

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
OF THE UNITED STATES

FEDERAL REGISTER

1934

VOLUME 29 NUMBER 34

Washington, Tuesday, February 18, 1964

Contents

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:

- American Airlines, Inc., et al. 2548
- International Air Transport Association 2548
- Standard Airways, Inc. 2548

COMMERCE DEPARTMENT

See also Maritime Administration.

Notices

- Area Redevelopment Administration; organization and functions 2547

COMPTROLLER OF THE CURRENCY

Notices

Decisions granting applications to consolidate or merge:

- Bank of Worcester and National Commercial Bank and Trust Co. 2545
- Danvers National Bank and Security Trust Co. 2545
- Farmers & Merchants National Bank of Williamsburg and First National Bank of Claysburg 2545
- First National Bank of Lacona and Merchants National Bank and Trust Company of Syracuse 2545
- National Bank of Commerce of Houston and Texas National Bank of Houston 2545

FEDERAL MARITIME COMMISSION

Notices

Agreements filed for approval:

- Greece-Turkey-Syria Area Westbound Tobacco Conference 2549
- North Atlantic Israel Eastbound Freight Conference 2549

FOOD AND DRUG ADMINISTRATION

Rules and Regulations

- Certain cheeses; order amending standards of identity 2539
- Food additives; resinous and polymeric coatings 2540

Notices

- American Cyanamid Co.; filing of petition regarding food additives 2548

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Food and Drug Administration.

INDIAN AFFAIRS BUREAU

Rules and Regulations

- Leasing and permitting; miscellaneous amendments 2541

Notices

- Transfer of land records for certain public domain allotments to Phoenix Area Office 2545

INTERIOR DEPARTMENT

See Indian Affairs Bureau; Land Management Bureau.

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

Notices

- Cotton textile products produced or manufactured in the Philippines; restriction on certain entries 2549

INTERSTATE COMMERCE COMMISSION

Rules and Regulations

- Cincinnati, Ohio; commercial zone 2543

Notices

- Motor carrier transfer proceedings 2550

LAND MANAGEMENT BUREAU

Rules and Regulations

- Applications and entries; notice by mail 2543
- Color of title claims; classes of claims 2543

MARITIME ADMINISTRATION

Notices

- List of Free World and Polish Vessels arriving in Cuba since January 1, 1963 2545

SECURITIES AND EXCHANGE COMMISSION

Notices

- Terminal Tower Co.; application for exemption 2550

SMALL BUSINESS ADMINISTRATION

Notices

- Oregon; declaration of disaster area 2550

STATE DEPARTMENT

Rules and Regulations

- Visas; documentation of immigrants under the Immigration and Nationality Act; cancellation and reinstatement of quota registrations 2540

TREASURY DEPARTMENT

See Comptroller of the Currency.

2537

§ 42.66 Cancellation of registration.

(a) Except as provided in paragraph (b) of this section, the registration of a quota immigrant shall be cancelled under any of the following circumstances: (1) The registrant is issued an immigrant visa; (2) The registrant is refused a visa; (3) The registrant was erroneously registered; (4) The registrant dies; (5) The registrant abandons his intention to immigrate to the United States; (6) The registrant fails to respond within sixty days to a notification that his name has been reached on the quota waiting list; (7) The registrant responds within sixty days to a notification that his name has been reached on the quota waiting list but indicates that he is unwilling or unable to immigrate to the United States at this time; (8) The registrant, if admitted into the United States as a nonimmigrant, willfully violates his nonimmigrant status; or (9) The registrant enters or remains in the United States in violation of the immigration laws.

(b) The priority of registration established by the filing date of a petition approved to accord first preference quota status under the provisions of section 203(a)(1) of the Act shall not be cancelled unless the petition according first preference status is revoked by the Immigration and Naturalization Service, or, if it has expired, the Service has refused to revalidate it.

3. Section 42.67 is amended to read as follows:

§ 42.67 Reinstatement of priority and new registration following cancellation.

