927.231 as follows:

A. Delete those products listed prior to "Cream (16% bf)", their stated units and their stated net weights.

B. Add the following at the end of the table:

a. "Half and half" in the column headed *Product*.

b. "40 quarts or 40 quart can" in the column headed *Unit*.

c. "85.47" in the column headed *Net Weight lbs.*

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

Issued this 23d day of August 1954 to be effective, upon prior approval by the Secretary of Agriculture, on September 1, 1954.

[SEAL] A. J. POLLARD,
Acting Market Administrator.

[F. R. Doc. 54-6850; Filed, Aug. 30, 1954; 8:53 a. m.]

PART 941—MILK IN THE CHICAGO, ILLINOIS, MARKETING AREA

ORDER AMENDING ORDER, AS AMENDED

§ 941.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and 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 provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR Part 900), 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 Chicago, Illinois, marketing area. 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 parity prices of milk produced for sale in said marketing area as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for 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 a hearing has been held.

(b) *Additional findings.* It is hereby found and determined that good cause exists for making this order amending the order, as amended, effective on September 1, 1954. This action is necessary in the public interest in order to reflect the current marketing conditions and to facilitate the orderly marketing of milk produced for the Chicago, Illinois, marketing area. Accordingly, any delay beyond the aforesaid date in the effective date of this order amending the order, as amended, will tend to impair the orderly marketing of milk for the Chicago, Illinois, marketing area. The provisions of the said amendatory order are well known to handlers, the public hearing having been held on June 1–4, 7–11, and 14–15, 1954, the recommended decision having been issued on July 28, 1954, and the final decision having been issued on August 16, 1954. Therefore, reasonable time under the circumstances has been afforded persons affected to prepare for its effective date. The changes effected by this amendatory order will not require of persons affected extensive preparation or substantial alteration in methods of operation prior to the effective date. In view of the foregoing it is hereby found that good cause exists for making this order amending the order, as amended, effective September 1, 1954 (see sec. 4 (c), Administrative Procedure Act, 5 U. S. C. 1003 (c)).

(c) *Determination.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping milk covered by this order amending the order, as amended, which is marketed within the Chicago, Illinois, 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 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 amending the 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) A referendum was conducted among producers who during the determined representative period (April 1954) were engaged in the production of milk for sale in the said marketing area to determine whether they approved or favored issuance of this order amending the order. Less than two-thirds of the producers participating in the referendum favored issuance of this amending order.

Subsequent to the referendum, additional producers have expressed approval of issuance of the amending order, and it is hereby determined that the issuance of this order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period (April 1954) were engaged in the production of milk for sale in the said marketing area.

In view of such determination, the "Notice of Intention to Suspend or Terminate the Order," signed by the Secretary, dated August 25, 1954, is hereby withdrawn and revoked.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Chicago, Illinois, 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. Insert as § 941.18 the following:

§ 941.18 *Base, base milk, and excess milk*—(a) *Base.* "Base" means a quantity of milk expressed in pounds per day computed pursuant to § 941.69.

(b) *Base milk.* "Base milk" means a quantity of producer milk received by a handler during each of the months of March, April, May and June which is not in excess of such producer's base multiplied by the number of days such milk was produced.

(c) *Excess milk.* "Excess milk" means producer milk received by a handler during each of the months of March, April, May and June which is in excess of the base milk received from such producer.

2. In § 941.30 (a) add subparagraph (3) as follows:

(3) For the delivery periods of March through June, the total amount of base milk and the total amount of excess milk received from producers.

3. In § 941.30 (b) (1) add the following words: "and for the delivery periods of September through November, and March through June, the number of days on which milk was received."

4. In the proviso of § 941.52 (a) (1) delete the word "August" and substitute the word "November."

5. Delete § 941.52 (b) (1) and substitute therefor the following:

(1) The price for Grade A Class II milk, except as set forth in subparagraph (3) of this paragraph, shall be the basic formula price plus the following amount for the delivery periods indicated: May and June $0.40; July, August, September, October and November $0.70; all others

$0.50: *Provided*, That for the delivery periods of September, October, and November 1954, $0.50 shall be used in lieu of $0.70 as indicated above: *And provided further*, That such Class II price differential shall be adjusted by the amount of any adjustment made in the Class I price differential for the same delivery period pursuant to the proviso of paragraph (a) (1) of this section.

6. Insert as § 941.69 the following:

§ 941.69 *Computation of base and base rules.* (a) Subject to the conditions set forth in paragraph (b) of this section, the market administrator shall compute for each of the months of March, April, May and June, a base for each producer, as follows:

(1) Divide the total pounds of milk received by a handler from each producer during the months of September, October and November immediately preceding by the number of days such milk was produced (not to be less than 60 days): *Provided*, That any producer for whom a base has been computed may upon written notice to the market administrator postmarked not later than December 31 relinquish his base and be allotted a base computed pursuant to subparagraph (2) of this paragraph.

(2) Any producer who has not established a base or who elects to relinquish his base pursuant to the provisions of subparagraph (1) of this paragraph shall be assigned a base for each of the months of March, April, May and June computed as follows:

(i) From the total quantity of producer milk received by handlers during the same month of the previous year, subtract the total receipts from producers who did not establish bases or who had relinquished their bases,

(ii) Determine the percentage that base milk was of the remaining pounds, and subtract 10, except that for the months of March, April, May and June 1955 the percentages computed pursuant to this subparagraph shall be as follows:

Month:	Percentage
March 1955	65
April 1955	60
May 1955	55
June 1955	55

(iii) Multiply the resulting percentage by the total pounds of milk received by a handler from the producer during the applicable month and divide the result by the number of days such milk was produced.

(b) Any base computed pursuant to paragraph (a) (1) of this section shall be subject to following rules:

(1) A base shall be held in the name of the producer and may be transferred only at his option.

(2) The milk to which the transferred base shall apply must be produced on the same farm from which such base was earned, and the transferor must notify the market administrator in writing on or before the last day of the month that such base is to be transferred indicating the name of the transferee, the amount of base transferred, and the effective date of the transfer; and in the event of a producer's death his base may be so transferred upon written notice to the market administrator from any member of the producer's immediate family.

(3) If a producer operates more than one farm he must establish a base with respect to the milk from each farm, and in the event such producer chooses to relinquish the base earned for one farm he must do so for all farms.

(4) On or before March 1 each year, the market administrator shall notify producers of their bases, and shall notify each handler of the base of each of the producers delivering to the handler's plant(s).

7. In § 941.71 delete paragraphs (d) and (e) and insert the following paragraphs (d) through (g):

(d) For each of the months of March, April, May and June, add an amount computed by multiplying the total pounds of excess milk as reported by handlers pursuant to § 941.30 (a) (3), by 40 cents per hundredweight; and

(e) Divide the result by the total hundredweight of producer milk of all handlers whose net pool obligations are included pursuant to paragraph (a) of this section; and

(f) Subtract not less than 4 cents nor more than 5 cents as a producer-settlement fund reserve. The result shall be the uniform price per hundredweight (for the grade of milk involved) of milk containing 3.5 percent of butterfat received from producers at pool plants located more than 55 miles but not more than 70 miles from the City Hall in Chicago, Illinois, except that for the months of March, April, May and June the price resulting from the computations made pursuant to this section shall be the uniform price for base milk.

(g) For each of the months of March, April, May and June the uniform price for excess milk shall be the uniform price for base milk less 40 cents per hundredweight.

8. Amend § 941.80 (b) by deleting the words "each delivery period" and inserting instead the words "the delivery periods of July through February."

9. In § 941.80 add paragraph (c) as follows:

(c) On or before the 18th day after the end of each of the delivery periods March through June each handler shall pay to each producer per hundredweight of base milk received from him during such delivery period not less than the uniform price for base milk, and for excess milk received from him the handler shall pay not less than the uniform price for excess milk subject in the case of both base milk and excess milk to the location adjustment and butterfat differential provided by § 941.81 and § 941.82 and all of the provisos contained in paragraph (b) of this section.

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

Issued at Washington, D. C., this 26th day of August 1954, to be effective on and after the 1st day of September 1954.

[SEAL] J. EARL COKE,
Acting Secretary.

[F. R. Doc. 54-6854; Filed, Aug. 30, 1954; 8:56 a. m.]

[Docket No. AO-195-A6]

PART 988—MILK IN THE KNOXVILLE, TENNESSEE, MARKETING AREA

ORDER AMENDING ORDER, AS AMENDED

§ 988.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid 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 provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and certain proposed amendments to the order, as amended, regulating the handling of milk in the Knoxville, Tennessee, 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 parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the 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;

(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;

(4) All milk and milk products, handled by handlers as defined in this order, as amended, and as hereby further amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expenses of the market administrator for the maintenance and functioning of such agency will require the payment by (i) each handler, as his pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to receipt, during the delivery period of (a) milk from producers (including such handler's own production) and (b) other

source milk received at a fluid milk plant, and (ii) each cooperative association as its pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe on only that milk of producers for which it is a handler.

(b) *Additional findings.* It is hereby found and determined that good cause exists for making this order amending the order, as amended, effective September 1, 1954. Such action is necessary in the public interest in order to reflect current marketing conditions and to insure the production of an adequate supply of milk. Under the present order provisions producers are paid for their marketings of milk during the months of April through August on the basis of their marketings during the months of September through February. Accordingly, in order that those producers delivering milk to handlers to whom regulation is extended, by virtue of their sales in the expanded marketing area, will receive equal treatment with all other producers in the establishment of their bases it is essential that this amendment be made effective on September 1, the first day of the base forming period. Under the terms of the order now in effect handlers pay a flat differential over the basic formula price for Class I milk in all months of the year. This amending order makes no change in the pricing provisions presently in effect. The provisions of the said order are well known to handlers, the public hearing having been held on April 15–17, 1954, the recommended decision having been published in the FEDERAL REGISTER (19 F. R. 4669) on July 29, 1954 and the final decision having been executed by the Assistant Secretary on August 19, 1954. Therefore, reasonable time, under the circumstances, has been afforded persons affected to prepare for its effective date and it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (See section 4 (c) Administrative Procedure Act, 5 U. S. C. 1001 et seq.)

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping milk covered by this order, amending the order, as amended) of more than 50 percent of the volume of milk covered by this order, amending the order, as amended, which is marketed within the said 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 tend to prevent the effectuation of the declared policy of the act;

(2) This issuance of this order amending the 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 amending the order, as amended, is approved or favored by at least two-thirds of the producers who during the determined representative period (July 1954) 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 Knoxville, Tennessee, 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 the present language of § 988.5 and substitute therefor the following:

§ 988.5 *Knoxville, Tennessee, marketing area.* "Knoxville, Tennessee, marketing area," hereinafter called the "marketing area" means all of the territory within the boundaries of Knox County including the territory within the corporate limits of the City of Knoxville, all of the territory within the corporate limits of the Cities of Alcoa and Maryville in Blount County and all of that part of the Development of Oak Ridge which lies within Anderson County, all in the State of Tennessee.

2. Delete § 988.61 (b) and substitute therefor the following:

(b) An entire base may be transferred by notifying the market administrator in writing before the last day of any month for which such base is to be transferred to the person named in such notice: *Provided,* That if the base is held jointly and such joint holding is terminated, the entire base transferable by any joint holder shall be his portion of such jointly held base as indicated by the joint holders.

3. Add a new § 988.91 as follows:

§ 988.91 *Plants subject to other Federal orders.* A plant specified in paragraph (a) or (b) of this section shall be considered as a nonfluid milk plant except that the operator of such plant shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to §§ 988.30 and 988.31) and allow verification of such reports by the market administrator:

(a) Any distributing plant which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless the Secretary determines that a greater volume of Class I milk is disposed of from such plant to retail or wholesale outlets (except fluid milk plants) in the Knoxville, Tennessee, marketing area than in the marketing area regulated pursuant to such other order.

(b) Any supply plant subject to the classification and pricing provisions of another order issued pursuant to the act.

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

Issued at Washington, D. C., this 26th day of August 1954, to be effective on and after the 1st day of September 1954.

[SEAL] J. EARL COKE,
Acting Secretary of Agriculture.

[F. R. Doc. 54-6856; Filed, Aug. 30, 1954; 8:56 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Supp. 5]

PART 16—AIRCRAFT RADIO EQUIPMENT AIRWORTHINESS

MODIFICATION OF AIRCRAFT RADIO EQUIPMENT

Part 18 now provides a procedure for the alteration of aircraft radio equipment. Therefore, the Administrator has determined that it is no longer necessary for air carriers or other users of type certificated radio equipment to modify such equipment in accordance with the type certification procedures of Part 16. Since this change in policy does not impose an additional burden upon the persons affected thereby, the following amendments are adopted to become effective upon publication in the FEDERAL REGISTER.

1. Section 16.51–3 is adopted to read as follows:

§ 16.51–3 *Modification of aircraft radio equipment by air carriers or other users (CAA policies which apply to § 16.51).* Modification of aircraft radio equipment which is already in service may be accomplished by air carriers or other users of such equipment in accordance with the alteration procedures of Part 18 of this subchapter.

2. Section 16.51–2 (c) published on January 5, 1952, in 17 F. R. 146 is amended by substituting the word "manufacturer" for the word "user" in the first sentence.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 603, 52 Stat. 1007, as amended, 1009, as amended; 49 U. S. C. 551, 553)

[SEAL] S. A. KEMP,
Acting Administrator of Civil Aeronautics.

[F. R. Doc. 54-6813; Filed, Aug. 30, 1954; 8:46 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 6202]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

SANITARY FEATHER CO., INC., ET AL.

Subpart—*Misbranding or mislabeling:* § 3.1190 *Composition: Wool Products Labeling Act;* § 3.1325 *Source or origin:* Maker or seller: *Wool Products Labeling Act.* Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:*

§ 3.1845 *Composition:* Wool Products Labeling Act; § 3.1900 *Source or origin:* Wool Products Labeling Act. In connection with the introduction or manufacture for introduction into commerce, or the offering for sale, sale, transportation, or distribution in commerce, of bed comforters or other "wool products", as such products are defined in and are subject to the Wool Products Labeling Act of 1939, which products contain, purport to contain, or are in any way represented as containing "wool", "reprocessed wool", or "reused wool", as those terms are defined in said act, misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers included therein;

2. Failing to securely affix to or place on each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner: (a) The percentage of the total fiber weight of such wool products, exclusive of ornamentation not exceeding five per centum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight is five per centum or more, and (5) the aggregate of all other fibers; (b) the maximum percentage of the total weight of such wool products of any nonfibrous loading, filling, or adulterating material; (c) the name or the registered identification number of the manufacturer of such wool products or of one or more persons engaged in introducing such wool products into commerce, or in the offering for sale, sale, transportation, distribution, or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939; and

3. Failing to separately set forth on the required stamp, tag, label, or other means of identification the character and amount of the constituent fibers contained in the batting or padding of said wool products as provided by Rule 24 of the rules and regulations promulgated under said act; prohibited, subject to the proviso, however, that the foregoing provisions concerning misbranding, shall not be construed to prohibit acts permitted by paragraphs (a) and (b) of section 3 of the Wool Products Labeling Act of 1939; and to the further provision that nothing contained in the order shall be construed as limiting any applicable provision of said act or the rules and regulations promulgated thereunder.

(Sec. 6, 38 Stat. 722, sec. 6, 54 Stat. 1131; 15 U. S. C. 46, 68d. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2–5, 54 Stat. 1128–1130; 15 U. S. C. 45, 68–68c) [Cease and desist order, Sanitary Feather Co., Inc., et al., Chicago, Ill., Docket 6202, August 14, 1954]

In the Matter of Sanitary Feather Co., Inc., a Corporation, and Daniel Huttner, Individually, and as an Officer of Said Corporation

This proceeding was heard by J. Earl Cox, hearing examiner, upon the complaint of the Commission, which charged respondents with violating the provisions of the Federal Trade Commission Act, the Wool Products Labeling Act of 1939, and the Rules and Regulations made pursuant thereto, by misbranding certain wool products, including bed comforters; and upon a stipulation, entered into by respondents and counsel supporting the complaint, and made a part of the record in the matter.

By the terms of said stipulation, respondents admitted all the jurisdictional allegations set forth in the complaint and waived the filing of an answer, a hearing before a hearing examiner or the Commission, the making of findings of fact or conclusions of law by the hearing examiner or the Commission, the filing of exceptions and oral argument before the Commission and all further and other procedure before the hearing examiner and the Commission to which the said respondents and each of them might be entitled under the Federal Trade Commission Act, the Wool Products Labeling Act of 1939, or the Rules of Practice of the Commission.

Respondents agreed that the order set forth should have the same force and effect as if made after a full hearing, presentation of evidence, and findings and conclusions thereon, and specifically waived any and all right, power, or privilege to challenge or contest the validity of the order entered in accordance with such stipulation, and that it, together with the complaint, should constitute the entire record in the proceeding.

Thereafter said examiner, having concluded that the proceeding was in the public interest, made his initial decision, including, in conformity with the terms of said stipulation, order to cease and desist in disposition of the proceeding.

No appeal having been filed from said initial decision of said hearing examiner, as provided for in Rule XXII of the Commission's rules of practice, nor any other action taken as thereby provided to prevent said initial decision becoming the decision of the Commission thirty days from service thereof upon the parties, said initial decision, including said order, accordingly, under the provisions of said Rule XXII became the decision of the Commission on August 14, 1954.

Said order is as follows:

It is ordered, That the respondent Sanitary Feather Co., Inc., a corporation, and its officers, and respondent Daniel Huttner, individually, and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the offering for sale, sale, transportation, or distribution in commerce, as "Commerce" is defined in the Federal Trade Commission Act, and the Wool Products Labeling Act of 1939, of bed comforters or other "wool products," as such products are defined in and are subject to the Wool Products Labeling Act of 1939, which products contain, purport to contain, or are in any way represented as containing "wool," "reprocessed wool," or "reused wool," as those terms are defined in said act, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers included therein.

2. Failing to securely affix to or place on each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner:

(a) The percentage of the total fiber weight of such wool products, exclusive of ornamentation not exceeding five percentum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight is five percentum or more, and (5) the aggregate of all other fibers.

(b) The maximum percentage of the total weight of such wool products of any nonfibrous loading, filling, or adulterating material.

(c) The name or the registered identification number of the manufacturer of such wool products or of one or more persons engaged in introducing such wool products into commerce, or in the offering for sale, sale, transportation, distribution, or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939.

3. Failing to separately set forth on the required stamp, tag, label, or other means of identification the character and amount of the constituent fibers contained in the batting or padding of said wool products as provided by Rule 24 of the rules and regulations promulgated under said act.

Providing, That the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraphs (a) and (b) of section 3 of the Wool Products Labeling Act of 1939.

Providing further, That nothing contained in this order shall be construed as limiting any applicable provision of said act or the rules and regulations promulgated thereunder.

By "Decision of the Commission and Order to File Report of Compliance", Docket 6202, August 13, 1954, which announced and decreed fruition of said initial decision, report of compliance was required as follows:

It is ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: August 13, 1954.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F. R. Doc. 54-6844; Filed, Aug. 30, 1954; 8:52 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

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

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

PART 146b—CERTIFICATION OF STREPTOMYCIN (OR DIHYDROSTREPTOMYCIN) AND STREPTOMYCIN- (OR DIHYDROSTREPTOMYCIN-) CONTAINING DRUGS

MISCELLANEOUS AMENDMENTS

By virtue of the authority vested in the Secretary by the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended by 61 Stat. 11, 63 Stat. 409, 67 Stat. 389; sec. 701, 52 Stat. 1055; 21 U. S. C. 357, 371; 67 Stat. 18), the regulations for certification of antibiotic and antibiotic-containing drugs (21 CFR Parts 146, 146a, 146b; 19 F. R. 671, 672, 1461, 2140, 4000) are amended as indicated below:

1a. In § 146.24 *Penicillin for diagnostic use; streptomycin for diagnostic use* * * * the headnote is changed to read as follows:

§ 146.24 *Penicillin for diagnostic use; streptomycin for diagnostic use; dihydrostreptomycin for diagnostic use; chlortetracycline for diagnostic use; tetracycline for diagnostic use; chloramphenicol for diagnostic use; bacitracin for diagnostic use.* * * *

b. Section 146.24 (a) is amended by inserting the word "tetracycline," between the words "chlortetracycline," and "chloramphenicol,".

2. Section 146.26 *Animal feed containing penicillin* * * * is amended by adding the following new paragraphs:

(s) It is intended for use solely in the prevention of chronic respiratory disease (air-sac infection) and blue comb in poultry; its labeling bears adequate directions and warnings for such use, and it contains the equivalent of not less than 60 grams of penicillin G master standard per ton of feed.

(t) It is intended for use solely in the treatment of chronic respiratory disease (air-sac infection) and blue comb in poultry; its labeling bears adequate directions and warnings for such use, and it contains the equivalent of not less than 120 grams of penicillin G master standard per ton of feed.

3. In § 146a.27 *Penicillin tablets* paragraph (c) (1) (vi) is amended by changing the words "48 months" to read "48 months or 60 months".

4. In § 146a.88 *Penicillin-streptomycin tablets* * * * paragraph (a) (1) is amended by deleting the period at the end of the second sentence and adding the following words: "or § 146b.114 (a) of this chapter, if the tablets are intended solely for veterinary use."

5. In § 146b.104 *Streptomycin tablets, dihydrostreptomycin tablets* paragraph (c) (1) (iii) is amended by changing the number "18" to read "24".

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371)

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry and since it would be against public interest to delay providing for the amendments set forth above.

I further find, under authority provided by the Federal Food, Drug, and Cosmetic Act (sec. 507 (c), 59 Stat. 463, as amended by 61 Stat. 11, 65 Stat. 409; 21 U. S. C. 357 (c)), that compliance of tetracycline for diagnostic use and animal feeds containing penicillin, intended for use solely in the prevention and treatment of certain diseases, with sections 502 (1) and 507 of the act is not necessary to insure the safety and efficacy of such drugs and feeds when they are used for the purposes and under the conditions specified

This order shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

Dated: August 24, 1954.

[SEAL] RUSSELL R. LARMON,
Acting Secretary.

[F. R. Doc. 54-6843; Filed, Aug. 30, 1954; 8:52 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter XIV—The Renegotiation Board

PART 1470—PRELIMINARY INFORMATION REQUIRED OF CONTRACTORS

EXTENSION OF TIME FOR FILING FINANCIAL STATEMENTS UNDER RENEGOTIATION ACT OF 1951 [1]

Every person having a fiscal year which ended during the month of December 1953 is hereby granted an extension of time, until not later than October 1, 1954, to file the financial statement (Forms RB-1 and RB-1B) for such year required of such person by section 105 (e) (1) of the Renegotiation Act of 1951.

The time of every person having a fiscal year beginning in 1953 and ending in 1954 to file the required financial statement for such year, heretofore extended until further notice (19 F. R. 1142), will be announced at a later date.

(Sec. 109, 65 Stat. 22; 50 U. S. C. App. 1219)

Dated: August 24, 1954.

By order of the Renegotiation Board.

GEORGE C. MCCONNAUGHEY,
Chairman.

[F. R. Doc. 54-6845; Filed, Aug. 30, 1954; 8:52 a. m.]

[1] This affects § 1470.3 (d).

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 13—DEPARTMENT OF VETERANS BENEFITS, CHIEF ATTORNEYS

A new Part 13 is added as follows:

Sec.
13.0 Introduction.

FIELD EXAMINATIONS

13.50 Types of field examinations.
13.52 Preparation of requests for field examinations.
13.54 Authorization and functions of field examiners.

GUARDIANSHIP SERVICES

13.60 Cooperation with associated agencies.
13.62 State legislation.

RECOGNITION OF LEGAL CUSTODIAN, APPOINTMENT OF A GUARDIAN FOR A MINOR OR MENTALLY INCOMPETENT BENEFICIARY, AND THE MAKING OF INSTITUTIONAL AWARDS

13.200 Notification to Chief Attorney.
13.201 Recognition of wife of incompetent veteran.
13.203 Chief Attorney to use discretion in determining type of fiduciary.
13.205 Amount of benefits payable by Veterans' Administration to legal custodian or custodian-in-fact; payments to bonded officer of Indian reservations.
13.206 Evidence of custodianship.
13.207 Recognition of legal custodian.
13.210 Bond of custodian.
13.211 Certificate of legal or actual custody.
13.217 Certificate of custody authority for payment.
13.219 Chief Attorney to determine need for appointment of fiduciary.
13.220 Chief Attorney to sign certificates required by Uniform Veterans' Guardianship Act, or similar State legislation, as representative of the Administrator.
13.221 Suitable fiduciary.
13.222 Policy in recognizing banks and trust companies.

COMMITMENT OF MENTALLY INCOMPETENT BENEFICIARIES, APPOINTMENT OF GUARDIANS FOR INCOMPETENT AND MINOR BENEFICIARIES, AND PAYMENT OF EXPENSES IN CONNECTION WITH SUCH APPOINTMENT

13.223 Chief Attorney to render assistance to courts.
13.224 Costs for commitment of insane veterans.
13.225 When Veterans' Administration physicians may testify in lunacy proceedings; employment of private physicians.
13.226 Authorizing transportation necessary for appointment of a guardian for, or commitment of, a veteran beneficiary.
13.227 Costs for appointment of guardians; when authorized at Veterans' Administration expense.
13.228 Chief Attorneys delegated power to authorize costs incident to appointment of guardians.
13.229 Court costs; what may be included as.
13.230 Chief Attorney not to file petition for inquisition in lunacy unless requested by veteran or relative, civil official, etc.
13.231 Determination as to correctness of costs.
13.232 Authorization by Chief Attorney of commitment and appointment costs.

AUTHORITY: §§ 13.0 to 13.402 issued under sec. 5, 43 Stat. 608, as amended, sec. 2, 46 Stat. 1016, sec. 7, 48 Stat. 9; 38 U. S. C. 11a, 426, 707. Interpret or apply 43 Stat. 613, as amended; 38 U. S. C. 450.

§ 13.0 *Introduction.* The regulations in this part are issued pursuant to section 21 of the World War Veterans' Act, 1924, as amended (38 U. S. C. 450). They set forth the policy of the Administrator of Veterans' Affairs applicable to recognition of all types of fiduciaries, and the requirements with respect to administration by such fiduciaries of estates of minor and mentally ill beneficiaries derived from payments of any monetary benefit under the acts administered by the Veterans' Administration. The duties, the delegations of authority, and all actions required of the Chief Attorney set forth in §§ 13.0 to 13.402, inclusive, are to be performed under the direction of, and authority vested in, the Manager of the field station.

FIELD EXAMINATIONS

§ 13.50 *Types of field examinations.* Field examinations will be of the following types: Examinations in guardianship and custodianship cases; examinations of offenses against the Federal laws; examinations of accidents alleged to be due to negligence of Veterans' Administration employees and accidents causing damage to Veterans' Administration property (this refers only to torts wherein a liability arises against or in favor of the Government); examinations into claims cases, including compensation, adjusted compensation, pensions, vocational rehabilitation and education; retirement pay; insurance cases, guaranty or insurance of loans, and other benefits under the Servicemen's Readjustment Act of 1944, as amended; examinations directed by the Manager on general administrative matters; and examinations requested by a United States district attorney or other representative of the Department of Justice, in civil and criminal cases.

§ 13.52 *Preparation of requests for field examinations.* All adjudicating and other agencies are directed to observe the following instructions concerning requests for field examinations. Field Examination Request, VA Form 2–3537a, will be prepared in each case in duplicate, one copy retained in file, the original being signed by the official making the request and forwarded to the regional Chief Attorney, whose office is to make the field examination. If an additional copy of the field examination report is desired by the requesting agency, this will be indicated by supplying an additional copy of the request. If simultaneous field examinations are to be made in different offices, sufficient additional copies will be made so that a copy may be sent each office concerned. The statement of facts should be sufficiently complete to give the receiving office and the field examiner to whom the field examination request is assigned a clear understanding of the situation. The points to be developed must be specific and as complete as circumstances permit. If documents are in question, they should be attached to the VA Form 2–3537a. The complete file will be forwarded with the VA Form 2–3537a when, in the opinion of the requesting official, such action is necessary to satisfactorily accomplish the field examination. Any field examination request not prepared in the manner outlined above will be returned by the Chief Attorney to the official making the request for compliance with the foregoing instructions.

§ 13.54 *Authorization and functions of field examiners.* Field examiners are authorized to examine into the correctness of claims and to administer oaths

and affirmations in connection with claims arising under the laws administered by the Veterans' Administration when required and in taking testimony or depositions. Field examiners will perform all field examination work assigned to the office of the Chief Attorney, regional office, in accordance with regulations, and such other duties as are assigned by the Chief Attorney or Manager.

GUARDIANSHIP SERVICES

§ 13.60 *Cooperation with associated agencies.* Every effort will be made to notify the appropriate officer of an interested agency of all cases of minors needing aid and attention which is beyond the scope of the duty of the Veterans' Administration. (See §§ 13.296 and 13.368.)

§ 13.62 *State legislation.* Chief Attorneys will cooperate with the affiliated organizations and with local and State bar associations to the end that deficiencies of the State laws relative to guardianship, mental health, and commitment of the mentally ill may be removed. In order to insure carefully planned and coordinated legislation relative thereto all proposed legislation coming to the attention of the Chief Attorney will be submitted to the Deputy Administrator, Department of Veterans Benefits, for review. No action to commit the Veterans' Administration regarding any proposed legislation will be taken without the approval of the Deputy Administrator or his designee. All such legislation enacted should be reported to the Deputy Administrator, Department of Veterans Benefits. The Chief Attorney of the regional office in the area in which the State legislature convenes will have primary responsibility for handling State legislation of the type discussed in this section; will coordinate such matters with the Chief Attorneys of other regional offices in the same State to obtain their views and forward to them, as well as to other Veterans' Administration officials concerned therewith in the field, copies of such State legislation when enacted.

