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**1949 EDITION CODE
OF FEDERAL
REGULATIONS**

Title 43—Public Lands: Interior

**1950
CUMULATIVE POCKET SUPPLEMENT
FOR USE DURING 1951**

**For changes subsequent to December 31, 1950
see the daily issues of the
FEDERAL REGISTER**

EXPLANATION

This Pocket Supplement contains in full text the changes and additions to Title 43 of the Code of Federal Regulations, 1949 Edition, which were published in the FEDERAL REGISTER during 1949 and 1950, and which were in force and effect on December 31, 1950.

Amendatory documents which were promulgated during any part of this period, but which were not in effect on December 31, 1950, are not carried in full text. Citations to such documents are carried in notes entitled "Prior Amendments." All documents directly affecting Title 43 are tabulated in the "Lists of Sections Affected" appearing at the end of this Pocket Supplement.

Citations of authority have been supplied only for those sections not covered by the authority cited in the Code.

Dates appearing in citations of source are dates of publication in the FEDERAL REGISTER, and should not be construed as effective dates.

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Title 22—Foreign Relations

III International Claims Commission, Department of State [Added]

Title 23—Highways

I Bureau of Public Roads, Department of Commerce [Changed]

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IV Federal National Mortgage Association [Added]

Title 28—Judicial Administration

II Subversive Activities Control Board [Added]

Title 31—Money and Finance: Treasury

V Foreign Assets Control, Department of the Treasury [Added]

Title 32A—National Defense, Appendix [Added]

(Reserved for Emergency Rules)

Chap.

Title 37—Patents, Trade-Marks, and Copyrights

III Government Patents Board [Added]

Title 38—Pensions, Bonuses, and Veterans Relief

II Veterans' Education Appeals Board [Added]

Title 41—Public Contracts

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Title 46—Shipping

II Federal Maritime Board, Maritime Administration, Department of Commerce [Changed]

Title 48—Territories and Insular Possessions

I Office of Territories, Department of the Interior [Changed]

Title 49—Transportation

- II Office of Defense Transportation [Deleted]
- III Motor Carrier Claims Commission [Added]

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Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR	<i>Part</i> 2
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Subtitle A—Office of the Secretary of the Interior

Part

- 2 Records and testimony. [Amended]
- 5 Filming of motion pictures. [Amended]
- 6 Patent regulations. [Amended]
- 7 Officers and employees: Lands and resources. [Added]

Part 2—Records and Testimony

AVAILABILITY OF OFFICIAL RECORDS

Sec.

- 2.2 Determinations as to availability of records. [Amended]
- 2.4 Charges. [Revised]
- 2.6 Compulsory process. [Amended]

TESTIMONY OF EMPLOYEES

- 2.20 Testimony of employees. [Amended]

AVAILABILITY OF OFFICIAL RECORDS

§ 2.2 *Determinations as to availability of records.* * * *

(b) An appeal from an adverse decision of the head of a bureau or office may be taken by the applicant to the Secretary. The Solicitor of the Department of the Interior may exercise all the authority of the Secretary in disposing of such an appeal.

[Paragraph (b) amended, 15 F. R. 8186, Nov. 30, 1950]

* * * * *

§ 2.4 *Charges.* (a) The Chief Clerk of the Department shall establish the charges to be collected by all bureaus and offices from the public for furnishing copies of official records. Such charges shall be equal to the cost of producing the copies, plus the cost of administrative services involved in handling the records for such purpose.

(b) A charge of 25 cents may be made for each certificate or verification at-

tached to authenticated copies of official records furnished to the public.

(c) No charge shall be made for furnishing unauthenticated copies of any rules, regulations, or instructions printed by the Government for gratuitous distribution.

(d) No charge shall be made for the making or verifying of copies of official records which are required for official use by the officers of any branch of the Government.

(e) Money received from the collection of charges fixed under this section shall be deposited in the Treasury to the credit of the appropriation current and chargeable for the cost of furnishing the copies.

(f) This section does not apply to the establishment of fees or charges for copies of records pertaining to the enrollment of members of the Five Civilized Tribes, as authorized by section 8 of the Act of April 26, 1906 (34 Stat. 136); for certified copies, issued by the Secretary, of the official character of an officer of the Department; or for copies of aerial or other photographs and mosaics sold by the Geological Survey. This section does not apply to other charges specifically established by statute.

[15 F. R. 5956, Sept. 2, 1950]

§ 2.6 *Compulsory process.* * * *

(b) The Solicitor of the Department of the Interior may exercise all the authority of the Secretary under this section.

CODIFICATION: In § 2.6, the existing text was designated paragraph (a) and a new paragraph (b) was added as set forth above, 15 F. R. 8186, Nov. 30, 1950.

TESTIMONY OF EMPLOYEES

§ 2.20 *Testimony of employees.* * * *

(c) The Solicitor of the Department of the Interior may exercise all the authority of the Secretary of the Interior under this section.

[Paragraph (c) added, 15 F. R. 8186, Nov. 30, 1950]

Part 5—Filming of Motion Pictures

Sec.

5.5 Issuance of permit. [Amended]

5.7 Report by field officials. [Revised]

§ 5.5 *Issuance of permit.* * * *

(f) The permittee, upon the request of the Secretary of the Interior, shall furnish to the Division of Information, Department of the Interior, Washington, D. C., for administrative use a 16 mm. print on acetate film of the footage taken pursuant to the permission granted hereunder.

[Paragraph (f) amended, 15 F. R. 5930, Sept. 1, 1950]

§ 5.7 *Report by field officials.* Every field official granting a permit shall, upon the conclusion of filming operations, report to the head of his bureau or office for transmittal through channels to the Secretary of the Interior, if in his judgment a print of the film footage should be requested for administrative use in accordance with § 5.5. The report shall be sufficiently descriptive to enable the Secretary to determine whether a print should be requested. No report will be required in other cases.

[15 F. R. 5930, Sept. 1, 1950]

Part 6—Patent Regulations

Subpart A—Inventions by Employees

Sec.

6.2 Rights of Government and employee before January 24, 1950. [Amended]

6.2a Rights of Government and employee on and after January 24, 1950. [Added]

6.8 Action by Solicitor. [Amended]

§ 6.2 *Rights of Government and employee before January 24, 1950.* * * *

(f) The provisions of this section shall govern the respective rights of the Government and employees to inventions made by employees before January 24, 1950.

CODIFICATION: In § 6.2, the headnote was amended and paragraph (f) was added to read as set forth above, 15 F. R. 588, Feb. 2, 1950.

§ 6.2a *Rights of Government and employee on and after January 24, 1950.*

(a) Each employee of the Department of the Interior is required, upon request of the Solicitor, to assign to the United States, as represented by the Secretary of the Interior, the entire right, title, and interest in and to all inventions made by the employee on and after January 24, 1950 (1) during working hours, or (2) with a contribution by the Government of facilities, equipment, materials, funds, or information, or of time or services of other Government employees on official duty, or (3) which bear a direct relation to or are made in consequence of the official duties of the inventor.

(b) In any case where the contribution of the Government, as measured by any one or more of the criteria set forth in paragraph (a) of this section, to an invention made by an employee on or after January 24, 1950, is insufficient equitably to justify a requirement of assignment to the Government of the entire right, title, and interest to such invention, or in any case where the Government has insufficient interest in an invention to obtain the entire right, title, and interest therein (although the Government could obtain some under paragraph (a) of this section), the Solicitor, subject to the approval of the Chairman of the Government Patents Board, shall leave title to such invention in the employee, subject, however, to the reservation to the Government of a non-exclusive, irrevocable, royalty-free license in the invention with power to grant licenses for all governmental purposes, such reservation, in the terms thereof, to appear, where practicable, in any patent, domestic or foreign, which may issue on such invention.

(c) In applying the provisions of paragraphs (a) and (b) of this section to the facts and circumstances relating to the

making of any particular invention, it shall be presumed that an invention made by an employee who is employed or assigned (1) to invent or improve or perfect any art, machine, manufacture, or composition of matter, or (2) to conduct or perform research, development work, or both, or (3) to supervise, direct, coordinate, or review Government financed or conducted research, development work, or both, or (4) to act in a liaison capacity among governmental or nongovernmental agencies or individuals engaged in such work, or made by an employee included within any other category of employees specified by regulations issued by the Chairman of the Government Patents Board with the approval of the President, falls within the provisions of paragraph (a) of this section; and it shall be presumed that any invention made by any other employee falls within the provisions of paragraph (b) of this section. Either presumption may be rebutted by the facts or circumstances attendant upon the conditions under which any particular invention is made and, notwithstanding the foregoing, shall not preclude a determination that the invention falls within the provisions of paragraph (d) of this section.

(d) If an employee is not requested to assign the entire right, title, and interest in and to an invention under paragraph (a) of this section, and if the Government does not reserve a non-exclusive, irrevocable, royalty-free license in the invention with power to grant licenses for all governmental purposes under paragraph (b) of this section, the entire right, title, and interest in and to the invention shall remain in the employee, subject to law.

[15 F. R. 588, Feb. 2, 1950]

§ 6.8 *Action by Solicitor.* (a) If an employee inventor requests, pursuant to paragraph (b) of § 6.4, that such a determination be made, the Solicitor shall determine the respective rights of the employee and of the Government in the invention. If the employee is dissatisfied with a determination made by the Solicitor in respect to an invention made on or after January 24, 1950, the employee may submit the matter to the Chairman of the Government Patents Board.

[Paragraph (a) amended, 15 F. R. 588, Feb. 2, 1950]

* * * * *

Part 7—Officers and Employees: Lands and Resources [Added]

LANDS AND RESOURCES OF BUREAU OF LAND MANAGEMENT

Sec.

7.1 Statutory authority.

7.2 Definitions.

7.3 Officers and employees of the Department of the Interior and their spouses prohibited from acquiring voluntarily, or retaining, an interest in any lands or resources administered by the Bureau of Land Management.

7.4 Exceptions.

7.5 Interests to be reported.

7.6 Penalty for violations.

AUTHORITY: §§ 7.1 to 7.6 issued under R. S. 161, 452; 5 U. S. C. 22, 43 U. S. C. 11.

SOURCE: §§ 7.1 to 7.6 appear at 15 F. R. 2800, May 11, 1950, except as otherwise noted.

§ 7.1 *Statutory authority.* The regulations in §§ 7.1 to 7.6, inclusive, are based, in part, on section 161 of the Revised Statutes (5 U. S. C. 22) which authorizes the Secretary of the Interior to prescribe regulations not inconsistent with the law for the government of his Department and the conduct of its officers and employees, and in part, on section 452 of the Revised Statutes (43 U. S. C. 11) which prohibits officers and employees of the Bureau of Land Management from directly or indirectly purchasing or becoming interested in the purchase of any of the public lands, and which provides that any person who violates the section shall forthwith be removed from his office.

§ 7.2 *Definitions.* The following definitions apply to terms used in §§ 7.1 to 7.6, inclusive:

(a) "Officers and employees of the Department of the Interior" means every person employed by the Department of the Interior, or any of its bureaus or offices, on a full-time or part-time basis, other than members of advisory boards, councils or committees established under authority of the Secretary of the Interior. Mineral surveyors are employees of the Bureau of Land Management and within the prohibition contained in §§ 7.1 to 7.6, inclusive. *Waskey v. Hammer*, 223 U. S. 85 (1911).

(b) "Interest" means any direct or indirect ownership in whole or in part of the lands or resources in question, or any participation in the earnings therefrom, or the right to occupy or use the property or to take any benefits therefrom based upon a lease or rental agreement,

or upon any formal or informal contract with a person who has such an interest. It includes membership in a firm, or ownership of stock or other securities in a corporation which has such an interest: *Provided*, That stock or securities listed for public trading on a stock exchange or securities market may be purchased by an employee if the acquisition thereof will not tend to interfere with the proper and impartial performance of the duties of the employee or bring discredit upon the Department.

§ 7.3 *Officers and employees of the Department of the Interior and their spouses prohibited from acquiring voluntarily, or retaining, an interest in any lands or resources administered by the Bureau of Land Management.* Every officer and employee of the Department of the Interior and the spouse of every such person, except as provided in § 7.4, is prohibited from acquiring voluntarily, or retaining, an interest of any kind in any of the public lands or other lands or resources administered by the Bureau of Land Management. This prohibition includes the buying, selling, or locating of any warrant, scrip, lieu land selection, soldier's additional right, or any other right or claim under which an interest in the public lands may be asserted. The prohibition also extends to the voluntary acquisition by purchase or otherwise of any land, water right, or livestock, or any interest in land, water right, or livestock, which in any manner is connected with or involves the use of the grazing resources or facilities of the public land, or other lands or resources administered by the Bureau of Land Management.

§ 7.4 *Exceptions.* (a) (1) The act of June 1, 1938 (52 Stat. 609) as amended by the act of July 14, 1945 (59 Stat. 467, 43 U. S. C. 682a) authorizes any officer or employee of the Department of the Interior stationed in Alaska to purchase or lease under that act one tract in Alaska for any purpose authorized by the act, except as a business site; section 1 of the act of March 3, 1879 (20 Stat. 394, 43 U. S. C. 31) provides that the Director and members of the Geological Survey shall have no personal or private interests in the lands or mineral wealth of the region under survey; and Revised Statute section 452 (43 U. S. C. 11) provides that all officers, clerks, and employees of the Bureau of Land Management (formerly General Land Office) are

prohibited from directly or indirectly purchasing or becoming interested in the purchase of any of the public land. Apart from such restrictions, and if otherwise qualified, (i) any officer or employee of the Department of the Interior stationed in Alaska (except an officer or employee of the Bureau of Land Management or the spouse of such person) shall not by reason of being such an officer or employee be precluded from retaining or acquiring any interest in the lands or resources in Alaska administered by the Bureau of Land Management, other than in a mineral lease or mining claim, and (ii) any temporary, limited, part-time, WAE (when actually employed) or WOC (without compensation) employee of the Department of the Interior (except an officer or employee of the Bureau of Land Management or the spouse of such person) shall not by reason of being such an employee be precluded from retaining or acquiring any interest in lands or resources administered by the Bureau of Land Management.

[Subparagraph (1) amended 15 F. R. 6831, Oct. 11, 1950]

(2) Nothing contained in §§ 7.1 to 7.6, inclusive, shall disqualify local stockmen appointed pursuant to section 18 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269, 43 U. S. C. 3150-1), as amended, as members of advisory boards for grazing districts, from acquiring or retaining grazing permits issued pursuant to section 3 of the Taylor Grazing Act (43 U. S. C. 315b), or interests therein: *Provided*, That in no case shall the member of any such board participate in any advice or recommendation concerning such a permit, or an application therefor, in which he is directly or indirectly interested.

(3) Nothing contained in §§ 7.1 to 7.6, inclusive, shall disqualify an employee of the Bureau of Reclamation from acquiring for residential purposes, and not for speculation, under any applicable public land law, a town lot or other area not exceeding 2 acres in size within a reclamation project, or prevent the part-time employment by that Bureau when in the public interest of a homestead entryman within a reclamation project, or a public land claimant as an appraiser of land or as a member of a reclamation project examining board.

(b) An exception similar to subparagraph (3) of paragraph (a) of this sec-

tion will be made in the case of other employees of the Department of the Interior, other than employees of the Bureau of Land Management, upon the submission by the head of the bureau or office involved to the Secretary of the Interior, and the approval by the Secretary, of a statement justifying such exception.

§ 7.5 *Interests to be reported.* In any case where by operation of law an officer or employee of the Department of the Interior acquires an interest in the public lands, or other lands or resources administered by the Bureau of Land Management, and where an officer or employee is in doubt whether the acquisition of securities or other rights or inter-

ests involving such lands or resources would violate the provisions of §§ 7.1 to 7.6, inclusive, a statement of the facts should be submitted promptly by the individual involved to the head of his bureau or office for transmittal through proper channels to the Secretary of the Interior for a decision or other necessary action.

§ 7.6 *Penalty for violations.* The violation of §§ 7.1 to 7.6, inclusive, by an officer or employee shall be deemed sufficient cause to warrant the removal of such individual from his office. The penalty for violations by the spouse of an officer or employee will be the removal from office of the employee.

Subtitle B—Regulations Relating To Public Lands

CHAPTER I—BUREAU OF LAND MANAGEMENT

DEPARTMENT OF THE INTERIOR

SUBCHAPTER A—ALASKA

Part

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- 64 Home sites or headquarters. [Amended]
- 65 Homesteads. [Amended]
- 66 Homesteads on coal, oil and gas lands. [Amended]
- 67 Indians and Eskimos. [Amended]
- 68 Landing and wharf permits on reserved shore spaces. [Note]
- 69 Mineral lands; general mining regulations. [Amended]
- 70 Mineral lands; coal permits and leases and permits for free use of coal.
[Note]
- 71 Mineral lands; oil and gas, phosphate and oil shale leases, potash and
sodium permits and leases. [Revised]
- 74 Rights-of-way. [Amended]
- 75 Sales and leases. [Amended]
- 80 Town sites. [Amended]
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- 191 General regulations applicable to mineral permits, leases, and licenses. [Amended]
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- 193 Coal permits, leases, and licenses. [Amended]
- 196 Phosphate leases and use permits. [Revised]
- 197 Oil shale leases. [Note]
- 199 Minerals subject to lease under special laws. [Amended]
- 200 Mineral deposits in acquired lands and under rights-of-way. [Amended]

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- 230 Reclamation of arid lands by the United States. [Amended]
231 State irrigation districts. [Note]
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- 245 Rights-of-way over and upon public lands and reservations of the United States for electrical plants and transmission lines. [Amended]

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256 Gifts of land. [Note]
257 Lease or sale of small tracts, not exceeding five acres, for home, cabin, camp, health, convalescent, recreational, or business sites. [Revised]
259 Disposal of materials. [Revised]

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289 Unlawful enclosures or occupancy. [Amended]

SUBCHAPTER Z—WITHDRAWALS, RESTORATIONS, CLASSIFICATIONS, AND EXECUTIVE ORDERS

- 295 Withdrawals and restorations. [Note]
297 Executive orders and related public land orders referred to in Chapter I. [Amended]

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Appendix B—Presidential documents and public land orders cited in this chapter. [Revised]

Appendix C—Public land orders published during 1949 and 1950. [Amended]

SUBCHAPTER A—ALASKA

Part 63—Grazing [Revised]

ESTABLISHMENT OF DISTRICTS AND ISSUANCE OF LEASES

- Sec.
- 63.1 Statutory authority.
- 63.2 Policy.
- 63.3 Definitions.
- 63.4 Area subject to lease.
- 63.5 Lands subject to lease.
- 63.6 Qualifications of applicants.
- 63.7 No right acquired by applicant prior to lease.
- 63.8 Classes of applicants; preference rights.
- 63.9 Application for lease.
- 63.10 Filing of application; copies necessary.
- 63.11 Annual rental.
- 63.12 Free grazing; reduction in grazing fee; no annual rental charged for lease to native or half-breed.
- 63.13 Protests.
- 63.14 Transmittal of proposed lease and issuance of lease.
- 63.15 Recording of lease; posting notices.
- 63.16 Assignments and subleases.
- 63.17 Renewals of leases.
- 63.18 Driveways; quarantine regulations.
- 63.19 Crossing privileges and permits therefor.
- 68.20 Rights reserved; public land laws applicable.
- 63.21 Termination of lease; cancellation.
- 63.22 Liens; removal of improvements, fixtures and personal property.
- 63.23 Appeals.

