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INTERNAL SECURITY MANUAL

Revised to July 1973

Volume 1

PROVISIONS OF
FEDERAL STATUTES, EXECUTIVE ORDERS, AND
CONGRESSIONAL RESOLUTIONS RELATING
TO THE INTERNAL SECURITY OF
THE UNITED STATES

[Revision of Senate Document No. 126, 86th Congress, 2d Session]

PREPARED BY THE
AMERICAN LAW DIVISION
CONGRESSIONAL RESEARCH SERVICE
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AT THE REQUEST OF THE
SUBCOMMITTEE TO INVESTIGATE THE
ADMINISTRATION OF THE INTERNAL SECURITY
ACT AND OTHER INTERNAL SECURITY LAWS
OF THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE



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RESOLUTION

Resolved, by the Internal Security Subcommittee of the Senate Committee on the Judiciary, That the attached publication, "Internal Security Manual, Revised to July 1973," shall be printed for the use of the Subcommittee.

JAMES O. EASTLAND, *Chairman.*

Approved April 4, 1974.

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INTRODUCTION

The *Internal Security Manual* has been one of the most popular and consistently demanded publications ever issued under authority of the Senate.

Now, after nearly ten years, it is my pleasure to present a new edition of the *Manual*, revised and updated through July 1973.

The original *Internal Security Manual* was presented in 1953 by Senator Alexander Wiley, former Chairman of the Committee on the Judiciary, to be published as a Senate document, and a later revised edition (1960) became Senate Document No. 126, 86th Congress, 2d Session. As Senator Wiley pointed out, the *Manual* was designed to enable the reader—layman and lawyer—to have within the covers of one book, with extensive index, references to all the Federal legal materials “with which to comprehend and perform his active duties of citizenship in helping to protect our security.”

In the preparation of this latest revision, Messrs. Raymond J. Celada, Charles V. Dale, and Grover S. Williams, under the supervision of Mr. Joseph E. Ross, Chief of the American Law Division of the Congressional Research Service, Library of Congress, have hewed as closely as possible to the original purpose and format of the *Manual*. Now, as then, the data set forth herein “is entirely factual and contains a minimum of descriptive comment.” (A very slight departure in this last regard, in order to describe the impact of notable legislation and judicial developments affecting internal security, is clearly an improvement.)

Also, now as then, the compilers have taken as their keynote the broadest possible view of “internal security” consistent with the informational purposes outlined. In the words of Senator Wiley:

* * * enumerated in this Manual are all the laws designed to protect the security of our Armed Forces, the security of the Executive Branch of our Government, security in international agencies, security of our civilian population, of our ports and of our borders against illegal immigration, of our atomic energy installations, of our defense factories.

It will be noted that, in order to assure the maximum utility of the Manual and in order not to omit any logical subject which might possibly be encountered by Federal security experts, a broad interpretation of the concept “internal security” has been maintained throughout the text. Wherever a doubt existed as to whether a particular statute or Executive Order involved “internal security,” the doubt has been resolved in favor of inclusion rather than exclusion * * *

Senator Wiley’s introductory comments which accompanied the original and later revised versions of the *Internal Security Manual* have been retained, and reprinted here.

In this volume, as already noted, recent legislative and judicial developments affecting the general area of internal security have been referred to, largely by way of footnotes. Also included (in an Appendix) because of their direct bearing on the subject, the text of the decisions in *Laird v. Tatum*, 408 U.S. 1 (1972), legality of military surveillance activities; *New York Times Co. v. United States*, 403 U.S. 713 (1971), legality of restraints on publication of classified information; and *United States v. United States District Court*, 407 U.S. 297 (1972), legality of warrantless domestic security surveillances. A table of cases has been added. (See Index, Section C.)

In this new volume, appropriate changes have been made in both the popular names index and the subject index and, because of the general availability of the United States Code as against the Statutes at Large, the contents have been keyed to the former whenever possible. (See Index, Sections A and B.)

This volume contains fifteen more titles to the Index, Section D, index to selected congressional publications on communism. This section made its initial appearance in the original *Manual* and as described by Senator Wiley, consisted of "items * * * fundamental for the layman's understanding and are broadly representative of the vast literature in the field." The new additions are in accord with that statement, and their inclusion constitutes an improvement in the *Manual*.

On behalf of the Internal Security Subcommittee and the Committee on the Judiciary (for which I have authority to speak) and for the Senate as a whole for which, as *President Pro Tempore*, I hope I may also be allowed to speak on this occasion, gratitude must be expressed to the American Law Division, which worked this compilation into its already crowded docket in spite of being greatly burdened by the extraordinary Congressional activities of the past year. Particular thanks are due to Messrs. Celada, Dale and Williams, who have done a magnificent job.

JAMES O. EASTLAND.

INTERNAL SECURITY MANUAL

INTRODUCTION TO REVISED EDITION

By Hon. Alexander Wiley, senior Republican, Senate Committee on the Judiciary and Committee on Foreign Relations

The security of the United States—internally and externally—continues to be a major challenge before the people of our country.

In the decade of the 1960's, the price of liberty will require *vigilance* equal to, if not greater than, any previous time in our history.

On global and domestic fronts, the Communists—deadly enemies of freedom—pursue their goals of world conquest by aggression, subversion, persuasion, and infiltration, utilizing all kinds of tactics—overt or covert, legal or illegal, ethical or unethical, humanitarian or genocidal.

The space age—dawning upon us with the flash, roar, and power of rockets blasting off—creates its own problems of internal and external security. The military, political, and psychological impact of this scientific-technological revolution requires that, in addition to the need for stronger specialized defenses against external aggression, we also need watchful, alert enforcement of effective measures for security within our country.

Over the years, the United States has designed a comprehensive system of laws, Federal orders and regulations to uncover, and, if discovered, punish perpetrators of anti-U.S. activities.

In this fast-changing, complex age, however, there is a need for constant reevaluation of our security system. The purpose is to assure that it is adequate for the times, and more particularly, flexible enough to parry—and counter—the deadly thrusts of the enemy at the heart of America.

In the face of this threat, I believe that updating this handy, useful, informative, authoritative manual will serve a real public interest. Since its original publication, it has been utilized by government agencies, business firms, attorneys, teachers, writers, and many others concerned with, or interested in, the challenge of internal security.

Originally published in 1953—and revised in 1955—the newly revised manual, I believe, will provide a more comprehensive, up-to-date *reference* of laws, orders, and regulations relating to the internal security of the United States. As a compendium of such laws and regulations, it also offers—if reviewed as a whole—new opportunity for necessary revision, expansion, or further improvement of laws to strengthen the internal security of the country.

NEW PART VI—ON ENFORCEMENT

The revision of 1955 (S. Doc. 40, 84th Cong.), highlighted a new part VI which described "Enforcement Activity Under the Internal Security Laws," and which contained (a) a list of organizations which have been designated by the Attorney General, pursuant to Executive Order 10450, pertaining to security requirements for government employment, (b) industrial personnel security procedure for security clearance of defense contractors and their employees, and (c) a description of the activities and accomplishments of the Subversive Activities Control Board.

NEW PART VII—ON FEDERAL LOYALTY AND SECURITY OATHS

All this material has again been included in this revision of 1960. In addition, a new part VII has been added, entitled "Federal Loyalty and Security Oaths," and containing the form of each loyalty oath required anywhere in the Federal Government.

This revised document, I believe, will serve a real national interest. Appreciation is expressed to the innumerable Americans in public and private life who have so kindly expressed congratulations upon the previous editions of this Internal Security Manual. Their helpful suggestions and encouraging comments paved the way for this latest revision and extension of the manual; so did the very considerable number of requests to Congress for bulk supplies, as well as the sizable sales by the Government Printing Office.

PREPARATION BY MRS. MOLLIE Z. MARGOLIN; EDITOR, MR. HERBERT C. KIRSTEIN

As in the previous instances, I should like, in particular, to express thanks to Mrs. Mollie Z. Margolin, an attorney adviser of the Legislative Reference Service in the Library of Congress, who performed the basic spadework of the original manual, as well as the complex and exacting tasks of revision for the subsequent editions.

I should also like to thank Mr. Herbert C. Kirstein, my legislative assistant, who has edited and, at the staff level, coordinated efforts for publication of this latest revision of the manual.

Finally, a word of appreciation is due to the many Government agencies and officers and to the members and staffs of congressional committees who graciously cooperated to make this revision possible.

It is my earnest hope that this up-to-date guide will continue to constitute a helpful tool in the protection of this country from its enemies from without and from within.

INTRODUCTION TO ORIGINAL EDITION BY HON. ALEXANDER WILEY ¹

This document is devoted to meeting the most basic challenge facing our Nation—its own self-preservation.

It is intended as a reference manual on all phases of the problem of protecting our internal security.

Toward that end it chronicles in each of seven parts, step by step, America's legal efforts to preserve itself from the menace from within.

The manual is designed to enable the reader—layman and lawyer—to have for the first time within the covers of one book, with extensive index, references to all the Federal legal tools with which to comprehend and perform his active duties of citizenship in helping to protect our security.

The data set forth herein is entirely factual and contains a minimum of descriptive comment.

I have confined substantive editorial remarks to this introduction. It, in turn, has been presented at some length in order to provide a detailed frame of reference for the reader's approach to the contents of this document.

THE GREAT EVIL OF OUR TIMES

The reader will recognize that, from the very inception of our Republic, the nature of the menace to our internal security and the degree of its gravity have changed over and over again.

As the United States has emerged to world leadership, becoming, as of the present, the citadel for free civilization, it has become the No. 1 target of the most powerful menace to freedom in man's history. Thus, today the danger to our internal security is concentrated in one particular evil.

This great evil of our times is, of course, the fanatic, totalitarian creed: communism—a new "religion" of irreligion and antireligion.

The central headquarters for the revolutionary spread of that evil atheistic creed lies within the forbidding walls of the Kremlin in Moscow.

The zealous disciples of that evil creed and their legions of dupes and fellow travelers may be found in the United States and, virtually, everywhere else in the world.

The purpose of the evil creed is the attainment of nothing short of absolute power in the world by the destruction of every other force which opposes it.

The techniques of the evil creed are compounded of all the Machiavellian devices used by power-hungry zealots throughout history. But the techniques have been brought up to date, sharpened, integrated in a cold, ruthless pattern of internal and external conquest.

¹ References in this introduction have been brought up to date wherever necessary.

MOSCOW MASQUERADES ITS OBJECTIVES

Basic to those techniques is the element of disguise. Over and over, the Communist creed poses under a thousand masks—a thousand fronts—organizations—movements—drives—with glittering, alluring appeal to snare the unwary.

By disguise and by its true face, by direct and indirect means, by the "soft" technique of the ballot and the "hard" technique of the bullet, communism has grown to fantastic proportions.

The material "success" thus far of that evil creed is attested by the fact that communism now clutches in its viselike grip 900 million people, one-third of the earth's population, living on one-fourth of the earth's surface. Moreover, the headlines in each day's newspapers attest to communism's further alarming successes in its internal and external drive for world dominion.

The Communist regards both battlefields as one—the potential external battlefield between nations and the ever-active internal battlefield within nations. The Communist military menace is grave indeed, particularly because of Soviet possession of the atomic bomb and of the hydrogen bomb. But that very possession, in part, derives from and is aggravated by Soviet mobilization of armies of agents throughout the world who bore from within.

"INTERNAL SECURITY" BROADLY DEFINED

Consequently, enumerated in this Manual are all the laws designed to protect the security of our Armed Forces, the security of the Executive Branch of our Government, security in international agencies, security of our civilian population, of our ports and of our borders against illegal immigration, of our atomic energy installations and of our defense factories.

It will be noted that, in order to assure the maximum utility of the Manual and in order not to omit any logical subject which might possibly be encountered by Federal security experts, a broad interpretation of the concept "internal security" has been maintained throughout the text. Wherever a doubt existed as to whether a particular statute or Executive order involved "internal security," the doubt has been resolved in favor of inclusion rather than exclusion. The reader will find herein, therefore, a considerable number of items which might not ordinarily be classified as involving "internal security." In a larger sense, however, the justification for the inclusion will be readily apparent.

EVOLUTION OF PRESENT LAWS HAD BEEN SET FORTH IN FIRST EDITION

In order to convey the complete historical evolution, reference was made in the original edition to laws which have long since been completely revised or superseded, or which time had rendered obsolete.

The layman may have found somewhat burdensome the inclusion of the many statutes and Executive orders which are no longer in effect. Nevertheless, reference was made to this historic data in order to broaden the background and increase the helpfulness of the Manual principally to security experts, to law enforcement officers, attorneys

(particularly legislative drafting counsel interested in previous laws), as well as to educators, historians, and other serious students of the field.

In every instance, the then current status of the law was described so as to carefully distinguish obsolete from current laws.

Incidentally the progression of laws provides an interesting insight to the changing problems facing our country, e.g., an old law against sending seditious messages to Indian tribes, as compared with more modern laws against seditious messages being sent by a different type of "Red man."

But the basic problem of Benedict Arnolds has persisted down the years.

And while current menaces to our internal security include a variety of culprits in addition to the Communists, their dupes and accomplices, still, the Communist and his ilk represent the principal organized danger in this second half of the 20th century and no doubt for a long time to come.

It is my belief that only through an appreciation of why we have a large body of statutory law on this problem, only through a resulting eagerness to fulfill the law in its letter and spirit can the law genuinely attain the goals which the Congress and the American people desire for it.

LAWS AND ORDERS ARE MANY, BUT EFFECTIVENESS IS UNCERTAIN

A reader who glances through the basic text of this document might mistakenly assume from the sheer number of statutes and Executive orders which are listed that the internal-security problem of our Nation may be well in hand and might not currently be an acute one.

Nevertheless, as any serious student of the problem knows, the sheer number of laws on this, or for that matter, any other critical subject is hardly a reliable index of the overall effectiveness of those laws.

Four facts might be stated moreover in this connection:

(1) All of these laws would never have been devised to cover these various areas of our national life if a definite need had not been proven for them. Indeed, the specific need had often existed for years and years before Congress has come around to try to remedy the need. The time lag between (*a*) recognition of the danger and (*b*) action against the danger has often been a very critical lag. As a result, lasting consequences of harm have been suffered by our country.

(2) We may regard it as axiomatic that as fast as new laws are devised to cope with particular phases of this problem, the enemies of this Nation speedily develop new methods to evade the letter and spirit of those laws.

(3) Our laws have invariably been based on our past experiences as such, rather than on our conception of new-type future perils. Yet, the Communist is a cold, realistic, long-range planner. Like a skilled chess player, he is thinking many moves ahead. The free world has often failed to match the Communist's foresight by adequate plans or moves or laws of its own.

No doubt, for example, the very inception of the idea of a United Nations, the Communist saw in it an opportunity to infiltrate his agents, aside from other opportunities for evil by which he has attempted to misuse even this noble institution.

As usual, therefore, only years and years after a Communist contingent was thoroughly entrenched among certain American personnel in the U.N. Secretariat did we, as a people, wake up to this menace to us and to the U.N. itself. Once we woke up and started to check back through the record, we found that the alert FBI had, as usual, flashed danger signal after signal down through the years about the U.N. situation—only to have the signals virtually ignored by apathetic sources in the executive branch.

So, too, the Communist today is planning, scheming for infiltration 1 year, 5 years, and 10 years from now. It is for us to plan ahead to foil his plotting, particularly his devious plans of treachery in the event of national emergencies. Consider, for example, the need for further planning to protect all segments of our home front in the event of all-out atomic war.

(4) No law is better than its administration. The history of the fight for our internal security constitutes, in a great many instances, a severe indictment of inadequate implementing of the Nation's laws. Often, a hostile administration has practically disregarded the will and intent of the Congress and has permitted entirely current statutes or parts of statutes to become dead letters.

One may consider, for example, the history of action, or rather, inaction, under the Smith Act. It became law on June 28, 1940. It wasn't, however, until July 20, 1948, that an indictment of the 12 top echelon Communist leaders was filed in New York. Only 11 were tried, however, due to the illness of the twelfth, William Z. Foster (81 Fed. Supplement 281, 283). Conviction of the 11 defendants was obtained on October 14, 1949. By June 4, 1951, the Supreme Court, in an historic decision (341 U.S. 494), upheld conviction of the 11 remaining defendants. Following the affirmance of these convictions by the highest tribunal, the Justice Department initiated Smith Act prosecutions in various cities against second echelon leaders and functionaries of the Communist Party.

The basic question remains, however, as to why so long a period—8 years—was allowed to elapse before the clear intent of the Congress was begun to be fulfilled by the initial indictments.

MANY WAYS TO DAMAGE NATIONAL SECURITY

It must always be remembered that in this atomic age, with its means of lightning communication and transportation, there are countless ways by which enemies of the Republic may, for example, secure and transmit information detrimental to national security.

Moreover, national security, as such, consists of so wide a variety of tangibles and intangibles, e.g., of an industrial, agricultural, military, atomic, civil defense, fiscal, and other nature, that there is an almost infinite variety of ways in which that security may be jeopardized.

CITIZEN'S PATRIOTIC ACTION ESSENTIAL

Consequently, no matter to what extent the Congress may perfect the legal defenses of the United States, and to what extent our Chief Executive may seek to fulfill his responsibility, as President Eisenhower has under his new Executive order on loyalty-security in Government, still our ultimate safety will depend basically upon the intelligence and patriotism of the American people themselves. It will depend upon the people's eagerness to protect our country in their own careful, voluntary fashion in all segments of national life.

Citizens cannot act, and, in particular, cannot act carefully, unless they have ready access to the tools which they and their Government must use in combating subversive forces. It was particularly for the purpose of providing our citizens with such a handy tool—an omnibus reference document—that this manual was conceived; and with that objective, I requested the permission of the Senate to print this document. I did not, however, do so in the capacity of a then committee chairman acting on behalf of a committee, but rather as an individual Senator acting on behalf of filling a need which I am sure is felt by all legislators—a need to help provide a guide for our people.

FBI FACES NUMEROUS OBSTACLES

It should be noted that it is fortunate that much of the investigative responsibility for the protection of the internal security of the United States has been vested in one particular agency—the Federal Bureau of Investigation.

Almost uniquely among agencies of Government, the FBI has, since its inception, maintained consistent superlative standards of efficiency, economy, and nonpartisanship, of unyielding respect for the rights of the innocent and yet unremitting effort against the guilty. Those inspiring standards have won for it the continued confidence of our Nation.

The Director of that agency, the Honorable John Edgar Hoover, constitutes one of the most remarkable public servants in our history and one in whom the Nation has rightly reposed its particular faith. The achievements of the FBI may be credited to him and to the remarkable group which has served at his top staff level and right down the line.

But time and again the legal framework in which our society operates and in which the Department of Justice, in particular, operates has unfortunately proven overly restrictive and has militated against the attainment of our national objective of self-preservation. Many laws have served as unnecessary and undesirable shackles and as obstacles to the FBI's and the Department's effectiveness.

OFTEN UNJUSTIFIED COMPLAINTS AGAINST NEW LAWS

Invariably, however, when the Congress has sought fairly and carefully to amend our laws—to remove the unnecessary shackles on our sentinels, to put teeth in enforcement of the laws, to expedite investigative procedure under them—that effort has almost automatically been met with volleys of arbitrary complaints from certain individuals.

Although in the process of tightening our laws, every effort has invariably been made to protect our traditional constitutional rights and privileges, certain complainants have unfairly contended that any such effort whatsoever is part of a "witchhunting" technique, or of "hysteria," or of "panic."

Freedom of criticism is of course an American right. A jealous devotion toward safeguarding American constitutional liberties should ever prevail. Nevertheless, arbitrary and unthinking criticisms against any and all reasonable efforts to improve our internal security should be closely scrutinized as to content, objective, and source.

Actually, far from being "hysterical," the Congress has usually been cool and determined in its effort to improve our legal defenses. Far from yielding in its devotion to our Constitution, the effort has been designed to protect that Constitution from those who would destroy it, those who would confuse "liberty" with "license."

SINGLE TRAITOR CAN PROVE CATASTROPHIC TO AMERICA

An impartial observer will note, too, that the effort to strengthen our internal-security laws has also been subject very often to ridicule as constituting a "mountain out of a molehill" and as allegedly being too "costly" to be justified.

However, a look at modern history will show how a single spy, or dangerous dupe, e.g., a single traitor like Klaus Fuchs, can virtually change an entire pattern and/or pace in history by his service to the cause of international communism.

So, however costly the effort, however time-consuming, however burdensome, the legal battle to protect ourselves must be made and will be made if the Republic is to be preserved.

MY EXPERIENCE IN THE INTERNAL SECURITY BATTLE

I personally am not unfamiliar with unjustified, adverse reactions to improvement of our security laws. I have encountered such reaction both as an individual Senator and as one who is privileged to serve now as ranking Republican on the Senate Judiciary Committee and as chairman of the Senate Foreign Relations Committee.

In 1947 and 1948 it was my honor to serve as chairman of the Senate Judiciary Committee. At that time, I presided over hearings on anti-subversive legislation which, in revised form, was ultimately to become the Internal Security Act of 1950.

Experience in those hearings—in which numerous Communists testified—gave me particularly illuminating insight into the Communist mind, the Communist objective, and the Communist technique.

MEMORANDUM ON CONTEMPT OF CONGRESS

Fundamental to the Communist mind, objective, and technique has been the defiance of duly constituted authority of the United States Government and, in particular, of the legislative branch. Inevitably, therefore, we have witnessed wholesale citations of contempt against Communist witnesses who have defied the authority of congressional groups to pose questions and to require the production of records.

In order to furnish light on the prerogative of congressional committees to compel pertinent disclosures, I requested the Library of Congress to prepare a study, which was subsequently issued as a Senate Judiciary Committee print, dated January 6, 1947, and entitled, "Memorandum on Proceedings Involving Contempt of Congress and Its Committees." This 44-page document set forth the historical background of the investigatory power. A revised version was later prepared at the request of Senator William Langer, chairman of the Committee on the Judiciary during the 83d Congress.

UNITED STATES INTERNAL SECURITY AFFECTS FOREIGN POLICY

During that same 83d Congress, in my position as chairman of the Senate Committee on Foreign Relations, I noted the tremendous extent to which our security on the international scene interacted with our security at home. Weakness in the face of communism's challenges abroad inevitably invites weakness at home and vice versa.

Moreover, if we set a standard of weakness in our internal security, our laxity inevitably encourages laxity on the part of other free nations. As a matter of fact, many of them have been even more prone than we have been to underestimate the Communist danger. This laxity, this apathy are not only dangerous but potentially suicidal.

As for the Committee on Foreign Relations, time and again throughout its recent history, it has had to deal directly with security challenges, arising out of the Soviet Union's hostile tactics and objectives.

The reader will find as a footnote to part V, page 755, reference to hearings held by this Committee as far back as 1920 on the subject of Russian propaganda in our country and then, not long thereafter on the subject of the then proposed recognition of the Soviet Union.

COMMITTEE PRINT ON INTERNAL SECURITY LOOPHOLES

At the start of the 83d Congress, there was set up at my request a Special Security Affairs Subcommittee of the Senate Foreign Relations Committee. Its purpose is to concentrate exclusively on the problem of world-wide Communist espionage, sabotage, and sedition.

The Security Affairs Subcommittee has published, among others, one particular committee print which deserves attention at this point. It was entitled "Adequacy of Laws of the United States With Respect to Offenses Against National Security." This print, dated April 17, 1953, was prepared by Mary Louise Ramsey of the Library of Congress, in cooperation with our committee counsel, Mr. Julius N. Cahn. The print points out numerous ominous loopholes in present laws. So, it may be read as an illuminating adjunct to this more extensive and purely summary report which follows.

Many of the loopholes depicted in this document have since been closed but many still remain open regrettably.

ELIMINATE ANACHRONISMS IN SECURITY LAWS

It is my hope, incidentally, that by the very process of compiling all of the laws and Executive orders in this Manual, the compilation may in itself serve as a spur toward the "taking of a new overall look"

at America's security laws. It may help show gaps in the laws; may indicate areas for improved coordination between them and thereby may bring closer that day when our country's legal protection is greatly improved from its present, often inadequate, condition.

Far too many anachronisms persist in our laws. By bringing the laws together, side by side, such anachronisms show up in their most glaring detail. A case in point is section 2385 of the Criminal Code—the Smith Act—which declares that any person guilty of advocating overthrow of the United States Government by force or violence, or by the assassination of any officer of such government, shall be fined not more than \$10,000 or imprisoned not more than 10 years or both, and—this is the shockingly inadequate provision—“shall be ineligible for employment by the United States or any department or agency thereof for the five years next following his conviction”!

Viewed in the context of today's realities, such prohibition of employment for merely 5 years becomes an ironic commentary on our failure to bring laws up to date, and make more uniformly stringent their provisions.

ETERNAL VIGILANCE IS THE PRICE OF LIBERTY

After reading this document, if there is any one conclusion which may be suggested, it is this:

Eternal vigilance is still the price of liberty.

The Founding Fathers of this Nation passed down to us that admonition.

Succeeding generations have, however, often failed to take due cognizance of it. They have assumed that because we have become the strongest power on earth, we are impervious to the same force which has disintegrated weaker powers.

But that disintegrating force can be seen at work within our own country. And so it is for us to demonstrate our vigilance by meeting this menace in our individual capacity as citizens and in our collective capacity through action by the Congress in defense of our birth-right.

I trust this compilation may contribute to that defense.

SUPREME COURT DECISIONS

As a companion piece to this document, the reader's attention is invited to a committee print entitled “Federal Case Law Concerning the Security of the United States.” This 69-page document based on a legal survey by the Library of Congress, was issued in September 1954 by the Special Subcommittee on Security Affairs of the Senate Committee on Foreign Relations at the request of our former colleague, Senator Guy M. Gillette. It included reference to decisions of the United States Supreme Court bearing upon the internal security field.

The attention of readers is invited, moreover, to Senate Document 170, 82d Congress, 2d session, comprising the 1952 edition of the Annotated Constitution of the United States. This document contains a table of citations to leading cases, among which are numerous cases in this field. Senate Document 170 was edited by Dr. Edward S.

Corwin and is available by purchase from the Government Printing Office for \$6.25. It constitutes an indispensable reference tool.

DEFINITIONS OF TERMS

The following definitions of terms used in this manual may assist the reader:

Repealed—Signifies the provision has been directly repealed by a later enactment of Congress.

Superseded—This provision has been replaced by a new provision in a later act, which generally reads: "Section — of the act of — is amended to read as follows—" and a new provision follows.

Repealed and Superseded—A later enactment contains a restatement of the provision in one section and a direct repeal of the provision in another section. An example of this may be found in the case of sections 2384 and 2385 of the Revised Criminal Code. These two sections are a restatement of the Smith Act (54 Stat. 670, secs. 1-5). Section 1 of the Act of June 25, 1948 (62 Stat. 808, secs. 2384, 2385), restates the Smith Act, while section 21 of this Act of June 25, 1948 (62 Stat. 862), directly repeals the original Smith Act of June 28, 1940 (54 Stat. 670, secs. 1-5).

See—There is another enactment covering the same subject matter.

Amended—A current act which has been amended, appears in its entirety, with all its amendments, in chronological order following the basic act. However, each of the amendments in turn is listed elsewhere in its own chronological order with a reference back to the basic act. For example, section 606 of the Communications Act of 1934 (48 Stat. 1104) was amended by the Act of October 24, 1951 (65 Stat. 611, ch. 553), among other amendments. The Communications Act in its entirety will be found under Act of June 19, 1934; but the Act of October 10, 1951 (65 Stat. 611, ch. 553) is also inserted in its proper chronological place with the remark "*See*—Act of June 19, 1934 (48 Stat. 1104 § 606)."

ABBREVIATIONS

The following abbreviations have been used throughout this Manual:

- C.F.R.—Code of Federal Regulations
- Cong.—Congress
- Cong. Rec.—Congressional Record
- D. Cong. Rec.—Congressional Record, daily issue
- E.O.—Executive Order
- F.R.—Federal Register
- F.2d—Federal Reporter (2d Series)
- F. Supp.—Federal Supplement
- H. Res.—House Resolution
- P.L.—Public Law
- R.S.—Revised Statutes, section number
- S. Res.—Senate Resolution
- Stat.—United States Statutes at Large
- U.S.—United States Reports
- U.S.C.—United States Code, section number

DESCRIPTION OF EACH PART OF DOCUMENT

Finally, I should like to point out a few facts with regard to the selection and arrangement of the material in the document.

The Manual consists basically of four ingredients:

Laws and Executive orders relating to all phases of national security (Parts I, II, and III);

Congress' resolutions, hearings, and reports relating to subversive activities (Parts IV and V);

Enforcement activities under internal security laws (Part VI);

And, finally, an index to the laws, Executive orders, and selected publications.

These ingredients are presented chronologically where possible.

PART I

Part I compiles United States laws against activities detrimental to national security, particularly subversive activities.

This compilation is confined only to laws and Executive orders which are in force at the present time.

An attempt has been made, wherever possible, to reproduce each law, Executive order, or pertinent provision verbatim.

PART II

Part II sets forth the provisions for security which apply to Government agencies. These provisions are contained partly in special laws which refer to a particular agency which has been established to administer a specific act or program, and partly in appropriation acts covering all Federal employees. These special and general provisions have been treated separately in sections A and B.

PART III

Part III, section A, on the Federal loyalty-security program consists of a chronological survey beginning with the inception of the idea that employee loyalty-security should be more affirmatively assured by legislation, and tracing the development of the program to the present date.

Part III, section B, dealing with the United Nations is a digest of the Executive order, as amended, which prescribes the investigatory procedures to be followed in order to assure the loyalty-security to the United States of those of our citizens who are employed or who will be considered for employment on the Secretariat of the United Nations or by other public international organizations.

PART IV

Part IV enumerates all of the resolutions whereby the Senate and House have provided for investigations of various phases of the internal security problem. It includes an enumeration of all of the reports issued pursuant to these resolutions. (The only reports which are omitted are those on the very considerable number of citations of contempt against individual defiant witnesses.)

It was decided to list the reports directly after each of the resolutions in order to show how the committees and subcommittees fol-

lowed through on their mandates. The reports, however, derive, of course, from the hearings which are set forth separately in Part V.

The casual reader may not fully appreciate the significance of the investigative legislation listed in this part.

However, behind the simple recitation of the resolutions setting up and extending the life of the various probes and providing funds for them—are some of the most dramatic controversies in legislative history. Efforts toward establishment and continuation of these investigations have been the subject of some of the bitterest battles in the Senate and House, and in the forum of American public opinion. Indeed, echoes of these battles have sometimes been heard around the world.

The leading figures in the various investigations, notably committee and subcommittee chairmen, together with their colleagues in the probes have often been subjected to personal attacks of unprecedented proportions. Particularly in the early days, they have had to fight for their political lives and for their committees' lives almost every inch of the way.

It is fortunate for our country that the probes have nevertheless been as relatively successful as history attests them to be. It staggers the imagination to contemplate how infinitely more endangered our national security would have been if those hardy proponents of the investigations had faltered in their efforts to initiate and continue their inquiries. The reader might rightly ask himself, "How many espionage agents, how many subversive Government employees might still be engaged in their nefarious work had it not been for Senate and House committees courageously flushing these enemies out from the darkness which is so necessary to the enemies' success?"

PART V

Part V enumerates all of the hearings printed by Senate and House committees and subcommittees in the area of internal security.

The printed hearings constitute one of the most important reference sources for a study of specific subversive organizations and individuals in our country.

Time after time, apparently reputable individuals and groups have been charged in these hearings as engaging in activities detrimental to the security of the United States, only to have such testimony heatedly denied by the groups and individuals so identified. Thereafter, the testimony has often been virtually ignored by officers of the executive branch of government. However, subsequently, in instance after instance, the charges have been further vindicated and the Nation has awakened to the fact that precious time had been lost in coping with the subversive forces.

(*)

INDEX

The index consists of three sections.

Section A, beginning on page 965, is a name index identifying leading statutes by their popular titles including their congressional authors. Herein will be found handy references to the Smith Act,

*See Introduction to revised edition, for description of contents of entirely new Part VI, and Part VII.

McCarran Internal Security Act, McCarran-Walter Immigration Law, etc. These are the laws to which laymen and specialists in this field turn most repeatedly.

These names are repeated in section B (as in the instance of the United States Code, where the popular titles of laws by name of author are listed both separately and in the subject index). Section B, beginning on page 969, lists all current laws, Executive orders and resolutions by topic. Included in this topic breakdown are the names of all of the executive agencies and congressional committees which have jurisdiction in this field, and a handy reference to the statutory citation in each instance.

Section D,* beginning on page 1014, includes a handy listing of 30 selected congressional publications on communism to which the general public may wish to make frequent reference. These publications relate to both communism on the American scene, and communism in the Soviet Union and on the world scene.

The idea behind this section came about as follows:

On many occasions, my colleagues and I in the Congress are asked by educators, veterans' groups, church groups, and others, "What basic publications should I consult in order to become better informed about the Communist problem?"

The answer which I personally give is depicted in this particular section.

I have confined the list to a mere 15 generally available publications. It is limited thus in order—

(a) Not to deluge the average reader with far more material than he may actually have opportunity to read;

(b) Not to send the average reader searching for publications which are long since out of print and/or available in but a few key depository libraries; and

(c) Not to attempt to do more than give a basic insight into the fundamental problem of communism, hoping, however, that readers may thereafter wish to pursue their study further.

Inclusion only of the particular publications in this list is, of course, in no way meant to underestimate the importance of a great many other fine publications which might be suggested by other officials were they confronted with the same inquiry by the public. However, the items which I have personally selected are, I think, fundamental for the layman's understanding and are broadly representative of the vast literature in this field.

REFERENCE SOURCES FOR ANTISUBVERSIVE DATA

As has been pointed out, unfortunately much of Congress' best published material on subversive activities has long since been exhausted in supply.

A number of the materials, however, are still available. They may be obtained from—

(a) The office of your United States Senators;

(b) The office of your Representative;

(c) The Senate and House Document Rooms;

(d) The issuing committee in the case of hearings particularly; or

*In previous manuals, Section C listed selected publications. In this edition a new Section C, Table of Cases, has been added.

(c) In the instance of materials whose complimentary supply is exhausted but which are still available by purchase, they may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

With further reference to the GPO, the following may serve as a handy guide for collecting past and current congressional and executive publications:

1. The Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, has issued approximately every 6 months a free mimeographed bulletin entitled "Publications Relating to Communism and Subversive Activities."

This is a price list of all publications which were available (at a small charge) as of publication date.

The most recent issue was dated August 1953.

2. As a part of its regular printed price list series, the GPO publishes Price List 54, "Political Science, Government, Crime, the District of Columbia, and Un-American Activities."

This free price list is issued approximately once a year and was most recently published in April 1954.

3. Each month, there is released "Monthly Catalog of United States Government Publications."

This catalog enumerates all of the printed publications on a vast variety of subjects including internal security. The publications are listed as being available either from the Superintendent of Documents or from the individual agency issuing office.

Reference in the catalog is also made to those documents printed solely for official use and those documents sent to depository libraries.

The monthly catalog contains an invaluable index. The catalog is available at a cost of 25 cents per copy or \$3 per year.

4. For the general public, the handiest reference is a bulletin of miscellaneous content entitled "Selected United States Government Publications." It is issued biweekly, free of charge, by the Superintendent of Documents. Members of the public may ask that their name be included on the regular mailing list for it. From time to time, this bulletin contains references to popular publications in the internal security field.

5. Readers are advised that the daily Congressional Record contains current reference to printed reports issued by the various congressional committees, as well as containing reference to annual reports published by the Government agencies, many of which deal with the internal security field.

Handy reference to congressional reports may be found, in particular, in the Daily Digest in the back of each issue of the Congressional Record.

The Record itself is available at a cost of \$1.50 per month.

Annual reports of Government agencies also serve as a most helpful reference tool. These are available in many instances by purchase from the Superintendent of Documents.

PREPARATION BY MRS. MOLLIE Z. MARGOLIN; EDITOR, MR. JULIUS N. CAHIN

Finally, I feel that in a work as comprehensive as this, the contributions of the various individuals who have made it possible should

not go unrecorded, particularly because so much extra effort above and beyond regular duties was expended in the preparation of this volume.

The manuscript itself is basically the work of Mrs. Mollie Z. Margolin, an attorney in the American Law Division of the Legislative Reference Service of the Library of Congress. I should like to express my appreciation for her voluminous and painstaking effort and for the cooperation of her associates in that Division. The American Law Division, now headed by Mr. Wilfred C. Gilbert, has been of great assistance to my committee on numerous occasions.

In view of the deep significance of all the varied material in the original manuscript, and in view of the considerable historical period covered, I felt that the draft text should be closely reviewed with all of the many agencies, bureaus, and divisions in the executive branch and all of the congressional committee sources in the legislative branch which were most competent to appraise the particular subjects pertaining to their respective jurisdictions.

Supervision of this complex and lengthy review was the task of the editor of this manuscript, Mr. Julius N. Cahn, counsel of the Senate Foreign Relations Committee. He is the staff expert responsible for work on our committee's security jurisdiction. He has on many occasions suggested and contributed a great many helpful tools to our own and other committees' adequacy in this all-important area.

EXECUTIVE-LEGISLATIVE TEAMWORK WITH MR. CAHN

Over a period of time, therefore, Mr. Cahn reviewed successive drafts of the manual in greatest detail with several dozen expert officers in the executive and legislative branches. As a result, he elaborated and extensively revised the document, meanwhile keeping it up to date as new developments occurred. During this process Mrs. Margolin rendered constant assistance. I should like now to thank Mr. Cahn and all of the executive agencies, bureaus and divisions, as well as the congressional committee sources, which gave such enthusiastic cooperation.

I should like also to express my thanks for the patience and help of the late Mr. Guy Ives, Senate Printing Clerk, and the staff of the Government Printing Office, in preparing the proofs of the many successive drafts of the manual.

INTERNAL SECURITY MANUAL

REVISED

Part I

COMPILATION OF UNITED STATES LAWS, EXECUTIVE ORDERS, AND REGULATIONS NOW IN EFFECT RELATING TO NATIONAL SECURITY

CONGRESSIONAL INVESTIGATIONS

R.S. 102, as amended and superseded by Act of June 22, 1938 (52 Stat. 942, c. 594; 2 U.S.C. 192)—*Refusal of witness to testify or produce papers:*

Every person who having been summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry before either House, or any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or any committee of either House of Congress, willfully makes default, or who, having appeared, refuses to answer any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor, punishable by a fine of not more than \$1,000 nor less than \$100 and imprisonment in a common jail for not less than one month nor more than twelve months.

R.S. 103, as amended and superseded by Act of June 22, 1938 (52 Stat. 942, c. 594; 2 U.S.C. 193)—*Privilege of witnesses:*

No witness is privileged to refuse to testify to any fact, or to produce any paper, respecting which he shall be examined by either House of Congress, or by any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or by any committee of either House, upon the ground that his testimony to such fact or his production of such paper may tend to disgrace him or otherwise render him infamous.

R.S. 104, as amended and superseded by Act of July 13, 1936 and by Act of June 22, 1938 (49 Stat. 2041, c. 884; 52 Stat. 942, c. 594; 2 U.S.C. 194)—*Certification of failure to testify; grand jury action:*

Whenever a witness summoned as mentioned in section 192 fails to appear to testify or fails to produce any books, papers, records, or documents, as required, or whenever any witness so summoned refuses to answer any question pertinent to the subject under inquiry before either House, or any joint committee established by a joint or concurrent resolution of the two Houses of

Congress, or any committee or subcommittee of either House of Congress, and the fact of such failure or failures is reported to either House while Congress is in session, a statement of fact constituting such failure is reported to and filed with the President of the Senate or the Speaker of the House, it shall be the duty of the said President of the Senate or Speaker of the House, as the case may be, to certify, and he shall so certify, the statement of facts aforesaid under the seal of the Senate or House, as the case may be, to the appropriate United States attorney, whose duty it shall be to bring the matter before the grand jury for its action.

Act of January 3, 1940 (54 Stat. 13, c. 1; 18 U.S.C. 1505), as last amended by Act of October 15, 1970 (84 Stat. 947, § 903); See Part I, Title 18 of the United States Code (Criminal Code), *infra*, at

IMMUNITY OF FOREIGN EMBASSY PERSONNEL ¹

R.S. 4063 (22 U.S.C. 252)—*Suits against ministers and their domestics prohibited:*

Whenever any writ or process is sued out or prosecuted by any person in any court of the United States, or of a State, or by any judge or justice, whereby the person of any ambassador or public minister of any foreign prince or State, authorized and received as such by the President, or any domestic or domestic servant of any such minister, is arrested or imprisoned, or his goods of chattels are distrained, seized, or attached, such writ or process shall be deemed void.

R.S. 4065, 4066 (22 U.S.C. 254)—*Exceptions as to suits against servants, etc., of ministers; listing servants:*

Sections 252 and 253 of this [code] title shall not apply to any case where the person against whom the process is issued is a citizen or inhabitant of the United States, in the service of an ambassador or a public minister, and the process is founded upon a debt contracted before he entered upon such service; nor shall section 253 of this title apply to any case where the person against whom the process is issued is a domestic servant of an ambassador or a public minister, unless the name of the servant has, before the issuing thereof, been registered in the Department of State and transmitted by the Secretary of State to the marshal of the District of Columbia, who shall upon receipt thereof post the same in some public place in his office. All persons shall have resort to the list of names so posted in the marshal's office, and may take copies without fee.

ALIEN ENEMIES

R.S. 4067, as amended by Act of April 16, 1918 (40 Stat. 532, c. 55; 50 U.S.C. 21)—*Restraint, regulation, and removal:*

Whenever there is a declared war between the United States and any foreign nation or government, or any invasion or preda-

¹As to freedom of movement, visa policy, etc., affecting foreign embassy personnel, attention is called to the Report of the Special Subcommittee on Security Affairs, of the Senate Foreign Relations Committee, entitled "Restrictions on Diplomatic Personnel by and From Iron Curtain Countries," dated April 23, 1953 (Committee Print).

tory incursion is perpetrated, attempted, or threatened against the territory of the United States by any foreign nation or government, and the President makes public proclamation of the event, all natives, citizens, denizens, or subjects of the hostile nation or government, being of the age of fourteen years and upward, who shall be within the United States and not actually naturalized, shall be liable to be apprehended, restrained, secured, and removed as alien enemies. The President is authorized, in any such event, by his proclamation thereof, or other public act, to direct the conduct to be observed, on the part of the United States, toward the aliens who become so liable; the manner and degree of the restraint to which they shall be subject and in what cases, and upon what security their residence shall be permitted, and to provide for the removal of those who, not being permitted to reside within the United States, refuse or neglect to depart therefrom; and to establish any other regulations which are found necessary in the premises and for the public safety.

REGULATIONS OF THE SECRETARY OF STATE—ENEMIES

Issued December 27, 1957 by authority of R.S. 4067, as amended by Act of April 16, 1918 (40 Stat. 532, c. 55; 50 U.S.C. 21). [22 C.F.R. 111.1 to 111.5]:

§ 111.1 *Removal from the United States of alien enemies from other American republics.* The proclamation of the President of the United States, No. 2685, dated April 10, 1946, 3 CFR, 1943-1948 Comp., provides in part:

1. All alien enemies within the continental limits of the United States brought here from other American republics after December 7, 1941, who are within the territory of the United States without admission under the immigration laws, shall, if their continued residence in the Western Hemisphere is deemed by the Secretary of State to be prejudicial to the future security or welfare of the Americas, be subject upon the order of the Secretary of State to removal from the United States and may be required to depart therefrom in accordance with such regulations as the Secretary of State may prescribe.

2. In all cases in which the Secretary of State shall have ordered the removal of an alien enemy under the authority of this Proclamation or in which the Attorney General shall have ordered the removal of an alien enemy under the authority of Proclamation No. 2655 of July 14, 1945, thirty days shall be considered, and is hereby declared to be, a reasonable time for such alien enemy to effect the recovery, disposal, and removal of his goods and effects, and for his departure.

§ 111.2 *Order of the Secretary of State.* When a determination has been made by the Secretary of State that the continued residence in the Western Hemisphere of an alien enemy, brought to the United States from another American republic after December 7, 1941, who is within the territory of the United States without admission under the immigration laws, would be prejudicial to the future security or welfare of the

Americas, an order will be signed by the Secretary of State directing that the said alien enemy depart from the United States within thirty days after notification of the order and that, if he fails or neglects so to depart, the Commissioner of Immigration and Naturalization is to provide for the alien enemy's removal to the territory of the country of which he is a native, citizen, denizen, or subject.

§ 111.3 *Service of removal order on alien enemy.* A copy of the Secretary of State's order of removal will be delivered to an alien enemy at the place where he is interned.

§ 111.4 *Thirty-day period for voluntary departure.* An alien enemy who is the subject of a removal order shall have thirty (30) days after receiving notification of the removal order to depart from the United States. Unless the public safety otherwise requires, the Commissioner of Immigration and Naturalization is authorized to release such alien enemy from internment under appropriate parole safeguards in order that the alien enemy may settle his personal and business affairs, provide for the recovery, disposal, and removal of his goods and effects, and make arrangements to depart from the United States.