RECOGNITION OF LEGAL CUSTODIAN, APPOINTMENT OF A GUARDIAN FOR A MINOR OR MENTALLY INCOMPETENT BENEFICIARY, AND THE MAKING OF INSTITUTIONAL AWARDS

§ 13.200 *Notification to Chief Attorney.* In order that the Chief Attorney may supervise, in cooperation with the other services, all Veterans' Administration activities in his region having to do with the welfare of minors and mental incompetents, when any benefit is payable by the Veterans' Administration to a person mentally incompetent or to a minor other than a veteran who has been discharged from the military forces of the United States, or a minor widow, the adjudication agency administering the benefit payable will notify the Chief Attorney of the region wherein the minor or incompetent resides of the necessity for the appointment of a fiduciary or the determination of a legal custodian, as the case may be, and request that such appointment be made as speedily as possible. The adjudication agency will furnish to the Chief Attorney the name and date of birth of the beneficiary, name and address of the parent or nearest next of kin of the beneficiary, if available from the records, and the type and amount of the initial payment and monthly payments to be made. The Chief Attorney will notify the adjudication agency as soon as practicable whether a court fiduciary will be appointed, or a legal custodian or wife of the veteran is to be recognized, or reasons for any anticipated delay.

§ 13.201 *Recognition of wife of incompetent veteran.* Section 21 (4), World War Veterans' Act, 1924, as amended, (38 U. S. C. 450 (4)), provides that in case of any incompetent veteran having no guardian, payment of compensation, pension, or retirement pay may be made, in the discretion of the Administrator, to the wife of such veteran for the use of the veteran and his dependents. Cases coming within this section of the law will be investigated by the Chief Attorney to determine whether the wife is properly qualified to administer the funds payable, whether she will agree to use the funds for the benefit of the veteran and his dependents, and whether all conditions justify payment of the compensation, pension, or retirement pay to the veteran's wife; or whether, in the best interests of the veteran and his dependents, a guardian should be appointed to receive and administer the funds payable. If the Chief Attorney determines that payments shall be made to the wife, a complete report will be forwarded to the adjudication agency accompanied by the evidence disclosing the facts, with a recommendation that payments be made to the wife. If the Chief Attorney determines that the facts justify the appointment of a guardian, he will take action promptly to effect the appointment and will forward the evidence thereof, together with his certification as to the legality of the appointment and adequacy of bond, to the adjudication agency. For the purpose of determing whether the funds paid to the wife are being applied as intended and whether the payments should continue to the wife, or whether in the interests of the veteran and his dependents action should be taken to have a guardian appointed, or whether the veteran has recovered and should be rerated as to competency, a social survey will be accomplished each year.

§ 13.203 *Chief Attorney to use discretion in determining type of fiduciary.* The Chief Attorney will use discretion in determining whether a guardian or a legal custodian will be recognized. In determining whether a legal custodian will be recognized all facts will be taken into consideration, such as the age and health of the minor, the economic circumstances of the family and whether any or all of the accrued and monthly benefits are needed for support, care or education of the beneficiary. If all or a portion of the funds payable are to be conserved and an estate is to be accumulated, or other circumstances indicate advisability of court control over the administration of the estate, or when such action is deemed necessary to protect the interests of both the minor or incompetent and the Veterans' Administration the appointment of a guardian will be required. The practicability of the appointment of a guardian, as well as the depletion of the estate by the cost of administration by such fiduciary, will be carefully considered before requiring the appointment of a guardian. The Chief Attorney will also use discretion, where the appointment of a guardian is deemed necessary both from the standpoint of the ward as well as the Veterans' Administration, in advising with the court in the selection of the person to serve in this capacity.

§ 13.205 *Amount of benefits payable by Veterans' Administration to legal custodian or custodian-in-fact, payments to bonded officer of Indian reservations.* When a claimant under legal disability is found entitled to any benfit payable by the Veterans' Administration, the accrued amount of which at the time of the execution of VA Form 2-555, Certificate of Legal Custody, is $700 or less, or the monthly rate of which is $67 or less, or if the finding is in favor of two or more claimants under legal disability and the accrued amount is $1,000 or less, or the combined monthly rates for two claimants amount to $94 or less, for three claimants $122 or less, plus monthly payments of $23 for each additional claimant, and no legal guardian or committee has been appointed, the awards shall be made upon proper finding to the person legally vested with the responsibility or care of such claimant or claimants: *Provided*, That the best interests of the claimant or claimants will be served thereby and the legal custodian is properly qualified. Discretion is vested in the Chief Attorney to exceed these limitations when the circumstances justify use of all of the accrued and monthly benefits payable for the support and/or education of the beneficiary.

(a) In any case wherein payments to a fiduciary have been withheld or suspended, the Chief Attorney will determine whether payment of all or any part of funds so withheld is necessary for the support and welfare of the beneficiary or of his dependents. If such needs cannot be met by an institutional and/or apportioned award under governing instructions applicable thereto and the minor or incompetent beneficiary is in the actual custody of some reliable person, the Chief Attorney will secure the evidence of such actual custody, together with a signed agreement—and if necessary a bond—of said person to receive and use for the sole benefit of such beneficiary moneys due on his account, and will certify such custody in accordance with § 13.206: *Provided*, That instead of the information called for by § 13.206 (a) (4), the certificate will contain a statement showing why payments to the fiduciary have been withheld or suspended; and in addition will set out the period of time payments are to be made to the custodian-in-fact and the amount thereof.

(b) If benefits are due an incompetent adult or a minor Indian who is a recognized ward of the Government and for whom no guardian has been ap-

pointed, the Chief Attorney will secure from the proper superintendent or other bonded officer designated by the Secretary of the Interior to receive funds under the provisions of Public No. 373, 72d Congress (25 U. S. C. 14), a certification showing that (1) the said beneficiary is a ward of the Government, (2) that no guardian or other fiduciary has been appointed, (3) that the officer has been designated by the Secretary of the Interior in accordance with said act, (4) that he is properly bonded, and (5) that he will receive, handle, and account for such benefits in accordance with existing law and the regulations of the Department of the Interior. VA Form 2–555 will not be prepared in such cases; instead, the Chief Attorney, if he approves the certification, will forward it to the proper adjudication agency for payment under said act. The limitations of this section will not apply to these cases nor will accounts be required of such officers by the Chief Attorney.

§ 13.206 *Evidence of custodianship.* (a) The Chief Attorney will secure a certificate on VA Form 2–4703 executed by the proposed legal custodian, supported by the certificates of two disinterested persons, setting forth the following:

(1) Relationship of proposed legal custodian to the minor or incompetent claimant.

(2) The person legally vested with the responsibility or care of the claimant's estate and the relationship between such person and the claimant.

(3) The State which is the legal residence of custodian and claimant.

(4) That no guardian, curator, or conservator has been appointed; or that no guardian, curator, or conservator has been constituted under the laws of such State of the claimant's residence, as the case may be.

(5) That the person named as custodian is charged with the responsibility and care of the claimant and is exercising same. (The certificate of the two witnesses must state that the proposed custodian is a fit person to have the custody and care of the claimant and is qualified in every respect to receive, disburse, and account for amounts payable on account of the claimant.)

(6) That the claimant is living and in such custody at the time.

(7) The period during which such custody has extended (showing dates).

(8) If the claimant is not in the actual custody of the person claiming to be legal custodian, the reason for such separation and the arrangement under which the claimant resides in some other place should be given, together with the name and address of the person having charge of such claimant.

(b) In addition thereto, the Chief Attorney will, upon request of the adjudication agency, secure, through the interested parties, certified copies of the following papers, when necessary, under the seal of the custodian of the original records:

(1) Birth certificate or other proof of birth of claimant (if the claimant is a minor).

(2) Decree of divorce, if any, of legal custodian and veteran.

(3) Decree of adoption, if any, of claimant.

(4) Inquisition papers of unsoundness of mind of claimant, or restoration to sanity.

§ 13.207 *Recognition of legal custodian.* (a) Section 21, World War Veterans' Act, 1924, as amended by Public No. 262, 74th Congress, third proviso, is as follows:

That where no guardian, curator, or conservator of the person under a legal disability has been appointed under the laws of the State of residence of the claimant, the Administrator shall determine the person who is otherwise legally vested with the care of the claimant or his estate.

(b) This section of the World War Veterans' Act, 1924, as amended, provides that the Administrator shall determine the person legally vested with the care of the claimant or his estate. This determination is delegated to the Chief Attorney inasmuch as the question is legal and dependent upon State statutes or court decrees. A study of the State statutes is necessary to determine the person who is legally vested with the care of the claimant. The natural parent is usually recognized as being legally responsible for the care of a minor child unless such relationship has been disturbed by judicial decree. Reference should be made to the State statutes to determine a stepparent's legal responsibility, both during the life of the natural parent and after death of such natural parent. If the natural parent (female) has remarried, some jurisdictions have placed a responsibility upon the stepfather to care for and support the minor children of his spouse, and, if such responsibility exists, protective measures must be taken to assure that the Government funds appropriated for the benefit of the minor are actually used for this minor, in addition to the benefits due from the stepparent. When the status of loco parentis exists, the person standing in that relationship to the claimant, or the person vested with custody by judicial decree, may be recognized as legal custodian. Extreme care will be taken in considering a custodial award for an incompetent.

(c) In view of the responsibility that is placed upon the Chief Attorneys, the greatest possible degree of care must be exercised in determining such matters in connection with possible custodianship cases.

§ 13.210 *Bond of custodian.* The Chief Attorney, or the Deputy Administrator, Department of Veterans' Benefits, or his designee, may require the person to be recognized as legal custodian of a claimant or as custodian-in-fact under the provisions of section 21 (3), World War Veterans' Act, 1924, as amended (38 U. S. C. 450 (3)) and § 13.205 (a) to furnish a corporate surety bond before payments are made to such person on behalf of the claimant. Said bond shall run to the Administrator of Veterans' Affairs for the use and benefit of _____ (Name of ward) _____. When the benefits to be paid equal the maximum amounts set forth in § 13.205 such bond will be required unless the proposed legal custodian effects the arrangements set forth in § 13.321 (b) (6). (See § 13.312.)

§ 13.211 *Certificate of legal or actual custody.* VA Form 2–555, Certificate of Legal Custody, or VA Form 2–555c, Certificate of Actual Custody, will be prepared and signed by the Chief Attorney who has secured the data upon which said certificate is based and forwarded to the adjudication agency which requested the appointment. No certificate will be issued where it is shown that the person to whom it is proposed to make payments is not a fit person to have custody of the claimant.

§ 13.217 *Certificate of custody authority for payment.* The certificates of custody issued under the provisions of § 13.211 will be authority for payment to the person designated therein as custodian only while there is no legal guardian, curator, or conservator, and while the other requirements of custody and responsibility exist; except that in cases falling under section 21 (3), World War Veterans' Act, 1924, as amended, the certificate authorized by the provisions of § 13.205 (a) will be authority for payment to the custodian-in-fact for the period stated therein, unless it is determined that payments may be resumed to the fiduciary prior to the expiration of such period.

§ 13.219 *Chief Attorney to determine need for appointment of fiduciary.* In any case, the Chief Attorney will determine in accordance with § 13.203 whether a fiduciary should be appointed; and if so, will make arrangements to have the proper person or institution take the necessary steps to secure such appointment. The Veterans' Administration may institute legal action for original appointments of a guardian in such cases. If no guardian is to be appointed, the requesting officer will be duly advised.

§ 13.220 *Chief Attorney to sign certificates required by Uniform Veterans' Guardianship Act or similar State legislation, as representative of the Administrator.* In accordance with the authority granted to the Administrator under section 7, Public No. 2, 73d Congress (38 U. S. C. 707), Chief Attorneys are hereby authorized to sign, as representative of the Administrator, certificates required by the Uniform Veterans' Guardianship Act, or similar State legislation adopted in lieu thereof.

§ 13.221 *Suitable fiduciary.* After the investigation, should the Chief Attorney decide that a guardian should be appointed, he will notify the interested parties and will suggest that a bank or trust company, or if none available, a fit individual, be appointed. If the person recommended by the interested parties is not suitable, every effort will be made to secure the endorsement of a suitable institution or person. The Chief Attorney may make recommendation to the court as to the qualifications of the proposed guardian. Banks and trust companies are favored as guardians of

the estate, and near relatives as guardians of the person or of person and estate, if ward be a minor.

§ 13.222 *Policy in recognizing banks and trust companies.* The Chief Attorney, before recognizing State banks and trust companies, will be assured that the financial responsibility of such bank or trust company is without question. In all cases of closing of banks acting as guardians, or closing of banks in which guardianship funds are on deposit, a report will be submitted to the Deputy Administrator, Department of Veterans' Benefits. Such report will include information as to the action taken to safeguard the interests of the ward or wards.

COMMITMENT OF MENTALLY INCOMPETENT BENEFICIARIES, APPOINTMENT OF GUARDIANS FOR INCOMPETENT AND MINOR BENEFICIARIES, AND PAYMENT OF EXPENSES IN CONNECTION WITH SUCH APPOINTMENT

§ 13.223 *Chief Attorney to render assistance to courts.* The Chief Attorney will render all assistance possible to the courts in commitment cases. To this end there is authority for production of Veterans' Administration records in court in such proceedings.

§ 13.224 *Costs for commitment of insane veterans.* Upon certification by the Manager or Chief Medical Officer of a regional office or Veterans' Administration hospital that commitment of an insane male or female veteran to a Veterans' Administration hospital or to a contract hospital is necessary in order to afford, or continue, authorized care, the Chief Attorney is hereby delegated authority to authorize in advance court costs and other necessary expenses to accomplish such commitment. Further authority is hereby delegated to the Chief Attorney to authorize in advance the payment of court costs and other necessary expenses incident to the restoration to sanity of veterans who were committed at the instance of the Veterans' Administration or the costs of whose commitment were paid by the Veterans' Administration. This authority is to be applied in those States the laws of which require court proceedings for restoration to sanity and in cases in which the veteran is discharged from the hospital upon the premise that further medical care or treatment is not required. Costs or attorney fees incurred without prior authorization by the Chief Attorney may be reimbursed only when the commitment resulted from a request by an official of the Veterans' Administration.

(a) In those cases where the beneficiary is admitted upon proper authorization from one State to a hospital located in another State, as for example when a patient is sent from Connecticut to the Veterans' Administration Hospital, Northampton, Mass., or from Missouri to the Veterans' Administration Hospital, Danville, Ill., and commitment is necessary in the State wherein the hospital is located, the Chief Attorney of the office in whose area the hospital is located will authorize the cost of commitment, and the finance officer in that office will approve and forward for payment vouchers covering the costs as authorized. In some States such veterans, if insane or incompetent, may be retained for a temporary period only and thereafter must be committed if they are to remain in the hospital. It is intended and desired that the Chief Attorney within whose area the hospital is located will cooperate fully with the Manager of that hospital in all matters pertaining to the commitment of such veterans, and that the Chief Attorney will authorize the costs thereof, if same are payable by the Veterans' Administration. In order, however, that he may have sufficient information on which to act, it is necessary that the sending office either forward the claims folder, unless a guardian has been appointed, so as to be received by the office within whose area the hospital is located within 10 days after the veteran is hospitalized, or that the Chief Attorney of the sending office notify the Chief Attorney of the office within whose territory the hospital is located of the fact that the veteran has been transferred for hospitalization and that he is deemed to be incompetent or insane. Upon receipt of claims folder or such information, the Chief Attorney will cooperate with the Manager of the hospital in regard to any commitment that may be necessary. In such cases, the Manager of the hospital will take up the question of commitment with the local Chief Attorney. If veteran is committed pursuant to the provisions of the Uniform Veterans' Guardianship Act, or similar statute, by a court of the State in which the veteran is located, to a Veterans' Administration hospital in another State, recommitment in the latter State will not be necessary nor will costs thereof be paid by the Veterans' Administration.

(b) In some States, the law provides that court costs in connection with adjudication of insanity for commitment should be borne by the State, county, or other municipality in which the insane person resides or is located. Usually, it is also provided that the amount thereof may be charged to or recovered from the estate of the incompetent or relatives. If there is any provision of law or administrative regulation issued pursuant to law, whereby such costs are chargeable to the veteran or may be taxed against his estate, his guardian, or legal representative, the Veterans' Administration will pay the amount thereof regardless of his ability to pay such costs. When such costs are legally the liability of the State or municipality and may not be assessed against the veteran, the Chief Attorney will not authorize payment of such costs by the Veterans' Administration.

§ 13.225 *When Veterans' Administration physicians may testify in lunacy proceedings; employment of private physicians.* When costs are authorized pursuant to § 13.224 or § 13.227, the services of Veterans' Administration physicians will be available for the purpose of testifying in proceedings incident to the adjudication of insanity of veterans who are beneficiaries of the Veterans' Administration, and when required for Veterans' Administration purposes, either for commitment or appointment of a guardian, or both, subject to the following limitations:

(a) When such testimony is precluded by State law, as where the statute provides that an insane person may not be committed to an institution on the testimony of officials connected with such institution.

(b) If some relative of the veteran, other than the one who requested the commitment, objects to the proceedings, or files a contest, Veterans' Administration physicians will not testify voluntarily.

(c) If any party in interest causes a subpena to be issued requiring a Veterans' Administration physician to testify in adjudication proceedings, he should comply therewith. Veterans' Administration physicians may testify on behalf of a veteran in a proceeding brought for the purpose of determining his competency in order that his civil rights may be restored. Veterans' Administration physicians may, if permitted by State law, sign interrogatories or certificates of insanity; and upon the discharge as sane of any veteran committed under the Uniform Veterans' Guardianship Act, or similar State legislation, the Manager of a Veterans' Administration hospital may supply the committing court with a certificate of sanity as contemplated by the statute.

(d) If travel is necessary in the performance of the duty contemplated by this section, the Manager will authorize same for the Veterans' Administration physician stationed at the regional office or at the hospital and will encumber his budget accordingly. Physicians will not be ordered from their stations if, in the opinion of the head of the station, their services cannot be spared for the time necessary to permit them to testify. Travel orders for the purposes of this section will not require travel to or from any point more than 100 miles beyond the limits of the regional area, and no travel order will be issued unless the Veterans' Administration desires the testimony of the Veterans' Administration physician for the purposes stated.

(e) When Veterans' Administration physicians are not available for the purposes of this section, or where the expense involved in utilizing a Veterans' Administration physician would be greater than the cost of employing a psychiatrist for such purposes, the Manager, upon the recommendation of the Chief Attorney and the concurrence of the Chief Medical Officer, may employ such psychiatrist subject to the following limitations:

(1) Whenever it becomes necessary under the provisions of this paragraph to utilize the services of a physician not in the employ of the Veterans' Administration, the expenses incident thereto will be paid under the authority contained in §§ 13.224 and 13.227 to 13.229 in accordance with the following:

(i) For preliminary examination, the fees and expenses prescribed by the approved State fee schedules or, in States which do not have such schedules, the fees and expenses prescribed by the "Guide for Charges for Medical Services," current VA Catalog No. 5, will be authorized.

(ii) The fee to be allowed such physicians for testifying in court will be

limited to the fee prescribed by the State law, local practice, or procedure. In those jurisdictions wherein no fee is prescribed by the State law, local practice, or procedure, but the fee is left to the discretion of the court, the fee allowed by the court will be paid, and every effort will be made to keep such fee to the minimum. If the court does not fix the amount of the fee, the physician will be allowed a fee for attendance at court in the same amount as is allowed for an attorney by the schedule of fees, § 13.237.

§ 13.226 *Authorizing transportation necessary for appointment of a guardian for, or commitment of, a veteran beneficiary.* In any case wherein the insane veteran for whom a guardian should be appointed or who should be committed, is in a Veterans' Administration hospital and under the law of the State wherein the hospital is located a guardian cannot be appointed locally, or, if commitment be necessary, such commitment may not be had locally, it may become necessary to have the veteran returned temporarily to his home in order that proper legal process may be served preliminary to the necessary legal proceedings. In such a case, upon request of the Chief Attorney, the Manager or the hospital may authorize, in accordance with existing regulations, travel of the veteran and an attendant or attendants if necessary. In cases in which the veteran is being maintained by the Veterans' Administration in a non-Veterans' Administration hospital the Manager of the regional office concerned may authorize such travel. Such travel will not be authorized unless there be no other legal method of appointing a guardian, or committing the veteran, as the case may be.

§ 13.227 *Costs for appointment of guardians; when authorized at Veterans' Administration expense.* Costs for appointment of guardians pursuant to section 21 of the World War Veterans' Act, 1924, as amended (38 U. S. C. 450), which applies to all benefits payable by the Veterans' Administration, will be authorized only in cases wherein:

(a) Benefits payable are small and such costs would unduly deplete the estate. Chief Attorneys may authorize costs and perform legal services incident to the appointment of a guardian in any case wherein the total amount of benefits payable at date of award on which request for appointment of guardian is based does not exceed $2,000. Costs will not be authorized or paid in any case if the proposed guardian is not satisfactory.

(b) Costs must be advanced and there is no immediate estate from which same may be paid. If case does not fall within paragraph (a) of this section, recovery of costs so advanced will be made from benefits payable.

(c) Appointment caused by Veterans' Administration and it develops that no benefits are payable and no estate from which costs may be paid.

§ 13.228 *Chief Attorneys delegated power to authorize costs incident to appointment of guardians.* Subject to the provisions of § 13.227, Chief Attorneys are hereby delegated authority to authorize incurrence of such costs, and payment thereof; and may render necessary legal services in such cases. The necessary legal expenses in connection with the appointment of a guardian do not include the premium on the fiduciary's bond. Such premium is an administrative expense which must be borne by the guardian or by the estate, depending upon the provisions of the State law.

§ 13.229 *Court costs; what may be included as.* In all cases where the Veterans' Administration pays the expenses incident to the appointments of guardians under the provisions of § 13.227, the costs of procuring certified copies of letters of guardianship and guardians' bonds will be paid by the Veterans' Administration as a part of the necessary court costs, while, in those cases where the costs of appointments are payable by the estate of minor or incompetent beneficiaries, the costs of securing certified copies of such documents will not be paid by the Veterans' Administration unless desired in connection with an investigation authorized by section 21 (2) of the World War Veterans' Act, 1924, as amended. In all cases, such authorization will be subject to the following further limitations:

(a) Court costs will include only those chargeable under the statutes and must be certified by the clerk of the court.

(b) Attorneys' fees within the limitations of the schedule of fees may be paid if authorized under the provisions of § 13.237.

(c) Such expenses for appointment of a substitutionary guardian will be paid only when the former guardian was removed or was caused to resign at the instance of the Veterans' Administration, or, in the event of the death of a guardian, when appointment of a new guardian is necessary to receive the benefits payable by the Veterans' Administration.

(d) Vouchers for payment of above expenses will refer to this section.

(e) Expenses in connection with the supervision of the administration of such estates by such fiduciaries, as used in section 21 (2), World War Veterans' Act, 1924, as amended, is interpreted to authorize only payment of Veterans' Administration expenses incurred in such connection and not expenses of fiduciaries.

§ 13.230 *Chief Attorney not to file petition for inquisition in lunacy unless requested by veteran or relative, civil official, etc.* The Chief Attorney will not file or cause to be filed a petition for an inquisition in lunacy for commitment or for the appointment of a guardian unless he has a written signed statement from the incompetent veteran's nearest relative or from the veteran himself. In the event there is no near relative and if the veteran is not mentally capable of authorizing such action, the Chief Attorney may file the petition if signed by a civil official or representative of a cooperating agency. With a view to safeguarding the welfare and interests of veterans and Veterans' Administration personnel when medical authorities regard a nonhospitalized veteran as potentially dangerous to himself or others and decide that hospitalization is advisable, if the Chief Medical Officer, or preferably the physician who examined the veteran, and the Chief Attorney agree that the veteran should be committed, and if the veteran refuses to accept hospitalization on a voluntary basis and efforts to have him committed fail because a petition will not be signed by the nearest relative, guardian, civil official, or representative of a cooperating agency, authorization is hereby conferred upon the Chief Medical Officer or, his designee, if not prohibited by State law, to sign the complaint or petition for commitment, whichever is necessary to have the veteran legally apprehended by the civil authorities and hospitalized. In similar instances, where hospitalized veterans demand their release and are dangerous to themselves and to others and all the usual efforts to effect commitment have failed and the chief, professional services and the Chief Attorney agree that commitment is necessary and feasible, authority is hereby conferred upon the chief, professional services, or his designee to file a complaint or petition for commitment. The petition will not be signed by the chief, professional services, or his designee when the State statutes provide that an insane person may not be committed on the petition of officials connected with such institutions; nor shall such petition be signed by such officials if the State law specifically provides that a petition for commitment may be signed only by certain designated individuals which by its terms would exclude such officials. In all other cases in which commitment is deemed necessary in the interests of the veteran and the public, such a petition will not be signed by an employee of the Veterans' Administration. The Chief Attorney will render the legal services in commitment cases when costs are authorized to be paid by the Veterans' Administration as provided in § 13.224. In guardianship cases, the Chief Attorney will notify the veteran's nearest relative, the person selected as the proposed guardian, a civil official, or a representative of a cooperating agency, of the action that should be taken, and that the Chief Attorney will, if so requested, file the petition without cost if the veteran is not entitled to sufficient benefits to justify employment of an attorney. Thereafter, he will take no definite action relative to the filing of a petition unless and until such written request therefor is received.

§ 13.231 *Determination as to correctness of costs.* It will be the duty of the Chief Attorney in all cases under his jurisdiction to take all administrative action devolving on the Veterans' Administration incident to the commitment of mentally incompetent veterans, or other legal action under section 21 (2), World War Veterans' Act, 1924, as amended, and as authorized herein. The Chief Attorney will obtain such information as is necessary to determine that the costs charged are correct, just, and necessary, and in accordance with the provisions of §§ 13.223 to 13.229. Payments will be made in accordance with finance procedure.

§ 13.232 *Authorization by Chief Attorney of commitment and appointment costs.* The Chief Attorney will be responsible for the issuance of all authorizations for the commitment of mentally incompetent veterans when required for purposes of authorized care and for court expenses incident to appointment of a guardian when such action is at the instance of the Veterans' Administration as outlined in § 13.224, § 13.227, or § 13.229.

§ 13.233 *Chief Attorney to check court cost vouchers.* The Chief Attorney will see that the voucher is executed properly showing the court costs or expenses incident to such action and the amount and for what purpose the charge is made, that the charges are correct, just, and necessary, and in accordance with § 13.224, § 13.227, or § 13.229. The "necessary costs" must, in the absence of a judicial finding as to their amount, be correct, just and proper.

§ 13.234 *Chief Attorney to notify proper person of need for appointment of guardian.* If commitment is not necessary for authorized care but the appointment of a guardian is required, the Chief Attorney will notify the proper person as to what action is necessary. No one outside the Veterans' Administration will be notified of the fact that an award is pending the qualification of a fiduciary except as provided in § 13.221. The purpose of this procedure is to enable the Veterans' Administration to avoid appointment of unsuitable persons as guardians and enable the Chief Attorney to take necessary action to authorize costs incident to such appointment if in order.

§ 13.235 *When Chief Attorney may prepare appointment papers or furnish advice.* The Chief Attorney may prepare all necessary legal papers in those cases wherein expenses are hereinbefore authorized (§§ 13.224, 13.227, 13.229). In other cases, he may give such help and advice as may be necessary and advisable and may assist the guardian in securing necessary legal services at nominal cost whenever possible.

§ 13.236 *Chief Attorney to authorize costs for removal of guardians.* Where it is necessary to institute action under section 21 (2), World War Veterans' Act, 1924, as amended, to remove a guardian and have another appointed, the legal expenses in connection therewith, including court costs, may be paid. Chief Attorneys will institute action to remove a guardian only in case of actual embezzlement or misappropriation of funds, or where an absolutely necessary adjustment cannot otherwise be made. Where practicable, payments will be made in such cases by means of institutional and apportioned awards, or otherwise they may be made to a custodian-in-fact. As provided in § 13.328, the legal expenses will be authorized by the Chief Attorney, but strictly in accordance with §§ 13.227 to 13.235. If required by State law or rule of court, such costs and expenses may be advanced. When expenses are authorized by the Chief Attorney for the removal of a guardian, it does not follow necessarily that such expenses shall be borne by the Veterans' Administration. Of course, it is intended that the Chief Attorney may pay such filing fee and other costs as may be necessary, but under the practice and procedure in most jurisdictions the costs of such action may be taxed against the unsuccessful party, that is, in these cases, the guardian who is found delinquent and therefore is removed. They should not, of course, be taxed against the estate of the ward. If such costs having been paid by the Veterans' Administration are recovered from the guardian, they should in every instance be covered into the Treasury of the United States as miscellaneous receipts. The Chief Attorney will be responsible for seeing that such costs are recovered, if possible.

§ 13.237 *Chief Attorney empowered to authorize employment of local attorney; schedule of attorneys' fees.* In any case wherein legal action at the expense of the Veterans' Administration is authorized, if the legal services cannot be performed by the Chief Attorney or his assistant, by reason of distance, time, and cost of travel involved, etc., the Chief Attorney is authorized to employ a local attorney to handle the case and to pay a fee within the limitations of the following schedule of fees. An attorney should not be employed to file a petition for an inquisition in lunacy except under the provisions of § 13.230. In other words, the Chief Attorney should not employ an outside attorney to perform the services which the Chief Attorney is not authorized to perform.