AUTHORITY: §§ 63.1 to 63.23 issued under sec. 15, 44 Stat. 1455; 48 U. S. C. 471n.

SOURCE: §§ 63.1 to 63.23 contained in Circular 1744, 14 F. R. 7130, Nov. 24, 1949.

§ 63.1 *Statutory authority.*¹ The act of March 4, 1927 (44 Stat. 1452; 48 U. S. C. 471, 471a–471o) authorizes the Secretary of the Interior to establish grazing districts upon any public lands in Alaska, surveyed or unsurveyed, outside of the Aleutian Islands Reservation, outside of national forests and other reservations administered by the Secretary of Agriculture and outside of national parks and monuments, and to lease such lands for the grazing of livestock thereon. Section 7 of the act provides that all leases shall be made for a term of 20 years,

¹ In view of the provisions of section 14 of the act of September 1, 1937 (50 Stat. 902; 48 U. S. C. 250m), which authorizes the Secretary of the Interior to regulate the grazing of reindeer upon the public lands in Alaska, reindeer leases are no longer issued under the act of March 4, 1927 (44 Stat. 1452; 48 U. S. C. 471, et seq.) See 25 CFR, Part 2—Reindeer in Alaska.

except where the Secretary of the Interior determines that the land may be required for other than grazing purposes within the period of ten years; or where the applicant desires a shorter term, and in such cases leases may be made for a shorter period.

§ 63.2 *Policy.* The beneficial utilization of the public land in Alaska for the purpose of livestock grazing shall be conducted in such manner as may be considered necessary and consistent with the purposes of the act but shall be subordinated to the development of their mineral resources, to the protection, development and utilization of their forests, their water resources, their use for agriculture, and such other resources as may be of greater benefit to the public.

§ 63.3 *Definitions.* As used in this part, "Secretary" means Secretary of the Interior; "Director" means Director, Bureau of Land Management; "Regional Administrator" means Regional Administrator, Bureau of Land Management, Anchorage, Alaska; and "Manager" means Manager of the Land Office, Bureau of Land Management, in whose district the lands involved are situated; "the act" means the act of March 4, 1927 (44 Stat. 1452, 48 U. S. C. secs. 471, 471a–471o).

§ 63.4 *Area subject to lease.* Pursuant to the act, three districts for the grazing of livestock were established on June 30, 1928, and the boundaries thereof were declared to be temporarily coincident with the boundaries of the three public land districts in Alaska. The Secretary of the Interior may add to such grazing district any public lands which, in his opinion, should be made a part of the district or, subject to valid existing rights of any lessee, may exclude from such district any lands which he determines are no longer valuable for grazing purposes or are more valuable for other purposes. Grazing leases will be granted only for such areas in a grazing district as may be deemed adequate and usable according to the needs of the lessee.

§ 63.5 *Lands subject to lease.* Vacant, unreserved and unappropriated public lands in a grazing district are subject to lease, provided they are not embraced in natural grazing grounds or routes of migration of wild animals, such as caribou or moose. Public lands within the boundaries of a grazing district

which have been withdrawn for any purpose, are subject to lease if the Department or agency having jurisdiction thereof consents to the issuance of the grazing lease, provided the lands are outside of the Aleutian Islands Reservation, outside of national forests and other reservations administered by the Department of Agriculture, and outside of national parks and monuments.

§ 63.6 *Qualifications of applicants.* Any person who is the head of a family, or who has arrived at the age of 21 years, and is a citizen of the United States or a lawful resident of the Territory of Alaska, or any group or association composed of such persons, or any corporation organized under the laws of the United States or of any State or Territory thereof authorized to conduct business in Alaska, may file an application for a grazing lease.

§ 63.7 *No right acquired by applicant prior to lease.* The filing of an application will not segregate the land applied for from application by other persons for a grazing lease or from other disposition under the public-land laws. As the issuance of a lease is discretionary, the filing of an application for a lease will not in any way create any right in the applicant to a lease, or to the use of the lands applied for, pending the execution of a lease.

§ 63.8 *Classes of applicants; preference rights.* (a) So far as is consistent with the administration of the grazing districts, applicants for grazing leases shall be given preference in the following order:

- (1) Natives.
 - (2) Persons occupying the range on March 4, 1927, and
 - (3) Settlers over all applicants other than in subparagraph (1) and (2) of this paragraph.
- (b) Any person claiming a preference right to a lease must furnish a statement, duly corroborated, setting forth the facts on which such claim is made.

§ 63.9 *Application for lease.*² An application for lease should be filed in the proper land office. No specific form of

² 18 U. S. C. 1001 makes it a crime for any person knowingly and wilfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

application is required, but an application should contain or be accompanied by the following:

(a) Applicant's full name, post office address, the general nature of his business and the principal place of business.

(b) The age and a statement as to the citizenship status of the applicant, if an individual, or as to each partner or member of a partnership or association. Every applicant must be a lawful resident of Alaska, or a citizen of the United States, or one who has declared his intention to become such citizen. A co-partnership or an association applicant shall file a certified copy of whatever written articles of association its members have executed. A corporation shall file a certified copy of its articles of incorporation, evidence that it is authorized to transact business in the Territory of Alaska, and a copy of the corporation minutes or resolution authorizing the filing of the application and the execution of the lease.

(c) Description of the land for which the lease is desired, by legal subdivision, section, township and range, if surveyed, and by metes and bounds, with the approximate area, if unsurveyed. The metes and bounds description should be connected by course and distance with some corner of the public-land surveys, if practicable, or with reference to rivers, creeks, mountains, towns, islands, or other prominent topographical points or natural objects or monuments.

(d) The names and post office addresses of two references as to the applicant's reputation and business standing.

(e) Description by legal subdivision, section, township and range, if surveyed, or by metes and bounds, with approximate area, if unsurveyed, of lands owned or controlled by the applicant which adjoin any of the tracts in the application.

(f) A statement as to the kind and number of animals or livestock proposed to be grazed on the land each year, and the period for which the grazing lease is desired.

(g) A statement as to whether the land is occupied, claimed, or used by natives of Alaska or others, and, if so, the nature of the use and occupancy and the improvements thereon, if any. Also the names and addresses of all owners of the improvements and whether such owner or owners claim the right of occupancy under any of the public-land laws, if known or obtainable.

(h) A statement that the applicant is acting solely on his own account and not under an agreement or understanding with any other for joint operation.

(i) The serial numbers of all other applications filed or leases obtained under the act of March 4, 1927, by the applicant, or applicant's spouse or business associate, or in which the applicant has a direct or indirect interest.

(j) A statement as to the buildings and improvements which the applicant proposes to place on the land including their estimated cost and a description of the tracts desired for their site.

(k) The number of acres of privately owned lands that are used by the applicant for cultivation of crops and the number of acres of such lands that are used for grazing purposes, and the manner in which the applicant plans to graze the lands applied for in connection with his general operations.

(l) A statement as to the previous use by the applicant of the lands covered by the application, the number of years the lands were so used, the class of livestock and the number of livestock and the period of use such livestock grazed on the lands each year.

(m) A showing as to hot or medicinal springs required by § 292.8 of this chapter.

§ 63.10 *Filing of application; copies necessary.* An application for a lease should be filed in duplicate in the land office for the district in which the lands applied for are situated, except when it embraces lands within the jurisdiction of more than one land office, in which event it must be furnished in triplicate and may be filed in either office.

§ 63.11 *Annual rental.* Unless otherwise provided, each lessee shall pay to the proper land office such rental per head or per acre as may be determined to be a fair charge for the grazing of livestock on the leased land, the compensation to be fixed with due regard to the general economic value of the grazing lease. The date for making the annual payment will be specified in the lease. If the rental is to be paid according to the number of animals grazed, no charge will be made for grazing animals under one year of age, provided they are the natural increase of the stock upon which rental fees are paid.

§ 63.12 *Free grazing; reduction in grazing fee; no annual rental charged for lease to native or half-breed.* Any person, including prospectors and miners, may graze free of charge not more than 10 animals upon any land included within any grazing district upon applying to the Regional Administrator in person or by letter, stating the number and kind of stock to be thus grazed, the lands upon which the grazing will take place, and the approximate time such grazing will be continued. Any Eskimo or other native or half-breed, or association thereof, may apply for a grazing allotment on unallotted public lands, and a lease shall be issued to him or them as to other persons, except that no annual rental will be charged for such lease. Such applicant must show by a corroborated statement that the applicant is an Eskimo or other native or half-breed, or an association thereof, and entitled to such lease without charge. When an Eskimo, native, or half-breed, through cooperative agreement, grazes his livestock without payment of annual rental on an allotment held by other lessees, any grazing fee charged for such land on the basis of acreage will be reduced in proportion to the relative number of such native-owned livestock, as compared to the total number on said allotment.

§ 63.13 *Protests.* Protests against an application for a lease, or an allotment, should be in duplicate, contain a complete disclosure of all facts upon which the protest is based, and describe the lands involved in such protest. If the protestant desires to lease all or part of the land embraced in the application against which the protest is filed, the protest should be accompanied by an application for a grazing lease.

§ 63.14 *Transmittal of proposed lease and issuance of lease.* If the application is complete and in conformity with the law and regulations and it is determined by the Regional Administrator that a proposed lease should be transmitted, the Manager will prepare a lease, with necessary copies, on Form 4-470, and send such lease to the applicant. The proposed lease must be duly executed by the applicant in duplicate or triplicate or as may be proper, and returned promptly to the land office with such advance rental payments as may be required. When all requirements have been met and final action has been taken on any protests which may have

been filed, the Manager will execute and issue the lease and will forward a copy thereof to the applicant.

§ 63.15 *Recording of lease; posting notices.* (a) Immediately upon receipt of a copy of the executed lease, the lessee shall cause the same to be recorded with the recording officer for the judicial district within which the leased land is situated. Thereafter, the lessee shall return the recorded lease to the proper land office, which shall make due notation and report of recordation and return the lease to the lessee.

(b) The lessee shall, within one year after the date of issuance of the lease, mark the boundaries of the leased land by posting notices every one-half mile and in a conspicuous place at each boat landing in the leased area if the lease is for one or more islands, which notices should contain a description of the land, the name and address of the lessee and a statement that it is occupied for grazing purposes under grazing lease identified by serial number, date and tenure.

§ 63.16 *Assignments and subleases.* Proposed assignments of a lease, in whole or in part, or subleases, must be filed in triplicate with the land office within 90 days from the date of its execution, for transmittal to the Regional Administrator. Such assignments or subleases must contain all of the terms and conditions agreed upon by the parties thereto, must be accompanied by the same showing by the assignee or sublessee as is required by applicants for a lease; and must be supported by a showing that the assignee or sublessee agrees to be bound by the provisions of the lease. No assignment or sublease will be recognized unless and until approved by the Manager.

§ 63.17 *Renewals of leases.* Applications for renewal of grazing leases should be filed within the ninety days preceding the expiration of the period for which a lease is granted. If the Regional Administrator shall determine that a renewal lease should be granted, the lessee will be offered such a lease by the Manager upon such terms and conditions and for such duration as may be fixed by the Regional Administrator.

§ 63.18 *Driveways; quarantine regulations.* When it appears necessary for stock to regularly cross any portion of an established grazing district, and undue injury to other interests will not

result, suitable driveways may be established. Such driveways will be as short and as easy of passage and access as the character of the country and the protection of the other interests will permit. They will be established with care for the interests of lessees using adjoining ranges. Where driveways are reserved along well-defined routes which must be traveled, all grazing on these areas will be prohibited except by stock in transit, unless the applicant can make available an alternate comparable route of no greater difficulty for stock driveway use across any other lands under his control, in which event a short term lease may be allowed for lands in reserved driveways, but all such leases will contain a special stipulation whereby the lessee will permit the public to use the reserved lands included in the lease for the purpose for which it was reserved. Persons driving or transporting stock from one point to another must comply with the quarantine regulations prescribed by the Territorial or other proper authorities, and unless they do so the privilege may be denied them. The condition of the stock as to contagious or infectious diseases will be determined by the proper Federal or Territorial authorities.

§ 63.19 *Crossing privileges and permits therefor.* Crossing permits will ordinarily not be required when the period for crossing is short, when the stock will be driven along a public highway and will not be grazed upon the leased land, or when such crossing will not interfere with the grazing district administration or other related interests.

(a) Free crossing permits will be issued by the Regional Administrator when good grazing administration or the protection of other related interests do not make the issuance of such permits objectionable. The application must show the number of stock to be driven, the date of starting, the approximate period required for crossing, and the lands to be traversed. Applicants for crossing privileges must file their applications with the Regional Administrator, or such other person as he may designate to supervise livestock management in the area involved. It must be filed sufficiently in advance of the date when such privilege is to begin so as to enable the proper officer to handle the details of the crossing and to give such sufficient notice of the proposed crossing privilege to the lessee thereof as will enable him to

remove his animals from the line of crossing, if he so desires.

(b) Applications for crossing permits may be made either in person or by letter, and permits may be issued to either the owner or persons in charge of the stock.

(c) If the land to be crossed is unenclosed and the lessee thereof does not desire to waive the right to its exclusive use, the stock must be so handled that the animals will remain on the approved route of travel.

(d) If a shipping point within a grazing district is the only one reasonably accessible to persons grazing stock outside that grazing district, crossing privileges may be allowed over leased areas under such restrictions as are necessary to protect the interests of the lessee.

§ 63.20 *Rights reserved; public land laws applicable.* Grazing leases, permits, or allotments under this part shall be subordinated to, and shall be subject to modification or revocation by the manager to the extent necessary to permit:

(a) The development of the mineral resources of the lands.

(b) The protection, development and utilization of the forests and water resources on the lands.

(c) The use of such lands for agricultural purposes.

(d) The protection, development and utilization of such other resources as may be of greater benefit to the public.

(e) The allowance of applications or the granting of rights, permits, leases or uses pursuant to the public-land laws, where the same will either be in the public interest or will not unduly interfere with the use of the land for grazing purposes.

(f) The temporary closing of portions of the leased area to grazing whenever, because of improper handling of the stock, overgrazing, fire or other cause, such action is deemed necessary to restore the range to its normal condition.

(g) Pursuant to the provisions of the act of August 1, 1946 (60 Stat. 755), all uranium or thorium, or other materials which have been or may hereafter be determined by the Atomic Energy Commission to be peculiarly essential to the production of fissionable materials contained in whatever concentration in the lands subject to this lease, are hereby reserved for the use of the United States,

together with the right of the United States through its authorized agents or representatives at any time to enter upon the lands and prospect for, mine and remove the same, making just compensation for any damage or injury occasioned thereby.

§ 63.21 *Termination of lease; cancellation.* The Manager may terminate a lease at the request of the lessee, if the lessee shall make satisfactory showing that such termination will not adversely affect the public interest and has paid all charges due the Government thereunder. A lease may be canceled by the Manager, if the lessee shall fail to comply with any of the provisions of §§ 63.1 to 63.23, or of the lease. No lease will be canceled for default until the lessee has been formally advised of the default in complying with the provisions of the lease and afforded an opportunity to make a showing as to why the lease should not be canceled.

§ 63.22 *Liens; removal of improvements, fixtures and personal property.*

(a) A lien for all payments which become due under the lease is reserved to the United States on all improvements, fixtures, and personal property (including the livestock) of the lessee on the leased area. Such improvements, fixtures, or personal property (other than livestock) may not be removed from the lands unless all moneys due the United States under the lease have been paid.

(b) If the lessee on or before the termination of his lease notifies the manager of his determination to leave on the land improvements the construction or maintenance of which has been authorized, no other person shall use or occupy, under any grazing lease or entry under any public-land law, the land on which such improvements are located until there has been paid to the person entitled thereto the value of such improvements. If the interested parties are unable to reach an agreement as to such value, the amount may be fixed by the Regional Administrator. All such agreements, to be effective, must be approved by the Regional Administrator. The failure of the subsequent lessee to pay the former lessee in accordance with such agreement will be just cause for the cancellation of the lease.

(c) The lessee shall be given 90 days from the date of the termination of this lease by expiration or forfeiture, in the absence of an agreement to the contrary

and if all rental charges due the Government have been paid, to remove all personal property belonging to him, together with any fence, building, corral, or other removable range improvements owned by him. All such property which is not removed within the time mentioned shall become the property of the United States.

§ 63.23 *Appeals.* An appeal may be taken from any decision of the Manager, or of the Regional Administrator to the Director, and from any decision of the latter to the Secretary of the Interior, pursuant to the rules of practice. (Part 221 of this chapter.)