§ 111.5 *Involuntary removal from the United States.* In the event that an alien enemy, who is the subject of a removal order, fails or neglects to depart from the United States within the above-mentioned thirty-day period, the Commissioner of Immigration and Naturalization will take the alien enemy into custody and will provide for his removal to the territory of the country of which he is a native, citizen, denizen, or subject, as soon as transportation is available.

R.S. 4068 (50 U.S.C. 22)—*Time allowed to settle affairs and depart:*

When an alien who becomes liable as an enemy, in the manner prescribed in section 21 of this title, is not chargeable with actual hostility, or other crime against the public safety he shall be allowed, for the recovery, disposal, and removal of his goods and effects, and for his departure, the full time which is or shall be stipulated by any treaty then in force between the United States and the hostile nation or government of which he is a native citizen, denizen, or subject; and where no such treaty exists, or is in force, the President may ascertain and declare such reasonable time as may be consistent with the public safety, and according to the dictates of humanity and national hospitality.

R.S. 4069 (50 U.S.C. 23)—*Jurisdiction of United States courts over alien enemies:*

After any such proclamation has been made, the several courts of the United States, having criminal jurisdiction, and the several justices and judges of the courts of the United States, are authorized and it shall be their duty, upon complaint against any alien enemy resident and at large within such jurisdiction or district, to the danger of the public peace or safety, and contrary to the tenor or intent of such proclamation, or other regulations which the President may have established, to cause such alien to be duly apprehended and conveyed before such court, judge, or justice; and after a full examination and hearing on such com-

plaint, and sufficient cause appearing, to order such alien to be removed out of the territory of the United States, or to give sureties for his good behavior, or to be otherwise restrained, conformably to the proclamation or regulations established as aforesaid, and to imprison, or otherwise secure such alien, until the order which may be so made shall be performed.

R.S. 4070 (50 U.S.C. 24)—*Duties of marshal in removing alien enemies:*

When an alien enemy is required by the President, or by order of any court, judge, or justice, to depart and to be removed, it shall be the duty of the marshal of the district in which he shall be apprehended to provide therefor and to execute such order in person, or by his deputy or other discreet person to be employed by him, by causing a removal of such alien out of the territory of the United States; and for such removal the marshal shall have the warrant of the President, or of the court, judge, or justice ordering the same, as the case may be.

VESSELS ENTITLED TO REGISTRY—CITIZENSHIP REQUIREMENT

R.S. 4132 (46 U.S.C. 11), as last amended by Act of September 21, 1959 (73 Stat. 597 § 1):

Vessels built within the United States and belonging wholly to citizens thereof, and vessels which may be captured in war by citizens of the United States and lawfully condemned as prize, or which may be adjudged to be forfeited for a breach of the laws of the United States; and seagoing vessels, whether steam or sail, which have been certified by the Coast Guard as safe to carry dry and perishable cargo, wherever built, which are to engage only in trade with foreign countries, with the Islands of Guam, Tutuila, Wake, Midway, and Kingman Reef, being wholly owned by citizens of the United States or corporations organized and chartered under the laws of the United States, or of any State thereof, of which the president or other chief executive officer and the chairman of the board of directors shall be citizens of the United States and no more than a minority of the number necessary to constitute a quorum shall be non-citizens, and no others may be registered as directed in this chapter and chapters 3, 4, 5, 6, 7, 8, and 9 of this title. * * *

SHIPPING ACT

Act of September 7, 1916 (39 Stat. 728 c. 451), as amended; 46 U.S.C. 802, as last amended by Act of September 21, 1959 (73 Stat. 597 § 3)—*Corporation, partnership, or association as citizens:*

(a) Within the meaning of this chapter, no corporation, partnership, or association shall be deemed a citizen of the United States unless the controlling interest therein is owned by citizens of the United States, and, in the case of a corporation, unless its president or other chief executive officer and the chairman of its board of directors are citizens of the United States and unless no more of its directors than a minority of the number necessary to constitute a quorum are noncitizens, and the corpo-

ration itself is organized under the laws of the United States or of a State, Territory, District, or possession thereof, but in the case of a corporation, association, or partnership operating any vessel in the coastwise trade the amount of interest required to be owned by citizens of the United States shall be 75 per centum.

Sec. 808, as last amended by Act of November 8, 1965 (73 Stat. 1305, § 1)—*Registration of vessels—citizenship requirement:*

Any vessel purchased, chartered, or leased from the Secretary of Commerce, by persons who are citizens of the United States, may be registered or enrolled and licensed, or both registered and enrolled and licensed, as a vessel of the United States and entitled to the benefits and privileges appertaining thereto: *Provided*, That foreign-built vessels admitted to American registry or enrollment and license under this chapter, and vessels owned by any corporation in which the United States is a stockholder, and vessels sold, leased, or chartered by the Secretary to any person a citizen of the United States, as provided in this chapter, may engage in the coastwise trade of the United States while owned, leased, or chartered by such a person.

Every vessel purchased, chartered, or leased from the Secretary shall, unless otherwise authorized by the Secretary, be operated only under such registry or enrollment and license. Such vessels while employed solely as merchant vessels shall be subject to all laws, regulations, and liabilities governing merchant vessels, whether the United States be interested therein as owner, in whole or in part, or holds any mortgage, lien, or other interest therein.

Except as provided in section 1181 of this title, it shall be unlawful, without the approval of the Secretary of Commerce, to sell, mortgage, lease, charter, deliver, or in any manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any manner transfer, to any person not a citizen of the United States, or transfer or place under foreign registry or flag, any vessel or any interest therein owned in whole or in part by a citizen of the United States and documented under the laws of the United States, or the last documentation of which was under the laws of the United States.

The issuance, transfer, or assignment of a bond, note, or other evidence of indebtedness which is secured by a mortgage of a vessel to a trustee or by an assignment to a trustee of the owner's right, title, or interest in a vessel under construction, to a person not a citizen of the United States, without the approval of the Secretary of Commerce, is unlawful unless the trustee or a substitute trustee of such mortgage or assignment is approved by the Secretary of Commerce. The Secretary of Commerce shall grant his approval if such trustee or a substitute trustee is a bank or trust company which (1) is organized as a corporation, and is doing business, under the laws of the United States or any State thereof, (2) is authorized under such laws to exercise corporate trust powers, (3) is a citizen of the United States, (4) is subject to supervision or examination by Federal or State

authority, and (5) has a combined capital and surplus (as set forth in its most recent published report of condition) of at least \$3,000,000. If such trustee or a substitute trustee at any time ceases to meet the foregoing qualifications, the Secretary of Commerce shall disapprove such trustee or substitute trustee, and after such disapproval the transfer or assignment of such bond, note, or other evidence of indebtedness to a person not a citizen of the United States, without the approval of the Secretary of Commerce, shall be unlawful. The trustee or substitute trustee approved by the Secretary of Commerce shall not operate the vessel under the mortgage or assignment without the approval of the Secretary of Commerce. If a bond, note, or other evidence of indebtedness which is secured by a mortgage of a vessel to a trustee or by an assignment to a trustee of the owner's right, title, or interest in a vessel under construction, is issued, transferred, or assigned to a person not a citizen of the United States in violation of this section, the issuance, transfer, or assignment shall be void.

Any such vessel, or any interest therein, chartered, sold, transferred, or mortgaged to a person not a citizen of the United States or placed under a foreign registry or flag, or operated, in violation of any provision of this section shall be forfeited to the United States, and whoever violates any provision of this section shall be guilty of a misdemeanor and subject to a fine of not more than \$5,000, or to imprisonment for not more than five years, or both.

VESSELS—REGULATION OF MOVEMENT

Act of June 15, 1917 (40 Stat. 217, Title II, § 1) as last amended by Act of August 9, 1950 (64 Stat. 427, c. 656 § 1, *the Magnuson Act*) and by Act of September 26, 1950 (64 Stat. 1038, § 2(b); 50 U.S.C. 191)—*Regulation of Anchorage and Movement of Vessels During National Emergency*:

Whenever the President by proclamation or Executive order declares a national emergency to exist by reason of actual or threatened war, insurrection, or invasion, or disturbance or threatened disturbance of the international relations of the United States, the Secretary of the Treasury may make, subject to the approval of the President, rules and regulations governing the anchorage and movement of any vessel, foreign or domestic, in the territorial waters of the United States, may inspect such vessel at any time, place guards thereon, and, if necessary in his opinion in order to secure such vessels from damage or injury, or to prevent damage or injury to any harbor or waters of the United States, or to secure the observance of the rights and obligations of the United States, may take, by and with the consent of the President, for such purposes, full possession and control of such vessel and remove therefrom the officers and crew thereof and all other persons not specially authorized by him to go or remain on board thereof.

Within the territory and waters of the Canal Zone the Governor of the Canal Zone, with the approval of the President, shall exercise all the powers conferred by this section on the Secretary of the Treasury.

Whenever the President finds that the security of the United States is endangered by reason of actual or threatened war, or invasion, or insurrection, or subversive activity, or of disturbances of the international relations of the United States, the President is authorized to institute such measures and issue such rules and regulations—

(a) to govern the anchorage and movement of any foreign-flag vessels in the territorial waters of the United States, to inspect such vessels at any time, to place guards thereon, and, if necessary in his opinion in order to secure such vessels from damage or injury, or to prevent damage or injury to any harbor or waters of the United States, may take for such purposes full possession and control of such vessels and remove therefrom the officers and crew thereof, and all other persons not especially authorized by him to go or remain on board thereof;

(b) to safeguard against destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of similar nature, vessels, harbors, ports, and waterfront facilities in the United States, the Canal Zone, and all territory and water, continental or insular, subject to the jurisdiction of the United States. Any appropriation available to any of the Executive Departments shall be available to carry out the provisions of this chapter.

VESSELS—HARBORS—SAFEGUARDING

Executive Order 10173 of October 18, 1950 (15 FR 7005), as amended by Executive Orders 10277, 10352, and 11249 (16 FR 7537, 17 FR 4607, 30 FR 13001):

By virtue of the authority vested in me by Public Law 679, 81st Congress, 2d Session, approved August 9, 1950, which amended section 1, Title II of the act of June 15, 1917, 40 Stat. 220 (50 U.S.C. 191), and as President of the United States, I hereby find that the security of the United States is endangered by reason of subversive activity, and I hereby prescribe the following regulations relating to the safeguarding against destruction, loss or injury from sabotage or other subversive acts, accidents, or other causes of similar nature, of vessels, harbors, ports, and waterfront facilities in the United States, and all territory and water, continental or insular, subject to the jurisdiction of the United States, exclusive of the Canal Zone, and the said regulations shall constitute Part 6, Subchapter A, Chapter I, Title 33 of the Code of Federal Regulations; and all agencies and authorities of the Government of the United States shall, and all state and local authorities and all persons are urged to, support, conform to, and assist in the enforcement of these regulations and all supplemental regulations issued pursuant thereto:

SUBPART 6.01—DEFINITIONS

§ 6.01-1 *Commandant*. "Commandant" as used in this part, means the Commandant of the United States Coast Guard.

§ 6.01-2 *District Commander*. "District Commander" as used in this part, means the officer of the Coast Guard designated by the Commandant to command a Coast Guard District.

§ 6.01-3 *Captain of the Port*. "Captain of the Port" as used in this part, means the officer of the Coast Guard, under the command of a District Commander, so designated by the Commandant for the purpose of giving immediate direction to Coast Guard law enforcement activities within his assigned area. In addition, the District Commander shall be Captain of the Port with respect to remaining areas in his District not assigned to officers designated by the Commandant as Captain of the Port.

§ 6.01-4 *Waterfront facility*. "Waterfront facility" as used in this part, means all piers, wharves, docks, and similar structures to which vessels may be secured; areas of land, water, or land and water under and in immediate proximity to them; buildings on such structures or contiguous to them and equipment and materials on such structures or in such buildings.

§ 6.01-5 *Security zone*. "Security zone" as used in this part, means all areas of land, water, or land and water, which are so designated by the Captain of the Port for such time as he deems necessary to prevent damage or injury to any vessel or waterfront facility, to safeguard ports, harbors, territories, or waters of the United States or to secure the observance of the rights and obligations of the United States.

SUBPART 6.04—GENERAL PROVISIONS

§ 6.04-1 *Enforcement*. (a) The rules and regulations in this part shall be enforced by the captain of the port under the supervision and general direction of the District Commander and the Commandant, and all authority and power vested in the captain of the port by the regulations in this part shall be deemed vested in and may be exercised by the District Commander and the Commandant.

(b) The rules and regulations in this part may be enforced by any other officer of the Coast Guard designated by the Commandant or the District Commander.

§ 6.04-5 *Preventing access of persons, articles or things to vessels, or waterfront facilities*. The Captain of the Port may prevent any person, article, or thing from boarding or being taken or placed on board any vessel or entering or being taken into or upon or placed in or upon any waterfront facility whenever it appears to him that such action is necessary in order to secure such vessel from damage or injury or to prevent damage or injury to any vessel, or waterfront facility or waters of the United States, or to secure the observance of rights and obligations of the United States.

§ 6.04-6 *Establishing security zones; prohibitions with respect thereto*. The Captain of a Port may establish security zones

subject to the terms and conditions specified in § 6.01-5. No person or vessel shall enter a security zone without the permission of the Captain of the Port. No person shall board or take or place any article or thing on board any vessel in a security zone without the permission of the Captain of the Port. No person shall take or place any article or thing upon any waterfront facility in any such zone without such permission.

§ 6.04-7 *Visitation, search, and removal.* The Captain of the Port may cause to be inspected and searched at any time any vessel, waterfront facility, or security zone, or any person, article, or thing thereon or therein, within the jurisdiction of the United States, may place guards upon any such vessel, waterfront facility, or security zone and may remove therefrom any and all persons, articles, or things not specifically authorized by him to go or remain thereon or therein.

§ 6.04-8 *Possession and control of vessels.* The captain of the port may supervise and control the movement of any vessel and shall take full or partial possession or control of any vessel or any part thereof, within the territorial waters of the United States under his jurisdiction, whenever it appears to him that such action is necessary in order to secure such vessel from damage or injury, or to prevent damage or injury to any vessel or waterfront facility or waters of the United States, or to secure the observance of rights and obligations of the United States.

§ 6.04-11 *Assistance of other agencies.* The captain of the port may enlist the aid and cooperation of Federal, State, county, municipal, and private agencies to assist in the enforcement of regulations issued pursuant to this part.

SUBPART 6.10—IDENTIFICATION AND EXCLUSION OF PERSONS FROM VESSELS AND WATERFRONT FACILITIES

§ 6.10-1 *Issuance of documents and employment of persons aboard vessels.* No person shall be issued a document required for employment on a merchant vessel of the United States nor shall any person be employed on a merchant vessel of the United States unless the Commandant is satisfied that the character and habits of life of such person are such as to authorize the belief that the presence of the individual on board would not be inimical to the security of the United States: *Provided*, That the Commandant may designate categories of merchant vessels to which the foregoing shall not apply.

§ 6.10-3 *Special validation of merchant marine documents.* The Commandant may require that all licensed officers and certificated men who are employed on other than the exempted designated categories of merchant vessels of the United States be holders of specially validated documents. The form of such documents, the conditions, and the manner of their issuance shall be as prescribed by the Commandant. The Commandant shall revoke and require the surrender of a specially validated document when he is no longer satisfied that the holder is entitled thereto.

§ 6.10-5 *Access to vessels and waterfront facilities.* Any person on board any vessel or any person seeking access to any vessel or any waterfront facility within the jurisdiction of the United States may be required to carry identification credentials issued by or otherwise satisfactory to the Commandant. The Commandant may define and designate those categories of vessels and areas of the waterfront wherein such credentials are required.

§ 6.10-7 *Identification credentials.* The identification credentials to be issued by the Commandant shall be known as the Coast Guard Port Security Card, and the form of such credential, and the conditions and the manner of its issuance shall be as prescribed by the Commandant after consultation with the Secretary of Labor. The Commandant shall not issue a Coast Guard Port Security Card unless he is satisfied that the character and habits of life of the applicant therefor are such as to authorize the belief that the presence of such individual on board a vessel or within a waterfront facility would not be inimical to the security of the United States. The Commandant shall revoke and require the surrender of a Coast Guard Port Security Card when he is no longer satisfied that the holder is entitled thereto. The Commandant may recognize for the same purpose such other credentials as he may designate in lieu of the Coast Guard Port Security Card.

§ 6.10-9 *Appeals.* Persons who are refused employment or who are refused the issuance of documents or who are required to surrender such documents, under this subpart, shall have the right of appeal, and the Commandant shall appoint Boards for acting on such appeals. Each such Board shall, so far as practicable, be composed of one Coast Guard officer, one member drawn from management, and one member drawn from labor. The members drawn from management and labor shall, upon suitable security clearance, be nominated by the Secretary of Labor. Such members shall be deemed to be employees of the United States and shall be entitled to compensation under the provisions of section 15 of the act of August 2, 1946 (5 U.S.C. 55a), while performing duties incident to such employment. The Board shall consider each appeal brought before it and, in recommending final action to the Commandant, shall insure the appellant all fairness consistent with the safeguarding of the national security.

SUBPART 6.12—SUPERVISION AND CONTROL OF EXPLOSIVES OR OTHER DANGEROUS CARGO

§ 6.12-1 *General supervision and control.* The captain of the port may supervise and control the transportation, handling, loading, discharging, stowage, or storage of explosives, inflammable or combustible liquids in bulk, or other dangerous articles or cargo covered by the regulations entitled "Explosives or Other Dangerous Articles on Board Vessels" (46 CFR Part 146) and the regulations governing tank vessels (46 CFR Parts 30 to 38, inclusive).

§ 6.12-3 *Approval of facility for dangerous cargo.* The Commandant may designate waterfront facilities for the handling and storage of, and for vessel loading and discharging, explosives, inflammable or combustible liquids in bulk, or other dangerous articles or cargo covered by the regulations referred to in § 6.12-1, and may require the owners, operators, masters, and others concerned to secure permits for such handling, storage, loading, and unloading from the captain of the port, conditioned upon the fulfillment of such requirements for the safeguarding of such waterfront facilities and vessels as the Commandant may prescribe.

SUBPART 6.14—SECURITY OF WATERFRONT FACILITIES AND VESSELS IN PORT

§ 6.14-1 *Safety measures.* The Commandant, in order to achieve the purposes of these regulations, may prescribe such conditions and restrictions relating to the safety of waterfront facilities and vessels in port as he finds to be necessary under existing circumstances. Such conditions and restrictions may extend, but shall not be limited to, the inspection, operation, maintenance, guarding, and manning of, and fire-prevention measures for such vessels and waterfront facilities.

§ 6.14-2. *Condition of waterfront facility a danger to vessel.* Whenever the captain of the port finds that the mooring of any vessel to a wharf, dock, pier, or other waterfront structure would endanger such vessel, or any other vessel, or the harbor or any facility therein by reason of conditions existing on or about such wharf, dock, pier, or other waterfront structure, including, but not limited to, inadequate guard service, insufficient lighting, fire hazards, inadequate fire protection, unsafe machinery, internal disturbance, or unsatisfactory operation, the captain of the port may prevent the mooring of any vessel to such wharf, dock, pier, or other waterfront structure until the unsatisfactory condition or conditions so found are corrected, and he may, for the same reason, after any vessel has been moored, compel the shifting of such vessel from any such wharf, dock, pier, or other waterfront structure.

SUBPART 6.16—SABOTAGE AND SUBVERSIVE ACTIVITY

§ 6.16-1 *Reporting of sabotage and subversive activity.* Evidence of sabotage or subversive activity involving or endangering any vessel, harbor, port, or waterfront facility shall be reported immediately to the Federal Bureau of Investigation and to the captain of the port, or to their respective representatives.

§ 6.16-3 *Precautions against sabotage.* The master, owner, agent, or operator of a vessel or waterfront facility shall take all necessary precautions to protect the vessel, waterfront facility and cargo from sabotage.

SUBPART 6.18—PENALTIES

§ 6.18-1 *Violations.* Section 2, Title II of the act of June 15, 1917, as amended, 50 U.S.C. 192, provides as follows:

If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulations or rule issued or order given under the provisions of this title, or obstructs or interferes with the exercise of any power conferred by this title, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws and the person guilty of such failure, obstruction, or interference shall be punished by imprisonment for not more than ten years and may, in the discretion of the court, be fined not more than \$10,000.

(a) If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this title, or knowingly obstructs or interferes with the exercise of any power conferred by this title, he shall be punished by imprisonment for not more than ten years and may, at the discretion of the court, be fined not more than \$10,000.

SUBPART 6.19—RESPONSIBILITIES FOR SECURITY OF VESSELS AND WATERFRONT FACILITIES

§ 6.19-1 *Primary responsibility.* Nothing contained in this part shall be construed as relieving the masters, owners, operators, and agents of vessels or other waterfront facilities from their primary responsibility for the protection and security of such vessels or waterfront facilities.

Regulations relating to the Security of Vessels—*Special Validation Endorsement for Emergency Service for Merchant Marine Personnel*; Issued May 1, 1956 by authority of Executive Order 10173 as amended (supra), 33 C.F.R. 121.01-121.29:

§ 121.01 *Requirements for special validation endorsement.*

(a) Except as otherwise provided in this section no person shall be employed on a merchant vessel of the United States of 100 gross tons or over unless he is in possession of a Merchant Mariner's document bearing a special validation endorsement for emergency service.

(b) The vessels described in paragraph (a) of this section include those at anchor or made fast to a dock, but not those laid up or dismantled or out of commission.

(c) By "employed" and "employment" is meant the engagement of any person to fill any licensed or certificated berth on board ship whether or not under articles and includes those engaged for standby, relief, or other capacities.

(d) The following terms and conditions shall apply with respect to the employment of any person as a replacement or addition in the crew of any vessel described in paragraph (a) of this section at foreign ports when persons in possession of documents bearing a special validation endorsement for emergency service are not available as established to the satisfaction of the United States consular representative of the area:

(1) A person in possession of a United States seaman's document not bearing a special validation endorsement for emergency

service may be employed only after approval of the Commandant is obtained by the United States consular representative for the area or by the master of the vessel.

(2) A person who is a United States citizen and who is not in possession of a United States seaman's document may be employed if no person specified in subparagraph (1) of this paragraph is available as established to the satisfaction of the United States consular representative for the area, and then only after approval of the Commandant is obtained by the United States consular representative for the area or by the master of the vessel.

(3) A person who is not a citizen of the United States and who is not in possession of a United States seaman's document may be employed only if no person as specified in subparagraphs (1) and (2) of this paragraph is available as established to the satisfaction of the United States consular representative for the area and then only after the following terms and conditions are met:

(i) No such person shall be employed unless he presents evidence of temporary clearance from the United States consular representative for the area;

(ii) In no case shall the number of such persons employed on any one vessel exceed ten (10) percent of the total complement of the vessel, unless it is established to the satisfaction of the United States consular representative for the area that it is necessary to exceed this percentage to avoid delay to the sailing of the vessel or that the employment of persons with special qualifications as additional crew members is necessary in the vessel's operations; and

(iii) No such person shall be employed to fill the berth of a licensed officer or registered staff officer, except that if no radio officer is available as established to the satisfaction of the United States consular representative for the area, a person may be employed as radio operator in accordance with the provisions of Article 24, section 2, of the International Telecommunications Convention (Atlantic City, 1947), which reads as follows:

2. (1) In the case of complete unavailability of the operator in the course of a sea passage, a flight or a journey, the master or the person responsible for the station may authorize, solely as a temporary measure, an operator holding a certificate issued by the government of another country member of the Union [Footnote: The term "Union" means those countries which are parties to the International Telecommunications Convention] to perform the radio communication service.

(2) When it is necessary to employ as a temporary operator a person without a certificate or an operator not holding an adequate certificate, his performance as such must be limited solely to signals of distress, urgency and safety, messages relating thereto, messages relating directly to the safety of life, urgent messages relating to movement of the ship and essential messages relating to the navigation and safe movement of the aircraft. Persons employed in these

cases are bound by the provisions of 508 regarding the secrecy of correspondence.

(3) In all cases, such temporary operators must be replaced as soon as possible by operators holding the certificate prescribed in Sec. 1 of this article.

§ 121.03 *Standards.* Information concerning an applicant for special validation endorsement for emergency service, or a holder of such endorsement, which may preclude a determination that his character and habits of life are such as to warrant the belief that his presence on board vessels of the United States would not be inimical to the security of the United States, shall relate to the following:

(a) Advocacy of the overthrow or alteration of the Government of the United States by unconstitutional means.

(b) Commission of, or attempts or preparations to commit, an act of espionage, sabotage, sedition or treason, or conspiring with, or aiding or abetting another to commit such an act.

(c) Performing, or attempting to perform, duties or otherwise acting so as to serve the interests of another government to the detriment of the United States.

(d) Deliberate unauthorized disclosure of classified defense information.

§ 121.05 *Applications.* (a) Any person legally holding a current valid license or certificate, or an applicant for such a document, may make application at any Coast Guard Marine Inspection Office for a special validation endorsement for emergency service.

(b) Each Marine Inspection Office shall forward promptly to the Commandant each application for a special validation endorsement received by it.

(c) (1) Application for special validation endorsement shall be made under oath in writing and shall include applicant's answers in full to inquiries with respect to such matters as are deemed by the Commandant to be pertinent to the standards set forth in § 121.03, and to be necessary for a determination whether the character and habits of life of the applicant are such as to warrant the belief that his presence on board vessels of the United States would not be inimical to the security of the United States.

(2) If an applicant fails or refuses to furnish the required information or fails or refuses to make full and complete answer with respect to all matters of inquiry, the Commandant shall hold in abeyance further consideration of the application, and shall notify the applicant that further action will not be taken unless and until the applicant furnishes the required information and fully and completely answers all inquiries directed to him.

(d) (1) If, in the judgment of the Commandant, an application does not contain sufficient information to enable him to satisfy himself that the character and habits of life of the applicant are such as to warrant the belief that his presence on board vessels of the United States would not be inimical to the security of the United States, the Commandant may require the applicant to furnish, under oath in writing or orally, such further informa-

tion as he deems pertinent to the standards set forth in § 121.03 and necessary to enable him to make such a determination.

(2) If an applicant fails or refuses to furnish such additional information, the Commandant shall hold in abeyance further consideration of the application, and shall notify the applicant that further action will not be taken unless and until the applicant furnishes such information.

(e) Upon receipt, the application and such further information as the Commandant may have required shall be referred, except in those instances where action on an application is held in abeyance pursuant to paragraphs (c) (2) or (d) (2) of this section, to a committee composed of a representative of the Legal Division, of the Merchant Vessel Personnel Division, and of the Intelligence Division, Coast Guard Headquarters. The committee shall prepare an analysis of the available information and shall make recommendations for action by the Commandant.

§ 121.07 *Approval of applicant by Commandant.* (a) If the Commandant is satisfied that the character and habits of life of the applicant are such as to warrant the belief that his presence on board vessels of the United States would not be inimical to the security of the United States, he will direct that a special validation endorsement be entered on the applicant's Merchant Mariner's Document.

(b) If the Commandant is not satisfied that the character and habits of life of the applicant are such as to warrant the belief that his presence on board vessels of the United States would not be inimical to the security of the United States, he will notify the applicant in writing as provided for in § 121.11.

§ 121.09 *Holders of special validation endorsement.* (a) Whenever the Commandant is not satisfied that the character and habits of life of a holder of a document bearing a special validation endorsement are such as to warrant the belief that his presence on board vessels of the United States would not be inimical to the security of the United States, he will request the holder to furnish under oath in writing such information as he deems pertinent to the standards set forth in § 121.03 and necessary for a determination on this issue.

(b) If the holder fails or refuses to furnish such information within thirty (30) days after receipt of the Commandant's request, the Commandant may issue the written notice provided for in § 121.11(a).

(c) The holder's failure or refusal to furnish such information shall preclude a determination that the holder's character and habits of life are such as to warrant the belief that his presence on board vessels of the United States would not be inimical to the security of the United States.

(d) Upon receipt of such information as the Commandant may have required, the procedure prescribed in § 121.05(e) shall be followed.

(e) If the Commandant is satisfied that the character and habits of life of the holder are such as to warrant the belief that his presence on board vessels of the United States would not be

inimical to the security of the United States, he shall notify the holder accordingly.

(f) If the Commandant is not satisfied that the character and habits of life of the holder are such as to warrant the belief that his presence on board vessels of the United States would not be inimical to the security of the United States, he shall notify the holder in writing as provided for in § 121.11.

§ 121.11 *Notice by Commandant.* (a) The notice provided for in §§ 121.07 and 121.09 shall contain a statement of the reasons why the Commandant is not satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on board vessels of the United States would not be inimical to the security of the United States. Such notice shall be as specific and detailed as the interests of national security shall permit and shall include pertinent information such as names, dates, and places in such detail as to permit reasonable answer.

(b) The applicant or holder shall have 20 days from the date of receipt of the notice of reasons to file written answer thereto. Such answer may include statements or affidavits by third parties or such other documents or evidence as the applicant or holder deems pertinent to the matters in question.

(c) Upon receipt of such answer the procedure prescribed in § 121.05(e) shall be followed.

(d) If the Commandant is satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on board vessels of the United States would not be inimical to the security of the United States, he shall, in the case of an applicant, direct that a special validation endorsement be entered on his Merchant Mariner's Document or, in the case of a holder, notify him accordingly.

(e) If the Commandant is not satisfied that the applicant's or holder's character and habits of life are such as to warrant the belief that his presence on board vessels of the United States would not be inimical to the security of the United States, the Commandant shall refer the matter to a Hearing Board for hearing and recommendation in accordance with the provisions of this part.

§ 121.13 *Hearing Boards.* The Commandant may establish a Hearing Board in each Coast Guard District. The Commandant shall designate for each Hearing Board a Chairman, who shall be, so far as practicable, an officer of the Coast Guard. The Commandant shall designate, so far as practicable, a second member from a panel of persons representing labor named by the Secretary of Labor, and a third member from a panel of persons representing management named by the Secretary of Labor.

§ 121.15 *Notice by Hearing Board.* Whenever the Commandant refers a matter to a Hearing Board, the Chairman shall:

(a) Fix the time and place of the hearing;

(b) Inform the applicant or holder of the names of the members of the Hearing Board, their occupations, and the businesses or organizations with which they are affiliated, of his privilege of challenge, and of the time and place of the hearing.

(c) Inform the applicant or holder of his privilege to appear before the Hearing Board in person or by counsel or representative of his choice, and to present testimonial and documentary evidence in his behalf, and to cross-examine any witnesses appearing before the Board; and

(d) Inform the applicant or holder that if within 10 days after receipt of the notice he does not request an opportunity to appear before the Hearing Board, either in person or by counsel or representative, the Hearing Board will proceed without further notice to him.

§ 121.17 *Challenges.* Within five days after receipt of the notice described in § 121.15 the applicant or holder may request disqualification of any member of the Hearing Board on the grounds of personal bias or other cause. The request shall be accompanied by an affidavit setting forth in detail the facts alleged to constitute grounds for disqualification. The affidavit may be supplemented by an oral presentation if desired. If after due consideration the Chairman believes a challenged member is qualified notwithstanding the challenge, he shall notify the person who made the challenge and arrange to proceed with the hearing. If the person who made the challenge takes exception to the ruling of the Chairman, the exception and data relating to the claim of disqualification shall be made a matter of record. If the Chairman finds that there is reasonable ground for disqualification he shall furnish the person who made the challenge with the name of an alternate in lieu of the challenged member and arrange to proceed with the hearing. In the event the Chairman is challenged, he shall forthwith notify the Commandant, furnishing the grounds for the claim of disqualification, and the Commandant shall act upon the challenge in accordance with the foregoing procedure. In addition to the right of challenge for cause, a person who has requested a hearing shall have two peremptory challenges, one challenge for the management member and one challenge for the labor member of the Hearing Board. Should the management member be so challenged, the person who made the challenge may elect to have the management member replaced by another management member or by a member not representing either management or labor; if the member peremptorily challenged represents labor, the person who made the challenge may elect to have the labor member replaced by another labor member or by a member not representing either management or labor.

§ 121.19 *Hearing procedure.* (a) Hearing shall be conducted in an orderly manner and in a serious, business-like atmosphere of dignity and decorum and shall be expedited as much as possible.

(b) The hearing shall be in open or closed session at the option of the applicant or holder.

(c) Testimony before the Hearing Board shall be given under oath or affirmation.

(d) The Chairman of the Hearing Board shall inform the applicant or holder of his right to:

(1) Participate in the hearing;
 (2) Be represented by counsel of his choice;
 (3) Present witnesses and offer other evidence in his own behalf and in refutation of the reasons set forth in the Notice of the Commandant; and

(4) Cross-examine any witnesses offered in support of such reasons.

(e) Hearings shall be opened by the reading of the Notice of the Commandant and the answer thereto. Any statement and affidavits filed by the applicant or holder may be incorporated in the record by reference.

(f) The Hearing Board may, in its discretion, invite any person to appear at the hearing and testify. However, the Board shall not be bound by the testimony of such witness by reason of having called him and shall have full right to cross-examine the witness. Every effort should be made to produce material witnesses to testify in support of the reasons set forth in the Notice of the Commandant, in order that such witnesses may be confronted and cross-examined by the applicant or holder.

(g) The applicant or holder may introduce such evidence as may be relevant and pertinent. Rules of evidence shall not be binding on the Hearing Board, but reasonable restrictions may be imposed as to the relevancy, competency and materiality of matters considered. If the applicant or holder is or may be, handicapped by the non-disclosure to him of confidential sources, or by the failure of witnesses to appear, the Hearing Board shall take the fact into consideration.

(h) The applicant or holder or his counsel or representative shall have the right to control the sequence of witnesses called by him.

(i) The Hearing Board shall give due consideration to documentary evidence developed by investigation, including membership cards, petitions bearing the applicant's or holder's signature, books, treatises or articles written by the applicant or holder and testimony by the applicant or holder before duly constituted authority.

(j) Complete verbatim stenographic transcription shall be made of the hearing by qualified reporters and the transcript shall constitute a permanent part of the record. Upon request, the applicant or holder or his counsel or representative shall be furnished, without cost, a copy of the transcript of the hearing.

(k) The Board shall reach its conclusion and base its determination on information presented at the hearing, together with such other information as may have been developed through investigations and inquiries or made available by the applicant or holder.

(l) If the applicant or holder fails, without good cause shown to the satisfaction of the chairman, to appear personally or to be represented before the Hearing Board, the Board shall proceed with consideration of the matter.

(m) The recommendation of the Hearing Board shall be in writing and shall be signed by all members of the Board. The

Board shall forward to the Commandant, with its recommendation, a memorandum of reasons in support thereof. Should any member be in disagreement with the majority a dissent should be noted setting forth the reasons therefor. The recommendation of the Board, together with the complete record of the case, shall be sent to the Commandant as expeditiously as possible.

§ 121.21 *Action by Commandant.* (a) If, upon receipt of the Board's recommendation, the Commandant is satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on board vessels of the United States would not be inimical to the security of the United States, he shall, in the case of an applicant, direct that a special validation endorsement be entered on his Merchant Mariner's Document, or, in the case of a holder, notify him accordingly.

(b) If, upon receipt of the Board's recommendation, the Commandant is not satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on board vessels of the United States would not be inimical to the security of the United States, the Commandant shall:

(1) In the case of an applicant for special validation endorsement, notify him of the Commandant's refusal to enter such endorsement;

(2) In the case of an applicant for a Merchant Mariner's Document, notify him of the Commandant's refusal to issue such document; or

(3) In the case of a holder, revoke and require the surrender of his special validation endorsement.

(c) Such applicant or holder shall be notified of his right, and shall have 20 days from the receipt of such notice within which to appeal under this part.

§ 121.23 *Appeals.* (a) The Commandant shall establish at Coast Guard Headquarters, Washington, D.C., an Appeal Board to hear appeals provided for in this part. The Commandant shall designate for the Appeal Board a Chairman, who shall be, so far as practicable, an officer of the Coast Guard. The Commandant shall designate, so far as practicable, a member from a panel of persons representing management nominated by the Secretary of Labor, and a member from a panel of persons representing labor nominated by the Secretary of Labor. The Commandant shall insure that persons designated as Appeal Board members have suitable security clearance. The Chairman of the Appeal Board shall make all arrangements incident to the business of the Appeal Board.

(b) If an applicant or holder appeals to the Appeal Board within 20 days after receipt of notice of his right to appeal under this part, his appeal shall be handled under the same procedure as that specified in § 121.15 and the privilege of challenge may be exercised through the same procedure as that specified in § 121.17.

(c) Appeal Board proceedings shall be conducted in the same manner as that specified in § 121.19.

§ 121.25 *Action by Commandant after appeal.* (a) If, upon receipt of the Appeal Board's recommendation, the Comman-

dant is satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on board vessels of the United States would not be inimical to the security of the United States, he shall, in the case of an applicant, direct that a special validation endorsement be entered on his Merchant Mariner's Document, or, in the case of a holder, notify him accordingly.

(b) If, upon receipt of the Appeal Board's recommendation, the Commandant is not satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on board vessels of the United States would not be inimical to the security of the United States, the Commandant shall notify the applicant or holder that his appeal is denied.

§ 121.27 *Outstanding endorsements and applications.* (a) All special validation endorsements for emergency service entered upon Merchant Mariner's Documents will be accepted as valid until cancelled, revoked, or suspended by proper authority.

(b) A person who has filed an application for a Merchant Mariner's Document bearing a special validation endorsement for emergency service and who has not received such an endorsement prior to May 1, 1956, shall submit a new application in accordance with the requirements of this part.

§ 121.29 *Applications previously denied.* A person who has been denied a Merchant Mariner's Document bearing a special validation endorsement for emergency service, before May 1, 1956, may file a new application for such an endorsement in accordance with the requirements of this part.

Regulations relating to the Security of Vessels—*Safety Measures*; Issued March 13, 1952 by authority of Executive Order 10173 as amended (*supra*), 33 C.F.R. 122.01 and 122.10:

§ 122.01 *General.* The regulations in this part require additional safety precautions for vessels in accordance with § 6.14-1 of this chapter.

§ 122.10 *Atomic attack instructions for merchant vessels in port.* A placard (Form CG 3256) containing atomic attack instructions for merchant vessels in port has been prepared for the information and assistance of persons on board merchant vessels. When given to the master of a vessel by the Coast Guard, the placards (Form CG 3256) shall be posted in conspicuous places in the pilothouse, engine room, and in the seamen's, firemen's, and steward's departments of the vessel.

Regulations relating to the Security of Vessels—*Control Over Movement of Vessels*; Issued March 12, 1955 by authority of Executive Order 10173 as amended (*supra*), 33 C.F.R. 124.01-124.20:

§ 124.10 *Advance notice of vessel's time of arrival to Captain of the Port.* (a) The master or agents of every registered vessel of the United States, and every foreign vessel arriving at a United States port or place from a port or place outside the United States, or any such vessel destined from one port or place in the United States to another port or place in the United States, shall give at least 24 hours advance notice of arrival to the Captain

of the Port at every port or place where the vessel is to arrive, except as follows:

(1) Registered United States pleasure vessels and registered United States fishing vessels are not required to submit advance notice of arrival report.

(2) When the port of arrival is not located within the geographical area assigned to a particular Captain of the Port, this advance notice of time of arrival shall be made to the Commander of the Coast Guard District in which such port or place is located.

(3) When the arrival is a direct result of the operation of "force majeure," and it is not possible to give at least 24 hours' advance notice of time of arrival, then advance notice as early as practicable shall be furnished.

(4) When the vessel, while in United States waters, does not navigate any portion of the high sea, i.e., does not navigate beyond the low water mark along the coasts or beyond the waters contained within the headlands of the United States.

(5) When a vessel is engaged upon a scheduled route if a copy of the schedule is filed with the Captain of the Port for each port of call named in the schedule and the times of arrival at each such port are adhered to.

(6) When the master of a merchant vessel (except on a coastwise voyage of 24 hours or less) reports in accordance with the U.S. Coast Guard's voluntary Automated Merchant Vessel Report (AMVER) System, he shall be considered to be in constructive compliance with the requirements of paragraph (a) of this section and no additional advance notice of vessel's arrival reports to the Captain of the Port is required. The master or agent of a vessel on coastwise voyages of 24 hours or less shall report the advance notice of vessel's arrival to the Captain of the Port at next port of call prior to or upon departure from port.

(7) For that vessel which is engaged in operations in and out of the same port to sea and return without entering any other port, or on coastwise voyages between ports in the same Coast Guard District, or on voyages between ports in the First, Ninth, Thirteenth, or Seventeenth Coast Guard Districts and adjacent Canadian ports, or between ports of the Commonwealth of Puerto Rico and ports in the Lesser Antilles, or between ports in the Lesser Antilles, or between ports on the east coast of Florida and the Bahama Islands, the Coast Guard District Commander having jurisdiction may, when no reason exists which renders such action prejudicial to the rights and interests of the United States, prescribe conditions under which such vessels may be considered by the Captains of the Port as being in constructive compliance with the requirements of this section.

(8) A westbound vessel which is to proceed to or through United States waters of the St. Lawrence River and/or the Great Lakes shall be subject to compliance with paragraph (b) of this section.

(b) The master or agent of every vessel other than vessels of United States or Canadian nationality engaged in the coastal

trade of their respective countries or in trade between their two countries without calling at any other country en route, when proceeding westbound to United States waters of the St. Lawrence River and/or the Great Lakes shall:

(1) At least 24 hours in advance of the vessel's arrival at the Snell Lock, Massena, New York, advise the Commander, Ninth Coast Guard District, Cleveland, Ohio, of estimated time of arrival of such vessel at the Snell Lock.

(2) In addition, at least 24 hours in advance of the vessel's arrival at the first United States port-of-call, advise the Commander, Ninth Coast Guard District, Cleveland, Ohio, of the estimated time of arrival at that port.

(3) [Reserved.]

(4) A master of a vessel who reports in accordance with the U.S. Coast Guard's voluntary Automated Merchant Vessel Report (AMVER) System and who includes in this report an estimated time of arrival at the Snell Lock, Massena, New York, shall be considered to be in constructive compliance with the requirements of subparagraph (1) of this paragraph and no additional advance notice of vessel's arrival at the Snell Lock is required. Likewise a master of such vessel who indicates in this report the name of the first intended United States port of call and estimated time of arrival at that port shall be considered in constructive compliance with subparagraph (2) of this paragraph and no additional advance notice of arrival is required.

(5) A master or agent of a vessel who files a copy of the scheduled route with the Commander, Ninth Coast Guard District, Cleveland, Ohio, at least 24 hours prior to arrival at Snell Lock, and who includes in the schedule the estimated time of arrival at the Snell Lock, Massena, N.Y., shall be considered to be in constructive compliance with requirements of subparagraph (1) of this paragraph and no additional advance notice of the vessel's arrival at the Snell Lock is required. Likewise, a master or agent of such vessel who indicates in this schedule the name of the first intended United States port of call and estimated time of arrival at that port shall be considered in constructive compliance with subparagraph (2) of this paragraph and no additional advance notice of arrival is required.

(6) When the arrival is a direct result of the operation of "force majeure," and it is not possible to give at least 24 hours advance notice of time of arrival, then advance notice as early as practicable shall be furnished.

§ 124.14 *Advance notice of arrival of vessel laden with explosives or certain specified dangerous cargoes.* (a) The master, agent, or person in charge of any domestic or foreign vessel which is bound for a port or place in the United States and which is carrying as cargo any of the dangerous cargoes described in this paragraph, whether for discharge in the United States or not, shall at least 24 hours in advance of arrival at each port or place, notify the Captain of the Port or the Commander of the Coast Guard District in which such port or place is located concerning the amount and location of stowage on board the vessel of any of the following:

(1) Explosives, class A (commercial or military).

(2) Oxidizing materials for which a special permit for water transportation is required by 46 CFR 146.22.

(3) Radioactive materials for which a special approval by the Commandant for water transportation is required by 46 CFR 146.25-30.

(4) Any dangerous cargo considered to involve a particular hazard, when transported or handled in bulk quantities, as further described in paragraph (b) of this section.

(b) (1) A dangerous cargo considered to involve a particular hazard, when transported in bulk quantities on board vessels, or when handled in bulk quantities on waterfront facilities, is any commodity which by virtue of its properties would create an unusual hazard if released. The commodities subject to this section are:

Acetaldehyde.	Methane.
Acetone cyanohydrin.	Methyl acrylate.
Acetonitrile.	Methyl bromide.
Acrylonitrile.	Methyl chloride.
Allyl alcohol.	Methyl metacrylate
Allyl chloride.	(monomer).
Ammonia, anhydrous	Nonyl phenol.
Aniline.	Oleum.
Butadiene.	Phenol.
Carbolic oil.	Phosphorus, elemental.
Carbon disulfide.	Propane.
Chlorine.	Propylene.
Chlorohydrins, crude.	Propylene oxide.
Crotonaldehyde.	Sulfuric acid.
1,2-Dichloropropane.	Sulfuric acid, spent.
Dichloropropene.	Tetraethyl lead.
Epichlorohydrin.	Tetraethyl lead mixture.
Ethylene.	Vinyl acetate.
Ethyl ether.	Vinyl chloride.
Ethylene oxide.	Vinylidene chloride.
Hydrochloric acid.	