SCHEDULE OF ATTORNEYS' FEES

(a) *Appointment of fiduciary for incompetent beneficiary.* (1) Where adjudication of incompetency or insanity is necessary:

(i) Drawing petition and other necessary legal papers and court orders and including appearance:	
(a) No contest as to adjudication or appointment	$25
(b) Contest (jury trial or other claiming precedence in appointment)	50
(ii) Each additional necessary appearance:	
(a) Simple motion	10
(b) Jury trial or other contest:	
(1) Per hour	10
(2) Per full court day	35

(2) Where adjudication not necessary (as in cases wherein beneficiary has been adjudged incompetent or insane):

(i) Necessary legal papers, court orders, and appearance	$15
(ii) If contest, add	20
(iii) Each additional necessary appearance:	
(a) Simple motion	10
(b) Jury trial or other contest:	
(1) Per hour	10
(2) Per full court day	35

(b) *Appointment of fiduciary for minors.*

(1) Petition, court orders, and appearance	$15
(2) If contest, add	20
(3) Each additional necessary appearance:	
(i) Simple motion	10
(ii) Jury trial or other contest:	
(a) Per hour	10
(b) Per full court day	35

(c) *Discharge or removal of fiduciary for incompetent or minor beneficiary, when such action is necessary.* (1) Preparing petition, or citation, and other legal papers and orders, and including appearance:

(i) No contest (fiduciary willing to resign or be removed)	$25
(ii) Contest (fiduciary opposes removal)	50
(iii) Each additional necessary appearance:	
(a) Simple motion	10
(b) Jury trial or other contest:	
(1) Per hour	10
(2) Per full court day	35

NOTE: Any service rendered the retiring fiduciary as preparation and/or filing of final account should be charged to the fiduciary, unless otherwise required by State law. Service rendered the estate, as collecting or securing assets of the estate or resisting claims against same, should be charged against the estate, and proper allowance made therefor by the court. No such service will be paid for by the Veterans' Administration.

(d) *Appointment of substitute fiduciaries, or of fiduciaries in succession where necessary or authorized.* Fees same as in paragraphs (a) or (b) of this section, and to be in addition to those allowed for removal of fiduciary if attorney acts in both capacities.

(e) *Citation to account and/or show cause why fiduciary should not be removed.*

(1) Preparation of legal papers, orders and including appearance	$15
(2) For each additional necessary appearance:	
(i) Simple motion	10
(ii) Jury trial or other contest:	
(a) Per hour	10
(b) Per full court day	35

NOTE: If fiduciary is removed, apply paragraph (c) of this section.

(f) If the State law requires the appointment of a guardian ad litem, the statutory fee or fee fixed by the court may be paid as a part of the necessary court costs in cases wherein such costs are payable by the Veterans' Administration under the provisions of this section.

§ 13.238 *Appointment of guardian where claimant resides or is hospitalized.* The Chief Attorney will endeavor to secure the appointment of a guardian in the jurisdiction in which the claimant resides or in which he is hospitalized, if in accordance with the State law.

§ 13.244 *Cooperation of Chief Attorney and Chief Medical Officer relating to incompetents.* Before any steps are taken toward commitment of any incompetent beneficiary or appointment of a guardian therefor, contact must be had with the Chief Medical Officer, regional office or hospital, to insure that such action is necessary. The Chief Attorney, through the Chief Medical Officer, may request such examinations as may be necessary to establish the facts as to the competency or incompetency of the beneficiary. Close cooperation is essential. Any legal action desired by the medical service may be initiated through the Chief Attorney, and the latter will consult with the medical service in all cases involving the physical and mental welfare of the beneficiary.

§ 13.245 *Chief Attorney to be notified of movement of hospitalized veterans.* The Chief Attorney will maintain close liaison with the Managers of Veterans' Administration hospitals, officers-in-charge of other Federal hospitals, and

superintendents of State and contract institutions, to the end that the Chief Attorney will be notified of admissions, commitments, trial visits, elopements, and discharges of incompetent veterans. In the cases of eloped patients, every facility of the Veterans' Administration will be made available to the Chief Attorney in endeavoring to have such patients returned to the hospital in accordance with prescribed procedure.

§ 13.250 *Illegal commitment.* If it is discovered that a beneficiary has been illegally committed and it is necessary to have him legally committed in order to give or continue authorized care, steps will be taken at once to secure legal commitment.

§ 13.251 *Supervision of fiduciaries; legal services.* (a) Legal services, if desired by the guardian, may be supplied by Chief Attorneys' offices, if the estate or income is not sufficient to justify the employment of an attorney.

(b) In any case falling within the provisions of § 13.366 where the guardian does not in due course institute the necessary action to terminate the guardianship and the veteran requests the Chief Attorney to represent him, or in any such case where there is in question the proper administration of the veteran's estate, the Chief Attorney may file the necessary action and supply legal services. Costs, unless assessed against the guardian, should be charged to the estate of the veteran.

§ 13.260 *Determination of need for institutional award and notification to adjudication agency.* The Chief Attorney will, upon receipt of a request for appointment of a fiduciary from the adjudication agency, determine the need for the appointment of a guardian or the adjudication of a case under the regulations governing the making of institutional awards. In case the Chief Attorney deems an institutional award advisable, appropriate recommendation will be made to the adjudication agency.

(a) When under prescribed procedure an institutional award and apportionment to dependents, if any, have been made in advance of reference to the Chief Attorney, upon receipt of the request for the appointment of a fiduciary, the Chief Attorney will make any necessary determination as to whether the institutional award and apportionment satisfactorily provide for the veteran and dependents or as to whether payments should be made to the wife under § 13.201. If the veteran is hospitalized in the area of a different regional office, the Chief Attorney will forward the request for appointment of a fiduciary to the Chief Attorney of that office, which Chief Attorney will determine whether any adjustment with reference to the institutional award is necessary. If the wife or other dependents reside in an area of a different regional office, the Chief Attorney will forward information as to the dependents, including the amount of the apportioned award, to the Chief Attorney of that office. If the latter Chief Attorney determines that a special apportionment is proper, he will submit any necessary information, with his recommendation as to the amount to be paid the dependents, to the adjudication agency in the regular procedure. If payments are made to the wife, the Chief Attorney having jurisdiction of the area in which the wife resides is the principal Chief Attorney for purposes of § 13.201.

(b) When requested by proper State officials, in cases of incompetent veterans having no wife, child, or dependent parent, entitled to disability pension, who are being furnished hospital care in State institutions and for whom a guardian, committee, or conservator has not been appointed, the Chief Attorney will determine whether under the State law or valid administrative regulation issued pursuant thereto the veteran is required to pay the cost of maintenance in the institution. In such cases, if the State officials agree to pay for the cost of maintenance only such reasonable amount monthly as will leave the amount determined by the Chief Attorney to be necessary (normally not in excess of $30 per month) for the benefit of the veteran while in the institution and to provide for his rehabilitation upon release therefrom and will agree further to observe the Federal exemption statute (38 U. S. C. 454a) as interpreted by the courts and not charge for maintenance retroactively, the Chief Attorney will certify to the adjudication agency the amount to be released through the institutional award to the chief officer of the institution to provide prospectively for the needs of the veteran and for the cost of maintenance pursuant to § 3.276 (d) of this chapter, thus avoiding the necessity for the appointment of a guardian, committee, or conservator for such purposes. Any such agreements or arrangements heretofore made with the State officials will not be disturbed or reopened and the certification of the Chief Attorney may be submitted to accord therewith.

§ 13.262 *Limitation of wards to individual guardian.* Where an individual is acting as guardian of the estate or as guardian of the person and estate of the ward, except where such individual is acting as guardian for minors of the same family, the policy of the Veterans' Administration, pursuant to the first proviso of section 21 (1), World War Veterans' Act, 1924, as amended (38 U. S. C. 450 (1)), is to limit the number of beneficiaries on whose account payment shall be made to not more than five, and the cooperation of the courts will be sought to that end.

(a) Where an individual is acting as guardian of the estate or of the person and estate of five wards, except minors of the same family, the Chief Attorney will not certify his appointment in any additional case.

(b) In those instances in which an individual has heretofore been recognized by the Veterans' Administration as guardian of the estate or as guardian of the person and estate of more than five beneficiaries, except for minors of the same family, the Chief Attorney will take no further action if the administration of the estates or of the person and estates is satisfactory in every respect. If conditions are not satisfactory, the Chief Attorney will notify the guardian accordingly; will advise him of the provisions of the above cited law with respect to the Administrator's discretionary authority to refuse payments; and will request the guardian to reduce the number of guardianships to not to exceed five or to remove the unsatisfactory conditions.

(c) If the appointment of the guardian is illegal in one or more cases, as in those States having a statute limiting the number of wards, the guardian will be removed in such cases.

(d) The policy stated herein will not be applied to public officials who, by reason of their office, are appointed as guardians in accordance with the State laws, when such appointments are as to the office and not as to the individual incumbent of the position, such as clerks of courts and other similar officials, provided that separate guardianship bonds are filed in the case of each beneficiary in compliance with § 13.317.

§ 13.263 *Determination and certification of legality of appointment and adequacy of bond.* Before certifying as to the legality of an appointment, the Chief Attorney will determine whether the court had proper jurisdiction, ascertain if the proceedings were regular in every respect in accord with the State law, and see that the papers are in due form. He will then prepare and forward VA Form 2–4704, Certificate of Legality of Appointment and Adequacy of Bond, with the letters of guardianship, to the adjudication agency, requesting the appointment for the purpose of payment. It will not be necessary to forward certified copy of bond except in administration cases, but such bond will be filed in the guardianship file for ready reference thereto when accountings are rendered. Where the appointment is found to be invalid or the bond insufficient, appropriate action will be taken by the Chief Attorney to have same corrected.

§ 13.265 *Appointment to be certified when no evidence of invalidity.* If the guardianship appointment and all other records relative thereto are valid upon their face, and there is no evidence in the file indicating invalidity of such appointment, and there is no information available in the office of the Chief Attorney to the effect that the appointment is invalid, the appointment will then be certified.

§ 13.266 *Action by Chief Attorney when there is evidence of invalid appointment.* If the investigation of the files indicates that the appointment on its face is invalid, or if there is no evidence on the face of the appointment indicating its invalidity but other evidence in file or information to the knowledge of the Chief Attorney indicates that the appointment is invalid, corrective steps shall be taken to bring about a valid and legal appointment.

§ 13.267 *When appointment invalid, action by Chief Attorney if beneficiary has moved to another jurisdiction.* If the beneficiary has moved from the jurisdiction and an appointment of a fi-

duciary can be legally made in the State of his present residence, the Chief Attorney in the jurisdiction of the court of appointment will take the initiative with the Chief Attorney having jurisdiction over the present residence of the beneficiary to effect a legal appointment.

§ 13.268 *Action by Chief Attorney when appointment invalid and beneficiary still in his jurisdiction.* If the beneficiary is still in the jurisdiction of the court of appointment, the necessary action will be taken to bring about a legal appointment, bearing in mind the possibility of having the present invalid appointment legalized by court order.

§ 13.270 *Action by Chief Attorney when family attorney procures appointment.* The Chief Attorney will make arrangements in current appointments where he is not preparing the papers to obtain copies of petitions and such other papers from the family attorney as will enable him to certify as to the legality without reviewing the court records subsequent to the appointment.

§ 13.271 *Medical officer to advise Chief Attorney when hospitalized veteran needs guardian.* To avoid duplication of work by hospitals and regional offices and to enable the Chief Attorney to have at his command complete data before taking action in any case, officers-in-charge of Veterans' Administration hospitals will communicate directly with the proper Chief Attorney whenever it is found that a claimant who is in the hospital under his control is in need of a guardian. All available information bearing upon the case, particularly that with reference to the proper person to be selected as guardian, will be furnished by the hospital to the Chief Attorney.

§ 13.274 *Testamentary guardians.* The recognition of testamentary guardians is dependent upon State statutes.

§ 13.275 *Natural guardians; in the United States.* The common law rule giving to guardians by nature power over the person only, and not over the property of the ward, is enacted by statute in most of the States; and where not so enacted, it is binding authority in every State recognizing the common law (Woerner, American Law of Guardianship).

§ 13.276 *Natural guardians; in the insular and territorial possessions of the United States and in foreign countries.* In some of the insular and territorial possessions of the United States and in many foreign countries, natural guardians are recognized as guardians of both the person and the estate (Laws of Insular and Territorial Possessions and of Foreign Countries).

(a) Under section 21 (1), World War Veterans' Act, 1924, as amended, natural guardians may be recognized when it is shown by the laws of the insular and territorial possessions of the United States or by the laws of foreign countries that natural guardians are the constituted guardians by the laws of the State or country.

(b) A claim made by the natural guardian on behalf of a veteran's child for whom a legal guardian has not been appointed shall be supported by the same statements as those required of a legal guardian. Accompanying such statements, the natural guardian shall set forth his or her relationship to the child and all other facts on which he or she bases the right to act as natural guardian of the child.

§ 13.277 *Effecting recovery of overpayments or illegal payments to fiduciaries.* When it has been determined that there has been an overpayment or an illegal payment and the particular case has been acted upon by the proper Committee on Waivers and all efforts to effect recovery from the fiduciary for the estate of the living or deceased person in accordance with the finance procedure have been unsuccessful, upon reference of the case from the finance activity having jurisdiction of the case, the Chief Attorney will communicate with the fiduciary in an effort to secure a refund of the overpayment or illegal payment and will assist the fidiciary in obtaining any order of the court necessary for this purpose. The Chief Attorney, if necessary, will make informal contacts with the court of appointment with a view to obtaining an order directing the fiduciary to return the amount of the overpayment or illegal payment. When all reasonable efforts on the part of the Chief Attorney to effect recovery have been unsuccessful, a full and complete report will be submitted to the finance activity, setting forth the efforts made to effect recovery, the balance of the estate in the hands of the fiduciary, and the ability of the fiduciary to make the refund.

SUPERVISION OF CUSTODIANS, GUARDIANS, ETC., AND CHIEF OFFICERS OF INSTITUTIONS

§ 13.282 *Rights of wards.* The duty of the Chief Attorney is not to check the work of the Veterans' Administration with regard to the rights of its wards but to cooperate with each of the other divisions concerned in establishing those rights. The Chief Attorney will determine that the guardian or other responsible person has filed a claim for all possible benefits. In those cases in which benefits are paid by the Veterans' Administration to an administrator or executor of the estate of a deceased beneficiary, the Chief Attorney will see that the guardian of any beneficiary receiving other payments direct from the Veterans' Administration, who is entitled to share in the distribution of the estate of the deceased beneficiary, files claim with the administrator or executor for the share to which the beneficiary under guardianship is entitled, and that such funds when received are accounted for by the guardian.

§ 13.290 *Principal attorney.* Cooperation with other Chief Attorneys is absolutely essential when the ward or beneficiary is in the territory of one regional office, while the guardian or proposed guardian and the appointing court are in the territory of another regional office or of other regional offices. For proper operation of guardianship procedure, however, it is essential that the guardianship file, accounting records, etc., be maintained in the office within whose territory the court having jurisdiction is situated. The Chief Attorney within the jurisdiction of the court will be the principal in all such cases. He may secure from the Chief Attorney where the ward resides such social survey reports and other data as may be necessary. In the event he cannot secure an accounting from a nonresident guardian, he may secure from the Chief Attorney where the guardian resides such information as may be necessary to enable him to check the account and make proper representation to the court. In forwarding the information requested, the Chief Attorney where the ward or guardian resides may make such recommendation as may seem proper, but the determination of the case will remain with the Chief Attorney within the jurisdiction of the court. If payments are to be suspended, or if action against, or for removal of, the guardian is to be instituted, such action will be taken only by him. If the guardian to be removed is in one jurisdiction and the appointment of the new guardian is desirable and legal in another jurisdiction, the Chief Attorneys within the respective jurisdictions will be jointly responsible for the legal action involved and will cooperate so as to insure a satisfactory adjustment. After appointment, the Chief Attorney within the jurisdiction of the appointing court will maintain the principal guardianship file. The other Chief Attorney, however, will attend to the final accounting, etc., of the removed guardian. The policy of the Veterans' Administration is to have the guardians appointed, in the first instance, where the beneficiary resides permanently and, thereafter, not to change guardians except for the most cogent reasons. In such cases, every effort will be made to prevent the charging of a commission by the new guardian on the corpus of the estate transferred.

(a) If the guardianship appointment has been, or is to be made in a foreign country—other than the Republic of the Philippines—or in one of the possessions of the United States—other than Alaska, Hawaii, and Puerto Rico—or if the appointment is in this country but the ward or his dependents reside in any foreign country or other possession, cooperation will be with the Deputy Administrator, Department of Veterans' Benefits, or his designee.

(b) In making requests on Chief Attorneys of other regional offices, the Chief Attorney will keep in mind the limitations under which such work must be performed and will, as far as possible, make such requests conform to the established program of the other office.

§ 13.291 *Award information to Chief Attorney.* The adjudication agency in the office having jurisdiction of the claims folder will supply the Chief Attorney having principal jurisdiction over the guardian, custodian, chief officer of an institution, or wife of an incompetent veteran with detailed information when an original award is prepared or each

time any change is made in an existing award to an incompetent or minor beneficiary in whose behalf payments are going forward to a legal guardian, custodian, chief officer of an institution, or wife of an incompetent veteran. Unless this information is furnished simultaneously with the award or change in the prior award, the principal Chief Attorney is unable to supervise properly the guardian, custodian, or chief officer of an institution; to assure that the accountings are made when required; or to determine any action deemed appropriate in cases of payments to a wife of an incompetent veteran.

§ 13.293 *Chief Attorney to coordinate services to accomplish social surveys.* In accomplishing the social and economic survey of wards, the Chief Attorney will utilize the social workers, coordinating same with the Chief Medical Officer and will avail himself of and coordinate the services of cooperating agencies. The Chief Attorney will maintain close contact with the Chief Medical Officer to insure that duplication will be avoided.

§ 13.294 *Veterans' Administration employee to make initial social survey.* A social survey will be made initially in each case by a Veterans' Administration employee; thereafter they will be made only as necessity requires. Arrangements should be made to secure intermediate reports from responsible individuals or social agencies.

§ 13.295 *Social surveys to be obtained on patients in State and private institutions only.* Social surveys will be made if veteran is in State or private institution; but not if veteran is in a Government institution.

§ 13.296 *Duty of Chief Attorney to obtain social survey.* Subject to the provisions of § 13.295, Chief Attorneys are charged with the duty of securing social survey reports in all guardianship and legal custodianship cases and cases in which payments are being made to a wife of an incompetent veteran; and to see that funds are properly applied to the beneficial interest of the ward.

(a) The policy as stated is to secure a complete survey, initially, on every ward on whose account payments are being made. As a result of the conditions found, cases fall naturally into two general classes: (1) Those in which it may naturally be expected that the satisfactory conditions will continue indefinitely and (2) those wherein unsatisfactory conditions are shown to exist.

(b) With regard to the former, the Chief Attorney is authorized thereafter to waive the social survey in connection with subsequent annual accountings if satisfied that conditions are satisfactory. He secures information in various ways, sometimes through informal contacts, often through some local official or member of a cooperative agency. If any question arises, however, he must necessarily secure a social survey showing the exact facts.

(c) The second class is much more difficult. If the adjustment indicated is one that can be accomplished through the guardian or the court, the Chief Attorney takes such action as may be necessary. This usually involves financial matters and may require, in extreme cases, the removal of the guardian and the appointment of a satisfactory successor. Frequent follow-up is often necessary to insure that the adjustment is actually accomplished. These contacts are usually made by field examination personnel or social workers.

(d) Frequently, however, the adjustment indicated as desirable involves a real social problem, one requiring intensive and extensive study and follow-up by a qualified social agency. This may be either a public or a private organization. Such cases which involve action beyond any authority of the Veterans' Administration are referred to welfare agencies for such intensive case work as may be necessary or possible. To avoid duplication of effort and any consequent apparent harrassment through too numerous visits, the Veterans' Administration generally follows up on such cases only after the particular agency advises the Chief Attorney that the case is no longer an active one. Of course, in exceptional cases a survey is secured if and when needed. Usually the reports of the agency are sufficient.

§ 13.300 *Account books.* Suitable account books and forms wherein to render accounts will be supplied fiduciaries (but not to banks unless requested).

(a) Prior to distributing these books, the provisions of the law of the particular State pertinent to guardianship will be prepared by the Chief Attorney and recorded in the space allotted for that purpose.

§ 13.301 *Disposition of account books.* After the account book, properly executed, has been received by the Chief Attorney from the fiduciary in those cases wherein legal services are authorized, a careful audit of all items made, and the accounting submitted to the court, a summary of the account consisting of all information and data required should be made for the Chief Attorney's records on VA Form 2–4707, Summary of Account. When the records have been completed in this respect and the account book is not further required, it will be returned to the fiduciary. Any irregularities observed in the account book should be called to the attention of the fiduciary, together with any instructions which the Chief Attorney may deem necessary. The fiduciary should be advised that the account book should be retained by him until he has been discharged and his final accounting approved by the court.

(a) Certified copies of guardians' accounts. If the Chief Attorney states the account for the guardian he may retain a copy; otherwise, and especially in those States wherein the law requires that the Chief Attorney be supplied with a copy of the guardian's account, the Chief Attorney will insist upon being supplied therewith. If the cost of certification is excessive, the Chief Attorney may dispense with same providing he is satisfied the copy supplied is a true copy of the account as filed or otherwise is able to verify same by comparison with the public records.

§ 13.305 *Accounting not required.* The maintenance of a guardianship file and an accounting record and the securing of an accounting from the legal custodian or other fiduciary will not be required in cases in which the only payment to the legal custodian or other fiduciary on a monthly basis does not exceed $5, or in cases in which the only benefit payable is an accrued amount in a lump sum of $100 or less, or in cases where the accrued amount payable is $100 or less and the monthly payments do not exceed $5. All active cases falling within these provisions will be closed at the time the next accounting is due or after all unsatisfactory guardianship matters in any such cases have been finally adjusted. New appointments of fiduciaries in cases falling within the above provisions will be counted as received and released during the same month by the Chief Attorney on the monthly report submitted to central office. In States in which accountings of guardians are not waived by the courts and copies thereof are furnished the Chief Attorney under the provisions of the Uniform Veterans' Guardianship Act, or similar legislation, the Chief Attorney will continue supervision over the guardian and the provisions of this section will not be applicable in such cases.

§ 13.310 *Accounts of custodians.* Except in those cases where accountings are not required as explained in § 13.305, the Chief Attorney will secure an annual accounting, using VA Form 2–4706a, Legal Custodian's Accounting Form, from each custodian within the territory of his regional office. Custodians-in-fact recognized under the provisions of section 21 (3), World War Veterans' Act, as amended, and § 13.205 (a) will be required to render accounts for any period of time they receive payments, showing the actual application of the funds received for the benefit of the beneficiary. If payments are made or resumed to the fiduciary, a copy of the custodian-in-fact's account may be supplied the appointing court if desired by any party in interest.

§ 13.311 *Suspension of payments to legal custodians.* If the legal custodian refuses to render an account, or if the account rendered is unsatisfactory and an adjustment cannot be secured, or if the legal custodian refuses to comply with Veterans' Administration Regulations, the Chief Attorney will have payments suspended.

§ 13.312 *Legal custodian may be required to furnish bond.* In any case, the Chief Attorney, or Deputy Administrator, Department of Veterans Benefits, or his designee, may require that a legal custodian furnish a corporate surety bond in an amount sufficient to protect the estate of the beneficiary. Bond will not be required of legal custodians for the amount of the United States Savings Bonds deposited with a Federal Reserve Bank, or the amount authorized to be invested in savings banks, building and loan associations, or federal savings and loan associations, with an agreement same will be withdrawn only with written approval of the Chief Attorney, as au-

thorized in § 13.321 (b) (6). (See § 13.210.)

§ 13.313 *Annual report of custodian.* A written annual report from the legal custodian to whom payments are being made will be required. Such report will be secured by the Chief Attorney of the regional office in whose area the custodian resides and will contain a statement showing the facts as required in § 13.206 (a) (2), (3), (4), (5), and (8) and in addition will set forth the total amount received, disbursed, balance on hand, and bond, if any.

§ 13.314 *Location of legal custodial file.* Should the legal custodian move to another area, the custodial file will follow the custodian, and the responsibility for the supervision of the accounts of the custodian will be vested in the Chief Attorney in whose area the custodian resides.

§ 13.315 *Management and use of estates of incompetents.* Guardians of insane beneficiaries should expend funds received for the comfort and care of their wards. While the estate should be protected in every way, the comfort of the insane beneficiary and his dependents is the primary object. Where merely unwise expenditures have been made, involving no fraud, the Chief Attorney will take such action regarding an adjustment as will be to the best interests of the beneficiary and his dependents. In case of unwise investments, every effort will be made to safeguard the interests of the ward.

§ 13.316 *Management and use of estates of minors.* Guardians of minor wards, and custodians, will be urged to accumulate an estate for the ward, if possible. This is particularly true where some person is responsible for, and able to supply, immediate needs. The object of supervision is to see that the funds are used, or conserved, for the benefit of the minor.

§ 13.317 *Bonds and sureties.* (a) In exercising supervision over the administration of estates of minor and incompetent beneficiaries of the Veterans' Administration by their fiduciaries, as authorized by the acts of Congress, it will be the policy of the Veterans' Administration to require corporate surety bonds in each guardianship case in which the fiduciary is an individual. In cases of corporate fiduciaries, corporate bonds will be required except in those States the laws of which specifically exempt corporate fiduciaries from furnishing bonds and do not vest discretion in the courts with respect to requiring bonds. The adjustments in this matter of furnishing corporate surety bonds may be made at such time as the annual accounting is rendered to the Veterans' Administration and/or the court. In cases wherein guardians neglect or refuse to furnish corporate bonds as requested by the Chief Attorney, the Chief Attorney may decline to open or continue payments to such guardians until and unless the appointing court has passed formally on the question whether such bond should be supplied.

(b) In any case where it is impossible for the fiduciary to obtain a corporate surety bond, or where the amount of the estate or of benefits payable is so small as not to justify the expense of a corporate surety bond (as in cases in which the estate does not exceed $1,500 and in which payments are not continuing, or would all be used as received for the support of the ward), the Chief Attorneys are authorized to accept bonds with at least two personal sureties upon receipt of definite evidence that each such surety owns real property, over and above all liens and encumbrances, at least equal to the penal sum of the bond and qualifies in accordance with the requirements of the State law in which the guardianship is pending. In such instances, and those wherein the court declines to require a corporate surety bond, the fiduciary will be required to furnish with each accounting definite evidence as to the financial status of the personal sureties and, where any question arises as to the ability of such personal sureties to meet any probable liability, the Chief Attorneys will investigate their responsibility and will promptly authorize suspension of payments as provided in § 13.363 (a), until satisfied that the personal sureties are responsible, as provided in this paragraph. If such an investigation discloses that the personal sureties do not meet the requirements stated herein, corporate surety bonds will be secured if possible. Additional or increased bonds will be required at each accounting period commensurate with the value of the estate and the Chief Attorneys will be responsible for seeing that action is taken with the court to assure that adequate bond with good surety or sureties is in effect.

(c) If any surety company is placed in receivership or ceases to do business in the particular State, the Chief Attorney will take the necessary action to have proper bonds substituted in each case. In the case of receivership, bankruptcy, or other proceedings to conserve the assets, or wind up the affairs of a corporate surety, the Chief Attorney will ascertain the termination date for filing claims with local and general receivers or other designated officials and see that all adjudicated and contingent claims are filed in time to receive proper classification and allowances.

§ 13.320 *Joint control agreements.* With reference to joint control agreements, the Veterans' Administration will take no part in effecting such agreements inasmuch as it is thought that this is a matter for the determination of the bonding company and the contracting fiduciary.

§ 13.321 *Investments, inspection of assets.* (a) The Chief Attorney will see that funds held by the fiduciary are invested in accordance with State laws if there be any provisions thereof governing such investments. If asked to recommend investments, he will inform the fiduciary as to legal investments under the appropriate State laws, if any, but will state that the Veterans' Administration cannot recommend anything but United States Government bonds.

(b) In accomplishing the policy of the Veterans' Administration with reference to investments, extreme care must be exercised by all employees in the Chief Attorney's office in advising fiduciaries relative to investments:

(1) No preference shall be given to any bond dealer, or investment broker, nor any recommendation with reference thereto.

(2) As between investments legal for trust funds, no preference or recommendation shall be made by the Chief Attorney's office, except of United States Government bonds, as stated in this section.

(3) If a specific investment is made legal by State statute, the Chief Attorney will advise fiduciaries or the courts with respect to any known doubtful or undesirable characteristics which might jeopardize the safety of the beneficiaries estate.