Part 64—Homesites or Headquarters

PURCHASE OF TRACTS NOT EXCEEDING 5 ACRES ON SHOWING AS TO EMPLOYMENT OR BUSINESS

Sec.

64.2a Notice of initiation of claim. [Added]

64.4 Form and contents of applications. [Amended]

64.4a Time for filing application. [Added]

PURCHASE OF TRACTS NOT EXCEEDING 5 ACRES WITHOUT SHOWING AS TO EMPLOYMENT OR BUSINESS

64.6a Notice of initiation of claim. [Added]

64.6b Form of notice. [Added]

64.6c Failure to file notice. [Added]

64.6d Recordation of notice. [Added]

64.6e Recording fee. [Added]

64.7 Form and contents of application. [Amended]

64.7b Time for filing application. [Added]

SOURCE: §§ 64.2a to 64.7b set forth in this Pocket Supplement, contained in Circular 1755, 15 F. R. 3504, June 6, 1950, except as otherwise noted.

PURCHASE OF TRACTS NOT EXCEEDING 5 ACRES ON SHOWING AS TO EMPLOYMENT OR BUSINESS

§ 64.2a *Notice of initiation of claim.*

A notice of the initiation of a claim under the act of March 3, 1927, must designate the kind of trade, manufacture, or other productive industry in connection with which the claim is maintained or desired, and identify its ownership. The procedure as to notices will be governed in other respects by the provisions of §§ 64.6a to 64.6e.

§ 64.4 *Form and contents of applications.* * * *

(j) If the land desired for purchase is surveyed, the application must include a description of the tract by aliquot

parts of legal subdivisions, not exceeding 5 acres. If the tract is situated in the fractional portion of a sectional lotting, the lot may be subdivided; where such subdivision, however, would result in narrow strips or other areas containing less than 2½ acres, not suitable for disposal as separate units, such adjoining excess areas, in the discretion of the regional administrator and with the consent of the applicant, may be included with the tract applied for, without subdividing and the application will be amended accordingly. Where a supplemental plat is required, to provide a proper description, it will be prepared at the time of approval of the application.

(k) If the land is unsurveyed, the application must be accompanied by a petition for survey, describing the tract applied for with as much certainty as possible, without actual survey, not exceeding 5 acres, and giving the approximate latitude and longitude of one corner of the claim.

[Paragraph (j) and (k) added by Circ. 1775, 15 F. R. 9189, Dec. 22, 1950]

§ 64.4a *Time for filing application.* Application to purchase a claim, along with the required proof or showing, must be filed within 5 years after the filing of notice of the claim.

PURCHASE OF TRACTS NOT EXCEEDING 5 ACRES WITHOUT SHOWING AS TO EMPLOY- MENT OR BUSINESS

§ 64.6a *Notice of initiation of claim.*

Any qualified person, association, or corporation initiating a claim on or after April 29, 1950, under the act of May 26, 1934, must file notice of the claim for recordation in the land office for the district in which the land is situated, within 90 days after such initiation. Where on April 29, 1950, such a claim was held by a qualified person, such person must file notice of the claim in the proper land office within 90 days from that date.

§ 64.6b *Form of notice.* The notice must be filed on Form 4-1154, in triplicate if the land is unsurveyed, or in duplicate if surveyed, and shall contain: (a) The name and address of the claimant, (b) age and citizenship, (c) date of settlement and occupancy, and (d) the description of the land by legal subdivisions, section, township and range, if surveyed, or, if unsurveyed, by metes and bounds with reference to some natural

object or permanent monument, giving, if desired, the approximate latitude and longitude.

§ 64.6c Failure to file notice. Unless a notice of the claim is filed within the time prescribed in § 64.6a, no credit shall be given for occupancy of the site prior to filing of notice in the proper land office, or application to purchase, whichever is earlier.

§ 64.6d Recordation of notice. Upon receipt of notice of a claim under this part, if satisfactory in form, the manager will advise the claimant of its receipt and the current serial number assigned thereto. If the notice is found unsatisfactory for proper recording, the manager, before assigning the serial number, or recording, will call upon the claimant to cure the defects by filing a new or supplemental notice. If the application is for land, which is not subject to the form of disposition specified in the notice, the applicant will be advised that the filing of the notice has not conferred on him any right to the land.

§ 64.6e Recording fee. The notice of the claim must be accompanied by a remittance of \$10.00, which will be applied as a service charge for recording the notice, and will not be returnable, except in cases where the notice is not acceptable to the land office for recording because the land is not subject to the form of disposition specified in the notice.

§ 64.7 Form and contents of application. * * *

(1) An application for surveyed land must describe the land by aliquot parts of legal subdivisions, not exceeding 5 acres. If the tract is situated in the fractional portion of a sectional lotting, the lot may be subdivided; where such subdivision, however, would result in narrow strips or other areas containing less than 2½ acres, not suitable for disposal as separate units, such adjoining excess areas, in the discretion of the regional administrator and with the consent of the applicant, may be included with the tract applied for, without subdividing, and the application will be amended accordingly. Where a supplemental plat is required to provide a proper description, it will be prepared at the time of approval of the application.

[Paragraph (1) amended by Circ. 1775, 15 F. R. 9189, Dec. 22, 1950]

§ 64.7b Time for filing application. Except as provided in § 64.7a, application to purchase a claim, along with the required proof or showing, must be filed within 5 years after the filing of notice of the claim.

Part 65—Homesteads

HOMESTEADS UNDER THE ACT OF MAY 14, 1898, AS AMENDED

- Sec.
- 65.3 Notice of settlement. [Revised]
- 65.3a Form of notice. [Added]
- 65.3b Failure to file notice. [Added]
- 65.3c Recordation of notice. [Added]
- 65.3d Recordation fee. [Added]
- 65.4 Marking corners of claim on unsurveyed lands; rights acquired by settlement on surveyed lands. [Revised]
- 65.20 Survey without expense to settler. [Amended]

HOMESTEADS SUBJECT TO MORTGAGE LOANS [ADDED]

- 65.30 Mortgage loans on existing homestead entries; allowance on homestead applications for lands subject to mortgages held by the United States acting through the Secretary of Agriculture; occupancy of the land.
- 65.31 Mortgage liens.

HOMESTEADS UNDER THE ACT OF MAY 14, 1898, AS AMENDED

SOURCE: §§ 65.3 to 65.20 set forth in this Pocket Supplement, contained in Circular 1756, 15 F. R. 3504, June 6, 1950.

§ 65.3 Notice of settlement. (a) A person making settlement on or after April 29, 1950 on unsurveyed land, in order to protect his rights, must file a notice of the settlement for recordation in the land office for the district in which the land is situated, and post a copy thereof on the land, within 90 days after the settlement. Where settlement is made on surveyed lands, the settler, in order to protect his rights, must file a notice of the settlement for recordation, or application to make homestead entry, in the land office for the district in which the land is located within 90 days after settlement.

(b) Any person maintaining a settlement claim on April 29, 1950, on surveyed or unsurveyed public land, shall file notice of the initiation of the claim in the land office for the district in which the land is situated, (1) within 90 days from that date, if the notice of location had not theretofore been filed in the recording district, or (2) within two years from

April 29, 1950, if notice of the location had theretofore been filed in the recording district.

§ 65.3a *Form of notice.* The notice must be filed on Form 4-1154, in triplicate if the land is unsurveyed, or in duplicate if surveyed and shall contain: (a) The name and address of the settler, (b) age and citizenship; (c) date of settlement, and (d) the description of the land by legal subdivisions, section, township and range, if surveyed, or, if unsurveyed, by metes and bounds with reference to some natural object or permanent monument, giving, if desired, the approximate latitude and longitude.

§ 65.3b *Failure to file notice.* Unless a notice of the claim is filed within the time prescribed in § 65.3, no credit shall be given for residence and cultivation had prior to the filing of notice, petition for free survey, or application to make entry, whichever is earliest.

§ 65.3c *Recordation of notice.* Upon receipt of notice of a settlement claim, if satisfactory in form, the manager will advise the claimant of its receipt and the current serial number assigned thereto. If the notice is found unsatisfactory for proper recording, the manager, before assigning the serial number, or recording, will call upon the claimant to cure the defects by filing a new or supplemental notice. If the application is for land which is not subject to the form of disposition specified in the notice, the applicant will be advised that the filing of the notice has not conferred on him any right to the land.

§ 65.3d *Recordation fee.* The notice of settlement claim must be accompanied by a remittance of \$10.00, which will be applied as a service charge for recording the notice and will not be returnable, except in cases where the notice is not acceptable to the land office for recording because the land is not subject to homestead settlement.

§ 65.4 *Marking corners of claim on unsurveyed lands; rights acquired by settlement on surveyed lands.* (a) A settler on unsurveyed land is required to mark the claim by permanent monuments at each corner, in order to establish the boundaries thereof.

(b) Settlement on any part of a surveyed quarter-section subject to homestead entry gives the right to enter all of the quarter section; but if a settler

desires to initiate a claim to surveyed tracts which form part of more than one technical quarter-section, he should define the claim by placing some improvements on each of the smallest subdivisions claimed.

§ 65.20 *Survey without expense to settler.* (a) The land included in a settlement claim may be surveyed without expense to the settler, provided he has sufficiently complied with the law in the matter of residence, cultivation and improvements to submit 3-year proof. A petition for a free survey may be filed whenever such requirements have been met before notice of the settlement claim is required to be filed, or at any time within 5 years after such notice has been filed.

(b) Petition for survey should be filed in triplicate and should describe the land settled upon by metes and bounds with relation to some natural or permanent monument, and give the approximate latitude and longitude and otherwise with as much certainty as possible without actual survey. Reference should be made to the serial number of the notice of settlement previously filed. If there has been any material deviation made in the description of land claimed, a full explanation must be given of the reason for such deviation. The petition should show the date when the settlement was made, the dates from which and to which the settler has resided upon the land, the number of acres cultivated each year and the results of the cultivation, and the character and value of the improvements on the land. The petition should also show that the land does not extend more than 160 rods along the shore of any navigable water or that the restriction as to length of claim has been waived and that at the date of the initiation of the claim the land was not within a distance of 80 rods along any such water from any homestead or headquarters authorized by the acts of March 3, 1927, and May 26, 1934 (44 Stat. 1364; 48 Stat. 809; 48 U. S. C. 461), or from any location theretofore made with soldiers' additional rights or trade and manufacturing site, homestead, Indian or Eskimo allotment, or school indemnity selection. This showing, however, is not required where a petition for restoration, based on an equitable claim is filed with the application, or the land has been restored from the reservation. The petition must

be signed by the applicant and should be corroborated by the statements of two persons having knowledge of the facts.

(c) Upon receipt of the petition, the manager will assign thereto the same serial number that was assigned to the notice of settlement, if one was previously filed; if not, he will assign a current serial number to the petition and will transmit the duplicate to the regional administrator. If the manager finds the showing satisfactory and no shore-space question is involved, he will, in the absence of other objection, send the triplicate copy of the petition to the Regional Chief, Division of Cadastral Engineering, Survey Office, Juneau, Alaska, who, not later than the next succeeding surveying season, will issue instruction for survey of the land without expense to the applicant. The original copy of the petition will be retained by the manager for filing with the case record.

[Paragraphs (a), (b) and (c) amended]

* * * * *

HOMESTEADS SUBJECT TO MORTGAGE LOANS
[ADDED]

AUTHORITY: §§ 65.30 and 65.31 issued under R. S. 2478, as amended, sec. 1, 30 Stat. 409, as amended; 43 U. S. C. 1201, 48 U. S. C. 371.

§ 65.30 *Mortgage loans on existing homestead entries; allowance on homestead applications for lands subject to mortgages held by the United States acting through the Secretary of Agriculture; occupancy of the land.* A homestead entryman who desires to secure a loan on an existing homestead entry, or a homestead applicant who wishes to make a homestead entry for lands in a canceled or relinquished homestead entry subject to a mortgage lien held by the United States acting through the Secretary of Agriculture under the act of October 19, 1949 (63 Stat. 883, 7 U. S. C., Supp. III secs. 1006a, 1006b), should proceed in accordance with § 166.102 of this chapter.

[Circ. 1766, 15 F. R. 6312, Sept. 21, 1950]

§ 65.31 *Mortgage liens.* A mortgage lien held by the United States acting through the Secretary of Agriculture shall not extend to mineral deposits in the lands, which have been or may be reserved to the United States pursuant to law.

[Circ. 1766, 15 F. R. 6312, Sept. 21, 1950]

Part 66—Homesteads on coal, oil, and gas lands

INITIATION AND COMPLETION OF HOMESTEAD CLAIMS ON COAL, OIL, AND GAS LANDS

Sec.

66.11 *Mortgage loans on existing homestead entries allowance of homestead applications for lands subject to mortgages held by the United States acting through the Secretary of Agriculture; occupancy of the land.* [Added]

66.12 *Mortgage liens.* [Added]

§ 66.11 *Mortgage loans on existing homestead entries allowance of homestead applications for lands subject to mortgages held by the United States acting through the Secretary of Agriculture; occupancy of the land.* A homestead entryman who desires to secure a loan on an existing homestead entry or a homestead applicant who wishes to make a homestead entry for lands in a canceled or relinquished homestead entry subject to a mortgage lien held by the United States acting through the Secretary of Agriculture under the act of October 19, 1949 (63 Stat. 883, 7 U. S. C., Supp., III, secs. 1006a, 1006b), should proceed in accordance with § 166.102 of this chapter.

(R. S. 2478; 43 U. S. C. 1201) [Circ. 1766, 15 F. R. 6312, Sept. 21, 1950]

§ 66.12 *Mortgage liens.* A mortgage lien held by the United States acting through the Secretary of Agriculture shall not extend to mineral deposits in the lands, which have been or may be reserved to the United States pursuant to law.

(R. S. 2478, as amended; 43 U. S. C. 1201) [Circ. 1766, 15 F. R. 6312, Sept. 21, 1950]

Part 67—Indians and Eskimos

NOTE: Authority to take all actions formerly taken by the Secretary or the Director under this part, as to allotments, has been delegated to the regional administrator under B. L. M. Order 427, 15 F. R. 5639, Aug. 23, 1950, 15 F. R. 5853, Aug. 30, 1950, with authority to redelegate such actions.

ALLOTMENTS TO INDIANS AND ESKIMOS

Sec.

67.18a *Rules of practice for hearings upon possessory claims to lands and waters used and occupied by natives of Alaska.* [Amended]

§ 67.18a *Rules of practice for hearings upon possessory claims to lands and*

waters used and occupied by natives of Alaska. (a) *Petitions of native groups.* Petitions of native groups of Alaska concerning possessory claims to lands and waters based upon any of the foregoing statutes or upon use or occupancy maintained from aboriginal times to the present day, but not evidenced by formal patent, deed or Executive order, shall be filed with the Secretary of the Interior on or before December 31, 1952. No petition filed thereafter will be considered by the Department. A copy of any such petition shall be forthwith transmitted to the Commissioner of Indian Affairs and the Director of the Bureau of Land Management for preliminary investigations and reports, and such reports shall be made a part of the record at the hearing.

[Paragraph (a) amended, 15 F. R. 9064, Dec. 19, 1950]

Prior Amendments

1950: 15 F. R. 61, Jan. 7.

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Part 68—Landing and wharf permits on reserved shore spaces

NOTE: Authority to take all actions formerly taken by the Secretary or the Director under this part has been delegated to the regional administrator under B. L. M. Order 427, 15 F. R. 5639, Aug. 23, 1950, 15 F. R. 5853, Aug. 30, 1950, with authority to redelegate such actions.

Part 69—Mineral Lands; General Mining Regulations

AREAS SUBJECT TO SPECIAL LAWS

CODIFICATION: The following paragraph was added to footnote 7 by Circular 1753, 15 F. R. 2840, May 12, 1950:

Lands segregated for classification or sold under the Alaska Public Sale Act of August 30, 1949 (63 Stat. 679, 48 U. S. C. 364a-364e) are subject to mining location, under the provision of section 3 of that act for the development of the reserved minerals under applicable law, including the United States mining laws, and subject to the rules and regulations of the Secretary of the Interior necessary to provide protection and compensation for damages from mining activities to the surface and improvements thereon. Such mining locations are subject to the applicable general regulations in Parts 69 and 185 and to the additional conditions and requirements in § 75.39 of this chapter.

Part 70—Mineral lands; coal permits and leases and permits for free use of coal

NOTE: Authority to take all actions formerly taken by the Secretary or the Director under this part, as to coal prospecting permits, has been delegated to the regional administrator under B. L. M. Order 427, 15 F. R. 5639, Aug. 23, 1950, 15 F. R. 5853, Aug. 30, 1950, with authority to redelegate such actions.

Part 71—Mineral Lands; Oil and Gas, Phosphate and Oil Shale Leases, and Potash and Sodium Permits and Leases [Revised]

Sec.

- 71.1 Mineral leasing laws and regulations applicable in Alaska.
- 71.2 Description of unsurveyed lands; conflicting applications for unsurveyed lands.
- 71.3 Leases for lands reserved to the Territory of Alaska for educational purposes.

AUTHORITY: §§ 71.1 to 71.3 issued under sec. 32, 41 Stat. 450; 30 U. S. C. 189.

SOURCE: §§ 71.1 to 71.3, contained in Circular 1778, 15 F. R. 9355, Dec. 28, 1950.

§ 71.1 *Mineral leasing laws and regulations applicable in Alaska.* Subject to the provisions of §§ 71.2 and 71.3, the regulations under the Mineral Leasing Act of February 25, 1920 (41 Stat. 437; 30 U. S. C. 181, et seq.), as amended and supplemented, including the Act of February 7, 1927 (44 Stat. 1057; 30 U. S. C. 281, et seq.), contained in Parts 191 and 192 and 194 to 197, inclusive, of this chapter, shall govern the issuance of oil and gas, phosphate and oil shale leases, and potash and sodium permits and leases, in Alaska.