(a) *Reinstatement.* An alien whose registration has been cancelled under the provisions of paragraph (a) of § 42.66, in the absence of evidence that he has abandoned his intention to immigrate to the United States, may be accorded his original priority on the quota waiting list in the following circumstances: (1) The alien's name has been removed from the quota waiting list under paragraph (a)(1) of § 42.66 and he fails to use the immigrant visa for reasons beyond his control and he makes application for another visa in the quota year immediately following the quota year in which the visa was originally issued; (2) The alien's name has been removed from the quota waiting list under paragraph (a)(2) of § 42.66 and he makes application for a visa within two years from the date the visa was refused, the ground of ineligibility having been overcome; (3) The alien's name has been removed from the quota waiting list under paragraph (a)(6) of § 42.66 and within two years of the date his name was removed he establishes to the satisfaction of the consular officer that his failure to respond was for reasons beyond his control, and he presents all of the documentation required to qualify for a visa; (4) The alien's name has been removed from the quota waiting list under paragraph (a)(7) of § 42.66 and within two years of the date his name was removed he applies for a visa and presents all of the required documenta-

tion; or (5) The alien has failed to meet the time limitations specified in the preceding subparagraphs, but the principal officer or, at a diplomatic mission, the Deputy Chief of Mission, the Counselor for Consular Affairs, or the Supervising Consul General, determines that the alien has maintained a continuing intention to immigrate to the United States and that his failure to apply or furnish required documentation within the prescribed period of time was for reasons beyond his control.

(b) *New registration following cancellation.* An alien whose name has been removed from the quota waiting list under paragraph (a) (8) or (9) of § 42.66 who has maintained a continuing intention to immigrate may, upon application, be granted a priority on the quota waiting list which does not antedate the date of his departure from the United States.

Effective date: The amendments to the regulations contained in this order shall become effective on publication in the FEDERAL REGISTER.

The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) relative to notice of proposed rule making are inapplicable to this order because the regulations contained herein involve foreign affairs functions of the United States.

Dated: February 10, 1964.

CHARLES H. MACE,
Acting Administrator, Bureau of
Security and Consular Affairs.

[F.R. Doc. 64-1591; Filed, Feb. 17, 1964;
8:46 a.m.]

Title 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

SUBCHAPTER I—LEASING AND PERMITTING

PART 131—LEASING AND PERMITTING

Miscellaneous Amendments

On page 8250 of the FEDERAL REGISTER of August 10, 1963, there was published a notice of intention to amend §§ 131.8, 131.12, and 131.18 of Title 25, Code of Federal Regulations. The purposes of the amendments are: (1) To provide 99-year leasing authority for land on reservations where such authority has been granted by acts of Congress as set forth in the regulations; (2) to set forth an interpretation by this Department as to when leases for farming purposes may be made for periods of not to exceed 25 years under section 1 of the Act of August 9, 1955 (69 Stat. 539; 25 U.S.C. 415); and (3) to include provisions governing encumbrances of a lessee's interest for the purposes of borrowing capital for the development and improvement of the leased premises and for assignment of the leasehold interest without further approval by the Department under certain circumstances as stated in the regulation.

Interested persons were given an opportunity to submit their comments, sug-

gestions or objections in writing on the proposed amendments within thirty days from the date of publication of the notice in the FEDERAL REGISTER. During the thirty-day period, no comments, suggestions or objections were received. However, after giving the matter further consideration, certain changes have been found to be necessary. These changes are as follows:

1. In § 131.8, change the second sentence to read as set forth below.

The purpose of this change is to eliminate a possible ambiguous construction of §§ 131.8 and 131.5(b) (1) and (2) to require a rental adjustment in leases authorized to be made for a nominal rental.

2. In proposed § 131.8(a), after "the Southern Ute Reservation, Colo.;" insert "the Fort Mojave Reservation, Calif., Ariz. and Nev.;" Ninety-nine year leasing authority for the Fort Mojave Reservation was made available by Public Law 88-167, dated November 4, 1963.

3. Proposed § 131.12(a) is changed by deleting the words "(b) and (c)" and substituting therefor "(b), (c), and (d)" and by adding new paragraph (d) to § 131.12.

The purpose of this amendment is to permit the approval of leases designed to provide housing for Indians without securing a Secretarial waiver in each case where leases in the form negotiated with housing agencies of the United States and approved by the Secretary are used. These forms provide that the lender or the United States, when it makes, insures or guarantees a loan, may assign the lease without consent or approval after it has acquired the leasehold used as security by foreclosure or otherwise. In certain instances these forms also permit the lessee to assign the lease without approval, since the housing agencies insisted that this right exist before they would make, guarantee or insure a loan.

4. In the third sentence of the proposed § 131.12(d), delete "for a period not to extend beyond the term of the encumbrance," and substitute a comma therefor between the words "lease" and "provided." The language deleted is too restrictive and may seriously hamper the development of leased land.