(4) Each fiduciary will be advised by the Chief Attorney to furnish definite information to his office as to the class of securities in which it is proposed to invest surplus funds, before making such investment; and where petitions are filed with the court for authority to invest, the Chief Attorney will arrange with the guardian and/or the court to furnish his office a copy thereof before or at the time the same is submitted to the court. If investment is made in real estate or mortgages thereon, in jurisdictions where such investments are legal, the Chief Attorney will see that the petition for authority to invest sets forth a complete description of the property, the name of the seller or mortgagor, and all other information necessary to a determination that the investment is proper, the security adequate, and that same is being made in accordance with the law of the jurisdiction. In making such investments, the Chief Attorney will see that the fiduciary follows strictly the provisions of law with reference to appraisal of the property, examination of the title by his attorney or title company, etc., in order that the court may be fully informed before authorizing same. In the event the Chief Attorney is not furnished a copy of the petition and the investment is first noted in the fiduciary's accounting, the Chief Attorney will see that such investments are properly set out in the account, with complete information as to the property, etc., as above outlined. When there is any doubt as to the propriety of such investment, the Chief Attorney will make an investigation and obtain such facts and information as will enable the court properly to pass upon the matter and will object to such investments when it is shown that the security is inadequate, or when any self-dealing by the fiduciary may be involved, or when such investments may not be legal or in the best interest of the beneficiary. The Chief Attorney should ascertain that each deed, as well as mortgages and other lien instruments and extensions thereof, is promptly filed and recorded. If possible, arrangements should be made to have the fiduciary furnish the

Chief Attorney at the time such deed, mortgage, or extension is filed for record a certificate from the county clerk, register of deeds, or other recording official, to the effect that the instrument has been filed for record, giving the date of filing and the volume and page number of the record of the county. When this procedure is not effective, the information should be obtained from the fiduciary by correspondence or by a field examiner when in the vicinity of the court on other business. In those States, the laws of which do not specifically permit investments in mortgage participation certificates, or mortgage bonds, or other obligations secured otherwise than by the entire estate in a first lien on real property encumbered to secure such loan, the Chief Attorney will object to investments therein. In those jurisdictions, the laws of which specifically authorize the types of investments last mentioned, no objection will be interposed thereto, if made in conformity with the applicable statutory requirements and there is no objectionable element of self-dealing by the fiduciary or otherwise.

(5) Where investments are made in bonds, the fiduciary will be required to furnish information as to serial numbers, kind of bonds, rate of interest, the date of maturity and security, if any. In the case of United States Government bonds, it is highly desirable that such investments be in the form of registered bonds and the bonds should be registered, unless for good cause shown such registration would be undesirable or unnecessary. The advisability of registering such bonds is stated in paragraph 5, Regulations of United States Treasury Department (Department Circular No. 300, July 31, 1923, as amended) as follows:

> Registration protects the owner of a United States bond from loss or theft, and holders generally are urged wherever practicable to take advantage of the privilege of registration, particularly in cases where adequate facilities are not available for the safekeeping of coupon bonds. No relief can be given in case of the loss or theft of a coupon bond, but in case of the loss or theft of a registered bond, unless assigned in blank or for exchange for coupon bonds without instructions restricting delivery, the Treasury Department will give relief to the owner in accordance with the provisions of paragraphs 83 to 85 of these regulations. Holders of registered bonds receive interest checks drawn on the Treasurer of the United States in payment of interest as it falls due, and their names are all recorded on the books of the Treasury Department.

The Chief Attorney will advise each fiduciary to keep such bonds in a safe depository under the control of the fiduciary, in order to avoid loss through theft or otherwise. At the time the annual accounting is furnished the Veterans' Administration or filed with the court, the Chief Attorney will require that the fiduciary furnish definite evidence to the Veterans' Administration or the court that the bonds or other securities in which the funds have been invested are so deposited under the control of the fiduciary. VA Form 2-4709, Certificate as to Securities, may be used for this purpose. In the event of the failure of the fiduciary to furnish such evidence, the Chief Attorney will make appropriate investigations and take such formal court action as may be required to protect the interests of the beneficiary. This provision contemplates that an annual inspection of the securities in each estate under guardianship will be made by the Chief Attorney's office: *Provided*, That the requirements of this provision as to inspection of the assets shall be considered to have been met:

(i) If the guardian exhibits the securities in his possession to the court or an officer or appointee thereof and furnishes a certificate from such an official to that effect.

(ii) If there is furnished a certification from an official of the depository, nonassociated with the guardian, with which the securities are deposited for safekeeping.

(iii) If a certificate is furnished by a surety company or its agent showing that the securities are in the possession of such surety company or have been exhibited to the company or its representative by the guardian.

(iv) If a certificate showing the securities have been exhibited to him is submitted by an official of the bank or trust company acting as guardian, such official being one other than the trust officer or other official verifying the account filed with the court or the Veterans' Administration.

(6) Legal custodians will be required to invest in United States Savings Bonds all funds received from the Veterans' Administration not needed for the current or contemplated support of the beneficiary. They will be so informed initially upon recognition by the Chief Attorney. In the interest of the beneficiary, the Chief Attorney will endeavor to effect arrangements with the legal custodian to deposit United States Savings Bonds, purchased as investments, in a Federal Reserve Bank with an agreement whereby such bonds may be withdrawn only with the written approval of the Chief Attorney, thus saving the cost of a corporate surety bond which may be required of the legal custodian (See § 13.312) and the cost of a safe deposit box. Should a legal custodian request authority to invest surplus funds in savings accounts in savings banks or to purchase shares or make deposits in Building and Loan Associations or Federal Savings and Loan Associations, discretion is vested in the Chief Attorney to authorize such investment, provided the accounts are insured by the corporations and under the laws cited in paragraph (d) (1) of this section, and the interest or dividend payable on such accounts equals or exceeds the amount payable on United States Savings Bonds. In such cases, when a corporate surety bond would be required (see §§ 13.210 and 13.312) the legal custodian on his or her request may be authorized, in lieu of furnishing such bond, to make arrangements with a Savings Bank, Building and Loan Association, or Federal Savings and Loan Association, whereby the funds so invested may be withdrawn only with the written approval of the Chief Attorney. The Chief Attorney is authorized to determine whether such arrangements would be for the best interests of the beneficiary. A copy of the agreement made by the legal custodian with the Savings Bank, Building and Loan Association, or Federal Savings and Loan Association will be filed in the records of the particular case in the Chief Attorney's office.

(c) The Chief Attorney will formally object to a fiduciary's failure to invest surplus funds and appropriately invoke action by the court thereon. Similarly, objection will be made to illegal investments attempted to be made, or shown in current accounts. Whenever the fiduciary attempts to take credit for any loss due to an illegal or questionable investment, or in cases of final accountings, the Chief Attorney will formally object thereto for the purpose of having the question of liability settled by the court. This will apply likewise to funds on deposit in a closed bank or other depository, where there is any legal objection or question as to liability. Extreme care must be exercised in those jurisdictions holding that a current or intermediate accounting is res adjudicata, or that approval of an intermediate accounting constitutes an approval of the investments appearing therein.

(d) (1) In connection with the matter of investments, questions have been raised as to the policy of the Veterans' Administration with respect to the investment of surplus funds on deposit in banks which are members of the Federal Deposit Insurance Corporation authorized by the Banking Act of 1933, 12 U. S. C. 264, or building and loan associations insured by the Federal Savings and Loan Insurance Corporation, 12 U. S. C. 1725. Generally speaking, the law cited will not be material in those States, the statutes of which specifically require investment of trust funds in designated securities, and guardians or other fiduciaries should comply with the State satutes as to investments.

(2) In those jurisdictions where, in addition to specifying the types or kinds of securities in which fiduciaries may invest trust funds, discretion is vested in the court of appointment or the fiduciary of choosing within the specified types or in making other investments, the Chief Attorney need not except to an order of the court permitting or requiring fiduciaries to leave trust funds on deposit in banks or building and loan associations which conform to the provisions of the law above-mentioned and within the amounts protected thereby.

(3) The fact that the deposit is insured in accordance with the Federal laws above-mentioned does not affect the status of the deposit, but merely provides limited indemnification upon loss by failure of the depository.

(e) Filing of claims for funds in closed bank, priorities, etc., is the responsibility of the fiduciary. The duty of the Chief Attorney is to see that the ward's estate is protected against any claim for credit for loss occasioned by failure of the fiduciary properly to carry out his fiducial duties and to cooperate by giving such general advice and suggestions as may be appropriate.

(f) From the above it will be noted that the Veterans' Administration policy

with respect to bonds and investments should be made effective in the highest degree, to the end that beneficiaries' estates will be currently conserved.

§ 13.322 *Accounting by guardians; forms to be used.* Except in cases where accountings are not required as explained in § 13.305, accountings will be obtained at least once a year by the Chief Attorney from all guardians of Veterans' Administration beneficiaries appointed by the courts within the territory of his office. These accountings will be obtained direct from the guardian. When the State courts require accounting once a year the Chief Attorney will advise the guardian 30 days prior to the date his account is due in the court of appointment, and forward at the same time three copies of VA Form 2–4706 series. The original may be used by the guardian in submitting his account to the court, and a copy forwarded to the Chief Attorney duly certified by the clerk of the court as a true copy of the account filed with the court together with a certification from the bank or trust company in which the estate of the ward is deposited showing a balance, and certificate regarding inspection of assets as provided in § 13.321 (b) (5). The third copy may be retained by the guardian. VA Form 2–4706c will be used in lieu of VA Form 2–4706 in those regional areas where the use of VA Form 2–4706 is not practicable. In case these VA Forms 2–4706 or 2–4706c cannot be used in the court, the Chief Attorney will prepare a form suitable to meet the requirements of the State statute, or will use regular form supplied by court, and will require that the guardian forward a copy of the form of account as submitted to the court with the certificates of bank balance and inspection of assets at the same time the original is filed with the court. As stated above, accountings will be secured in all cases at least once a year, unless waived pursuant to existent instructions.

§ 13.324 *Arrangements in calling accounts.* The arrangements in calling for the accounts in all cases will be such as to have the date that the Veterans' Administration desired an account coincide with the date on which such accounts are required by the court.

§ 13.325 *Notice to Chief Attorney of the filing of petitions for account, etc.* Where the State laws permit, arrangements will be made with the courts whereby notices of filing of all petitions, accounts, etc. and of hearings on same, relative to guardianship cases wherein the Veterans' Administration is interested, will be sent to the Chief Attorney. If this is done, the court will be notified in due time whether the Veterans' Administration has any objections to offer. Minor objections may be brought to the attention of the court informally; other matters by formal exception or objection. If there be no objection, a stamp may be used, reading "No objection, approval recommended."

§ 13.326 *Action upon receipt of account; action where funds escheat to United States.* As soon as the account is received in the office of the Chief Attorney, it will be attached to the correspondence file and forwarded to the fiduciary accounts analyst, who will analyze the account. Receipt of the account will be duly recorded on the Account Due Card, VA Form 2–3526, and the card will be filed as a diary for the succeeding year. If the account is proper in every respect, the same may be stamped, as stated in § 13.325. While accounts are examined and briefed by fiduciary accounts analysts, they will be passed upon finally only by the Chief Attorney or other attorney.

(a) In cases falling under the provisions of Public Law 662, 79th Congress, the Chief Attorney will determine whether the account shows that the veteran's estate derived from any source equals or exceeds $1,500 and, if so, will immediately notify the adjudication agency of such fact; and in those cases in which the award has been discontinued under the provisions of Veterans Regulation 6 (a), paragraph VI (B), as amended (38 U. S. C., ch. 12), or Public Law 662, 79th Congress, the Chief Attorney will determine whether the account shows that such estate has been reduced to $500 and, if so, will immediately notify the adjudication agency of such fact. The value of the assets of the insane veteran's estate derived from any source will be determined in accordance with the following principles:

(1) Real estate, the assessed value for tax purposes, except where the State law provides it shall be assessed at a specified percentage of its market value, in which event the market value will be ascertained and used. For example, the State law provides real estate shall be assessed for the purpose of taxation at 75 percent of market value, the market value for the purpose of this legislation will be one and one-third times the assessed value. Of course, if the State law provides real estate shall be assessed at its market value, then the assessed value will be used. If real estate is encumbered, or the veteran is a co-owner, his equity or proportionate interest only should be used in determining the value of his estate. Where the application of this principle would result in hardship such as the forced sale at an unfair valuation of the real estate, particularly non-income-producing real estate, the facts will be reported for consideration of the Deputy Administrator, Department of Veterans' Benefits, or his designee.

(2) United States savings bonds, war bonds, adjusted service bonds, and other appreciation bonds, the current value including accrued interest will be used.

(3) Bonds and stocks, the current price listed on recognized stock exchange will be the value to be used.

(4) The following will not be included as assets:

(i) Adjusted service certificate.

(ii) Insurance policy having cash surrender or loan value.

(iii) Personal property, such as furniture and household equipment, working tools, livestock, and jewelry.

NOTE: Cash in the estate will be considered, notwithstanding it was derived from any of above excluded items.

(b) In the event of the death of a beneficiary under guardianship, the Chief Attorney will secure from the guardian a final account showing the amount, if any, of funds held by the guardian derived from payments of compensation, pension, retirement pay, automatic or term war risk insurance, or gratuitous National Service life insurance, for the purpose of determining whether the estate will escheat to the United States pursuant to the last proviso of section 21 (3), World War Veterans' Act, 1924, as amended (38 U. S. C. 450 (3)), or whether the personal property shall vest in the General Post Fund pursuant to Public Law 382, 77th Congress (38 U. S. C. 17). The Chief Attorney will ascertain whether administration will be had on the estate of the deceased beneficiary and, also, whether there are any heirs. If there are no heirs, he will report the facts to the appropriate adjudication agency and, in the case of an institutional award, to the chief officer of the institution. In such cases the Chief Attorney will endeavor to effect the return of the estate in the hands of the particular fiduciary to the United States, in connection with the final accounting of the fiduciary, or in any manner which may be possible under local procedure and practice, without litigation, and if unsuccessful in this effort a complete report will be submitted to the Deputy Administrator, Department of Veterans' Benefits.

§ 13.327 *Information to satisfy discrepancies in accounts.* In all cases in which the account cannot be passed without objection by the Chief Attorney, it will be incumbent upon him to obtain information to satisfy the discrepancies and to make such arrangements as are necessary with the guardian and/or the court to have the account restated and thus prevent unnecessary court appearances for the purpose of filing exceptions. Exceptions will be filed only when arrangements cannot be made with the court and the guardian to have the account restated prior to the date of settlement.

§ 13.328 *Chief Attorney authorized to file exceptions, to institute other legal proceedings, and to incur costs.* Chief Attorneys are vested with authority to institute necessary legal proceedings to cite guardians to account, to file exceptions to their accounts, to cite guardians to file bonds, to require investments, to petition the court to vacate or modify orders or to remove guardians, or to institute other action necessary to secure proper administration of the estate by the fiduciary, or to appear or intervene in any court in any litigation instituted by him as attorney for the Administration of Veterans' Affairs, or otherwise, directly affecting money paid to the fiduciary, and to incur the necessary court costs including witness fees, and other expenses in connection therewith. Any such costs paid by the Veterans' Administration will be recovered if possible

from the adverse party and deposited into the Treasury as miscellaneous receipts.

§ 13.330 *Action where account cannot be approved or proper administration of estate may not be secured.* In cases in which the account cannot be passed because objectionable under § 13.327, the exceptions filed should be sufficient, if sustained, to show the incompetency of the guardian, and unless the court by its own motion will automatically remove the guardian, or proper administration of the estate may not be secured otherwise, the Chief Attorney is authorized to institute action to remove the guardian, to secure the appointment of a qualified successor, and to pay the costs in connection therewith. In case the account or other evidence shows that there has been misappropriation or embezzlement of funds, or other violation of section 2, Public No. 262, 74th Congress, the Chief Attorney will submit the case to the United States attorney. It will be incumbent upon the Chief Attorney in all cases to have the substitute guardian proceed against the guardian and surety.

§ 13.331 *Commissions of guardians, and attorneys' fees.* Adjustments will be made informally, if possible, to avoid excessive allowances, expenditures, attorneys' fees, or guardians' commissions. When necessary, formal objections will be filed to illegal fees or commissions in excess of those allowed by law. The Veterans' Administration policy is that commissions should be reasonable for services performed and that, except in the event of unusual services, such commissions should not exceed 5 percent of the income.

§ 13.332 *Guardians' commissions under the Uniform Veterans' Guardianship Act.* In order that the Chief Attorneys, in those States which have adopted the Uniform Veterans' Guardianship Act, may cooperate more effectively with the courts in carrying out the intent and purposes of said act, the following instructions will apply:

(a) Upon receipt of a notice that the guardian has filed a petition alleging unusual services and praying for an allowance in excess of 5 percent of the income during the accounting period, the Chief Attorney will determine whether the petition should or should not be contested. He will then notify the court, before the date when hearing may be had, of the position of the Veterans' Administration on the matter. If no objection is to be raised, the court will probably proceed without a hearing. If objections are to be raised by the Veterans' Administration, it will be necessary for the Chief Attorney to be represented at the hearing.

(b) In any case wherein the Chief Attorney desires to recommend an appeal, a full report should be made by letter in accord with the provisions of § 13.333 (b).

§ 13.333 *Appeals, cost of, may be paid.* It is obvious that to be successful in an appeal the ground work must be well laid. In the first instance the petition, or other legal paper filed should show the exact basis whereon the action of the Veteran's Administration is predicated, and that such action is pursuant to the Federal law, and a function necessary to the discharge of the responsibility placed upon the Administrator by the Congress. If there be any State statute applicable, and this is true in many States, advantage should be taken thereof, and such statute should be relied upon as well as the Federal statute.

(a) It is obvious too that, from the point of view of establishing a precedent, an appeal should be taken in no case unless the facts are such as to bring the case strictly within the language of the act, i. e., the fiduciary is not "properly executing or has not properly executed the duties of his trust or has collected or paid, or is attempting to collect or pay, fees, commissions, or allowances that are inequitable or in excess of those allowed by law for the duties performed or expenses incurred, or has failed to make such payments as may be necessary for the benefit of the ward or the dependents of the ward," and the court has arbitrarily allowed fees, commissions, or allowances that are inequitable or are in excess of those allowed by law for the duties performed or expenses incurred. The conditions adopted by the Veterans' Administration pursuant to section 21, World War Veterans' Act, 1924, as amended, are that commissions in excess of 5 percent of the income received during the accounting period are inequitable unless unusual services, i. e., services beyond those ordinarily required of a guardian, have been performed.

(b) The Chief Attorney may appeal to a district, circuit, or other similar court where the trial is de novo and authorize costs in connection therewith. No appeal to an appellate or Supreme Court will be filed and no costs in connection therewith authorized without prior approval of the Deputy Administrator, Department of Veterans' Benefits, or his designee. In any case wherein the court overrules the petition or motion filed under the provisions of section 21, World War Veterans' Act, 1924, as amended (38 U. S. C. 450), and an appeal is believed necessary to protect the estate of the Veterans' Administration beneficiary, the facts will be reported to the Deputy Administrator, Department of Veterans' Benefits, with a definite recommendation regarding whether an appeal should be taken. The statement will include the date by which the appeal must be filed and the probable cost of the appeal, reporting separately the estimated costs for printing the brief and record so that authority for printing may be granted in accordance with prescribed procedure.

(c) If, after consideration of such report and recommendation, an appeal is authorized, the Chief Attorney will immediately take the necessary action to perfect the appeal. In such cases, if appeal bond is required, the Chief Attorney, as attorney for the Administrator of Veterans Affairs, is authorized to sign such bond for the Administrator. If time permits, the Chief Attorney will supply Deputy Administrator, Department of Veterans' Benefits with the record (if same must be printed) and with the proposed brief before filing; otherwise, copies will be forwarded immediately after filing. The Chief Attorney will maintain a docket on such cases.

§ 13.334 *Accounts of banks and trust companies.* Relative to accounts rendered the Veterans' Administration by banks and trust companies, advice is given that banks and trust companies acting as fiduciaries of Veterans' Administration beneficiaries will not be required to submit receipts, vouchers, or canceled checks with accountings rendered the Veterans' Administration, provided the books and records kept by such banks and trust companies are open to inspection at all reasonable times by accredited representatives of the Chief Attorney's office.

§ 13.339 *Claims of creditors.* (a) Section 3, Public No. 262, 74th Congress, (38 U. S. C. 454a), applies to payments made to or on account of a beneficiary under the laws relating to veterans and exempts such payments, either before or after receipt by the beneficiary, from the claims of creditors, and provides that same shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever. The language of the section has been construed by the Supreme Court of the United States to the effect that such exemption does not extend to property in which the proceeds of such payments are or may be invested. (Carrier v. Bryant, 306 U. S. 545.)

(b) The statute makes no distinction between claims of creditors arising before or after the appointment of a fiduciary or before or after adjudication of insanity. Proper expenses incurred by the fiduciary after appointment and in accordance with law are obviously not comprehended by the statute. The fiduciary should invoke the defense of this statute against all other claims of creditors including judgment creditors. If he does not do so, the Chief Attorney will raise the issue by proper plea. If, after being advised fully as to the facts and the law, the court allows payment of the claim or debt out of such funds, and if payment of the claim would be advantageous to the ward, the Chief Attorney need not except to any order of the court so finding, otherwise, the record will be protected for possible apeal. (See § 13.333.)

§ 13.340 *Taxation of funds in hands of fiduciary.* Payments made to or on account of a beneficiary under any of the laws relating to veterans are exempt from taxation. Property purchased wholly or in part out of such payments is not exempt from taxation. The fiduciary should invoke this defense against any tax assessment upon money received from the Veterans' Administration. If the amount in issue is inconsequential, litigation ordinarily would not be justified because of the expense involved.

§ 13.343 *Accounts of Managers of Veterans' Administration hospitals or centers.* The Manager of a Veterans' Administration hospital or center shall, in the case of each patient or member for whom payments have been received from a guardian, account for the receipts and disbursements of such funds for such

person, when such accounts are required by the Chief Attorney having supervision of the fiduciary.

§ 13.344 *Chief Attorney to request account from Manager.* In such cases, the Chief Attorney will notify the Manager when the account is required, i. e., either annually or at such time as the information is necessary for purposes of checking guardian's account. VA Form 2–4706b, Hospital Account Form, may be used for this purpose and will show all receipts and disbursements. The vouchers and receipts will not accompany the accounting but may be inspected by the Chief Attorney or a representative of his office, if necessary.

§ 13.347 *Chief Attorney to check accounts.* The Manager of a Veterans' Administration hospital or center before returning to a guardian any excess funds, either while the veteran remains therein or when he is discharged therefrom, will obtain from the principal Chief Attorney information as to whether such funds may be released to the guardian. The principal Chief Attorney's advice will be predicated upon the present status of the guardianship. If payments have been suspended to the guardian, or if the guardian is not satisfactorily accounting for the funds already received, or bond is insufficient, the unexpended balance will be withheld until the irregularities have been adjusted. The Chief Attorney will then furnish the Manager with information that the funds may be released to the guardian and will forward an executed VA Form 2–4704, Certificate of Legality of Appointment and Adequacy of Bond.

§ 13.348 *Chief officer of hospital to check with Chief Attorney before returning funds to guardian.* With respect to funds paid by the Veterans' Administration under institutional awards or as pensions to the chief officers of institutions not under the control and jurisdiction of the Veterans' Administration, the chief officers thereof will secure information from the Chief Attorney similarly as required by § 13.347, prior to returning such funds to guardians.

(a) When United States Government institutions, other than those under the jurisdiction of the Veterans' Administration, have on hand excess funds to be disposed of in accordance with this section by returning same to a guardian, such institutions will be furnished a photostat of the papers of the appointment of the guardian if same are on file in the Veterans' Administration. Under the ruling of the Comptroller General of the United States, dated September 17, 1929 (A–28639), the photostats will be sufficient to justify payment thereof by the chief officer to the legal guardian. If such institutions have funds of a deceased patient, they will likewise be furnished a photostat of the papers of the appointment of an administrator or other legal representative if the originals are on file in the Veterans' Administration.

§ 13.352 *Accounts of chief officers of private or State hospitals.* The chief officer of an institution other than a Government institution shall render an account annually to the Veterans' Administration for funds received from the Veterans' Administration on account of an incompetent beneficiary. The Chief Attorney will request an accounting annually of such institutions for such funds only and may effect arrangements for the assignment of Veterans' Administration personnel to assist in the rendition of such accountings.

REMOVAL OF LEGAL CUSTODIANS

§ 13.355 *Grounds for removal.* A legal custodian will be removed when the Chief Attorney having supervision of such custodian has evidence disclosing that the conditions upon which the legal custodian is recognized no longer exist or that the legal custodian is not properly performing the duties of his trust. Thereupon arrangements will be made for recognizing a proper fiduciary.

REMOVAL AND DISCHARGE OF GUARDIANS

§ 13.363 *Grounds for removal.* In cases falling under section 21 (2), World War Veterans' Act, 1924, as amended, the Chief Attorney is authorized to make such arrangements as will best conserve the interests of the ward, and which meet with the approval of the court, as stated in § 13.330, and to have payments suspended pending adjustment.

(a) *Authority of Chief Attorney to suspend payments.* The Chief Attorney is empowered to authorize suspension in such cases, pending adjustment. The notice to suspend payments will be forwarded by him to the proper adjudication agency of the office making such payments. The Chief Attorney will submit separate requests for suspension of compensation or pension and for suspension of insurance.

§ 13.365 *Authority of Chief Attorney to appear in State courts for the Administrator.* The Chief Attorney is authorized to appear in State courts as attorney for the Administrator of Veterans' Affairs in any case comprehended by section 21, World War Veterans' Act, 1924, as amended (38 U. S. C. 450), and in compliance with the provisions thereof.

§ 13.366 *Discharge of guardian upon restoration of sanity.* After the beneficiary has recovered and is rated competent, the discharge of a guardian and the restoration of full civil rights is dependent upon State statutes. Generally, no steps should be taken to have a guardian discharged until the beneficiary has demonstrated to the satisfaction of the Veterans' Administration that he has adjusted socially and industrially. When it is determined that the guardian should be discharged, he will be notified to that effect. If the guardian in due course takes no action to terminate the guardianship, the Chief Attorney will consult with the veteran and, upon his request, may render legal services as provided in § 13.251 (b).

§ 13.367 *Discharge of guardian upon termination of minority.* When a minor beneficiary becomes of age, the guardian should be discharged. He will be notified to that effect. If in due course of time the guardian does not secure his discharge, the beneficiary will be notified and may take such action as is proper under State law. The guardian will, in any event, file a final accounting with the Veterans' Administration. The discharge of a guardian obtained by a general release from his ward does not relieve him from the responsibility of filing a final accounting with the Veterans' Administration.

§ 13.368 *Use of services of American Red Cross, ex-service organizations, and other cooperating welfare agencies involving mentally incompetent beneficiaries of the Veteran's Administration.* The governing instructions concerning incompetent beneficiaries under guardianship and providing for treatment in hospitals, as well as their commitment thereto, contemplate the use of every facility of the Veterans' Administration to provide properly for the welfare of such beneficiaries and the protection of all concerned with whom they come in contact. The extent to which the services of the representatives of the various welfare agencies, cooperating with the Veterans' Administration in this work, are applied, is not enumerated in detail herein; but it is desired that the fullest cooperation be extended to these representatives and whenever there is any suspicion that the particular beneficiary in whose behalf these services are being utilized is, by reason of his mental infirmity, potentially or actually dangerous, every precaution under local conditions should be taken to assure adequate protection to all concerned. It is believed that greater cooperation between the responsible officers of the regional offices and the representatives of various welfare agencies will result in maintaining proper supervision over this type of beneficiary and will result in the furnishing of information which will enable such representatives to be apprised of potentially or actually dangerous beneficiaries. When there is any suspicion on the part of the representatives of any welfare agency as to an alleged dangerous beneficiary and information to this effect is communicated to the Chief Attorney of the nearest regional office, the Chief Attorney, in addition to furnishing all proper available information, will proceed under instructions governing the operation of his office to determine whether there is need for, or possibility of, securing commitment of such beneficiary to a Veterans' Administration hospital, or that appropriate action is taken by the responsible relatives, legal representatives, interested parties, or civil authorities. (See § 13.230.)

(a) In addition, the Chief Attorney should cooperate closely with and advise the guardian of the person of such a beneficiary as to the necessity for maintaining closer supervision over his ward, not only for the protection of the community at large but also for the protection of the ward and to avoid possible civil or criminal liability for the result of his actions.

§ 13.369 *Authority of the Chief Attorney to order advertising or publication of notices in guardianship or commitment proceedings.* Whenever, in applying the provisions of §§ 13.223 to 13.238, inclusive, or in any action neces-

sary to cite a fiduciary to account, or in filing exceptions to an accounting, or in any proceeding incident to removal of a fiduciary instituted by the Chief Attorney, or in any other guardianship proceeding, it is necessary to publish any notice or other advertising in any newspaper or other publication in complying with the provisions of the State laws or local procedure, authority to order such advertising or notice is hereby delegated to the Chief Attorney as the representative of the Administrator, pursuant to section 7, Public No. 2, 73d Congress (38 U. S. C. 707).

LEGAL SERVICES (OTHER THAN GUARDIANSHIP)

§ 13.400 *Legal services (other than guardianship) by Chief Attorneys.* The Chief Attorney, as an employee of the Department of Veterans Benefits, is the legal advisor of the Manager of the office to which assigned and may render other legal services as prescribed by Veterans' Administration Regulations. He is further authorized to render legal advice, oral or written, and formal legal opinions to Managers of regional offices, centers, hospitals, domiciliaries or district offices within the territory allocated to the regional office, on matters as to which there is a governing Veterans' Administration issue or opinion of the General Counsel, or former Solicitor. If no applicable governing Veterans Administration issue or opinion of the General Counsel, or former Solicitor, be available, the Chief Attorney may prepare a tentative opinion or submit the question, through channels, for consideration of the General Counsel. (See §§ 13.401 and 13.402.)