§ 71.2 *Description of unsurveyed lands; conflicting applications for unsurveyed lands.* (a) Applications for leases of unsurveyed lands shall describe them by metes and bounds; the corners must be plainly marked on the ground by setting substantial posts or heaping up mounds of stone, and the boundaries must conform to true cardinal directions insofar as practicable.

(1) Where the lands are within two miles of an approved public land survey corner, a corner of the area applied for shall be connected by courses and dis-

tances to that corner. There may be utilized as the point of reference the initial monument erected by another applicant who has described said monument by courses and distances with reference to a public survey corner. In such case the location of the adopted monument with respect to the public land survey corner must be stated, or the field notes or calculations by which the location of the applicant's initial monument, with reference to the public survey monument, was obtained, must be furnished.

(2) Where the lands are not within two miles of an approved public land survey corner, the initial monument shall be connected by courses and distances to such permanent monuments as will enable the Bureau of Land Management to identify its location from its records and maps. A plat or chart illustrating the location of said monument will aid in a determination of its location, and its position must also be noted with reference to rivers, creeks, mountains, or mountain peaks, towns, or other prominent topographic points, or natural objects.

(b) In order to permit adjustment of conflicts, areas covered by all applications in conflict with a prior application or claim must be identified with reference to a monument of the first application or claim which can be definitely ascertained and located upon the records and plats of the Bureau of Land Management.

§ 71.3 *Leases for lands reserved to the Territory of Alaska for educational purposes.* Under the provisions of the act of August 7, 1939 (53 Stat. 1243; 48 U. S. C. 353) any person having acquired a permit or lease from the United States for the prospecting for or mining oil, gas, phosphate, oil shale, potash or sodium deposits from the lands reserved to the Territory of Alaska for educational purposes by the act of March 4, 1915 (38 Stat. 1214; 48 U. S. C. 353), as set forth in § 69.19 of this chapter, shall compensate a Territorial lessee, if any, for any resulting damages to crops or improvements on such lands, where the mineral permit or lease shall be issued after the issuance of the Territorial lease. The act also provides that any lease issued by the Territory for such reserved lands, after a lease has been issued under the mineral leasing laws, shall be with due regard to the rights of the mineral claim-

ant. Controversies between Territorial lessees and permittees or lessees under the mineral leasing laws on the same lands involving the right of possession, occupancy and use of the lands, or liability for damages, are matters within the jurisdiction of the local courts.

Part 74—Rights-of-way

NOTE: Authority to take all actions formerly taken by the Secretary or the Director under this part, has been delegated to the regional administrator under B. L. M. Order 427, 15 F. R. 5639, Aug. 23, 1950, 15 F. R. 5853, Aug. 30, 1950, with authority to redelegate such actions.

RESERVATION OF PUBLIC LAND FOR HIGHWAY PURPOSES; APPROPRIATION OF ADJOINING LAND [ADDED]

- Sec.
- 74.28 Establishment of reservation.
- 74.29 Effect of reservation.
- 74.30 Statement required of applicants as to public roads.
- 74.31 Appropriation of land up to reserved area; advance surveys not required.
- 74.32 Acreage limitation.
- 74.33 Adjustments after survey.

AUTHORITY: §§ 74.28 to 74.33 issued under R. S. 2478; 43 U. S. C. 1201.

SOURCE: §§ 74.28 to 74.33 contained in Circular 1750, 15 F. R. 1874, Apr. 1, 1950.

§ 74.28 *Establishment of reservation.* Public Land Order No. 601 of August 10, 1949 (Appendix C of this chapter) provides:

Subject to valid existing rights and to existing surveys and withdrawals for other than highway purposes, the public lands in Alaska lying within 300 feet on each side of the center line of the Alaska Highway, 150 feet on each side of the center line of all other through roads, 100 feet on each side of the center line of all feeder roads, and 50 feet on each side of the center line of all local roads, in accordance with the following classifications, are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and mineral-leasing laws, and reserved for highway purposes:

Through roads. Alaska Highway, Richardson Highway, Glenn Highway, Haines Highway, Tok Cut-Off.

Feeder roads. Steese Highway, Elliott Highway, McKinley Park Road, Anchorage-Potter-Indian Road, Edgerton Cut-Off, Tok Eagle Road, Ruby-Long-Poorman Road, Nome-Solomon Road, Kenai Lake-Homer Road, Fairbanks-College Road, Anchorage-Lake Spendar Road, Circle Hot Springs Road.

Local roads. All roads not classified above as Through Roads or Feeder Roads, established or maintained under the jurisdiction of the Secretary of the Interior.

§ 74.29 *Effect of reservation.* The reservation made by Public Land Order No. 601 of August 10, 1949, operates as a complete segregation of the land from all forms of appropriation under the public-land laws, including the mining and the mineral-leasing laws. Unless under the law or regulations such right or claim may embrace non-contiguous land, a right or claim to public land in the territory fronting on a withdrawal made by Public Land Order 601 and initiated on or after August 10, 1949, must be restricted to land on one side of the withdrawn area, except that a homestead settlement or entry may be made for land crossed by the strip withdrawn in connection with a local road, exclusive of such strip.

§ 74.30 *Statement required of applicants as to public roads.* Every applicant for public lands in Alaska whose right or claim does not antedate the withdrawal will be required to state in his application, or in a written statement furnished with the application, whether or not the land applied for is crossed by a public road. If it is, such road must be identified by name or otherwise.

§ 74.31 *Appropriation of land up to reserved area; advance surveys not required.* Subject to § 74.29, public land on either side of the reserved area, both surveyed and unsurveyed, if otherwise available, may be included in claims extending up to but not including any part of the reserve. Where the land has been surveyed under the rectangular system and the surveys have not been closed on the reserved area, applications may be filed and entries allowed for portions of the legal subdivisions outside of the reserved area without awaiting additional surveys. Where the surveys have been closed on the reserved area, the land must be identified in the terms of such surveys. Settlements on unsurveyed public lands must conform to § 65.2 of this chapter so far as practicable.

§ 74.32 *Acreage limitation.* An application presented in advance of the approval of an official survey closing on the reserved area must show that the area described does not exceed the maximum area permitted by the law under which the application is made.

§ 74.33 *Adjustments after survey.* Every application made for public land abutting on the reserved area, not described in the terms of an official plat

of survey closing on that area, will be subject to adjustment, both as to description and area, after such an official survey has been made.

Part 75—Sales and Leases

SALE OR LEASE OF CERTAIN LANDS IN THE MATANUSKA VALLEY OF ALASKA

Sec.

75.4 Persons entitled to make application. [Revised]

TRANSFER TO ALASKA HOUSING AUTHORITY OF LANDS UNDER JURISDICTION OF DEPARTMENT OF INTERIOR [ADDED]

75.15 Statutory authority.

75.16 Policy.

75.17 Definitions.

75.18 Request by Authority for transfer of property interest.

75.19 Action on request.

75.20 Publication of proposed transfer.

75.21 Use permission pending survey or issuance of patent.

75.22 Special provisions and reservations in the instrument of transfer.

SALE OF LANDS AT PUBLIC AUCTION FOR INDUSTRIAL OR COMMERCIAL PURPOSES, INCLUDING HOUSING [ADDED]

75.23 Statutory authority.

75.24 Definitions.

75.25 Policy.

75.26 Lands subject to sale; classification and use.

75.27 Application; limitation on holdings.

75.28 Land utilization program; statement and plat.

75.29 Effect of application; segregation of land.

75.30 Classification and appraisal; withdrawn or reserved land.

75.31 Publication of notice; contents; posting.

75.32 Bidding and sale.

75.33 Action at close of bidding; declaration of highest bidder.

75.34 Statement of qualifications; proposed utilization program.

75.35 Certificate of purchase; rights and limitations; survey.

75.36 Assignment; mortgage or loan security.

75.37 Termination of certificate; removal of improvements.

75.38 Application for patent; proof of use.

75.39 Issuance of patent; reservations; disposal of minerals.

75.40 Appeals.

SALE OR LEASE OF CERTAIN LANDS IN MATANUSKA VALLEY OF ALASKA

§ 75.4 *Persons entitled to make application.* Colonists and settlers who are approved and certified by the Alaska Rural Rehabilitation Corporation may file an application for the purchase or

lease of such lands as are not sold to the Corporation. The amount of land sold or leased to any such person shall not exceed the acreage necessary for the purpose of developing a farm unit which will support such person and his family, as determined by the Corporation. Land reported by the Corporation to be not suitable for disposal as part of a farm unit may be sold in tracts of such size and shape as the Corporation may recommend without regard to the above acreage limitations when it is determined by the Corporation that such sale will contribute to the development of the project and safeguard the public interest in the land: *Provided*, That when a special survey is necessary in connection with such a sale, the cost of such survey shall be paid by the purchaser.

[Circ. 1774, 15 F. R. 9242, Dec. 23, 1950]

TRANSFER TO ALASKA HOUSING AUTHORITY OF LANDS UNDER JURISDICTION OF DEPARTMENT OF THE INTERIOR [ADDED]

AUTHORITY: §§ 75.15 to 75.22 issued under R. S. 453, as amended, R. S. 2478; 43 U. S. C. 2, 1201.

SOURCE: §§ 75.15 to 75.22 contained in Circular 1745, 15 F. R. 61, Jan. 7, 1950.

§ 75.15 *Statutory authority.* Section 6 of the Alaska Housing Act of April 23, 1949 (Public Law 52, 81st Cong.) authorizes any executive department or agency of the Federal Government to sell, transfer, and convey to the Alaska Housing Authority at fair value, as determined by such department or agency, for use under that act, all or any right, title, and interest in any real or personal property under the jurisdiction of such department or agency which it determines to be in excess of its own requirements, notwithstanding any limitations or requirements of law with respect to the use or disposition of such property. The section provides that the authority conferred thereby shall be in addition to and not in derogation of any other powers and authorities of such department or agency.

§ 75.16 *Policy.* (a) The Department of the Interior has been gravely concerned about the critical housing shortage in Alaska, which has been a major obstacle to the proper development of the Territory and to the economic life of its population. The act, which seeks to ameliorate this dire shortage, will be

liberally construed to foster the development of the urgently needed housing program.

(b) In order to effectuate the objectives of the act, prompt consideration will be given to all requests filed under the regulations in this part. To facilitate prompt action, the requests should contain complete information and data required by § 75.18.

(c) That lands are withdrawn in aid of a function of the Department of the Interior, or for shore space, will not preclude the disposal of such lands under the act if the lands are found to be in excess of the needs of this Department. However, lands situated in national parks and monuments, fish and wildlife refuges, and Indian lands will not be made available for disposal under the act unless a positive showing is also made of the unavailability of other lands in the general area suitable for the desired purpose. Requests will not be approved until such time as the information and data required by §§ 75.15 to 75.22 are furnished to the Regional Administrator.

(d) Except to the extent previously indicated, the use of lands under the act, if not already appropriated under the public-land laws or actually used by Federal agencies, will be regarded as a higher use than the other uses authorized by the public-land laws.

(e) Requests should be made only in connection with specific housing projects, and may be made before the plans of construction have been completely formulated. However, requests should not be made until the Authority has determined that it will construct a specific project on the lands, the number and type of housing units to be included in the project, and the acreage and area needed for such project.

(f) Where lands are affected by a permit granted to another department or to any agency thereof, the consent of such department or agency to the proposed conveyance is required before a request may be approved.

§ 75.17 *Definitions.* As used in §§ 75.15 to 75.22, unless the context requires otherwise, the following terms shall have the meaning indicated:

(a) The "act" means the Alaska Housing Act of April 23, 1949 (Public Law 52, 81st Cong.).

(b) "Authority" means the Alaska Housing Authority.

(c) "Regional Administrator" means the Regional Administrator, Region VII, Bureau of Land Management, Anchorage, Alaska.

(d) "Property interest" means the title to or any other interest in land, including easements and leaseholds.

(e) "Instrument of transfer" includes a patent, deed, lease, or other instrument transferring a property interest.

§ 75.18 *Request by Authority for transfer of property interest.* Each request by the Authority for the transfer to it of a property interest in public lands or other federally owned lands under the jurisdiction of the Department of the Interior in Alaska should be addressed to and filed with the Regional Administrator, should be in duplicate, and should contain the following:

(a) A description of the land, if surveyed, by legal subdivision, specifying section, township and range; unsurveyed lands should be described by metes and bounds with a tie to a corner of the public land surveys if within two miles; otherwise, a tie should be made to some permanent topographic feature and the approximate latitude and longitude should be given when practicable.

(b) If the application includes unsurveyed lands, a statement that the Authority has plainly indicated on the ground the corners of the land applied for by setting substantial posts or heaping up mounds of stones at each corner.

(c) A statement showing whether there are any hot springs or other springs having waters possessing curative properties upon any legal subdivision of the land requested, if the land is surveyed; and if the land is unsurveyed, whether any portion of the land is within an area of one-quarter of a mile from such spring or springs.

(d) A statement identifying the proposed project, the acreage required, and showing the number and type of housing units to be included therein, and the desirability or suitability of the site for the particular project.

(e) A statement showing the need for the particular land and the property interest therein requested by the Authority.

(f) The date construction of improvements on the land is contemplated.

(g) A statement showing whether any portion of the land is occupied or reserved for any purpose by the United

States or occupied or claimed by natives of Alaska, or whether the land is occupied, improved, or appropriated by any person claiming the same other than the Authority.

§ 75.19 *Action on request.* Upon receipt of a request from the Authority, the Regional Administrator will ascertain from all interested agencies of the Department of the Interior whether the proposed conveyance would be inconsistent with their needs. He will also cause to be made an examination and appraisal of the lands. He will then determine whether the lands are in excess of the requirements of the Department of the Interior and of any agency thereof. If the Regional Administrator determines that the lands are in excess of the requirements of the Department of the Interior and of any agency thereof, he will so advise the Authority and also advise it as to the fair value of the lands considering the use to which they are to be put, and as to covenants, terms, and conditions under which the requested transfer will be made. Any such conveyance will be made subject to valid existing rights of record, and to those disclosed as a result of posting, publication, or otherwise.

§ 75.20 *Publication of proposed transfer.* (a) The Regional Administrator will require the Authority to publish at its expense, in a newspaper of general circulation in the land district in which the land is situated, a notice stating that a request has been made by the Authority to acquire an interest (describing it) in certain lands (describing them) under the act, for housing purposes, and that the purpose of the notice is to give persons claiming an interest in the lands, or having bona fide objections to the transfer, an opportunity to file with the Regional Administrator within 30 days after the date of the first publication a protest, together with evidence that a copy of the protest has been served on the Authority. If the notice is published in a daily paper, the notice should be published for four consecutive weeks in the Wednesday issue; if a weekly, for four consecutive issues; and if a semi-weekly or tri-weekly, in any of the issues on the same day for four consecutive weeks. The notice will be posted during the entire period of publication in the land office for the district in which the lands are situated. The Regional Administrator will also require the Au-

thority to keep a notice posted on the land throughout the entire period of publication. No transfer will be made until proof of publication and posting of the notice has been filed with the Regional Administrator.

(b) After the Authority has made payment for the lands and complied with all of the requirements made by the Regional Administrator, that officer will so advise the Director, Bureau of Land Management, who will then direct the issuance of the instrument of transfer.

§ 75.21 *Use permission pending survey or issuance of patent.* (a) Where the Regional Administrator has advised the Authority that it has complied with all the requirements imposed on it under §§ 75.15 to 75.22 by the Regional Administrator, he may, upon request, permit the Authority to occupy and use the lands pending the survey thereof, or the issuance of patent.

(b) If unsurveyed public lands are included in a request, patent therefor cannot be issued until the lands have been surveyed. In such cases the Regional Administrator, when he advises the Authority that it may use and occupy the lands pending a survey, will cause a survey to be made as expeditiously as limitations of personnel and available funds permit.

§ 75.22 *Special provisions and reservations in the instrument of transfer.* Each instrument of transfer made under §§ 75.15 to 75.22, inclusive, of fee title or lesser estate in the land shall contain:

(a) The covenants, terms, and conditions requested by the Authority, as well as those required for the protection of the Department of the Interior, or any agency thereof.

(b) A reservation to the United States of the oil, gas, and other mineral deposits in the lands, together with the right of the United States, its agents, representatives, lessees or permittees, to prospect for, mine, and remove the same, under such regulations as the Secretary of the Interior may prescribe.

(c) Where public lands are involved, a reservation to the United States of fissionable source materials pursuant to the act of August 1, 1946 (60 Stat. 755; 42 U. S. C. 1801), and where non-public lands are involved, pursuant to Executive Order No. 9908 of December 5, 1947 (3 CFR, 1947 Supp.).

SALE OF LANDS AT PUBLIC AUCTION FOR INDUSTRIAL OR COMMERCIAL PURPOSES, INCLUDING HOUSING [ADDED]

AUTHORITY: §§ 75.23 to 75.40 issued under sec. 5, 63 Stat. 679; 48 U. S. C. Sup. 364e.

SOURCE: §§ 75.23 to 75.40 contained in Circular 1754, 15 F. R. 2841, May 12, 1950.

§ 75.23 *Statutory authority.* The sale, at public auction, of tracts not exceeding 160 acres in the aggregate, which have been classified as suitable for industrial or commercial purposes, including construction of housing, is authorized by the act of August 30, 1949 (63 Stat. 679, 48 U. S. C. 364a-364e). Section 4 provides that the act of May 14, 1898 (48 U. S. C. 371, 462), as amended, creating shore-space reserves shall not apply to nor limit the operations of the act.

§ 75.24 *Definitions.* When used in this part:

(a) "Secretary" means Secretary of the Interior.

(b) "Director" means Director, Bureau of Land Management.

(c) "Regional Administrator" means the Regional Administrator, Region VII, Bureau of Land Management, Anchorage, Alaska.

(d) "Manager" means manager of the land office for the district in which the land is situated.

(e) "Applicant" or "purchaser" includes an individual, partnership, association of individuals, or a corporation, including municipal corporations.