(2) Each commodity listed in subparagraph (1) of this paragraph is considered to possess one or more of the following properties:

- (i) Is highly reactive or unstable; or
- (ii) Has severe or unusual fire hazards; or
- (iii) Has severe toxic properties; or
- (iv) Requires refrigeration for its safe containment; or
- (v) Can cause brittle fracture of normal ship structural materials or ashore containment materials by reason of its being carried at low temperatures, or because of its low boiling point at atmospheric pressure (unless uncontrolled release of the cargo is not a major hazard to life).

(c) For U.S. vessels, this section is applicable to such vessels on international voyages, coastwise voyages, or Great Lakes voyages. For foreign vessels this section is applicable to such

vessels when bound to a port or place in the United States, or a port or place under the jurisdiction of the United States.

(d) When the arrival is a direct result of "force majeure" and it is not possible to give at least 24 hours advance notice, then advance notice as early as possible will be given.

§ 124.16 *Advance notice of fire or other abnormal condition on arriving vessel.* (a) The master, agent, or person in charge of any domestic or foreign vessel which is bound for a port or place in the United States shall give notice to the Captain of the Port or the Commander of the Coast Guard District in which such port or place is located as early as possible in advance of arrival of any fire or other abnormal condition which may jeopardize the vessel's safety or that of other vessels or facilities in port.

§ 124.20 *Penalties for violations.* Failure to give advance notice will subject the master or agents of a vessel to the penalties of fine and imprisonment, as well as subject the vessel to seizure and forfeiture, as provided in section 2, Title II of the Act of June 15, 1917, as amended, 50 U.S.C. 192. In addition, such failure may result in delay in the movement of the vessel from the harbor entrance to her facility destination within the particular port.

Regulations relating to the Security of Waterfront Facilities—*Identification Credentials for Persons Requiring Access to Waterfront Facilities or Vessels*; Issued May 3, 1956 by authority of Executive Order 10173 as amended (supra), 33 C.F.R. 125.01-125.57:

§ 125.01 *Commandant.* The term "Commandant" means Commandant of the Coast Guard.

§ 125.03 *District Commander.* The term "District Commander" means the officer of the Coast Guard designated by the Commandant to command a Coast Guard District.

§ 125.05 *Captain of the Port.* The term "Captain of the Port" means the officer of the Coast Guard, under the command of a District Commander, so designated by the Commandant for the purpose of giving immediate direction to Coast Guard law enforcement activities within the general proximity of the port in which he is situated.

§ 125.06 *Western rivers.* The term "western rivers" as used in the regulations in this subchapter shall include only the Red River of the North, the Mississippi River and its tributaries above the Huey P. Long Bridge, and that part of the Atchafalaya River above its junction with the Plaquemine-Morgan City alternate waterway.

§ 125.07 *Waterfront facility.* The term "waterfront facility," as used in this subchapter, means all piers, wharves, docks, and similar structures to which vessels may be secured, buildings on such structures or contiguous to them, and equipment and materials on such structures or in such buildings.

§ 125.08 *Great Lakes.* The term "Great Lakes" as used in the regulations in this subchapter shall include the Great Lakes and their connecting and tributary waters.

§ 125.09 *Identification credentials.* The term "Identification credentials," as used in this subchapter, means any of the following:

- (a) Coast Guard Port Security Card (Form CG 2514).
- (b) Merchant Mariner's Document bearing special validation endorsement for emergency service.
- (c) Armed Forces Identification Card.
- (d) Identification credentials issued by Federal Law enforcement and intelligence agencies to their officers and employees (e.g., Department of the Treasury, Department of Justice, Federal Communications Commission).
- (e) Identification credentials issued to public safety officials (e.g., police, firemen) when acting within the scope of their employment.
- (f) Such other identification as may be approved by the Commandant from time to time.

§ 125.11 *Form of Coast Guard Port Security Card.* The Coast Guard Port Security Card issued by the Coast Guard under the provisions of this subchapter shall be a laminated card bearing photograph, signature, fingerprint, and personal description of the holder, and other pertinent data.

§ 125.12 *Period of validity of Coast Guard Port Security Cards.* (a) The Coast Guard Port Security Card (Form CG-2514) shall be valid for a period of eight years from the date of issuance thereof unless sooner suspended or revoked by proper authority. On the first day after eight years from the date of issuance, the Coast Guard Port Security Card (Form CG-2514) is hereby declared invalid and shall be considered null and void for all purposes.

(b) The holder of a Coast Guard Port Security Card, which is about to expire or has expired, may apply for a new Coast Guard Port Security Card in accordance with the procedures set forth in § 125.21. In the event the applicant's Coast Guard Port Security Card has expired, such card shall accompany the application for a new Coast Guard Port Security Card. In the event the applicant is holding a valid Coast Guard Port Security Card at the time he submits his application for a new card, such person shall surrender the old or expired Coast Guard Port Security Card at the time he is issued a new Coast Guard Port Security Card. In the event the old Coast Guard Port Security Card was lost, stolen, or destroyed, then the applicant shall comply with the provisions in § 125.51, regarding the replacement of a lost Coast Guard Port Security Card and the new card issued as a replacement for a lost card which has expired or is about to expire shall bear a current issuance date.

§ 125.13 *Captain of the Port Identification Cards.* Captain of the Port Identification Cards issued under the form designation "Form CG 2514" prior to the revision of August 1950 were declared invalid by a notice published in the FEDERAL REGISTER on September 11, 1946 (11 F.R. 10103), which declaration is hereby reaffirmed.

§ 125.15 *Access to waterfront facilities, and port and harbor areas, including vessels and harbor craft therein.* (a) The Commandant will, from time to time, direct Captains of the Port of certain ports to prevent access to persons who do not possess one or more of the identification credentials listed in § 125.09 to those waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, where the following shipping activities are conducted:

(1) Those vital to the Military Defense Assistance Program.
 (2) Those pertaining to the support of U.S. military operations.

(3) Those pertaining to loading and unloading explosives and other dangerous cargo.

(4) Those essential to the interests of national security and defense, to prevent loss, damage or injury, or to insure that observance of rights and obligations of the United States.

(b) No person who does not possess one of the identification credentials aforesaid shall enter or remain in such facilities, or port or harbor areas, including vessels and harbor craft therein.

(c) The Captain of the Port shall give local public notice of the restriction of access to waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, as far in advance as practicable, and shall cause such facilities and areas to be suitably marked as to such restriction.

§ 125.17 *Persons eligible for Coast Guard Port Security Cards.* (a) Only the following persons may be issued Coast Guard Port Security Cards:

(1) Persons regularly employed on vessels or on waterfront facilities.

(2) Persons having regular public or private business connected with the operation, maintenance, or administration of vessels, their cargoes, or waterfront facilities.

(b) A holder of a Merchant Mariner's Document, Validated for Emergency Service, shall not be issued a Port Security Card, unless he surrenders the Merchant Mariner's Document to the Coast Guard. In this connection, see § 125.09.

§ 125.19 *Standards.* Information concerning an applicant for a Coast Guard Port Security Card, or a holder of such card, which may preclude a determination that his character and habits of life are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, shall relate to the following:

(a) Advocacy of the overthrow or alteration of the Government of the United States by unconstitutional means.

(b) Commission of, or attempts or preparations to commit, an act of espionage, sabotage, sedition or treason, or conspiring with, or aiding or abetting another to commit such an act.

(c) Performing, or attempting to perform, duties or otherwise acting so as to serve the interests of another government to the detriment of the United States.

(d) Deliberate unauthorized disclosure of classified defense information.

(f) Having been adjudged insane, having been legally committed to an insane asylum, or treated for serious mental or neurological disorder, without evidence of cure.

(g) Having been convicted of any of the following offenses, indicative of a criminal tendency potentially dangerous to the security of such waterfront facilities and port and harbor areas, including vessels and harbor craft therein; arson, unlawful trafficking in drugs, espionage, sabotage, or treason.

(h) Drunkenness on the job or addiction to the use of narcotic drugs, without adequate evidence of rehabilitation.

(i) Illegal presence in the United States, its territories or possessions; having been found finally subject to deportation order by the United States Immigration and Naturalization Service.

§ 125.21 *Applications.* (a) (1) Application for a Coast Guard Port Security Card shall be made under oath in writing and shall include applicant's answers in full to inquiries with respect to such matters as are deemed by the Commandant to be pertinent to the standards set forth in § 125.19, and to be necessary for a determination whether the character and habits of life of the applicant are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States.

(2) The application also shall include applicant's complete identification, citizenship record, personal description, military record, if any, and a statement of the applicant's sponsor certifying the applicant's employment or union membership and that applicant's statements are true and correct to the best of sponsor's knowledge.

(3) The application shall be accompanied by two unmounted, dull finish photographs, 1 inch x $1\frac{5}{16}$ inches, of passport type, taken within one year of the date of application. The photograph shall show the full face with the head uncovered and shall be a clear and satisfactory likeness of the applicant. It shall portray the largest image of the head and upper shoulders possible within the dimensions specified.

(4) Fingerprint records on each applicant shall be taken by the Coast Guard at the time application is submitted.

(5) The applicant shall present satisfactory proof of his citizenship.

(6) The applicant shall indicate the address to which his Coast Guard Port Security Card can be delivered to him by mail. Under special circumstances the applicant may arrange to call in person for the Coast Guard Port Security Card.

(7) The applicant shall present his application, in person, to a Coast Guard Port Security Unit designated to receive such applications. Such units will be located in or near each port where Coast Guard Port Security Cards are required. Each Captain of the Port shall forward promptly to the Com-

mandant each application for a Coast Guard Port Security Card received by him.

(b) If an applicant fails or refuses to furnish the required information or to make full and complete answer with respect to all matters of inquiry, the Commandant shall hold in abeyance further consideration of the application, and shall notify the applicant that further action will not be taken unless and until the applicant furnishes the required information and fully and completely answers all inquiries directed to him.

§ 125.23 *United States citizens.* Acceptable evidence of United States citizenship is described in this section in the order of its desirability; however, the Coast Guard will reject any evidence not believed to be authentic:

(a) Birth certificate or certified copy thereof.

(b) Certificate of naturalization. This shall be presented by all persons claiming citizenship through naturalization.

(c) Baptismal certificate or parish record recorded within one year after birth.

(d) Statement of a practicing physician certifying that he attended the birth and that he has a record in his possession showing the date and place of birth.

(e) United States passport.

(f) A commission in one of the armed forces of the United States, either regular or reserve; or satisfactory documentary evidence of having been commissioned in one of the armed forces subsequent to January 1, 1936, provided such commission or evidence shows the holder to be a citizen.

(g) A continuous discharge book, or Merchant Mariner's Document issued by the Coast Guard which shows the holder to be a citizen of the United States.

(h) If an applicant claiming to be a citizen of the United States submits a delayed certificate of birth issued under a State's seal, it may be accepted as prima facie evidence of citizenship if no one of the requirements in paragraphs (a) to (g) of this section can be met by the applicant and in the absence of any collateral facts indicating fraud in its procurement.

(i) If no one of the requirements to paragraph (a) to (h) of this section can be met by the applicant, he should make a statement to that effect, and in an attempt to establish citizenship, he may submit for consideration data of the following character:

(1) Report of the Census Bureau showing the earliest record of age or birth available. Request for such information should be addressed to the Director of the Census, Suitland, Md. 20233. In making such request, definite information must be furnished the Census Bureau as to the place of residence when the first census was taken after the birth of the applicant, giving the name of the street and the number of the house, or other identification of place where living, etc.; also names of parents or the names of other persons with whom residing on the date specified.

(2) School records, immigration records, or insurance policies (the latter must be at least 10 years old).

§ 125.25 *Aliens.* Alien registration records together with other papers and documents which indicated the country of which the applicant is a citizen shall be accepted as evidence of citizenship in a foreign nation.

§ 125.27 *Sponsorship of applicant.* Applications for a Coast Guard Port Security Card shall not be accepted unless sponsored. The applicant shall be sponsored by an authorized official of applicant's employer or by an authorized official of applicant's labor union. Each company and each labor union concerned shall file with the appropriate Captain of the Port a list of officials of the company or union who are authorized to sponsor applicants. Other sponsorship may be accepted where the circumstances warrant.

§ 125.29 *Insufficient information.* (a)(1) If, in the judgment of the Commandant, an application does not contain sufficient information to enable him to satisfy himself that the character and habits of life of the applicant are such to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, the Commandant may require the applicant to furnish, under oath in writing or orally, such further information as he deems pertinent to the standards set forth in § 125.19 and necessary to enable him to make such a determination.

(2) If an applicant fails or refuses to furnish such additional information, the Commandant shall hold in abeyance further consideration of the application, and shall notify the applicant that further action will not be taken unless and until the applicant furnishes such information.

(b) Upon receipt, the application and such further information as the Commandant may have required shall be referred, except in those instances where action on an application is held in abeyance pursuant to § 125.21(b) or to paragraph (a) (2) of this section, to a committee composed of a representative of the Legal Division, of the Merchant Vessel Personnel Division and of the Intelligence Division, Coast Guard Headquarters. The committee shall prepare an analysis of the available information and shall make recommendations for action by the Commandant.

§ 125.31 *Approval of applicant by Commandant.* (a) If the Commandant is satisfied that the character and habits of life of the applicant are not such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would be inimical to the security of the United States, he will direct that a Coast Guard Port Security Card be issued to the applicant.

(b) If the Commandant is not satisfied that the character and habits of life of the applicant are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein,

would not be inimical to the security of the United States, he will notify the applicant in writing as provided for in § 125.35.

§ 125.33 *Holders of Coast Guard Port Security Cards.* (a) Whenever the Commandant is not satisfied that the character and habits of life of a holder of a Coast Guard Port Security Card are such as to warrant the belief that his presence on waterfront facilities and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, he will request the holder to furnish, under oath in writing, such information as he deems pertinent and necessary for a determination on this issue.

(b) If the holder fails or refuses to furnish such information within thirty (30) days after receipt of the Commandant's request, the Commandant may issue the written notice provided for in § 125.35(a).

(c) The holder's failure or refusal to furnish such information shall preclude a determination that the holder's character and habits of life are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States.

(d) Upon receipt of such information as the Commandant may have required, the procedure prescribed in § 125.29(b) shall be followed.

(e) If the Commandant is satisfied that the character and habits of life of the holder are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, he shall notify the holder accordingly.

(f) If the Commandant is not satisfied that the character and habits of life of the holder are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, he shall notify the holder in writing as provided for in § 125.35.

§ 125.35 *Notice by Commandant.* (a) The notice provided for in §§ 125.31 and 125.33 shall contain a statement of the reasons why the Commandant is not satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States. Such notice shall be as specific and detailed as the interests of national security shall permit and shall include pertinent information such as names, dates, and places in such detail as to permit reasonable answer.

(b) The applicant or holder shall have 20 days from the date of receipt of the notice of reasons to file written answer thereto. Such answer may include statements or affidavits by third parties or such other documents or evidence as the applicant or holder deems pertinent to the matters in question.

(c) Upon receipt of such answer the procedure prescribed in § 125.29(b) shall be followed.

(d) If the Commandant is satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, he shall, in the case of an applicant, direct that a Coast Guard Port Security Card be issued to the applicant, or, in the case of a holder, notify him accordingly.

(e) If the Commandant is not satisfied that the applicant's or holder's character and habits of life are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, the Commandant shall refer the matter to a Hearing Board for hearing and recommendation in accordance with the provisions of this part.

§ 125.37 *Hearing Boards.* The Commandant may establish a Hearing Board in each Coast Guard District. The Commandant shall designate for each Hearing Board a Chairman, who shall be, so far as practicable, an officer of the Coast Guard. The Commandant shall designate, so far as practicable, a second member from a panel of persons representing labor named by the Secretary of Labor, and a third member from a panel of persons representing management named by the Secretary of Labor.

§ 125.39 *Notice by Hearing Board.* Whenever the Commandant refers a matter to a Hearing Board, the Chairman shall:

(a) Fix the time and place of the hearing;

(b) Inform the applicant or holder of the names of the members of the Hearing Board, their occupations, and the businesses or organizations with which they are affiliated, of his privilege of challenge, and of the time and place of the hearing;

(c) Inform the applicant or holder of his privilege to appear before the Hearing Board in person or by counsel or representative of his choice, and to present testimonial and documentary evidence in his behalf, and to cross-examine any witnesses appearing before the Board; and

(d) Inform the applicant or holder that if within 10 days after receipt of the notice he does not request an opportunity to appear before the Hearing Board, either in person or by counsel or representative the Hearing Board will proceed without further notice to him.

§ 125.41 *Challenges.* Within five days after receipt of the notice described in § 125.39 the applicant or holder may request disqualification of any member of the Hearing Board on the grounds of personal bias or other cause. The request shall be accompanied by an affidavit setting forth in detail the facts alleged to constitute ground for disqualification. The affidavit may be supplemented by an oral presentation if desired. If after due consideration the Chairman believes a challenged

member is qualified notwithstanding the challenge, he shall notify the person who made the challenge and arrange to proceed with the hearing. If the person who made the challenge takes exception to the ruling of the Chairman, the exception and data relating to the claim of disqualification shall be made a matter of record. If the Chairman finds that there is reasonable ground for disqualification he shall furnish the person who made the challenge with the name of an alternate in lieu of the challenged member and arrange to proceed with the hearing. In the event the Chairman is challenged, he shall forthwith notify the Commandant, furnishing the grounds for the claim of disqualification, and the Commandant shall act upon the challenge in accordance with the foregoing procedure. In addition to the right to challenge for cause, a person who has requested a hearing shall have two preemptory challenges, one challenge for the management member and one challenge for the labor member of the Hearing Board. Should the management member be so challenged, the person who made the challenge may elect to have the management member replaced by another management member or by a member not representing either management or labor; if the member preemptorily challenged represents labor, the person who made the challenge may elect to have the labor member replaced by another labor member or by a member not representing either management or labor.

§ 125.43 *Hearing procedure.* (a) Hearings shall be conducted in an orderly manner and in a serious, businesslike atmosphere of dignity and decorum and shall be expedited as much as possible.

(b) The hearing shall be in open or closed session at the option of the applicant or holder.

(c) Testimony before the Hearing Board shall be given under oath or affirmation.

(d) The Chairman of the Hearing Board shall inform the applicant or holder of his right to:

- (1) Participate in the hearing;
- (2) Be represented by counsel of his choice;
- (3) Present witnesses and offer other evidence in his own behalf and in refutation of the reasons set forth in the Notice of the Commandant; and

(4) Cross-examine any witnesses offered in support of such reasons.

(e) Hearings shall be opened by the reading of the Notice of the Commandant and the answer thereto. Any statement and affidavits filed by the applicant or holder may be incorporated in the record by reference.

(f) The Hearing Board may, in its discretion, invite any person to appear at the hearing and testify. However, the Board shall not be bound by the testimony of such witness by reason of having called him and shall have full right to cross-examine the witness. Every effort shall be made to produce material witnesses to testify in support of the reasons set forth in the Notice of the Commandant, in order that such witnesses

may be confronted and cross-examined by the applicant or holder.

(g) The applicant or holder may introduce such evidence as may be relevant and pertinent. Rules of evidence shall not be binding on the Hearing Board, but reasonable restrictions may be imposed as to the relevancy, competency and materiality of matters considered. If the applicant or holder is, or may be, handicapped by the non-disclosure to him of confidential sources, or by the failure of witnesses to appear, the Hearing Board shall take the fact into consideration.

(h) The applicant or holder or his counsel or representative shall have the right to control the sequence of witnesses called by him.

(i) The Hearing Board shall give due consideration to documentary evidence developed by investigation, including membership cards, petitions bearing the applicant's or holder's signature, books, treatises or articles written by the applicant or holder and testimony by the applicant or holder before duly constituted authority.

(j) Complete verbatim stenographic transcription shall be made of the hearing by qualified reporters and the transcript shall constitute a permanent part of the record. Upon request, the applicant or holder or his counsel or representative shall be furnished, without cost, a copy of the transcript of the hearing.

(k) The Board shall reach its conclusion and base its determination on information presented at the hearing, together with such other information as may have been developed through investigation and inquiries or made available by the applicant or holder.

(l) If the applicant or holder fails, without good cause shown to the satisfaction of the chairman, to appear personally or to be represented before the Hearing Board, the Board shall proceed with consideration of the matter.

(m) The recommendation of the Hearing Board shall be in writing and shall be signed by all members of the Board. The Board shall forward to the Commandant, with its recommendation, a memorandum of reasons in support thereof. Should any member be in disagreement with the majority a dissent should be noted setting forth the reasons therefor. The recommendation of the Board, together with the complete record of the case, shall be sent to the Commandant as expeditiously as possible.

§ 125.45 *Action by Commandant.* (a) If, upon receipt of the Board's recommendation, the Commandant is satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, he shall, in the case of an applicant, direct that a Coast Guard Port Security Card be issued to the applicant, or, in the case of a holder, notify him accordingly.

(b) If, upon receipt of the Board's recommendation, the Commandant is not satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, the Commandant shall:

(1) In the case of an applicant, notify him that a Coast Guard Port Security Card will not be issued to the applicant, or,

(2) In the case of a holder, revoke and require the surrender of his Coast Guard Port Security Card.

(c) Such applicant or holder shall be notified of his right, and shall have 20 days from the receipt of such notice within which, to appeal under this part.

§ 125.47 *Appeals.* (a) The Commandant shall establish at Coast Guard Headquarters, Washington, D.C., an Appeal Board to hear appeals provided for in this part. The Commandant shall designate for the Appeal Board a Chairman, who shall be, so far as practicable, an officer of the Coast Guard. The Commandant shall designate, so far as practicable, a member from a panel of persons representing management nominated by the Secretary of Labor, and a member from a panel of persons representing labor nominated by the Secretary of Labor. The Commandant shall insure that persons designated as Appeal Board members have suitable security clearance. The Chairman of the Appeal Board shall make all arrangements incident to the business of the Appeal Board.

(b) If an applicant or holder appeals to the Appeal Board within 20 days after receipt of notice of his right to appeal under this part, his appeal shall be handled under the same procedure as that specified in § 125.39, and the privilege of challenge may be exercised through the same procedure as that specified in § 125.41.

(c) Appeal Board proceedings shall be conducted in the same manner as that specified in § 125.43.

§ 125.49 *Action by Commandant after appeal.* (a) If, upon receipt of the Appeal Board's recommendation, the Commandant is satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, he shall, in the case of an applicant, direct that a Coast Guard Port Security Card be issued to the applicant, or in the case of a holder, notify him accordingly.

(b) If, upon receipt of the Appeal Board's recommendation, the Commandant is not satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, the Com-

mandant shall notify the applicant or holder that his appeal is denied.

§ 125.51 *Replacement of lost Coast Guard Port Security Card.* (a) Any person whose Coast Guard Port Security Card has been stolen, lost, or destroyed shall report that fact to a Coast Guard Port Security Unit or Captain of the Port as soon thereafter as possible.

(b) A person who has lost a Coast Guard Port Security Card may apply for a replacement card by submitting "An Application for Replacement of Lost Port Security Card" (Form CG 2685A) to a Coast Guard Port Security Unit. A replacement will be issued only after a full explanation of the loss of the Coast Guard Port Security Card is made in writing to the Coast Guard and after a full check is made and authorization is granted by the Commandant.

(c) Any person to whom a Coast Guard Port Security Card has been issued as a replacement for a lost card, shall immediately surrender the original card to the nearest Coast Guard Port Security Unit or Captain of the Port if the original card should be recovered.

§ 125.53 *Requirements for credentials; certain vessels operating on navigable waters of the United States (including the Great Lakes and Western Rivers).* (a) Every person desiring access to vessels, except public vessels, falling within any of the categories listed below, as a master, person in charge, or member of the crew thereof, shall be required to be in possession of one of the identification credentials listed in § 125.09.

(1) Towing vessels, barges, and lighters operating in the navigable waters of the continental United States other than the Great Lakes and Western Rivers.

(2) Harbor craft, such as water taxis, junk boats, garbage disposal boats, bum boats, supply boats, repair boats, and ship cleaning boats, which in the course of their normal operations service or contact vessels, foreign or domestic, public or merchant, in the navigable waters of the continental United States other than the Great Lakes and Western Rivers.

(b) The term "master, person in charge, or member of the crew" shall be deemed to include any person who serves on board in any capacity concerned with the operation, maintenance, or administration of the vessel or its cargo.

(c) Where the Coast Guard Port Security Card (Form CG 2514) is to be used as the identification required by paragraph (a) of this section, application for such card may be made immediately by the persons concerned. The issuance of the Coast Guard Port Security Card shall be in the form and manner prescribed by § 125.11.

(d) At the discretion of the District Commander any person desiring access to vessels of the categories named in this section, who may be required by the provisions hereof to possess identification credentials, may be furnished a letter signed by the District Commander or the Captain of the Port and this letter shall serve in lieu of a Coast Guard Port Security Card and

will authorize such access for a period not to exceed 60 days, and such a letter issued shall be deemed to be satisfactory identification within the meaning of § 125.09. The issuance of the letter shall be subject to the following conditions:

(1) The services of the person are necessary to avoid delay in the operation of the vessel;

(2) The person does not possess one of the identification credentials listed in § 125.09.

(3) The person has filed his application for a Coast Guard Port Security Card or submits his application before the letter is issued; and,

(4) The person has been screened by the District Commander or Captain of the Port and such officer is satisfied concerning the eligibility of the applicant to receive a temporary letter.

§ 125.55 *Outstanding Port Security Card Applications.* A person who has filed an application for a Coast Guard Port Security Card and who did not receive such a document prior to May 1, 1956, shall submit a new application in accordance with the requirements of this part.

§ 125.57 *Applications previously denied.* A person who has been denied a Coast Guard Port Security Card before May 1, 1956, may file a new application for such a document in accordance with the requirements of this part.

Regulations relating to the Security of Waterfront Facilities—*Handling of Explosives or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities*; Issued May 31, 1967 by authority of Executive Order 10173 as amended (*supra*), 33 C.F.R. 126.01–126.37:

§ 126.01 *General definitions.* (a) The terms “Commandant”, “District Commander”, “Captain of the Port”, and “Waterfront Facility” when used in this part shall have the meaning set forth in §§ 6.01–1, 6.01–2, 6.01–3, and 6.01–4, respectively, of Executive Order No. 10173 (15 F.R. 7005, 3 CFR 1950 Supp.), except that the term “waterfront facility” shall not include such a facility directly operated by the Departments of the Army, Navy, or Air Force.

(b) The term “net tons” when used in § 126.27 (b), shall be “net weights” of the materials as prepared for shipment, i.e.: gross weight less tare (weight of packing and shipping containers).

§ 126.05 *Designated waterfront facility.* (a) *Designated waterfront facility.* The term “designated waterfront facility” means a waterfront facility designated by § 126.13 for the handling and storage of, and for vessel loading and discharging of, explosives, flammable or combustible liquids in bulk, or other dangerous articles or cargo covered by the regulations entitled “Explosives or Other Dangerous Articles on Board Vessels” (46 CFR Part 146) and the regulations governing tank vessels (46 CFR Parts 30 to 39, inclusive).

(b) *Facility of particular hazard.* The term “facility of particular hazard” means a designated waterfront facility which

is authorized to handle in bulk quantities any of the commodities listed in § 124.14(b) or any commodity for which a permit is required by 46 CFR Part 146.

§ 126.07 *Dangerous cargo.* The term "dangerous cargo" shall mean all explosives and other dangerous articles or cargo covered by the regulations entitled "Explosives or Other Dangerous Articles on Board Vessels" (46 CFR Part 146) and the regulations governing tank vessels (46 CFR Parts 30 to 39, inclusive).

§ 126.09 *Designated dangerous cargo.* The term "designated dangerous cargo" shall mean explosives (commercial or military), Class A, as classified in 46 CFR Part 146.

§ 126.11 *Waiver authority based on local or unusual conditions.* Whenever the Commandant, the District Commander, or the Captain of the Port shall find that the application of any provision contained in §§ 126.15 and 126.16 is not necessary to the security of the port and vessels and waterfront facilities therein, or that its application is not practical because of local conditions or because the materials or personnel required for compliance are not available, or because the requirements of the national defense justify a departure from such provision, he may waive compliance with such provision to the extent and under such requirements as he may determine.

§ 126.13 *Designation of waterfront facilities.* (a) Waterfront facilities which fulfill the conditions required in § 126.15, unless waived under provisions of § 126.11, and only such waterfront facilities are designated for the handling, storing, stowing, loading, discharging, or transporting of dangerous cargo, subject to compliance with other applicable requirements and provisions set forth in this part.

(b) Handling, storing, stowing, loading, discharging, or transporting dangerous cargo at any waterfront facility other than one designated by this section is hereby prohibited, and violation of this prohibition will subject the violator to the penalties of fine and imprisonment provided in section 2, Title II of the act of June 15, 1917, as amended, 50 U.S.C. 192.

§ 126.15 *Conditions for designation as designated waterfront facility.* The conditions referred to in § 126.13 for designation of a waterfront facility for the purpose of handling, storing, stowing, loading, discharging, or transporting of dangerous cargo shall be as follows:

(a) *Guards.* That guards are provided by the owner or operator of the waterfront facility for the protection thereof in such numbers and of such qualifications as to assure adequate surveillance, prevent unlawful entrance, detect fire hazards, and check the readiness of protective equipment.

(b) *Smoking.* That smoking is prohibited on the waterfront facility except at such portions thereof as may be designated by the owner or operator thereof: *Provided,* That smoking in such areas shall only be permitted in accordance with local ordinances and regulations and that signs are conspicuously posted marking such authorized smoking areas and that "No

Smoking" signs are conspicuously posted elsewhere on the waterfront facility.

(c) *Welding or hot work.* Oxyacetylene or similar welding or burning or other hot work including electric welding or the operation of equipment is prohibited on waterfront facilities or on vessels moored thereto, during the handling, storing, stowing, loading, discharging, or transporting of explosives. Such work may not be conducted on waterfront facilities or vessels moored thereto while either the facility or vessel is handling, storing, stowing, loading, discharging, or transporting dangerous cargo without the specific approval of the Captain of the Port.

(d) *Trucks and other motor vehicles.* That trucks and other motor vehicles are not permitted to remain or park upon the waterfront facility except under the following conditions:

(1) When actually awaiting opportunity to load or discharge cargo, ship supplies, or passengers and is attended by a driver.

(2) When loading or discharging tools, equipment or materials incident to maintenance, repair, or alterations and is attended by a driver.

(3) When the vehicle is headed toward an unimpeded exit and is attended by a driver.

(4) When a vehicle is handled and stored as an item of cargo.

(5) When parking areas are designated and permitted in accordance with local ordinances and regulations and provided no fire lanes are blocked nor exits impeded by their presence, passenger vehicles may be parked in such portions of the waterfront facility as may be designated and marked off by the owner or operator.

(e) *Pier automotive equipment.* That tractors, stackers, lift trucks, hoisters and other equipment driven by internal combustion engines used on the waterfront facility are of such construction and condition and free from excess grease, oil, or lint as not to constitute a fire hazard; that each unit of such equipment is provided with an approved type fire extinguisher attached, except where waterfront facilities are provided with fire extinguishers approved by the Captain of the Port, as being adequate in numbers, type and location for additional protection of pier automotive equipment; that, when not in use, such equipment is stored in a safe manner and location; that gasoline or other fuel used for such equipment is stored and handled in accordance with accepted safe practices and is not stored on the waterfront facility, except in conformity with paragraph (g) of this section; and that refueling of such equipment or any vehicle is prohibited on any pier or wharf within the waterfront facility.

(f) *Rubbish and waste materials.* That the waterfront facility is free from rubbish, debris, and waste materials. Burning rubbish in an open fire on a waterfront facility is prohibited.

(g) *Maintenance stores and supplies.* That supplies classified as dangerous by the provisions of the regulations entitled "Explosives or Other Dangerous Articles on Board Vessels" (46 CFR Part 146), to be used in connection with operation or maintenance of the property or facility are not stored on any pier or wharf within the waterfront facility and are not stored elsewhere on the waterfront facility except in amounts necessary for normal current operating conditions; that such storage is in a compartment remote from combustible material and so constructed as to be readily accessible and provide safe storage; that storage compartments are kept clean and maintained free of scrap materials, empty containers, soiled wiping rags, waste, and other debris; that covered metal containers are provided for storage of used wiping cloths and contents removed at the end of each working day; that clothing lockers are maintained clean and orderly and properly ventilated; and that fire-extinguishing equipment suitable for the type of hazard is readily available.

(h) *Electric wiring.* That new installations of electric wiring and equipment are made in accordance with accepted safe practices (conformity with the requirements of the National Electric Code (current edition) and the requirements of applicable local regulations shall be deemed evidence of compliance with such accepted safe practices); that materials, fittings, and devices are of type and character approved for the intended use by Underwriters Laboratories, Inc., Associated Factory Mutual Laboratories, or United States National Bureau of Standards; that existing electric wiring is maintained in a safe condition, free of defects or modifications which may cause fire or personal injury; that defective or dangerous wiring, equipment, and devices are permanently disconnected from sources of energy.

(i) *Heating equipment and open fires.* That heating equipment is safely installed and maintained in good operating condition; that adequate clearances to prevent undue heating of nearby combustible materials are maintained between heating appliances, chimneys, stove pipes, gas vents, or other heat producing elements, and any combustible materials of the floor, walls, partitions or roofs; that in general, clearances are such that continuous operation of the heat producing device at full capacity will not increase the temperature of nearby woodwork more than 90° above the ambient temperature; that, where necessary to prevent contact with movable combustible materials, heating appliances are enclosed or screened; that spark arresters are provided on chimneys or appliances burning solid fuel used in locations where sparks constitute a hazard to nearby combustible materials. Open fires or fires in barrels, drums, or similar apparatus are prohibited. (As a guide to safe installation of heating equipment, the appropriate chapters of the National Board of Fire Underwriters Building Code (current edition) are recommended.)

(j) *Fire extinguishing equipment.* That fire extinguishing appliances are made available in adequate quantities, locations,

and types; that first aid fire appliances are installed and maintained in accordance with accepted safe practices (conformity with the requirements prescribed in the current "Standards for the Installation, Maintenance and Use of Portable Fire Extinguishers," issued by the National Fire Protection Association, shall be deemed evidence of compliance with such accepted safe practices); that fire extinguishing equipment, fire alarm systems and devices, and fire doors and other safety equipment are maintained in good operating condition at all times; that provision is made so that, when hazards arise which require such precaution, emergency hose lines will be led out and other emergency fire-fighting equipment will be placed immediately adjacent to such hazards.

(k) *Marking of fire appliance locations.* That the locations of all fire appliances, including hydrants, standpipe and hose stations, fire extinguishers, and fire alarm boxes, are conspicuously marked; and that ready accessibility to such appliances is maintained.

(l) *Lighting.* That subject to applicable dimout and blackout regulations, such waterfront facility is adequately illuminated during the handling, storing, stowing, loading, discharging or transporting of dangerous cargo thereon; and that kerosene and gasoline lamps and lanterns are not used on such waterfront facility.

(m) *Arrangement of cargo, freight, merchandise or material.* That cargo, freight, merchandise or material is arranged on the waterfront facility according to the individual structure of such facility, in a manner to permit complete access for the purpose of fire extinguishment; that, except on facilities used primarily for the transfer of railroad or highway vehicles to or from cargo vessels and carfloats; cargo, freight, merchandise or other material is placed on the waterfront facility in accordance with the following:

(1) At least two feet of clear and open space shall be maintained free of rubbish, dunnage, or other obstructions between cargo, freight, merchandise, or other material piles and both sides of the walls of the waterfront facility, fire walls or fire stops in enclosed waterfront facilities. This distance shall be measured from the most prominent projection of the wall such as studding, bracings, or other obstructions that are part of the structure. In an unenclosed facility, 2 feet of clear and open space shall be maintained free of rubbish, dunnage, or other obstructions between cargo, freight, merchandise or other materials and the sides of the pier.

(2) Inflammable or combustible cargo, freight, merchandise or material, not including bulk cargo, shall not be tiered higher than 12 feet. All cargo, freight, merchandise or other materials including inflammable or combustible cargo, freight, merchandise or materials shall be so tiered as to maintain a clearance between the upper level of the top tier and trusses, beams, girders, or other structural members of not less than 36", and between such upper level and sprinkler heads a clearance of at least 12" shall be maintained.

(3) There shall be maintained at least four feet of clear and open operating space around any fire alarm box, stand-pipe, fire hose, sprinkler valve, fire door, deck hatch, or first-aid fire appliance.

(4) When first-aid fire appliances, alarm boxes, other safety equipment or deck hatches are located in a space surrounded by cargo, freight, merchandise, or other materials, there shall be maintained a straight, free, and open space at least three feet in width running therefrom to the center aisle. This space shall be kept clear of all rubbish, dunnage, and other obstruction.

(5) A main aisle of at least twenty feet in width shall be maintained the entire length of the waterfront facility if control of fire requires trucks to come on the pier. The aisle may be reduced to eight feet in width if such access by fire trucks is not required.

(6) Cross aisles, at least five (5) feet wide and straight shall be maintained at intervals not exceeding seventy-five (75) feet, and extending to the side of the waterfront facility.

(n) *Adequacy of guarding, fire extinguishing equipment, and lighting.* That the word "adequate" as used in paragraphs (a), (j), and (l) of this section with respect to guarding, fire extinguishing equipment, and lighting, respectively, means that determination which a reasonable person would make under the circumstances of the particular case. Unless there is gross noncompliance, the judgment and determination of the operator of the facility will be acceptable as fulfilling the requirements unless and until the Captain of the Port inspects the facility and notifies the operator thereof in writing in what respect the guarding, fire extinguishing equipment, or lighting, is deemed inadequate and affords such operator an opportunity to correct the deficiency.

(o) *Control of liquid cargo transfer systems.* When performing bulk liquid and liquefied gas dangerous cargo transfer operations, the waterfront facility cargo transfer system shall be subject to the following conditions:

(1) The cargo transfer system in use shall be under the continuous control and surveillance of the waterfront facility owner or operator or his assigned representative, who shall be considered as the person in charge of the shoreside transfer operation. The person in charge of the shoreside transfer operation must be trained in, and capable of performing competently, the necessary operations which relate to the transfer of the specific cargo. The Captain of the Port shall be furnished satisfactory documentary evidence to this effect.

(2) Prior to the transfer of cargo, the person in charge of the shoreside transfer operation shall insure that the following conditions exist:

(i) Warning signs are displayed on the facility at the point of transfer facing the shoreline, and facing each way along the shoreline, without obstruction, at all times during the coupling, transfer operation, and uncoupling. The warning signs shall conform to 46 CFR 151.45-2(e) (1).

(ii) Proper precautions are taken to insure that no repair work on the transfer system or receiving tanks is carried on during cargo transfer, and that the provisions of paragraph (c) of this section are complied with.

(iii) Where fixed sumps or troughs are not installed, adequate pans or buckets are placed under cargo hose connections during coupling, uncoupling, and cargo transfer.

(iv) Suitable material is used in joints and in couplings when making connections to insure that they are tight and leak free.

(v) Sufficient bolts are used in bolted couplings to prevent leakage.

(vi) That the person in charge of transfer operations on the vessel (including a barge), tank car or tank truck reports ready for transfer of cargo.

(vii) Has in his possession a cargo information card for the specific cargo to be transferred. The information card shall conform to the specifications of 46 CFR 151.45-2(c) (3), and shall list all of the following items:

(a) Cargo identification characteristics.

(b) Emergency procedures.

(c) Fire fighting procedures.

(viii) Obtains a Declaration of Inspection from tank ships and assures himself that the condition of the vessel is as stated in the Declaration of Inspection in accordance with 46 CFR 35.35-30.

(3) When transferring cargo to or from a vessel (including a barge), tank car, or tank truck, the person in charge of the shoreside transfer operation in addition to complying with the provisions of subparagraph (2) of this paragraph shall maintain a means of communications with the person in charge of transfer operations on board the vessel (including a barge) tank car, or tank truck, in order to provide immediate notification to secure the transfer system and cargo flow when necessary. Such communication may be by vocal, visual, or electronic means. If electronic means are used, the equipment shall be suitable for the hazard involved.

(4) The person in charge of the shoreside transfer system shall not start cargo transfer operations or, if started, shall discontinue transfer under any of the following conditions:

(i) During severe electrical storms.

(ii) If a fire occurs on the facility or in the vicinity.

(iii) If a break occurs in the cargo transfer system.

(iv) If requested by the person in charge of the receiving end of the transfer operation.

(5) The person in charge of the shoreside transfer operation shall control the shoreside operation as follows:

(i) When transferring cargo from a facility: .

(a) Supervise the operation of cargo system valves;

(b) Notify the person in charge of the receiving end of the transfer that the facility is ready to start the transfer;

(c) In coordination with the person in charge of the receiving end of the transfer operation, start the transfer of cargo slowly;

(d) Maintain cargo connections to prevent leakage;
 (e) Observe operating pressure in the cargo system; and
 (f) Stand ready to secure the transfer system when necessary or when requested to do so by the person in charge of the receiving end of the transfer operation.

(ii) When transferring cargo from a vessel (including a barge), tank car, or tank truck to the facility:

(a) Supervise the operation of cargo system valves;

(b) Maintain cargo connections to prevent leakage;

(c) Observe rate of flow for the purpose of avoiding overflow of tanks or overload of the transfer system; and

(d) Secure the transfer system only after advising the person in charge of transfer operations aboard the vessel (including a barge), tank car, or tank truck of intent to do so.

(6) When transfer operations are completed, the hoses on the waterfront facility shall be drained and the piping shall be secured to prevent cargo spillings.

(7) Cargo handling equipment shall be maintained in good operating condition at all times.

(i) Cargo hose shall not be used in a transfer operation in which the pressure is such that leakage of cargo occurs through the body of the hose.

(ii) Cargo pump systems shall be tested at least once each year to determine that they function satisfactorily at or below the maximum allowable pressure of the safety relief valves, cargo piping or hose, or maximum pump output pressure.

(iii) Cargo pump pressure gages shall be calibrated at least once a year.

(iv) The cargo hose and piping shall be hydrostatically tested at least once each year to $1\frac{1}{2}$ times its maximum allowable working pressure. The maximum allowable working pressure shall be stenciled on the cargo hoses and piping.

(v) Cargo hose shall not be used with a cargo piping system whose maximum allowable working pressure exceeds that of the hose. The maximum allowable working pressure of a system is defined as the setting of the associated relief valves or the maximum available pressure including hydraulic shock of a system without relief valves.

(vi) Relief valve operation shall be checked at the time of each system hydrostatic test.

(vii) The dates and results of all testing shall be recorded, and made available to the Captain of the Port upon request. Records may be kept in a log book; or on metal tags attached to the apparatus; or by some similar means.

(viii) The escape piping of cargo system relief valves shall return the product to the supply or other suitable receiver.

(ix) At facilities where incompatible cargoes are handled, the hoses and systems shall be suitably marked to specify the allowance products.

(8) In case of emergencies nothing in these regulations shall be construed to prevent the person in charge of the shoreside transfer operation from pursuing the most effective action in his judgment to rectify the conditions causing the emergency.

§ 126.16 *Conditions for designating a "facility of particular hazard."* (a) *Basic requirements.* The facility shall comply with all the conditions in § 126.15 except where specifically waived by § 126.11.

(b) *Warning alarms.* Warning alarms shall be installed at the waterside of such a facility to warn approaching or transiting water traffic of immediate danger in the event of fire or cargo release. Warning alarms shall be of the siren type, or the emergency rotating flashing light type, and be of sufficient intensity to be heard, or seen, a distance of 1 mile during normal facility working conditions. The alarm signal shall not conflict with local municipal prescription.

§ 126.17 *Permits required for handling designated dangerous cargo.* Designated dangerous cargo may be handled, loaded, discharged, or transported at any designated waterfront facility only if a permit therefor has been issued by the Captain of the Port. This permit requirement may be waived, at the discretion of the Captain of the Port, when such cargoes are contained within railroad cars or highway vehicles which are moved on or across a waterfront facility used primarily for the transfer of railroad cars or highway vehicles to or from a railroad or highway vehicle ferry or carfloat; provided such designated cargoes are not removed from, or placed in the railroad car or highway vehicle while it is in or on such waterfront facility.

§ 126.19 *Issuance of permits for handling designated dangerous cargo.* (a) Upon the application of the owners or operators of a designated waterfront facility or of their authorized representatives, the Captain of the Port is authorized to issue a permit for each transaction of handling, loading, discharging, or transporting designated dangerous cargo at such waterfront facility provided the following requirements are met:

(1) The facility shall comply in all respects with the regulations in this subchapter.