5. Section 131.14 *Violation of lease* is amended to read as set forth below.

The purpose of this amendment is also to permit the approval of leases designed to provide housing for Indians without securing a Secretarial waiver in each case where leases in the form negotiated with housing agencies of the United States and approved by the Secretary are used. These forms provide that the lease cannot be cancelled or terminated during the period that a loan, loan insurance or loan guarantee is in effect without the approval of the lender or the agency of the United States which has made, insured or guaranteed the loan.

Changes numbered 1, 3, and 5 herein were not included in the proposed rule making publication. Change No. 1, is not a substantive change but is merely for clarification purposes.

Change No. 3 deals with leases of tribal land for purposes of providing housing for Indians under Federal housing pro-

grams. This change contains substantially the same provisions as are found in § 131.12(c) of the proposal published as rule making with minor deviation to cover this particular type of lease.

Change No. 5 also deals with leases of tribal land for purposes of providing housing for Indians under Federal programs.

With these changes, the regulations will cover the provisions that have been approved by the Department and affected Federal agencies regarding this type of lease. The making of these provisions regulatory will permit approval of such leases by field officials of the Bureau of Indian Affairs, thus avoiding the need of obtaining Secretarial approval in each case. As several Indian tribes are anxious to begin urgently needed housing projects under Federal programs without delay, it has been determined that notice and public procedure on these changes are impracticable.

The proposed amendments to the regulations with the changes mentioned above are hereby adopted and are set forth below.

Because these amendments will greatly assist in clarifying the leasing authorities as well as resolve certain existing problems by authorizing greater latitude by the approving officer thereby eliminating delays in processing leases to approval, it has been determined that it is in the best interest of the Indians and the public to make these authorities immediately available. Therefore, the amendments shall become effective on the date of this publication in the FEDERAL REGISTER.

STEWART L. UDALL,
Secretary of the Interior.

FEBRUARY 12, 1964.

1. The introductory text and paragraphs (a) and (b) of § 131.8 are amended to read as follows:

§ 131.8 Duration of leases.

Leases granted or approved under this part shall be limited to the minimum duration, commensurate with the purpose of the lease, that will allow the highest economic return to the owner consistent with prudent management and conservation practices, and except as otherwise provided in this part shall not exceed the number of years provided for in this section. Except for those leases authorized by § 131.5(b) (1) and (2), unless the consideration for the lease is based primarily on percentages of income produced by the land, the lease shall provide for periodic review, at not less than five-year intervals, of the equities involved. Such review shall give consideration to the economic conditions at the time, exclusive of improvement or development required by the contract or the contribution value of such improvements. Any adjustments of rental resulting from such review may be made by the Secretary where he has the authority to grant leases, otherwise the adjustment must be made with the written concurrence of the owners and the approval of the Secretary.

(a) Leases for public, religious, educational, recreational, residential, or

business purposes shall not exceed 25 years but may include provisions authorizing a renewal or an extension for one additional term of not to exceed twenty-five years, except such leases of land on the Dania Reservation, Fla.; the Navajo Reservation, Ariz., N. Mex., and Utah; the Palm Springs Reservation, Calif.; the Southern Ute Reservation, Colo.; the Fort Mojave Reservation, Calif., Ariz. and Nev.; and land on the Colorado River Reservation, Ariz. and Calif., as stated in § 131.18(a); which leases may be made for terms of not to exceed ninety-nine years.

(b) Leases may be made for 25 years for those farming purposes which require the making of a substantial investment in the improvement of the land for the production of specialized crops. To determine whether a long term lease is justified, it is necessary to give consideration to the nature of the crop to be grown, including the feasibility of growing the proposed crop. The amount or substantiality of the investment, as well as the necessity of such an investment in order to grow the proposed crop, are also elements to consider in evaluating the term of the proposed lease.

2. Section 131.12 is amended to revise paragraph (a) and add new paragraphs (c) and (d):

§ 131.12 Subleases and assignments.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, a sublease, assignment, amendment or encumbrance of any lease or permit issued under this part may be made only with the approval of the Secretary and the written consent of all parties to such lease or permit, including the surety or sureties.

(c) With the consent of the Secretary, the lease may contain provisions authorizing the lessee to encumber his leasehold interest in the premises for the purpose of borrowing capital for the development and improvement of the leased premises. The encumbrance instrument, must be approved by the Secretary. If a sale or foreclosure under the approved encumbrance occurs and the encumbrancer is the purchaser, he may assign the leasehold without the approval of the Secretary or the consent of the other parties to the lease, provided, however, that the assignee accepts and agrees in writing to be bound by all the terms and conditions of the lease. If the purchaser is a party other than the encumbrancer, approval by the Secretary of any assignment will be required, and such purchaser will be bound by the terms of the lease and will assume in writing all the obligations thereunder.