(f) "The act" means the Alaska Public Sale Act of August 30, 1949 (63 Stat. 679, 48 U. S. C. 364a-364e).

§ 75.25 *Policy.* It is the policy of the Secretary to sell public lands under the act only when the lands will be put to some definite industrial or commercial use within a reasonable time after purchase according to the utilization program declared by the applicant or purchaser pursuant to § 75.28 or § 75.34 (b).

§ 75.26 *Lands subject to sale; classification and use.* (a) Any public lands in Alaska not within national parks or monuments, national forests, Indian lands, or military reservations, may be sold under the act, provided such lands shall first have been classified by the regional administrator as suitable for disposal for industrial, commercial, or

housing use. The regional administrator may classify lands under the act either on his own motion or upon application. A properly filed application for the purchase of public lands will be considered as a request for classification of the land as suitable for disposal under the act.

(b) Disposal of withdrawn or reserved lands may be made only with the consent of the department or agency for whose use or in whose interest the lands were reserved or withdrawn, or which has administrative jurisdiction over such lands, and subject to the conditions required by such department or agency.

(c) Lands may be classified for disposal as industrial, commercial, or housing sites suitable for one or more types of enterprises, including, but not limited to, the following:

(1) Industrial site for manufacturing, fabricating, processing, or warehouse-storing.

(2) Commercial site for merchandising, retail and wholesale, including warehouse and distribution centers; fur farms for penned animals; transportation facilities, including terminals, and repair shops.

(3) Housing site for apartments, detached and semi-detached dwellings on a project basis of sufficient size, but not less than five dwelling units, to warrant large-scale development; hotels, recreation resorts, overnight lodges, and motor courts.

(d) The sale of lands under §§ 75.23 to 75.40 will be subject to any valid existing rights; but the act of May 14, 1898 (48 U. S. C. 371, 462), as amended, creating shore-space reserves, will not apply to nor limit dispositions under these sections.

§ 75.27 *Application; limitation on holdings.* An application may be filed with the manager by any qualified individual, association of individuals, or corporation, including municipal and public corporations, to purchase land for industrial, commercial, or housing purposes. The application must be executed and filed in duplicate if the land is sur-

¹ 18 U. S. C. 1001 makes it a crime for any person knowingly and wilfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

veyed, and in triplicate if the land is unsurveyed. Each application shall be for only one tract, reasonably compact in form, containing so much land, not exceeding 160 acres, as is actually required for the contemplated enterprise or project.

An applicant may file any number of applications, but no award may be made nor may patent issue to any purchaser for land which, with other lands under this act then held by such purchaser, shall exceed 160 acres in the aggregate. The application must contain in substance the following information:

(a) Name and address of applicant; age; general nature of his business and principal place of business.

(b) An association is required to file a certified copy of its articles of association and the same showing, including holdings of its members, as required of an individual as specified herein. A corporation is required to file a certified copy of its articles of incorporation and a showing that it is qualified to hold real estate in Alaska.

(c) Description of the land desired, by legal subdivision, section, township and range, if surveyed, and by metes and bounds with the approximate area, if unsurveyed. The metes and bounds description should be connected by course and distance with some corner of the public land surveys, if practicable, or with reference to rivers, creeks, mountains, towns, islands, or other prominent topographical points or natural objects or monuments. No patent may issue, however, until an official survey is made.

(d) A brief but complete statement as to the use to which the land will be put, supplemented by the showings required in § 75.28.

(e) A statement of the applicant's interests, direct or indirect, whether as a member of an association or stockholder in a corporation or otherwise, in lands covered by purchase certificates or patents issued under the act, with the acreage thereof, identifying the same by land office and serial or by patent number, and a statement that the total amount of such lands then held by the applicant, together with the lands applied for, do not exceed 160 acres in the aggregate.

(f) The application must be signed by the applicant or an attorney in fact; if executed by an attorney in fact, it must be accompanied by the power of attorney. Application on behalf of a corpo-

ration must be accompanied by proof of the signing officer's authority to execute the instrument and must have the corporate seal affixed thereto. When a municipal or public corporation is the applicant, the authority of the signing official or officials to act for the corporation must be furnished, evidenced by a certified copy of the resolution of its governing board or body.

§ 75.28 *Land utilization program; statement and plat.* (a) The application must be accompanied by an additional statement executed by the applicant disclosing in detail the proposed use to which the land will be put, containing in substance the following information: Type (whether industrial, commercial, or housing); structures and other improvements to be erected on the land, including size and cost of construction; approximate dates for beginning and completing construction; or, in the case of housing, the number of separate housing units or the number of persons or families for whom accommodations will be provided.

(b) The applicant must also furnish a plat of the area desired for purchase, showing the proposed location of all structures, roadways, and other improvements and facilities to be erected, in sufficient detail to illustrate the contemplated utilization of the tract and the need for all the acreage for which application is made.

§ 75.29 *Effect of application; segregation of land.* (a) Subject to valid prior rights, the filing of an application in conformity with the regulations in this part will segregate the land applied for from application, entry, or settlement under any public-land laws or from mining locations except as provided in § 75.39, pending classification of the land under the act.

(b) If the application is not properly executed or is not accompanied by the showings required in § 75.28, the application will be rejected. If the application is regular and the status of the land warrants its consideration for classification under the act, the manager will promptly forward the application to the regional administrator.

(c) Subject to valid prior rights, the regional administrator may, at any time, on his own motion, effect a segregation of land, pending its classification as suitable for disposal under the act by filing

with the manager of the land office a notice specifying each tract of land under consideration. The notice shall be effective to segregate the land from further application, entry or settlement under any public-land law, or from mining locations except as provided in § 75.39. The segregation notice shall be effective for not more than six months from date of filing of the notice in the land office, but the segregation may be extended for not more than an additional six months by the regional administrator, by filing a similar notice as to any or all of such tracts.

(d) An application or a segregation notice shall not prevent the filing of other applications under any public-land law without the initiation of any rights thereunder, pending classification of the land. Upon determination, pursuant to an application or notice, that the land is not suitable for disposal under the act or upon expiration of the segregation period or an extension thereof without classification, the land shall be subject to the public-land laws and pending applications thereunder.

§ 75.30 *Classification and appraisal; withdrawn or reserved land.* (a) The regional administrator, based upon such reports and studies as may be necessary, will make a determination whether the land in the application or segregation notice is suitable for disposal for industrial or commercial purposes; he will also appraise the land at its fair market value.

(b) If the land is withdrawn or reserved on behalf of or is under the administrative jurisdiction of another department or agency, the consent of such department or agency to the disposal of the land must be obtained prior to classification, and such disposal will be subject to any necessary and proper conditions required by the head of the department or agency.

§ 75.31 *Publication of notice; contents; posting.* (a) Upon a favorable classification of the land, the regional administrator will have a notice of the sale published, at the expense of the United States, not less than 30 days prior to the date fixed for the sale, in a designated newspaper of general circulation in Alaska. Publication may be made once a week for four consecutive weeks.

(b) The notice will contain the date, hour, and place of the sale; description

of the tract or tracts, whether surveyed or unsurveyed; if insurveyed, a statement that the land must be surveyed at the expense of the purchaser prior to patent, with the estimated cost of survey; type or types of use for which classified; the minimum acceptable bid price which shall be not less than the appraised value if the land is surveyed, or appraised value plus estimated cost of survey if the land is unsurveyed; a list of all reservations to which the land is subject, including reservation to the United States of all minerals in the land, as well as fissionable source materials under the act of August 1, 1946 (60 Stat. 755; 42 U. S. C. 1805 (b) (7)); and such other reservations, if any, as may be necessary and proper; where and how bids shall be submitted; and a statement warning all bidders against violation of the provisions of 18 U. S. C. 1860 prohibiting unlawful combination or intimidation of bidders.

(c) The manager will post a copy of the notice of sale in the land office during the entire period of publication.

§ 75.32 *Bidding and sale.* (a) The land will be offered for sale at public auction at a minimum price of not less than the appraised value, plus the estimated cost of any surveys required to properly describe the land prior to issuance of patent. Bids may be made by the principal or an agent either personally at the sale or by mail, in the manner specified in the notice of sale. Bids sent by mail will be considered only if received at the land office prior to the hour fixed for the sale. The bids must be enclosed in a sealed envelope and must be accompanied by a certified check, cashier's check, or money order payable to the Treasurer of the United States, for one-fifth the amount of the bid. The sealed envelope must be marked in the lower left-hand corner as prescribed in the notice of sale. The sealed envelopes, with the hour and date of receipt in the land office noted thereon, will be opened by the manager only at the time fixed for the sale.

(b) The manager will commence the sale by reading the public announcement thereof and by opening the sealed bids and announcing such bids. He will then receive bids from the persons present.

§ 75.33 *Action at close of bidding; declaration of highest bidder.* (a) When

all bids from the persons present shall have been received, the manager will, in the usual manner, declare the bidding closed. He will then announce the amount of the highest bid and require the offeror immediately to deposit one-fifth the amount of the bid. In the absence of such payment the manager will at once proceed with the sale, excluding that bid and starting with the next highest bid not withdrawn. In the event the bids of two or more persons sent by mail are the same in amount and are the highest offered, the manager will then and there hold a public drawing, in the manner specified in § 295.8 (b) of this chapter, from among such persons, and the bid of the person whose name is drawn will be accepted by the manager. The remainder of the bid must be paid by the bidder within 30 days after receipt of notice from the manager. When the full amount of the bid is paid, the manager will declare the offeror as the successful bidder, but no certificate of purchase will be issued unless and until the bidder has made satisfactory compliance with § 75.34.

(b) If the remainder of the bid is not paid within the time allowed or the bidder fails to qualify in accordance with § 75.34, the bid will be rejected and the one-fifth deposit will be forfeited; and the regional administrator may offer the land to the party who made the next highest bid, if such bidder is still interested in the purchase. Until the successful bidder has fully complied with § 75.34, the regional administrator may at any time determine, in the public interest, that the land should not be sold, and the applicant or any bidder shall have no contractual or other rights as against the United States, and no action taken shall create any contractual or other obligation of the United States.

§ 75.34 *Statement of qualification; proposed utilization program.* Before a certificate of purchase may issue, the successful bidder must, within 30 days after he shall have been so declared, file in the land office, if he has not already done so:

(a) A statement and evidence of his qualifications and holdings of lands under this act in conformity with § 75.27 (a) or (b), and (e).

(b) Acceptable showing as to the proposed program of use and development

of the land, consistent with the general purpose for which classified, containing in substance the detailed information required by § 75.28.

(c) A statement, accompanied by satisfactory proof, that he has the financial means or has made arrangements with an established financial institution to provide the means to carry the development program to completion; also a statement that the bid is not made for or on behalf of any undisclosed principal or other party in interest.

(d) In addition, the bidder may furnish or he may be required to furnish any additional information or showing, or proof of his bona fide intention and of his financial ability to develop the tract for the contemplated use. Any showing as to financial responsibility will, upon request of the bidder, be treated as confidential and not open to public inspection.

§ 75.35 *Certificate of purchase; rights and limitations; survey.* (a) When the regional administrator is satisfied that the successful bidder is qualified, that he has the intention and financial means to develop and use the land in accordance with the act and his proposed utilization program, the regional administrator will authorize the issuance by the manager of a certificate of purchase on Form 4-1139, containing the reservations as listed in the published notice of sale.

(b) Upon issuance of the certificate which will be valid for a period of three years from the date of issuance, the purchaser shall have the right, during the three-year period, to enter upon, occupy, use, and make improvements upon the land in accordance with the declared utilization program.

(c) If the land is unsurveyed, the manager will, upon issuance of the certificate of purchase, request the regional chief, Division of Cadastral Engineering, to have a survey made and plats prepared. Upon completion of the survey work, the purchaser will be required to pay any deficiency, or he will be refunded any amount paid in excess of the actual cost of survey.

(d) Timber on the land may not be cut or removed without the prior approval of the regional administrator. Approval will be granted for the removal of only so much of the timber and clearance of so much of the land as is directly

necessary to the actual improvement and use of the land in accordance with the utilization program.

§ 75.36 *Assignment; mortgage or loan security.* (a) A certificate of purchase may be assigned in its entirety only. The proposed assignment must be filed in duplicate in the land office within 90 days after its date of execution, for the approval of the manager. The instrument must contain all the terms and conditions agreed upon by the parties thereto, including the consideration paid for the assignment, and must be accompanied by the same showing as to the assignee's qualifications, holding of lands under this act, proposed program for utilizing and developing the land, and financial ability to carry out the declared utilization program, as is required of the successful bidder in accordance with § 75.34. An assignment will not be recognized unless approved by the manager; a patent, if issued, will be in the name of the approved assignee. Subleases are not authorized.

(b) A certificate of purchase may be pledged as security for a loan from a lending agency when the loan is made in furtherance of the purchaser's or certificate holder's land utilization program; the lending agency may ascertain from the manager the status of the land and other pertinent information concerning the certificate of purchase. In case the holder-borrower's improvements or his rights under the purchase certificate are lawfully acquired by the lending agency through foreclosure or otherwise, such agency, or any party who purchases the property or rights from such agency, if qualified in accordance with § 75.34, will, upon application, be recognized in lieu of the previous holder or purchaser and, upon compliance with the terms of the certificate of purchase, may apply for the issuance of a patent. If, in making a sale the lending agency takes back a mortgage on the property, the agency shall be entitled to the same consideration as in the case of the original loan. A lending agency which files proper notice with the manager that it has made a loan and accepted, as security therefor, a certificate of purchase or improvements on the land, in conformity with the provisions of this paragraph, will be advised of any action taken affecting the status of the land.

§ 75.37 *Termination of certificate; removal of improvements.* (a) At the

end of three years from the date of issuance, unless there is then pending an application for the issuance of a patent filed in accordance with § 75.38, the certificate of purchase will be void and of no further effect, all rights thereunder will terminate; and no moneys paid thereon may be returned. No extension of time for compliance with the terms of the certificate of purchase can be granted.

(b) Thereupon the manager will allow the approved holder of the certificate of purchase 90 days from notice within which to remove from the land any materials, improvements, structures, or other property placed thereon. After the 90-day period or any extension thereof granted by the manager because of adverse climatic conditions or other sufficient cause, all such materials, improvements, structures, and property not removed will become the property of the United States.

§ 75.38 *Application for patent; proof of use.* (a) An application for the issuance of a patent for the land, signed by the approved holder thereof, must be filed in triplicate with the manager, at any time after six months and before the expiration of three years from the date of issuance of the certificate of purchase. An application filed after expiration of the three-year period will be rejected. The application must include a showing as to the nature and cost of the improvements and structures placed on the land showing substantial compliance with the declared land utilization program; and the use, dates, and periods of use of the land which must aggregate not less than six months.

(b) There must be furnished with the application the affidavits of two disinterested persons, based upon their own knowledge, that the land has been used for the purpose for which it was sold for an aggregate period of not less than six months. In addition, the approved holder may submit, if he desires, or he may be required by the manager to submit any other evidence which will constitute satisfactory proof that the land has been utilized for such purpose for the required period.

§ 75.39 *Issuance of patent; reservations; disposal of minerals.* (a) If the proof is satisfactory and the land has been surveyed, the manager will author-

ize the issuance of the patent in fee, subject to the reservations listed in the certificate of purchase.

(b) Any minerals subject to the leasing laws in the lands sold or patented under the act may be disposed of to any qualified person under applicable laws and regulations in force at the time of such disposal.

(c) Mining claims for minerals subject to the United States mining laws may be located in accordance with the applicable provisions of Parts 69 and 185 of this chapter, and the additional conditions and requirements of this part notwithstanding the lands have been segregated pursuant to § 75.29 or sold under the act. The locator of any such mining claims must file for record in the proper land office, not later than 90 days after the location is made, a copy of the notice of location of the claim, with the name and address of each owner of the claim and the description of the land claimed.

(d) If the land is surveyed, the copy of the location notice must describe the legal subdivision or subdivisions partly or wholly covered by the mining claim; or the copy may be accompanied by a separate statement of the locator describing the legal subdivisions affected. If the land is unsurveyed, the copy of the location notice should describe the land by metes and bounds connected by course and distance to the nearest corner of the public land surveys, if practicable or with reference to rivers, creeks, mountains, towns, islands, or other prominent topographical points or natural objects or monuments; or the copy of the notice may be accompanied by a separate statement of the locator giving the same information. The mining claimant must file within 90 days after the expiration of any annual assessment year, a statement as to the assessment work done or improvements made during the previous assessment year, or as to compliance, in lieu thereof, with any applicable relief act.

(e) Such location duly made will carry all the rights and incidents of mining locations, except that they will give to the locator no title, possessory or otherwise, to the surface or surface resources other than the right to occupy and use so much thereof as is reasonably required for carrying on mining or prospecting, subject to the general regulations of the

Part 81—Trade and Manufacturing Sites

SALE OF PUBLIC LANDS FOR TRADE AND MANUFACTURING SITES

Secretary of the Interior, and the provisions contained in Parts 69 and 185 of this chapter. An application for the issuance of a mineral patent should be noted "Mining claim on land sold under the act of August 30, 1949 (63 Stat. 679; 48 U. S. C. 364a-364e)." A mineral patent for a mining claim on land so segregated or sold under this act will convey title only to the mineral deposits within the claim and will carry a reference to the act of August 30, 1949.

(f) Any party who obtains the right, whether by license, permit, lease, or location, to prospect for, mine, or remove the minerals after the land shall have been segregated or disposed of under the act, will be required to compensate the holder of the surface rights for any damages that may be caused to the value of the land and to the tangible improvements thereon by such mining operations or prospecting, and may be required by the regional administrator as to mining claims, or by the terms of the mineral license, permit or lease, to post a surety bond not to exceed \$5,000 in amount to protect the surface owner against such damage, prior to the commencement of mining operations.

§ 75.40 *Appeals.* An appeal pursuant to the rules of practice (Part 221 of this chapter) may be taken from the decision of any subordinate officer of the Bureau of Land Management to the Director, and from the Director's decision to the Secretary.