(2) The quantity of designated dangerous cargo, except military explosives shipped by or for the Armed Forces of the United States, on the waterfront facility and vessels moored thereto shall not exceed the limits as to maximum quantity, isolation and remoteness established by local, municipal, territorial, or State authorities. Each permit issued under these conditions shall specify that the limits so established shall not be exceeded.

(3) The quantity of designated dangerous cargo consisting of military explosives shipped by or for the Armed Forces of the United States on the waterfront facility and vessels moored thereto shall not exceed the limits as to maximum quantity, isolation and remoteness as established by the Captain of the Port. Each permit issued under these conditions shall specify that the limits so established shall not be exceeded.

§ 126.21 *Permitted transactions.* All permits issued pursuant to § 126.19 are hereby conditioned upon the observance and fulfillment of the following:

(a) The conditions set forth in § 126.15 shall at all times be strictly observed.

(b) No amount of designated dangerous cargo, except military explosives shipped by or for the Armed Forces of the United States, in excess of the maximum quantity established by local, municipal, territorial, or State authorities shall be present on the waterfront facility and vessels moored thereto.

(c) Designated dangerous cargo shall not be brought onto the waterfront facility from shore except when laden within a railroad car or highway vehicle and shall remain in such railroad car or highway vehicle except when removed as an incident of its prompt transshipment. Designated dangerous cargo shall not be brought onto the waterfront facility from a vessel except as an incident of its prompt transshipment by railroad car or highway vehicle.

(d) No other dangerous cargo shall be on the waterfront facility during the period of transactions involving designated dangerous cargo, unless its presence is authorized by the Captain of the Port. This shall not apply to maintenance stores and supplies on the waterfront facility in conformity with § 126.15 (g).

§ 126.23 *Termination or suspension of permits.* Any permit issued pursuant to § 126.19 shall terminate automatically at the conclusion of the transaction for which the permit has been issued and may be terminated, or suspended, prior thereto by the Captain of the Port whenever he deems that the security or safety of the port or vessels or waterfront facilities therein so requires. Confirmation of such termination or suspension by the Captain of the Port shall be given to the permittee in writing.

§ 126.25 *Penalties for handling designated dangerous cargo without permit.* Handling, loading, discharging, or transporting any designated dangerous cargo without a permit, as provided under § 126.17, being in force, will subject persons responsible therefor to the penalties of fine and imprisonment provided in section 2, Title II of the act of June 15, 1917, as amended, 50 U.S.C. 192.

§ 126.27 *General permit for handling dangerous articles or substances.* A general permit is hereby issued for the handling, storing, stowing, loading, discharging or transporting of dangerous articles or substances (other than designated dangerous cargo) in bulk, portable tanks, containers, or packagings, at designated waterfront facilities, conditioned upon the observance and fulfillment of the following:

(a) The conditions set forth in § 126.15 shall at all times be strictly observed.

(b) The following classes of dangerous articles and substances as classified in the regulations entitled "Explosives or Other Dangerous Articles on Board Vessels" (46 CFR Part 146), in the amounts specified, shall not be handled, stored, stowed, loaded, discharged, or transported, except when contained within railroad or highway vehicles being transported across or on waterfront facilities used primarily for the transfer of rail-

road or highway vehicles to or from a railroad car ferry or highway vehicle ferry, or carfloats, without prior notification to the Captain of the Port:

(1) Explosives, Class B, in excess of 1 net ton at any one time.

(2) Explosives, Class C, in excess of 10 net tons at any one time.

(3) Inflammable liquids in excess of 10 net tons at any one time.

(4) Inflammable solids or oxidizing materials, in excess of 100 net tons at any one time.

(5) Inflammable compressed gases, in excess of 10 net tons at any one time.

(6) Poisons (Class A), or radioactive materials, Class D, for which special approval for water transportation is required by the Commandant in 46 CFR 146.25-30. Storage of all Class D radioactive materials shall be so arranged as to preclude a gamma radiation in excess of 200 milliroentgens per hour or physical equivalent at any readily accessible surface.

(7) Bulk shipments of dangerous cargo considered to involve a particular hazard—a specific list of such commodities which by virtue of their properties would create unusual hazard if released, is found in § 124.14(b) (1) of this chapter.

(c) Explosives or other dangerous articles prohibited from or not permitted transportation by 46 CFR Part 146 shall not be present on the waterfront facility.

(d) Inflammable liquids and compressed gases shall be so handled and stored as to provide maximum separation between articles consisting of acids, corrosive liquids, or combustible materials. Storage for inflammable solids or oxidizing materials shall be so arranged as to prevent moisture coming in contact therewith.

(e) Acids and corrosive liquids shall be so handled and stored as to prevent such acids and liquids, in event of leakage, from contacting any organic materials.

(f) Poisonous gases, poisonous liquids, and poisonous solids shall be so handled and stored as to prevent their contact with acids, corrosive liquids, inflammable liquids or inflammable solids.

(g) Dangerous articles and substances which may be stored on the waterfront facility shall be arranged in such manner as to retard the spread of fire. This may be accomplished by interspersing piles of dangerous articles with piles of inert or less combustible materials.

(h) All dangerous articles and substances stored on the waterfront facility shall be packaged, marked, and labeled in accordance with 46 CFR Part 146.

§ 126.28 *Ammonium nitrate, ammonium nitrate fertilizers, fertilizer mixtures, or nitro carbo nitrate; general provisions.*

(a) When any item of ammonium nitrate, ammonium nitrate fertilizers, fertilizer mixtures, or nitro carbo nitrate, described and defined as an oxidizing material by the regulations of 46 CFR 146.22, is handled, stored, stowed, loaded, discharged or transported on a waterfront facility, the following provisions shall apply:

(1) All outside containers shall be marked with the proper shipping name of the nitrate packed within the container.

(2) The building on a waterfront facility used for storage of any of these materials shall be of such construction as to afford good ventilation.

(3) Storage of any of these materials shall be at a safe distance from electric wiring, steam pipes, radiators or any heating mechanism.

(4) These materials shall be separated by a fire resistant wall or by a distance of at least 30 feet from organic materials or other chemicals and substances which could cause contamination such as flammable liquids, combustible liquids, corrosive liquids, chlorates, permanganates, finely divided metals, caustic soda, charcoal, sulfur, cotton, coal, fats, fish oils or vegetable oils.

(5) Storage of any of these materials shall be in a clean area upon clean wood dunnage, or on pallets over a clean floor. In the case of a concrete floor, storage may be made directly on the floor if it is first covered with a moisture barrier such as a polyethylene sheet or asphaltic laminated paper.

(6) Any spilled material shall be promptly and thoroughly cleaned up and removed from the waterfront facility. If any spilled material has remained in contact with a wooden floor for any length of time the floor shall be scrubbed with water and all spilled material shall be thoroughly dissolved and flushed away.

(7) An abundance of water for fire fighting shall be readily available.

(8) Such open drains, traps, pits, or pockets shall be eliminated or plugged as in case of fire could be filled with molten ammonium nitrate (and thus become potential detonators for the storage piles).

§ 126.29 *Supervision and control of dangerous cargo.* (a) *Authority.* The Captain of the Port is authorized to require that any transaction of handling, storing, stowing, loading, discharging, or transporting the dangerous cargo covered by this subchapter shall be undertaken and continued only under the immediate supervision and control of the Captain of the Port or his duly authorized representative. In case the Captain of the Port exercises such authority, all directions, instructions, and orders of the Captain of the Port or his representative, not inconsistent with this part, with respect to such handling, storing, stowing, loading, discharging, and transporting; with respect to the operation of the waterfront facility; with respect to vessels handling, stowing, loading, or discharging of dangerous cargo at anchorages when the operations are under the immediate control and supervision of the Captain of the Port or his duly authorized representative; with respect to the ingress and egress of persons, articles, and things and to their presence on the waterfront facility or vessel; and with respect to vessels approaching, moored at, and departing from the waterfront facility, shall be promptly obeyed.

(b) *Reporting discharge of dangerous liquid commodities into the waters of the United States.* To enhance the safety of

the port and to protect vessels, their cargo, and waterfront facilities therein, the discharge into the navigable waters of the United States of petroleum products, petroleum byproducts or other dangerous liquid commodities which may create a hazard or toxic condition in the port area will be immediately reported to the Captain of the Port or District Commander by the owner or master of the vessel from which the discharge occurred, or the owner or operator of a waterfront facility from which the discharge occurred.

§ 126.31 *Termination or suspension of general permit.* The Captain of the Port is hereby authorized to terminate or to suspend the general permit granted by § 126.27 in respect to any particular designated waterfront facility whenever he deems that the security or safety of the port or vessels or waterfront facilities therein so requires. Confirmation of such termination or suspension shall be given to the permittee in writing. After such termination, the general permit may be revived by the District Commander with respect to such particular waterfront facility upon a finding by him that the cause of termination no longer exists and is unlikely to recur. After such suspension, the general permit shall be revived by the Captain of the Port with respect to such particular waterfront facility when the cause of suspension no longer exists, and he shall so advise the permittee in writing.

§ 126.33 *Penalties for handling dangerous cargo without permit.* Handling, storing, stowing, loading, discharging, or transporting any dangerous cargo covered by § 126.27 under circumstances not covered by the general permit granted in § 126.27 or when such general permit is not in force will subject persons responsible therefor to the penalties of fine and imprisonment provided in section 2, Title II of the act of June 15, 1917, as amended, 50 U.S.C. 192.

§ 126.35 *Primary responsibility.* Nothing contained in the rules, regulations, conditions, and designations in this part shall be construed as relieving the masters, owners, operators, and agents of vessels, docks, piers, wharves, or other waterfront facilities from their primary responsibility for the security of such vessels, docks, piers, wharves, or waterfront facilities.

§ 126.37 *Separability.* If any provision of the rules, regulations, conditions, or designations contained in this part or the application of such provision to any person, waterfront facility, or circumstances shall be held invalid, the validity of the remainder of the rules, regulations, conditions, or designations contained in this part and applicability of such provision to other persons, waterfront facilities, or circumstances, shall not be affected thereby.

Regulations Relating to the Safeguarding of Vessels, Harbors, Ports, and Waterfront Facilities in the Canal Zone: Executive Order 10226 of March 23, 1951 (16 F.R. 2673).

By virtue of the authority vested in me by Public Law 679, 81st Congress, 2d Session, approved August 9, 1950, which amended section 1, Title II of the act of June 15, 1917, 40 Stat. 220 (50 U.S.C. 191), and as President of the United States, I hereby find that the security of the United States is endan-

gered by reason of subversive activity, and I hereby prescribe the following regulations relating to the safeguarding against destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of similar nature, of vessels, harbors, ports, and waterfront facilities in the Canal Zone, and all territory and water in the Canal Zone, and the said regulations shall constitute Part 19, Title 35 of the Code of Federal Regulations; and all agencies and authorities of the Government of the United States shall, and all persons are urged to, support, conform to, and assist in the enforcement of these regulations and all supplemental regulations issued pursuant thereto:

§ 129.1 *Definition.* As used in this part, "waterfront facility" means all piers, wharves, docks, Canal locks, and similar structures to which vessels may be secured, buildings on such structures or contiguous to them, and equipment and material on such structures or in such buildings.

§ 129.2 *Enforcement.* This part shall be enforced by the Government through such officers, employees, or agencies as he designates.

§ 129.3 *Preventing access of persons, articles or things to vessels or waterfront facilities.* The Governor may prevent a person, article or thing from boarding or being taken on board a vessel or entering or being taken into a waterfront facility when he deems that the presence of the person, article or thing would be inimical to the purposes set forth in § 129.5.

§ 129.4 *Visitation and search.* The Governor may cause to be inspected and searched at any time a vessel or waterfront facility or a person, article or thing thereon, within the Canal Zone, may place guards upon any such vessel and waterfront facility and may remove therefrom any or all persons, articles or things not specifically authorized by him to go or to remain thereon.

§ 129.5 *Possession and control of vessels.* The Governor may supervise and control the movement of any vessel and shall take full or partial possession or control of any vessel or any part thereof, within the Canal Zone whenever it appears to him that such action is necessary in order to secure such vessel from damage or injury, or to prevent damage or injury to any vessel or waterfront facility or waters of the Canal Zone, or to secure the observance of rights and obligations of the United States.

§ 129.6 *Assistance of other agencies.* The Governor may enlist the aid and cooperation of Federal and private agencies to assist in the enforcement of the regulations of this part and of all orders issued, and actions taken, under this part.

SUBPART B—IDENTIFICATION AND EXCLUSION OF PERSONS FROM VESSELS AND WATERFRONT FACILITIES

§ 129.41 *Access to vessels and waterfront facilities.* A person on board a vessel or person seeking access to a vessel or a waterfront facility within the Canal Zone may be required to

carry identification credentials issued by or otherwise satisfactory to the Governor. The Governor may define and designate those categories of vessels and areas of the waterfront wherein such credentials are required.

§ 129.42 *Identification credentials.* The identification credential to be used by the Governor shall be known as the Canal Zone Port Security Card, and the form of the credential, and the conditions and the manner of its issuance shall be as prescribed by the Governor. The Governor may not issue a Canal Zone Port Security Card if he is satisfied that the character and habits of life of the applicant therefor are such as to authorize the belief that the presence of the individual on board a vessel or within a waterfront facility would be inimical to the security of the United States. The Governor shall revoke and require the surrender of a Canal Zone Port Security Card when he is no longer satisfied that the holder is entitled thereto. The Governor may recognize for the same purpose such other credentials as he may designate in lieu of the Canal Zone Port Security Card.

§ 129.43 *Appeals.* Persons who are refused employment or who are refused the issuance of documents or who are required to surrender such documents, under this part, have the right of appeal, and the Governor shall appoint a Board for acting on such appeals. The Board shall, so far as practicable, include one member drawn from management, and one member drawn from labor. The Board shall consider each appeal brought before it and, in recommending final action to the Governor, shall insure the appellant all fairness consistent with the safeguarding of the national security.

SUBPART C—SUPERVISION AND CONTROL OF EXPLOSIVES OR OTHER DANGEROUS CARGO

§ 129.81 *General supervision and control.* The Governor may supervise and control the transportation, handling, loading, discharging, stowage, or storage of explosives, flammable or combustible liquids in bulk, or other dangerous articles or cargo covered by the provisions in Part 113 of this chapter.

§ 129.82 *Approval of facility for dangerous cargo.* The Governor may designate waterfront facilities for the handling and storage of, and for vessel loading and discharging of explosives, flammable or combustible liquids in bulk, or other dangerous articles or cargo covered by the regulations referred to in § 129.81, and may require the owners, operators, masters, and others concerned to secure permits for handling, storage, loading, and unloading from the Governor, conditioned upon the fulfillment of such requirements for the safeguarding of such waterfront facilities and vessels as the Governor prescribes.

SUBPART D—SABOTAGE AND SUBVERSIVE ACTIVITY

§ 129.121 *Reporting of sabotage and subversive activity.* Evidence of sabotage or subversive activity involving or endangering any vessel, harbor, port, or waterfront facility shall be reported immediately to the Governor or his representatives.

§ 129.122 *Precautions against sabotage.* The master, owner, agent, or operator of a vessel or waterfront facility shall take all necessary precautions to protect the vessel, waterfront facility, and cargo from sabotage.

SUBPART E—PENALTIES

§ 129.161 *Penalties for violations.* Section 2 Title II of the act of June 15, 1917, as amended, 50 U.S.C. 192, provides as follows:

If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this title [title II of 1917 Act], or obstructs or interferes with the exercise of any power conferred by this title, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws; and the person guilty of such failure, obstruction, or interference shall be punished by imprisonment for not more than ten years and may, in the discretion of the court, be fined not more than \$10,000.

(a) If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this title, or knowingly obstructs or interferes with the exercise of any power conferred by this title, he shall be punished by imprisonment for not more than ten years and may, at the discretion of the court, be fined not more than \$10,000.

VESSELS—SEIZURE

Act of June 15, 1917 (40 Stat. 220, Title II, sec. 2) as amended by Act of March 28, 1940 (54 Stat. 79, sec. 3(a)), by Act of November 15, 1941 (55 Stat. 763, sec. 3), and by Act of August 9, 1950 (64 Stat. 428, sec. 3; 50 U.S.C. 192)—*Seizure and Forfeiture of Vessels for Failure to Observe Regulations:*

If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or obstructs or interferes with the exercise of any power conferred by this chapter, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws; and the person guilty of such failure, obstruction, or interference shall be punished by imprisonment for not more than ten years and may, in the discretion of the court, be fined not more than \$10,000.

(a) If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions

of this chapter, or knowingly obstructs or interferes with the exercise of any power conferred by this chapter, he shall be punished by imprisonment for not more than ten years and may, at the discretion of the court, be fined not more than \$10,000.

ILLEGAL EXPORTATION OF WAR MATERIALS

Act of June 15, 1917 (40 Stat. 223, Title VI § 1), as amended by Act of June 17, 1930 (46 Stat. 740, Title IV § 523), and by Act of August 13, 1953 (67 Stat. 577, ch. 434; 22 U.S.C. § 401)—*Seizure and forfeiture*:

(a) Whenever an attempt is made to export or ship from or take out of the United States any arms or munitions of war or other articles in violation of law, or whenever it is known or there shall be probable cause to believe that any arms or munitions of war or other articles are intended to be or are being or have been exported or removed from the United States in violation of law, the Secretary of the Treasury, or any person duly authorized for the purpose by the President, may seize and detain such arms or munitions of war or other articles and may seize and detain any vessel, vehicle, or aircraft containing the same or which has been or is being used in exporting or attempting to export such arms or munitions of war or other articles. All arms or munitions of war and other articles, vessels, vehicles, and aircraft seized pursuant to this subsection shall be forfeited.

(b) All provisions of law relating to seizure, summary and judicial forfeiture and condemnation for violation of the customs laws, the disposition of the property forfeited or condemned or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions hereof. Awards of compensation to informers under this section may be paid only out of funds specifically appropriated therefor.

(c) Arms and munitions of war forfeited under subsection (b) of this section shall be delivered to the Secretary of Defense for such use or disposition as he may deem in the public interest, or, in the event that the Secretary of Defense refuses to accept such arms and munitions of war, they shall be sold or otherwise disposed of as prescribed under existing law in the case of forfeitures for violation of the customs laws.

Executive Order 10863 of February 19, 1960 (25 FR 1507)—*Authorizing the Attorney General to seize arms and munitions of war, and other articles, pursuant to section 1 of Title VI of the Act of June 15, 1917, as amended*:

By virtue of the authority vested in me by section 1 of Title VI of the act of June 15, 1917, 40 Stat. 223, as amended by section 1 of the act of August 13, 1953, 67 Stat. 577 (22 U.S.C. 401), it is ordered as follows:

SECTION 1. The Attorney General is hereby designated under section 1 of Title VI of the act of June 15, 1917, as amended by section 1 of the act of August 13, 1953, as a person duly authorized to seize and detain arms or munitions of war or other articles, and to seize and detain any vessel, vehicle, or aircraft containing such items or which has been, or is being, used in exporting or attempting to export such arms or munitions of war or other articles, whenever an attempt is made to export or ship from or take out of the United States such arms or munitions of war or other articles in violation of law, or whenever it is known, or there is probable cause to believe, that such arms or munitions of war or other articles are intended to be, or are being or have been, exported or removed from the United States in violation of law.

SEC. 2. The authority conferred upon the Attorney General by section 1 of this order may be exercised by any officer of the Department of Justice designated for such purpose by the Attorney General.

TRADING WITH THE ENEMY

Act of October 6, 1917 (40 Stat. 412, § 3; 50 App. U.S.C. 3)—
Trading With the Enemy Act: It shall be unlawful—

(a) For any person in the United States, except with the license of the President, granted to such person, or to the enemy, or ally of enemy, as provided in this Act [sections 1-6 and 7-39 of this Appendix], to trade, or attempt to trade, either directly or indirectly, with, to, or from, or for, or on account of, or on behalf of, or for the benefit of, any other person, with knowledge or reasonable cause to believe that such other person is an enemy or ally of enemy, or is conducting or taking part in such trade, directly or indirectly, for, or on account of, or on behalf of, or for the benefit of, an enemy or ally of enemy.

(b) For any person, except with the license of the President, to transport or attempt to transport into or from the United States, or for any owner, master, or other person in charge of a vessel of American registry to transport or attempt to transport from any place to any other place, any subject or citizen of an enemy or ally of enemy nation, with knowledge or reasonable cause to believe that the person transported or attempted to be transported is such subject or citizen.

(c) For any person (other than a person in the service of the United States Government or of the Government of any nation, except that of an enemy or ally of enemy nation, and other than such persons or classes of persons as may be exempted hereunder by the President or by such person as he may direct), to send, or take out of, or bring into, or attempt to send, or take out of, or bring into the United States, any letter or other writing or tangible form of communication, except in the regular course of the mail; and it shall be unlawful for any person to send, take, or transmit, or attempt to send, take, or transmit out of the United States, any letter

or other writing, book, map, plan, or other paper, picture, or any telegram, cablegram, or wireless message, or other form of communication intended for or to be delivered, directly or indirectly, to an enemy or ally of enemy: *Provided, however,* That any person may send, take, or transmit out of the United States anything herein forbidden if he shall first submit the same to the President, or to such officer as the President may direct, and shall obtain the license or consent of the President, under such rules and regulations, and with such exemptions, as shall be prescribed by the President.

(d) Whenever, during the present war, the President shall deem that the public safety demands it, he may cause to be censored under such rules and regulations as he may from time to time establish communications by mail, cable, radio, or other means of transmission passing between the United States and any foreign country he may from time to time specify, or which may be carried by any vessel or other means of transportation touching at any port, place, or territory of the United States and bound to or from any foreign country. Any person who willfully evades or attempts to evade the submission of any such communication to such censorship or willfully uses or attempts to use any code or other device for the purpose of concealing from such censorship the intended meaning of such communication shall be published as provided in section sixteen of this Act [section 16 of this Appendix].

ALIEN ENEMIES

Act of April 16, 1918 (40 Stat. 531, c. 55)—*Removal of Alien Enemies in Time of War*—See R.S. 4067, above, at p. 20.

THE EQUAL EMPLOYMENT OPPORTUNITY ACT—EXEMPTION OF CERTAIN INDIVIDUALS FROM COVERAGE

Act of July 2, 1964 (78 Stat. 255 Sec. 703); 42 U.S.C. 2000e-2—*Unlawful employment practices:*

(f) *Members of Communist Party or Communist-action or Communist-front organizations.* As used in this subchapter, the phrase "unlawful employment practice" shall not be deemed to include any action or measure taken by an employer, labor organization, joint labor-management committee, or employment agency with respect to an individual who is a member of the Communist Party of the United States or of any other organization required to register as a Communist-action or Communist-front organization by final order of the Subversive Activities Control Board pursuant to the Subversive Activities Control Act of 1950.

(g) *National security.* Notwithstanding any other provision of this subchapter, it shall not be an unlawful employment practice for an employer to fail or refuse to hire and employ any individual for any position, for an employer to discharge any individual from any position, or for an employment agency to fail or refuse to refer any individual for employment in

any position, or for a labor organization to fail or refuse to refer any individual for employment in any position, if—

(1) the occupancy of such position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute of the United States or any Executive order of the President; and

(2) such individual has not fulfilled or has ceased to fulfill that requirement.

PASSPORTS

AUTHORITY TO GRANT

Act of July 3, 1926 (44 Stat. 887, c. 772 § 1; 22 U.S.C. 211a)—*Authority to grant, issue and verify passports:*

The Secretary of State may grant and issue passports, and cause passports to be granted, issued, and verified in foreign countries by diplomatic representatives of the United States, and by such consul generals, consuls, or vice consuls when in charge, as the Secretary of State may designate, and by the chief or other executive officer of the insular possessions of the United States, under such rules as the President shall designate and prescribe for and on behalf of the United States, and no other person shall grant, issue, or verify such passports.

Executive Order 11295 of August 5, 1965 (31 FR 10603)—*Rules Governing Granting, Issuing, and Verifying of Passports*

By virtue of the authority vested in me by Section 301 or Title 3 of the United States Code [section 301 of Title 3, The President], and as President of the United States, it is ordered as follows:

SECTION 1. *Delegation of authority.* The Secretary of State is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority conferred upon the President by the first Section of the Act of July 3, 1926 (22 U.S.C. 211a) [this section], to designate and prescribe for and on behalf of the United States rules governing the granting, issuing, and verifying of passports.

SEC. 2. *Superseded orders.* Subject to Section 3 of this order, the following are hereby superseded:

(1) Executive Order No. 7856 of March 31, 1938, entitled "Rules Governing the Granting and Issuing of Passports in the United States."

(2) Executive Order No. 8820 of July 11, 1941, entitled "Amending the Foreign Service Regulations of the United States."

SEC. 3. *Saving provisions.* All rules and regulations contained in the Executive order provisions revoked by Section 2 of this order, and all rules and regulations issued

under the authority of those provisions, which are in force at the time of the issuance of this order shall remain in full force and effect until revoked, or except as they may be hereafter amended or modified, in pursuance of the authority conferred by this order, unless sooner terminated by operation of law.

DENIAL OF PASSPORTS TO MEMBERS OF COMMUNIST ORGANIZATIONS

Act of September 23, 1950 (64 Stat. 993, c. 1024 § 6; 50 U.S.C. 785)—
Subversive Activities Control Act:

(a) When a Communist organization as defined in paragraph (5) of section 782 of this [code] title is registered, or there is in effect a final order of the Board requiring such organization to register, it shall be unlawful for any member of such organization, with knowledge or notice that such organization is so registered or that such order has become final—

(1) to make application for a passport, or the renewal of a passport, to be issued or renewed by or under the authority of the United States; or

(2) to use or attempt to use any such passport.

(b) When an organization is registered, or there is in effect a final order of the Board requiring an organization to register, as a Communist-action organization, it shall be unlawful for any officer or employee of the United States to issue a passport to, or renew the passport of, any individual knowing or having reason to believe that such individual is a member of such organization.²

TRAVEL CONTROL DURING WAR OR NATIONAL EMERGENCY

Act of June 27, 1952 (66 Stat. 190 c. 477 § 215; 8 U.S.C. 1185)—
The Immigration and Nationality Act:

(a) When the United States is at war or during the existence of any national emergency proclaimed by the President, or, as to aliens, whenever there exists a state of war between or among two or more states, and the President shall find that the interests of the United States require that restrictions and prohibitions in addition to those provided otherwise than by this section be imposed upon the departure of persons from and their entry into the United States, and shall make public proclamation thereof, it shall, until otherwise ordered by the President or the Congress, be unlawful—

(1) for any alien to depart from or enter or attempt to depart from or enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President may prescribe;

(2) for any person to transport or attempt to transport from or into the United States another person with knowl-

²Section 6 of the Subversive Activities Control Act of 1950, 64 Stat. 993, 50 U.S.C. 785, too broadly and indiscriminately restricts the right to travel and thereby abridges the liberty guaranteed in the Due Process Clause of the Fifth Amendment. *Aptheker v. Secretary of State*, 378 U.S. 500, 505 (1964).

edge or reasonable cause to believe that the departure or entry of such other person is forbidden by this section;

(3) for any person knowingly to make any false statement in an application for permission to depart from or enter the United States with intent to induce or secure the granting of such permission either for himself or for another;

(4) for any person knowingly to furnish or attempt to furnish or assist in furnishing to another a permit or evidence of permission to depart or enter not issued and designed for such other person's use;

(5) for any person knowingly to use or attempt to use any permit or evidence of permission to depart or enter not issued and designed for his use;

(6) for any person to forge, counterfeit, mutilate, or alter, or cause or procure to be forged, counterfeited, mutilated, or altered, any permit or evidence of permission to depart from or enter the United States;

(7) for any person knowingly to use or attempt to use or furnish to another for use any false, forged, counterfeited, mutilated, or altered permit, or evidence of permission which, though originally valid, has become or been made void or invalid.

CITIZENS

(b) After such proclamation as is provided for in subsection (a) of this section has been made and published and while such proclamation is in force, it shall, except as otherwise provided by the President, and subject to such limitations and exceptions as the President may authorize and prescribe, be unlawful for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States unless he bears a valid passport.

PENALTIES

(c) Any person who shall willfully violate any of the provisions of this section, or of any order or proclamation of the President promulgated, or of any permit, rule, or regulation issued thereunder, shall, upon conviction, be fined not more than \$5,000, or, if a natural person, imprisoned for not more than five years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by like fine or imprisonment, or both; and any vehicle, vessel, or aircraft together with its appurtenances, equipment, tackle, apparel, and furniture, concerned in any such violation, shall be forfeited to the United States.

DEFINITIONS

(d) The term "United States" as used in this section includes the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States. The

term "person" as used in this section shall be deemed to mean any individual, partnership, association, company, or other incorporated body of individuals, or corporation, or body politic.

NONADMISSION OF CERTAIN ALIENS

(e) Nothing in this section shall be construed to entitle an alien to whom a permit to enter the United States has been issued to enter the United States, if, upon arrival in the United States, he is found to be inadmissible under any of the provisions of this chapter, or any other law, relative to the entry of aliens into the United States.

REVOCATION OF PROCLAMATION AS AFFECTING PENALTIES

(f) The revocation of any proclamation, rule, regulation, or order issued in pursuance of this section shall not prevent prosecution for any offense committed, or the imposition of any penalties or forfeitures, liability for which was incurred under this section prior to the revocation of such proclamation, rule, regulation, or order.

PERMITS TO ENTER

(g) Passports, visas, reentry permits, and other documents required for entry under this chapter may be considered as permits to enter for the purposes of this section.

REGULATIONS OF THE SECRETARY OF STATE—CONTROL OF ALIENS DEPARTING FROM THE COUNTRY

Issued December 27, 1957, and amended April 11, 1961 and February 14, 1962 by authority of the Act of June 27, 1952 (66 Stat. 174, 190, §§ 104, 215; 5 U.S.C. 1104, 1185) [22 C.F.R. §§ 46.1 to 46.7].

§ 46.1 *Definitions.* For the purposes of this part:

(a) The term "alien" means any person who is not a citizen or national of the United States.

(b) The term "Commissioner" means the Commissioner of Immigration and Naturalization.

(c) The term "regional commissioner" means an officer of the Immigration and Naturalization Service duly appointed or designated as a regional commissioner, or an officer who has been designated to act as a regional commissioner.

(d) The term "district director" means an officer of the Immigration and Naturalization Service duly appointed or designated as a district director, or an officer who has been designated to act as a district director.

(e) The term "United States" means the several States, the District of Columbia, the Canal Zone, Puerto Rico, the Virgin Islands, Guam, American Samoa, Swains Island, the Trust Territory of the Pacific Islands, and all other territory and waters, continental and insular, subject to the jurisdiction of the United States.

(f) The term "continental United States" means the District of Columbia and the several States, except Alaska and Hawaii.

(g) The term "geographical part of the United States" means (1) the continental United States, (2) Alaska, (3) Hawaii, (4) Puerto Rico, (5) the Virgin Islands, (6) Guam, (7) the Canal Zone, (8) American Samoa, (9) Swains Island, or (10) the Trust Territory of the Pacific Islands.

(h) The term "depart from the United States" means depart by land, water, or air (1) from the United States for any foreign place, or (2) from one geographical part of the United States for a separate geographical part of the United States: *Provided*, That a trip or journey upon a public ferry, passenger vessel sailing coastwise on a fixed schedule, excursion vessel, or aircraft, having both termini in the continental United States or in any one of the other geographical parts of the United States and not touching any territory or waters under the jurisdiction or control of a foreign power, shall not be deemed a departure from the United States.

(i) The term "departure-control officer" means any immigration officer as defined in the regulations of the Immigration and Naturalization Service who is designated to supervise the departure of aliens, or any officer or employee of the United States designated by the Governor of the Canal Zone, the High Commissioner of the Trust Territory of the Pacific Islands, or the governor of an outlying possession of the United States, to supervise the departure of aliens.

(j) The term "port of departure" means a port in the continental United States, Alaska, Guam, Hawaii, Puerto Rico or the Virgin Islands, designated as a port of entry by the Attorney General or by the Commissioner, or in exceptional circumstances such other place as the departure-control officer may, in his discretion, designate in an individual case, or a port in American Samoa, Swains Island, the Canal Zone, or the Trust Territory of the Pacific Islands, designated as a port of entry by the chief executive officer thereof.

(k) The term "special inquiry officer" shall have the meaning ascribed thereto in section 101(b)(4) of the Immigration and Nationality Act.

§ 46.2 *Authority of departure-control officer to prevent alien's departure from the United States.* (a) No alien shall depart, or attempt to depart, from the United States if his departure would be prejudicial to the interests of the United States under the provisions of § 46.3. Any departure-control officer who knows or has reason to believe that the case of an alien in the United States comes within the provisions of § 46.3 shall temporarily prevent the departure of such alien from the United States and shall serve him with a written temporary order directing him not to depart, or attempt to depart, from the United States until notified of the revocation of the order.

(b) The written order temporarily preventing an alien, other than an enemy alien, from departing from the United States

shall become final 15 days after the date of service thereof upon the alien, unless prior thereto the alien requests a hearing as hereinafter provided. At such time as the alien is served with an order temporarily preventing his departure from the United States, he shall be notified in writing concerning the provisions of this paragraph, and shall be advised of his right to request a hearing if entitled thereto under § 46.4. In the case of an enemy alien, the written order preventing departure shall become final on the date of its service upon the alien.

(c) Any alien who seeks to depart from the United States may be required, in the discretion of the departure-control officer, to be examined under oath and to submit for official inspection all documents, articles, and other property in his possession which are being removed from the United States upon, or in connection with, the alien's departure. The departure-control officer shall temporarily prevent the departure of any alien who refuses to submit to such examination or inspection, and may, if necessary to the enforcement of this requirement, take possession of the alien's passport or other travel document.

§ 46.3 *Aliens whose departure is deemed prejudicial to the interests of the United States.* The departure from the United States of any alien within one or more of the following categories shall be deemed prejudicial to the interest of the United States:

(a) Any alien who is in possession of, and who is believed likely to disclose to unauthorized persons, information concerning the plans, preparations, equipment, or establishments for the national defense and security of the United States.

(b) Any alien who seeks to depart from the United States to engage in, or who is likely to engage in, activities of any kind designed to obstruct, impede, retard, delay or counteract the effectiveness of the national defense of the United States or the measures adopted by the United States or the United Nations for the defense of any other country.

(c) Any alien who seeks to depart from the United States to engage in, or who is likely to engage in, activities which would obstruct, impede, retard, delay, or counteract the effectiveness of any plans made or action taken by any country cooperating with the United States in measures adopted to promote the peace, defense, or safety of the United States or such other country.

(d) Any alien who seeks to depart from the United States for the purpose of organizing, directing, or participating in any rebellion, insurrection, or violent uprising in or against the United States or a country allied with the United States, or of waging war against the United States or its allies, or of destroying, or depriving the United States of sources of supplies or materials vital to the national defense of the United States, or to the effectiveness of the measures adopted by the United States for its defense, or for the defense of any other country allied with the United States.

(e) Any alien who is subject to registration for training and service in the Armed Forces of the United States and who

fails to present a Registration Certificate (SSS Form No. 2) showing that he has complied with his obligation to register under the Universal Military Training and Service Act, as amended.

(f) Any alien who is a fugitive from justice on account of an offense punishable in the United States.

(g) Any alien who is needed in the United States as a witness in, or as a party to, any criminal case under investigation or pending in a court in the United States: *Provided*, That any alien who is a witness in, or a party to, any criminal case pending in any criminal court proceeding may be permitted to depart from the United States with the consent of the appropriate prosecuting authority, unless such alien is otherwise prohibited from departing under the provisions of this part.

(h) Any alien who is needed in the United States in connection with any investigation or proceeding being, or soon to be conducted by any official executive, legislative, or judicial agency in the United States or by any governmental committee, board, bureau, commission, or body in the United States, whether national, state, or local.

(i) Any alien whose technical or scientific training and knowledge might be utilized by an enemy or a potential enemy of the United States to undermine and defeat the military and defensive operations of the United States or of any nation cooperating with the United States in the interests of collective security.

(j) Any alien whose case does not fall within any of the categories described in paragraphs (a) to (i), inclusive, of this section, but which involves circumstances of a similar character rendering the alien's departure prejudicial to the interests of the United States.

(k) Any alien lawfully admitted for permanent residence who seeks to depart from the United States for travel to, in, or through Cuba, North Korea (Democratic People's Republic of Korea), or North Vietnam (Democratic Republic of Vietnam).

(l) Any alien lawfully admitted for permanent residence who seeks to depart from the United States for travel to, in, or through Albania, Bulgaria, People's Republic of China, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Mongolian People's Republic, Poland, Romania, the Soviet Zone of Germany ("German Democratic Republic"), the Union of Soviet Socialist Republics, or Yugoslavia, unless such alien shall possess a valid, unexpired reentry permit issued by the Attorney General pursuant to section 223 of the Immigration and Nationality Act subsequent to the effective date of this paragraph.

§ 46.4 *Procedure in case of alien prevented from departing from the United States.* (a) Any alien, other than an enemy alien, whose departure has been temporarily prevented under the provisions of § 46.2 may, within 15 days of the service upon him of the written order temporarily preventing his departure,

request a hearing before a special inquiry officer. The alien's request for a hearing shall be made in writing and shall be addressed to the district director having administrative jurisdiction over the alien's place of residence. If the alien's request for a hearing is timely made, the district director shall schedule a hearing before a special inquiry officer, and notice of such hearing shall be given to the alien. The notice of hearing shall, as specifically as security considerations permit, inform the alien of the nature of the case against him, shall fix the time and place of the hearing, and shall inform the alien of his right to be represented, at no expense to the Government, by counsel of his own choosing.

(b) Every alien for whom a hearing has been scheduled under paragraph (a) of this section shall be entitled (1) to appear in person before the special inquiry officer, (2) to be represented by counsel of his own choice, (3) to have the opportunity to be heard and to present evidence, (4) to cross-examine the witnesses who appear at the hearing, except that if, in the course of the examination, it appears that further examination may divulge information of a confidential or security nature, the special inquiry officer may, in his discretion, preclude further examination of the witness with respect to such matters, (5) to examine any evidence in possession of the Government which is to be considered in the disposition of the case, provided that such evidence is not of a confidential or security nature the disclosure of which would be prejudicial to the interests of the United States, (6) to have the time and opportunity to produce evidence and witnesses on his own behalf, and (7) to reasonable continuances upon request, for good cause shown.

(c) Any special inquiry officer who is assigned to conduct the hearing provided for in this section shall have the authority to: (1) administer oaths and affirmations, (2) present and receive evidence, (3) interrogate, examine, and cross-examine under oath or affirmation both the alien and witnesses, (4) rule upon all objections to the introduction of evidence or motions made during the course of the hearing, (5) take or cause depositions to be taken, (6) issue subpoenas, and (7) take any further action consistent with applicable provisions of law, Executive orders, proclamations, and regulations.

§ 46.5 *Hearing procedure before special inquiry officer.* (a) The hearing before the special inquiry officer shall be conducted in accordance with the following procedure:

(1) The special inquiry officer shall advise the alien of the rights and privileges accorded him under the provisions of § 46.4.

(2) The special inquiry officer shall enter of record (i) a copy of the order served upon the alien temporarily preventing his departure from the United States, and (ii) a copy of the notice of hearing furnished the alien.

(3) The alien shall be interrogated by the special inquiry officers as to the matters considered pertinent to the proceed-

ing, with opportunity reserved to the alien to testify thereafter in his own behalf, if he so chooses.

(4) The special inquiry officer shall present on behalf of the Government such evidence, including the testimony of witnesses and the certificates or written statements of Government officials or other persons, as may be necessary and available. In the event such certificates or statements are received in evidence, the alien may request and, in the discretion of the special inquiry officer, be given an opportunity to interrogate such officials or persons, by deposition or otherwise, at a time and place and in a manner fixed by the special inquiry officer; *Provided*, That when in the judgment of the special inquiry officer any evidence relative to the disposition of the case is of a confidential or security nature the disclosure of which would be prejudicial to the interests of the United States, such evidence shall not be presented at the hearing but shall be taken into consideration in arriving at a decision in the case.

(5) The alien may present such additional evidence, including the testimony of witnesses, as is pertinent and available.

(b) A complete verbatim transcript of the hearing, except statements made off the record, shall be recorded. The alien shall be entitled, upon request, to the loan of a copy of the transcript, without cost, subject to reasonable conditions governing its use.

(c) Following the completion of the hearing, the special inquiry officer shall make and render a recommended decision in the case which shall be governed by and based upon the evidence presented at the hearing and any evidence of a confidential or security nature which the Government may have in its possession. The decision of the special inquiry officer shall recommend (1) that the temporary order preventing the departure of the alien from the United States be made final, or (2) that the temporary order preventing the departure of the alien from the United States be revoked. This recommended decision of the special inquiry officer shall be made in writing and shall set forth the officer's reasons for such decision. The alien concerned shall at his request be furnished a copy of the recommended decision of the special inquiry officer, and shall be allowed a reasonable time, not to exceed 10 days, in which to submit representations with respect thereto in writing.

(d) As soon as practicable after the completion of the hearing and the rendering of a decision by the special inquiry officer, the district director shall forward the entire record of the case, including the recommended decision of the special inquiry officer and any written representations submitted by the alien, to the regional commissioner having jurisdiction over his district. After reviewing the record, the regional commissioner shall render a decision in the case, which shall be based upon the evidence in the record and on any evidence or information of a confidential or security nature which he deems pertinent. Whenever any decision is based in whole or in part on confidential or security information not included in the record, the decision shall state that such information was considered.

A copy of the regional commissioner's decision shall be furnished the alien, or his attorney or representative. No administrative appeal shall lie from the regional commissioner's decision.

(e) Notwithstanding any other provision of this part, the Administrator of the Bureau of Security and Consular Affairs referred to in section 104(b) of the Immigration and Nationality Act, or such other officers of the Department of State as he may designate, after consultation with the Commissioner, or such other officers of the Immigration and Naturalization Service as he may designate, may at any time permit the departure of an individual alien or of a group of aliens from the United States if he determines that such action would be in the national interest. If the Administrator specifically requests the Commissioner to prevent the departure of a particular alien or of a group of aliens, the Commissioner shall not permit the departure of such alien or aliens until he has consulted with the Administrator.

(f) In any case arising under §§ 46.1 to 46.7, the Administrator shall, at his request, be kept advised, in as much detail as he may indicate is necessary, of the facts and of any action taken or proposed.

§ 46.6 *Departure from the Canal Zone, the Trust Territory of the Pacific Islands, or outlying possessions of the United States.* (a) In addition to the restrictions and prohibitions imposed by the provisions of this part upon the departure of aliens from the United States, any alien who seeks to depart from the Canal Zone, the Trust Territory of the Pacific Islands, or an outlying possession of the United States shall comply with such other restrictions and prohibitions as may be imposed by regulations prescribed, with the concurrence of the Administrator of the Bureau of Security and Consular Affairs and the Commissioner, by the Governor of the Canal Zone, the High Commissioner of the Trust Territory of the Pacific Islands, or by the governor of an outlying possession of the United States, respectively. No alien shall be prevented from departing from such zone, territory, or possession without first being accorded a hearing as provided in §§ 46.4 and 46.5.

(b) The Governor of the Canal Zone, the High Commissioner of the Trust Territory of the Pacific Islands, or the governor of any outlying possession of the United States shall have the authority to designate any employee or class of employees of the United States as hearing officers for the purpose of conducting the hearing referred to in paragraph (a) of this section. The hearing officer so designated shall exercise the same powers, duties, and functions as are conferred upon special inquiry officers under the provisions of this part. The chief executive officer of such zone, territory, or possession shall, in lieu of the regional commissioner, review the recommended decision of the hearing officer, and shall render a decision in any case referred to him, basing it on evidence in the record and on any evidence or information of a confidential or a security nature which he deems pertinent.

§ 46.7 *Instructions from the Administrator required in certain cases.* In the absence of appropriate instructions from the Administrator of the Bureau of Security and Consular Affairs, departure-control officers shall not exercise the authority conferred by § 46.2 in the case of any alien who seeks to depart from the United States in the status of a nonimmigrant under section 101(a)(15) (A) or (G) of the Immigration and Nationality Act, or in the status of a nonimmigrant under section 11(3), 11(4), or 11(5) of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations (61 Stat. 756): *Provided*, That in cases of extreme urgency, where the national security so requires, a departure-control officer may preliminarily exercise the authority conferred by § 46.2 pending the outcome of consultation with the Administrator, which shall be undertaken immediately. In all cases arising under this section, the decision of the Administrator shall be controlling: *Provided*, That any decision to prevent the departure of an alien shall be based upon a hearing and record as prescribed in this part.