(d) With the consent of the Secretary, leases of tribal land to individual members of the tribe or to tribal housing authorities may contain provisions permitting the assignment of the lease without further consent or approval where a lending institution or an agency of the United States makes, insures or guarantees a loan to an individual member of the tribe or to a tribal housing authority for the purpose of providing funds for the construction of housing

for Indians on the leased premises; provided, the leasehold has been pledged as security for the loan and the lender has obtained the leasehold by foreclosure or otherwise. Such leases may with the consent of the Secretary also contain provisions permitting the lessee to assign the lease without further consent or approval.

3. Section 131.14 is amended to read as follows:

§ 131.14 Violation of lease.

Upon a showing satisfactory to the Secretary that there has been a violation of the lease or the regulations in this part, the lessee shall be served with written notice setting forth in detail the nature of the alleged violation and allowing him ten days from the date of receipt of notice in which to show cause why the lease should not be cancelled. The surety or sureties shall be sent a copy of each such notice. If within the ten-day period, it is determined that the breach may be corrected and the lessee agrees to take the necessary corrective measures, he will be given an opportunity to carry out such measures and shall be given a reasonable time within which to take corrective action to cure the breach. If the lessee fails within such reasonable time to correct the breach or to furnish satisfactory reasons why the lease should not be cancelled, the lessee shall forthwith be notified in writing of the cancellation of the lease and demands shall be made for payment of all obligations and for possession of the premises. The notice of cancellation shall inform the lessee of his right to appeal pursuant to Part 2 of this chapter. Where breach of contract can be satisfied by the payment of damages, the Secretary may approve the damage settlement between the parties to the lease, or where the Secretary has granted the lease, he may accept the damage settlement. With the consent of the Secretary, leases of tribal land to individual members of the tribe or to tribal housing authorities for the purpose of providing lands on which housing for Indians is to be constructed, may contain a provision prohibiting the cancellation or termination of the lease during the period that a loan, loan insurance, or loan guarantee is in effect without the approval of the lender or the agency of the United States which has made, insured or guaranteed the loan for the construction of housing on the leased premises.

4. Section 131.18(a) is amended to read as follows:

§ 131.18 Colorado River Reservation.

(a) The Secretary may lease any unassigned lands on the Colorado River Reservation, Ariz. and Calif., for such uses and terms as are authorized by the regulations in this Part 131. This authority does not extend to any lands lying west of the present course of the Colorado River and south of section 25 of township 2 south, range 23 east, San Bernardino base and meridian, Calif. Lands on this reservation heretofore assigned to individual Indians may be leased by the holders of the assignments

in accordance with the regulations in this part.

* * * * *
[F.R. Doc. 64-1576; Filed, Feb. 17, 1964; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

SUBCHAPTER B—APPLICATIONS AND ENTRIES
[Circular No. 2133]

PART 101—GENERAL REGULATIONS INVOLVING APPLICATIONS AND ENTRIES

Use of Certified Mail; When Mailing Requirements Are Met

The purpose of this amendment is to incorporate into the regulations the principle that the requirement for mailing is met when the communication has been mailed to the last address of record of the addressee, regardless of whether it is received. This principle has been enunciated in Departmental decisions.

These rules relate to agency procedure or practice and are not required by law to be published as proposed rule making. This Department, nevertheless, customarily gives such notice and public procedure thereon. However, that practice is deemed unnecessary in this instance because the amendment incorporates an established principle into the regulations.

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

The caption of § 101.19 is revised, the existing paragraph is designated as (a), and new paragraphs (b) and (c) are added as follows:

§ 101.19 Use of certified mail; when mailing requirements are met.

(b) Where the regulations in this chapter provide for communication by mail by the authorized officer, the requirement for mailing is met when the communication, addressed to the addressee at his last address of record in the appropriate office of the Bureau of Land Management, is deposited in the mail.

(c) Where the authorized officer uses the mails to send a notice or other communication not provided for by Subchapter P of this Title to any person entitled to such a communication under the regulations of this chapter, that person will be deemed to have received the communication if it was delivered to his last address of record in the appropriate office of the Bureau of Land Management, regardless of whether it was in fact received by him. An offer of delivery which cannot be consummated at such last address of record because the addressee had moved therefrom without leaving a forwarding address or because delivery was refused or because no such

address exists will meet the requirements of this section where the attempt to deliver is substantiated by post office authorities.