Part 80—Town Sites

NOTE: Authority to take all actions formerly taken by the Secretary or the Director under this part has been delegated to the regional administrator under B. L. M. Order 427, 15 F. R. 5639, Aug. 23, 1950, 15 F. R. 5853, Aug. 30, 1950, with authority to redelegate such actions.

METHOD OF SALE [ADDED]

Sec.

80.28 Method of sale.

§ 80.28 *Method of sale.* Sales of railroad town sites in Alaska, provided for by Executive Order No. 3489 of June 10, 1921 (§ 297.3 of this chapter), will be made by the regional administrator in Alaska, as superintendent of sales of railroad town sites in accordance with town-site regulations contained in §§ 255.1 to 255.9 of this chapter so far as those regulations are applicable.

(Sec. 1, 38 Stat. 305; 48 U. S. C. 303) [Circ. 1741, 14 F. R. 6642, Nov. 1, 1949]

Sec.

81.1a Notice of initiation of claim. [Added]

81.1b Form of notice. [Added]

81.1c Failure to file notice. [Added]

81.1d Recordation of notice. [Added]

81.1e Recording fee. [Added]

81.2a Time for filing application. [Added]

SOURCE: §§ 81.1a to 81.2a, set forth in this Pocket Supplement, contained in Circular 1757, 15 F. R. 3505, June 6, 1950.

§ 81.1a Notice of initiation of claim.

Any qualified person, association, or corporation initiating a claim on or after April 29, 1950, under section 10 of the act of May 14, 1898, by the occupation of vacant and unreserved public land in Alaska for the purposes of trade, manufacture, or other productive industry, must file notice of the claim for recordation in the land office for the district in which the land is situated, within 90 days after such initiation. Where on April 29, 1950, such a claim was held by a qualified person, association, or corporation, the claimant must file notice of the claim in the proper land office, within 90 days from that date.

§ 81.1b *Form of notice.* The notice must be filed on Form 4-1154, in triplicate if the land is unsurveyed, or in duplicate if surveyed, and shall contain:

(a) The name and address of the claimant, (b) age and citizenship, (c) date of occupancy, and (d) the description of the land by legal subdivisions, section, township and range, if surveyed, or, if unsurveyed, by metes and bounds with reference to some natural object or permanent monument, giving, if desired, the approximate latitude and longitude. The notice must designate the kind of trade, manufacture, or other productive industry in connection with which the site is maintained or desired.

§ 81.1c *Failure to file notice.* Unless a notice of the claim is filed within the time prescribed in § 81.1a, no credit shall be given for occupancy of the site prior to filing of notice in the proper land office, or application to purchase, whichever is earlier.

§ 81.1d *Recordation of notice.* Upon receipt of notice of a claim under this

part, if satisfactory in form, the manager will advise the claimant of its receipt and the current serial number assigned thereto. If the notice is found unsatisfactory for proper recording, the manager, before assigning the serial number, or recording, will call upon the claimant to cure the defects by filing a new or supplemental notice. If the application is for land which is not subject to the form of disposition specified in the notice, the applicant will be advised that the filing of the notice has not conferred on him any right to the land.

§ 81.1e *Recording fee.* The notice of the claim must be accompanied by a remittance of \$10.00, which will be earned and applied as a service charge for recording the notice, and will not be returnable, except in cases where the notice is not acceptable to the land office for recording, because the land is not subject to the form of disposition specified in the notice.

§ 81.2a *Time for filing application.* Application to purchase a claim, along with the required proof or showing, must be filed within 5 years after the filing of notice of the claim.

SUBCHAPTER B—APPLICATIONS AND ENTRIES

Part 101—General Regulations Involving Applications and Entries

OATHS [REVISED]

Sec.

101.21 Elimination of the requirements of oaths on written statements in public land matters.

§ 101.21 *Elimination of the requirements of oaths on written statements in public land matters.* (a) By section 1 of the act of June 3, 1948 (62 Stat. 301; 43 U. S. C. 1211), written statements in public land matters under the jurisdiction of the Department of the Interior need not be made under oath unless the Secretary in his discretion shall so require. Accordingly, all written statements in public land matters within the jurisdiction of the Department of the Interior required prior to June 3, 1948, by law, or Chapter I of this title, to be made under oath, need no longer be made under oath, except as provided in this paragraph.

(1) Affidavits must be furnished where required by Part 221—Rules of Practice, Part 222—Government contests, and Part 223—Witnesses, of this chapter.

(2) Final proofs required by R. S. 2294 (43 U. S. C. sec. 254) as amended and supplemented, and the regulations thereunder, to be taken in affidavit form before designated officers shall be taken in that form before such officers. (See §§ 52.1, 65.23, 166.48, 210.1, 232.30 and 285.22 of this chapter.)

(3) Statements as to the financial worth of individual sureties on bonds furnished in connection with leases, licenses or permits granted under the public land

laws, known as "Affidavits of Justification," must be made in affidavit form.

(b) Where prior to June 3, 1948, the law required an application or other paper to be sworn to in a particular land district, and this section makes it unnecessary for the paper to be executed in affidavit form, the applicant still must sign the paper in the particular land district and state in the paper that it was so signed.

(c) Unsworn statements in public land matters are subject to Title 18, U. S. C., sec. 1001, which makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statement or representations as to any matter within its jurisdiction. [Circ. 1725, 14 F. R. 1037, Mar. 8, 1949]

Part 108—Patents

Sec.

108.1 Issuance of patents; transmittal to land office. [Amended]

108.2 Delivery of patents. [Added]

108.4 Issuance of perfect patent where record does not show that original was signed. [Amended]

§ 108.1 *Issuance of patents; transmittal to land office.* * * *

(d) When a patent issued on or after August 1, 1950, is ready for delivery it will be transmitted to the patentee or his or her recognized agent or successor in interest.

CODIFICATION: In § 108.1, the headnote and paragraph (d) were amended to read as set forth above by Circular 1761, 15 F. R. 5049, Aug. 5, 1950.

§ 108.2 *Delivery of patents.* Original patents (issued before August 1, 1950)

on file in land offices, or which have been returned to the Washington office of the Bureau of Land Management from such offices upon their discontinuance, may be procured upon proper request therefor made to the Washington office of the Bureau of Land Management.

(R. S. 2478; 43 U. S. C. 1201) [Circ. 1761, 15 F. R. 5049, Aug. 5, 1950, 15 F. R. 5433, Aug. 16, 1950]

§ 108.4 *Issuance of perfect patent where record does not show that original was signed.* * * *

(g) The Bureau of Land Management will cause a new patent to be issued whenever it appears that a patent was regularly issued and the patent record on file in the Bureau of Land Management is imperfect in that it does not contain the name, or the initials, of the signing and the countersigning officers.

CODIFICATION: Former paragraphs (g) and (h) of § 108.4 were revoked, and paragraph (g) as set forth above was inserted in lieu thereof by Circular 1733, 14 F. R. 2613, May 18, 1949.

SUBCHAPTER C—AREAS SUBJECT TO SPECIAL LAWS

Part 115—Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands in Oregon

EXCHANGE OF REVESTED AND RECONVEYED LANDS [NOTE]

Sec.

115.94–115.113

PERMITS FOR RIGHTS-OF-WAY FOR LOGGING ROADS [SUPERSEDED]

115.114–115.127

GRAZING LEASES OF THE REVESTED AND RECONVEYED LANDS AND INTERMINGLED PUBLIC DOMAIN LANDS [REVISED]

- 115.128 Statutory authority.
- 115.129 Policy.
- 115.130 Grazing of livestock kept for domestic use.
- 115.131 Crossing permits.
- 115.132 Application and lease.
- 115.133 Rental.
- 115.134 Timber and other uses of land.
- 115.135 Governing regulations; applications and leases subject to regulations.

PERMITS FOR RIGHTS-OF-WAY FOR LOGGING ROADS [ADDED]

- 115.154 Statutory authority.
- 115.155 Statement of policy.
- 115.156 Definitions.
- 115.157 Nature of permit.
- 115.158 Filing of application.
- 115.159 Construction in advance of permit.
- 115.160 Trespass.
- 115.161 Contents of application.
- 115.162 Right-of-way and road use agreement; recordation.
- 115.163 Use by the United States and its licensees of rights received from a permittee.
- 115.164 Duration and location of rights granted or received by the United States.

Sec.

- 115.165 Permittee's agreement with United States respecting compensation and adjustment of road use.
- 115.166 Agreements and arbitration between permittee and licensee respecting compensation payable by licensee to permittee for use of road.
- 115.167 Compensation payable by United States to permittee for use of road.
- 115.168 Agreements and arbitration between permittee and licensee respecting adjustment of road use.
- 115.169 Arbitration procedure.
- 115.170 Payment required for O. and C. timber.
- 115.171 Payment to the United States for road use.
- 115.172 Bond in connection with existing roads.
- 115.173 Approval of permit.
- 115.174 Terms and conditions of permit.
- 115.175 Assignment of permit.
- 115.176 Causes for termination of permittee's rights.
- 115.177 Remedies for violations by licensee.
- 115.178 Disposition of property on termination of permit.
- 115.179 Appeals.

EXCHANGE OF REVESTED AND RECONVEYED LANDS

NOTE: Under §§ 115.94 to 115.113, inclusive, exchanges where the value of the selected land does not exceed \$50,000 can be approved by the regional administrator [B. L. M. Order 427, 15 F. R. 5639, Aug. 23, 1950, 15 F. R. 5853, Aug. 30, 1950]; exchanges where the value of the selected land is more than \$50,000 but does not exceed \$250,000 can be approved by the Director, Bureau of Land Management [Order 2583, 15 F. R. 5643, Aug. 23, 1950]; and exchanges where the value of the selected land is in excess of \$250,000 can only be approved by the Secretary.

PERMITS FOR RIGHTS-OF-WAY FOR LOGGING ROADS [SUPERSEDED]

CODIFICATION: §§ 115.114 to 115.127 were superseded by §§ 115.154 to 115.179 by Circular 1751, 15 F. R. 1971, Apr. 7, 1950.

GRAZING LEASES OF THE REVESTED AND RECONVEYED LANDS AND INTERMINGLED PUBLIC DOMAIN LANDS [REVISED]

AUTHORITY: §§ 115.128 to 115.135 issued under sec. 5, 50 Stat. 875.

SOURCE: §§ 115.128 to 115.135 contained in Circular 1759, 15 F. R. 4503, July 15, 1950.

§ 115.128 *Statutory authority.* Section 4 of the act of August 28, 1937 (50 Stat. 875) authorizes the Secretary of the Interior in his discretion to lease for grazing purposes any revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands in the State of Oregon, hereinafter referred to as O. and C. lands, which may be so used without interfering with the production of timber or other purposes specified in section 1 of the act, and to formulate rules and regulations for the use, protection, improvement, and rehabilitation of such grazing lands. In addition to issuing grazing leases for O. and C. lands under the provisions of §§ 115.128 to 115.135, grazing leases also will be issued under such sections for such lands and intermingled public lands, or for public lands in and West of Range 5 East, or West of Klamath Lakes and Link River in Ts. 36 to 41 S., Rs. 6 to 9 E., inclusive, Willamette Meridian, Oregon.¹

§ 115.129 *Policy.* Since the statutory authority for grazing on the O. and C. lands subordinates such use to the primary purposes of the act, namely, to provide a permanent source of timber supply by managing the lands in conformity with the sustained-yield principle, protect water sheds, regulate streamflow, and contribute to the economic stability of local communities and industries, no lease will be issued unless the Regional Administrator of the Bureau of Land Management at Portland, Oregon, who is charged with the administration of grazing on such lands, determines that grazing on the lands to be included in the lease will not interfere with the production of timber, or any of the other purposes of the act.

§ 115.130 *Grazing of livestock kept for domestic use.* Bona fide settlers or prospectors may apply to the regional administrator for permission to graze without charge not more than a total of 10 head of milk and work stock on the

¹For authority to issue grazing leases on public domain lands outside of established grazing districts, see Part 160 of this chapter.

O. and C. lands, or such lands and intermingled public domain lands. Such permission may be granted by the regional administrator, in his discretion, upon such conditions as he may prescribe.

§ 115.131 *Crossing permits.* The regional administrator may permit the transit of stock on established stock driveways or thoroughfares on O. and C. lands, or such lands and intermingled public domain lands, free of charge. Under such conditions and restrictions as are necessary, the regional administrator may also grant permission to cross allotments of other lessees, areas closed to grazing, or unleased lands, and such permission must be obtained before such crossing occurs. The permittee shall be liable for any damage caused to the range.

§ 115.132 *Application and lease.* An application for a grazing lease shall be made on Form 4-721 in the manner set forth in § 160.5 of this chapter. An application may include O. and C. lands or public lands or both. Leases shall be issued in the manner set forth in § 160.10 of this chapter, and the lease rental shall be computed in accordance with § 115.133.

§ 115.133 *Rental.* (a) The lessee shall pay in accordance with the terms of the lease, an annual rental computed in conformity with the following rate tabulations. However, when warranted by circumstances, including changed marketing conditions, the regional administrator may establish any other appropriate schedule of rental rates for leases issued under §§ 115.128 to 115.135, a copy of which shall be transmitted to the Director.

Estimated grazing capacity in acres per A. U. M.	Estimated grazing capacity in animal units year-long per section	Yearly lease-rate per acre
107.00	0.5	\$0.005
53.00	1.0	.010
38.00	1.5	.013
25.00	2.0	.020
20.00	2.5	.025
18.00	3.0	.028
16.00	3.5	.031
14.00	4.0	.036
12.00	4.5	.042
11.00	5.0	.045
10.00	6.0	.05
7.50	7.0	.067
6.50	8.0	.077
6.00	9.0	.083
5.50	10.0	.091

Estimated grazing capacity in acres per A. U. M.	Estimated grazing capacity in animal units year-long per section.	Yearly lease-rate per acre
5.00	11.0	\$0.10
4.50	12.0	.11
4.00	13.0	.125
3.75	14.0	.13
3.50	15.0	.14
3.25	16.0	.15
3.00	17.0	.17
2.75	19.0	.18
2.50	21.0	.20
2.25	24.0	.22
2.00	27.0	.25
1.75	30.0	.29
1.50	36.0	.33
1.25	43.0	.40
1.00	53.0	.50
0.50	107.0	1.00
0.25	213.0	2.00

(b) One cow or one horse or five sheep or five goats constitute one animal unit. The minimum rental charge shall be fixed at not less than \$1.00 per annum. The rental may be adjusted to reflect differences in numbers of livestock authorized to be grazed, changes in carrying capacity, and changes in authorized rates of rental at the end of the third year of the lease, and at the end of each subsequent three-year period.

§ 115.134 *Timber and other uses of land.* A lease issued for grazing purposes will not entitle the lessee to cut and remove timber from the land, or to take any other asset therefrom, or to use such land for purposes other than grazing. In order to obtain such rights or privileges, the lessee must make application therefor in accordance with the governing laws and regulations.

§ 115.135 *Governing regulations; applications and leases subject to regulations.* Applications filed and leases issued under §§ 115.128 to 115.135, inclusive, shall be subject to the regulations therein, as well as to the regulations contained in Part 160 of this chapter relating to grazing leases issued pursuant to section 15 of the act of June 28, 1934 (48 Stat. 1275), as amended (43 U. S. C. sec. 315m), to the extent that the latter are not inconsistent with the former. The leases will also be subject to the standard terms and conditions set forth therein, and to any other terms and conditions which, in his discretion, the regional administrator may require.

PERMITS FOR RIGHTS-OF-WAY FOR LOGGING ROADS [ADDED]

AUTHORITY: §§ 115.154 to 115.179 issued under 28 Stat. 635, as amended, sec. 11, 39 Stat. 223, sec. 6, 40 Stat. 1181, sec. 5, 50 Stat. 875; 43 U. S. C. 956.

SOURCE: §§ 115.154 to 115.179 contained in Circular 1751, 15 F. R. 1971, Apr. 7, 1950.

§ 115.154 *Statutory authority.* (a) The act of January 21, 1895 (28 Stat. 635, 43 U. S. C. 956) authorizes the Secretary of the Interior under such regulations as may be fixed by him to permit the use of rights-of-way over the public lands of the United States, for tramroads to the extent of 50 feet on each side of the center line of the tramroad, by any citizen or association of citizens of the United States, engaged in the business of mining, or quarrying or of cutting timber and manufacturing timber. The act of January 21, 1895, is made applicable to the Revested Oregon and California Railroad and the Reconveyed Coos Bay Wagon Road Grant Lands by the acts of June 9, 1916 (39 Stat. 218) and February 26, 1919 (40 Stat. 1179), respectively.

(b) The act of August 28, 1937 (50 Stat. 874) provides for the conservation and management of the O. and C. lands and authorizes the Secretary of the Interior to make rules and regulations in furtherance of such purposes.

§ 115.155 *Statement of policy.* (a) The intermingled character of the O. and C. lands presents peculiar problems of management which require for their solution the cooperation between the Federal Government and the owners of the intermingled lands, particularly with respect to timber roads.

(b) It is well established that the value of standing timber is determined in significant part by the cost of transporting the logs to the mill. Where there is an existing road which is adequate or can readily be made adequate for the removal of timber in the area, the failure to make such road available for access to all the mature and over-mature timber it could tap leads to economic waste. Blocks of timber which are insufficient in volume or value to support the construction of a duplicating road may be left in the woods for lack of access over the existing road. Moreover, the duplication of an existing road reduces the value of the federal and other timber which is tapped by the existing road.

(c) It is also clear that the Department of the Interior, which is responsible for the conservation of the resources of the O. and C. lands and is charged specifically with operating the timber lands on a sustained-yield basis, must have access to these lands for the purpose of managing them and their resources. In addition, where the public interest requires the disposition of federal timber by competitive bidding, prospective bidders must have an opportunity to reach the timber to be sold. Likewise, where other timber is committed by cooperative agreement to coordinated administration with timber of the United States, there must be access to both.