§ 13.401 *Legal advice or assistance on general law, State law, real and personal property law, guaranty or insurance of loans, personnel, fiscal matters, etc.* Written or oral requests for legal advice or assistance from the appropriate Chief Attorney are authorized to be made by Managers of hospitals, domiciliaries, district or regional offices, and by chiefs of divisions, provided, however, the inquiry shall be in writing, if the Chief Attorney so requests. Except as to questions of State law or general law the Chief Attorney will confine his advice and opinions to matters covered by Veterans' Administration precedents and opinions of the General Counsel (former Solicitor), will be governed thereby and will not go beyond the scope thereof. Subject to the stated exceptions, if no applicable opinion or precedent is found, a Chief Attorney may prepare a tentative opinion and forward a copy thereof through the Manager of the station requesting same to the Deputy Administrator concerned or the Chief Medical Director, as the case may be, which official will be responsible for forwarding it to the General Counsel for review. If approved by the General Counsel, the opinion will be returned through the same channels and may be released; otherwise, appropriate opinion will be prepared by the General Counsel addressed to the staff officer concerned or to the Administrator if requiring his consideration. No such tentative opinion will be released or acted upon unless approved by the General Counsel. In lieu of preparing such tentative opinions, the Chief Attorney, in his discretion, is authorized to submit the question, through the same channels, for consideration of the General Counsel, with appropriate comments and citations of statutes or cases readily accessible to the Chief Attorney.

§ 13.402 *Domestic relations, questions, restoration to rolls, and conflict of laws.* (a) Subject to the provisions of paragraphs (b) and (c) of this section, the Chief Attorney is authorized to prepare and release legal opinions on all questions submitted relating to the validity and legal effect of marriages (ceremonial or otherwise) divorces, annulments, ostensible marriages (void or voidable), adoptions, and legitimacy.

(b) In the following instances the Chief Attorney may refer the request to the General Counsel, through channels, or may prepare a tentative opinion, forwarding same for consideration of the General Counsel as provided in § 14.501 (b) of this chapter:

(1) Issues as to discontinuing gratuity payments by reason of ostensible remarriage;

(2) Restoration of such payments to a widow whose subsequent marriage is annulled;

(3) Cases involving question of domestic relations in which there are contesting claimants to compensation, pension, indemnity or insurance proceeds or dividends;

(4) Conflict of law questions arising from the entry of inconsistent judgments in two or more jurisdictions;

(5) Unusual situations involving the law of two or more jurisdictions, or of a foreign country;

(6) Cases involving difference of opinions between Chief Attorneys.

(c) Veterans' Administration determinations of validity of marriage for the purposes of §§ 3.49 and 4.64 of this chapter will be based on the entire record, including evidence of conduct and reputation and applicable presumptions, as well as any available public records. Recognition of the finality ordinarily attaching to court decrees as determinative of status will not preclude independent determination of eligibility under Federal law. A "void marriage" is a purported marriage which under the law of the applicable jurisdiction, and notwithstanding the form of marriage, is not a valid marriage. A "voidable marriage" is one which comes into existence under circumstances that entitle one of the parties to disavow the contract, for cause recognized under the law of the applicable jurisdiction.

(d) An award of compensation or pension will not be deemed properly discontinued because of marriage or remarriage if:

(1) The purported marriage or remarriage was void; or

(2) The purported marriage or remarriage was voidable:

(i) At the option of the claimant,

(ii) On a ground relating to the essential of the marriage relationship not known or reasonably ascertainable by the claimant at the time of marriage or remarriage, if claimant:

(*a*) Shall have disavowed such marriage by timely and proper action, and

(*b*) Submits to the Veterans' Administration a valid decree annulling the purported marriage.

This regulation is effective August 31, 1954.

[SEAL] J. C. PALMER,
Acting Deputy Administrator.

[F. R. Doc. 54-6799; Filed, Aug. 30, 1954; 8:45 a. m.]

PART 14—LEGAL SERVICES, GENERAL COUNSEL

Part 14 is revoked in its entirety and a new Part 14 is added as follows:

Sec.
14.500 Functions and responsibilities of General Counsel.
14.501 Request for legal opinions.
14.502 Submissions.
14.503 Precedents.
14.504 Opinions.

LITIGATION

14.514 Suits by or against United States or Veterans' Administration officials.
14.515 Suits involving loan guaranty matters and disposition of personal property.
14.543 Cases affecting Veterans' Administration generally.
14.545 Habeas corpus writs.

PROSECUTION

14.560 Procedure where violation of penal statutes is involved.
14.561 Administrative action prior to submission.
14.563 Collections or adjustments.
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TORTS

14.600 Liability.
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14.603 Central office and district office cases.
14.604 Initial investigation.
14.605 Report.
14.606 Claim forms.
14.607 Determination of liability.
14.608 Damage to or loss of Government property.
14.609 Damage to or loss of patients' property.
14.610 Damage or loss caused by fire.

LOAN ACTIVITIES; POWER OF ATTORNEY AND DELEGATION OF AUTHORITY IN THE MAKING AND THE GUARANTY AND INSURANCE OF LOANS, TO LOAN GUARANTY OFFICERS UNDER TITLE III, PUBLIC LAW 346, 78TH CONGRESS, AS AMENDED (38 U. S. C. 694)

14.620 Power of attorney and delegation of authority.

RECOGNITION OF ORGANIZATIONS, ACCREDITED REPRESENTATIVES, ATTORNEYS, AGENTS; RULES OF PRACTICE AND INFORMATION CONCERNING FEES, PUBLIC NO. 844, 74TH CONGRESS

14.626 Requirements for recognition of organizations.
14.627 Accredited representatives.
14.628 Powers of attorney.
14.629 Recognition of attorneys and agents.
14.630 Attorneys affiliated with organizations.
14.631 Knowledge of laws.
14.633 Agents; requirements for recognition.
14.634 Notification of recognition of attorneys by field stations.

AUTHORITY: §§ 14.500 to 14.663 issued under sec. 5, 43 Stat. 608, as amended, sec. 2, 46 Stat. 1016, sec. 7, 48 Stat. 9; 38 U. S. C. 11a, 426, 707. Interpret or apply secs. 200-203, 49 Stat. 2031, as amended, 2032; 38 U. S. C. 101-104. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 14.500 *Functions and responsibilities of General Counsel.* (a) The General Counsel is responsible to the Administrator for the following:

(1) All litigation arising in, or out of, the activities of the Veterans' Administration or involving any officer thereof in his official capacity (except guardianship litigation in State courts).

(2) All interpretative legal advice involving construction or application of laws including statutes, regulations and decisional as well as common law.

(3) Other matters assigned. (See § 14.600 et seq.)

(b) Chief Attorneys, as employees of the Department of Veterans' Benefits, are legal advisors of the Manager of the office to which assigned, and are also authorized to act as legal advisors to the other field stations of the Veterans' Administration located within the area assigned to that regional office, subject to the limitations prescribed in this part. (See § 13.400 of this chapter.)

(c) Chief Attorneys are authorized to assist, or to act for, the General Counsel in litigation, tort, and other matters within the jurisdiction of the office of the General Counsel. The foregoing includes cooperation with United States attorneys in all civil and criminal matters pertaining to the Veterans' Administration and reporting to the United States attorneys as authorized, or to the General Counsel, or both, criminal matters coming to the attention of the Chief Attorney. On all such matters, and those hereinafter included, correspondence or other contact shall be direct between the General Counsel and Chief Attorneys.

§ 14.501 *Request for legal opinions—(a) Submissions from Central Office.* Requests for formal legal advice, including interpretation of law or regulations, shall be made only by the Administrator, a Deputy Administrator, Chief Medical Director, an Assistant Administrator, or Chairman, Board of Veterans' Appeals, or by a subordinate acting for any such official.

(b) *Submissions from the field.* Requests from the field for opinions will be addressed to the Deputy Administrator concerned or the Chief Medical Director, as the case may be. If in order, a submission will be made by such official to the General Counsel, and the opinion, unless it requires the consideration of the Administrator, will be forwarded to said official for his information and transmittal to the field.

§ 14.502 *Submissions.* All submissions will set forth the question of law on which the opinion is desired, together with a complete and accurate summary of relevant facts. Files, correspondence, and other papers will not be submitted unless when necessary as exhibits, as, for example, contracts, leases, loan dockets, court papers in annulment cases, field examination, or other investigation, reports in ostensible marriage cases, etc.

§ 14.503 *Precedents.* (a) All General Counsel's opinions which formulate new Veterans' Administration policy, dependent upon interpretation of Federal statutes, regulations, or other law, will be submitted to the Administrator before they are released or administrative action taken thereon. If accepted by the Administrator, such opinions will be promulgated as Administrator's Decisions or will form the basis for regulatory action.

(b) Administrator's Decisions, which are conclusive as to all persons (except in justiciable matters), are available to the public in printed volumes purchasable from the Government Printing Office. These volumes may be inspected at any Veterans' Administration office. Recent Administrator's Decisions which have not been published in bound volumes are also available in manuscript form in such offices, or may be requested of the office of the General Counsel.

§ 14.504 *Opinions.* Formal opinions of the General Counsel in individual claims (compensation, pension, insurance, loans, vocational rehabilitation, readjustment allowance, indemnity, etc.) are available in the individual claims folders to those entitled to inspect such folders. (See § 1.525 of this chapter.) Formal opinions of the General Counsel of a general nature (administration, claims, fiscal, personnel, contracts, loan guaranty or insurance, etc.) which are digested and indexed are available in the office of the General Counsel and Chief Attorneys and are also supplied to appropriate employees of the Veterans' Administration. Such opinions are not available for general distribution outside the Veterans' Administration, but opinions on subjects of general interest (as for example, loan guaranty, vocational rehabilitation and education, etc.) when, in the opinion of the General Counsel or of the service concerned, the public interest justifies or requires, copies may be supplied persons or agencies interested in subject covered by the opinion, or affected by it.

LITIGATION

§ 14.514 *Suits by or against United States or Veterans' Administration official.* (a) When a suit is filed against the United States or the Administrator involving any activities of the Veterans' Administration, except as provided in § 14.515, or a suit is filed against any employee of the Veterans' Administration in which is involved any official action of the employee, a copy of the petition will be forwarded to the General Counsel, Veterans' Administration, who will take necessary action to cooperate with or receive the cooperation of the Department of Justice in connection with such litigation. The Chief Attorney will be advised in such suits as to what action he should take.

(b) In any civil action wherein direct submission to a United States attorney for institution of action is authorized, the Chief Attorney will afford the United States attorney a complete report of facts and points of law, documentary evidence, witnesses, and, in cases wherein the Administrator's decision is final, a decision of the Administrator. Copy of report and of all pleadings will be forwarded to the General Counsel. The Chief Attorney will perform such other work as the United States attorney may desire.

§ 14.515 *Suits involving loan guaranty matters and disposition of personal property.* (a) In litigation involving loan guaranty activities, the Chief Attorney is authorized to enter the appearance of the Administrator of Veterans Affairs to "actions for debt and foreclosure" or actions similar in substance (including "title actions"). This includes claims for debt, secured and unsecured, and claims in bankruptcy, receivership, or probate proceedings. The entry of appearance will be by the Chief Attorney, without prior reference to the General Counsel, normally within the time that an appearance would be required if there were proper service of process. (See § 36.4319 of this chapter.) In all other types of cases, the Chief Attorney will not enter an appearance or file any pleading on behalf of the Administrator except in imperative emergency and, then, preserving all rights possible, until authorization is received from the General Counsel after submission of all relevant facts. Appearance will not be entered in the absence of valid service of process in any case in which relief sought apparently would result in the Administrator being subjected to personal liability or to injunction, mandatory or otherwise, or to mandamus or other writ or order that would, or might, interfere with his exercise of the functions and the discretion required by Federal legislation or Executive order. In doubtful cases, the Chief Attorney will request instructions from the General Counsel, submit-

ting copy of so much of the pleadings or other papers, together with a sufficient recital of the facts as will make clear the background, the issues, and the relief sought. The submission also will include names and addresses of adverse parties and attorneys so that immediate action may be taken if injunctive relief seems proper. Where necessary in any case to preserve rights which might be lost by default if there had been proper service of process, appropriate action will be taken by a special appearance, or, in jurisdictions where a special appearance does not serve the purpose or under State statute or decisions will constitute a general appearance for a later date, by an appearance through amicus curiae, to obtain an extension of time, preferably 30 days or more, in which to appear and plead without prejudice. If not feasible to obtain an extension, the Chief Attorney will explain to adverse counsel by letter, and personally, if desirable, the necessity of deferring all action and will see that the proper judge receives a signed copy of the letter before default day. The letter will point out that there is no valid service of process on the Administrator of Veterans Affairs but will not base the delay on that alone.

(b) The General Counsel and each Chief Attorney representing the General Counsel is the attorney of the Administrator of Veterans Affairs for all purposes of section 509, title III, Servicemen's Readjustment Act of 1944, as amended (38 U. S. C. 694j), and section 6 of Public Law 382, 77th Congress (38 U. S. C. 17e), and as such is authorized to represent the Administrator in any court action, or other legal matter (including foreclosure, judicial, or nonjudicial) arising under either of said statutory provisions. Said authorization is subject to any applicable statutes and Executive orders concerning claims of the United States. A Chief Attorney may enter appearance in such cases, subject to the provisions of § 36.4319 of this chapter and paragraph (a) of this section. Each Chief Attorney is authorized to contract for the employment of attorneys on a fee basis for conducting any action arising under guaranty or insurance of loans or direct loans by the Veterans' Administration; or for examination and other proper services with respect to title to and liens on real and personal property, material incident to such activities of the Veterans' Administration, when such employment is deemed by him to be appropriate.

(c) The General Counsel and each Chief Attorney in carrying out his duties as authorized in paragraph (a) or (b) of this section is authorized (1) to contract for and execute for and on behalf of the Administrator, any bond (and appropriate contract or application therefor) which is required in or preliminary to or in connection with any judicial proceeding in which the Chief Attorney is attorney for the Administrator, and to incur obligations for premiums for such bonds; (2) to sign petitions for removal of causes to United States, or other proper courts or tribunals; (3) to do all other acts and incur all costs and expenses which in his professional opinion are necessary or appropriate to further or protect the interests of the Administrator in or in connection with prosecuting or defending any cause in any court or tribunal within the United States, which cause arises out of or incident to the guaranty or insurance of loans, or the making of direct loans by the Veterans' Administration, pursuant to title III of Public Law 346, 78th Congress, as amended (38 U. S. C. 694 et seq.) or the performance of functions authorized under Public Law 382, 77th Congress (38 U. S. C. 17–17j).

(d) Except in an emergency, no Chief Attorney will initiate action for appellate review without prior approval by the General Counsel. These limitations do not preclude the filing of a motion for a new trial, appeal to intermediate court with hearing de novo, the giving of notice of appeal, reserving of bills of exception, or any other preliminary action in the trial court which may be necessary or appropriate to protect or facilitate the exercise of the right of appellate review, nor do they preclude the taking of appropriate steps on behalf of the Administrator as appellee (respondent) without prior reference to the General Counsel. Upon the conclusion of the trial of a case, the Chief Attorney will report the result thereof to the General Counsel, with recommendation as to seeking appellate review if the result reported is adverse to the position of the Veterans' Administration in the litigation. The reporting Chief Attorney who recommends appellate review will include as a part of his communication, or in exhibits attached, (1) a summary of the evidence; (2) a summary of the law points to be reviewed; (3) citations of statutes and cases; (4) statements of special reasons for recommending appellate review; (5) time limitations for the action recommended; (6) requirements, if any, respecting printing of the record and briefs; (7) the estimated total expenses to be incurred by reason of the appeal, reporting separately the estimated costs for printing the brief and record so that authority for printing may be granted in accordance with prescribed Veterans' Administration procedure; and (8) the recommendation by the loan guaranty officer, or that he does not desire to make a recommendation.

(e) If time permits, the Chief Attorney will supply the record to the General Counsel for review. In all cases, the Chief Attorney acting for the General Counsel in any appellate proceedings will promptly report to the General Counsel the court's decision. If there is an opinion by the court, a copy thereof will be enclosed with such report, if feasible, or, if not then available, same may be forwarded later or cited if contained in printed reports.

(f) Recommendations for seeking appellate review will be limited to cases in which, in the Chief Attorney's opinion, the judgment or decree probably will be reversed or substantially modified on appellate review, except in those few instances in which it may be desirable to obtain an authoritative settlement of a legal question, even if adverse to the views of the Veterans' Administration on the subject.

(g) The delegation herein is not in derogation of any authority delegated otherwise, and specifically not that of § 36.4342 of this chapter.

§ 14.543 *Cases affecting Veterans' Administration generally.* Chief Attorneys will establish and maintain such close liaison with the State and Federal courts as to insure that notice will be afforded the Veterans' Administration on all cases affecting the Veterans' Administration. Such information will be forwarded to the General Counsel promptly in every case.

§ 14.545 *Habeas Corpus writs.* Any Manager or other employee at a field station of the Veterans' Administration who is served with writ of habeas corpus concerning any beneficiary of the Veterans' Administration in his custody or with any other legal process involving his official actions, in addition to taking such steps as, in his judgment, are necessary to protect himself, will immediately notify the Chief Attorney of the region in which he is situated.

PROSECUTION

§ 14.560 *Procedure where violation of penal statutes is involved.* (a) The submission to the appropriate United States attorney of a violation or suspected violation of the penal provisions of the statutes of the United States will be made by the Chief Attorney, regional office or center, within whose jurisdiction the alleged offense appears to have been committed. Where the file or record which contains evidence of a penal offense is located in or forwarded to Central Office, the matter will be referred to the General Counsel for development and reference to the proper Chief Attorney or direct to the Department of Justice. Where the file or record is maintained in a district office or other station, it will be referred to the Chief Attorney of the regional office in whose area the district office or other station is located for development and determination as to whether prosecution is indicated and reference to the proper United States attorney if in order.

(b) In all instances where, in developing a necessary administrative investigation, there is evidence of a violation of the penal provisions of the Federal statutes, the case will be submitted to the appropriate United States attorney (18 U. S. C. 3–4). In central office, investigation service reports showing any criminal acts will reported by the General Counsel to the Department of Justice. If such offense seems probable, but an administrative investigation is not necessary, the matter will be reported, without investigation, to the United States attorney or the Department of Justice, as the case may be. The Department of Justice is charged with the duty and responsibility of interpreting and enforcing criminal statutes, and the final determination as to whether the evidence is sufficient to warrant prosecution in any case is a matter for that Department. The function of any administrative official is to marshall all evidence within his possession and, when the evidence is sufficient to make a prima facie case of a violation of the statute, to transmit the same to

the United States attorney for such action as the Department of Justice, acting through the United States attorney, may deem necessary. If the United States attorney decides to prosecute, the Chief Attorney will cooperate with him as may be requested. Cases deemed essential to protect Veterans' Administration interests or policy will be reported to the General Counsel if prosecution is delayed or declined.

§ 14.561 *Administrative action prior to submission.* Before a submission is made to the United States attorney in cases involving personnel or claims the General Counsel, if the file is in central office, or the Chief Attorney, regional office or center, if the file is in the regional office or other field station, will first ascertain that necessary administrative or adjudicatory (forfeiture, etc.) action has been taken; except that in cases involving prosecution under titles III (38 U. S. C. 694 et seq.) and V, (38 U. S. C. 696) Servicemen's Readjustment Act; and in urgent cases such as breaches of the peace, disorderly conduct, trespass, robbery, or where the evidence may be lost by delay, or prosecution barred by the statute of limitations, submission to the United States attorney will be made immediately.

§ 14.563 *Collections or adjustments.* When it is determined that a submission is to be made to the United States attorney, no demand for payment or adjustment will be made without his advice. However, if, before or after submission, the potential defendant or other person tenders payment of the liability to the United States, payment will be accepted if the United States attorney states he has no objection. If the United States attorney determines that prosecution is not indicated, or when prosecution has ended, the file will be returned to the appropriate office with a report as to the action taken.

§ 14.583 *Crimes or offenses on reservations.* Upon receipt by the Chief Attorney of a report from the Manager of any Veterans' Administration hospital or domiciliary located in his regional office area, other than the District of Columbia, indicating a violation of any penal statutes occurring on such Veterans' Administration hospital or domiciliary reservation, he will extend full cooperation and advice to the Manager. In so doing, the Chief Attorney will be guided by the provisions of 18 U. S. C. 13 and 3041, and 38 U. S. C. 497. Serious crimes (felonies or misdemeanors) committed on a hospital or domiciliary reservation will be reported direct to the United States attorney or local agent of the Federal Bureau of Investigation. The Chief Attorney will give every assistance to the Manager in such cases.

TORTS

§ 14.600 *Liability.* (a) The United States is not liable for wrongs inflicted by its officers or employees except in accordance with specific legislation providing such liability. The Federal Tort Claims Act (Aug. 2, 1946, title IV, Pub. Law 601, chapter 753, 2d session, 79th Cong., 60 Stat. 842, as amended; 28 U. S. C. 1291, 1346, 1402, 1504, 2110, 2401, 2402, 2411, 2412, and 2671 through 2680) provides for recognizing liability under certain stated circumstances, and prescribes a uniform procedure for the handling of claims against the United States, for money only, accruing on and after January 1, 1945, on account of damage to or loss of property, or on account of personal injury or death, caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable in accordance with the law of the place where the act or omission occurred. Part 2 of the act (28 U. S. C. 2672 and 2673) relates to administrative consideration, ascertainment, adjustment, determination, and settlement of such claims "* * * where the total amount of the claim does not exceed $1,000 * * *." Part 3 (28 U. S. C. 1291, 1346, 1402, 1504, 2110, 2402, 2411, 2412, 2674, 2675, 2676, and 2677) provides for the filing of suit on tort claims in United States District courts and authorizes compromises by the Attorney General, with the approval of the court, in such cases. No limitation is provided with respect to the amount of a claim which may be submitted for judicial consideration, and suit may be instituted on claims which have been disallowed administratively and claims which have been withdrawn from administrative consideration prior to final disposition thereof. Court cases under the act shall be tried without a jury. A district court judgment may be appealed to a United States Circuit Court of Appeals; or upon consent, to the Court of Claims of the United States. Part 4, (28 U. S. C. 2401, 2678, 2679, and 2680) of the act provides a 2-year statute of limitations beginning on the day the claim accrued, for the submission in writing for administrative consideration of a claim not exceeding $1,000 in amount, or initiation of court action in any amount. In the case of a claim not exceeding $1,000 presented for administrative consideration, an extension of 6 months from the date of notice of final administrative disposition or from the date of withdrawal of the claim is granted where the time for filing suit would otherwise expire before the end of the 6-month period.

(b) Part 4 of the act enumerates the types of claims on which the United States is not liable under the Federal Tort Claims Act (28 U. S. C. 2680).

§ 14.601 *Collisions.* (a) A report of any collision involving a Veterans' Administration vehicle which results in property damage or personal injury or death will be made by the operator of the Veterans' Administration vehicle immediately following the accident, on Standard Form 91, Operator's Report of Motor Vehicle Accident. A copy of said report, accompanied by an executed copy of Standard Form 91–A, Investigation Report of Motor Vehicle Accident, will be promptly submitted to the appropriate Chief Attorney, who will authorize such additional investigation as the circumstances of the case may warrant.

(b) All Veterans' Administration employees who operate Government-owned motor vehicles will be furnished copies of Standard Form 91 and will comply strictly with instructions contained therein. Similarly, all persons other than drivers who are concerned with the investigation and report of accidents and claims will be furnished with copies of Standard Form 91–A and Standard Form 92, Supervisor's Report of Accident, and will comply strictly with the instructions contained in said forms.

§ 14.602 *Damage or loss due to other causes.* Any accident resulting in damage to, or loss of, property, or in personal injury or death, due apparently or allegedly to the negligence or wrongful act or omission of an employee of the Veterans' Administration acting within the scope of his office or employment, or damage to or loss of Government-owned property caused by other than a Veterans' Administration employee acting within the scope of his office or employment, will be immediately reported on Standard Form 92–A, Report of Accident other than Motor Vehicle. The Manager of the station where such occurrence took place will promptly transmit a copy of the aforementioned report to the appropriate Chief Attorney, who will authorize such additional investigation as the circumstances of the case may warrant.

§ 14.603 *Central office and district office cases.* (a) The Chief Attorney, Veterans Benefits Office, District of Columbia, is the appropriate Chief Attorney within the purview of the regulations in this part relating to "Torts" for the purpose of processing and reporting to the General Counsel motor vehicle collisions and other occurrences resulting in property damage, personal injury or death, which involve Veterans' Administration central office personnel.

(b) The Chief Attorney of the regional office for the area in which a district office or other station is located will be the appropriate Chief Attorney within the purview of the regulations in this part relating to "Torts" for the purpose of processing and reporting to the General Counsel motor vehicle collisions and other occurrences resulting in property damage, personal injury, or death.

§ 14.604 *Initial investigation.* An employee will be designated at each station to investigate motor vehicle collisions and other accidents involving damage to, or loss of, privately owned property or personal injury or death, apparently or allegedly resulting from the negligence or other legal wrong of an employee of the Veteran's Administration acting within the scope of his employment, or damage to or loss of Government-owned property caused by other than Veterans' Administration employees. In central office, the designation will be made by the Assistant Administrator for Administration, and at all other stations, the employee to make such investigations will be designated by the Manager. Where possible, the employee designated to conduct such investigations will be one who has had

some experience in the investigation of accident cases.

§ 14.605 *Report.* Following receipt of the initial reports in a case and completion of such additional investigation as is considered proper, the Chief Attorney will review all the evidence and prepare a concise, complete report including a summary of the evidence, his findings of the essential ultimate facts, citations of applicable local laws, regulations, and decisions, and his conclusion of law as to the liability of the United States, or the liability of the person other than a Veterans' Administration employee acting within the scope of his employment for damage to Government-owned property.

§ 14.606 *Claims forms.* There will be promptly furnished each person who inquires as to the procedure for filing a claim against the United States predicated on alleged negligence or other legal wrong of a Veterans' Administration employee acting within the scope of his employment, one copy of Standard Form 95, Claim for Damage or Injury. The claimant should be informed of the necessity for complying with the instructions on the reverse side of the aforementioned form and advised to submit same directly to the Veterans' Administration activity having jurisdiction of the area wherein the occurrence complained of took place.

§ 14.607 *Determination of liability.* (a) When there is submitted a claim in excess of $1,000, the Chief Attorney will notify the claimant that the Veterans' Administration is without authority to consider the claim, inasmuch as the Federal Tort Claims Act provides a maximum of $1,000 for administrative consideration of claims thereunder. Attention of the claimant should be invited to the provisions of the act relating to judicial consideration of tort claims.

(b) In the case of a claim for not more than $1,000 wherein the Chief Attorney determines that there is no liability on the part of the United States, he will promptly notify the claimant of the disallowance of the claim, explaining the reasons therefor, and advise the claimant of the right to appeal to the General Counsel within 60 days. In the event appeal is not made to the General Counsel within 60 days, the date of expiration of said period will be considered as the date of final administrative disposition of the claim for the purpose of the statute of limitations provided in section 420 of the act (28 U. S. C. 2401).

(c) In cases of a claim for not more than $1,000 wherein the Chief Attorney determines liability on the part of the United States under the act, and cases of appeal from an adverse decision by the Chief Attorney, the report required by § 14.605, will be transmitted, along with a statement regarding a fair and reasonable amount for reimbursement, to central office, attention: The General Counsel. The General Counsel will review said report and make the final administrative determination regarding allowance of the claim. If the claim is disallowed, the General Counsel will notify the claimant accordingly.

(d) If suit is instituted, the investigation report and all other evidence in the case will be made available to the Department of Justice, and the local Chief Attorney will afford such cooperation as may be requested by the United States attorney.

(e) In any cases administratively settled, the General Counsel will approve the attorney fee, if any, to be paid out of the award. Any member of the bar in good standing and who represents the claimant shall be recognized in presenting claims under the Federal Tort Claims Act.

§ 14.608 *Damage to or loss of Government property.* In a case where the Chief Attorney determines that damage to or loss of Government property under the jurisdiction of the Veterans' Administration resulted from the negligence or other legal wrong of a person other than an employee of the United States, he will request payment of the amount of damage from the person liable therefor or his insurer. If the Chief Attorney is unable to secure voluntary payment of the claim, the report required by § 14.605, together with a statement as to why payment is denied and copies of correspondence regarding the requested payment, will be transmitted to central office, attention: The General Counsel.

§ 14.609 *Damage to or loss of patients' property.* The authorization for payment of damage to or loss of personal property of hospitalized patients caused by the negligence of an officer or employee of the government contained in the act of December 28, 1922 (42 Stat. 1066; 31 U. S. C., sec. 215), is repealed by the act of August 8, 1946, supra, and claims for such losses are for settlement under the Federal Tort Claims Act.

§ 14.610 *Damage or loss caused by fire.* Section 31, World War Veterans' Act 1924, as amended (44 Stat. 792; 38 U. S. C. 458), providing for the reimbursement of beneficiaries hospitalized or who have been hospitalized in Veterans' Administration hospitals for any loss of personal effects sustained by fire while such effects are or were stored in designated locations in Veterans' Administration hospitals, is not repealed. The procedure for handling this class of claims is governed by §§ 17.75, 17.76, and 17.77 of this chapter.