STEWART L. UDALL,
Secretary of the Interior.

FEBRUARY 12, 1964.

[F.R. Doc. 64-1578; Filed, Feb. 17, 1964; 8:45 a.m.]

SUBCHAPTER F—COLOR TITLE AND RIPARIAN CLAIMS

[Circular No. 2134]

PART 140—GENERAL REGULATIONS GOVERNING COLOR OF TITLE CLAIMS

Classes of Claims

The purpose of this amendment is to incorporate into the regulations the rules that color of title claims initiated while the land was withdrawn or reserved for Federal purposes and claims based on occupancy with knowledge that the land was owned by the United States are not valid claims under the act of December 22, 1928 (45 Stat. 1069), as amended by the act of July 28, 1953 (67 Stat. 227; 43 U.S.C. 1068, 1068a).

These rules involve matters relating to public property and are not required by law to be published as proposed rule-making. This Department, nevertheless, customarily gives such notice and public procedure thereon. However, it is deemed unnecessary in this instance because the changes being made merely incorporate into the regulations principles already announced in Departmental decisions such as Roland W. Getchell et al., A-29147 (February 28, 1963) and Walter G. Kreuter, A-29065 (October 22, 1962). Accordingly, these rules shall become effective upon the date of publication in the FEDERAL REGISTER.

Section 140.3 is amended to read as follows:

§ 140.3 Classes of claims.

(a) The claims recognized by the act will be referred to in this part as claims of class 1, and claims of class 2. A claim of class 1 is one which has been held in good faith and in peaceful, adverse possession by a claimant, his ancestors or grantors, under claim or color of title for more than 20 years, on which valuable improvements have been placed, or on which some part of the land has been reduced to cultivation. A claim of class 2 is one which has been held in good faith and in peaceful, adverse possession by a claimant, his ancestors or grantors, under claim or color of title for the period commencing not later than January 1, 1901, to the date of application, during which time they have paid taxes levied on the land by State and local governmental units.

(b) A claim is not held in good faith where held with knowledge that the land is owned by the United States. A claim is not held in peaceful, adverse possession where it was initiated while the land

was withdrawn or reserved for Federal purposes.

STEWART L. UDALL,
Secretary of the Interior.

FEBRUARY 12, 1964.

[F.R. Doc. 64-1579; Filed, Feb. 17, 1964; 8:45 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER B—CARRIER BY MOTOR VEHICLE
[Ex Parte No. MC-30]

PART 170—COMMERCIAL ZONES

Cincinnati, Ohio, Commercial Zone

At a session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D.C., on the 11th day of February A.D. 1964.

It appearing, that by petition filed July 8, 1963, Northern Kentucky Industrial Foundation, Inc., Covington-Kenton-Boone Chamber of Commerce, Kentucky Department of Commerce, Kentucky State Chamber of Commerce, and Cincinnati Chamber of Commerce seek an extension of the limits of the zone adjacent to and commercially a part of Cincinnati, Ohio, within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from points beyond the zone, is partially exempt from certain requirements of the Interstate Commerce Act under the provisions of section 203(b) (8) thereof, as previously defined in 26 M.C.C. 49, 41 M.C.C. 227, 46 M.C.C. 733, and the Commission's order of February 21, 1963, so as to include that area of Kentucky starting from the Kenton-Boone County line southeast of the point of interchange between Donaldson Road (Kentucky Highway 236) and Interstate Highway 75 and following said Interstate Highway 75 southeast and southward to a point directly west of Devon, Boone County, Ky., thence by a straight line eastward and northeastward to and over Richardson Road and Turkeyfoot Road (Kentucky Highway 1303) in Kenton County, Ky., to the southern boundary of Edgewood, Kenton County, Ky.;

It further appearing, that by petition filed June 27, 1963, the Cincinnati Chamber of Commerce seeks a redefinition of the above-described Cincinnati commercial zone so as to clarify the boundaries of the Ohio portion of that zone in light of changes which have been made in certain townships within the presently existing zone and to enlarge the Ohio portion of the zone to a very limited degree;

It further appearing, that hearing on the above-described petitions was held before Examiner William J. Cave on Monday, December 9, 1963, in Cincinnati, and continued to a later date to be determined by the Commission;

It further appearing, that by letter of January 27, 1964, Huey Motor Express