(d) Accordingly, to the extent that in the judgment of the regional administrator it appears necessary to accomplish these purposes, when the United States, acting through the Bureau of Land Management, grants a right-of-way across O. and C. lands to a private operator, the private operator will be required to grant to the United States for use by it and its licensees (1) rights-of-way across lands controlled directly or indirectly by him; (2) the right to use, to the extent indicated in §§ 115.163 and 115.164, any portions of the road system or rights-of-way controlled directly or indirectly by the private operator which is adequate or can economically be made adequate to accommodate the probable normal requirements of both the operator and of the United States and its licensees, and which form an integral part of or may be added to the road system with which the requested right-of-way will connect; (3) the right to extend such road system across the operator's lands to reach federal roads or timber; and (4) in addition, in the limited circumstances set forth in § 115.162 (b), the right to use certain other roads and rights-of-way. The permit will describe by legal subdivisions the lands of the operator as to which the United States receives rights. In addition, the extent and duration of the rights received by the United States will be specifically stated in the permit and ordinarily will embrace only those portions of such road system, rights-of-way and lands as may be actually needed for the management and removal of federal timber, or other timber committed by a cooperative agreement to coordinated administration with timber of the United States.

(e) When the United States or a licensee of the United States uses any portion of a permittee's road system for the removal of forest products, the permittee will be entitled to receive just compensation, including a fair share of the maintenance and amortization charges attributable to such road, and to prescribe reasonable road operating rules, in accordance with §§ 115.165 to 115.169.

(f) As some examples of how this policy would be applied in particular instances, the United States may issue a permit under §§ 115.154 to 115.179 without requesting any rights with respect to roads, rights-of-way or lands which the regional administrator finds will not be required for management of or access to federal timber, or timber included in a cooperative agreement. Where, however, the regional administrator finds that there is a road controlled directly or indirectly by the applicant, which will be needed for such purposes and which he finds either has capacity to accommodate the probable normal requirements both of the applicant and of the Government and its licensees, or such additional capacity can be most economically provided by an investment in such road system by the Government rather than by the construction of a duplicate road, he may require, for the period of time during which the United States and its licensees will have need for the road, the rights to use the road for the marketing and management of its timber and of timber included in a cooperative agreement in return for the granting of rights-of-way across O. and C. lands, and an agreement that the road builder will be paid a fair share of the cost of the road and its maintenance. Where it appears to the regional administrator that such a road will not be adequate or cannot economically be enlarged to handle the probable normal requirements both of the private operator and of the United States and its licensees, or even where the regional administrator has reasonable doubt as to such capacity, he will not request rights over such a road. Instead, the Bureau will make provision for its own road system either by providing in its timber sale contracts that in return for the road cost allowance made in fixing the appraised value of the timber, timber purchasers will construct or extend a different road system, or by expending for such construction or extension monies appropriated

for such purposes by the Congress, or, where feasible, by using an existing duplicating road over which the Government has obtained road rights. In such circumstances, however, road cost and maintenance allowances made in the stumpage price of O. and C. timber will be required to be applied to the road which the Bureau has the right to use, and thereafter will not in any circumstances be available for amortization or maintenance costs of the applicant's road.

(g) When a right-of-way permit is issued for a road or road system over which the United States obtains rights of use for itself and its licensees, the regional administrator will seek to agree with the applicant respecting such matters as the time, route, and specifications for the future development of the road system involved; the portion of the capital and maintenance costs of the road system to be borne by the timber to be transported over the road system by the United States and its licensees; a formula for determining the proportion of the capacity of the road system which is to be available to the United States and its licensees for the transportation of forest products; and other similar matters respecting the use of the road by the United States and its licensees and the compensation payable therefor. To the extent that any such matter is not embraced in such an agreement, it will be settled by negotiation between the permittee and the individual licensees of the United States who use the road, and, in the event of their disagreement, by private arbitration between them in accordance with the laws of the State of Oregon.

§ 115.156 *Definitions.* Except as the context may otherwise indicate, as the terms are used in §§ 115.154 to 115.179:

(a) "Bureau" means Bureau of Land Management.

(b) "Timber of the United States" or "federal timber" means timber owned by the United States or managed by any agency thereof, including timber on allotted and tribal Indian lands in the O. and C. area.

(c) "Regional Administrator" means the Regional Administrator, Region I, Bureau of Land Management, or his authorized representative.

(d) "O. and C. lands" means the Revested Oregon and California Railroad

and Reconveyed Coos Bay Wagon Road Grant Lands, other lands administered by the Bureau under the provisions of the act approved August 28, 1937, and the public lands administered by the Bureau of Land Management which are in Oregon and in and west of Range 8 E., Willamette Meridian, Oregon.

(e) "District Forester" means a District Forester of the Bureau who is stationed in the O. and C. area.

(f) "Tramroads" include tramways, and wagon or motor-truck roads to be used in connection with logging, and the manufacturing of lumber; it also includes railroads to be used principally for the transportation, in connection with such activities, of the property of the owner of such railroad.

(g) "Management" means police protection, fire suppression and suppression, inspection, cruising, reforestation, thinning, stand improvement, inventorying, surveying, construction and maintenance of improvements, disposal of land, the eradication of forest insects, pests and disease, and other activities of a similar nature.

(h) "Licensee" of the United States is, with respect to any road or right-of-way, any person who is authorized to remove timber or forest products from lands of the United States, or to remove timber or forest products from other lands committed by a cooperative agreement to coordinated administration with the timber of the United States over such road or right-of-way while it is covered by an outstanding permit, or while a former permittee is entitled to receive compensation for such use under the provisions of these regulations. A licensee is not an agent of the United States.

(i) "Direct control" of a road, right-of-way, or land, by an applicant for a permit hereunder means that such applicant has authority to permit the United States and its licensees to use such road, right-of-way or land in accordance with §§ 115.154 to 115.179.

(j) "Indirect control" of a road, right-of-way, or land, by an applicant hereunder means that such road, right-of-way, or land, is not directly controlled by him but is subject to use by him or by:

(1) A principal, disclosed or undisclosed, of the applicant; or

(2) A beneficiary of any trust or estate administered or established by the applicant; or

(3) Any person having or exercising the right to designate the immediate destination of the timber to be transported over the right-of-way for which application is made; or

(4) Any person who at any time has owned, or controlled the disposition of the timber to be transported over the right-of-way applied for, and during the 24 months preceding the filing of the application has disposed of such ownership or control to the applicant or his predecessor, under an agreement reserving or conferring upon the grantor the right to share directly or indirectly in the proceeds realized upon the grantee's disposal to third persons of the timber or products derived therefrom or the right to reacquire ownership or control of all or any part of the timber prior to the time when it undergoes its first mechanical alteration from the form of logs; or

(5) Any person who stands in such relation to the applicant that there is liable to be absence of arm's length bargaining in transactions between them relating to such road, rights-of-way, or lands.

§ 115.157 *Nature of permit.* (a) Permits for rights-of-way for tramroads, do not constitute easements, and do not confer any rights on the permittee to any material for construction or other purposes except, in accordance with the provisions of §§ 115.174 and 115.178, such materials as may have been placed on such lands by a permittee. The permits are merely nonexclusive licenses to transport forest products owned by the permittee. Such permits may be canceled pursuant to § 115.176.

(b) A permittee may not authorize other persons to use the right-of-way for the transportation of forest products which are not owned by the permittee. Any person, other than the permittee or a licensee of the United States who desires to use the right-of-way for such purposes, is required to make application therefor and to comply with all the provisions of these regulations relating to applications and applicants: *Provided, however,* That upon the request of a permittee the regional administrator may, with respect to an independent contractor who desires to use such right-of-way

for the transportation of forest products owned by such independent contractor and derived from timber or logs acquired by him from such permittee, waive the requirements of this sentence. Where the right-of-way involved has been substantially improved by the holder of an outstanding permit, any subsequent permit issued for the same right-of-way will be conditioned upon the subsequent permittee's agreement while the prior permit is outstanding, to be bound by the road rules of, and to pay fair compensation to, the prior permittee, such rules and compensation to be agreed upon by the prior and subsequent permittee in accordance with the procedures and standards established by the regulations in §§ 115.166, 115.168, and 115.169.

§ 115.158 *Filing of application.* (a) An application for a permit for a right-of-way over the O. and C. lands must be submitted in duplicate on Form 4-410 and filed in the office of the appropriate district forester. Application forms will be furnished by the regional administrator and the district foresters upon request.

(b) Any application filed hereunder, including each agreement submitted by the applicant as a part thereof or as a condition precedent to the issuance of a permit, may be withdrawn by the applicant by written notice delivered to the regional administrator prior to the time the permit applied for has been issued to, and accepted by, the applicant.

§ 115.159 *Construction in advance of permit.* The regional administrator may grant an applicant authority to construct improvements on a proposed right-of-way prior to a determination whether the permit should issue. Such advance authority shall not be construed as any representation or commitment by the regional administrator that a permit will issue. Upon demand by the regional administrator, the applicant will fully and promptly comply with all the requirements imposed under and by §§ 115.154 to 115.179. Advance construction will not be authorized unless and until applicant has complied with §§ 115.158, 115.161, 115.162, and 115.170.

§ 115.160 *Trespass.* The mere filing of an application under §§ 115.154 to 115.179 does not authorize the applicant to use the right-of-way in any manner or for any purpose until written permission therefor has been duly executed by the regional administrator and delivered to

the applicant. Any unauthorized use of a proposed right-of-way or of any other O. and C. land constitutes a trespass for which the trespasser is liable in damages to the United States. Until such trespass claim is fully satisfied or the trespasser has posted a surety bond satisfactory to the regional administrator conditioned upon the full payment to the United States of the damages as finally determined by the appropriate officer of the Bureau or the Department of the Interior, a permit will not be issued to the applicant for the proposed right-of-way so used, or for any other right-of-way, nor shall any timber be sold to him.

§ 115.161 *Contents of application.* (a) An individual applicant and each member of any unincorporated association which is an applicant must state in the application whether he is a native born or a naturalized citizen of the United States. Naturalized citizens will be required to furnish evidence of naturalization pursuant to the provisions of Part 137 of this chapter.

(b) An application by a private corporation must be accompanied by two copies of its articles of incorporation, one of which must be certified by the proper official of the company under its corporate seal, or by the secretary of the State where organized. A corporation organized in a State other than Oregon must submit a certificate issued by the State of Oregon attesting that the corporation is authorized to transact business within that State. The requirements of this paragraph shall be deemed satisfied if the corporation, having once filed the required documents, makes specific reference to the date and case number of such previous applications, states what changes, if any, have been made since the prior filings, and includes a statement that the right of the company to do business in the State of Oregon has not lapsed or terminated.

(c) Where the application is for a right-of-way on any portion of which the applicant proposes to construct a road, it must be accompanied by two copies of a map prepared on a scale of 4 inches or 8 inches to the mile, showing the survey of the right-of-way so that it may be accurately located on the ground. The map should comply with the following requirements, except as the regional administrator may waive in any particular instance all or any of such requirements:

Courses and distances of the center line of the right-of-way should be given; the courses referred to the true meridian and the distance in feet and decimals thereof. The initial and terminal points of the survey must be accurately connected by course and distance to the nearest readily identifiable corner of the public land surveys, or, if there be no such corner within two miles, then connected to two permanent and prominent monuments or natural objects. All subdivisions of the public lands surveys, any part of which is within the limits of the survey, should be shown in their entirety, based upon the official subsisting plat with subdivisions, section, township, and range clearly marked. The width of the right-of-way should be given; and if not of uniform width, the locations and amount of change must be definitely shown. There shall also be a statement on the face of or appended to the map indicating the grade and usable width of the road to be constructed, the type of material which will be used for the surface, the type and extent of the drainage facilities, and the type of construction and estimated capacity of any bridges. The map should bear upon its face the statement of the person who made the survey, if any, and the certificate of the applicant; such statement and certificate should be as set out in Forms Nos. 4-411 and 4-412 respectively.

(d) Where the application is for the use of an existing road, a map adequate to show the location thereof will be required, together with a statement of the specific nature and location of any proposed improvements to such road. A blank map suitable for most cases may be procured from the appropriate district forester.

(e) Every application for a right-of-way must also be accompanied by a diagram indicating the roads and rights-of-way which form an integral part of the road system with which the requested right-of-way will connect, the portions of such road system which the applicant directly controls within the meaning of § 115.156 (i), the portions thereof which the applicant indirectly controls within the meaning of § 115.156 (j), and the portions thereof as to which the applicant has no control within the meaning of such sections. As to the portions over which the applicant has no control, he must furnish a statement showing, for the two years preceding the date of the filing of the application, all periods of time that he had direct or indirect control thereof, and the date and nature of any changes in such control. The diagram shall also contain the name of the person whom the applicant believes directly controls

any portion of such road system which the applicant does not directly control. Where a right-of-way for a railroad is involved, the applicant must indicate which portions of the right-of-way will be available for use as truck roads upon the removal of the rails and ties and the probable date of such removal. Blank diagram forms, suitable for most cases, may be obtained from the appropriate district forester.

§ 115.162 *Right-of-way and road use agreement; recordation.* (a) Where, in the judgment of the regional administrator, it appears necessary in order to carry out the policy set forth in § 115.155, he may require the applicant, as a condition precedent to the issuance of the permit:

(1) To grant to the United States, for use by it and its licensees and permittees, rights-of-way across lands in the O. and C. area directly controlled by the applicant; and as to lands in such area which are indirectly controlled by him, either to obtain such rights for the United States or to make a showing satisfactory to the regional administrator that he has negotiated therefor in good faith and to waive as to the United States, its licensees and permittees any exclusive or restricted right he may have to such lands as are indirectly controlled by him.

(2) In addition, to agree to permit the United States and its licensees, upon the payment of fair compensation as hereinafter provided, to use under the terms and conditions of §§ 115.154 to 115.179, such portion as the applicant directly controls of the road system and rights-of-way which are an integral part of or may be added to the road system with which the right-of-way applied for will connect, and as to the portions of such road system or rights-of-way as the applicant indirectly controls, either to obtain such rights for the United States and its licensees or to make a showing satisfactory to the regional administrator that he has negotiated therefor in good faith and, in such latter circumstance, to waive as to the United States and its licensees any exclusive or restricted right he may have in such portion of the road system and rights-of-way.

(b) In addition to the private road systems and rights-of-way described in paragraph (a) of this section, in the event the applicant controls directly or indirectly other roads or rights-of-way in any O. and C. area where the Director

of the Bureau finds that, as of the time of filing or during the pendency of the application, the United States is unreasonably denied access to its timber for management purposes or where, as of such time, competitive bidding by all prospective purchasers of timber managed by the Bureau in the O. and C. area, or of other Federal timber intermingled with or adjacent to such timber, is substantially precluded by reason of the applicant's control, direct or indirect, of such roads or rights-of-way, the Director may require the applicant to negotiate with the regional administrator an agreement granting to the United States and its licensees the right to use, in accordance with the terms and conditions of §§ 115.154 to 115.179, such portion of such roads or rights-of-way as may be necessary to accommodate such management or competitive bidding.

(c) Where, in the judgment of the regional administrator, it is consistent with the policy set forth in § 115.155, he may issue a permit without requesting the applicant to grant any rights to the United States under this section.

(d) Any grant of rights to the United States under this section shall be executed on Form 4-413, which shall constitute and form a part of any permit issued upon the application involved. The applicant shall record such agreement in the office of land records of the county or counties in which the roads, rights-of-way, or lands, subject to the agreement are located, and submit evidence of such recordation to the regional administrator.

§ 115.163 *Use by the United States and its licensees of rights received from a permittee.* The use by the United States and its licensees of any of the rights received from a permittee hereunder shall be limited to that which is necessary for management purposes, or to reach, by the most reasonably direct route, involving the shortest practicable use of the permittee's road system, a road or highway which is suitable for the transportation of forest products in the type and size of vehicle customarily used for such purposes and which is legally available for public use for ingress to and the removal of forest products from Government lands or from other lands during such periods of time as the timber thereon may be committed by a cooperative agreement to coordinated administration with timber of the

United States. However, the type and size of vehicle which may be used by the licensee on the permittee's road shall be governed by § 115.165 or § 115.168.

§ 115.164 *Duration and location of rights granted or received by the United States.* The rights-of-way granted by the United States under any permit issued under § 115.173, subject to the provisions of § 115.176, will be for a stated term or terms which may vary for each portion of the right-of-way granted; such term or terms will normally be coincident with the probable period of use for the removal of forest products by the permittee and any successor in interest of the various portions of the right-of-way requested. In the same manner the permit will also state the duration of the rights of the United States to use and to permit its licensees to use, and the location by legal subdivisions of, each of the various portions, if any, of the roads, rights-of-way, and lands which a permittee hereunder authorizes the United States and its licensees to use; and, similarly, the duration of such rights received by the United States will normally be coincident with the probable period of use for the removal of forest products, by the United States and its existing and prospective licensees, of such roads, rights-of-way, and lands.

§ 115.165 *Permittee's agreement with United States respecting compensation and adjustment of road use.* (a) Where the United States receives rights over any road, right-of-way, or lands, controlled directly or indirectly by a permittee, the regional administrator will seek to arrive at an advance agreement with the permittee respecting any or all of such matters as the time, route, and specifications for the development of the road system in the area; the total volume of timber to be moved over such road system, and the proportion of such timber which belongs to the United States or is embraced in a cooperative agreement for coordinated management with timber of the United States managed by the Bureau; the consequent proportion of the capital costs of the road system to be borne by such timber of the United States or embraced in such cooperative agreement; the period of time over, or rate at which, the United States or its licensees shall be required to amortise such capital costs; provisions for road maintenance; the use, in addition to the uses set forth in § 115.163,

which the United States and its licensees may make of the road system involved; a formula for determining the proportionate capacity of the road system or portions thereof which shall be available to the United States and its licensees for the transportation of forest products; the amount and type of insurance to be carried, and the type of security to be furnished by licensees of the United States who use such road; and such other similar matters as the regional administrator may deem appropriate. To the extent necessary to fulfill the obligations of the United States under any such advance agreement, subsequent contracts for the sale of timber managed by the Bureau and tapped by such road system, and subsequent cooperative agreements for the coordinated management of such timber with other timber, will contain such provisions as may be necessary or appropriate to require such licensees to comply with the terms of the advance agreement. Where such an advance agreement between the United States and the permittee includes provisions relating to the route and specifications for extensions of the road system involved, the regional administrator may agree that upon the filing of proper applications in the future the applicant or his successor in interest shall receive the necessary permits for such road extensions as may cross lands managed by the Bureau: *Provided, however,* That the applicant shall have substantially complied with the terms of such advance agreement and of the outstanding permits theretofore issued to him.