Proclamation 3004 of January 17, 1953 (18 F.R. 489)—*Control of Persons Leaving or Entering the United States.*

WHEREAS section 215 of the Immigration and Nationality Act, enacted on June 27, 1952 (Public Law 414, 82nd Congress; 66 Stat. 163, 190), authorizes the President to impose restrictions and prohibitions in addition to those otherwise provided by that Act upon the departure of persons from, and their entry into, the United States when the United States is at war or during the existence of any national emergency proclaimed by the President or, as to aliens, whenever there exists a state of war between or among two or more states, and when the President shall find that the interests of the United States so require; and

WHEREAS the national emergency the existence of which was proclaimed on December 16, 1950, by Proclamation 2914 still exists; and

WHEREAS because of the exigencies of the international situation and of the national defense then existing Proclamation No. 2523 of November 14, 1941, imposed certain restrictions and prohibitions, in addition to those otherwise provided by law, upon the departure of persons from and their entry into the United States; and

WHEREAS the exigencies of the international situation and of the national defense still require that certain restrictions and prohibitions, in addition to those otherwise provided by law, be imposed upon the departure of persons from and their entry into the United States:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, acting under and by virtue of the authority vested in me by section 215 of the Immigration and Nationality Act and by section 301 of title 3 of the United States Code, do hereby find and publicly proclaim that the interests of the United States require that restrictions and prohibitions, in addition to those otherwise provided by law be im-

posed upon the departure of persons from, and their entry into, the United States; and I hereby prescribe and make the following rules, regulations, and orders with respect thereto:

1. The departure and entry of citizens and nationals of the United States from and into the United States, including the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States, shall be subject to the regulations prescribed by the Secretary of State and published as sections 53.1 to 53.9, inclusive, of title 22 of the Code of Federal Regulations. Such regulations are hereby incorporated into and made a part of this proclamation; and the Secretary of State is hereby authorized to revoke, modify, or amend such regulations as he may find the interests of the United States to require.

2. The departure of aliens from the United States, including the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States, shall be subject to the regulations prescribed by the Secretary of State, with the concurrence of the Attorney General, and published as sections 53.61 to 53.71, inclusive, of title 22 of the Code of Federal Regulations. Such regulations are hereby incorporated into and made a part of this proclamation; and the Secretary of State, with the concurrence of the Attorney General, is hereby authorized to revoke, modify, or amend such regulations as he may find the interests of the United States to require.

3. The entry of aliens into the Canal Zone and American Samoa shall be subject to the regulations prescribed by the Secretary of State, with the concurrence of the Attorney General, and published as sections, 53.21 to 53.41, inclusive, of title 22 of the Code of Federal Regulations. Such regulations are hereby incorporated into and made a part of this proclamation; and the Secretary of State, with the concurrence of the Attorney General, is hereby authorized to revoke, modify, or amend such regulations as he may find the interests of the United States to require.

4. Proclamation No. 2523 of November 14, 1941, as amended by Proclamation No. 2850 of August 17, 1949, is hereby revoked, but such revocation shall not affect any order, determination, or decision relating to an individual, or to a class of individuals, issued in pursuance of such proclamations prior to the revocation thereof, and shall not prevent prosecution for any offense committed, or the imposition of any penalties or forfeitures, liability for which was incurred under such proclamations prior to the revocation thereof; and the provisions of this proclamation, including the regulations of the Secretary of State incorporated herein and made a part hereof, shall be in addition to, and shall not be held to revoke, supersede, modify, amend, or suspend, any other proclamation, rule, regulation, or order heretofore issued relating to the departure of persons from, or entry into, the United States; and compliance with the provisions of this proclamation, including the regulations of the Secretary of State incorporated herein and

made a part hereof, shall not be considered as exempting any individual from the duty of complying with the provisions of any other statute, law, proclamation, rule, regulations, or order heretofore enacted or issued and still in effect.

5. I hereby direct all departments and agencies of the Government to cooperate with the Secretary of State in the execution of his authority under this proclamation and any subsequent proclamation, rule, regulation, or order issued in pursuance hereof; and such departments and agencies shall upon request make available to the Secretary of State for that purpose the services of their respective officials and agents. I enjoin upon all officers of the United States charged with the execution of the laws thereof the utmost diligence in preventing violations of section 215 of the Immigration and Nationality Act and this proclamation, including the regulations of the Secretary of State incorporated herein and made a part hereof, and in bringing to trial and punishment any persons violating any provision of that section or of this proclamation.

To the extent permitted by law, this proclamation shall take effect as of December 24, 1952.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 17th day of January in the year of our Lord nineteen hundred and fifty-
[SEAL] three and of the Independence of the United States of America the one hundred and seventy-seventh.

REGULATIONS OF THE SECRETARY—TRAVEL CONTROLS OF CITIZENS AND NATIONALS IN TIME OF WAR OR NATIONAL EMERGENCY

Issued October 26, 1966 by authority of the Act of June 27, 1952 (66 Stat. 190, § 215; 8 U.S.C. 1185) [22 C.F.R. 53.1 to 53.4]:

§ 53.1 *Passport requirement.* Under section 215(b) of the Immigration and Nationality Act (8 U.S.C. 1185(b)), it is unlawful except as otherwise provided for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States without a valid passport.

§ 53.2 *Exceptions.* A U.S. citizen is not required to bear a valid passport to enter or depart the United States:

(a) When traveling directly between parts of the United States as defined in § 50.1 of this chapter;

(b) When traveling between the United States and any country, territory, or island adjacent thereto in North, South or Central America excluding Cuba; provided, that this exception is not applicable to any such person when proceeding to or arriving from a place outside the United States for which a valid passport is required under this part if such travel is accomplished within 60 days of departure from the United States via any country or territory in North, South or Central America or any island adjacent thereto;

(c) When traveling as a bona fide seaman or air crewman who is the holder of record of a valid merchant mariner identification document or air crewman identification card:

(d) When traveling as a member of the Armed Forces of the United States on active duty;

(e) When he is under 21 years of age and is a member of the household of an official or employee of a foreign government or of the United Nations and is in possession of or included in a foreign passport;

(f) When he is a child under 12 years of age and is included in the foreign passport of an alien parent; however, such child will be required to provide evidence of his U.S. citizenship when entering the United States;

(g) When the citizen entering the United States presents a certificate of identity and registration issued by a consular office abroad to facilitate travel to the United States; or

(h) When specifically authorized by the Secretary of State through appropriate official channels to depart from or enter the United States, as defined in § 50.1 of this chapter. The fee for a waiver of the passport requirement under this section is \$25.

§ 53.3 *Attempt of a citizen to enter without a valid passport.* The appropriate officer at the port of entry shall report to the Secretary of State for the purpose of invoking the waiver provisions of § 53.2(h), any citizen of the United States who attempts to enter the United States contrary to the provisions of this part.

§ 53.4 *Optional use of a valid passport.* Nothing in this part shall be construed to prevent a citizen from using a valid passport in a case in which that passport is not required by this Part 53, provided such travel is not otherwise prohibited.

TREASONOUS LITERATURE

Act of June 17, 1930 (46 Stat. 688 § 1305(a))—*The Tariff Act of 1930*, as last amended by Act of June 8, 1971 (84 Stat. 1973 § 1); 19 U.S.C. 1305:

IMMORAL ARTICLES; PROHIBITION OF IMPORTATION

(a) All persons are prohibited from importing into the United States from any foreign country any book, pamphlet, paper, writing, advertisement, circular, print, picture, or drawing containing any matter advocating or urging treason or insurrection against the United States, or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, or any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing, or other representation, figure, or image on or of paper or other material, or any cast, instrument, or other article which is obscene or immoral, or any drug or medicine or any article whatever for causing unlawful abortion, or any lottery ticket, or any printed paper that may be used as a lottery ticket, or any advertisement of any lottery. No such articles whether imported separately or contained in packages with other goods entitled to entry, shall be

admitted to entry; and all such articles and, unless it appears to the satisfaction of the appropriate customs officer that the obscene or other prohibited articles contained in the package were inclosed therein without the knowledge or consent of the importer, owner, agent, or consignee, the entire contents of the package in which such articles are contained, shall be subject to seizure and forfeiture as hereinafter provided: *Provided*, That the drugs hereinbefore mentioned, when imported in bulk and not put up for any of the purposes hereinbefore specified, are excepted from the operation of this subdivision: *Provided further*, That the Secretary of the Treasury may, in his discretion, admit the so-called classics or books of recognized and established literary or scientific merit, but may, in his discretion, admit such classics or books only when imported for non-commercial purposes.

Upon the appearance of any such book or matter at any customs office, the same shall be seized and held by the appropriate customs officer to await the judgment of the district court as hereinafter provided; and no protest shall be taken to the United States Customs Court from the decision of such customs officer. Upon the seizure of such book or matter such customs officer shall transmit information thereof to the district attorney of the district in which is situated the office at which such seizure has taken place, who shall institute proceedings in the district court for the forfeiture, confiscation, and destruction of the book or matter seized. Upon the adjudication that such book or matter thus seized is of the character the entry of which is by this section prohibited, it shall be ordered destroyed and shall be destroyed. Upon adjudication that such book or matter thus seized is not of the character the entry of which is by the section prohibited, it shall not be excluded from entry under the provisions of this section.

In any such proceeding any party in interest may upon demand have the facts at issue determined by a jury and any party may have an appeal or the right of review as in the case of ordinary actions or suits.

FRAUD AGAINST UNITED STATES

Act of May 18, 1933 (48 Stat. 69, sec. 21(c); 16 U.S.C. 831t(c))—*Tennessee Valley Authority Act of 1933*:

(c) Any person who shall receive any compensation, rebate, or reward, or shall enter into any conspiracy, collusion, or agreement, express or implied, with intent to defraud the Corporation or wrongfully and unlawfully to defeat its purposes, shall, on conviction thereof, be fined not more than \$5,000 or imprisoned not more than five years, or both.

COMMUNICATIONS

Act of June 19, 1934 (48 Stat. 1082 § 303) as last amended by Act of August 10, 1971 (85 Stat. 302 § 1): 47 U.S.C. 303—*Communications Act of 1934: Powers and duties of Commission*:

Except as otherwise provided in this chapter, the Commission from time to time, as public convenience, interest, or necessity requires, shall—

* * * * *

(7) (1) Have authority to prescribe the qualifications of station operators, to classify them according to the duties to be performed, to fix the forms of such licenses, and to issue them to such citizens or nationals of the United States, or citizens of the Trust Territory of the Pacific Islands presenting valid identity certificates issued by the High Commissioner of such Territory, as the Commission finds qualified, except that in issuing licenses for the operation of radio stations on aircraft the Commission may, if it finds that the public interest will be served thereby, waive the requirement of citizenship in the case of persons holding United States pilot certificates or in the case of persons holding foreign aircraft pilot certificates which are valid in the United States on the basis of reciprocal agreements entered into with foreign governments;

(2) Notwithstanding section 301 of this title and paragraph (1) of this subsection, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation on a reciprocal basis by United States amateur radio operators: *Provided*, That when an application for an authorization is received by the Commission, it shall notify the appropriate agencies of the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security: *And provided further*, That the requested authorization may then be granted unless the Commission shall determine that information received from such agencies necessitates denial of the request. Other provisions of this chapter and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.

(3) Notwithstanding paragraph (1) of this subsection, the Commission may issue licenses for the operation of amateur radio stations to aliens admitted to the United States for permanent residence who have filed under section 1445(f) of Title 8 a declaration of intention to become a citizen of the United States: *Provided*, That when an application for a license is received by the Commission, it shall notify the appropriate agencies of the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security: *And provided further*, That the requested license may then be granted unless the Commission shall determine that information received from such agen-

cies necessitates denial of the request. Other provisions of this chapter and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such license.

Act of June 19, 1934 (48 Stat. 1086 § 310) as last amended by Act of August 10, 1971 (85 Stat. 302 § 2); 47 U.S.C. 310—*Alien ownership as barring station license; assignment and transfer of construction permit or station license:*

(a) The station license required shall not be granted to or held by—

- (1) Any alien or the representative of any alien;
- (2) Any foreign government or the representative thereof;
- (3) Any corporation organized under the laws of any foreign government;
- (4) Any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country;

(5) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital stock is owned of record or voted, after June 1, 1935, by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or the revocation of such license.

Nothing in this subsection shall prevent the licensing of radio apparatus on board any vessel, aircraft, or other mobile station of the United States when the installation and use of such apparatus is required by Act of Congress or any treaty to which the United States is a party.

Notwithstanding paragraph (1) of this subsection, a license for an amateur radio station may be granted to and held by an alien admitted to the United States for permanent residence who has filed under section 1445(f) of Title 8 a declaration of intention to become a citizen of the United States: *Provided*, That when an application for a license is received by the Commission, it shall notify the appropriate agencies of the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security: *And provided further*, That the requested license may then be granted unless the Commission shall determine that information received from such agencies necessitates denial of the request. Other provisions of this chapter and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such license.

(b) No construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby. Any such application shall be disposed of as if the proposed transferee or assignee were making application under section 308 of this title for the permit or license in question; but in acting thereon the Commission may not consider whether the public interest, convenience, and necessity might be served by the transfer, assignment, or disposal of the permit or license to a person other than the proposed transferee or assignee.

Act of June 19, 1934 (48 Stat. 1103, § 605) as last amended by Act of June 19, 1968 (82 Stat. 223, Title III, § 803); 47 U.S.C. 605—*Communications Act of 1934*:

Except as authorized by chapter 119, Title 18, no person receiving, assisting in receiving, transmitting, or assisting in transmitting, any interstate or foreign communication by wire or radio shall divulge or publish the existence, contents, substance, purport, effect, or meaning thereof, except through authorized channels of transmission or reception, (1) to any person other than the addressee, his agent, or attorney, (2) to a person employed or authorized to forward such communication to its destination, (3) to proper accounting or distributing officers of the various communicating centers over which the communication may be passed, (4) to the master of a ship under whom he is serving, (5) in response to a subpoena issued by a court of competent jurisdiction, or (6) on demand of other lawful authority. No person not being authorized by the sender shall intercept any radio communication and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communication to any person. No person not being entitled thereto shall receive or assist in receiving any interstate or foreign communication by radio and use such communication (or any information therein contained) for his own benefit or for the benefit of another not entitled thereto. No person having received any intercepted radio communication or having become acquainted with the contents, substance, purport, effect, or meaning of such communication (or any part thereof) knowing that such communication was intercepted, shall divulge or publish the existence, contents, substance, purport, effect, or meaning of such communication (or any part thereof) or use such communication (or any information therein contained) for his own benefit or for the benefit of another not entitled thereto. This section shall not apply to the receiving, divulging, publishing, or utilizing the contents of any radio communication which is broadcast or transmitted by amateurs or others for the use of the general public, or which relates to ships in distress.

WAR POWERS OF PRESIDENT OVER COMMUNICATIONS

Act of June 19, 1934 (48 Stat. 1104 § 606), as last amended by Act of October 24, 1951 (65 Stat. 611, ch. 553 §§ 1, 2); 47 U.S.C. 606—*Communications Act of 1934*:

(a) During the continuance of a war in which the United States is engaged, the President is authorized, if he finds it necessary for the national defense and security, to direct that such communications as in his judgment may be essential to the national defense and security shall have preference or priority with any carrier subject to this chapter. He may give these directions at and for such times as he may determine, and may modify, change, suspend, or annul them and for any such purpose he is hereby authorized to issue orders directly, or through such person or persons as he designates for the purpose, or through the Commission. Any carrier complying with any such order or direction for preference or priority herein authorized shall be exempt from any and all provisions in existing law imposing civil or criminal penalties, obligations, or liabilities upon carriers by reason of giving preference or priority in compliance with such order or direction.

OBSTRUCTION OF COMMUNICATIONS

(b) It shall be unlawful for any person during any war in which the United States is engaged to knowingly or willfully, by physical force or intimidation by threats of physical force, obstruct or retard or aid in obstructing or retarding interstate or foreign communication by radio or wire. The President is hereby authorized, whenever in his judgment the public interest requires, to employ the armed forces of the United States to prevent any such obstruction or retardation of communications: *Provided*, That nothing in this section shall be construed to repeal, modify, or affect either section 6 or section 20 of an Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" approved October 15, 1914.

ELECTROMAGNETIC RADIATION

(c) Upon proclamation by the President that there exists war or a threat of war, or a state of public peril or disaster or other national emergency, or in order to preserve the neutrality of the United States, the President, if he deems it necessary in the interest of national security or defense, may suspend or amend, for such time as he may see fit, the rules and regulations applicable to any or all stations or devices capable of emitting electromagnetic radiations within the jurisdiction of the United States as prescribed by the Commission, and may cause the closing of any station for radio communication, or any device capable of emitting electromagnetic radiations between 10 kilocycles and 100,000 megacycles, which is suitable for use as a navigational aid beyond five miles, and the removal therefrom of its apparatus

and equipment, or he may authorize the use or control of any such station or device and/or its apparatus and equipment, by any department of the Government under such regulations as he may prescribe upon just compensation to the owners. The authority granted to the President, under this subsection, to cause the closing of any station or device and the removal therefrom of its apparatus and equipment, or to authorize the use or control of any station and/or its apparatus and equipment, may be exercised in the Canal Zone.

CONTROL OF FACILITY OR STATION

(d) Upon proclamation by the President that there exists a state or threat of war involving the United States, the President, if he deems it necessary in the interest of the national security and defense, may, during a period ending not later than six months after the termination of such state or threat of war and not later than such earlier date as the Congress by concurrent resolution may designate, (1) suspend or amend the rules and regulations applicable to any or all facilities or stations for wire communication within the jurisdiction of the United States as prescribed by the Commission, (2) cause the closing of any facility or station for wire communication and the removal therefrom of its apparatus and equipment, or (3) authorize the use or control of any such facility or station and its apparatus and equipment by any department of the Government under such regulations as he may prescribe, upon just compensation to the owners.

COMPENSATION FOR CONTROL OF FACILITY

(e) The President shall ascertain the just compensation for such use or control and certify the amount ascertained to Congress for appropriation and payment to the person entitled thereto. If the amount so certified is unsatisfactory to the person entitled thereto, such person shall be paid only 75 per centum of the amount and shall be entitled to sue the United States to recover such further sum as added to such payment of 75 per centum will make such amount as will be just compensation for the use and control. Such suit shall be brought in the manner provided by paragraph 20 of section 24 or by section 145 of the Judicial Code as amended.

(f) Nothing in subsection (c) or (d) shall be construed to amend, repeal, impair, or affect existing laws or powers of the States in relation to taxation or the lawful police regulations of the several States, except wherein such laws, powers, or regulations may affect the transmission of Government communications, or the issue of stocks and bonds by any communication system or systems.

(g) Nothing in subsection (c) or (d) shall be construed to authorize the President to make any amendment to the rules and regulations of the Commission which the Commission would not be authorized by law to make; and nothing in subsection (d)

shall be construed to authorize the President to take any action the force and effect of which shall continue beyond the date after which taking of such action would not have been authorized.

PENALTIES

(h) Any person who willfully does or causes or suffers to be done any act prohibited pursuant to the exercise of the President's authority under this section, or who willfully fails to do any act which he is required to do pursuant to the exercise of the President's authority under this section, or who willfully causes or suffers such failure, shall, upon conviction thereof, be punished for such offense by a fine of not more than \$1,000 or by imprisonment for not more than one year, or both, and, if a firm, partnership, association, or corporation, by fine of not more than \$5,000, except that any person who commits such an offense with intent to injure the United States, or with intent to secure an advantage to any foreign nation, shall, upon conviction thereof, be punished by a fine of not more than \$20,000 or by imprisonment for not more than 20 years, or both.

Act of June 8, 1938 (52 Stat. 631), as last amended by Act of July 4, 1966 (80 Stat. 248); 22 U.S.C. 611-621—*Foreign Agents Registration Act*:

Policy and Purpose.—It is hereby declared to be the policy and purpose of this Act to protect the national defense, internal security, and foreign relations of the United States by requiring public disclosure by persons engaging in propaganda activities and other activities for or on behalf of foreign governments, foreign political parties, and other foreign principals so that the government and the people of the United States may be informed of the identity of such persons and may appraise their statements and actions in the light of their associations and activities.

Definitions.—As used in and for the purpose of this Act—

(a) The term "person" includes an individual, partnership, association, corporation, organization, or any other combination of individuals;

(b) The term "foreign principal" includes—

(1) a government of a foreign country and a foreign political party;

(2) a person outside of the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and

(3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

(c) Except as provided in subsection (d) of this section, the term "agent of a foreign principal" means—

(1) any person who acts as an agent, representative, employee, or servant, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign principal or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal, and who directly or through any other person—

(i) engages within the United States in political activities for or in the interest of such foreign principal;

(ii) acts within the United States as a public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal;

(iii) within the United States solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of such foreign principal; or

(iv) within the United States represents the interests of such foreign principal before any agency or official of the Government of the United States; and

(2) any person who agrees, consents, assumes or purports to act as, or who is or holds himself out to be, whether or not pursuant to contractual relationship, an agent of a foreign principal as defined in clause (1) of this subsection.

(d) The term "agent of a foreign principal" does not include any news or press service or association organized under the laws of the United States or of any State or other place subject to the jurisdiction of the United States, or any newspaper, magazine, periodical, or other publication for which there is on file with the United States Postal Service information in compliance with section 3611 of Title 39, published in the United States, solely by virtue of any bona fide news or journalistic activities, including the solicitation or acceptance of advertisements, subscriptions, or other compensation therefor, so long as it is at least 80 per centum beneficially owned by, and its officers and directors, if any, are citizens of the United States, and such news or press service or association, newspaper, magazine, periodical, or other publication, is not owned, directed, supervised, controlled, subsidized, or financed, and none of its policies are determined by any foreign principal defined in subsection (b) of this section, or by any agent of a foreign principal required to register under this subchapter;

(e) The term "government of a foreign country" includes any person or groups of persons exercising sovereign de facto or de jure political jurisdiction over any country, other than the United States, or over any part of such country, and includes any subdivision of any such group and any group or agency to which such sovereign de facto or de jure authority or functions are directly or indirectly delegated. Such term shall include any

faction or body, of insurgents within a country assuming to exercise governmental authority whether such faction or body of insurgents has or has not been recognized by the United States.

(f) The term "foreign political party" includes any organization or any other combination of individuals in a country other than the United States, or any unit or branch thereof, having for an aim or purpose, or which is engaged in any activity devoted in whole or in part to, the establishment, administration, control, or acquisition of administration or control, of a government of a foreign country or a subdivision thereof, or the furtherance or influencing of the political or public interests, policies, or relations of a government of a foreign country or a subdivision thereof;

(g) The term "public-relations counsel" includes any person who engages directly or indirectly in informing, advising, or in any way representing a principal in any public relations matter pertaining to political or public interests, policies, or relations of such principal;

(h) The term "publicity agent" includes any person who engages directly or indirectly in the publication or dissemination of oral, visual, graphic, written, or pictorial information or matter of any kind, including publication by means of advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures, or otherwise;

(i) The term "information-service employee" includes any person who is engaged in furnishing, disseminating, or publishing accounts, descriptions, information, or data with respect to the political, industrial, employment, economic, social, cultural, or other benefits, advantages, facts, or conditions of any country other than the United States or of any government of a foreign country or of a foreign political party or of a partnership, association, corporation, organization, or other combination of individuals organized under the laws of, or having its principal place of business in, a foreign country;

(j) The term "political propaganda" includes any oral, visual, graphic, written, pictorial, or other communication or expression by any person (1) which is reasonably adapted to, or which the person disseminating the same believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, or in any other way influence a recipient or any section of the public within the United States with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party or with reference to the foreign policies of the United States or promote in the United States racial, religious, or social dissensions, or (2) which advocates, advises, instigates, or promotes any racial, social, political or religious disorder, civil riot, or other conflict involving the use of force or violence in any other American republic or the overthrow of any government or political subdivision of any other American republic by any means involving the use of

force or violence. As used in this subsection the term "disseminating" includes transmitting or causing to be transmitted in the United States mails or by any means or instrumentality of interstate or foreign commerce or offering or causing to be offered in the United States mails;

(k) The term "registration statement" means the registration statement required to be filed with the Attorney General under section 612(a) of this title, and any supplements thereto required to be filed under section 612(b) of this title, and includes all documents and papers required to be filed therewith or amendatory thereof or supplemental thereto, whether attached thereto or incorporated therein by reference;

(l) The term "American republic" includes any of the states which were signatory to the Final Act of the Second Meeting of the Ministers of Foreign Affairs of the American Republics at Habana, Cuba, July 30, 1940;

(m) The term "United States", when used in a geographical sense, includes the several States, the District of Columbia, the Territories, the Canal Zone, the insular possessions, and all other places now or hereafter subject to the civil or military jurisdiction of the United States;

(n) The term "prints" means newspapers and periodicals, books, pamphlets, sheet music, visiting cards, address cards, printing proofs, engravings, photographs, pictures, drawings, plans, maps, patterns to be cut out, catalogs, prospectuses, advertisements, and printed, engraved, lithographed, or autographed notices of various kinds, and, in general, all impressions or reproductions obtained on paper or other material assimilable to paper, on parchment or on cardboard, by means of printing, engraving, lithography, autography, or any other easily recognizable mechanical process, with the exception of the copying press, stamps with movable or immovable type, and the typewriter;

(o) The term "political activities" means the dissemination of political propaganda and any other activity which the person engaging therein believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, persuade, or in any other way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party;

(p) The term "political consultant" means any person who engages in informing or advising any other person with reference to the domestic or foreign policies of the United States or the political or public interest, policies, or relations of a foreign country or of a foreign political party;

(q) For the purpose of section 613(d) of this title, activities in furtherance of the bona fide commercial, industrial or finan-

cial interests of a domestic person engaged in substantial commercial, industrial or financial operations in the United States shall not be deemed to serve predominantly a foreign interest because such activities also benefit the interests of a foreign person engaged in bona fide trade or commerce which is owned or controlled by, or which owns or controls, such domestic person: *Provided*, That (i) such foreign person is not, and such activities are not directly or indirectly supervised, directed, controlled, financed or subsidized in whole or in substantial part by, a government of a foreign country or a foreign political party, (ii) the identity of such foreign person is disclosed to the agency or official of the United States with whom such activities are conducted, and (iii) whenever such foreign person owns or controls such domestic person, such activities are substantially in furtherance of the bona fide commercial, industrial or financial interests of such domestic person.

REGISTRATION STATEMENT; FILING; CONTENTS

(a) No person shall act as an agent of a foreign principal unless he has filed with the Attorney General a true and complete registration statement and supplements thereto as required by this section and subsection (b) of this section or unless he is exempt from registration under the provisions of this subchapter. Except as hereinafter provided, every person who becomes an agent of a foreign principal shall, within ten days thereafter, file with the Attorney General, in duplicate, a registration statement, under oath on a form prescribed by the Attorney General. The obligation of an agent of a foreign principal to file a registration statement shall, after the tenth day of his becoming such agent, continue from day to day, and termination of such status shall not relieve such agent from his obligation to file a registration statement for the period during which he was an agent of a foreign principal. The registration statement shall include the following, which shall be regarded as material for the purposes of this subchapter:

(1) Registrant's name, principal business address, and all other business addresses in the United States or elsewhere, and all residence addresses, if any;

(2) Status of the registrant; if an individual, nationality; if a partnership, name, residence addresses, and nationality of each partner and a true and complete copy of its articles of copartnership; if an association, corporation, organization, or any other combination of individuals, the name, residence addresses, and nationality of each director and officer and of each person performing the functions of a director or officer and a true and complete copy of its charter, article of incorporation, association, constitution, and bylaws, and amendments thereto; a copy of every other instrument or document and a statement of the terms and conditions of every oral agreement relating to its organization, powers, and purposes; and a statement of its ownership and control;

(3) A comprehensive statement of the nature of registrant's business; a complete list of registrant's employees and a statement of the nature of the work of each; the name and address of every foreign principal for whom the registrant is acting, assuming or purporting to act or has agreed to act; the character of the business or other activities of every such foreign principal, and, if any such foreign principal be other than a natural person, a statement of the ownership and control of each; and the extent, if any, to which each such foreign principal is supervised, directed, owned, controlled, financed, or subsidized, in whole or in part, by any government of a foreign country or foreign political party, or by any other foreign principal;

(4) Copies of each written agreement and the terms and conditions of each oral agreement, including all modifications of such agreements, or, where no contract exists, a full statement of all the circumstances, by reason of which the registrant is an agent of a foreign principal; a comprehensive statement of the nature and method of performance of each such contract, and of the existing and proposed activity or activities engaged in or to be engaged in by the registrant as agent of a foreign principal for each such foreign principal, including a detailed statement of any such activity which is a political activity;

(5) The nature and amount of contributions, income, money, or thing of value, if any, that the registrant has received within the preceding sixty days from each such foreign principal, either as compensation or for disbursement or otherwise, and the form and time of each such payment and from whom received;

(6) A detailed statement of every activity which the registrant is performing or is assuming or purporting or has agreed to perform for himself or any other person other than a foreign principal and which requires his registration hereunder, including a detailed statement of any such activity which is a political activity;

(7) The name, business, and residence addresses, and if an individual, the nationality, of any person other than a foreign principal for whom the registrant is acting, assuming or purporting to act or has agreed to act under such circumstances as require his registration hereunder; the extent to which each such person is supervised, directed, owned, controlled, financed, or subsidized, in whole or in part, by any government of a foreign country or foreign political party or by any other foreign principal; and the nature and amount of contributions, income, money, or thing of value, if any, that the registrant has received during the preceding sixty days from each such person in connection with any of the activities referred to in clause (6) of this subsection, either as compensation or for disbursement or otherwise, and the form and time of each such payment and from whom received;

(8) A detailed statement of the money and other things of value spent or disposed of by the registrant during the preceding sixty days in furtherance of or in connection with activities which require his registration hereunder and which have been undertaken by him either as an agent of a foreign principal or for himself or any other person or in connection with any activities relating to his becoming an agent of such principal, and a detailed statement of any contributions of money or other things of value made by him during the preceding sixty days (other than contributions the making of which is prohibited under the terms of section 613 of Title 18) in connection with any election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office;

(9) Copies of each written agreement and the terms and conditions of each oral agreement, including all modifications of such agreements, or, where no contract exists, a full statement of all the circumstances, by reason of which the registrant is performing or assuming or purporting or has agreed to perform for himself or for a foreign principal or for any person other than a foreign principal any activities which require his registration hereunder;

(10) Such other statements, information, or documents pertinent to the purposes of this subchapter as the Attorney General, having due regard for the national security and the public interest, may from time to time require.

(11) Such further statements and such further copies of documents as are necessary to make the statements made in the registration statement and supplements thereto, and the copies of documents furnished therewith, not misleading.

(b) Every agent of a foreign principal who has filed a registration statement required by subsection (a) of this section shall, within thirty days after the expiration of each period of six months succeeding such filing, file with the Attorney General a supplement thereto under oath, on a form prescribed by the Attorney General, which shall set forth with respect to such preceding six months' period such facts as the Attorney General, having due regard for the national security and the public interest, may deem necessary to make the information required under this section accurate, complete, and current with respect to such period. In connection with the information furnished under clauses (3), (4), (6), and (9) of subsection (a) of this section, the registrant shall give notice to the Attorney General of any changes therein within ten days after such changes occur. If the Attorney General, having due regard for the national security and the public interest, determines that it is necessary to carry out the purposes of this subchapter, he may, in any particular case, require supplements to the registration statement to be filed at more frequent intervals in respect to all or particular items of information to be furnished.

(c) The registration statement and supplements thereto shall be executed under oath as follows: If the registrant is an individual, by him; if the registrant is a partnership, by the majority of the members thereof; if the registrant is a person other than an individual or a partnership, by a majority of the officers thereof or persons performing the functions of officers or by a majority of the board of directors thereof or persons performing the functions of directors, if any.

(d) The fact that a registration statement or supplement thereto has been filed shall not necessarily be deemed a full compliance with this subchapter and the regulations thereunder on the part of the registrant; nor shall it indicate that the Attorney General has in any way passed upon the merits of such registration statement or supplement thereto; nor shall it preclude prosecution, as provided for in this subchapter, for willful failure to file a registration statement or supplement thereto when due or for a willful false statement of a material fact therein or the willful omission of a material fact required to be stated therein or the willful omission of a material fact or copy of a material document necessary to make the statements made in a registration statement and supplements thereto, and the copies of documents furnished therewith, not misleading.

(e) If any agent of a foreign principal, required to register under the provisions of this subchapter, has previously thereto registered with the Attorney General under the provisions of sections 14-17 of Title 18, the Attorney General, in order to eliminate inappropriate duplication, may permit the incorporation by reference in the registration statement or supplements thereto filed hereunder of any information or documents previously filed by such agent of a foreign principal under the provisions of said sections.

(f) The Attorney General may, by regulation, provide for the exemption—

(1) from registration, or from the requirement of furnishing any of the information required by this section, of any person who is listed as a partner, officer, director, or employee in the registration statement filed by an agent of a foreign principal under this subchapter, and

(2) from the requirement of furnishing any of the information required by this section of any agent of a foreign principal,

where by reason of the nature of the functions or activities of such person the Attorney General, having due regard for the national security and the public interest, determines that such registration, or the furnishing of such information, as the case may be, is not necessary to carry out the purposes of this subchapter.

EXEMPTIONS

The requirements of section 612(a) of this title shall not apply to the following agents of foreign principals:

(a) A duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, while said officer is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such officer;

(b) Any official of a foreign government, if such government is recognized by the United States, who is not a public-relations counsel, publicity agent, information-service employee, or a citizen of the United States, whose name and status and the character of whose duties as such official are of public record in the Department of State, while said official is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such official;

(c) Any member of the staff of, or any person employed by, a duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, other than a public-relations counsel, publicity agent, or information-service employee, whose name and status and the character of whose duties as such member or employee are of public record in the Department of State, while said member or employee is engaged exclusively in the performance of activities which are recognized by the Department of State as being within the scope of the functions of such member or employee;

(d) Any person engaging or agreeing to engage only (1) in private and nonpolitical activities in furtherance of the bona fide trade or commerce of such foreign principal; or (2) in other activities not serving predominantly a foreign interest; or (3) in the soliciting or collecting of funds and contributions within the United States to be used only for medical aid and assistance, or for food and clothing to relieve human suffering, if such solicitation or collection of funds and contributions is in accordance with and subject to the provisions of sections 441, 444, 445 and 447-457 of this title, and such rules and regulations as may be prescribed thereunder;

(e) Any person engaging or agreeing to engage only in activities in furtherance of bona fide religious, scholastic, academic, or scientific pursuits or of the fine arts;

(f) Any person, or employee of such person, whose foreign principal is a government of a foreign country the defense of which the President deems vital to the defense of the United States while, (1) such person or employee engages only in activities which are in furtherance of the policies, public interest, or national defense both of such government and of the Government of the United States, and are not intended to conflict with any of the domestic or foreign policies of the Government of the United States, (2) each communication or expression by such person or employee which he intends to, or has reason to believe will, be published, disseminated, or circulated among any section of the public, or portion thereof, within the United States, is a part of such activities and is believed by such person to be truthful and accurate and the identity of such person as an agent of

such foreign principal is disclosed therein, and (3) such government of a foreign country furnishes to the Secretary of State for transmittal to, and retention for the duration of this subchapter by, the Attorney General such information as to the identity and activities of such person or employee at such times as the Attorney General may require. Upon notice to the Government of which such person is an agent or to such person or employee, the Attorney General, having due regard for the public interest and national defense, may, with the approval of the Secretary of State, and shall, at the request of the Secretary of State, terminate in whole or in part the exemption herein of any such person or employee:

(g) Any person qualified to practice law, insofar as he engages or agrees to engage in the legal representation of a disclosed foreign principal before any court of law or any agency of the Government of the United States: *Provided*, That for the purposes of this subsection legal representation does not include attempts to influence or persuade agency personnel or officials other than in the course of established agency proceedings, whether formal or informal.

FILING AND LABELING OF POLITICAL PROPAGANDA

(a) Every person within the United States who is an agent of a foreign principal and required to register under the provisions of this subchapter and who transmits or causes to be transmitted in the United States mails or by any means or instrumentality of interstate or foreign commerce any political propaganda for or in the interests of such foreign principal (i) in the form of prints, or (ii) in any other form which is reasonably adapted to being, or which he believes will be, or which he intends to be, disseminated or circulated among two or more persons shall, not later than forty-eight hours after the beginning of the transmittal thereof, file with the Attorney General two copies thereof and a statement, duly signed by or on behalf of such agent, setting forth full information as to the places, times, and extent of such transmittal.

(b) It shall be unlawful for any person within the United States who is an agent of a foreign principal and required to register under the provisions of this subchapter to transmit or cause to be transmitted in the United States mails or by any means or instrumentality of interstate or foreign commerce any political propaganda for or in the interests of such foreign principal (i) in the form of prints, or (ii) in any other form which is reasonably adapted to being, or which he believes will be or which he intends to be, disseminated or circulated among two or more persons, unless such political propaganda is conspicuously marked at its beginning with, or prefaced or accompanied by, a true and accurate statement, in the language or languages used in such political propaganda, setting forth the relationship or connection between the person transmitting the political propaganda or causing it to be transmitted and such

propaganda; that the person transmitting such political propaganda or causing it to be transmitted is registered under this subchapter with the Department of Justice, Washington, District of Columbia, as an agent of a foreign principal, together with the name and address of such agent of a foreign principal and of such foreign principal; that, as required by this subchapter, his registration statement is available for inspection at and copies of such political propaganda are being filed with the Department of Justice; and that registration of agents of foreign principals required by the subchapter does not indicate approval by the United States Government of the contents of their political propaganda. The Attorney General, having due regard for the national security and the public interest, may by regulation prescribe the language or languages and the manner and form in which such statement shall be made and require the inclusion of such other information contained in the registration statement identifying such agent of a foreign principal and such political propaganda and its sources as may be appropriate.

(c) The copies of political propaganda required by this subchapter to be filed with the Attorney General shall be available for public inspection under such regulations as he may prescribe.

(d) For purposes of the Library of Congress, other than for public distribution, the Secretary of the Treasury and the Postmaster General are authorized, upon the request of the Librarian of Congress, to forward to the Library of Congress fifty copies, or as many fewer thereof as are available, of all foreign prints determined to be prohibited entry under the provisions of section 1305 of Title 19 and of all foreign prints excluded from the mails under authority of section 343 of Title 18.

Notwithstanding the provisions of section 1305 of Title 19 and of section 343 of Title 18, the Secretary of the Treasury is authorized to permit the entry and the Postmaster General is authorized to permit the transmittal in the mails of foreign prints imported for governmental purposes by authority or for the use of the United States or for the use of the Library of Congress.

(e) It shall be unlawful for any person within the United States who is an agent of a foreign principal required to register under the provisions of this subchapter to transmit, convey, or otherwise furnish to any agency or official of the Government (including a Member or committee of either House of Congress) for or in the interests of such foreign principal any political propaganda or to request from any such agency or official for or in the interests of such foreign principal any information or advice with respect to any matter pertaining to the political or public interests, policies or relations of a foreign country or of a political party or pertaining to the foreign or domestic policies of the United States unless the propaganda or the request is prefaced or accompanied by a true and accurate statement to the effect that such person is registered as an agent of such foreign principal under this subchapter.

(f) Whenever any agent of a foreign principal required to register under this subchapter appears before any committee

of Congress to testify for or in the interests of such foreign principal, he shall, at the time of such appearance, furnish the committee with a copy of his most recent registration statement filed with the Department of Justice as an agent of such foreign principal for inclusion in the records of the committee as part of his testimony.

BOOKS AND RECORDS

Every agent of a foreign principal registered under this subchapter shall keep and preserve while he is an agent of a foreign principal such books of account and other records with respect to all his activities, the disclosure of which is required under the provisions of this subchapter, in accordance with such business and accounting practices, as the Attorney General, having due regard for the national security and the public interest, may by regulation prescribe as necessary or appropriate for the enforcement of the provisions of this subchapter and shall preserve the same for a period of three years following the termination of such status. Until regulations are in effect under this section every agent of a foreign principal shall keep books of account and shall preserve all written records with respect to his activities. Such books and records shall be open at all reasonable times to the inspection of any official charged with the enforcement of this subchapter. It shall be unlawful for any person willfully to conceal, destroy, obliterate, mutilate, or falsify, or to attempt to conceal, destroy, obliterate, mutilate, or falsify, or to cause to be concealed, destroyed, obliterated, mutilated, or falsified, any books or records required to be kept under the provisions of this section.

PUBLIC EXAMINATION OF OFFICIAL RECORDS; TRANSMITTAL OF RECORDS AND INFORMATION

(a) The Attorney General shall retain in permanent form one copy of all registration statements and all statements concerning the distribution of political propaganda furnished under this subchapter, and the same shall be public records and open to public examination and inspection at such reasonable hours, under such regulations, as the Attorney General may prescribe, and copies of the same shall be furnished to every applicant at such reasonable fee as the Attorney General may prescribe. The Attorney General may withdraw from public examination the registration statement and other statements of any agent of a foreign principal whose activities have ceased to be of a character which requires registration under the provisions of this subchapter.

(b) The Attorney General shall, promptly upon receipt, transmit one copy of every registration statement filed hereunder and one copy of every amendment or supplement thereto, and one copy of every item of political propaganda filed hereunder, to the Secretary of State for such comment and use as the Secretary of State may determine to be appropriate from the point of view of the foreign relations of the United States.

Failure of the Attorney General so to transmit such copy shall not be a bar to prosecution under this subchapter.

(c) The Attorney General is authorized to furnish to departments and agencies in the executive branch and committees of the Congress such information obtained by him in the administration of this subchapter, including the names of registrants under this subchapter, copies of registration statements, or parts thereof, copies of political propaganda, or other documents or information filed under this subchapter, as may be appropriate in the light of the purposes of this subchapter.

LIABILITY OF OFFICERS

Each officer, or person performing the functions of an officer, and each director, or person performing the functions of a director, of an agent of a foreign principal which is not an individual shall be under obligation to cause such agent to execute and file a registration statement and supplements thereto as and when such filing is required under subsections (a) and (b) of section 612 of this title and shall also be under obligation to cause such agent to comply with all the requirements of sections 614 (a) and (b) and 615 of this title and all other requirements of this subchapter. Dissolution of any organization acting as an agent of a foreign principal shall not relieve any officer, or person performing the functions of an officer, or any director, or person performing the functions of a director, from complying with the provisions of this section. In case of failure of any such agent of a foreign principal to comply with any of the requirements of this subchapter, each of its officers, or persons performing the functions of officers, and each of its directors, or persons performing the functions of directors, shall be subject to prosecution therefor.

ENFORCEMENT AND PENALTIES—VIOLATIONS; FALSE STATEMENTS AND WILLFUL OMISSIONS

(a) Any person who—

(1) willfully violates any provision of this subchapter or any regulation thereunder, or

(2) in any registration statement or supplement thereto or in any statement under section 614(a) of this title concerning the distribution of political propaganda or in any other document filed with or furnished to the Attorney General under the provisions of this subchapter willfully makes a false statement of a material fact or willfully omits any material fact required to be stated therein or willfully omits a material fact or a copy of a material document necessary to make the statements therein and the copies of documents furnished therewith not misleading, shall, upon conviction thereof be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both, except that in the case of a violation of

subsection (b), (e), or (f) of section 614 of this title or of subsection (g) or (h) of this section the punishment shall be a fine of not more than \$5,000 or imprisonment for not more than six months, or both.

PROOF OF IDENTITY OF FOREIGN PRINCIPAL

(b) In any proceeding under this subchapter in which it is charged that a person is an agent of a foreign principal with respect to a foreign principal outside of the United States, proof of the specific identity of the foreign principal shall be permissible but not necessary.

DEPORTATION

(c) Any alien who shall be convicted of a violation of, or a conspiracy to violate, any provision of this subchapter or any regulation thereunder shall be subject to deportation in the manner provided by sections 1251-1253 of Title 8.

NONMAILABLE MATTER ³

(d) The Postmaster General may declare to be nonmailable any communication or expression falling within clause (2) of section 611(j) of this title in the form of prints or in any other form reasonably adapted to, or reasonably appearing to be intended for, dissemination or circulation among two or more persons, which is offered or caused to be offered for transmittal in the United States mails to any person or persons in any other American republic by any agent of a foreign principal, if the Postmaster General is informed in writing by the Secretary of State that the duly accredited diplomatic representative of such American republic has made written representation to the Department of State that the admission or circulation of such communication or expression in such American republic is prohibited by the laws thereof and has requested in writing that its transmittal thereto be stopped.

CONTINUING OFFENSE

(e) Failure to file any such registration statement or supplements thereto as is required by either section 612(a) or section 612(b) of this title shall be considered a continuing offense for as long as such failure exists, notwithstanding any statute of limitation or other statute to the contrary.