LOAN ACTIVITIES; POWER OF ATTORNEY AND DELEGATION OF AUTHORITY IN THE MAKING AND THE GUARANTY AND INSURANCE OF LOANS, TO LOAN GUARANTY OFFICERS UNDER TITLE III, PUBLIC LAW 346, 78TH CONGRESS, AS AMENDED (38 U. S. C. 694)

§ 14.620 *Power of attorney and delegation of authority—(a) Forms, power of attorney. Title III, Public Law 346, 78th Congress, as amended.* VA Form 2–23, Power of Attorney and Delegation of Authority, and VA Form 2–24, Revocation of Power of Atorney, are prescribed for use of loan guaranty officials to supply formal evidence of the authority of designated persons to perform the functions and exercise the powers delegated to them by Regulations (§ 36.4342 of this chapter) pursuant to section 504, Servicemen's Readjustment Act of 1944, as amended (38 U. S. C. 694d).

(b) *Execution of power of attorney and delegation of authority.* The manager of a regional office will from time to time designate appropriate employees to be named in appropriate instruments commonly referred to as Power of Attorney, VA Form 2–23. The loan guaranty officer, if any, will be one designee. At all times one additional employee shall be authorized to act by such power of attorney. Three copies of VA Form 2–23 will be filled in by the regional Chief Attorney for each designee and forwarded to the General Counsel who will secure execution and acknowledgment of two copies by the Administrator. One copy will be retained in central office file; the two executed copies will be returned direct to the regional Chief Attorney.

(c) *Revocation of power of attorney.* Any such power of attorney will be revoked promptly when, in the discretion of the Manager, cause therefor arises; and in any event upon the designee's separation from the position of a loan guaranty official, or from the service, and all executed copies of VA Form 2–23 designating such person will be marked "Canceled" and forwarded to the office of the General Counsel. The regional Chief Attorney upon notification will prepare VA Form 2–24 accordingly and secure execution and acknowledgment thereof in like manner. It will be recorded in each county, if any, in which the power of attorney was recorded. All such copies of VA Form 2–24, whether executed heretofore or hereafter, shall be returned as promptly as feasible to the office of the General Counsel by the regional Chief Attorney, with statement that a copy thereof was recorded in each county in which the revoked power of attorney was recorded. If the power of attorney has not been recorded, the regional Chief Attorney will so state when returning "Canceled" copies to the office of the General Counsel. In such cases only one copy of the revocation will be executed and acknowledged by the Administrator and it will be retained in the office of the General Counsel.

(d) *Recordation.* VA Form 2–23 or VA Form 2–24 may be filed for record when in the judgment of the Chief Attorney it is appropriate to do so. If not so filed, any interested person may have the original recorded by the Chief Attorney upon payment of the recording fee therefor, or by including the amount thereof in the purchase price of the property, as may be agreed.

(e) *Recordation fee.* Authority is hereby granted for payment of recordation fee if recordation is requested by loan guaranty officer or approved by the Chief Attorney. Payment contemporaneously with filing for record may be accomplished by advance of cash.

(Sec. 504, 58 Stat. 293, as amended; 38 U. S. C. 694d)

RECOGNITION OF ORGANIZATIONS, ACCREDITED REPRESENTATIVES, ATTORNEYS, AGENTS; RULES OF PRACTICE AND INFORMATION CONCERNING FEES, PUBLIC NO. 844, 74TH CONGRESS

NOTE: The following pertains to claims for benefits, and not to matters concerning con-

tracts, public, loan guaranty, or vocational rehabilitation and education.

§ 14.626 *Requirements for recognition of organizations.* The American Red Cross, American Legion, Disabled American Veterans, Grand Army of the Republic, United Spanish War Veterans, Veterans of Foreign Wars of the United States, and such other organizations as the Administrator of Veterans Affairs shall approve may be recognized in the presentation of claims under the laws administered by the Veterans' Administration when the proper officers thereof make application for recognition on the form prescribed and furnished by the Veterans' Administration and, as a part of such application, agree and certify that neither the organization nor its representatives will charge or accept any fee or gratuity whatsoever for service rendered a claimant. In general, no additional organizations will be recognized, except State or Governmental services, or organizations granted a charter or recognition by act of Congress.

(a) In requesting recognition, the following information will be supplied:

(1) Citation to (or copy of) the act granting charter or recognition.

(2) Statement outlining the purpose of the organization and need thereof and the manner in which the veteran or his dependent would be benefited by such recognition.

(3) Names, titles, and addresses of officers.

(4) Number of posts or chapters and States in which located and total paid-up membership.

(5) Names, titles, and addresses of full-time paid employees who are qualified to act as accredited representatives.

(6) Copy of last financial statement of the organization.

(7) Copy of the constitution or charter and by-laws of the organization.

§ 14.627 *Accredited representatives.* Recognized organizations shall file with the Veterans' Administration on the prescribed form furnished by the Veterans' Administration (VA Form 2–21, Recommendation for Accreditation of Representative of an Organization), the name of any person whom they desire recognized as accredited representative thereof. In recommending a person for recognition as a representative, the organization, through its appropriate officer, shall certify to the following: (1) That the designee is a citizen of the United States, of good character and reputation, is qualified by ability and experience to present claims, and that he is a member in good standing, or a full-time, paid employee, of the organization; (2) whether accredited to any other recognized organizations, and, if so, the name or names thereof; (3) that he is not employed in any civil or military department or agency of the United States; (4) if a veteran, the nature of his discharge or separation from the active service. Recommendations for accreditation of representatives of national service organizations will be accepted only if approved by the national certifying officer of such organization.

(a) The recommendation for accreditation (VA Form 2–21) executed by a national organization will be filed with the office of the General Counsel. The recommendation for accreditation (VA Form 2–21) executed by a recognized State organization will be filed with the office of the General Counsel. Accreditation will not be granted to any person unless it is certified by the recommending official that the major portion of his time will be devoted to the preparation or presentation of claims for the organization, or that he is a national officer of such organization. All recommendations will be approved or disapproved by the General Counsel.

(b) A recommendation (VA Form 2–21) received in central office may be sent to the appropriate regional office if necessary, to secure sufficient facts to justify a determination whether the designee is qualified. The report of the Chief Attorney including the recommendation if any of the Manager together with VA Form 2–21 will be transmitted to the General Counsel. If the designee is approved, VA Form Letter 2–3, Notice to Designee of Recognition, will be issued by the General Counsel.

(c) Letters of recognition (VA Form Letter 2–3) or card issued by the General Counsel (VA Form 2–3192, Service Organization Representative Identification Card) will constitute authorization for the recognition of accredited representatives designated therein, in all offices (including hospitals and domiciliaries) of the Veterans' Administration. Record will be maintained in the office of the General Counsel of all recognitions issued.

(d) Recognition of an accredited representative will be canceled at the request of the organization. A Manager may suspend recognition in any case for cause, sending a report to central office, attention of the General Counsel, for final determination.

(e) An information bulletin will be issued monthly by the office of the General Counsel listing all new accreditations and cancellations. This will constitute notice to all concerned on this subject.

§ 14.628 *Powers of attorney.* (a) Before an organization may be recognized in an individual claim, there must be filed a power of attorney (VA Form 2–22) duly executed by the claimant specifically conferring upon the organization the authority to represent the claimant in the presentation of his claim and to receive information in connection therewith, which power of attorney shall be presented to the Veterans' Administration office concerned to be filed in the veteran's folder. The claimant may also authorize release to a local organization information necessary to develop his claim and as to action thereon. The power of attorney must be signed by the claimant, or by the guardian, if any, or, in case of an incompetent without guardian, by wife, parent, or other near relative (if interests are not adverse), or Manager of hospital in which veteran is maintained. An organization which has filed a power of attorney in the case of a veteran shall, in the event of death of the veteran, and if the organization so desires, be recognized for a reasonable period thereafter to enable the new claimant or claimants to execute a new power of attorney or to state that none is desired.

(b) Upon receipt of the power of attorney, the organization named therein shall be recognized as the sole agency for the presentation of the claim covered thereby, and no other organization, agent, or attorney shall be recognized in the presentation of that claim or any phase thereof. The power of attorney given by the claimant may be revoked by him at any time and a subsequent power of attorney substituted, designating another organization, agent, or attorney; a subsequently executed power of attorney shall constitute a revocation of any existing power of attorney. Likewise, a power of attorney may be revoked by the organization named therein.

(c) In certifying a case to the Board of Veterans Appeals wherein a power of attorney has been executed by the claimant in favor of an attorney, agent or accredited representative of a recognized organization, the certifying officer will include a statement showing that such attorney or attorney-in-fact is on the accredited list.

§ 14.629 *Recognition of attorneys and agents.* (a) Claim agents will be granted recognition and certified by the office of the General Counsel upon satisfactory evidence of qualification, including good reputation and knowledge of applicable law and procedure.

(b) Recognition of attorneys is decentralized to the Chief Attorneys of regional offices, but such recognition may be granted also by the General Counsel. Any member in good standing of the bar of a State, territory, or possession of the United States, or of the bar of the District of Columbia, wherein he resides or maintains a law office, who is a citizen of the United States or who has declared his intention to become such a citizen, may apply for recognition as attorney on VA Form 2–3186, Application for Recognition as Attorney. If his recognition is not precluded by any statutory or regulatory provision, and he has never been convicted, whether on trial or plea, of a serious penal offense, or of any violation of any penal provisions respecting fees, his application will be approved and returned to him to be used as evidence of his recognition to practice before the Veterans' Administration.

(c) In general, the procedures of § 14.628 will apply, insofar as pertinent, to recognition of attorneys.

(d) Any cause considered sufficient to reject the application of an attorney or to cancel recognition previously granted will be reported by the Chief Attorney to the General Counsel, for final determination. Recognition shall be canceled automatically if an attorney is convicted of charging illegal fees contrary to the provisions of the Federal Statutes (38 U. S. C. 101–103, 551, or similar provisions). There shall also be applied the provisions of section 6 (a), Public Law 404, 79th Congress (Admin-

istrative Procedure Act). See also §§ 14.630 through 14.635.

§ 14.630 *Attorneys affiliated with organizations.* The policy of the Veterans' Administration precludes the recognition as an attorney or agent, any person who is an officer or employee, appointive or elective, of any veteran, welfare, or State, county, or municipal organization engaged in assisting claimants in presenting claims before the Veterans' Administration without fee or emolument, except that any person holding such office whose duties do not include actual assistance in the presentation of claims before the Veterans' Administration may be recognized but will be precluded while holding such office from receiving a fee for services rendered as an attorney or agent in the presentation and prosecution of claims for benefits administered by the Veterans' Administration. Furthermore, it is contrary to the policy to permit an attorney or agent to transact claims business from or at an office from or at which a veteran or welfare organization, or an agency of a State or other political subdivision, carries on its work incident to assisting claimants in presenting claims before the Veterans' Administration or to use the stationery of such organization or agency in transacting his claims business.

§ 14.631 *Knowledge of laws.* An applicant for recognition as attorney will be presumed to have such knowledge of the law and regulations as to qualify him to render substantial service and may be recognized by the Chief Attorney or the General Counsel if his application shows he meets the requirements of § 14.629 (b). Any duly recognized attorney will, for the purpose of receiving appropriate information in a specific case, be accorded such recognition by central office or any district or regional office to which he presents a duly certified or attested copy of his notification of recognition as attorney, together with the original or similarly exemplified copy of power of attorney. (See § 14.639 as to recognition in individual cases.)

§ 14.633 *Agents; Requirements for recognition.* Any competent person of good moral character and of good repute who is a citizen of the United States, or who has declared his intention to become such a citizen, and who is not engaged in the practice of law may be recognized as an agent, if not prohibited by law, to represent claimants before the Veterans' Administration by presenting to the General Counsel a properly executed application on the form prescribed by the Administrator, VA Form 3187, Application for Recognition as Agent. Applicants for recognition as agents may be required to prove their fitness to render substantial service by undergoing a written examination testing their knowledge of the laws administered by the Veterans' Administration and regulations promulgated thereunder.

§ 14.634 *Notification of recognition of attorneys by field stations.* When an attorney has been recognized by a Chief Attorney, a 3 x 5 card will be prepared showing his name, address, and date of recognition. A copy of this card will be forwarded to the office of the General Counsel and any other office in which the attorney requests that his recognition be recorded. When an attorney has been recognized by the General Counsel, no copy of the 3 x 5 card will be sent to any office unless the attorney specifically requests that his recognition be recorded in a certain office.

§ 14.635 *Suspension and revocation of recognition.* Whenever information is received that an attorney or agent recognized by the Veterans' Administration is or has engaged in unlawful, unprofessional, or dishonest practice, or is incompetent, or has violated or refused to comply with the laws, regulations, and rules governing his recognition before the Veterans' Administration, or who shall in any manner deceive, mislead, or threaten any claimant or prospective claimant by word, circular, letter, or advertisement, the General Counsel shall give the accused attorney or agent due notice with a statement of the charge or charges against him, which statement shall be sufficiently specific to permit the accused intelligently to make answer thereto, and shall cite said attorney or agent to show cause within 30 days, which time limit may be extended, why his recognition should not be suspended or revoked. Where deemed proper, the recognition of an attorney or agent may be temporarily suspended without notice, pending action as provided in this section.

§ 14.636 *Time allowed in answering charges preferred.* If said attorney or agent shall fail to file an answer or other pleading, within the time specified, such charge or charges will be taken as confessed and judgment may be rendered as upon default.

§ 14.637 *Answer to charges.* If an answer, under oath, is filed denying the charges, or so explaining them as to raise an issue thereon, a time and place shall then be set for the taking of testimony. The testimony shall be taken at as convenient a place as possible for both the Government and the defendant, and notice shall be served on the defendant informing him of the time and place at which testimony will be taken for the Government, in order that he may be present and cross-examine the witnesses. Testimony shall be reduced to writing and be signed by the witnesses, unless otherwise stipulated, and may be taken before a Chief Attorney, attorney examiner, or other officer or agent of the Veterans' Administration designated by the General Counsel for that purpose. The testimony, together with any brief desired to be presented by the person charged, will be considered by a board designated for such purpose, which shall recommend to the General Counsel the action to be taken. If the charge or charges be sustained, the General Counsel if he concurs in the recommendation, will suspend or revoke the recognition of such attorney or agent, or take such other action thereon as the facts warrant.

§ 14.638 *Acts subjecting recognized attorneys or agents to suspension or revocation.* The recognition of any attorney or agent will be subject to suspension or revocation, who knowingly commits or is guilty of any of the following acts, to wit: (a) Presents or prosecutes a fraudulent claim against the United States or the Veterans' Administration; (b) demands or accepts any unlawful compensation for preparing, presenting, or prosecuting any claim before the Veterans' Administration or for advice or consultation concerning such a claim; (c) with intent to defraud has in any manner deceived, misled, or threatened any claimant or prospective claimant by word, circular, letter, or advertisement; (d) who, in the presentation or prosecution of, or in connection with, any matter or business pending before said Veterans' Administration, has as his associate, or employs as his agent, subagent, or correspondent, any person who has been guilty of any of the above-mentioned acts, or who has been denied recognition, or has had his recognition suspended or revoked by the Veterans' Administration, or who himself acts as the associate, agent, subagent, or correspondent of any such person; or who is otherwise and in any manner whatever guilty of dishonest or unprofessional conduct.

§ 14.639 *Rules of recognition.* No person other than an accredited representative of a recognized organization shall be recognized in the preparation, presentation, or prosecution of any claim under statutes administered by the Veterans' Administration, unless he has been recognized as an attorney or agent pursuant to the regulations in this part, except (a) that any person (who is a citizen of the United States, or a resident of the United States or of one of its possessions) may be recognized for the purpose of a particular claim upon filing with the office where such claim folder is located a proper power of attorney and a statement signed by such person and the claimant that no fee or compensation of whatsoever nature shall be charged or paid for the services rendered, and except (b) in claims for insurance benefits under a contract in which the Government admits liability on the contract, there is no issue or contest as to the designated beneficiary, and it is reasonably apparent that the attorney or agent will not charge a fee. In the first class of cases the attorney should be advised by VA Form Letter 2–16, Recognition Information to Attorneys and Individuals, regarding the requirements of being recognized in a particular claim or generally. In the latter class of cases, a paragraph substantially as follows should be incorporated in the letter acknowledging receipt of the claim:

> The evidence submitted by you in connection with the claim for insurance benefits in the instant case has been received, and an adjudication of the claim for benefits will be made as expeditiously as possible. It is understood, of course, that you are not entitled to any fee for services performed by you in connection with the preparation and presentation of this claim, inasmuch as you have not been regularly recognized to present claims before the Veterans' Administration by the Administrator of Veterans Affairs.

§ 14.640 *Power of attorney.* Only a duly executed power of attorney confers upon an agent or attorney the right to prepare, present, and prosecute a claim before the Veterans' Administration. Upon receipt of a duly executed power of attorney, the agent or attorney named therein will be informed of the status of the claim and will be recognized as the sole agent for the preparation, presentation, and prosecution of the claim covered thereby so long as the power of attorney is effective.

§ 14.641 *Formalities of power of attorney.* A power of attorney, in order to be recognized as good and valid, must be signed by the claimant or his guardian and be acknowledged before an officer authorized to administer oaths for general purposes or before an employee of the Veterans' Administration to whom authority to administer oaths has been delegated.

§ 14.642 *Diligence or neglect on part of attorney or agent.* An agent or attorney shall be required to exercise due diligence in all claims in which he is recognized. Neglect to prosecute a claim for 6 months or failure to furnish evidence called for by the Veterans' Administration within 90 days shall be held, in default of cause shown, presumptive evidence of the abandonment of all attorneyship rights in the claim.

§ 14.644 *Revocation of power of attorney and discharge of attorney or agent.* The claimant shall have the privilege of exercising his right at any stage of the claim to revoke a power of attorney and discharge his admitted attorney or agent upon a showing of cause deemed good and sufficient by the adjudicating agency or the Board of Veterans' Appeals, as the case may be.

§ 14.645 *Willful withholding of application for benefits.* The willful withholding of an application for benefits or material evidence by an agent or attorney for any cause shall render the recognition of such agent or attorney liable to suspension or revocation.

§ 14.646 *Change of guardianship during pendency of claim.* A change of guardianship in any case during the pendency of a claim shall not affect the question of attorneyship and fee, but no attorney fee shall be allowed to a guardian who prosecutes the claim of his ward, or to a firm of attorneys of which the guardian is a member.

§ 14.647 *Transfer, assignment, or substitution of attorneyship.* A transfer, assignment, or substitution of attorneyship shall not be recognized, and no agent or attorney shall have the right to make an assignment of any claim in which he has been recognized.

§ 14.648 *Requesting aid or assistance through members of Congress et al., regarding claims.* Every agent or attorney who shall, directly or indirectly, request of any member of either house of Congress, or of any United States Government official or representative (other than one whose duty it is under the law to supervise and administer the laws, rules, and regulations and/or instructions governing benefits under statutes administered by the Veterans' Administration), or any organization recognized by the Veterans' Administration, aid or assistance in the prosecution of a claim, or who shall, directly or indirectly, request or advise a claimant to seek such aid in the prosecution of a claim, shall be subject to inquiry respecting his competency to fully represent a claimant and shall be considered as having forfeited his right to any fee in such case.

§ 14.649 *Supplying VA Form 2–22a.* Attorneys and agents will be furnished with sufficient copies of VA Form 2–22a, Power of Attorney, Designation of Attorney or Agent. However, an attorney or agent may furnish his own form of power of attorney but must fully comply with § 14.641. This power of attorney to be valid must contain substantially the same information as required in VA Form 2–22a. Every attorney, agent, or other person recognized as entitled to present claims before the Veterans' Administration shall submit to the General Counsel, in duplicate, copies of all proposed forms and letterheads intended for use in connection with business before the Veterans' Administration, and the General Counsel will notify such attorney or agent of his approval or disapproval. The use by an attorney or agent of the characters "U. S." or the words "United States" as a part of his title or the title of his business shall not be permitted. The publication or circulation of ordinary simple business cards, being a matter of personal taste or local custom, and sometimes of convenience, is not of itself improper, but solicitation of business by circulars or advertisements, or by personal communications or interviews, not warranted by personal relations, is unprofessional and will render the recognition of an attorney or agent liable to suspension or revocation.

§ 14.650 *Expenses incurred by attorney or agent in the prosecution of claims.* When an agent, attorney, or other person incurs any expense in the prosecution of a claim, he must file a sworn itemized account of such expense with the Veterans' Administration to be retained in the claims file as part of the permanent record and secure the approval thereof, before demanding or receiving reimbursement from the claimant, by the adjudicating officer, or his designate. Notice of the action taken in all cases shall be transmitted to the attorney concerned by the service handling the claim.

§ 14.651 *Solicitation of fees.* Attorneys or agents shall not, directly or indirectly, solicit, contract for, charge or receive, or attempt to solicit, contract for, charge or receive any fee or compensation whatsoever for advice or consultation concerning the laws administered by the Veterans' Administration and the regulations, rules based thereon, or for service to claimants thereunder, except such fee or compensation as is herein provided, whether a claim has been or is thereafter filed, or no claim is filed for the person in whose behalf such advice or consultation is given or held or service rendered. Any agent or attorney who shall so do shall thereby subject his recognition by the Veterans' Administration to suspension or revocation and be subject to the applicable penal provisions of the law.

§ 14.655 *Amount of fees.* Except where prohibited by law and except in those cases where the person has been recognized in a particular claim, or has been recognized in an insurance claim without having been regularly recognized as an agent or attorney by the Administrator of Veterans' Affairs, and except in accrued claims and burial claims, a fee of $10 in an original claim for monetary benefits under the statutes administered by the Veterans' Administration and a fee of $2 in a claim for increase for such benefits will be payable to the agent or attorney of record in an allowed claim. In the excepted cases referred to above, no fee whatsoever may be paid to or charged by an agent or attorney.

§ 14.656 *Fees based on revaluation of claims.* When a claim involving monetary benefits has been allowed and for any reason the monetary benefits so allowed are reduced or held terminated, or the claimant has been cited to show cause why they should not be reduced or terminated, proceedings looking to the continuation of such monetary benefits originally allowed will be considered a claim for monetary benefits, and a fee of $10 will be payable in the event the monetary benefits originally allowed are continued, such fee to be deducted from the amount of monetary benefits subsequently payable.

§ 14.657 *Approval of fees by Veterans' Administration.* The fee provided in § 14.655 shall be due and payable only upon the approval of the claim by the Veterans' Administration and then only in the event the attorney or agent has rendered material service in the prosecution of the claim. The filing of the claim may be considered as rendering material service if the attorney or agent is not in neglect but renders all the service necessary to complete the same, that is, where the attorney or agent has done all that he was called upon to do, or could do, even if it be the filing of the application alone, he is entitled to be paid the attorney's fee if one be provided in such case.

§ 14.658 *Method of payment of fees.* At the time of allowance of the claim, an award of the attorney's fee, if same is found due, wil be made and paid by deduction from the monetary benefit allowed, but only to the attorney or agent of record at the time of allowance. The attorney to be entitled must have been regularly recognized by the Veterans' Administration and in good standing at the time of such award.

§ 14.659 *Appeals from denial of fees.* Consideration as to the entitlement of an attorney or agent to a fee in any claim wherein a fee has been denied will not be entertained unless an appeal from the action taken by the Veterans' Administration denying the fee is filed in the Veterans' Administration within 1 year from the date of such action.

§ 14.663 *Banks or trust companies acting as guardians for veterans.* Banks or trust companies, corporate entities, acting as guardians for claimants may be represented before adjudicating agencies as authorized representatives of claimants by an officer or employee thereof, including a regularly employed attorney, if such employee or attorney represents the corporation in its fiduciary capacity but no fee may be allowed for such services under § 14.646.

This regulation is effective August 31, 1954.

[SEAL] J. C. PALMER,
Acting Deputy Administrator.

[F. R. Doc. 54-6800; Filed, Aug. 30, 1954; 8:45 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 34—CLASSIFICATION AND RATES OF POSTAGE

UNDELIVERABLE SECOND-CLASS MATTER

In § 34.63 *Undeliverable second-class matter* make the following changes:

1. Amend the last sentence of paragraph (d) (2) to read as follows: "When the copies bear the pledge of the sender to pay return postage, the portion of the page, envelope, or wrapper, shall not be detached, and after expiration of the 3 months' period the complete copy shall be returned to the sender rated with postage due at the transient second-class rate, computed on each individually addressed copy or package of unaddressed copies."

2. Amend the last sentence of paragraph (e) to read as follows: "When the copies bear the pledge of the sender to pay return postage, each complete copy beginning with the first one which is undeliverable as addressed, shall be returned to the sender rated with postage due at the transient second-class rate, as provided by paragraph (d) (2) of this section."

3. Amend paragraph (f) to read as follows:

(f) *Pledge of addressee or sender to pay forwarding postage.* When a change of address is other than a change of local address, and the addressee has filed a written guarantee either on Form 22 or otherwise to pay forwarding postage or when the copies bear the pledge of the sender to pay forwarding postage, the copies of second-class publications bearing the old address shall be forwarded to the new address for a period of 3 months rated with postage due at the transient second-class rate, computed on each individually addressed copy or package of unaddressed copies. Form 22-S shall be furnished to the addressee at the new address in the manner prescribed by paragraph (d) (1) of this section. If the addressee refuses to pay the postage due, the postmaster at the old address shall be requested by the postmaster at the new address to immediately discontinue forwarding the copies. When copies bearing the old address, but not the pledge of the sender to pay return postage, are received after the period of 3 months has expired, a notice shall be prepared and mailed to the sender in the manner prescribed by paragraph (d) (2) of this section. Copies bearing the old address which are received after the mailing of the notice shall be disposed of as waste (see §§ 6.22 and 43.46 of this chapter). When the copies bear the pledge of the sender to pay return postage, each complete copy beginning with the first one bearing the old address received after the period of 3 months has expired, shall be returned to the sender rated with postage due at the transient second-class rate, as provided by paragraph (d) (2) of this section.

(R. S. 161, 396, secs. 304, 309, 42 Stat. 24, 25, sec. 12, 65 Stat. 676; 5 U. S. C. 22, 369, 39 U. S. C. 246f)

[SEAL] ABE MCGREGOR GOFF,
The Solicitor.

[F. R. Doc. 54-6833; Filed, Aug. 30, 1954; 8:50 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix C—Public Land Orders

[Public Land Order 998]

CALIFORNIA

PARTIALLY REVOKING EXECUTIVE ORDER NO. 6361 OF OCTOBER 25, 1933

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U. S. C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Executive Order No. 6361 of October 25, 1933, withdrawing certain public lands in California for classification and pending determination as to the advisability of including such lands in a national monument, is hereby revoked so far is it affects the following-described land:

SAN BERNARDINO MERIDIAN

T. 3 S., R. 5 E.,
Sec. 2, N½SW¼ and SE¼SW¼.

The tracts described aggregate 120 acres.

This revocation is made in furtherance of an exchange under section 8 of the act of June 28, 1934, as amended by section 3 of the act of June 26, 1936 (48 Stat. 1272, 49 Stat. 1976; 43 U. S. C. 315g), by which the offered lands will benefit a Federal land program. This restoration is, therefore, not subject to the provisions contained in the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284), as amended, granting preference rights to veterans of World War II and the Korean conflict and others.

ORME LEWIS,
Assistant Secretary of the Interior.

AUGUST 25, 1954.

[F. R. Doc. 54-6816; Filed, Aug. 30, 1954; 8:47 a. m.]

[Public Land Order 999]

NEW MEXICO

PARTIALLY REVOKING EXECUTIVE ORDER NO. 4208 OF APRIL 20, 1925, WHICH RESERVED PART OF THE FORT WINGATE MILITARY RESERVATION AS THE ZUNI DISTRICT OF THE MANZANO (NOW CIBOLA) NATIONAL FOREST

By virtue of the authority contained in the act of June 4, 1897 (30 Stat. 11, 36; 16 U. S. C. 473) and pursuant to Executive Order No. 10355 of May 26, 1952, and Section 9 of the act of June 7, 1924, c. 348 (43 Stat. 655; 16 U. S. C. 471, 505), it is ordered as follows:

Executive Order No. 4208 of April 20, 1925, reserving certain lands comprising a part of the Fort Wingate Military Reservation as the Zuni District of the Manzano (now Cibola) National Forest, is hereby revoked so far as it affects the following-described lands:

NEW MEXICO PRINCIPAL MERIDIAN

Beginning at the southwest corner of the Wingate Ordinance Depot (approximately southeast corner of lot 4, sec. 15, T. 14 N., R. 17 W., N. M. P. M.); thence,

Easterly, along the present southern boundary of the Wingate Ordinance Depot to a point on the common boundary of the north line of the Cibola National Forest and the south line of the Wingate Ordinance Depot, said point being 9 feet east of the North ¼ corner (stone monument) of unsurveyed sec. 23, T. 14 N., R. 17 W.

Easterly, 9,000 feet, continuing along the above-described boundary,

Southerly, 17,160 feet on a line approximately 1,089 feet east of the range line common to Rgs. 16 and 17 W., to the original south boundary of the Fort Wingate Military Reservation as established by Executive Order of February 18, 1870.

Westerly, 15,177 feet approximately, along the said original south boundary of the Fort Wingate Military Reservation to the original southwest corner thereof.

Northerly, along the original west boundary of the Fort Wingate Military Reservation to the point of beginning.

The tract described aggregates approximately 5,956 acres.

The lands are part of the Fort Wingate Military Reservation, as established by Executive Order of February 18, 1870, and enlarged by Executive Order of March 26, 1881.

ORME LEWIS,
Assistant Secretary of the Interior.

AUGUST 25, 1954.