(b) The provisions of §§ 115.166 to 115.169 shall not be applicable to any matters embraced in an agreement made pursuant to this section.

§ 115.166 *Agreements and arbitration between permittee and licensee respecting compensation payable by licensee to permittee for use of road.* (a) In the event the United States exercises the rights received from a permittee hereunder to license a person to remove forest products over any road, right-of-way, or lands, of the permittee or of his successor in interest, to the extent that such matters are not covered by an agreement under § 115.165, such licensee will be required to pay the permittee or his successor in interest such compensation and to furnish him such security, and to carry such liability insurance as

the permittee or his successor in interest and the licensee may agree upon. If the parties do not agree, then upon the written request of either party delivered to the other party, the matter shall be referred to and finally determined by arbitration in accordance with the procedures established by § 115.169.

(b) The arbitrators shall base their award as to the compensation to be paid by the licensee to the permittee or his successor in interest upon the amortization of the replacement costs for a road of the type involved, including in such replacement costs an extraordinary cost peculiar to the construction of the particular road involved and subtracting therefrom any capital investment made by the United States or its licensees in the particular road involved or in improvements thereto used by and useful to the permittee or his successor in interest plus a reasonable interest allowance on the resulting cost figure, taking into account the risk involved, plus costs of maintenance if furnished by the permittee or his successor, including costs of gates and gateman. In arriving at the amortization item, the arbitrators shall take into account the probable period of time, past and present, during which such road may be in existence, and the volume of timber which has been moved and the volume of timber, currently merchantable, which probably will be moved from all sources over such road. The arbitrators shall also take into account the extent to which the use which the licensee might otherwise economically make of the road system is limited by § 115.163. In addition, the arbitrators may fix the rate at which payments shall be made by the licensee during his use of the road. The arbitrators shall require the licensee to provide adequate bond, cash deposit, or other security to indemnify the permittee or his successor in interest against failure of the licensee to comply with the terms of the award and against damage to the road not incident to normal usage, and for any other reasonable purpose, and also to carry appropriate liability insurance covering any additional hazard and risks which may accrue by reason of the licensee's use of the road.

(c) Where improvements or additions are required to enable a licensee to use a road or right-of-way to remove timber or forest products, the cost of such improvements will be allowable to the licensee.

(d) The full value at current stumpage prices will be allocable against a licensee for all timber to be cut, removed, or destroyed by the licensee on a permittee's land in the construction or improvement of the road involved.

§ 115.167 *Compensation payable by United States to permittee for use of road.* In the event the United States itself removes forest products over any road or right-of-way of the permittee or his successor in interest, the United States, if there has been no agreement under § 115.165 covering the matter, shall pay to the permittee or his successor in interest reasonable compensation as determined by the regional administrator, who shall base his determination upon the same standards established by §§ 115.154 to 115.179 for arbitrators in the determination of the compensation to be paid by a licensee to a permittee: *Provided, however,* That no bond or other security or liability insurance is to be required of the United States. When the United States constructs or improves a road on a permittee's land or right-of-way it shall pay to the permittee the full value at current stumpage prices of all timber of the permittee cut, removed, or destroyed in the construction or maintenance of such road or road improvements. Current stumpage prices shall be determined by the application of the standard appraisal formula, used in appraising O. and C. timber for sale, to the volume and grade of timber. Such volume and grade shall be determined by a cruise made by the permittee, or, at his request, by the regional administrator. If either the permittee or the regional administrator does not accept the cruise made by the other, the volume and grade shall be determined by a person or persons acceptable both to the permittee and the regional administrator.

§ 115.168 *Agreements and arbitration between permittee and licensee respecting adjustment of road use.* (a) When the United States exercises the right received under §§ 115.154 to 115.179 to use or to license any person to use a road of a permittee, the permittee or his successor in interest shall not unreasonably obstruct the United States or such licensee in such use. If there has been no agreement under § 115.165 covering such matters, the permittee shall have the right to prescribe reasonable operating regulations, to apply uniformly as between the

permittee and such licensee, covering the use of such road for such matters as speed and load limits, scheduling of hauls during period of use by more than one timber operator, coordination of peak periods of use, and such other matters as are reasonably related to safe operations and protection of the road; if the capacity of such road should be inadequate to accommodate the use thereof which such licensee and permittee desire to make concurrently, they shall endeavor to adjust their respective uses by agreement.

(b) If the permittee and such licensee are unable to agree as to the reasonableness of such operating regulations or on the adjustment of their respective uses where the capacity of the road is inadequate to accommodate their concurrent use, then upon the written request of either party delivered to the other party, the matter shall be referred to and finally determined by arbitration in accordance with the procedures established by § 115.169.

(c) The arbitrators may make such disposition of a dispute involving the reasonableness of such operating regulations as appears equitable to them, taking into account the capacity and the construction of the road and the volume of use to which it will be subjected. In the determination of a dispute arising out of the inadequacy of the capacity of a road to accommodate the concurrent use by a permittee and a licensee, the arbitrators may make such disposition thereof as appears equitable to them, taking into account, among other pertinent facts, the commitments of the permittee and the licensee with respect to the cutting and removal of the timber involved and the disposition of the products derived therefrom; the extent to which each of the parties may practically satisfy any of the aforesaid commitments from other timber currently controlled by him; the past normal use of such road by the permittee; the extent to which federal timber has contributed to the amortization of the capital costs of such road; and the extent to which the United States or its licensees have enlarged the road capacity.

§ 115.169 *Arbitration procedure.* (a) Within ten days after the delivery of a written request for arbitration under § 115.166 or § 115.168, each of the parties to the disagreement shall appoint an arbitrator and the two arbitrators thus

appointed shall select a third arbitrator. If either party fails to appoint an arbitrator as provided herein, the other party may apply to a court of record of the State of Oregon for the appointment of such an arbitrator, as provided by the laws of such State. If within ten days of the appointment of the second of them, the original two arbitrators are unable to agree upon a third arbitrator who will accept the appointment, either party may petition such a court of record of the State or Oregon for the appointment of a third arbitrator. Should any vacancy occur by reason of the resignation, death or inability of one or more of the arbitrators to serve, the vacancy shall be filled according to the procedures applicable to the appointment of the arbitrator whose death, disability, or other inability to serve, created the vacancy.

(b) By mutual agreement, the parties may submit to a single arbitration proceeding controversies arising under both §§ 115.166 and 115.168.

(c) The arbitrators shall hear and determine the controversy and make, file, and serve their award in accordance with the substantive standards prescribed in §§ 115.166 and 115.168 for the type of controversy involved and in accordance with the procedures established by the laws of the State of Oregon pertaining to arbitration proceedings. A copy of the award shall also be served at the same time upon the regional administrator, either personally or by registered mail.

(d) Costs of the arbitration proceedings shall be assessed by the arbitrators against either or both of the parties, as may appear equitable to the arbitrators, taking into account the original contentions of the parties, the ultimate decision of the arbitrators and such other matters as may appear relevant to the arbitrators.

§ 115.170 *Payment required for O. and C. timber.* An applicant will be required to pay to the regional administrator, in advance of the issuance of the permit, the full stumpage value as determined by the regional administrator of the estimated volume of all timber to be cut, removed, or destroyed, on O. and C. lands in the construction or operation of the road.

§ 115.171 *Payment to the United States for road use.* (a) A permittee

shall pay a basic fee of five dollars per year per mile or fraction thereof for the use of any existing road or of any road constructed by the permittee upon the right-of-way except that in those cases where the permittee has executed under § 115.162 an agreement respecting the use of roads, rights-of-way or lands, no such basic fee shall be paid. If the term of the permit is for five years or less, the entire basic fee must be paid in advance of the issuance of the permit. If the term of the permit is longer than five years, the basic fee for each five-year period or for the remainder of the last period, if less than five years, must be paid in advance at five-year intervals.

(b) In addition, where the permittee receives a right to use a road constructed or acquired by the United States, which is under the administrative jurisdiction of the Bureau of Land Management, he will be required to pay to the United States for the use thereof, except where he transports forest products purchased from the United States through the Bureau, a fee to be determined by the regional administrator who shall base his determination upon the amortization of the replacement costs for a road of the type involved, together with a reasonable interest allowance on such costs, plus costs of maintenance if furnished by the United States and any extraordinary costs peculiar to the construction or acquisition of the particular road. In arriving at the amortization item, the regional administrator shall take into account the probable period of time, past and present, during which such road may be in existence and the volume of timber which has been moved and the volume of timber, currently merchantable, which probably will be moved from all sources over such road. The regional administrator may fix the rate at which payments shall be made by the permittee during his use of the road: *Provided, however,* That this paragraph shall not apply where payment for such road use to another permittee is required under §§ 115.154 to 115.179.

§ 115.172 *Bond in connection with existing roads.* An applicant for a permit to use an existing Government road which is under the administrative jurisdiction of the Bureau for timber hauling purposes other than for federal timber acquired under a free-use permit, will be required, for the protection of such existing road, to execute a bond on

Form 4-414 in an amount to be determined by the regional administrator but in no event less than five hundred dollars (\$500) per mile or fraction thereof, conditioned on compliance with §§ 115.154 to 115.179 and the terms and conditions of the permit.

§ 115.173 *Approval of permit.* (a) Upon the applicant's compliance with the appropriate provisions of §§ 115.154 to 115.179 and if it is determined that the approval of the application will be in the public interest, the regional administrator may, in his discretion, issue an appropriate permit, upon Form 4-415.

(b) The regional administrator may waive the requirements of §§ 115.161 (c) and (e) and 115.172, in the case of a natural person who applies for a right-of-way for not to exceed a period of twelve weeks. Not more than one such waiver shall be allowed in each consecutive twelve calendar months on behalf of or for the benefit of the same person.

§ 115.174 *Terms and conditions of permit.* (a) As to all permits: Every permittee shall agree:

(1) To comply with the applicable regulations in effect as of the time when the permit is issued and, as to the permittee's roads as to which the United States has received rights under § 115.162, with such additional regulations as may be issued from time to time relating to the use of roads for the purpose of access by properly licensed hunters and fishermen and by other recreationalists to lands of the United States in the O. and C. area which are suitable for such recreational purposes, where such use will not unreasonably interfere with the use of the road by the permittee for the transportation of forest products or unduly enhance the risk of fire, collision, or other hazards on such road and on lands in the vicinity thereof. If, notwithstanding the request of the regional administrator that the permittee allow use of a road in conformity with such additional regulations, the permittee shall unreasonably withhold his assent, the regional administrator shall refer the disagreement to the Director of the Bureau for his consideration, and, if the Director concurs in the conclusion of the regional administrator and if the matter is still in dispute, he shall refer the matter to the Secretary of the Interior for his consideration. In the event of the Secretary's concurrence

in the conclusions of the regional administrator and, if the permittee nevertheless unreasonably withholds such assent, the United States may institute such judicial proceedings as may be appropriate to enforce said regulations.

(2) Not to cut, remove, or destroy any timber not previously purchased on the right-of-way without having first obtained specific authority from the regional administrator and making payment therefor.

(3) To take adequate precaution to prevent and suppress forest, brush, and grass fires; to endeavor with all available personnel to suppress any fire originating on or threatening the right-of-way; to do no burning on or near the right-of-way without State permit during the seasons that permits are required but in any event to set no fire on or near the right-of-way that will result in damage to any natural resource or improvement.

(4) To submit to arbitration proceedings and to be bound by the resulting arbitral awards, pursuant to §§ 115.166, 115.168, and 115.169.

(5) In the event that the United States acquires by purchase or eminent domain the land or any interest therein, over which there passes a road which the United States has acquired the right to use under § 115.162, to waive compensation for the value of the road, equivalent to the proportion that the amount the United States has contributed bears to the total actual cost of construction of the road. Such contribution shall include any investment in or amortization of the cost of such road, or both, as the case may be, made by the United States or a licensee either by way of direct expenditures upon such road, or by way of payment by the United States or a licensee to the permittee, or by way of allowance made by the United States to the permittee in any timber sales contract for such amortization or capital investment.

(6) To construct all roads and other improvements as described in the application for the permit, except as the regional administrator may authorize modification or abandonment of any such proposed construction.

(7) To use the permit and right-of-way afforded subject to all valid existing rights, to such additional rights-of-way as may be granted under §§ 115.154 to

115.179, to a reservation of rights-of-way for ditches and canals constructed under authority of the United States, and to a reservation of all fissionable source materials in accordance with the act of August 1, 1946 (60 Stat. 755).

(8) Not to discriminate against any employee or applicant for employment because of race, creed, color, or national origin, and to require an identical provision to be included in all subcontracts.

(9) Except as the regional administrator may otherwise permit or direct to clean up and remove from the road and right-of-way within six months after the expiration or other termination of the permit, all debris, refuse, and waste material which may have resulted from his operations and use of said road; to repair all damage to said road resulting directly or indirectly from his use thereof; and to remove therefrom all structures, timbers, and other objects that may have been installed or placed thereon by him in connection with said operations or use: *Provided, however*, That the road and all usable road improvements shall be left in place.

(b) As to permits for the use of an existing road: In addition, every permittee to whom a permit is issued for the use of an existing road is required to agree:

(1) To maintain such a road in an adequate and satisfactory condition or to arrange therefor with the other users of the road. In the absence of satisfactory performance, the regional administrator may have such maintenance work performed as may be necessary in his judgment, determine the proportionate share allocable to each user, and collect the cost thereof from the parties or the sureties on the bonds furnished by said parties.

(2) Upon the expiration or other termination of his right to its use, to leave said road and right-of-way in at least as good a condition as existed prior to the commencement of his use.

§ 115.175 *Assignment of permit.* Any proposed assignment of a permit must be submitted in duplicate, within 90 days after the date of its execution, to the Regional administrator for approval, accompanied by the same showing and undertaking by the assignee as is required of an applicant by §§ 115.161 and 115.162; and must be supported by a stipulation that the assignee agrees to comply with and be bound by the terms and conditions of the permit and the applicable

regulations of the Department of the Interior in force as of the date of such approval of the assignment.

§ 115.176 *Causes for termination of permittee's rights.* (a) The Regional Administrator in his discretion may elect upon 30 days' notice to terminate any permit or right-of-way issued under §§ 115.154 to 115.179 if:

(1) In connection with the application made therefor, the applicant represented any material fact knowing the same to be false, or made such representation in reckless disregard of the truth; or

(2) A permittee, subsequent to the issuance of a permit or right-of-way to him, represents any material fact to the regional administrator, in accordance with any requirement of such permit or §§ 115.154 to 115.179, knowingly such representation to be false, or makes such representation in reckless disregard of the truth.

(b) The regional administrator, in his discretion may elect to terminate any permit or right-of-way issued under §§ 115.154 to 115.179, if the permittee shall fail to comply with any of the provisions of such regulations or make default in the performance or observation of any of the conditions of the permit, and such failure or default shall continue for 60 days after service of written notice thereof by the regional administrator.

(c) Notice of such termination shall be served personally or by registered mail upon the permittee, shall specify the misrepresentation, failure or default involved, and shall be final, subject, however, to the permittee's right of appeal.

(d) Termination of the permit and of the right-of-way under this section shall not operate to terminate any right granted to the United States pursuant to §§ 115.154 to 115.179, nor shall it affect the right of the permittee, after the termination of his permit and right-of-way to receive compensation and to establish road operating rules with respect to roads controlled by him which the United States has the right to use and to permit its licensees to use; nor shall it relieve the permittee of his duty under §§ 115.154 to 115.179, to submit to and be bound by arbitration pursuant to §§ 115.166, 115.168, and 115.169.

§ 115.177 *Remedies for violations by licensee.* (a) No licensee of the United States will be authorized to use the roads

of a permittee except under the terms of a timber sale contract or a cooperative agreement with the United States which will require the licensee to comply with all the applicable provisions of §§ 115.154 to 115.179, and any agreements or awards made pursuant thereto. If a licensee fails to comply with the regulations, agreements, or awards, the regional administrator will take such action as may be appropriate under the provisions of the timber sale contract or cooperative agreement.

(b) A permittee who believes that a licensee is violating the provisions of such a timber sale contract or cooperative agreement pertaining to use of the permittee's roads, rights-of-way, or lands, may petition the regional administrator, setting forth the grounds for his belief, to take such action against the licensee as may be appropriate under the contract or the cooperative agreement. In such event the permittee shall be bound by the decision of the regional administrator subject, however, to a right of appeal pursuant to § 115.179 and subject, further, to the general provisions of law respecting review of administrative determinations. In the alternative, a permittee who believes that a licensee has violated the terms of the timber sale contract or cooperative agreement respecting the use of the permittee's roads may proceed against the licensee in any court of competent jurisdiction to obtain such relief as may be appropriate in the premises.

§ 115.178 *Disposition of property on termination of permit.* Upon the expiration or other termination of the permittee's rights, in the absence of an agreement to the contrary, the permittee will be allowed six months in which to remove or otherwise dispose of all property or improvements, other than the road and usable improvements to the road, placed by him on the right-of-way, but if not removed within this period, all such property and improvements shall become the property of the United States.

§ 115.179 *Appeals.* An appeal pursuant to the rules of practice, Part 221 of this chapter, may be taken from any final decision of the regional administrator, to the Director, Bureau of Land Management, and, from the latter's decision to the Secretary of the Interior.