INJUNCTIVE REMEDY; JURISDICTION OF DISTRICT COURT; EXPEDITIOUS OF PROCEEDINGS

(f) Whenever in the judgment of the Attorney General any person is engaged in or about to engage in any acts which constitute or will constitute a violation of any provision of this sub-

³ *Opinion of the Attorney General*, dated December 10, 1940 (39 OP. AG. 535), held that matter disseminated in violation of this Act may be treated as nonmailable under § 1717 of the Criminal Code (18 U.S.C. § 1717).

chapter, or regulations issued thereunder, or whenever any agent of a foreign principal fails to comply with any of the provisions of this subchapter or the regulations issued thereunder, or otherwise is in violation of the subchapter, the Attorney General may make application to the appropriate United States district court for an order enjoining such acts or enjoining such person from continuing to act as an agent of such foreign principal, or for an order requiring compliance with any appropriate provision of the subchapter or regulation thereunder. The district court shall have jurisdiction and authority to issue a temporary or permanent injunction, restraining order or such other order which it may deem proper. The proceedings shall be made a preferred cause and shall be expedited in every way.

DEFICIENT REGISTRATION STATEMENT

(g) If the Attorney General determines that a registration statement does not comply with the requirements of this subchapter or the regulations issued thereunder, he shall so notify the registrant in writing, specifying in what respects the statement is deficient. It shall be unlawful for any person to act as an agent of a foreign principal at any time ten days or more after receipt of such notification without filing an amended registration statement in full compliance with the requirements of this subchapter and the regulations issued thereunder.

CONTINGENT FEE ARRANGEMENT

(h) It shall be unlawful for any agent of a foreign principal required to register under this subchapter to be a party to any contract, agreement, or understanding, either express or implied, with such foreign principal pursuant to which the amount or payment of the compensation, fee, or other remuneration of such agent is contingent in whole or in part upon the success of any political activities carried on by such agent.

TERRITORIAL APPLICABILITY OF SUBCHAPTER

This subchapter shall be applicable in the several States, the District of Columbia, the Territories, the Canal Zone, the insular possessions, and all other places now or hereafter subject to the civil or military jurisdiction of the United States.

RULES AND REGULATIONS

The Attorney General may at any time make, prescribe, amend, and rescind such rules, regulations, and forms as he may deem necessary to carry out the provisions of this subchapter. June 8, 1938, c. 327, § 10, as added Apr. 29, 1942, c. 263, § 1, 56 Stat. 257.

REPORTS TO CONGRESS

The Attorney General shall, from time to time, make a report to the Congress concerning the administration of this subchap-

ter, including the nature, sources, and content of political propaganda disseminated or distributed.

REGULATIONS OF THE ATTORNEY GENERAL—ADMINISTRATION AND ENFORCEMENT OF FOREIGN AGENT REGISTRATION ACT OF 1938, AS AMENDED

Issued April 22, 1967, and last amended July 9, 1973 (38 FR 18235) by authority of the *Foreign Agents Registration Act* (22 U.S.C. 611-621); [28 C.F.R. §§ 5.1 to 5.801]:

§ 5.1 *Administration and enforcement of the Act.* (a) The administration and enforcement of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611-621), is subject to the general supervision and direction of the Attorney General, assigned to, conducted, handled, and supervised by the Assistant Attorney General in charge of the Criminal Division (§ 0.60(b) of this chapter).

(b) The Assistant Attorney General is authorized to prescribe such forms, in addition to or in lieu of those specified in the regulations in this part, as may be necessary to carry out the purposes of this part.

(c) Copies of the Act, and of the rules, regulations, and forms prescribed pursuant to the Act, and information concerning the foregoing may be obtained upon request without charge from the Registration Unit, Criminal Division, Department of Justice, Washington, D.C. 20530.

§ 5.2 *Inquiries concerning application of the Act.* Any inquiry concerning the application of the Act to any person should be addressed to the Registration Section and should be accompanied by a detailed statement containing the following information:

(a) The identity of the agent and the foreign principal involved;

(b) The nature of the agent's activities for or in the interest of the foreign principal;

(c) A copy of the existing or proposed written contract with the foreign principal, or a full description of the terms and conditions of each existing or proposed oral agreement.

§ 5.3 *Filing of a registration statement.* All statements, exhibits, amendments, and other documents and papers required to be filed under the Act or under this part shall be submitted in duplicate to the Registration unit. Filing of such documents may be made in person or by mail, and they shall be deemed to be filed upon their receipt by the Registration Section.

§ 5.4 *Computation of time.* Sundays and holidays shall be counted in computing any period of time prescribed in the Act or in the rules and regulations in this part.

§ 5.100 *Definition of terms.* (a) As used in this part:

(1) The term "Act" means the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611-621).

(2) The term "Attorney General" means the Attorney General of the United States.

(3) The term "Assistant Attorney General" means the Assistant Attorney General in charge of the Criminal Division, Department of Justice, Washington, D.C. 20530

(4) The term "Secretary of State" means the Secretary of State of the United States.

(5) The term "Registration Section" means the Registration Section, Internal Security Division, Department of Justice, Washington, D.C. 20530.

(6) The term "rules and regulations" includes the regulations in this part and all other rules and regulations prescribed by the Attorney General pursuant to the Act and all registration forms and instructions thereon which may be prescribed by the regulations in this part or by the Assistant Attorney General.

(7) The term "registrant" means any person who has filed a registration statement with the Registration Unit, pursuant to section 2(a) of the Act and § 5.3.

(8) Unless otherwise specified, the term "agent of a foreign principal" means an agent of a foreign principal required to register under the Act.

(9) The term "foreign principal" includes a person any of whose activities are directed or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal as that term is defined in section 1(b) of the Act.

(10) The term "initial statement" means the statement required to be filed with the Attorney General under section 2(a) of the Act.

(11) The term "supplemental statement" means the supplement required to be filed with the Attorney General under section 2(b) of the Act at intervals of 6 months following the filing of the initial statement.

(12) The term "final statement" means the statement required to be filed with the Attorney General following the termination of the registrant's obligation to register.

(13) The term "short form registration statement" means the registration statement required to be filed by certain partners, officers, directors, associates, employees, and agents of a registrant.

(b) As used in the Act, the term "control" or any of its variants shall be deemed to include the possession or the exercise of the power, directly or indirectly, to determine the policies or the activities of a person, whether through the ownership of voting rights, by contract, or otherwise.

(c) The term "agency" as used in section 1(c), 1(o), 1(q), 3(g), and 4(e) of the Act shall be deemed to refer to every unit in the executive and legislative branches of the Government of the United States, including committees of both Houses of Congress.

(d) The term "official" as used in sections 1(c), 1(o), 1(q), 3(g), and 4(e) of the Act shall be deemed to include Members and officers of both Houses of Congress as well as officials in the executive branch of the Government of the United States.

(e) The terms "formulating, adopting, or changing," as used in section 1(o) of the Act, shall be deemed to include any activity which seeks to maintain any existing domestic or foreign policy of the United States. They do not include making a routine inquiry of a Government official or employee concerning a current policy or seeking administrative action in a matter where such policy is not in question.

(f) The term "domestic or foreign policies of the United States," as used in section 1 (o) and (p) of the Act shall be deemed to relate to existing and proposed legislation, or legislative action generally; treaties; executive agreements, proclamations, and orders; decisions relating to or affecting departmental or agency policy, and the like.

§ 5.200 *Registration.* (a) Registration under the Act is accomplished by the filing of an initial statement together with all the exhibits required by § 5.201 and the filing of a supplemental statement at intervals of 6 months for the duration of the principal-agent relationship requiring registration.

(b) The initial statement shall be filed on Form DJ-301.

§ 5.201 *Exhibits.* (a) The following described exhibits are required to be filed for each foreign principal of the registrant:

(1) *Exhibit A.* This exhibit, which shall be filed on Form DJ-306, shall set forth the information required to be disclosed concerning each foreign principal.

(2) *Exhibit B.* This exhibit, which shall be filed on Form DJ-304, shall set forth the agreement or understanding between the registrant and each of his foreign principals as well as the nature and method of performance of such agreement or understanding and the existing or proposed activities engaged in or to be engaged in, including political activities, by the registrant for the foreign principal.

(b) Any change in the information furnished in Exhibit A or B shall be reported to the Registration Unit within 10 days of such change. The filing of a new exhibit may then be required by the Assistant Attorney General.

(c) Whenever the registrant is an association, corporation, organization, or any other combination of individuals, the following documents shall be filed as Exhibit C:

(1) A copy of the registrant's charter, articles of incorporation or association, or constitution, and a copy of its bylaws, and amendments thereto;

(2) A copy of every other instrument or document, and a statement of the terms and conditions of every oral agreement, relating to the organization, powers and purposes of the registrant.

(d) The requirement to file any of the documents described in paragraph (c) (1) and (2) of this section may be wholly or partially waived upon written application by the registrant to the Assistant Attorney General setting forth fully the reasons why such waiver should be granted.

(e) Whenever a registrant, within the United States, receives or collects contributions, loans, money, or other things of value,

as part of a fund-raising campaign, for or in the interests of his foreign principal, he shall file as Exhibit D a statement so captioned setting forth the amount of money or the value of the thing received or collected, the names and addresses of the persons from whom such money or thing of value was received or collected, and the amount of money or a description of the thing of value transmitted to the foreign principal as well as the manner and time of such transmission.

§ 5.202 *Short form registration statement.* (a) Except as provided in paragraphs (b), (c), and (d) of this section, each partner, officer, director, associate, employee, and agent of a registrant is required to file a registration statement under the Act. Unless the Assistant Attorney General specifically directs otherwise, this obligation may be satisfied by the filing of a short form registration statement.

(b) A partner, officer, director, associate, employee, or agent of a registrant who does not engage directly in activity in furtherance of the interests of the foreign principal is not required to file a short form registration statement.

(c) An employee or agent of a registrant whose services in furtherance of the interests of the foreign principal are rendered in a clerical, secretarial, or in a related or similar capacity, is not required to file a short form registration statement.

(d) Whenever the agent of a registrant is a partnership, association, corporation, or other combination of individuals, and such agent is not within the exemption of paragraph (b) of this section, only those partners, officers, directors, associates, and employees who engage directly in activity in furtherance of the interests of the registrant's foreign principal are required to file a short form registration statement.

(e) The short form registration statement shall be filed on Form DJ-305. Any change affecting the information furnished with respect to the nature of the services rendered by the person filing the statement, or the compensation he receives, shall require the filing of a new short form registration statement within 10 days after the occurrence of such change. There is no requirement to file exhibits or supplemental statements to a short form registration statement.

§ 5.203 *Supplemental statement.* (a) Supplemental statements shall be filed on Form DJ-302.

(b) The obligation to file a supplemental statement at 6-month intervals during the agency relationship shall continue even though the registrant has not engaged during the period in any activity in the interests of his foreign principal.

(c) The time within which to file a supplemental statement may be extended for sufficient cause shown in a written application to the Assistant Attorney General.

§ 5.204 *Amendments.* (a) An initial, supplemental, or final statement which is deemed deficient by the Assistant Attorney General must be amended upon his request. Such amendment shall be filed upon Form DJ-307 and shall identify the item of the statement to be amended.

(b) A change in the information furnished in an initial or supplemental statement under clauses (3), (4), (6), and (9) of section 2(a) of the Act shall be by amendment, unless the notice which is required to be given of such change under section 2(b) is deemed sufficient by the Assistant Attorney General.

§ 5.205 *Termination of registration.* (a) A registrant shall, within 30 days after the termination of his obligation to register, file a final statement on Form DJ-302 with the Registration Unit for the final period of the agency relationship not covered by any previous statement.

(b) Registration under the Act shall be terminated upon the filing of a final statement, if the registrant has fully discharged all his obligations under the Act.

(c) A registrant whose activities on behalf of each of his foreign principals become confined to those for which an exemption under section 3 of the Act is available may file a final statement notwithstanding the continuance of the agency relationship with the foreign principals.

§ 5.206 *Language and wording of registration statement.* (a) Except as provided in the next sentence, each statement, amendment, exhibit, or notice required to be filed under the Act shall be submitted in the English language. An exhibit may be filed even though it is in a foreign language if it is accompanied by an English translation certified under oath by the translator before a notary public, or other person authorized by law to administer oaths for general purposes, as a true and accurate translation.

(b) A statement, amendment, exhibit, or notice required to be filed under the Act should be typewritten, but will be accepted for filing if it is written legibly in ink.

(c) Copies of any document made by any of the duplicating processes may be filed pursuant to the Act if they are clear and legible.

(d) A response shall be made to every item on each pertinent form, unless a registrant is specifically instructed otherwise in the form. Whenever the item is inapplicable or the appropriate response to an item is "none," an express statement to that effect shall be made.

§ 5.207 *Incorporation by reference.* (a) Each initial, supplemental, and final statement shall be complete in and of itself. Incorporation of information by reference to statements previously filed is not permissible.

(b) Whenever insufficient space is provided for response to any item in a form, reference shall be made in such space to a full insert page or pages on which the item number and inquiry shall be restated and a complete answer given. Inserts and riders of less than full page size should not be used.

§ 5.208 *Disclosure of foreign principals.* A registrant who represents more than one foreign principal is required to list in the statements he files under the Act only those foreign principals for whom he is not entitled to claim exemption under section 3 of the Act.

§ 5.209 *Information relating to employees.* A registrant shall list in the statements he files under the Act only those employees whose duties require them to engage directly in activities in furtherance of the interests of the foreign principal.

§ 5.210 *Amount of detail required in information relating to registrant's activities and expenditures.* A statement is "detailed" within the meaning of clauses 6 and 8 of section 2(a) of the Act when it has that degree of specificity necessary to permit meaningful public evaluation of each of the significant steps taken by a registrant to achieve the purposes of the agency relation.

§ 5.211 *Sixty-day period to be covered in initial statement.* The 60-day period referred to in clauses 5, 7, and 8 of section 2(a) of the Act shall be measured from the time that a registrant has incurred an obligation to register and not from the time that he files his initial statement.

§ 5.300 *Burden of establishing availability of exemption.* The burden of establishing the availability of an exemption from registration under the Act shall rest upon the person for whose benefit the exemption is claimed.

§ 5.301 *Exemption under section 3(a) of the Act.* (a) A consular officer of a foreign government shall be considered duly accredited under section 3(a) of the Act whenever he has received formal recognition as such, whether provisionally or by exequatur, from the Secretary of State.

(b) The exemption provided by section 3(a) of the Act to a duly accredited diplomatic or consular officer is personal and does not include within its scope an office, bureau, or other entity.

§ 5.302 *Exemptions under section 3(b) and (c) of the Act.* The exemptions provided by sections 3(b) and (c) of the Act shall not be available to any person described therein unless he has filed with the Secretary of State a fully executed Notification of Status with a Foreign Government (Form D.S. 394).

§ 5.303 *Exemption available to persons accredited to international organizations.* Persons designated by foreign governments as their representatives in or to an international organization, other than nationals of the United States, are exempt, from registration under the Act in accordance with the provisions of the International Organizations Immunities Act, if they have been duly notified to and accepted by the Secretary of State as such representatives, officers, or employees, and if they engage exclusively in activities which are recognized as being within the scope of their official functions.

§ 5.304 *Exemptions under sections 3(d) and (e) of the Act.* (a) As used in section 3(d), the term "trade or commerce" shall include the exchange, transfer, purchase, or sale of commodities, services, or property of any kind.

(b) For the purpose of section 3(d) of the Act, activities of an agent of a foreign principal as defined in section 1(c) of the Act, in furtherance of the bona fide trade or commerce of such foreign principal, shall be considered "private," even though the foreign principal is owned or controlled by a foreign government so long

as the activities do not directly promote the public or political interests of the foreign government.

(c) For the purpose of section 3(d) of the Act, the disclosure of the identity of the foreign person that is required under section 1(q) of the Act shall be made to each official of the U.S. Government with whom the activities are conducted. This disclosure shall be made to the Government official prior to his taking any action upon the business transacted. The burden of establishing that the required disclosure was made shall lie upon the person claiming the exemption.

(d) The exemption provided by section 3(e) of the Act shall not be available to any person described therein if he engages in political activities as defined in section 1(o) of the Act for or in the interests of his foreign principal.

§ 5.305 *Exemption under section 3(f) of the Act.* The exemption provided by section 3(f) of the Act shall not be available unless the President has, by publication in the FEDERAL REGISTER, designated for the purpose of this section the country the defense of which he deems vital to the defense of the United States.

§ 5.306 *Exemption under section 3(g) of the Act.* For the purpose of section 3(g) of the Act—

(a) Attempts to influence or persuade agency personnel or officials other than in the course of established agency proceedings, whether formal or informal, shall include only such attempts to influence or persuade with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party; and

(b) If an attorney engaged in legal representation of a foreign principal before an agency of the U.S. Government is not otherwise required to disclose the identity of his principal as a matter of established agency procedure, he must make such disclosure, in conformity with this section of the Act, to each of the agency's personnel or officials before whom and at the time his legal representation is undertaken. The burden of establishing that the required disclosure was made shall lie upon the person claiming the exemption.

§ 5.400 *Filing of political propaganda.* (a) The two copies of each item of political propaganda required to be filed with the Attorney General under section 4(a) of the Act shall be filed with the Registration Section.

(b) Whenever two copies of an item of political propaganda have been filed pursuant to section 4(a) of the Act, an agent of a foreign principal shall not be required, in the event of further dissemination of the same material, to forward additional copies thereof to the Registration Unit.

(c) Unless specifically directed to do so by the Assistant Attorney General, a registrant is not required to file two copies of a motion picture containing political propaganda which he disseminates on behalf of his foreign principal, so long as he files monthly reports on its dissemination. In each such case this regis-

trant shall submit to the Registration Unit either a film strip showing the label required by section 4(b) of the Act or an affidavit certifying that the required label has been made a part of the film.

§ 5.401 *Dissemination report.* (a) A Dissemination Report shall be filed with the Registration Section for each item of political propaganda that is transmitted, or caused to be transmitted, in the U.S. mails, or by any means or instrumentality of interstate or foreign commerce, by an agent of a foreign principal for or in the interests of any of his foreign principals.

(b) The Dissemination Report shall be filed on Form DJ-310.

(c) Except as provided in paragraph (d) of this section, a Dissemination Report shall be filed no later than 48 hours after the beginning of the transmittal of the political propaganda.

(d) Whenever transmittals of the same political propaganda are made over a period of time, a Dissemination Report may be filed monthly for as long as such transmittals continue.

(e) A Dissemination Report shall be complete in and of itself. Incorporation of information by reference to reports previously filed is not permissible.

§ 5.402 *Labeling political propaganda.* (a) Within the meaning of this part political propaganda shall be deemed labeled whenever it has been marked or stamped conspicuously at its beginning with a statement setting forth such information as is required under section 4(b) of the Act.

(b) An item of political propaganda which is required to be labeled under section 4(b) of the Act and which is in the form of prints shall be marked or stamped conspicuously at the beginning of such item with a statement in the language or languages used therein, setting forth such information as is required under section 4(b) of the Act.

(c) An item of political propaganda which is required to be labeled under section 4(b) of the Act but which is not in the form of prints shall be accompanied by a statement setting forth such information as is required under section 4(b) of the Act.

(d) Political propaganda as defined in section 1(j) of the Act which is televised or broadcast, or which is caused to be televised or broadcast, by an agent of a foreign principal, shall be introduced by a statement which is reasonably adapted to convey to the viewers or listeners thereof such information as is required under section 4(b) of the Act.

(e) An agent of a foreign principal who transmits or causes to be transmitted in the U.S. mails or by any means or instrumentality of interstate or foreign commerce a still or motion picture film which contains political propaganda as defined in section 1(j) of the Act shall insert at the beginning of such film a statement which is reasonably adapted to convey to the viewers thereof such information as is required under section 4(b) of the Act.

(f) For the purpose of section 4(e) of the Act, the statement that must preface or accompany political propaganda or a request for information shall be in writing.

§ 5.500 *Maintenance of books and records.* (a) A registrant shall keep and preserve in accordance with the provisions of section 5 of the Act the following books and records:

(1) All correspondence, memoranda, cables, telegrams, teletype messages, and other written communications to and from all foreign principals and all other persons, relating to the registrant's activities on behalf of, or in the interest of any of his foreign principals.

(2) All correspondence, memoranda, cables, telegrams, teletype messages, and other written communications to and from all persons, other than foreign principals, relating to the registrant's political activity, or relating to political activity on the part of any of the registrant's foreign principals.

(3) Original copies of all written contracts between the registrant and any of his foreign principals.

(4) Records containing the names and addresses of persons to whom political propaganda has been transmitted.

(5) All bookkeeping and other financial records relating to the registrant's activities on behalf of any of his foreign principals, including canceled checks, bank statements, and records of income and disbursements, showing names and addresses of all persons who paid moneys to, or received moneys from, the registrant, the specific amounts so paid or received, and the date on which each item was paid or received.

(6) If the registrant is a corporation, partnership, association, or other combination of individuals, all minute books.

(7) Such books or records as will disclose the names and addresses of all employees and agents of the registrant, including persons no longer acting as such employees or agents.

(8) Such other books, records, and documents as are necessary properly to reflect the activities for which registration is required.

(b) The books and records listed in paragraph (a) of this section shall be kept and preserved in such manner as to render them readily accessible for inspection pursuant to section 5 of the Act.

(c) A registrant shall keep and preserve the books and records listed in paragraph (a) of this section for a period of 3 years following the termination of his registration under § 5.205.

(d) Upon good and sufficient cause shown in writing to the Assistant Attorney General, a registrant may be permitted to destroy books and records in support of the information furnished in an initial or supplemental statement which he filed 5 or more years prior to the date of his application to destroy.

§ 5.501 *Inspection of books and records.* Officials of the Criminal Division and the Federal Bureau of Investigation are authorized under section 5 of the Act to inspect the books and records listed in § 5.500(a).

§ 5.600 *Public examination of records.* Registration statements, Dissemination Reports, and copies of political propaganda filed under section 4(a) of the Act, shall be available for public examination at the Registration Section on official business days, from 10 a.m. to 4 p.m.

§ 5.601 *Copies of records available.* (a) Copies of registration statements and Dissemination Reports may be obtained from the Registration Unit upon payment of a fee at the rate of 10 cents per copy of each page of the material requested.

(b) Information as to the fee to be charged for copies of registration statements and Dissemination Reports and the time required for their preparation may be obtained upon request to the Registration Unit.

(c) Payment of the fee shall accompany an order for copies, and shall be made in cash, by U.S. postal money order, or by certified bank check made payable to the Treasurer of the United States. Postage stamps will not be accepted.

§ 5.800 *Ten-day filing requirement.* The 10-day filing requirement provided by section 8(g) of the Act shall be deemed satisfied if the amendment to the registration statement is deposited in the U.S. mails no later than the 10th day of the period.

§ 5.801 *Activity beyond 10-day period.* A registrant who has within the 10-day period filed an amendment to his registration statement pursuant to a Notice of Deficiency given under section 8(g) of the Act may continue to act as an agent of a foreign principal beyond this period unless he receives a Notice of Non-compliance from the Registration Unit.

PHOTOGRAPHING CANAL ZONE

Act of Dec. 12, 1941 (55 Stat. 798, c. 569) :

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That chapter 1 of title 2, Canal Zone Code, approved June 19, 1934 (48 Stat. 1122) as amended, is further amended by adding at the end thereof a new section numbered 15 and reading as follows:

SEC. 15. Photographing, and so forth, and possession of cameras in areas of Canal Zone.—Whenever, in the interests of the protection of the Panama Canal and Canal Zone, the Governor of the Panama Canal shall determine that any part or feature of the Panama Canal, or any area, object, installation, or structure within the Canal Zone, requires protection against the general dissemination of information relative thereto, the Governor is hereby authorized to make, and from time to time alter and amend, regulations prohibiting or restricting:

(a) The making of any photograph, sketch, drawing, map, or graphical representation of, within, or upon any such part or feature of the Panama Canal, or any such area, object, installation, or structure within the Canal Zone; and

(b) The possession of any camera within any area or areas in the Canal Zone which the Governor may designate: *Provided, however,* That no regulation made pursuant to authority contained in this section shall apply to activities of the kind covered by this section which are conducted or performed by persons in the service or employ of the United States in the course of their official duties.

Any person who shall violate any of the rules and regulations established in pursuance of the authority contained in this section shall be punishable by a fine of not more than \$1,000, or by imprisonment in jail for not more than one year, or by both.

ACCESS TO U.S. COURTS DENIED TO CERTAIN ENEMY NATIONALS

Proclamation 2561 of July 2, 1942 (56 Stat. 1964-65): Nationals of enemy countries, entering United States during time of war for purposes of sabotage, espionage, etc., subject to be tried by military tribunals and denied access to United States courts.

EMPLOYEES OF FEDERAL CONTRACTORS

Act of December 2, 1942 (56 Stat. 1034 § 202; 42 U.S.C. 1712)—*Disqualification from benefits for injury, death or detention*:

No person convicted in a court of competent jurisdiction of any subversive act against the United States or any of its Allies, committed after the declaration by the President on May 27, 1941, of the national emergency, shall be entitled to compensation or other benefits under subchapter I⁴ of this chapter, nor shall any compensation be payable with respect to his death or detention under said subchapter, and upon indictment or the filing of an information charging the commission of any such subversive act, all such compensation or other benefits shall be suspended and remain suspended until acquittal or withdrawal of such charge, but upon conviction thereof, all such payments and all benefits under said subchapter shall be forfeited and terminated. If the charge is withdrawn, or there is an acquittal, all such compensation withheld shall be paid to the person or persons entitled thereto.

ATOMIC ENERGY CONTROL

Act of August 1, 1946 (60 Stat. 755-775), as amended—*The Atomic Energy Act of 1946*—has been superseded by the *Atomic Energy Act of 1954* (68 Stat. 919, c. 1073; 42 U.S.C. 2011-2281)—*See Act of Aug. 30, 1954* (68 Stat. 919; P.L. 703, 83d Cong.; 42 U.S.C. 2011-2281) below, at p. 562.

⁴Made permanent by Act of Aug. 8, 1958 (P.L. 85-608, §§ 103, 104; 72 Stat. 536; 42 U.S.C. 1711).

⁵The Committee on Internal Security was established as a standing committee on February 18, 1949, p. 3723 (H. Res. 89). It replaced the Committee on Un-American Activities, which had first been established as a standing committee on January 3, 1945, p. 10. By the adoption of H. Res. 89, the House effected the transfer of all property, including records, of the Committee on Un-American Activities to the Committee on Internal Security and protected the validity of all proceedings and actions of the former committee as well as the continuance of any governmental or judicial proceedings involving that committee. All bills, resolutions, petitions, memorials and executive communications which had been referred to the Committee on Un-American Activities in the 91st Congress were referred to the Committee on Internal Security on February 18, 1949, p. 3747 (H. Res. 251). The Committee on Un-American Activities had jurisdiction of resolutions to define communism (Mar. 20, 1947, p. 2315, 2343) and also bills to protect the United States against certain un-American and subversive activities by requiring registration of Communist organizations (Subversive Activities Control Act of 1950, 64 Stat. 987).

⁶See Parts IV and V for list of resolutions on and reports and hearings by this committee.

COMMITTEE ON INTERNAL SECURITY ⁵

RULES ADOPTED BY THE 93D CONGRESS

House Resolution 6, January 3, 1973.

Resolution

Resolved. That the Rules of the House of Representatives of the Ninety-second Congress, together with all applicable provisions of the Legislative Reorganization Act of 1946, as amended, and the Legislative Reorganization Act of 1970, as amended, be, and they are hereby adopted as the Rules of the House of Representatives of the Ninety-third Congress * * *

* * * * *

RULE X—STANDING COMMITTEES

1. There shall be elected by the House, at the commencement of each Congress,

* * * * *

(k) Committee on Internal Security, to consist of nine Members.

* * * * *

RULE XI—POWERS AND DUTIES OF COMMITTEES

* * * * *

(a) Communist and other subversive activities affecting the internal security of the United States.

(b) The Committee on Internal Security, acting as a whole or by subcommittee, is authorized to make investigations from time to time of (1) the extent, character, objectives, and activities within the United States of organizations or groups, whether of foreign or domestic origin, their members, agents, and affiliates, which seek to establish, or assist in the establishment of, a totalitarian dictatorship within the United States, or to overthrow or alter, or assist in the overthrow or alteration of, the form of government of the United States or of any State thereof, by force, violence, treachery, espionage, sabotage, insurrection, or any unlawful means, (2) the extent, character, objectives, and activities within the United States of organizations or groups, their members, agents, and affiliates, which incite or employ acts of force, violence, terrorism, or any unlawful means, to obstruct or oppose the lawful authority of the Government of the United States in the execution of any law or policy affecting the internal security of the United States, and (3) all other questions, including the administration and execution of any law of the United States, or any portion of law, relating to the foregoing that would aid the Congress or any committee of the House in any necessary remedial legislation.

The Committee on Internal Security shall report to the House (or to the Clerk of the House if the House is not in session) the results of any such investigation, together with such recommendations as it deems advisable.

⁵ See footnote on p. 119.

For the purpose of any such investigation, the Committee on Internal Security, or any subcommittee thereof, is authorized to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, to hold such hearings, and to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by any such chairman, and may be served by any person designated by any such chairman or member.

TAFT-HARTLEY ACT

Act of June 23, 1947 (61 Stat. 155 § 206; 29 U.S.C. 176)—*Labor Management Relations Act*:

NATIONAL EMERGENCIES

Whenever in the opinion of the President of the United States, a threatened or actual strike or lockout affecting an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce, will, if permitted to occur or to continue, imperil the national health or safety, he may appoint a board of inquiry to inquire into the issues involved in the dispute and to make a written report to him within such time as he shall prescribe. Such report shall include a statement of the facts with respect to the dispute, including each party's statement of its position but shall not contain any recommendations. The President shall file a copy of such report with the Service and shall make its contents available to the public.

STRIKES SUBJECT TO INJUNCTION

SEC. 208 (29 U.S.C. 178). *Strikes subject to injunction; inapplicability of section 101-115 of this title; review:*

(a) Upon receiving a report from a board of inquiry the President may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such strike or lock-out or the continuing thereof, and if the court finds that such threatened or actual strike or lock-out—

(i) affects an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce; and

(ii) if permitted to occur or to continue, will imperil the national health or safety, it shall have jurisdiction to enjoin any such strike or lockout, or the continuing thereof, and to make such other orders as may be appropriate.

(b) In any case, the provisions of sections 101-115 of this [code] title, shall not be applicable.

(c) The order or orders of the court shall be subject to review by the appropriate United States court of appeals and by the Supreme Court upon writ of certiorari or certification as provided in sections 346 and 347 of Title 28.

ELIGIBILITY FOR MEMBERSHIP IN AMVETS

Act of July 23, 1947 (61 Stat. 407, P.L. 216, 80th Cong., § 6) as amended by Act of December 28, 1950 (64 Stat. 1122, P.L. 896, 81st Cong.), and by Act of July 26, 1955 (69 Stat. 375, P.L. 175, 84th Cong.); 36 U.S.C. 67e:

SEC. 6. Any person who served in the Armed Forces of the United States of America or any American citizen who served in the armed forces of an allied nation of the United States on or after September 16, 1940, and on or before January 31, 1955, is eligible for regular membership in AMVETS, provided such service when terminated by discharge or release from active duty be by honorable discharge or separation. No person who is a member of, or who advocates the principles of, any organization believing in, or working for, the overthrow of the United States Government by force, and no person who refuses to uphold and defend the Constitution of the United States, shall be privileged to become, or continue to be, a member of this organization.

NATIONAL SECURITY ACT

Act of July 26, 1947 (61 Stat. 495-510), as amended by Act of Aug. 10, 1949 (63 Stat. 578-592), by Reorganization Plan No. 4 of 1949 (63 Stat. 1067), by Reorganization Plan No. 3 of 1953 (67 Stat. 634), by Reorganization Plan No. 7 of 1953 (67 Stat. 639), by Act of April 4, 1953 (67 Stat. 639), by Act of April 4, 1953 (67 Stat. 19, c. 16), and by P.L. 85-599 § 2; 50 U.S.C. 402, 403—*The National Security Act of 1947*:

AMENDING THE DECLARATION OF POLICY

SEC. 2. Section 2 of the National Security Act of 1947, as amended (50 U.S.C. 401), is further amended to read as follows:

SEC. 2. In enacting this legislation, it is the intent of Congress to provide a comprehensive program for the future security of the United States; to provide for the establishment of integrated policies and procedures for the departments, agencies, and functions of the Government relating to the national security; to provide a Department of Defense, including the three military Departments of the Army, the Navy (including naval aviation and the United States Marine Corps), and the Air Force under the direction, authority, and control of the Secretary of Defense: to provide that each military department shall be separately organized under its own Secretary and shall function under the direction, authority, and control of the Secretary of Defense; to provide for their unified direction under civilian control of the Sec-

retary of Defense but not to merge these departments or services; to provide for the establishment of unified or specified combatant commands, and a clear and direct line of command to such commands; to eliminate unnecessary duplication in the Department of Defense, and particularly in the field of research and engineering by vesting its overall direction and control in the Secretary of Defense; to provide more effective, efficient, and economical administration in the Department of Defense; to provide for the unified strategic direction of the combatant forces, for their operation under unified command, and for their integration into an efficient team of land, naval, and air forces but not to establish a single Chief of Staff over the armed forces nor an overall armed forces general staff.

NATIONAL SECURITY COUNCIL

SEC. 101. (a) There is established in the Executive Office of the President a council to be known as the National Security Council (hereinafter in this section referred to as the "Council").

The President of the United States shall preside over the meetings of the Council: *Provided*, That in his absence he may designate a member of the Council to preside in his place.

The function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security.

The Council shall be composed of—

- (1) the President;
- (2) the Vice President;
- (3) the Secretary of State;
- (4) the Secretary of Defense;
- (5) Director of the Foreign Operations Administration, who shall not delegate this function;
- (6) Director of the Office of Defense Mobilization, who shall not delegate this function;
- (7) the Secretaries and Under Secretaries of other executive departments and of the military departments, the Chairman of the Munitions Board, and the Chairman of the Research and Development Board, when appointed by the President by and with the advice and consent of the Senate, to serve as his pleasure.

CENTRAL INTELLIGENCE AGENCY ⁶

SEC. 102. (a) There is established under the National Security Council a Central Intelligence Agency with a Director of Central

⁶ The Central Intelligence Agency is specifically prohibited by law from any internal security functions. However, insofar as the results of the work of this Agency must have an impact upon the internal security of the United States, its statute is included at this point. But see 119 Cong. Rec. 726-7 (daily edition February 6, 1973) for correspondence from the Central Intelligence Agency asserting 42 U.S.C. 3701, 3756 as authority for CIA involvement in training domestic police officers. Also, *Central Intelligence Agency Act of 1949*, at p. 173.

Intelligence who shall be the head thereof, and with a Deputy Director of Central Intelligence who shall act for, and exercise the powers of, the Director during his absence or disability. The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate from among the commissioned officers of the armed services, whether in an active or retired status, or from among individuals in civilian life: *Provided, however,* That at no time shall the two positions of the Director and Deputy Director be occupied simultaneously by commissioned officers of the armed services, whether in an active or retired status.

TERMINATION OF EMPLOYMENT

(c) Notwithstanding the provisions of Section 6 of the Act of August 24, 1912 (37 Stat. 555), or the provisions of any other law, the Director of Central Intelligence may, in his discretion, terminate the employment of any officer or employee of the Agency whenever he shall deem such termination necessary or advisable in the interests of the United States, but such termination shall not affect the right of such officer or employee to seek or accept employment in any other department or agency of the Government if declared eligible for such employment by the United States Civil Service Commission.

POWER AND DUTIES

(d) For the purpose of coordinating the intelligence activities of the several Government departments and agencies in the interest of national security, it shall be the duty of the Agency, under the direction of the National Security Council—

(1) to advise the National Security Council in matters concerning such intelligence activities of the Government departments and agencies as relate to national security;

(2) to make recommendations to the National Security Council for the coordination of such intelligence activities of the departments and agencies of the Government as relate to the national security;

(3) to correlate and evaluate intelligence relating to the national security, and provide for the appropriate dissemination of such intelligence within the Government using where appropriate existing agencies and facilities: *Provided,* That the Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions: *Provided further,* That the departments and other agencies of the Government shall continue to collect, evaluate, correlate and disseminate departmental intelligence: *And provided further,* That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure;

(4) to perform, for the benefit of the existing intelligence agencies, such additional services of common concern as the

National Security Council determines can be more efficiently accomplished centrally;

(5) to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct.

INSPECTION OF INTELLIGENCE OF OTHER DEPARTMENTS

(e) To the extent recommended by the National Security Council and approved by the President, such intelligence of the departments and agencies of the Government, except as hereinafter provided, relating to the national security shall be open to the inspection of the Director of Central Intelligence, and such intelligence as relates to the national security and is possessed by such departments and other agencies of the Government, except as hereinafter provided, shall be made available to the Director of Central Intelligence for correlation, evaluation, and dissemination: *Provided, however,* That upon the written request of the Director of Central Intelligence, the Director of the Federal Bureau of Investigation shall make available to the Director of Central Intelligence such information for correlation, evaluation, and dissemination as may be essential to the national security.

PERMANENT HEADQUARTERS AGREEMENT BETWEEN UNITED NATIONS AND UNITED STATES

Act of August 4, 1947 (61 Stat. 756 c. 482, S.J. Res. 144, 80th Cong.), authorizes the President to bring into effect an agreement between the United States and the United Nations for the purpose of establishing permanent headquarters of the United Nations in the United States and authorizes the taking of measures necessary to facilitate compliance with the provisions of such agreement.

The full text of the agreement appears in Senate Report 522, 80th Congress. Attention is also called to Senate Report 559, 80th Congress, which discusses the principal issues considered by the Committee in connection with the Headquarters Agreement.

"It is clear," the Foreign Relations Committee Report reads (p. 5), "that the United States cannot tell the other member nations who should or who should not represent them at the seat of the United Nations and cannot claim any right of veto over the Secretary-General's appointment of personnel to the staff of the United Nations. In general, the United States, as host country, must permit access to the headquarters on the part of all persons who have legitimate business with the Organization. This involves inevitably the admission of a number of aliens, some of whom would not normally be admissible under immigration laws of the United States.

The principal problem considered by the committee was how this right of access to the headquarters could be granted in a manner which would not prejudice the security of the United States against infiltration on the part of subversive alien elements.

The agreement, in sections 11 and 13, grants the right of entry to representatives of members, officials of the United Nations, and other persons having business with the United Nations. Two important protections are, however, provided in section 13: (1) The United States may require such persons to have visas and may limit the visas which it issues so as to be valid only for transit to the headquarters district and sojourn in its immediate vicinity; (2) in case any such persons abuse their privileges in activities outside their official capacity, they become subject to deportation. In order to be sure that this remedy will be applied in a fair manner, it is provided that deportation proceedings are to be subject to the approval of the Secretary of State, that full hearings must be granted to the interested parties, and that the limited class of persons enjoying diplomatic status may be required to leave only in accordance with diplomatic procedure.

It is the opinion of the committee that these provisions adequately protect the security of the United States and that the United Nations could not be expected to maintain its headquarters in this country if the United States were to impose restrictions upon access to the headquarters district which would interfere with the proper functioning of the Organization.

In order to remove any doubt as to the meaning of these provisions, the committee adopted an amendment to Senate Joint Resolution 144 making it clear that there is no amendment, or obligation to amend, the immigration laws in any way except to give effect to the rights referred to above.

Act of June 10, 1948 (62 Stat. 356, c. 447 § (d)), amending the *La Follette-Lloyd Act*: See Part III, The Federal Security Program, Section A. at p. 665.

TITLE 18 OF THE UNITED STATES CODE (CRIMINAL CODE)

Act of June 25, 1948 (62 Stat. 688-833)—*Revised Criminal Code*: 18 U.S.C.—:

SEC. 45. *Capturing or Killing Carrier Pigeons.* Whoever knowingly traps, captures, shoots, kills, possesses, or detains an Antwerp or homing pigeon, commonly called carrier pigeon, owned by the United States or bearing a band owned and issued by the United States having thereon the letters "U.S.A." or "U.S.N." and a serial number, shall be fined not more than \$100 or imprisoned not more than six months, or both.

The possession or detention of any such pigeon without giving immediate notice by registered mail to the nearest military or naval authorities, shall be prima facie evidence of a violation of this section.

SEC. 81. *Arson Within Special Maritime and Territorial Jurisdiction.* Whoever, within the special maritime and territorial jurisdiction of the United States, willfully and maliciously sets fire to or burns, or attempts to set fire to or burn any building, structure or vessel, any machinery or building materials or supplies, military or naval stores, munitions of war, or any structural

aids or appliances for navigation or shipping, shall be fined not more than \$1,000 or imprisoned not more than five years, or both.

If the building be a dwelling or if the life of any person be placed in jeopardy, he shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both.

SEC. 111. *Assaulting, Resisting, or Impeding Certain Officers or Employees.* Whoever forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of his official duties, shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

Whoever, in the commission of any such acts uses a deadly, or dangerous weapon, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

SEC. 112. *Protection of Foreign Officials and Official Guests.* (a) Whoever assaults, strikes, wounds, imprisons, or offers violence to a foreign official or official guest shall be fined not more than \$5,000, or imprisoned not more than three years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon shall be fined not more than \$10,000, or imprisoned not more than ten years, or both.

(b) Whoever willfully intimidates, coerces, threatens, or harasses a foreign official or an official guest, or willfully obstructs a foreign official in the performance of his duties, shall be fined not more than \$500, or imprisoned not more than six months or both.

(c) Whoever within the United States but outside the District of Columbia and within one hundred feet of any building or premises belonging to or used or occupied by a foreign government or by a foreign official for diplomatic or consular purposes, or as a mission to an international organization, or as a residence of a foreign official, or belonging to or used or occupied by an international organization for official business or residential purposes, publicly—

(1) parades, pickets, displays any flag, banner, sign, placard, or device, or utters any word, phrase, sound, or noise, for the purpose of intimidating, coercing, threatening, or harassing any foreign official or obstructing him in the performance of his duties, or

(2) congregates with two or more persons with the intent to perform any of the aforesaid acts or to violate subsection (a) or (b) of this section,

shall be fined not more than \$500, or imprisoned not more than six months, or both.

(d) For the purpose of this section "foreign official", "foreign government", "international organization", and "official guest" shall have the same meanings as those provided in sections 1116 (b) and (c) of this title.

(e) Nothing contained in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the first amendment to the Constitution of the United States.

SEC. 241.⁷ *Conspiracy Against Rights of Citizens.* If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

They shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to imprisonment for any term of years or for life.

SEC. 245. *Federally Protected Activities.* Added by Act of April 11, 1968 (82 Stat. 73 § 101(a)) :

(b) Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with—

(1) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from—

(A) voting or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher, or any legally authorized election official, in any primary, special, or general election;

shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life. As used in this section, the term "participating lawfully in speech or peaceful assembly" shall not mean the aiding, abetting, or inciting of other persons to riot or to commit any act of physical violence upon any individual or against any real or personal property in furtherance of a riot. Nothing in subparagraph (2)(F) or (4)(A) of this subsection shall apply to the proprietor of any establishment which provides lodging to transient guests, or to any employee acting on behalf of such proprietor, with respect to the enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of such establishment if such establishment is located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor as his residence.

SEC. 351. *Congressional Assassination, Kidnapping and Assault; Penalties.* Added by Act of January 2, 1971 (84 Stat. 189 Title IV. § 15) :

(a) Whoever kills any individual who is a Member of Congress or a Member-of-Congress-elect shall be punished as provided by sections 1111 and 1112 of this title.

(b) Whoever kidnaps any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for

⁷ As amended by Act of April 11, 1968 (82 Stat. 75, Title I, § 103; 18 U.S.C. 24

any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished by imprisonment for any term of years or for life.

(d) If two or more persons conspire to kill or kidnap any individual designated in subsection (a) of this section and one or more of such persons do any act to effect the object of the conspiracy, each shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

(e) Whoever assaults any person designated in subsection (a) of this section shall be fined not more than \$5,000, or imprisoned not more than one year, or both; and if personal injury results, shall be fined not more than \$10,000, or imprisoned for not more than ten years, or both.

(f) If Federal investigative or prosecutive jurisdiction is asserted for a violation of this section, such assertion shall suspend the exercise of jurisdiction by a State or local authority, under any applicable State or local law, until Federal action is terminated.

(g) Violations of this section shall be investigated by the Federal Bureau of Investigation. Assistance may be requested from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

SEC. 371. *Conspiracy to Commit Offense or to Defraud United States.* If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.

SEC. 372. *Conspiracy to Impede or Injure Officer.* If two or more persons in any State, Territory, Possession, or District conspire to prevent, by force, intimidation, or threat any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof, or to induce by like means any officer of the United States to leave the place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties, each of such persons shall be fined not more than \$5,000 or imprisoned not more than six years, or both.