[F. R. Doc. 54-6817; Filed, Aug. 30, 1954; 8:47 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF COMMERCE

Civil Aeronautics Administration

[14 CFR Part 612]

AERONAUTICAL FIXED COMMUNICATIONS

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Administrator has under consideration the following revision of Part 612 of the regulations of the Administrator. This revision deletes the requirement of § 612.2 (c) that commercial international communications facilities must be found inadequate in order to permit the acceptance and handling on government international aeronautical circuits of certain categories of international aeronautical messages originated by, or addressed to, aircraft operating agencies. In addition to certain editorial changes the revision also deletes the statement contained in § 612.3 respecting the adoption of these regulations on an interim basis and expressly provides in that section that any subsidiary telecommunication facilities required for the acceptance or delivery of messages must be provided by the user. Interested persons may participate in the making of the proposed rules by submitting such written data, views, or comments as they may desire. Communications should be submitted to the Director, Federal Airways, CAA, Washington 25, D. C., before September 30, 1954.

Sec.
612.1 Basis and purpose.
612.2 Acceptability of messages.
612.3 Assessment of fees.
612.4 Methods of payment.
612.5 Priority of transmission.
612.6 Limitation of liability.

AUTHORITY: §§ 612.1 to 612.6 issued under sec. 205, 52 Stat. 984, as amended, sec. 10, 62 Stat. 453; 49 U. S. C. and Sup., 425, 1159. Interpret or apply secs. 301, 302, 52 Stat. 985, sec. 606, 56 Stat. 1067; 49 U. S. C. 451, 452, 5 U. S. C. 606.

§ 612.1 *Basis and purpose.* The purpose of this part is to prescribe the types of messages pertaining to international or overseas aircraft operations which will be accepted for transmission by CAA communications stations and the fees which will be assessed for the transmission of certain types of these messages. The basis for the part is found in sections 301 and 302 of the Civil Aeronautics Act of 1938, as amended, and section 10 of the International Aviation Facilities Act of 1948.

§ 612.2 *Acceptability of messages.* (a) CAA Overseas Foreign Aeronautical Communications Stations, and CAA Interstate Airway Communications Stations located in territory (including Alaska) outside the continental United States will accept for transmission messages regarding international or overseas aircraft operations where such messages are of the following types:

(1) Distress messages and distress traffic.

(2) Messages for the safety of human life.

(3) Flight safety messages comprising:

(i) Air traffic control messages.

(*a*) Air traffic control messages concerning aircraft in flight or about to depart.

(*b*) Departure messages.

(*c*) Flight plan/departure messages.

(*d*) Arrival messages.

(*e*) Flight plan messages.

(*f*) Flight notification messages.

(*g*) Messages concerning cancellation of flight.

(*h*) Messages concerning delayed departure.

(ii) Position reports from aircraft.

(iii) Messages originated by an aircraft operating agency, of immediate concern to an aircraft in flight or to an aircraft about to depart.

(iv) Meteorological advice of immediate concern to aircraft in flight or about to depart.

(4) Meteorological messages comprising:

(i) Messages containing meteorological forecasts.

(ii) Messages containing exclusively meteorological observations.

(iii) Other meteorological messages exchanged between meteorological offices.

(5) Aeronautical administrative messages comprising:

(i) Messages regarding the operation or maintenance of facilities essential for the safety or regularity of aircraft operation.

(ii) Messages essential to the efficient functioning of aeronautical telecommunication services.

(iii) Messages exchanged between Government Civil Aviation Authorities relating to aircraft operation.

(6) Notices to airmen.

(7) Flight regularity messages comprising:

(i) Messages containing details of the number of passengers and crew, weight of cargo and other data required for weight and balance computation. Other remarks essential to the rapid clearance of the load from the aircraft may be included. These messages shall only be acceptable when addressed to the point of intended landing and to not more than two other addresses concerned in the general area of the route segment of the flight to which the message refers.

(ii) Messages concerning changes in aircraft operating schedules to become effective within 72 hours after the message is filed.

(iii) Messages concerning the servicing of aircraft, when the aircraft is en route or scheduled to depart within 48 hours.

(iv) Messages concerning changes in collective requirements for passengers, crew, and cargo, caused by unavoidable deviations from normal operating schedules and necessary for flight regularity in the case of aircraft en route or about to depart. Individual requirements of passengers or crew are not admissible in this type of message.

(v) Messages concerning non-routine landings to be made by an aircraft en route or about to depart.

(vi) Messages concerning parts and materials urgently required for the operation of aircraft en route or scheduled to depart within 48 hours.

(vii) Messages concerning the preflight arrangement of air navigation services, and operational servicing for non-scheduled or irregular operations of aircraft, filed within 48 hours of proposed time of departure.

(8) Reservation messages originated by aircraft operating agencies concerning the selling, releasing or regulation of weight or space capacity for goods or for the individual accommodation of passengers, aboard public transport aircraft scheduled to depart within 72 hours after the message is filed.

(9) Other messages originated by and addressed to aircraft operating agencies relating to international aircraft operations, overseas aircraft operations, or aircraft operations within a United States territory or possession which, by virtue of their importance, have a direct bearing on the efficient and economic conduct of the day-to-day operations of such agencies.

(b) CAA Interstate Airway Communications Stations located within the continental United States (excluding Alaska) will accept for transmission messages described in paragraph (a) (1) through (6). In addition, such stations will relay messages described in paragraph (a) which are originally accepted for transmission at CAA stations located outside the continental United States or are received from foreign stations of the integrated international aeronautical network, and which in normal routing require transit of the continental United States to reach overseas addressees.

NOTE: Third party messages or messages addressed to parties other than aircraft operating agencies or their representatives shall not be acceptable.

§ 612.3 *Assessment of fees.* (a) No fee shall be assessed for the transmission of a message which is of a type or types specified in § 612.2 (a) (1) through (7). A separate fee shall be assessed for the transmission to each addressee of a message which contain, in whole or in part, matter related to any of that described in §612.2 (a) (8) or (9).

(b) Only one fee per addressee shall be assessed regardless of the number of CAA communications stations through which the message may be sent. Each fee shall be computed on the basis of twenty-five cents for each ten words or portion thereof contained in the text and signature of the message. If delivery of the message involves refiling with a non-CAA communications facility, such refiling will be accomplished on a "Collect" basis at no additional cost to, or assumption of liability by, the CAA. Any subsidiary telecommunications facilities

required for the acceptance or delivery of messages will be provided by the user without expense to the CAA.

NOTE: The Internal Revenue Code provides that there shall be imposed on the amount paid within the States of the United States, the Territories of Alaska and Hawaii, and the District of Columbia, for each telegraph, cable, or radio dispatch or message, a tax equal to (a) fifteen percent of the amount so paid, or (b) ten percent of the amount so paid in the case of an international communication.

(Sec. 3797 (a) (9), 53 Stat. 469, sec. 3465 (a) (1) (B), 56 Stat. 975; 26 U. S. C. 3797, 3465)

§ 612.4 *Methods of payment.* Fees shall be paid in United States dollars to the CAA official in charge of the communications station first transmitting or receiving the message or to any other properly designated CAA official. Deferred payment of fees shall be permitted only where prior written arrangements have been made for such payment on a periodic basis or where pre-payment is not practicable in a specific case. Arrangements for the deferred payment of fees may be made with the CAA Regional Administrator having jurisdiction over the CAA communications station first transmitting or receiving the message.

§ 612.5 *Priority of transmission.* The aeronautical messages of the types stated in § 612.2 (a) (1) through (7) shall have priority over messages containing matter described in § 612.2 (a) (8) and (9).

§ 612.6 *Limitation of liability.* The Government shall not be liable for error or delay in the transmission or delivery, or for non-delivery, of any message accepted for transmission under this part, regardless of whether such error, delay, or non-delivery is due to the negligence of any employee of the Government or otherwise, beyond the amount of the fee assessed for the transmission of such message.

[SEAL] S. A. KEMP,
Acting Administrator of Civil Aeronautics.

[F. R. Doc. 54-6814; Filed, Aug. 30, 1954; 8:46 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

SISSETON LIVESTOCK SALES PAVILION

POSTING OF STOCKYARD

The Secretary of Agriculture has information that the Sisseton Livestock Sales Pavilion, Sisseton, South Dakota, is a stockyard as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 202), and should be made subject to the provisions of that act.

Therefore, notice is hereby given that the Secretary of Agriculture proposes to issue a rule designating the stockyard named above as a posted stockyard subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.), as is provided in section 302 of that act. Any interested person who desires to do so may submit, within 15 days of the publication of this notice, any data, views or arguments, in writing, on the proposed rule to the Director, Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D. C.

Done at Washington, D. C., this 25th day of August 1954.

[SEAL] H. E. REED,
Director, Livestock Division, Agricultural Marketing Service.

[F. R. Doc. 54-6852; Filed, Aug. 30, 1954; 8:55 a. m.]

[7 CFR Part 52]

UNITED STATES STANDARDS FOR GRADES OF FROZEN CONCENTRATE FOR LIMEADE [1]

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the United States Department of Agriculture is considering the issuance of United States Standards for Grades of Frozen Concentrate for Limeade pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., 7 U. S. C. 1621 et seq.). This issuance, if made effective will be the first issue by the Department of grade standards for this product.

All persons who desire to submit written data, views or arguments for consideration in connection with the proposed standards should file the same with the Chief, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, South Building, Washington 25, D. C., not later than 60 days after publication hereof in the FEDERAL REGISTER.

The proposed standards are as follows:

PRODUCT DESCRIPTION AND GRADES

Sec.
52.2521 Product description.
52.2522 Grades of frozen concentrate for limeade.

FILL OF CONTAINERS

52.2523 Recommended fill of container.

FACTORS OF QUALITY

52.2524 Ascertaining the grade.
52.2525 Ascertaining the rating for the factors which are scored.
52.2526 Color.
52.2527 Absence of defects.
52.2528 Flavor.

EXPLANATIONS AND METHODS OF ANALYSES

52.2529 Definition of terms.
52.2530 Explanation of analyses.

LOT CERTIFICATION TOLERANCES

52.2531 Tolerances for certification of officially drawn samples.

SCORE SHEET

52.2532 Score sheet for frozen concentrate for limeade.

AUTHORITY: §§ 52.2521 to 52.2531 issued under sec. 205, 60 Stat., 1090, 7 U. S. C. 1624.

PRODUCT DESCRIPTION AND GRADES

§ 52.2521 *Product description.* Frozen concentrate for limeade is the product prepared from lime juice and one or more nutritive sweetening ingredients; it may contain fresh or frozen pureed limes including portions of peel, or added lime oil, terpenless lime oil, or concentrated lime oil (or their extracts or emulsions) for added flavor, and may or may not contain water in sufficient quantities to standardize the product. The lime juice is produced from fresh, sound, mature, and thoroughly cleansed fruit of one or more of the varieties of the species citrus aurantifolia. Such juice and puree may be fresh or frozen or fresh concentrated or frozen concentrated. The concentrate for limeade is processed in accordance with good commercial practice and is frozen and maintained at temperatures sufficient for the preservation of the product.

§ 52.2522 *Grades of frozen concentrate for limeade.* (a) "U. S. Grade A" or "U. S. Fancy" is the quality of frozen concentrate for limeade which mixes readily into a limeade that possesses an amount of pulp, cloud, and juice sacs so as to substantially reflect the appearance of limeade prepared from freshly expressed lime juice; that possesses a good color; that is practically free from defects; that possesses a good flavor; and that scores not less than 85 points when scored in accordance with the scoring system outlined in this subpart.

(b) "U. S. Grade B" or "U. S. Choice" is the quality of frozen concentrate for limeade which mixes readily into a limeade that possesses at least a slight, but not an excessive, amount of pulp, cloud, and juice sacs so as to reasonably reflect the appearance of limeade prepared from freshly expressed lime juice; that possesses a reasonably good color; that is reasonably free from defects; that possesses a reasonably good flaver; and that scores not less than 70 points when scored in accordance with the scoring system outlined in this subpart.

(c) "Substandard" is the quality of frozen concentrate for limeade that fails to meet the requirements of "U. S. Grade B" or "U. S. Choice."

FILL OF CONTAINER

§ 52.2523 *Recommended fill of container.* The recommended fill of container is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purpose of these grades. It is recommended that each container be filled as full as practicable with frozen concentrate for limeade.

FACTORS OF QUALITY

§ 52.2524 *Ascertaining the grade*—(a) *General.* The grade of frozen concentrate for limeade is ascertained by considering the factors of quality which are

[1] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act. The product covered by these standards, is essentially lime juice sweetened for limeade, but is marketed under the name "Frozen Concentrate for Limeade."

not scored and those which are scored as follows:

(1) *Factors which are not scored.* (i) Ease of mixing into limeade.

(ii) Amount of pulp, cloud, and juice sacs.

(2) *Factors which are scored.* The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given such factors are:

Factors:	Points
(i) Color	20
(ii) Absence of defects	20
(iii) Flavor	60
Total score	100

(b) The scores for the factors of color, absence of defects, and flavor are determined immediately after the product has been prepared as limeade by thoroughly mixing the frozen concentrate for limeade with a specific volumn of water as directed by the manufacturer.

§ 52.2525 *Ascertaining the rating for the factors which are scored.* The essential variations within each factor which is scored are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "17 to 20 points" means, 17, 18, 19, or 20 points).

§ 52.2526 *Color*—(a) *(A) classification.* Frozen concentrate for limeade which, when prepared as limeade, possesses a good color may be given a score of 17 to 20 points. "Good color" means a good bright characteristic color that reflects the appearance of limeade prepared from freshly expressed lime juice.

(b) *(B) classification.* If the frozen concentrate for limeade, when prepared as limeade, possesses a reasonably good color, a score of 14 to 16 points may be given. Frozen concentrate for limeade that falls into this classification shall not be graded above "U. S. Grade B" or "U. S. Choice," regardless of the total score for the product (this is a limiting rule). "Reasonably good color" means a characteristic color that reflects to a reasonable extent the color of limeade prepared from freshly expressed lime juice and is not dark or otherwise discolored for any reason.

(c) *(SStd) classification.* If the limeade fails to meet the requirements of paragraph (b) of this section, a score of 0 to 13 points may be given. Frozen concentrate for limeade that falls into this classification shall not be graded above "Substandard" regardless of the total score for the product (this is a limiting rule).

§ 52.2527 *Absence of defects*—(a) *General.* The factor of absence of defects refers to the degree of freedom from seeds or portions of seeds, from harmless extraneous material, from objectionable material and from other defects not specifically mentioned that affect the apearance or drinking quality of the product.

(1) "Harmless extraneous material" includes, but is not limited to, embryonic seeds or particles of seeds that measure not more than 3/16 inch in any dimension, or other similar material which is harmless.

(2) "Seeds or portions of seeds" means any seed or portion thereof, whether or not fully developed, that measures more than 3/16 inch in any dimension.

(b) *(A) classification.* Frozen concentrate for limeade which, when prepared as limeade, is practically free from defects may be given a score of 17 to 20 points. "Practically free from defects" means that there may be present not more than an average of 1 seed or portion of seed for each quart of prepared limeade; and that the appearance and drinking quality of the limeade is not materially affected by the presence of seeds, portions of seeds, objectionable material, harmless extraneous material, any other defects not specifically mentioned or any combination thereof.

(c) *(B) classification.* If the limeade is reasonably free from defects a score of 14 to 16 points may be given. Frozen concentrate for limeade that falls into this classification shall not be graded above "U. S. Grade B" or "U. S. Choice" regardless of the total score for the product (this is a limiting rule). "Reasonably free from defects" means that there may be present not more than an average of 2 seeds or portions of seeds for each quart of limeade; and that the appearance and drinking quality of the limeade is not seriously affected by the presence of seeds, portions of seeds, objectionable material, harmless extraneous material, any other defects not specifically mentioned, or any combination thereof.

(d) *(SStd) classification.* If the limeade fails to meet the requirements of paragraph (c) of this section, a score of 0 to 13 points may be given. Frozen concentrate for limeade that falls into this classification shall not be graded above "Substandard" regardless of the total score for the product (this is a limiting rule).

§ 52.2528 *Flavor*—(a) *(A) classification.* Frozen concentrate for limeade which, when prepared as limeade, possesses a good flavor, may be given a score of 51 to 60 points. "Good flavor" means a fine, distinct, and substantially typical flavor of limeade prepared from freshly expressed lime juice and which flavor is free from terpenic, oxidized, rancid, or other off-flavors. To score in this classification, the limeade shall test not less than 10.5 degrees Brix; shall contain not less than 0.7 grams of acid per 100 ml of the limeade; may not contain more than 0.010 ml of recoverable oil per 100 ml of the limeade; and the Brix-acid ratio shall not exceed 20:1.

(b) *(B) classification.* If the prepared limeade possesses a reasonably good flavor, a score of 42 to 50 points may be given. Frozen concentrate for limeade that falls into this classification shall not be graded above "U. S. Grade B" or "U. S. Choice" regardless of the total score for the product (this is a limiting rule). "Reasonably good flavor" means a fairly typical flavor of limeade prepared from freshly expressed lime juice and which flavors is practically free from terpenic, oxidized, rancid, or other off-flavors and is free from abnormal flavors of any kind. To score in this classification the limeade shall test not less than 10.5 degrees Brix; shall contain not less than 0.7 gram of acid per 100 ml of the limeade, may contain not more than 0.020 ml of recoverable oil per 100 ml of the limeade; and the Brix-acid ratio shall not exceed 20:1.

(c) *(SStd) classification.* If the prepared limeade fails to meet the requirements of paragraph (b) of this section, a score of 0 to 41 points may be given. Frozen concentrate for limeade that falls into this classification shall not be graded above "Substandard" regardless of the total score for the product (this is a limiting rule).

EXPLANATIONS AND METHODS OF ANALYSES

§ 52.2529 *Definition of terms.* (a) "Brix" means the degrees Brix of the limeade when tested with a Brix hydrometer calibrated at 20° C. (68° F.). If used in testing limeade at a temperature other than 20° C. (68° F.) the applicable temperature correction shall be made to the reading of the scale as prescribed in "Official Methods of Analysis of the Association of Official Agricultural Chemists." The degrees Brix of limeade may be determined by any other method which gives equivalent results.

(b) "Acid" means the grams of acid (calculated as anhydrous citric acid) per 100 ml of the prepared limeade determined by titration with standard sodium hydroxide solution using phenolphtalein as an indicator.

(c) "Brix-acid ratio" means the ratio between the degrees "Brix" as determined in this section and the acid in grams per 100 ml of limeade.

(d) "Dilution factor" is the value obtained by dividing a volume of limeade by the volume of concentrate for limeade used in its preparation when such limeade is prepared in accordance with the manufacturers' directions.

§ 52.2530 *Explanation of analyses.* Recoverable oil is determined by the following method:

(a) *Equipment.*

Oil separatory trap similar to either of those illustrated in Figure 1 [1] and Figure 2.[1]
Gas burner or hot plate.
Ringstand and clamps.
Rubber tubing.
3-liter narrow-neck flask.

(b) *Procedure.* Place exactly 1 liter of the concentrate for limeade with approximately 1 liter of water in a 3-liter flask. Close the stopcock, place distilled water in the graduated tube, run cold water through the condenser from bottom to top, and bring the mixture to a boil. Continue boiling for one hour at the rate of approximately 50 drops per minute. By means of the stopcock, lower the oil into the graduated portion of the separatory trap, remove the trap from the flask, allow it to cool, and record the amount of oil recovered. The number of milliliters of oil recovered divided by 10 times the dilution factor is equivalent to the number of milliliters of oil per 100 milliliters of the limeade.

[1] Filed as part of the original document.

LOT CERTIFICATION TOLERANCES

§ 52.2531 *Tolerances for certification of officially drawn samples.* (a) When certifying samples that have been officially drawn and which represent a specific lot of frozen concentrate for limeade the grade for such lot will be determined by averaging the total scores of the containers comprising the sample, if, (1) all containers comprising the sample meet all applicable standards of quality promulgated under the Federal Food, Drug, and Cosmetic Act and in effect at the time of the aforesaid certification; and (2) with respect to those factors which are scored:

(i) Not more than one-sixth of the containers fails to meet the grade indicated by the average of such total scores;

(ii) None of the containers falls more than 4 points below the minimum score for the grade indicated by the average of such total scores;

(iii) None of the containers falls more than one grade below the grade indicated by the average of such total scores; and

(iv) The average score of all containers for any factor subject to a limiting rule is within the score range of that factor for the grade indicated by the average of the total scores of the containers comprising the sample.

§ 52.2532 *Score sheet for frozen concentrate for limeade.*

Size and kind of container	------
Container mark or identification	------
Label (including dilution factor)	------
Liquid measure (fluid ounces)	------
Brix of the limeade	------
Anhydrous citric acid in the limeade (grams per 100 milliliter)	------
Brix acid ratio	------
Recoverable oil (milliliter/100 milliliter of the limeade)	------
Reconstitutes properly (yes) (no)	------

Factors	Score points	
Color	20	(A) 17-20 (B) [1] 14-16 (SStd.) 10-13
Absence of defects	20	(A) 17-20 (B) [1] 14-16 (SStd.) 10-13
Flavor	60	(A) 51-60 (B) [1] 42-50 (SStd.) 10-41
Total score	100	
Grade		

[1] Indicates limiting rule.

Dated: August 26, 1954.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F. R. Doc. 54-6851; Filed, Aug. 30, 1954; 8:54 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 516]

RECORDS TO BE KEPT BY EMPLOYERS

RECORD OF RETROACTIVE PAYMENT OF WAGES

Correction

In F. R. Doc. 54-6171 appearing in the issue for Wednesday, August 11, 1954, at page 5062 the headings should read as set forth above.

NOTICES

DEPARTMENT OF THE TREASURY

Foreign Assets Control

IMPORTATION OF MILLET WINE (WU-KA-BE) AND SOY BEAN PASTE DIRECTLY FROM TAIWAN (FORMOSA)

AVAILABLE CERTIFICATIONS BY REPUBLIC OF CHINA

Notice is hereby given that certificates of origin issued by the Ministry of Economic Affairs of the Republic of China under procedures agreed upon between that government and the Foreign Assets Control are now available with respect to the importation into the United States directly, or on a through bill of lading, from Taiwan (Formosa) of the following additional commodities:

Millet wine (Wu-ka-be).
Soy bean paste.

[SEAL] ELTING ARNOLD,
Acting Director,
Foreign Assets Control.

[F. R. Doc. 54-6858; Filed, Aug. 30, 1954; 8:56 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Misc. 1174829 and 61650]

OREGON AND IDAHO

ORDER PROVIDING FOR OPENING OF PUBLIC LANDS RESTORED FROM OWYHEE AND UMATILLA PROJECTS

AUGUST 23, 1954.

Orders of the Bureau of Reclamation dated January 31, 1949, April 4, 1949, October 20, 1950 and April 23, 1951, which were concurred in by the Director, Bureau of Land Management on February 2, 1949, April 28, 1949, October 20, 1950 and June 12, 1951, revoked Departmental orders of February 25, 1903, August 16, 1908, March 28, 1925, March 28, 1916 and September 25, 1942, so far as they withdrew under the provisions of the Reclamation Act of June 17, 1902 (32 Stat. 388), the following described land in connection with the Owyhee and Umatilla Projects, Oregon-Idaho and provided that such revocations should not affect the withdrawal of any other lands by said orders or affect any other order withdrawing or reserving the lands described.

WILLAMETTE MERIDIAN

T. 21 S., R. 5½ E., unsurveyed,
Sec. 14, SE¼;
Secs. 23 and 26;
Sec. 34, SE¼;
Sec. 35.
T. 22 S., R. 5½ E., unsurveyed,
Sec. 2;
Sec. 3, NE¼;
Sec. 11, N½.
T. 21 S., R. 6 E.,
Sec. 7;
Sec. 8, Lots 4 to 7, incl., NE¼SW¼, N½SE¼;
Sec. 9, Lots 1 to 4, incl., N½S½;
Sec. 10, SW¼;
Sec. 15, W½;
Secs. 16, 18 and 21;
Sec. 28, Lot 1, E½NW¼, SW¼NW¼;
Secs. 29, 30, 31;
Sec. 32, Lots 1 to 4, incl., E½NE¼, SW¼NE¼, S½SW¼, SE¼.
T. 22 S., R. 6 E.,
Sec. 5, Lots 3, 4, 5, S½NW¼, SW¼SW¼, E½SW¼;
Secs. 6, 7, 8;
Sec. 16, NW¼;
Sec. 19, NE¼;
Sec. 20, NW¼.
T. 4 N., R. 25 E.,
Sec. 11, N½NW¼, SE¼NW¼, NW¼SE¼.
T. 23 S., R. 43 E.,
Sec. 13, NE¼, N½NW¼;
Sec. 24, SW¼NW¼, S½.
T. 26 S., R. 43 E.,
Sec. 3;
Sec. 9, N½NE¼, NW¼, W½SW¼;
Sec. 10, N½N½;
Sec. 12;
Sec. 13, NW¼NW¼;
Sec. 14, NE¼, NE¼NW¼;
Sec. 15, SW¼, SW¼SE¼;
Sec. 20, N½NE¼, SW¼NE¼, W½SE¼, W½;
Sec. 21, SE¼NE¼, SE¼;
Sec. 23, S½S½;
Sec. 24, S½NE¼, S½;
Sec. 28, NE¼, SE¼NW¼, S½;
Sec. 29, NW¼, W½SW¼;
Sec. 32, NW¼NW¼, SE¼SE¼.
T. 27 S., R. 43 E.,
Sec. 5, Lots 1 to 11, incl., 15 to 19, incl., 24, 25, SE¼;
Sec. 6, Lots 5 to 10, incl., 18 to 24, incl., 29 to 38, incl., 42 to 48, incl.;
Sec. 7, Lots 3, 4, 5, 6;
Sec. 18 Lots 19, 20, NE¼SE¼, S½SE¼.
T. 23 S., R. 44 E.,
Sec. 1, Lots 1, 2, 3, S½N½, S½;
Sec. 2, SE¼NE¼, NE¼SW¼, S½SW¼, SE¼;
Sec. 4, Lots 3, 4, S½NW¼, SW¼;
Sec. 5;
Sec. 6;
Sec. 7, Lots 1, 2, 3, 4, N½NE¼, NE¼NW¼, SE¼SW¼;
Sec. 8, N½, N½S½, SE¼SW¼, SW¼SE¼;
Sec. 9, NW¼NW¼;
Sec. 10, NE¼NE¼, S½NE¼, SE¼SW¼, SE¼;
Sec. 18, Lots 1, 2;
Sec. 19, Lots 3, 4, E½SW¼, SE¼NE¼, SE¼;
Sec. 20, SW¼NW¼, W½SW¼;
Sec. 21, E½;
Sec. 22;
Sec. 28, E½;
Sec. 29, W½NW¼;
Sec. 30, Lots 1 to 4, incl., NE¼, E½W½, W½SE¼;
Sec. 31, Lots 1, 2, 3, 4, W½NE¼, E½W½, W½SE¼;
Sec. 33, E½NE¼, SE¼.
T. 24 S., R. 44 E.,
Sec. 4, Lots 1, 2, SE¼NE¼, NE¼SE¼;
Sec. 5, Lots 3, 4, S½NW¼, N½SW¼, SW¼SW¼;
Sec. 8, NW¼NW¼, S½NW¼, SW¼, SW¼SE¼;
Sec. 17, NW¼NE¼, W½;
Sec. 20, SW¼NE¼, W½;
Sec. 22, NE¼NW¼, E½;
Sec. 27, NE¼, SE¼NW¼, S½;
Sec. 28, E½SE¼;
Sec. 29, NW¼NW¼, S½NW¼, SW¼;
Sec. 33, N½NE¼, SE¼NE¼.
T. 25 S., R. 44 E.,
Sec. 3, Lots 1, 2, 3, S½NE¼, SE¼;
Sec. 5, Lot 4, SW¼NW¼, SW¼;
Sec. 8, SE¼NE¼, W½NE¼, NW¼, S½;
Sec. 9, S½SW¼, SW¼SE¼;
Sec. 10, N½NE¼, SE¼NE¼;
Sec. 14, NE¼NE¼;
Sec. 15, W½SW¼;
Sec. 22, NW¼, W½SW¼;
Sec. 23, E½SW¼, E½;
Sec. 26, E½;
Sec. 27, W½W½;
Sec. 34, NW¼NW¼.

T. 26 S., R. 44 E.,
Sec. 3, E½SE¼;
Sec. 4, Lots 1 to 8, incl., 10 to 14, incl., SW¼;
Sec. 7, Lots 1 to 4, incl., 6 to 9, incl., E½;
Sec. 8, N½S½, N½;
Sec. 9, N½NW¼, SW¼NW¼, NW¼SW¼;
Sec. 10, NE¼SW¼, S½SW¼, E½;
Sec. 17, S½S½;
Sec. 18, Lots 16 to 20, incl., S½SE¼.
T. 21 S., R. 46 E.,
Sec. 27, Lot 3 and NW¼SW¼.
T. 22 S., R. 46 E.,
Sec. 4, SE¼;
Sec. 9, N½NE¼.

BOISE MERIDIAN

T. 3 N., R. 6 W.,
Sec. 25, Lot 1 and NW¼NE¼.

The areas described aggregate approximately 31,708.35 acres.

The lands in Townships 21 and 22 S., Ranges 5½ and 6 E., W. M., are within the exterior boundaries of the Williamette and Deschutes National Forests and shall become subject to the public land laws relating to national-forest lands at 10:00 a. m., on the 35th day from the date of this order.

The lands in T. 3 N., R. 6 W., B. M., Idaho, are flat to gently sloping with an elevation of 2,400 feet above sea level. The soil is clay loam underlain with medium gravel. The annual precipitation is about nine inches.