SEC. 498. *Military or Naval Discharge Certificates.* Whoever forges, counterfeits, or falsely alters any certificate of discharge

from the military or naval service of the United States, or uses, unlawfully possesses, or exhibits any such certificate, knowing the same to be forged, counterfeited, or falsely altered, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

SEC. 499. *Military, Naval, or Official Passes.* Whoever falsely makes, forges, counterfeits, alters, or tampers with any naval, military, or official pass or permit, issued by or under the authority of the United States, or with intent to defraud uses or possesses any such pass or permit, or personates or falsely represents himself to be or not to be a person to whom such pass or permit has been duly issued, or willfully allows any other person to have or use any such pass or permit, issued for his use alone, shall be fined not more than \$2,000 or imprisoned not more than 5 years, or both.

SEC. 506. *Seals of Departments or Agencies.* Whoever knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal to or upon any certificate, instrument, commission, document, or paper, of any description; or

Whoever, with fraudulent intent, possesses any such seal, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered—

Shall be fined not more than \$5,000, or imprisoned not more than 5 years, or both.

SEC. 552.⁸ *Officers Aiding Importation of Obscene or Treasonous Books and Articles.* Whoever, being an officer, agent, or employee of the United States knowingly aids or abets any person engaged in any violation of any of the provisions of law prohibiting importing, advertising, dealing in, exhibiting, or sending or receiving by mail obscene or indecent publications or representations, or books, pamphlets, papers, writings, advertisements, circulars, prints, pictures, or drawings containing any matter advocating or urging treason or insurrection against the United States or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, or means for procuring abortion, or other articles of indecent or immoral use or tendency, shall be fined not more than \$5,000 or imprisoned not more than 10 years, or both.

SEC. 641. *Public Money, Property, or Records.* Whoever embezzles, steals, purloins, or knowingly converts to his use or to the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made, or being made under contract for the United States or any department or agency thereof; or

Whoever receives, conceals, or retains the same with intent to convert it to his own use or gain, knowing it to have been embezzled, stolen, purloined, or converted—

⁸ As amended by Act of January 8, 1971 (84 Stat. 1973, § 2; 18 U.S.C. 552).

Shall be fined not more than \$10,000 or imprisoned for not more than 10 years or both; but if the value of such property does not exceed the sum of \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

The word "value" means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.

SEC. 703. *Uniform of Friendly Nation.* Whoever, within the jurisdiction of the United States, with intent to deceive or mislead, wears any naval, military, police, or other official uniform, decoration, or regalia of any foreign state, nation, or government with which the United States is at peace, or anything so nearly resembling the same as to be calculated to deceive, shall be fined not more than \$250 or imprisoned not more than six months, or both.

SEC. 757. *Prisoners of War or Enemy Aliens.* Whoever procures the escape of any prisoner of war held by the United States or any of its allies, or the escape of any person apprehended or interned as an enemy alien by the United States or any of its allies, or advises, connives at, aids, or assists in such escape, or aids, relieves, transports, harbors, conceals, shelters, protects, holds correspondence with, gives intelligence to, or otherwise assists any such prisoner of war or enemy alien, after his escape from custody, knowing him to be such prisoner of war or enemy alien, or attempts to commit or conspires to commit any of the above acts, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

The provisions of this section shall be in addition to and not in substitution for any other provision of law.

SEC. 792. *Harboring or Concealing Persons.* Whoever harbors or conceals any person whom he knows, or has reasonable grounds to believe or suspect, has committed, or is about to commit, an offense under section 793 or 794, of this title, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

SEC. 793. *Gathering, Transmitting or Losing Defense Information.* Amended and superseded by sec. 18 of Title I of Internal Security Act of 1950, below (64 Stat. 1003-1005):

§ 793. GATHERING, TRANSMITTING, OR LOSING DEFENSE INFORMATION.

(a) Whoever, for the purpose of obtaining information respecting the national defense with intent or reason to believe that the information is to be used to the injury of the United States, or to the advantage of any foreign nation, goes upon, enters, lies over, or otherwise obtains information concerning any vessel, aircraft, work of defense, navy yard, naval station, submarine base, fueling station, fort, battery torpedo station, dockyard, canal, railroad, arsenal, camp, factory, mine, telegraph, telephone, wireless, or signal station, building, office, research laboratory or station or other place connected with the national defense owned or constructed, or in progress of construction by the United States or under the control of the United States or of any of its

officers, departments, or agencies, or within the exclusive jurisdiction of the United States, or any place in which any vessel, aircraft, arms, munitions, or other materials or instruments for use in time of war are being made, prepared, repaired, stored, or are the subject of research or development, under any contract or agreement with the United States, or any prohibited place so designated by the President by proclamation in time of war or in case of national emergency in which anything for the use of the Army, Navy, or Air Force is being prepared or constructed or stored, information as to which prohibited place the President had determined would be prejudicial to the national defense; or

(b) Whoever, for the purpose aforesaid, and with like intent, or reason to believe, copies, takes, makes, or obtains, or attempts to copy, take, make, or obtain, any sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, document, writing, or note of anything connected with the national defense; or

(c) Whoever, for the purpose aforesaid, receives or obtains or agrees or attempts to receive or obtain from any person, or from any source whatever, any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note, of anything connected with the national defense, knowing or having reason to believe, at the time he receives or obtains, or agrees or attempts to receive or obtain it, that it has been or will be obtained, taken, made, or disposed of by any person contrary to the provisions of this chapter; or

(d) Whoever, lawfully having possession of, access to, control over, or being entrusted with any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated, delivered, or transmitted or attempts to communicate, deliver, transmit or cause to be communicated, delivered or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it on demand to the officer or employee of the United States entitled to receive it; or

(e) Whoever having unauthorized possession of, access to, or control over any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to

receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it; or

(f) Whoever, being entrusted with or having lawful possession or control of any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, note, or information, relating to the national defense, (1) through gross negligence permits the same to be removed from its proper place of custody or delivered to anyone in violation of his trust, or to be lost, stolen, abstracted, or destroyed, or (2) having knowledge that the same has been illegally removed from its proper place of custody or delivered to anyone in violation of his trust, or lost, or stolen, abstracted, or destroyed, and fails to make prompt report of such loss, theft, abstraction, or destruction to his superior officer—

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

(g) If two or more persons conspire to violate any of the foregoing provisions of this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense which is the object of such conspiracy.

SEC. 794. *Disclosure of Information Relating to National Defense.* As superseded by Espionage and Sabotage Act of 1954 (P.L. 777, 83d Cong., sec. 201, 68 Stat. 1219):

(a) Whoever, with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation communicates, delivers, or transmits, or attempts to communicate, deliver, or transmit, to any foreign government, or to any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States, or to any representative, officer, agent, employee, subject, or citizen thereof, either directly or indirectly, any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, note, instrument, appliance, or information relating to the national defense, shall be punished by death or by imprisonment for any term of years or for life.

(b) Whoever, in time of war, with intent that the same shall be communicated to the enemy, collects, records, publishes, or communicates, or attempts to elicit any information with respect to the movement, numbers, description, condition, or disposition of any of the armed forces, ships, aircraft, or war material of the United States, or with respect to the plans or conduct, or supposed plans or conduct of any naval or military operations, or with respect to any works or measures undertaken for or connected with, or intended for the fortification or defense of any place, or any other information relating to the public defense, which might be useful to the enemy, shall be punished by death or by imprisonment for any term of years or for life.

(c) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object

of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense which is the object of such conspiracy.

SEC. 795. *Photographing and Sketching Defense Installations.*

(a) Whenever, in the interests of national defense, the President defines certain vital military and naval installations or equipment as requiring protection against the general dissemination of information relative thereto, it shall be unlawful to make any photograph, sketch, picture, drawing, map, or graphical representation of such vital military and naval installations or equipment without first obtaining permission of the commanding officer of the military or naval post, camp, or station, or naval vessels, military and naval aircraft, and any separate military or naval command concerned, or higher authority, and promptly submitting the product obtained to such commanding officer or higher authority for censorship or such other action as he may deem necessary.

(b) Whoever violates this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

SEC. 796. *Use of Aircraft for Photographing Defense Installations.* Whoever uses or permits the use of an aircraft or any contrivance used or designed for navigation or flight in the air, for the purpose of making a photograph, sketch, picture, drawing, map or graphical representation of vital military or naval installations or equipment, in violation of section 795 of this title, shall be fined not more than \$1,000 or imprisoned not more than one year or both.

SEC. 797. *Publication and Sale of Photographs of Defense Installations.* On and after thirty days from the date upon which President defines any vital military or naval installation or equipment as being within the category contemplated under section 795 of this title, whoever reproduces, publishes, sells, or gives away any photograph, sketch, picture, drawing, map, or graphical representation of the vital military or naval installations or equipment so defined, without first obtaining permission of the commanding officer of the military or naval post, camp, station concerned, or higher authority, unless such photograph, sketch, picture, drawing, map, or graphical representation has clearly indicated thereon that it has been censored by the proper military or naval authority, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

SEC. 798. *Disclosure of Classified Information* (added by 65 Stat. 719, § 24 (a)) :

(a) Whoever knowingly and willfully communicates, furnishes, transmits, or otherwise makes available to an unauthorized person, or publishes, or uses in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States any classified information—

(1) concerning the nature, preparation, or use of any code, cipher, or cryptographic system of the United States or any foreign government; or

(2) concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used or prepared or planned for use by the United States or any foreign government for cryptographic or communication intelligence purposes; or

(3) concerning the communication intelligence activities of the United States or any foreign government; or

(4) obtained by the processes of communication intelligence from the communications of any foreign government, knowing the same to have been obtained by such processes—

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

(b) As used in subsection (a) of this section—

The term “classified information” means information which, at the time of a violation of this section, is, for reasons of national security, specifically designated by a United States Government Agency for limited or restricted dissemination or distribution;

The terms “code,” “cipher,” and “cryptographic system” include in their meanings, in addition to their usual meaning, any method used for the purpose of disguising or concealing the contents, significance, or meanings of communications;

The term “foreign government” includes in its meaning any person or persons acting or purporting to act for or on behalf of any faction, party, department, agency, bureau, or military force of or within a foreign country, or for or on behalf of any government or any person or persons purporting to act as a government within a foreign country, whether or not such government is recognized by the United States;

The term “communication intelligence” means all procedures and methods used in the interception of communications and the obtaining of information from such communications by other than the intended recipients;

The term “unauthorized person” means any person who, or agency which, is not authorized to receive information of the categories set forth in subsection (a) of this section, by the President, or by the head of a department or agency of the United States Government which is expressly designated by the President to engage in communication intelligence activities for the United States.

(c) Nothing in this section shall prohibit the furnishing, upon lawful demand, of information to any regularly constituted committee of the Senate or House of Representatives of the United States of America, or joint committee thereof.

SEC. 798. *Temporary Extension of Section 794* (added by Act of June 30, 1953 (67 Stat. 133, c. 175, § 4)) :

The provisions of section 794 of this title, as amended and extended by section 1(a)(29) of the Emergency Powers Continuation Act (66 Stat. 333), as further amended by Public Law 12, Eighty-third Congress, in addition to coming into full force and effect in time of war shall remain in full force and effect until six months after the termination of the national emergency pro-

claimed by the President on December 16, 1950 (Proc. 2912, 3 C.F.R., 1950 Supp., p. 71), or such earlier date as may be prescribed by concurrent resolution of the Congress, and acts which would give rise to legal consequences and penalties under section 794 when performed during a state of war shall give rise to the same legal consequences and penalties when they are performed during the period above provided for.

SEC. 799. *Violations of Regulations of National Aeronautics and Space Administration* (added by Act of July 29, 1958 (72 Stat. 434, s-304 (c) (1))):

Whoever willfully shall violate, attempt to violate, or conspire to violate any regulation or order promulgated by the Administrator of the National Aeronautics and Space Administration for the protection or security of any laboratory, station, base or other facility, or part thereof, or any aircraft, missile, spacecraft, or similar vehicle, or part thereof, or other property or equipment in the custody of the Administration, or any real or personal property or equipment in the custody of any contractor under any contract with the Administration or any subcontractor of any such contractor, shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

SEC. 951. *Agents of Foreign Governments*. Whoever, other than a diplomatic or consular officer or attache, acts in the United States as an agent of a foreign government without prior notification to the Secretary of State, shall be fined not more than \$5,000 or imprisoned not more than 10 years, or both.

SEC. 952. *Diplomatic Codes and Correspondence*. Whoever, by virtue of his employment by the United States, obtains from another or has or has had custody of or access to, any official diplomatic code or any matter prepared in any such code, or which purports to have been prepared in any such code, and without authorization or competent authority, willfully publishes or furnishes to another any such code or matter, or any matter which was obtained while in the process of transmission between any foreign government and its diplomatic mission in the United States, shall be fined not more than \$10,000 or imprisoned not more than 10 years, or both.

SEC. 953. *Private Correspondence with Foreign Governments*. Any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measure or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

This section shall not abridge the right of a citizen to apply himself or his agent, to any foreign government or the agents thereof for redress of any injury which he may have sustained from such government or any of its agents or subjects.

SEC. 871. *Threats Against President and Successors to the Presidency* (as amended October 15, 1962 (76 Stat. 956 § 1)).

(a) Whoever knowingly and willfully deposits for conveyance in the mail or for a delivery from any post office or by any letter carrier any letter, paper, writing, print, missive, or document containing any threat to take the life of or to inflict bodily harm upon the President of the United States, the President-elect, the Vice President or other officer next in the order of succession to the office of President of the United States, or the Vice President-elect, or knowingly and willfully otherwise makes any such threat against the President, President-elect, Vice President or other officer next in the order of succession to the office of President, or Vice President-elect, shall be fined not more than \$1,000 or imprisoned not more than five years, or both.

(b) The terms "President-elect" and "Vice President-elect" as used in this section shall mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2. The phrase "other officer next in the order of succession to the office of President" as used in this section shall mean the person next in the order of succession to act as President in accordance with title 3, United States Code, sections 19 and 20.

SEC. 954. *False Statements Influencing Foreign Governments.* Whoever, in relation to any dispute or controversy between a foreign government and the United States, willfully and knowingly makes any untrue statement, either orally or in writing, under oath before any person authorized and empowered to administer oaths, which the affiant has knowledge or reason to believe will, or may be used to influence the measures or conduct of any foreign government, or of any officer or agent of any foreign government, to the injury of the United States, or with a view or intent to influence any measure or action by the United States or any department or agency thereof, to the injury of the United States, shall be fined not more than \$5,000 or imprisoned not more than 10 years, or both.

SEC. 955. *Financial Transactions With Foreign Governments.* Whoever, within the United States, purchases or sells the bonds, securities, or other obligations of any other foreign government or political subdivision thereof or any organization or association acting for or on behalf of a foreign government or political subdivision thereof, issued after April 13, 1934, or makes any loan to such foreign government, political subdivision, organization, or association, except a renewal or adjustment of existing indebtedness, while such government, political subdivision, organization, or association, is in default in the payment of its obligations, or any part thereof, to the United States, shall be fined not more than \$10,000 or imprisoned for not more than 5 years, or both.

This section is applicable to individuals, partnerships, corporations, or associations other than public corporations created by or pursuant to special authorizations of Congress, or corpo-

rations in which the United States has or exercises a controlling interest through stock ownership or otherwise. While any foreign government is a member both of the International Monetary Fund and of the International Bank for Reconstruction and Development, this section shall not apply to the sale or purchase of bonds, securities, or other obligations of such government or any political subdivision thereof or of any organization or association acting for or on behalf of such government or political subdivision, or to making of any loan to such government, political subdivision, organization, or association.

SEC. 956. *Conspiracy To Injure Property of Foreign Government.*

(a) If 2 or more persons within the jurisdiction of the United States conspire to injure or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, or other public utility so situated, and if one or more such persons commits an act within the jurisdiction of the United States to effect the object of the conspiracy, each of the parties to the conspiracy shall be fined not more than \$5,000 or imprisoned not more than 3 years, or both.

(b) Any indictment or information under this section shall describe the specific property which it was the object of the conspiracy to injure or destroy.

SEC. 957. *Possession of Property in Aid of Foreign Government.* Whoever, in aid of any foreign government, knowingly and willfully possesses or controls any property or papers used or designed or intended for use in violating any penal statute, or any of the rights or obligations of the United States under any treaty or the law of nations, shall be fined not more than \$1,000 or imprisoned not more than ten years, or both.

SEC. 958. *Commission to Serve Against Friendly Nation.* Any citizen of the United States who, within the jurisdiction thereof, accepts and exercises a commission to serve a foreign prince, state, colony, district, or people, in war, against any prince, state, colony, district, or people with whom the United States is at peace, shall be fined not more than \$2,000 or imprisoned not more than three years, or both.

SEC. 959. *Enlistment in Foreign Service.*

(a) Whoever, within the United States, enlists or enters himself, or hires or retains another to enlist or enter himself, or to go beyond the jurisdiction of the United States with intent to be enlisted or entered in the service of any foreign prince, state, colony, district, or people as a soldier or as a marine or seaman on board any vessel of war, letter of marque, or privateer, shall be fined not more than \$1,000 or imprisoned not more than three years, or both.

(b) This section shall not apply to citizens or subjects of any country engaged in war with a country with which the United States is at war, unless such citizen or subject of such foreign country shall hire or solicit a citizen of the United States to enlist

or go beyond the jurisdiction of the United States with intent to enlist or enter the service of a foreign country. Enlistments under this subsection shall be under regulations prescribed by the Secretary of the Army.

(c) This section and sections 960 and 961 of this title shall not apply to any subject or citizen of any foreign prince, state, colony, district, or people who is transiently within the United States and enlists or enters himself on board any vessel of war, letter of marque, or privateer, which at the time of its arrival within the United States was fitted and equipped as such, or hires or retains another subject or citizen of the same foreign prince, state, colony, district, or people who is transiently within the United States to enlist or enter himself to serve such foreign prince, state, colony, district, or people on board such vessel of war, letter of marque, or privateer, if the United States shall then be at peace with such foreign prince, state, colony, district, or people.

SEC. 960. *Expedition Against Friendly Nation.* Whoever, within the United States, knowingly begins or sets on foot or provides or prepares a means for or furnishes the money for, or takes part in, any military or naval expedition or enterprise to be carried on from thence against the territory or dominion of any foreign prince, or state, or of any colony, district, or people with whom the United States is at peace, shall be fined not more than \$3,000 or imprisoned not more than three years, or both.

SEC. 961. *Strengthening Armed Vessel of Foreign Nation.* Whoever within the United States, increases or augments the force of any ship of war, cruiser, or other armed vessel which, at the time of her arrival within the United States, was a ship of war, or cruiser, or armed vessel, in the service of any foreign prince or state, or of any colony, district, or people, or belonging to the subjects or citizens of any such prince or state, colony, district, or people, the same being at war with any foreign prince or state, or of any colony, district, or people, with whom the United States is at peace, by adding to the number of the guns of such vessel, or by changing those on board of her for guns of larger caliber, or by adding thereto any equipment solely applicable to war, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

SEC. 962. *Arming Vessel Against Friendly Nation.* Whoever, within the United States, furnishes, fits out, arms or attempts to furnish, fit out or arm, any vessel, with intent that such vessel shall be employed in the service of any foreign prince, or state, or of any colony, district, or people, to cruise or commit hostilities against the subject, citizens, or property of any foreign prince or state, or of any colony, district, or people with whom the United States is at peace; or

Whoever issues or delivers a commission within the United States for any vessel, to the intent that she may be so employed—

Shall be fined not more than \$10,000 or imprisoned not more than three years, or both.

Every such vessel, her tackle, apparel, and furniture, together with all materials, arms, ammunition, and stores which may have been procured for the building and equipment thereof, shall be forfeited, one half to the use of the informer and the other half to the use of the United States.

SEC. 963. *Detention of Armed Vessel.*

(a) During a war in which the United States is a neutral nation, the President, or any person authorized by him, may detain any armed vessel owned wholly or in part by citizens of the United States, or any vessel, domestic or foreign (other than one which has entered the ports of the United States as a public vessel) which is manifestly built for warlike purposes or has been converted or adapted from a private vessel to one suitable for warlike use, until the owner or master, or a person having charge of such vessel, shall furnish proof satisfactory to the President, or to the person duly authorized by him, that the vessel will not be employed to cruise against or commit or attempt to commit hostilities upon the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people with which the United States is at peace, and that said vessel will not be sold or delivered to any belligerent nation, or to an agent, officer or citizen of such nation, by them or any of them, within the jurisdiction of the United States or upon the high seas.

(b) Whoever, in violation of this section takes, or attempts to take, or authorizes the taking of any such vessel, out of port or from the United States, shall be fined not more than \$10,000 or imprisoned not more than 10 years, or both.

In addition, such vessel, her tackle, apparel, furniture, equipment, and her cargo shall be forfeited to the United States.

SEC. 964. *Delivering Armed Vessel to Belligerent Nation.*

(a) During a war in which the United States is a neutral nation it shall be unlawful to send out of the United States any vessel built, armed, or equipped as a vessel of war; or converted from a private vessel into a vessel of war, with any intent or under any agreement or contract that such vessel will be delivered to a belligerent nation, or to any agent, officer, or citizen of such nation, or with reasonable cause to believe that the said vessel will be employed in the service of any such belligerent nation after its departure from the jurisdiction of the United States.

(b) Whoever, in violation of this section, takes or attempts to take, or authorizes the taking of any such vessel, out of port or from the United States, shall be fined not more than \$10,000 or imprisoned not more than 10 years, or both.

In addition, such vessel, her tackle, apparel, furniture, equipment, and her cargo shall be forfeited to the United States.

SEC. 965. *Verified Statements as Prerequisite to Vessel's Departure.*

(a) During a war in which the United States is a neutral nation, every master or person having charge or command of any vessel, domestic or foreign, whether requiring clearance or not,

before departure of such vessel from port shall, in addition to the facts required by section 91, 92, and 94 of Title 46 to be set out in the masters' and shippers' manifests before clearance will be issued to vessels bound to foreign ports, deliver to the collector of customs for the district wherein such vessel is then located a statement, duly verified by oath, that the cargo or any part of the cargo is or is not to be delivered to other vessels in port or to be transhipped on the high seas, and, if it is to be so delivered or transhipped, stating the kind and quantities and the value of the total quantity of each kind of article so to be delivered or transhipped, and the name of the person, corporation, vessel, or government to whom the delivery or transshipment is to be made; and the owners, shippers, or consignors of the cargo of such vessel shall in the same manner and under the same conditions deliver to the collector like statements under oath as to the cargo or the parts thereof laden or shipped by them respectively.

(b) Whoever, in violation of this section, takes or attempts to take, or authorizes the taking of any such vessel, out of port or from the United States, shall be fined not more than \$10,000 or imprisoned not more than 10 years, or both.

In addition, such vessel, her tackle, apparel, furniture, equipment and her cargo shall be forfeited to the United States.

The Secretary of the Treasury is authorized to promulgate regulations upon compliance with which vessels engaged in the coastwise trade or fisheries or used solely for pleasure may be relieved from complying with this section.

SEC. 966. Departure of Vessel Forbidden for False Statements.

(a) Whenever it appears that the vessel is not entitled to clearance or whenever there is reasonable cause to believe that the additional statements under oath required in section 965 of this title are false, the collector of customs for the district in which the vessel is located may, subject to review by the head of the department or agency charged with the administration of laws relating to clearance of vessels, refuse clearance to any vessels, domestic or foreign, and by formal notice served upon the owners, master, or person or persons in command or charge of any domestic vessel for which clearance is not required by law, forbid the departure of the vessel from the port or from the United States. It shall thereupon be unlawful for the vessel to depart.

(b) Whoever, in violation of this section, takes or attempts to take, or authorizes the taking of any such vessel, out of port or from the United States, shall be fined not more than \$10,000 or imprisoned not more than 10 years, or both.

In addition, such vessels, her tackle, apparel, furniture, equipment, and her cargo shall be forfeited to the United States.

SEC. 967. Departure of Vessel Forbidden in Aid of Neutrality.

(a) During a war in which the United States is a neutral nation, the President, or any person authorized by him, may

withhold clearance from or to any vessel, domestic or foreign, or, by service of formal notice upon the owner, master, or person in command or in charge of any domestic vessel not required to secure clearance, may forbid its departure from port or from the United States, whenever there is reasonable cause to believe that such vessel is about to carry fuel, arms, ammunition, men, supplies, dispatches, or information to any warship, tender, or supply ship of a foreign belligerent nation in violation of the laws, treaties, or obligations of the United States under the law of nations. It shall thereupon be unlawful for such vessel to depart.

(b) Whoever, in violation of this section, takes or attempts to take, or authorizes the taking of any such vessel, out of port or from the United States, shall be fined not more than \$10,000 or imprisoned not more than 10 years, or both. In addition, such vessel, her tackle, apparel, furniture, equipment, and her cargo shall be forfeited to the United States.

SEC. 969. *Exportation of Arms, Liquors, and Narcotics to Pacific Islands.*

(a) Whoever, being subject to the authority of the United States, gives, sells, or otherwise supplies any arms, ammunition, explosive substance, intoxicating liquor, or opium to any aboriginal native of any of the Pacific islands lying between the 20th parallel of north latitude and the 40th parallel of south latitude, and the 120th meridian of longitude west of 120th meridian of longitude east of Greenwich, not being in the possession or under the protection of any civilized power, shall be fined not more than \$50 or imprisoned not more than 3 months, or both.

In addition to such punishment, all articles of a similar nature to those in respect to which an offense has been committed, found in the possession of the offender, may be declared forfeited.

If it appears to the court that such opium, wine, or spirits have been given bona fide for medical purposes, it shall be lawful for the court to dismiss the charge.

(b) All offenses against this section, committed on any of the said islands or on the waters, rocks or keys adjacent thereto, shall be deemed committed on the high seas on board a merchant ship belonging to the United States.

SEC. 1001. *False Statements or Entries Generally.* Whoever in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

SEC. 1071. *Concealing Persons From Arrest.* As amended by Act of August 20, 1954 (P.L. 602, 83d Cong., 68 Stat. 747):

Whoever harbors or conceals any person for whose arrest a warrant or process has been issued under the provisions of any

law of the United States, so as to prevent his discovery and arrest, after notice or knowledge of the fact that a warrant or process has been issued for the apprehension of such person, shall be fined not more than \$1,000 or imprisoned not more than one year, or both; except that if the warrant or process issued on a charge of felony, or after conviction of such person of any offense, the punishment shall be a fine of not more than \$5,000, or imprisonment for not more than five years, or both.

SEC. 1114. *Protection of Officers and Employees of the United States.* As last amended by Act of December 29, 1970 (84 Stat. 1607, § 17 (h) (1)) :

Whoever kills any judge of the United States, any United States Attorney, any Assistant United States Attorney, or any United States marshal or deputy marshal or person employed to assist such marshal or deputy marshal, any officer or employee of the Federal Bureau of Investigation of the Department of Justice, any officer or employee of the Postal Service, any officer or employee of the secret service or of the Bureau of Narcotics and Dangerous Drugs, any officer or enlisted man of the Coast Guard, any officer or employee of any United States penal or correctional institution, any officer, employee or agent of the customs or of the internal revenue or any person assisting him in the execution of his duties, any immigration officer, any officer or employee of the Department of Agriculture or of the Department of the Interior designated by the Secretary of Agriculture or the Secretary of the Interior to enforce any Act of Congress for the protection, preservation, or restoration of game and other wild birds and animals, any employee of the Department of Agriculture designated by the Secretary of Agriculture to carry out any law or regulation, or to perform any function in connection with any Federal or State program or any program of Puerto Rico, Guam, the Virgin Islands of the United States, or the District of Columbia, for the control or eradication or prevention of the introduction or dissemination of animal diseases, any officer or employee of the National Park Service, any officer or employer of, or assigned to duty in, the field service of the Bureau of Land Management, any employee of the Bureau of Animal Industry of the Department of Agriculture, or any officer or employee of the Indian field service of the United States, or any officer or employee of the National Aeronautics and Space Administration directed to guard and protect property of the United States under the administration and control of the National Aeronautics and Space Administration, any security officer of the Department of State or the Foreign Service, or any officer or employee of the Department of Health, Education, and Welfare or of the Department of Labor assigned to perform investigative, inspection, or law enforcement functions while engaged in the performance of his official duties, or on account of the performance of his official duties, shall be punished as provided under sections 1111 and 1112 of this title.

SEC. 1361. *Government Property or Contracts.* Whoever will-

fully injures or commits any depredation against any property of the United States, or of any department or agency thereof, or any property which has been or is being manufactured or constructed for the United States, or any department or agency thereof, shall be punished as follows:

If the damage to such property exceeds the sum of \$100, by a fine of not more than \$10,000 or imprisonment for not more than ten years, or both; if the damage to such property does not exceed the sum of \$100, by a fine of not more than \$1,000 or by imprisonment for not more than one year, or both.

SEC. 1362. *Communication Lines, Stations or Systems.* As amended by Act of September 26, 1961 (75 Stat. 669, c. 645).

Whoever willfully or maliciously injures or destroys any of the works, property, or material of any radio, telegraph, telephone or cable, line, station, or system, or other means of communication, operated or controlled by the United States, or used or intended to be used for military or civil defense functions of the United States, whether constructed or in process of construction, or willfully or maliciously interferes in any way with the working or use of any such line, or system, or willfully or maliciously obstructs, hinders, or delays the transmission of any communication over any such line, or system, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

In the case of any works, property, or material, not operated or controlled by the United States, this section shall not apply to any lawful strike activity, or other lawful concerted activities for the purposes of collective bargaining or other mutual aid and protection which do not injure or destroy any line or system used or intended to be used for the military or civil defense functions of the United States.

SEC. 1363. *Building or Property Within Special Maritime and Territorial Jurisdiction.* Whoever, within the special maritime and territorial jurisdiction of the United States, willfully and maliciously destroys or injures or attempts to destroy or injure any building, structure, or vessel, any machinery or building materials and supplies, military or naval stores, munitions of war or any structural aids or appliances for navigation or shipping, shall be fined not more than \$1,000 or imprisoned not more than five years, or both, and if the building be a dwelling, or the life of any person be placed in jeopardy, shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both.

SEC. 1364. *Interference With Foreign Commerce by Violence.* Whoever, with intent to prevent, interfere with, or obstruct or attempt to prevent, interfere with, or obstruct the exportation to foreign countries of articles from the United States, injures or destroys, by fire or explosives, such articles or the places where they may be while in such foreign commerce, shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both.

SEC. 1381. *Enticing Desertion and Harboring Deserters.* Whoever entices or procures or attempts or endeavors to entice or

procure any person in the Armed Forces of the United States, or who has been recruited for service therein, to desert therefrom, or aids any such person in deserting or attempting to desert from such service; or

Whoever harbors, conceals, protects, or assists any such person who may have deserted from such service, knowing him to have deserted therefrom, or refuses to give up and deliver such person on the demand of any officer authorized to receive him—

Shall be fined not more than \$2,000 or imprisoned not more than 3 years, or both.

SEC. 1382. *Entering Military, Naval, or Coast Guard Property.* Whoever, within the jurisdiction of the United States, goes upon any military, naval, or Coast Guard reservation, post, fort, arsenal, yard, station, or installation, for any purpose prohibited by law or lawful regulation; or

Whoever reenters or is found within any such reservation, post, fort, arsenal, yard, station, or installation, after having been removed therefrom or ordered not to reenter by any officer or person in command or charge thereof—

Shall be fined not more than \$2,000 or imprisoned no more than 3 years, or both.

SEC. 1383. *Restrictions in Military Areas and Zones.* Whoever, contrary to the restrictions applicable thereto, enters, remains in, leaves, or commits any act in any military area or military zone prescribed under the authority of an Executive order of the President, by the Secretary of the Army, or by any military commander designated by the Secretary of the Army, shall, if it appears that he knew or should have known of the existence and extent of the restrictions or order and that his act was in violation thereof, be fined not more than \$5,000 or imprisoned not more than 1 year, or both.

SEC. 1384, as amended by Act of May 24, 1949 (63 Stat. 94, § 35): *Prostitution near Military and Naval Establishments:*

Within such reasonable distance of any military or naval camp, station, fort, post, yard, base, cantonment, training or mobilization place as the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or any two or all of them shall determine to be needful to the efficiency, health, and welfare of the Army, the Navy, or the Air Force, and shall designate and publish in general orders or bulletins, whoever engages in prostitution or aids or abets prostitution or procures or solicits for purposes of prostitution, or keeps or sets up a house of ill fame, brothel, or bawdy house, or receives any person for purposes of lewdness, assignation, or prostitution into any vehicle, conveyance, place, structure, or building, or permits any person to remain for the purpose of lewdness, assignation, or prostitution in any vehicle, conveyance, place, structure, or building or leases or rents or contracts to lease or rent any vehicle, conveyance, place, structure or building, or part thereof, knowing or with good reason to know that it is intended to be used for any of the purposes herein prohibited shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

The Secretaries of the Army, Navy, and Air Force and the Federal Security Administrator shall take such steps as they deem necessary to suppress and prevent such violations thereof, and shall accept the cooperation of the authorities of States and their counties, districts, and other political subdivisions in carrying out the purpose of this section.

This section shall not be construed as conferring on the personnel of the Department of the Army, Navy, or Air Force or the Federal Security Agency any authority to make criminal investigations, searches, seizures or arrest of civilians charged with violations of this section.

SEC. 1421. *Accounts of Court Officers.* Whoever, being a clerk or assistant clerk of a court, or other person charged by law with a duty to render true accounts of moneys received in any proceeding relating to citizenship, naturalization, or registration of aliens or to pay over any balance of such moneys due to the United States, willfully neglects to do so within 30 days after such payment shall become due and demand therefor has been made, shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both.

SEC. 1422. *Fees in Naturalization Proceedings.* Whoever knowingly demands, charges, solicits, collects, or receives, or agrees to charge, solicit, collect, or receive any other or additional fees or moneys in proceedings relating to naturalization or citizenship or the registry of aliens beyond the fees and moneys authorized by law, shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both.

SEC. 1423. *Misuse of Evidence of Citizenship or Naturalization.* Whoever knowingly uses for any purpose any order, certificate, certificate of naturalization, certificate of citizenship, judgment, decree, or exemplification, unlawfully issued or made, or copies of duplicates thereof, showing any person to be naturalized or admitted to be a citizen, shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both.

SEC. 1424. *Personation or Misuse of Papers in Naturalization Proceedings.* Whoever, whether as applicant, declarant, petitioner, witness or otherwise, in any naturalization or citizenship proceeding, knowingly personates another or appears falsely in the name of a deceased person or in an assumed or fictitious name; or

Whoever knowingly and unlawfully uses or attempts to use, as showing naturalization or citizenship of any person, any order, certificate, certificate of naturalization, certificate of citizenship, judgment, decree, or exemplification, or copies of duplicates thereof, issued to another person, or in a fictitious name or in the name of a deceased person—

Shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both.

SEC. 1425. *Procurement of Citizenship or Naturalization Unlawfully.*

(a) Whoever knowingly procures or attempts to procure, contrary to law, the naturalization of any person, or documentary or other evidence of naturalization or of citizenship; or

(b) Whoever, whether for himself or another person not entitled thereto, knowingly issues, procures or obtains or applies for or otherwise attempts to procure or obtain naturalization, or citizenship, or a declaration of intention to become a citizen, or a certificate of arrival or any certificate or evidence of naturalization or citizenship, documentary or otherwise, or duplicates or copies of any of the foregoing—

Shall be fined not more than \$5,000, or imprisoned not more than 5 years, or both.

SEC. 1426. *Reproduction of Naturalization or Citizenship Papers.*

(a) Whoever falsely makes, forges, alters or counterfeits any oath, notice, affidavit, certificate of arrival, declaration of intention, certificate or documentary evidence of naturalization or citizenship or any order, record, signature, paper or proceeding or any copy thereof, required or authorized by any law relating to naturalization or citizenship or registry of aliens; or

(b) Whoever utters, sells, disposes of or uses as true or genuine, any false, forged, altered, antedated or counterfeited oath, notice, affidavit, certificate of arrival, declaration of intention to become a citizen, certificate or documentary evidence of naturalization or citizenship, or any order, record, signature or other instrument, paper or proceeding required or authorized by any law relating to naturalization or citizenship or registry of aliens, or any copy thereof, knowing the same to be false, forged, altered, antedated or counterfeited; or

(c) Whoever, with intent unlawfully to use the same, possesses any false, forged, altered, antedated or counterfeited certificate of arrival, declaration of intention to become a citizen, certificate or documentary evidence of naturalization or citizenship purporting to have been issued under any law of the United States, or copy thereof, knowing the same to be false, forged, altered, antedated, counterfeited; or

(d) Whoever, without lawful authority, engraves or possesses, sells or brings into the United States any plate in the likeness or similitude of any plate designed, for the printing of a declaration of intention, or certificate or documentary evidence of naturalization or citizenship; or

(e) Whoever, without lawful authority, brings into the United States any document printed therefrom; or

(f) Whoever, without a lawful authority, possesses any blank certificate of arrival, blank declaration of intention or blank certificate of naturalization or citizenship provided by the Immigration and Naturalization Service, with intent unlawfully to use the same; or

(g) Whoever, with intent unlawfully to use the same, possesses a distinctive paper adopted by the proper officer or agency of the United States for the printing or engraving of a declaration of intention to become a citizen, or certificate of naturalization or certificate of citizenship; or

(h) Whoever, without lawful authority, prints, photographs, makes or executes any print or impression in the likeness of a certificate of arrival, declaration of intention to become a citizen,

or certificate of naturalization of citizenship, or any part thereof—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

SEC. 1427. *Sale of Naturalization Papers.* Whoever unlawfully sells or disposes of a declaration of intention to become a citizen, certificate of naturalization, certificate of citizenship or copies or duplicates or other documentary evidence of naturalization or citizenship, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

SEC. 1428. *Surrender of Canceled Naturalization Certificate.* Whoever, having in his possession or control a certificate of naturalization or citizenship or a copy thereof which has been canceled as provided by law, fails to surrender the same after at least sixty days' notice by the appropriate court or the Commissioner or Deputy Commissioner of Immigration, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

SEC. 1503. *Influencing or Injuring Officer, Juror or Witness Generally.* As amended by Act of October 17, 1968 (82 Stat. 1115, Title III, § 30(a) (1), (3)) :

Whoever corruptly, or by threats of force, or by any threatening letter or communication, endeavors to influence, intimidate, or impede any witness, in any court of the United States or before any United States magistrate or other committing magistrate, or any grand or petit juror, or officer in or of any court of the United States, or officer who may be serving at any examination or other proceeding before any United States magistrate or other committing magistrate, in the discharge of his duty, or injures any party or witness in his person or property on account of his attending or having attended such court or examination before such officer, commissioner, or other committing magistrate, or on account of his testifying or having testified to any matter pending therein, or injures any such grand or petit juror in his person or property on account of any verdict or indictment assented to by him, or on account of his being or having been such juror, or injures any such officer, magistrate, or other committing magistrate in his person or property on account of the performance of his official duties, or corruptly or by threats or force, or by any threatening letter or communication, influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

SEC. 1505. *Obstruction of Proceedings Before Departments, Agencies, and Committees.* As last amended by Act of October 15, 1970 (84 Stat. 947, § 903) :

Whoever corruptly, or by threats or force, or by any threatening letter or communication, endeavors to influence, intimidate, or impede any witness in any proceeding pending before any department or agency of the United States, or in connection with any inquiry or investigation being had by either House, or any committee of either House, or any joint committee of the Congress; or

Whoever injures any party or witness in his person or property on account of his attending or having attended such proceeding, inquiry, or investigation, or on account of his testifying or having testified to any matter pending therein; or

Whoever, with intent to avoid, evade, prevent, or obstruct compliance in whole or in part with any civil investigative demand duly and properly made under the Antitrust Civil Process Act or section 1968 of this title willfully removes from any place, conceals, destroys, mutilates, alters, or by other means falsifies any documentary material which is the subject of such demand; or

Whoever corruptly, or by threats of force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which such proceeding is being had before such department or agency of the United States, or the due and proper exercise of the power of inquiry under which such inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

SEC. 1507. *Picketing or Parading.* [Added by 64 Stat. 1018 § 31(a)] Whoever, with the intent of interfering with, obstructing, or impeding the administration of justice, or with the intent of influencing any judge, juror, witness, or court officer, in the discharge of his duty, pickets or parades in or near a building housing a court of the United States, or in or near a building or residence occupied or used by such judge, juror, witness, or court officer, or with such intent uses any sound-truck or similar device or resorts to any other demonstration in or near any such building or residence, shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

Nothing in this section shall interfere with or prevent the exercise of any court of the United States of its power to punish for contempt.

SEC. 1541. *Issuance of Passport with Authority.*—Whoever, acting or claiming to act in any office or capacity under the United States, or a State or possession, without lawful authority grants, issues, or verifies any passport or other instrument in the nature of a passport to or for any person whomsoever; or

Whoever, being a consular officer authorized to grant, issue, or verify passports, knowingly and willfully grants, issues, or verifies any such passport to or for any person not owing allegiance, to the United States, whether a citizen or not—

Shall be fined not more than \$500 or imprisoned not more than one year, or both.

SEC. 1542. *False Statement in Application and Use of Passport.* Whoever willfully and knowingly makes any false statement in an application for passport with intent to induce or secure the issuance of a passport under the authority of the United States, either for his own use or the use of another, con-

trary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws; or

Whoever willfully and knowingly uses or attempts to use, or furnishes to another for use any passport the issue of which was secured in any way by reason of any false statement—

Shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

SEC. 1543. *Forgery or False Use of Passport.* Whoever falsely makes, forges, counterfeits, mutilates, or alters any passport or instrument purporting to be a passport, with intent that the same may be used; or

Whoever willfully and knowingly uses, or attempts to use, or furnishes to another for use any such false, forged, counterfeited, mutilated, or altered passport or instrument purporting to be a passport, or any passport validly issued which has become void by the occurrence of any condition therein prescribed invalidating the same—

Shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

SEC. 1544. *Misuse of Passport.*—Whoever willfully and knowingly uses, or attempts to use, any passport issued or designed for the use of another; or

Whoever willfully and knowingly uses, or attempts to use, any passport in violation of the conditions or restrictions therein, contained or of the rules prescribed pursuant to the laws regulating the issuance of passports; or

Whoever willfully and knowingly furnishes, disposes of, or delivers a passport to any person, for use by another than the person for whose use it was originally issued and designed—

Shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

SEC. 1545. *Safe Conduct Violation.* Whoever violates any safe conduct or passport duly obtained and issued under authority of the United States shall be fined not more than \$2,000 or imprisoned not more than three years, or both.

SEC. 1546. *Fraud and Misuse of Visas and Permits.* Amended and superceded by sec. 402(a) of the *Immigration and Nationality Act* (66 Stat. 275), below, at p. 347.

SEC. 1621. *Perjury Generally.* Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall, except as otherwise expressly provided by law, be fined not more than \$2,000 or imprisoned not more than five years, or both.

SEC. 1652. *Citizens as Pirates.* Whoever, being a citizen of the United States, commits any murder or robbery, or any act of hostility against the United States, or against any citizen thereof, on the high seas, under color of any commission from any

foreign prince, or state, or on pretense of authority from any person, is a pirate, and shall be imprisoned for life.

SEC. 1653. *Aliens as Pirates.* Whoever, being a citizen or subject of any foreign state, is found and taken on the sea making war upon the United States, or cruising against the vessels and property thereof, or of the citizens of the same, contrary to the provisions of any treaty existing between the United States and the state of which the offender is a citizen or subject, when by such treaty such acts are declared to be a piracy, is a pirate, and shall be imprisoned for life.

SEC. 1702. *Obstruction of Correspondence.* Whoever takes any letter, postal card, or package out of any post office or any authorized depository for mail matter, or from any letter or mail carrier, or which has been in any post office or authorized depository, or in the custody of any letter or mail carrier, before it has been delivered to the person to whom it was directed, with design to obstruct the correspondence, or to pry into the business or secrets of another, or opens, secretes, embezzles, or destroys the same, shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

SEC. 1708. *Theft or Receipt of Stolen Mail Matter Generally.* As last amended by Act of July 1, 1952 (66 Stat. 314, c. 535):

Whoever steals, takes, or abstracts, or by fraud or deception obtains, or attempts so to obtain, from or out of any mail, post office, or station thereof, letter box, mail receptacle, or any mail route or other authorized depository for mail matter, or from a letter or mail carrier, any letter, postal card, package, bag, or mail, or abstracts or removes from any such letter, package, bag, or mail, any article or thing contained therein, or secretes, embezzles, or destroys any such letter, postal card, package, bag, or mail, or any article or thing contained therein; or

Whoever steals, takes, or abstracts, or by fraud or deception obtains any letter, postal card, package, bag, or mail, or any article or thing contained therein which has been left for collection upon or adjacent to a collection box or other authorized depository of mail matter; or

Whoever buys, receives, or conceals, or unlawfully has in his possession, any letter, postal card, package, bag, or mail, or any article or thing contained therein, which has been so stolen, taken, embezzled, or abstracted, as herein described, knowing the same to have been stolen, taken, embezzled, or abstracted—

Shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

SEC. 1717. *Letters and Writing as Nonmailable; Opening Letters.* As last amended by Act of August 12, 1970 (184 Stat. 780, § 6(j) (27)):

(a) Every letter, writing, circular, postal card, picture, print, engraving, photograph, newspaper, pamphlet, book, or other publication, matter or thing, in violation of sections 499, 506, 793, 794, 915, 954, 956, 957, 960, 964, 1017, 1542, 1543, 1544 or 2388 of this title or which contains any matter advocating or urging treason, insurrection, or forcible resistance to any law of the

United States is nonmailable and shall not be conveyed in the mails or delivered from any post office or by any letter carrier.