The lands in T. 4 N., R. 25 E., W. M., are between U. S. Highways 30 and 730, 16 miles west of Umatilla, Oregon. The land is at an average elevation of 300 feet and is level to slightly rolling. Soil is a silty, sandy loam, mixed with gravel in some places. Successful irrigation wells have been drilled in the vicinity. The land is suitable for cultivation if water can be made available.

The remaining lands are forage lands suitable for grazing and wildlife, located in Malheur County, Oregon. They are generally rough and mountainous in character, rising in elevation from 3,500 to 4,500 feet above sea level. The soil is generally a coarse, sandy loam frequently mixed with gravel and rock with many outcrops of solid rock and rock cliffs.

No application for the lands may be allowed under the homestead, desert-land, small tract, or any other non-mineral public-land law unless the land has already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

This order shall not otherwise become effective to change the status of the described land until 10:00 a. m., on the 35th day after the date of this order. At that time the said land shall become subject to application, petition, location and selection, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable laws, and the 91-day preference-right filing period for veterans and others entitled to preference under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279–284), as amended.

Veteran's preference-right applications under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279–284) as amended, may be filed on or before 10:00 a. m., of the 35th day after the date of this order, and those covering the same land shall be treated as though simultaneously filed at that time. Applications filed under the act after that time and during the succeeding 91 days shall be considered in the order of filing. Applications by non-veterans under the public-land laws, filed on or before 10:00 a. m., of the 126th day after the date of this order shall be treated as though simultaneously filed at that time, where the applications are for the same lands; otherwise, priority of filing shall govern.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management at Portland for lands in Oregon, and at Boise for lands in Idaho.

EARL G. HARRINGTON,
Acting Director.

[F. R. Doc. 54-6815; Filed, Aug. 30, 1954; 8:46 a. m.]

Bureau of Reclamation

MOUNTAIN HOME DIVISION, SNAKE RIVER PROJECT, IDAHO

ORDER OF REVOCATION

JULY 27, 1953.

Pursuant to the authority delegated by Departmental Order No. 2515 of April 7, 1949 (14 F. R. 1937), I hereby revoke Departmental Order of April 30, 1951, in so far as said order affects the following-described land: *Provided, however,* That such revocation shall not affect the withdrawal of any other lands by said order or affect any other orders withdrawing or reserving the land hereinafter described:

BOISE MERIDIAN, IDAHO

T. 4 S., R. 2 E.,
Sec. 5, SE¼NE¼;
Sec. 6, Lots 2, 5, and 6.
T. 3 S., R. 5 E.,
Sec. 1, Lot 3, SE¼NW¼ and E½SW¼;
Sec. 12, E½NW¼.
T. 4 S., R. 5 E.,
Sec. 19, All;
Sec. 30, Lots 1 to 8 incl., E½NW¼ and E½SW¼;
Sec. 31, Lots 1 to 8 incl., E½NW¼ and E½SW¼.

The above areas aggregate 1,894.49 acres.

G. W. LINEWEAVER,
Assistant Commissioner.

[Misc. 61715]

AUGUST 25, 1954.

I concur. The records of the Bureau of Land Management will be noted accordingly.

The lands are located west of Mountain Home, and are easily accessible by hard surfaced highways and dirt roads. They are slightly undulating to almost flat, covered with sparse native grasses and sagebrush. Annual precipitation does not exceed 10 inches. There is no known water supply available for irrigation. Soils range from sandy clay loam to some loose surface rock, and are suitable for cultivation with irrigation if adequate water can be found.

No application for these lands will be allowed under the homestead, desert-land, small tract, or any other non-mineral public land laws, unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

This order shall not become effective to change the status of the described lands until 10:00 a. m. on the 35th day after the date of this order. At that time the said lands shall become subject to application, petition, location and selection, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable laws, and the 91-day preference right filing period for veterans and others entitled to preference under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279–284) as amended.

Veterans' preference right applications under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279–284) may be filed on or before 10:00 a. m., on the 35th day after the date of this order, and those covering the same land shall be treated as though simultaneously filed at that time. Applications filed under the act after that time and during the succeeding 91 days shall be considered in the order of filing. Applications by nonveterans under the public land laws, filed on or before 10:00 a. m., of the 126th day after the date of this order shall be treated as though simultaneously filed at that time, where the applications are for the same lands; otherwise, priority of filing shall govern.

Inquiries regarding the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Boise, Idaho.

EARL G. HARRINGTON,
Acting Director,
Bureau of Land Management.

[F. R. Doc. 54-6819; Filed, Aug. 30, 1954; 8:47 a. m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

ASSISTANT SECRETARY OF COMMERCE FOR INTERNATIONAL AFFAIRS ET AL.

DELEGATION OF AUTHORITY RELATING TO EXPORT CONTROL

A. The Assistant Secretary of Commerce for International Affairs and the Director of the Bureau of Foreign Commerce are each delegated authority to exercise and perform all powers and functions provided by the Export Control Act of 1949, as extended. This specifically includes the authority: (1) to Issue rules and regulations to carry out the purposes of the aforesaid Act, including rules and regulations applicable to the financing, transporting, and other servicing of exports and the participation therein by any person necessary to achieve effective enforcement; (2) to

sign and issue subpoenas requiring any person to appear and testify or to appear and produce books, records, and other writings, or both, to any designated place, in connection with any investigation necessary or appropriate to the enforcement of said export control authority; and (3) to require reports and the keeping of records by any person, to the extent necessary or appropriate to the enforcement of said export control authority, and to require any person to permit the inspection of books, records, and other writings, premises or property.

B. The Assistant Secretary of Commerce for International Affairs and the Director of the Bureau of Foreign Commerce are each authorized to redelegate any power or function conferred by this delegation and may authorize successive redelegations, except as otherwise provided and limited in paragraphs C, D, and E herein with respect to inspections, subpoenas, oaths and affirmations, and other enforcement authority.

C. In addition to the Assistant Secretary and the Director, at all times, the Deputy Director of the Bureau of Foreign Commerce and the Director and Deputy Director of the Office of Export Supply are each authorized (1) to require any person to permit the inspection of books, records, and other writings, premises, or property; and (2) to sign and issue subpoenas requiring any person to appear and testify or appear and produce books, records, and other writings, or both, to any designated place, in connection with any investigation necessary or appropriate to the enforcement of said export control authority.

D. The Compliance Commissioners for Export Control are authorized, in any proceeding for the denial of licensing privileges under the Export Control Act of 1949, (1) to administer oaths and affirmations, and (2) to sign and issue subpoenas requiring any person to appear and testify or to appear and produce books, records, and other writings, or both.

E. Any person employed in the Export Control Investigation Staff of the Bureau of Foreign Commerce and any attorney in the Office of the Assistant General Counsel (International Affairs) assigned to export control enforcement duties, who is specifically designated as a special agent of the Bureau of Foreign Commerce by the Director thereof, is hereby authorized, (1) to make investigations, obtain information, inspect books, records, and other writings, premises, or property of, and take the sworn testimony of, any person; and (2) to administer oaths and affirmations for the purpose of procuring or receiving from any person sworn statements or other sworn testimony, concerning any matter under investigation necessary or appropriate to the enforcement of the export control authority vested in me.

F. This supersedes the delegation of authority previously made and confirmed with respect to export control (18 F. R. 7898), except that all outstanding rules, regulations, orders, licenses, and other forms of administrative action shall, until amended or revoked, remain in full force and effect.

(Sec. 3, 63 Stat. 7; 65 Stat. 43; 67 Stat. 62; 50 U. S. C. App. Sup. 2023. E. O. 9630, Sept. 27, 1945, 10 F. R. 12245, 3 CFR, 1945 Supp.; E. O. 9919, Jan. 3, 1948, 13 F. R. 59, 3 CFR, 1948 Supp.)

Dated: August 25, 1954.

[SEAL] WALTER WILLIAMS,
Acting Secretary of Commerce.

[F. R. Doc. 54-6846; Filed, Aug. 30, 1954; 8:52 a. m.]

ATOMIC ENERGY COMMISSION

Patent Compensation Board

[Docket No. 16]

N. V. PHILLIPS' GLOEILAMPENFABRIEKEN AND HARTFORD NATIONAL BANK AND TRUST CO.

NOTICE OF APPEARANCE

Notice is hereby given that N. V. Phillips' Gloeilampenfabrieken and Hartford National Bank and Trust Company have filed an amended claim for just compensation and award in the above docket before the Patent Compensation Board, United States Atomic Energy Commission. The amended claim is based on alleged use and revocation of the subject matter of certain patents including U. S. Patents Nos. 1,498,097; 1,486,521; 1,671,213; 1,709,781; 1,774,410; 1,794,810; 1,891,124; 2,197,079; 2,206,634; 2,211,668; 2,182,736 and 2,431,887.

The application of N. V. Phillips' Gloeilampenfabrieken and Hartford National Bank and Trust Company is on file with the Patent Compensation Board. Any person other than the applicants desiring to be heard with reference to the application should file with the Patent Compensation Board, United States Atomic Energy Commission, Washington, 25, D. C., within thirty days from the date of publication of this notice, a statement of fact concerning the nature of his interest.

MARGARET H. MELIN,
Acting Clerk,
Patent Compensation Board.

AUGUST 20, 1954.

[F. R. Doc. 54-6810; Filed, Aug. 30, 1954; 8:45 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 10218; FCC 54M-1012]

WILLIAM C. MOSS (KSEY)

ORDER CONTINUING CONFERENCE

In re application of William C. Moss (KSEY), Seymour, Texas, Docket No. 10218, File No. BML-1473, for modification of license.

It appearing, that by order of August 4, 1954, a prehearing conference in the above-entitled proceeding was scheduled to be held in the Commission's offices at Washington, D. C., on August 17, 1954, at 10:00 a. m.; and

It further appearing, that at 3:00 p. m. on August 16, 1954, the undersigned Hearing Examiner received a letter from W. C. Moss, Jr., the applicant, stating that "there are no protesting parties", and that he had a petition en route to the Secretary of this Commission praying for a grant without hearing of the instant application; and the said William C. Moss having further advised the Examiner by telephonic communication at 3:15 p. m. on August 16, 1954, that he expected to file a petition with the Commission for an extension of time from the scheduled date of hearing if required by the Commission to proceed with the hearing; and counsel for the Chief of the Broadcast Bureau of this Commission having consented thereto, and for other good cause,

It is ordered, This 16th day of August 1954, that the prehearing conference be postponed until further order herein or, in lieu thereof, a similar conference be held pursuant to the provisions of § 1.841 of the rules of this Commission, as amended July 15, 1954, on the designated date of hearing now set for August 31, 1954.

Released: August 18, 1954.

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

[F. R. Doc. 54-6820; Filed, Aug. 30, 1954; 8:47 a. m.]

[Docket Nos. 11051, 11052; FCC 54M-1032]

ABRAHAM KLEIN AND AIRCALL, INC.

ORDER CONTINUING HEARING

In re applications of Abraham Klein, Pittsburgh, Pennsylvania, Docket No. 11051, File No. 1420-C2-P-53; Aircall, Inc., Pittsburgh, Pennsylvania, Docket No. 11052, File No. 743-C2-P-54; for construction permits for one-way signaling stations in the Domestic Public Land Mobile Radio Service.

The Commission having under consideration the above-entitled proceeding;

It appearing, that a continuance was granted herein on July 29, 1954, in order that certain pleadings then pending before the Commission might be acted upon by the Commission prior to the hearing herein, and that it is unlikely that such pleadings will be acted upon by the Commission prior to August 30, 1954, the date presently scheduled for the hearing herein;

It is ordered, This 19th day of August 1954, that the hearing, heretofore scheduled for August 30, 1954, is continued to September 21, 1954, at 10:00 a. m.

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

[F. R. Doc. 54-6821; Filed, Aug. 30, 1954; 8:48 a. m.]

[Docket No. 11178]

AMOS B. COLLINS

ORDER TO SHOW CAUSE

In the matter of Amos B. Collins, Cheverly, Maryland, order to show cause why the license for Amateur Radio Station W3FVX should not be revoked; Docket No. 11178.

There being under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of Amateur Radio Station W3FVX licensed to Amos B. Collins, 6008 Euclid Street, Cheverly, Maryland; and

It appearing, that said licensee, while operating his amateur radio station W3FVX, on or about July 23 and July 24, 1954, with apparent wilfulness violated § 12.157 of the Commission's rules by transmitting obscene, indecent, or profane language:

It is ordered, This 23d day of August 1954, pursuant to the provisions of section 312 (a) and (c) of the Communications Act of 1934, as amended, that the said Amos B. Collins of Cheverly, Maryland, show cause why the aforementioned license should not be revoked and appear and give evidence in respect thereto at a hearing [1] to be held before this Commission at Washington, D. C., on the 22d day of November 1954; and

It is further ordered, That the Secretary send a copy of this order by Registered Mail—Return Receipt Requested to the said Amos B. Collins, 6008 Euclid Street, Cheverly, Maryland.

Released: August 24, 1954.

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

[F. R. Doc. 54-6822; Filed, Aug. 30, 1954; 8:48 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 6503 et al.]

SOUTHWEST AIRWAYS CO. ET AL.; RENEWAL CASE

NOTICE OF POSTPONEMENT OF HEARING

In the matter of the applications for certificates of public convenience and necessity authorizing service to points presently served by Southwest Airways Company on Route No. 76, the integration of routes of Southwest Airways Company and Bonanza Air Lines, Inc., and the continued suspension of service by United Air Lines, Inc., to various points.

[1] Section 1.402 of the Commission's rules provides that in order to have the opportunity to appear before the Commission at the time and place specified in an order to show cause, the licensee shall within thirty (30) days from the date of the receipt of the order submit a written statement informing the Commission whether said licensee will appear at the hearing and present evidence upon the matter specified, or whether the rights to a hearing are waived. Waiver of the hearing may be accompanied by a statement setting forth the reasons why the licensee believes that an order of revocation should not be issued. A waiver unaccompanied by such a statement will be deemed to be an admission of the allegations specified in the order to show cause. Failure to respond to this order within the specified thirty (30) day period or failure to appear at the hearing will be deemed to be a waiver of the right to a hearing and an admission of the allegations specified in the order to show cause.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, that hearing in the above-entitled proceeding now assigned to be held on September 8, 1954, at 10:00 a. m., e. d. t., in Room E-210, Temporary Building No. 5, Sixteenth and Constitution Avenue NW., Washington, D. C., before Examiner Herbert K. Bryan is postponed and reassigned for hearing on October 6, 1954, at 10:00 a. m., e. s. t., in Room E-210, Temporary Building No. 5, Sixteenth and Constitution Avenue NW., Washington, D. C.

Dated at Washington, D. C., August 26, 1954.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 54-6853; Filed, Aug. 30, 1954; 8:55 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6263; Project No. 2090]

GREEN MOUNTAIN POWER CORP.

NOTICE OF ORDER DISMISSING DECLARATION OF INTENTION AND MODIFYING FINDING

AUGUST 24, 1954.

Notice is hereby given that on August 18, 1954, the Federal Power Commission issued its order adopted August 12, 1954, dismissing declaration of intention and modifying Finding (4) of the order issued July 20, 1954 (19 F. R. 4887) in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54-6831; Filed, Aug. 30, 1954; 8:49 a. m.]

[Docket No. E-6566]

ROCKLAND LIGHT AND POWER CO.

NOTICE OF ORDER AUTHORIZING ACQUISITION OF COMMON STOCK

AUGUST 24, 1954.

Notice is hereby given that on August 13, 1954, the Federal Power Commission issued its order adopted August 12, 1954, authorizing acquisition of common stock in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54-6824; Filed, Aug. 30, 1954; 8:48 a. m.]

[Docket No. E-6568]

KANSAS POWER AND LIGHT CO.

NOTICE OF ORDER APPROVING MAINTENANCE OF PERMANENT CONNECTION FOR EMERGENCY USE

AUGUST 24, 1954.

Notice is hereby given that on August 17, 1954, the Federal Power Commission issued its order adopted August 12, 1954, approving maintenance of permanent connection for emergency use only in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54-6825; Filed, Aug. 30, 1954; 8:48 a. m.]

[Docket No. G-2005]

LONE STAR GAS CO.

NOTICE OF ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

AUGUST 24, 1954.

Notice is hereby given that on August 16, 1954, the Federal Power Commission issued its order adopted August 12, 1954, amending order issuing certificate of public convenience and necessity by removing time limitation and terminating proceeding in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54-6826; Filed, Aug. 30, 1954; 8:48 a. m.]

[Docket No. G-2378]

UNITED GAS PIPE LINE CO.

NOTICE OF ORDER MAKING EFFECTIVE PROPOSED SERVICE AGREEMENTS

AUGUST 24, 1954.

Notice is hereby given that on August 16, 1954, the Federal Power Commission issued its order adopted August 12, 1954, making effective proposed service agreements upon filing of undertaking to assure refund of excess charges in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54-6827; Filed, Aug. 30, 1954; 8:48 a. m.]

[Docket No. G-2534]

ALABAMA-TENNESSEE NATURAL GAS CO.

NOTICE OF APPLICATION

AUGUST 24, 1954.

Notice is given hereby that Alabama-Tennessee Natural Gas Company (Applicant), a Delaware corporation having its principal place of business in Florence, Alabama, filed application on August 6, 1954, for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing (a) the construction and operation of certain natural gas facilities, to-wit: (1) A purchase gas meter station and appurtenant facilities near Corinth, Mississippi, at a point of interconnection between Applicant's existing pipeline and the Kinder-Portland line of Tennessee Gas Transmission Company now under construction; (2) an additional 350 BHP compressor unit to be installed at Applicant's compressor station near Muscle Shoals, Alabama; (3) approximately 3.7 miles of 8⅝-inch O. D. lateral pipeline between Applicant's existing 12-inch main line south of Tuscumbia and its sales meter stations serving Sheffield and Florence, Alabama; and (4) approximately 21.2 miles of 12¾-inch O. D. main line paralleling Applicant's existing 10-inch main line in Colbert County, Alabama; and (b) the abandonment and removal of approximately 5.5 miles of 8⅝-inch O. D. main line from the point of inter-

connection with its 10-inch main line near Muscle Shoals, Alabama, to the point of interconnection with the new 8-inch main line north of Leighton, Alabama.

Applicant states that the proposed facilities are required in order to provide for the normal load growth of the distribution systems buying gas from Applicant, the increase in contract requirements of one of its direct industrial customers and the requirements of two communities proposing to construct gas distribution systems. In addition, the new interconnection with Tennessee Gas Transmission Company will reduce transportation distance for most of the gas on Applicant's system by approximately 20 miles, and, together with the additional compressor unit and relocation of the 8-inch facilities, will enable Applicant to meet the winter peak of 1954–55 at pressures which will provide for the variation in hourly peaks.

The net estimated total overall capital cost of the proposed facilities, after giving effect to salvage value of pipe to be recovered from the proposed abandonment of 5.5 miles of 8-inch line, amounts to $792,308. The Applicant proposes to pay for cost of such facilities from cash to be made available from internal sources and through sale of $550,000 principal amount of 4 percent First Mortgage Bonds in 1955.

The application is on file with the Commission for public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 13th day of September 1954.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54–6828; Filed, Aug. 30, 1954; 8:49 a. m.]

[Docket No. ID–1143]

C. MAYNARD TURNER

NOTICE OF ORDER AUTHORIZING APPLICANT TO HOLD CERTAIN POSITIONS

AUGUST 24, 1954.

Notice is hereby given that on August 17, 1954, the Federal Power Commission issued its order adopted August 12, 1954, authorizing applicant to hold certain positions pursuant to section 305 (b) of the Federal Power Act in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54–6829; Filed, Aug. 30, 1954; 8:49 a. m.]

[Project No. 1922]

CITY OF KETCHIKAN, ALASKA

NOTICE OF ORDER FURTHER AMENDING LICENSE (MAJOR)

AUGUST 24, 1954.

Notice is hereby given that on August 18, 1954, the Federal Power Commission issued its order adopted August 12, 1954, further amending license (Major) in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54–6830; Filed, Aug. 30, 1954; 8:49 a. m.]

[Project No. 2147]

PACIFIC NORTHWEST POWER CO.

NOTICE OF ORDER ISSUING PRELIMINARY PERMIT

AUGUST 24, 1954.

Notice is hereby given that on August 18, 1954, the Federal Power Commission issued its order adopted August 12, 1954, issuing preliminary permit in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54–6832; Filed, Aug. 30, 1954; 8:49 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70–2745]

NEW ENGLAND GAS AND ELECTRIC ASSOCIATION

ORDER PERMITTING WITHDRAWAL OF APPLICATION-DECLARATION

AUGUST 25, 1954.

The Commission by order issued May 18, 1954, having postponed until August 30, 1954, a hearing scheduled in respect of an application-declaration filed by New England Gas and Electric Association ("NEGAS"), under the Public Utility Holding Company Act of 1935, for an exception from Rule U-45 thereunder; and

Counsel for NEGAS having by letter dated August 19, 1954, requested that said application-declaration be considered to be withdrawn without prejudice; and it appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers to grant the request:

It is ordered, That the application-declaration of NEGAS scheduled for a hearing on August 30, 1954, at 10:00 a. m., e. d. s. t., at the offices of the Commission, Washington, D. C., be, and hereby is, deemed withdrawn.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 54–6834; Filed, Aug. 30, 1954; 8:50 a. m.]

[File No. 70–3278]

MISSOURI EDISON CO. AND UNION ELECTRIC CO. OF MISSOURI

ORDER REGARDING ISSUANCE AND SALE OF STOCK BY SUBSIDIARY AND ACQUISITION OF PRO RATA SHARE BY PARENT

AUGUST 25, 1954.

Union Electric Company of Missouri ("Union"), a registered holding company, and its public-utility subsidiary, Missouri Edison Company ("Missouri"), having filed a joint application-declaration pursuant to sections 6 (b), 7, 9 (a) (1), and 10 of the Public Utility Holding Company Act of 1935 ("act") with respect to proposed transactions, which are summarized as follows:

Missouri proposes, as soon as practicable after all necessary approvals of regulatory bodies have been obtained, to issue and sell 41,667 additional shares of its $5 par value common stock at the price of $18.00 per share, aggregating $750,006. Union proposes to acquire such shares, less such number of shares (estimated at not more than 117) as may be sold by Missouri pursuant to the offering to its stockholders (other than Union) referred to below.

Missouri proposes to offer to the holders of its common stock, other than Union, the right to subscribe for additional shares of such stock at the price of $18 per share on the basis of one share for each three shares held of record by such stockholders. No fractional shares will be issued, but each such stockholder may subscribe for one additional share with respect to any excess of shares held by such stockholder over a number equally divisible by three, and a stockholder holding less than three shares may subscribe for one full share. The subscription offer will expire on the fourteenth day after its date.

Union now owns 124,651 shares of the 125,000 outstanding shares of common stock of Missouri, and the remaining 349 shares are held by 12 stockholders. Proceeds from the sale of the 41,667 shares of additional common stock will be used by Missouri to repay $300,000 of non-interest bearing emergency advances made to it by Union ($50,000 on February 11, 1954, and $250,000 on March 29, 1954); to pay a 3½ percent promissory note in the face amount of $181.500, which was issued for the purpose of purchasing $175,000 par value of Missouri's 4¼ percent Preferred Stock for retirement in connection with the consummation of the Plan of Reorganization by which Missouri earlier this year became a subsidiary of Union; and to finance, in part, the necessary and urgent construction program of Missouri, estimated to require the expenditure of approximately $911.000 between July 1, 1954, and December 31, 1955.

Missouri has presently authorized 125,000 shares of $5 par value common stock, all of which are issued and outstanding. Missouri will call a special meeting of its stockholders to vote on increasing its authorized $5 par value common stock to 250,000 shares.

No commissions are to be paid in connection with the proposed transactions and Missouri expects that its expenses in connection therewith will be limited to the Federal original issue tax on the issue of the additional shares of common stock, $229.24, and travelling and miscellaneous expenses, including fees and expenses of Subscription and Transfer Agent, estimated at $500.00. Union does not expect to have any expenses other than certain nominal expenses in connection with the proposed transactions.

The proposed issuance and sale of common stock by Missouri and the proposed acquisition thereof by Union have been authorized by the Public Service Commission of Missouri.

Due notice having been given of the filing of the joint application-declaration and a hearing not having been requested of or ordered by the Commission; and the Commission having examined the filing and finding that the applicable provisions of the act and the rules thereunder are satisfied and that no adverse findings are necessary; and the Commission deeming it in the public interest and in the interest of investors and consumers that said joint application-declaration should be granted and permitted to become effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act that said joint application-declaration, as amended, be, and it hereby is, granted and permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F. R. Doc. 54-6835; Filed, Aug. 30, 1954; 8:50 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 29609]

MOTOR-RAIL RATES IN THE EAST; SUBSTITUTED SERVICE

APPLICATION FOR RELIEF

AUGUST 26, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: The New York, New Haven and Hartford Railroad Company and Schuster's Express, Inc.

Commodities involved: Semi-trailers, loaded or empty, on flat cars.

Between: New London, Conn., and Providence, R. I., on the one hand, and Harlem River, N. Y., Elizabeth and Edgewater, N. J., on the other.

Grounds for relief: Competition with motor carriers.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-6836; Filed, Aug. 30, 1954; 8:50 a. m.]

[4th Sec. Application 29610]

MOTOR-RAIL RATES IN THE EAST; SUBSTITUTED SERVICE

APPLICATION FOR RELIEF

AUGUST 26, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: The New York, New Haven and Hartford Railroad Company and Hartford Transportation Company.

Commodities involved: Semi-trailers, loaded or empty, on flat cars.

Between: New London, Conn., on the one hand, and Harlem River, N. Y., Elizabeth and Edgewater, N. J., on the other.

Grounds for relief: Competition with motor carriers.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-6837; Filed, Aug. 30, 1954; 8:50 a. m.]

[4th Sec. Application 29611]

MOTOR-RAIL RATES IN THE EAST; SUBSTITUTED SERVICE

APPLICATION FOR RELIEF

AUGUST 26, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: The New York, New Haven and Hartford Railroad Company and Lombard Bros., Incorporated.

Commodities involved: Semitrailers, loaded or empty, on flat cars.

Between: Hartford, Conn., and Worcester, Mass., on the one hand, and Harlem River, N. Y., Elizabeth and Edgewater, N. J., on the other.

Grounds for relief: Competition with motor carriers.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-6838; Filed, Aug. 30, 1954; 8:51 a. m.]

[4th Sec. Application 29612]

MOTOR-RAIL RATES IN THE EAST; SUBSTITUTED SERVICE

APPLICATION FOR RELIEF

AUGUST 26, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: The New York, New Haven and Hartford Railroad Company and National Transportation Co., a Corp.

Commodities involved: Semitrailers, loaded or empty, on flat cars.

Between: Boston, Mass., on the one hand, and Harlem River, N. Y., Elizabeth and Edgewater, N. J., on the other.

Grounds for relief: Competition with motor carriers.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-6839; Filed, Aug. 30, 1954; 8:51 a. m.]

[4th Sec. Application 29613]

PIG IRON FROM KEOKUK, IOWA, TO SAGINAW, MICH.

APPLICATION FOR RELIEF

AUGUST 26, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: W. J. Prueter, Agent, for carriers parties to schedule listed below.

Commodities involved: Pig iron, carloads, minimum weight 100,000 pounds.

From: Keokuk, Iowa.

To: Saginaw, Mich.

Grounds for relief: Rail competition, circuity, and market competition.

Schedules filed containing proposed rates: W. J. Prueter's tariff I. C. C. No. A-3894, supp. 21.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-6840; Filed, Aug. 30, 1954; 8:51 a. m.]

[4th Sec. Application 29614]

MERCHANDISE FROM FLINT, MICH., TO CHAMBLEE AND DORAVILLE, GA.

APPLICATION FOR RELIEF

AUGUST 26, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: H. R. Hinsch, Agent, for carriers parties to schedule listed below.

Commodities involved: Merchandise, mixed carloads.

From: Flint, Mich.

To: Chamblee and Doraville, Ga.

Grounds for relief: Rail competition, circuity, and additional destinations.

Schedules filed containing proposed rates: H. R. Hinsch's tariff I. C .C. No. 4619.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-6841; Filed, Aug. 30, 1954; 8:51 a. m.]

[4th Sec. Application 29615]

MERCHANDISE FROM COLUMBUS, OHIO TO ATLANTA, GA., CHARLOTTE, N. C., AND MEMPHIS, TENN.

APPLICATION FOR RELIEF

AUGUST 26, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: H. R. Hinsch, Agent, for carriers parties to schedule listed below.

Commodities involved: Merchandise, mixed carloads.

From: Columbus, Ohio.

To: Atlanta, Ga., Charlotte, N. C., and Memphis, Tenn.

Grounds for relief: Competition with rail carriers, circuitous routes, and additional origin.

Schedules filed containing proposed rates: H. R. Hinsch's tariff I. C. C. No. 4619.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-6842; Filed, Aug. 30, 1954; 8:51 a. m.]

[4th Sec. Application 29616]

LOGS FROM EMPORIA, VA., TO EVANSVILLE, IND.

APPLICATION FOR RELIEF

AUGUST 26, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Logs, native wood, carloads.

From: Emporia, Va.

To: Evansville, Ind.

Grounds for relief: Competition with rail carriers and circuitous routes.

Schedules filed containing proposed rates: Agent C. A. Spaninger's tariff I. C. C. No. 1297, supp. 58.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-6843; Filed, Aug. 30, 1954; 8:51 a. m.]