(b) Whoever uses or attempts to use the mails or Postal Service for the transmission of any matter declared by this section to be nonmailable, shall be fined not more than \$5,000 or imprisoned not more than ten years or both.

SEC. 1751. *Presidential Assassination, Kidnapping, and Assault: Penalties.* Added by Act of August 28, 1965 (79 Stat. 580 § 1):

(a) Whoever kills any individual who is the President of the United States, the President-elect, the Vice President, or, if there is no Vice President, the officer next in the order of succession to the office of President of the United States, the Vice-President-elect, or any individual who is acting as President under the Constitution and laws of the United States, shall be punished as provided by sections 1111 and 1112 of this title.

(b) Whoever kidnaps any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished by imprisonment for any term of years or for life.

(d) If two or more persons conspire to kill or kidnap any individual designated in subsection (a) of this section and one or more of such persons do any act to effect the object of the conspiracy, each shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

(e) Whoever assaults any person designated in subsection (a) of this section shall be fined not more than \$10,000 or imprisoned not more than 10 years, or both.

(f) The terms "President-elect" and "Vice-President-elect" as used in this section shall mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2.

(g) The Attorney General of the United States, in his discretion is authorized to pay an amount not to exceed \$100,000 for information and services concerning a violation of this section. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this subsection.

(h) If Federal investigative or prosecutive jurisdiction is asserted for a violation of this section, such assertion shall suspend the exercise of jurisdiction by a State or local authority, under any applicable State or local law, until Federal action is terminated.

(i) Violations of this section shall be investigated by the Federal Bureau of Investigation. Assistance may be requested from

any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

SEC. 1905. *Disclosure of Confidential Information Generally.* Whoever, being an officer or employee of the United States or of any department or agency thereof, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount of source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except, as provided by law; shall be fined not more than \$1,000, or imprisoned not more than one year or both; and shall be removed from office or employment.

SEC. 2101. *Riots.* Added by Act of April 11, 1968 (82 Stat. 75 § 104(a)):

(a)(1) Whoever travels in interstate or foreign commerce or uses any facility of interstate or foreign commerce, including, but not limited to, the mail, telegraph, telephone, radio, or television, with intent—

(A) to incite a riot; or

(B) to organize, promote, encourage, participate in, or carry on a riot; or

(C) to commit any act of violence in furtherance of a riot; or

(D) to aid or abet any person in inciting or participating in or carrying on a riot or committing any act of violence in furtherance of a riot;

and who either during the course of any such travel or use or thereafter performs or attempts to perform any other overt act for any purpose specified in subparagraph (A), (B), (C), or (D) of this paragraph—

Shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

(b) In any prosecution under this section, proof that a defendant engaged or attempted to engage in one or more of the overt acts described in subparagraph (A), (B), (C), or (D) of paragraph (1) of subsection (a) and (1) have traveled in interstate or foreign commerce, or (2) has use of or used any facility of interstate or foreign commerce, including but not limited to, mail, telegraph, telephone, radio, or television, to communicate with or broadcast to any person or group of persons prior to such overt acts, such travel or use shall be admissible proof to establish that such defendant traveled in or used such facility of interstate or foreign commerce.

(c) A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts.

(d) Whenever, in the opinion of the Attorney General or of the appropriate officer of the Department of Justice charged by law or under the instructions of the Attorney General with authority to act, any person shall have violated this chapter, the Department shall proceed as speedily as possible with a prosecution of such person hereunder and with any appeal which may lie from any decision adverse to the Government resulting from such prosecution; or in the alternative shall report in writing, to the respective Houses of the Congress, the Department's reason for not so proceeding.

(e) Nothing contained in this section shall be construed to make it unlawful for any person to travel in, or use any facility of, interstate or foreign commerce for the purpose of pursuing the legitimate objectives of organized labor, through orderly and lawful means.

(f) Nothing in this section shall be construed as indicating an intent on the part of Congress to prevent any State, any possession or Commonwealth of the United States, or the District of Columbia, from exercising jurisdiction over any offense over which it would have jurisdiction in the absence of this section; nor shall anything in this section be construed as depriving State and local law enforcement authorities of responsibility for prosecuting acts that may be violations of this section and that are violations of State and local law.

SEC. 2102. *Definitions.*

(a) As used in this chapter, the term "riot" means a public disturbance involving (1) an act or acts of violence by one or more persons part of an assemblage of three or more persons, which act or acts shall constitute a clear and present danger of, or shall result in, damage or injury to the property of any other person or to the person of any other individual or (2) a threat or threats of the commission of an act or acts of violence by one or more persons part of an assemblage of three or more persons having, individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act or acts of violence would constitute a clear and present danger of, or would result in, damage or injury to the property of any other person or to the person of any other individual.

(2) As used in this chapter, the term "to incite a riot", or "to organize, promote, encourage, participate in, or carry on a riot", includes, but is not limited to, urging or instigating other persons to riot but shall not be deemed to mean the mere oral or written (1) advocacy of ideas or (2) expressions of belief, not involving advocacy of any act or acts of violence or assertion of the rightness of, or the right to commit, any such act or acts.

SEC. 2112. *Personal Property of United States.* Whoever robs another of any kind or description of personal property belong-

ing to the United States, shall be imprisoned not more than fifteen years.

SEC. 2151, as amended by the Espionage and Sabotage Act of September 3, 1954 (68 Stat. 1216, § 101)—*Definitions*:

As used in this chapter:

The words "war material" include arms, armament, ammunition, livestock, forage, forest products, and standing timber, stores of clothing, air, water, food, foodstuffs, fuel, supplies, munitions, and all articles, parts or ingredients, intended for, adapted to, or suitable for the use of the United States or associate nation, in connection with the conduct of war or defense activities.

The words "war premises" include all buildings, grounds, mines, or other places wherein such war material is being produced, manufactured, repaired, stored, mined, extracted, distributed, loaded, unloaded, or transported, together with all machinery and appliances therein contained; and all forts, arsenals, navy yards, camps, prisons, or other installations of the Armed Forces of the United States, or any associate nation.

The words "war utilities" include all railroads, railways, electric lines, roads of whatever description, any railroad or railway fixture, canal, lock, dam, wharf, pier, dock, bridge, building, structure, engine, machine, mechanical contrivance, car, vehicle, boat, aircraft, airfields, air lanes, and fixtures or appurtenances thereof, or any other means of transportation whatsoever, whereon or whereby such war material or any troops of the United States, or of any associate nation, are being or may be transported either within the limits of the United States or upon the high seas or elsewhere; and all air-conditioning systems, dams, reservoirs, aqueducts, water and gas mains and pipes, structures and buildings, whereby or in connection with which air, water or gas is being furnished, or may be furnished, to any war premises or to the Armed Forces of the United States, or any associate nation, and all electric light and power, steam or pneumatic power, telephone and telegraph plants, poles, wires, and fixtures, and wireless stations, and the buildings connected with the maintenance and operation thereof used to supply air, water, light, heat, power, or facilities of communication to any war premises or to the Armed Forces of the United States, or any associate nation.

The words "associate nation" mean any nation at war with any nation with which the United States is at war.

The words "national-defense material" include arms, armament, ammunition, livestock, forage, forest products and standing timber, stores of clothing, air, water, food, foodstuffs, fuel, supplies, munitions, and all other articles of whatever description and any part or ingredient thereof, intended for, adapted to, or suitable for the use of the United States in connection with the national defense or for use in or in connection with the producing, manufacturing, repairing, storing, mining, extracting, distributing, loading, unloading, or transporting of any of the materials or other articles hereinbefore mentioned or any part or ingredient thereof.

The words "national-defense premises" include all buildings, grounds, mines, or other places wherein such national-defense material is being produced, manufactured, repaired, stored, mined, extracted, distributed, loaded, unloaded, or transported, together with all machinery and appliances therein contained; and all forts, arsenals, navy yards, camps, prisons, or other installations of the Armed Forces of the United States.

The words "national-defense utilities" include all railroads, railways, electric lines, roads of whatever description, railroad or railway fixture, canal, lock, dam, wharf, pier, dock, bridge, building, structure, engine, machine, mechanical contrivance, car, vehicle, boat, aircraft, airfields, air lanes, and fixtures or appurtenances thereof, or any other means of transportation whatsoever, whereon or whereby such national-defense material, or any troops of the United States, are being or may be transported either within the limits of the United States, or upon the high seas or elsewhere; and all air-conditioning systems, dams, reservoirs, aqueducts, water and gas mains and pipes, structures, and buildings, whereby or in connection with which air, water, or gas may be furnished to any national-defense premises or to the Armed Forces of the United States, and all electric light and power, steam or pneumatic power, telephone and telegraph plants, poles, wires, and fixtures and wireless stations, and the buildings connected with the maintenance and operation thereof used to supply air, water, light, heat, power, or facilities of communication to any national-defense premises or to the Armed Forces of the United States.

SEC. 2152. *Fortifications, Harbor Defenses, or Defensive Sea Areas.* Whoever willfully trespasses upon, injures, or destroys any of the works or property or material of any submarine mine or torpedo or fortification or harbor-defense system owned or constructed or in process of construction by the United States; or

Whoever willfully interferes with the operation or use of any such submarine mine, torpedo, fortification, or harbor-defense system; or

Whoever knowingly, willfully, or wantonly violates any duly authorized and promulgated order or regulation of the President governing persons or vessels within the limits of defensive sea areas, which the President, for purpose of national defense, may from time to time establish by executive order—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

SEC. 2153. *Destruction of War Material, War Premises, or War Utilities.* As last amended by the Act of September 3, 1954 (68 Stat. 1217, § 102):

(a) Whoever, when the United States is at war, or in times of national emergency as declared by the President or by the Congress, with intent to injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, or, with reason to believe that his act may injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on

the war or defense activities, willfully injures, destroys, contaminates or infects, or attempts to so injure, destroy, contaminate or infect any war material, war premises, or war utilities, shall be fined not more than \$10,000 or imprisoned not more than thirty years, or both.

(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section.

SEC. 2154. *Production of Defective War Material, War Premises, or War Utilities.* As last amended by Act of September 3, 1954 (68 Stat. 1218, § 103) :

(a) Whoever, when the United States is at war, or in times of national emergency as declared by the President or by the Congress, with intent to injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, or, with reason to believe that his act may injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, willfully makes, constructs, or causes to be made or constructed in a defective manner, or attempts to make, construct, or cause to be made or constructed in a defective manner, or attempts to make, construct, or cause to be made or constructed in a defective manner any war material, war premises or war utilities, or any tool, implement, machine, utensil, or receptacle used or employed in making, producing, manufacturing, or repairing any such war material, war premises or war utilities, shall be fined not more than \$10,000 or imprisoned not more than thirty years, or both.

(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section.

SEC. 2155. *Destruction of National-Defense Materials, National Defense Premises or National-Defense Utilities* (as amended by 68 Stat. 1218, § 104) :

(a) Whoever, with intent to injure, interfere with, or obstruct the national defense of the United States, willfully injures, destroys, contaminates or infects, or attempts to so injure, destroy, contaminate or infect any national-defense material, national-defense premises, or national-defense utilities, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section.

SEC. 2156. *Production of Defective National-Defense Material, National-Defense Premises or National-Defense Utilities* (as amended by 68 Stat. 1218, § 105) :

(a) Whoever, with intent to injure, interfere with, or obstruct the national defense of the United States, willfully makes, constructs, or attempts to make or construct in a defective manner,

any national-defense material, national-defense premises or national-defense utilities, or any tool, implement, machine, utensil, or receptacle used or employed in making, producing, manufacturing, or repairing any such national-defense material, national-defense premises or national-defense utilities, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section.

SEC. 2192. *Incitation of Seamen to Revolt or Mutiny.* Whoever, being of the crew of a vessel of the United States, on the high seas, or in any waters within the admiralty and maritime jurisdiction of the United States, endeavors to make a revolt or mutiny on board such vessel, or combines, conspires or confederates with any other person on board to make such revolt or mutiny, or solicits, incites, or stirs up any other of the crew to disobey or resist the lawful orders of the master or other officer of such vessel, or to refuse or neglect his proper duty on board thereof, or to betray his proper trust, or assembles with others in a tumultuous and mutinous manner, or makes a riot on board thereof, or unlawfully confines the master or other commanding officer thereof, shall be fined not more than \$1,000 or imprisoned not more than 5 years, or both.

SEC. 2193. *Revolt or Mutiny of Seamen.* Whoever, being of a crew of a vessel of the United States, on the high seas, or on any other waters within the admiralty and maritime jurisdiction of the United States, unlawfully and with force, or by fraud, or intimidation, usurps the command of such vessel from the master or lawful officer in command thereof, or deprives him of authority and command on board, or resists or prevents him in the free and lawful exercise thereof, or transfers such authority and command to another not lawfully entitled thereto, is guilty of a revolt and mutiny, and shall be fined not more than \$2,000 or imprisoned not more than 10 years, or both.

SEC. 2197. *Misuse of Federal Certificate, License, or Document.* Whoever, not being lawfully entitled thereto, uses, exhibits or attempts to use or exhibit, or, with intent unlawfully to use the same, receives or possesses any certificate, license, or document issued to vessels, or officers or seamen by any officer or employee of the United States authorized by law to issue the same; or

Whoever, without authority, alters or attempts to alter any such document; or

Whoever forges, counterfeits, or steals, or attempts to counterfeit, forge or steal any such document; or unlawfully possesses or knowingly uses any such altered, changed, forged, counterfeit, or stolen certificate, license, or document, or

Whoever, without authority, prints or manufactures any blank form of such certificate, license, or document, or

Whoever possesses without lawful excuse, and with intent unlawfully to use same, any blank form of such certificate, license or document; or

Whoever, in any manner, transfers or negotiates such transfer of, any blank form of such document, or any such altered, forged, counterfeit or stolen certificate, license or document or any document to which the party transferring or receiving the same is not lawfully entitled—

Shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both.

SEC. 2199. *Stowaways on Vessels or Aircraft.* Whoever, without the consent of the owner, charterer, master, or person in command of any vessel, or aircraft, with intent to obtain transportation, boards, enters or secretes himself aboard such vessel or aircraft and is thereon at the time of departure of said vessel or aircraft from a port, harbor, wharf, airport or other place within the jurisdiction of the United States; or

Whoever, with like intent, having boarded, entered, or secreted himself aboard a vessel or aircraft at any place within or without the jurisdiction of the United States, remains aboard after the vessel or aircraft has left such place and is thereon at any place within the jurisdiction of the United States; or

Whoever, with intent to obtain a ride or transportation, boards or enters any aircraft owned or operated by the United States without the consent of the person in command or other duly authorized officer or agent—

Shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

The word "aircraft" is used in this section includes any contrivance for navigation or flight in the air.

SEC. 2274. *Destruction or Misuse of Vessel by Person in Charge.* Whoever, being the owner, master or person in charge or command of any private vessel, foreign or domestic, or a member of the crew or other person, within the territorial waters of the United States, willfully causes or permits the destruction or injury of such vessel or knowingly permits said vessel to be used as a place of resort for any person conspiring with another or preparing to commit any offense against the United States, or any offense in violation of the treaties of the United States or of the obligations of the United States under the law of nations, or to defraud the United States; or knowingly permits such vessels to be used in violation of the rights and obligations of the United States under the law of nations, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

In case such vessels are so used, with the knowledge of the owner or master or other person in charge or command thereof, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws.

SEC. 2275. *Firing or Tampering with Vessels.* Whoever sets fire to any vessel of foreign registry, or any vessel of American registry entitled to engage in commerce with foreign nations, or to any vessel of the United States, or to the cargo of the same, or tampers with the motive power or instrumentalities of navigation of such vessel, or places bombs or explosives in or upon such

vessel, or does any other act to or upon such vessel while within the jurisdiction of the United States, or, if such vessel is of American registry, while she is on the high sea, with intent to injure or endanger the safety of the vessel or of her cargo, or of persons on board, whether the injury or danger is so intended to take place within the jurisdiction of the United States, or after the vessel shall have departed therefrom and whoever attempts to do so shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both.

SEC. 2276. *Breaking and Entering Vessel.* Whoever, upon the high seas or on any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular States, breaks or enters any vessel with intent to commit any felony, or maliciously cuts, spoils, or destroys any cordage, cable, buoys, buoy rope, head fast, or other fast, fixed to the anchor or moorings belonging to any vessel, shall be fined not more than \$1,000 or imprisoned not more than five years, or both.

SEC. 2277. *Explosives or Dangerous Weapons Aboard Vessels.*

(a) Whoever brings, carries, or possess any dangerous weapon, instrument, or device, or any dynamite, nitroglycerin, or other explosive article or compound on board of any vessel registered, enrolled, or licensed under the laws of the United States, or any vessel purchased, requisitioned, chartered, or taken over by the United States pursuant to the provisions of Act June 6, 1941, ch. 174, 55 Stat. 242, *as amended*, without previously obtaining the permission of the owner or the master of such vessel; or

Whoever brings, carries, or possesses any such weapon or explosive on board of any vessel in the possession and under the control of the United States or which has been seized and forfeited by the United States or upon which a guard has been placed by the United States pursuant to the provisions of section 191 of [code] Title 50, without previously obtaining the permission of the captain of the port in which such vessel is located, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(b) This section shall not apply to the personnel of the Armed Forces of the United States or to officers or employees of the United States or of a State or of a political subdivision thereof, while acting in the performance of their duties, who are authorized by law or by rules or regulations to own or possess and such weapon or explosive.

TREASON, SEDITION, AND SUBVERSIVE ACTIVITIES

SEC. 2381. *Treason.* Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason and shall suffer death, or shall be imprisoned not less than five years and fined not less than \$10,000; and shall be incapable of holding any office under the United States.

SEC. 2382. *Misprision of Treason.* Concealment of knowledge of treason is punishable by maximum of \$1,000 fine, imprisonment for 7 years or both.

SEC. 2383. *Rebellion or Insurrection.* Whoever incites, sets on foot, assists, or engages in any rebellion or insurrection against the authority of the United States or the laws thereof, or gives aid or comfort thereto, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and shall be incapable of holding any office under the United States.

SEC. 2384, *as amended* by Act of July 24, 1956 (70 Stat. 623 c. 678 § 1)—*Seditious Conspiracy:*

If two or more persons in any State or Territory, or in any place subject to the jurisdiction of the United States, conspire to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, or to oppose by force the authority thereof, or by force to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States contrary to the authority thereof, they shall each be fined not more than \$20,000 or imprisoned not more than twenty years, or both.

SEC. 2385, *as last amended* by Act of June 19, 1962 (76 Stat. 103)—*Advocating Overthrow of Government* [The Smith Act]:

Whoever knowingly or willfully advocates, abets, advises, or teaches the duty, necessity, desirability, or propriety of overthrowing or destroying the government of the United States or the government of any State, Territory, District or Possession thereof, or the government of any political subdivision therein, by force or violence, or by the assassination of any officer of any such government; or

Whoever, with intent to cause the overthrow or destruction of any such government, prints, publishes, edits, issues, circulates, sells, distributes, or publicly displays any written or printed matter advocating, advising, or teaching the duty, necessity, desirability, or propriety of overthrowing or destroying any government in the United States by force or violence, or attempts to do so; or

Whoever organizes or helps or attempts to organize any society, group, or assembly of persons who teach, advocate, or encourage the overthrow or destruction of any such government by force or violence; or becomes or is a member of, or affiliates with, any such society, group, or assembly of persons, knowing the purposes thereof—

Shall be fined not more than \$20,000 or imprisoned not more than twenty years, or both, and shall be ineligible for employment by the United States or any department or agency thereof, for the five years next following his conviction.

If two or more persons conspire to commit any offense named in this section, each shall be fined not more than \$20,000 or imprisoned not more than twenty years, or both, and shall be ineligible for employment by the United States or any department or agency thereof, for the five years next following his conviction.

SEC. 2386. *Registration of Certain Organizations.*

(A) For the purposes of this section:

“Attorney General” means the Attorney General of the United States;

“Organization” means any group, club, league, society, committee, association, political party, or combination of individuals, whether incorporated or otherwise, but such term shall not include any corporation, association, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes;

“Political activity” means any activity the purpose or aim of which, or one of the purposes or aims of which, is the control by force or overthrow of the Government of the United States or a political subdivision thereof, or any State or political subdivision thereof;

An organization is engaged in “civilian military activity” if:

(1) it gives instruction to, or prescribes instruction for, its members in the use of firearms or other weapons or any substitute therefor, or military or naval science; or

(2) it receives from any other organization or from any individual instruction in military or naval science; or

(3) it engages in any military or naval maneuvers or activities; or

(4) it engages, either with or without arms, in drills or parades of a military or naval character; or

(5) it engages in any other form of organized activity which in the opinion of the Attorney General constitutes preparation for military action;

An organization is “subject to foreign control” if:

(a) it solicits or accepts financial contributions, loans, or support of any kind, directly, or indirectly, from, or is affiliated directly or indirectly with, a foreign government or a political subdivision thereof, or an agent, agency, or instrumentality of a foreign government or political subdivision thereof, or a political party in a foreign country, or an international political organization; or

(b) its policies, or any of them, are determined by or at the suggestion of, or in collaboration with, a foreign government or political subdivision thereof, or an agent, agency, or instrumentality of a foreign government or a political subdivision thereof, or a political party in a foreign country, or an international political organization.

(B) (1) The following organizations shall be required to register with the Attorney General:

Every organization subject to foreign control which engages in political activity;

Every organization which engages both in civilian military activity and in political activity;

Every organization subject to foreign control which engages in civilian military activity; and

Every organization, the purpose or aim of which, or one of the purposes or aims of which, is the establishment, control, conduct, seizure, or overthrow of a government or subdivision thereof by the use of force, violence, military measures, or threats of any one or more of the foregoing.

Every such organization shall register by filing with the Attorney General, on such forms and in such detail as the Attorney General may by rules and regulations prescribe, a registration statement containing the information and documents prescribed in subsection (B) (3) and shall within thirty days after the expiration of each period of six months succeeding the filing of such registration statement, file with the Attorney General, on such forms and in such detail as the Attorney General may by rules and regulations prescribe, a supplemental statement containing such information and documents as may be necessary to make the information and documents previously filed under this section accurate and current with respect to such preceding six months' period. Every statement required to be filed by this section shall be subscribed, under oath, by all of the officers of the organization.

(2) This section shall not require registration or the filing of any statement with the Attorney General by:

- (a) The armed forces of the United States; or
- (b) The organized militia or National Guard of any State, Territory, District, or possession of the United States; or
- (c) Any law-enforcement agency of the United States or of any Territory, District, or possession thereof, or of any State or political subdivision of a State, or of any agency or instrumentality of one or more States; or
- (d) Any duly established diplomatic mission or consular office of a foreign government which is so recognized by the Department of State; or
- (e) Any nationally recognized organization of persons who are veterans of the armed forces of the United States, or affiliates of such organizations.

(3) Every registration statement required to be filed by any organization shall contain the following information and documents:

- (a) The name and post-office address of the organization in the United States, and the names and addresses of all branches, chapters, and affiliates of such organization;
- (b) The name, address, and nationality of each officer, and of each person who performs the functions of an officer, of the organization, and of each branch, chapter, and affiliate of the organization;
- (c) The qualifications for membership in the organization;
- (d) The existing and proposed aims and purposes of the organization, and all the means by which these aims or purposes are being attained or are to be attained;
- (e) The address or addresses of meeting places of the organization, and of each branch, chapter, or affiliate of the organization, and the times of meetings;
- (f) The name and address of each person who has contributed any money, dues, property, or other thing of value to the organization or to any branch, chapter, or affiliate of the organization;

(g) A detailed statement of the assets of the organization, and of each branch, chapter, and affiliate of the organization, the manner in which such assets were acquired, and a detailed statement of the liabilities and income of the organization and of each branch, chapter, and affiliate of the organization;

(h) A detailed description of the activities of the organization, and of each chapter, branch, and affiliate of the organization;

(i) A description of the uniforms, badges, insignia, or other means of identification prescribed by the organization, and worn or carried by its officers or members, or any of such officers or members;

(j) A copy of each book, pamphlet, leaflet, or other publication or item of written, printed, or graphic matter issued or distributed directly or indirectly by the organization, or by any chapter, branch, or affiliate of the organization, or by any of the members of the organization under its authority or within its knowledge, together with the name of its author or authors and the name and address of the publisher;

(k) A description of all firearms or other weapons owned by the organization, or by any chapter, branch, or affiliate of the organization, identified by the manufacturer's number thereon;

(l) In case the organization is subject to foreign control, the manner in which it is so subject;

(m) A copy of the charter, articles of association, constitution, bylaws, rules, regulations, agreements, resolutions, and all other instruments relating to the organization, powers, and purposes of the organization and to the powers of the officers of the organization and of each chapter, branch, and affiliate of the organization; and

(n) Such other information and documents pertinent to the purposes of this section as the Attorney General may from time to time require.

All statements filed under this section shall be public records and open to public examination and inspection at all reasonable hours under such rules and regulations as the Attorney General may prescribe.

(C) The Attorney General is authorized at any time to make, amend, and rescind such rules and regulations as may be necessary to carry out this section, including rules and regulations governing the statements required to be filed.

(D) Whoever violates any of the provisions of this section shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

Whoever in a statement filed pursuant to this section willfully makes any false statement or willfully omits to state any fact which is required to be stated, or which is necessary to make the statements made not misleading, shall be fined not more than \$2,000 or imprisoned not more than five years, or both. [*Voorhis Act*]

REGULATIONS OF THE ATTORNEY GENERAL---REGISTRATION OF CERTAIN ORGANIZATIONS CARRYING ON ACTIVITIES WITHIN THE UNITED STATES

Issued January 15, 1941, and amended December 24, 1948, by authority of 18 U.S.C. 2386 [28 C.F.R. §§ 10.1 to 10.9]:

REGISTRATION STATEMENT

§ 10.1 *Form of registration statement.* Every organization required to submit a registration statement to the Attorney General for filing in compliance with the terms of section 2 of the act approved October 17, 1940, entitled, "An act to require the registration of certain organizations carrying on activities within the United States, and for other purposes" (Pub. Law 772, 80th Cong.; 18 U.S.C. 2386), and the rules and regulations issued pursuant thereto, shall submit such statement on such forms as are prescribed by the Attorney General. Every statement required to be filed with the Attorney General shall be subscribed under oath by all of the officers of the organization registering.

§ 10.2 *Language of registration statement.* Registration statements must be in English if possible. If in a foreign language they must be accompanied by an English translation certified under oath by the translator, before a notary public or other person authorized by law to administer oaths for general purposes as a true and adequate translation. The statements, with the exception of signature, must be typewritten if practicable but will be accepted if written legibly in ink.

§ 10.3 *Effect of acceptance of registration statement.* Acceptance by the Attorney General of a registration statement submitted for filing shall not necessarily signify a full compliance with the said act on the part of the registrant, and such acceptance shall not preclude the Attorney General from seeking such additional information as he deems necessary under the requirements of the said act, and shall not preclude prosecution as provided for in the said act for a false statement of a material fact, or the willfull omission of a material fact required to be stated therein, or necessary to make the statements made not misleading.

§ 10.4 *Date of filing.* The date on which a registration statement properly executed is accepted by the Attorney General for filing shall be considered the date of the filing of such registration statement pursuant to the said act. All statements must be filed not later than thirty days after January 15, 1941.

§ 10.5 *Incorporation of papers previously filed.* Papers and documents already filed with the Attorney General pursuant to the said act and regulations issued pursuant thereto may be incorporated by reference in any registration statement subsequently submitted to the Attorney General for filing, provided such papers and documents are adequately identified in the registration statement in which they are incorporated by reference.

§ 10.6 *Necessity for further registration.* The filing of a registration statement with the Attorney General as required by the act shall not operate to remove the necessity for filing a registration statement with the Attorney General as required by the act

of June 8, 1938, as amended, entitled "An act to require the registration of certain persons employed by agencies to disseminate propaganda in the United States and for other purposes" (52 Stat. 631, 56 Stat. 248; 22 U.S.C. 611), or for filing a notification statement with the Secretary of State as required by the act of June 15, 1917 (40 Stat. 226).

§ 10.7 *Cessation of activity.* The chief officer or other officer of the registrant organization must notify the Attorney General promptly upon the cessation of the activity of the organization, its branches, chapters, or affiliates by virtue of which registration has been required pursuant to the act.

SUPPLEMENTAL REGISTRATION STATEMENT

§ 10.8 *Information to be kept current.* A supplemental statement must be filed with the Attorney General within thirty days after the expiration of each period of six months succeeding the original filing of a registration statement. Each supplemental statement must contain information and documents as may be necessary to make information and documents previously filed accurate and current with respect to the preceding six months' period.

§ 10.9 *Requirements for supplemental registration statement.* The rules and regulations in this part with respect to registration statements submitted to the Attorney General under section 2 of the said act shall apply with equal force and effect to supplemental registration statements required thereunder to be filed with the Attorney General.

SUPPLEMENTAL REGISTRATION STATEMENT

§ 10.10 *Public inspection.* Registration statements filed with the Attorney General pursuant to the said act shall be available for public inspection in the Department of Justice, Washington, D.C., from 10:00 a.m. to 4:00 p.m. on each official business day.

SEC. 2387. *Activities Affecting Armed Forces Generally.*

(a) Whoever, with intent to interfere with, impair, or influence the loyalty, morale, or discipline of the military or naval forces of the United States:

(1) advises, counsels, urges, or in any manner causes or attempts to cause insubordination, disloyalty, mutiny, or refusal of duty by any member of the military or naval forces of the United States; or

(2) distributes or attempts to distribute any written or printed matter which advises, counsels, or urges insubordination, disloyalty, mutiny, or refusal of duty by any member of the military or naval forces of the United States—

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both, and shall be ineligible for employment by the United States or any department or agency thereof, for the five years next following his conviction. [*Smith Act*]

SEC. 2387 (b), as amended by Act of May 24, 1949 (63 Stat. 96, c. 139, sec. 46):

For the purposes of this section, the term "military or naval forces of the United States" includes the Army of the United States, the Navy Air Force, Marine Corps, Coast Guard, Naval Reserve, Marine Corps Reserve and Coast Guard Reserve of the United States; and, when any merchant vessel is commissioned in the Navy or is in the service of the Army or the Navy, includes the master, officers, and crew of such vessel.

SEC. 2388. *Activities Affecting Armed Forces During War.*

(a) Whoever, when the United States is at war, willfully makes or conveys false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States or to promote the success of its enemies; or

Whoever, when the United States is at war, willfully causes or attempts to cause insubordination, disloyalty, mutiny, or refusal of duty, in the military or naval forces of the United States, or willfully obstructs the recruiting or enlistment service of the United States, to the injury of the service or the United States, or attempts to do so—

Shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both.

(b) If two or more persons conspire to violate subsection (a) of this section and one or more such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in said subsection (a).

(c) Whoever harbors or conceals any person who he knows, or has reasonable grounds to believe or suspect; has committed, or is about to commit, an offense under this section, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

(d) This section shall apply within the admiralty and maritime jurisdiction of the United States, and on the high seas, as well as within the United States.

SEC. 2389. *Recruiting for Service Against United States.*

Whoever recruits soldiers or sailors within the United States, or in any place subject to the jurisdiction thereof, to engage in armed hostility against the same; or

Whoever opens within the United States, or in any place subject to the jurisdiction thereof, a recruiting station for the enlistment of such soldiers or sailors to serve in any manner in armed hostility against the United States—

Shall be fined not more than \$1,000 or imprisoned not more than five years, or both.

SEC. 2390. *Enlistment to Serve Against United States.* Whoever enlists or is engaged within the United States or in any place subject to the jurisdiction thereof with intent to serve in armed hostility against the United States, shall be fined \$100 or imprisoned not more than three years, or both.

SEC. 2391. *Temporary Extension of Section 2388.* As added by Act of June 30, 1953 (67 Stat. 134, c. 175 § 6):

The provisions of section 2388 of this title, as amended and extended by section 1(a) (29) of the Emergency Powers Continuation Act (66 Stat. 333), as further amended by Public Law 12,

Eighty-third Congress, in addition to coming into full force and effect in time of war shall remain in full force and effect until six months after the termination of the national emergency proclaimed by the President on December 16, 1950 (Proc. 2912, 3 C.F.R., 1950 Supp., p. 71), or such earlier date as may be prescribed by concurrent resolution of the Congress, and acts which would give rise to legal consequences and penalties under section 2388 when performed during a state of war shall give rise to the same legal consequences and penalties when they are performed during the period above provided for.

SEC. 2511. *Interception and Disclosure of Wire or Oral Communications Prohibited.* Added by Act of June 19, 1968 (82 Stat. 213, title III, § 802) and amended by Act of July 29, 1970 (84 Stat. 654 § 211(a)) : 18 U.S.C. 2511 :

* * * * *

(3) Nothing contained in this chapter or in section 605 of the Communications Act of 1934 (48 Stat. 1143; 47 U.S.C. 605) shall limit the constitutional power of the President to take such measures as he deems necessary to protect the Nation against actual or potential attack or other hostile acts of a foreign power, to obtain foreign intelligence information deemed essential to the security of the United States, or to protect national security information against foreign intelligence activities. Nor shall anything contained in this chapter be deemed to limit the constitutional power of the President to take such measures as he deems necessary to protect the United States against the overthrow of the Government by force or other unlawful means, or against any other clear and present danger to the structure or existence of the Government. The contents of any wire or oral communication intercepted by authority of the President in the exercise of the foregoing powers may be received in evidence in any trial hearing, or other proceeding only where such interception was reasonable, and shall not be otherwise used or disclosed except as is necessary to implement that power.

SEC. 3052. *Powers of the Federal Bureau of Investigation.* As last amended by Act of January 10, 1951 (64 Stat. 1239, c. 1221 § 1) :

The Director, Associate Director, Assistant to the Director, Assistant Directors, inspectors, and agents of the Federal Bureau of Investigation of the Department of Justice may carry firearms, serve warrants and subpoenas issued under the authority of the United States and make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

SEC. 3056. *Secret Service Powers.* As last amended by Act of January 5, 1971 (84 Stat. 1941 § 4) :

(a) Subject to the direction of the Secretary of the Treasury, the United States Secret Service, Treasury Department, is authorized to protect the person of the President of the United States, the members of his immediate family, the President-elect,

the Vice-President or other officer next in the order of succession to the office of President, and the Vice President-elect; protect the person of a former President and his wife during his lifetime, the person of the widow of a former President until her death or remarriage, and minor children of a former President until they reach sixteen years of age, unless such protection is declined; protect the person of a visiting head of a foreign state or foreign government and, at the direction of the President, other distinguished foreign visitors to the United States and official representatives of the United States performing special missions abroad; detect and arrest any person committing any offense against the laws of the United States relating to coins, obligations, and securities of the United States and of foreign governments; detect and arrest any person violating any of the provisions of sections 508, 509, and 871 of this title and, insofar as the Federal Deposit Insurance Corporation, Federal land banks, joint-stock land banks and Federal land bank associations are concerned, of sections, 218, 221, 433, 493, 657, 709, 1006, 1007, 1011, 1013, 1014, 1907, and 1909 of this title; execute warrants issued under the authority of the United States; carry firearms; offer and pay rewards for services or information looking toward the apprehension of criminals; and perform such other functions and duties as are authorized by law. In the performance of their duties under this section, the Director, Deputy Director, Assistant Directors, Assistants to the Director, inspectors, and agents of the Secret Service are authorized to make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony. Moneys expended from Secret Service appropriations for the purchase of counterfeits and subsequently recovered shall be reimbursed to the appropriation current at the time of deposit.

(b) Whoever knowingly and willfully obstructs, resists, or interferes with an agent of the United States Secret Service engaged in the performance of the protective functions authorized by this section, by the Act of June 6, 1968 (82 Stat. 170), or by section 1752 of title 18, United States Code, shall be fined not more than \$300 or imprisoned not more than one year, or both.

SEC. 3150. *Penalties for Failure to Appear.* As added by Act of June 22, 1966 (80 Stat. 216 § 3(a)):

Whoever, having been released pursuant to this chapter, willfully fails to appear before any court or judicial officer as required, shall, subject to the provisions of the Federal Rules of Criminal Procedure, incur a forfeiture of any security which was given or pledged for his release, and, in addition, shall (1) if he was released in connection with a charge of felony, or while awaiting sentence or pending appeal or certiorari after conviction of any offense, be fined not more than \$5,000 or imprisoned not more than five years, or both, or (2) if he was released in connection with a charge of misdemeanor, be fined not more than the maximum provided for such misdemeanor or impris-

oned for not more than one year, or both, or (3) if he was released for appearance as a material witness, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

SEC. 3151. *Contempt*. As added by Act of June 22, 1966 (80 Stat. 216 § 3(a)):

Nothing in this chapter shall interfere with or prevent the exercise by any court of the United States of its power to punish for contempt.

SEC. 3185. *Fugitives from Country under Control of United States into the United States*. Whenever any foreign country or territory, or any part thereof, is occupied by or under the control of the United States, any person who, having violated the criminal laws in force therein by the commission of any of the offenses enumerated below, departs or flees from justice therein to the United States, shall, when found therein, be liable to arrest and detention by the authorities of the United States, and on the written request or requisition of the military governor or other chief executive officer in control of such foreign country or territory shall be returned and surrendered as hereinafter provided to such authorities for trial under the laws in force in the place where such offense was committed.

* * * * *

(16) Malicious destruction of or attempt to destroy railways, trams, vessels, bridges, dwellings, public edifices, or other buildings, when the act endangers human life.

SEC. 3237. *Offenses Begun in One District and Completed in Another*. As last amended by Act of November 2, 1966 (80 Stat. 1108 § 2):

(a) Except as otherwise expressly provided by enactment of Congress, any offense against the United States begun in one district and completed in another, or committed in more than one district, may be inquired of and prosecuted in any district in which such offense was begun, continued, or completed.

Any offense involving the use of the mails, or transportation in interstate or foreign commerce, is a continuing offense and, except as otherwise expressly provided by enactment of Congress, may be inquired of and prosecuted in any district from, through, or into which such commerce or mail matter moves.

(b) Notwithstanding subsection (a), where an offense is described in section 7203 of the Internal Revenue Code of 1954, or where an offense involves use of the mails and is an offense described in section 7201 or 7206 (1), (2), or (5) of such Code (whether or not the offense is also described in another provision of law), and prosecution is begun in a judicial district other than the judicial district in which the defendant resides, he may upon motion filed in the district in which the prosecution is begun, elect to be tried in the district in which he was residing at the time the alleged offense was committed: *Provided*, That the motion is filed within twenty days after arraignment of the defendant upon indictment or information.

LIMITATIONS

SEC. 3281. *Limitations—Capital Offenses.* An indictment for any offense punishable by death may be found at any time without limitation except for offenses barred by the provisions of law existing on August 4, 1939.

SEC. 3282. *Offenses—Not Capital: As amended by Act of September 1, 1954 (68 Stat. 1145, § 10(a)) :*

(a) Except as otherwise provided by law, no person shall be prosecuted, tried or punished for any offense, not capital, unless the indictment is found or the information is instituted within 5 years next after such offense shall have been committed.

SEC. 3291. *Nationality, Citizenship and Passports. As added by Act of June 30, 1951 (65 Stat. 107, c. 194) :*

No person shall be prosecuted, tried, or punished for violation of any provision of sections 1423 to 1428, inclusive, of chapter 69 and sections 1541 to 1544, inclusive, of chapter 75 of Title 18 of the United States Code, or for conspiracy to violate any of the aforementioned sections, unless the indictment is found or the information is instituted within ten years after the commission of the offense.

SEC. 3500. *Demands for Production of Statements and Reports of Witnesses.* As amended by Act of October 15, 1970 (84 Stat. 926 § 102) :

(a) In any criminal prosecution brought by the United States, no statement or report in the possession of the United States which was made by a Government witness or prospective Government witness (other than the defendant) shall be the subject of subpoena, discovery, or inspection until said witness has testified on direct examination in the trial of the case.

(b) After a witness called by the United States has testified on direct examination, the court shall, on motion of the defendant, order the United States to produce any statement (as hereinafter defined) of the witness in the possession of the United States which relates to the subject matter as to which the witness has testified. If the entire contents of any such statement relate to the subject matter of the testimony of the witness, the court shall order it to be delivered directly to the defendant for his examination and use.

(c) If the United States claims that any statement ordered to be produced under this section contains matter which does not relate to the subject matter of the testimony of the witness, the court shall order the United States to deliver such statement for the inspection of the court in camera. Upon such delivery the court shall excise the portions of such statement which do not relate to the subject matter of the testimony of the witness. With such material excised, the court shall then direct delivery of such statement to the defendant for his use. If, pursuant to such procedure, any portion of such statement is withheld from the defendant and the defendant objects to such withholding, and the trial is continued to an adjudication of the guilt of the defendant, the entire text of such statement shall be preserved by the

United States and, in the event the defendant appeals, shall be made available to the appellate court for the purpose of determining the correctness of the ruling of the trial judge. Whenever any statement is delivered to a defendant pursuant to this section, the court in its discretion, upon application of said defendant, may recess proceedings in the trial for such time as it may determine to be reasonably required for the examination of such statement by said defendant and his preparation for its use in the trial.

(d) If the United States elects not to comply with an order of the court under subsection (b) or (c) hereof to deliver to the defendant any such statement, or such portion thereof as the court may direct, the court shall strike from the record the testimony of the witness, and the trial shall proceed unless the court in its discretion shall determine that the interests of justice require that a mistrial be declared.

(e) The term "statement", as used in subsection (b), (c), and (d) of this section in relation to any witness called by the United States, means—

(1) a written statement made by said witness and signed or otherwise adopted or approved by him;

(2) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement made by said witness and recorded contemporaneously with the making of such oral statement; or

(3) a statement, however taken or recorded, or a transcription thereof, if any, made by said witness to a grand jury.

Act of August 10, 1949 (63 Stat. 578-592), the *National Security Act Amendments of 1949*; See Act of July 26, 1947 (61 Stat. 495-510), as amended—the *National Security Act*, 50 U.S.C. 401 *et seq.*

WITNESSES

SEC. 6002. *Immunity Generally.* Added by Act of October 15, 1970 (84 Stat. 927, § 201(a)):

Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding before or ancillary to—

(1) a court or grand jury of the United States,

(2) an agency of the United States, or

(3) either House of Congress, a joint committee of the two Houses, or a committee of a subcommittee of either House,

and the person presiding over the proceeding communicates to the witness an order issued under this part, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination; but no testimony or other information compelled under the order (or any information directly or indirectly derived from such testimony or other information) may be used against the witness in any criminal case, except a

prosecution for perjury, giving a false statement, or otherwise failing to comply with the order.

SEC. 6005. *Congressional Proceedings*. Added by Act of October 15, 1970 (84 Stat. 927, § 201 (a)):

(a) In the case of any individual who has been or may be called to testify or provide other information at any proceeding before either House of Congress, or any committee, or any subcommittee of either House, or any joint committee of the two Houses, a United States district court shall issue, in accordance with subsection (b) of this section, upon the request of a duly authorized representative of the House of Congress or the committee concerned, an order requiring such individual to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in section 6002 of this part.

(b) Before issuing an order under subsection (a) of this section, a United States district court shall find that—

(1) in the case of a proceeding before either House of Congress, the request for such an order has been approved by an affirmative vote of a majority of the Members present of that House;

(2) in the case of a proceeding before a committee or a subcommittee of either House of Congress or a joint committee of both Houses, the request for such an order has been approved by an affirmative vote of two-thirds of the members of the full committee; and

(3) ten days or more prior to the day on which the request for such an order was made, the Attorney General was served with notice of an intention to request the order

(c) Upon application of the Attorney General, the United States district court shall defer the issuance of any order under subsection (a) of this section for such period, not longer than twenty days from the date of the request for such order, as the Attorney General may specify.

CENTRAL INTELLIGENCE AGENCY⁹

Act of June 20, 1949 (63 Stat. 208-213, as amended by 72 Stat. 337 § 21 (b) (2)); 50 U.S.C. 403 (f), (g), (h)—*Central Intelligence Agency Act of 1949*:

GENERAL AUTHORITIES

SEC. 5. In the performance of its functions, the Central Intelligence Agency is authorized to—

(d) Authorize couriers and guards designated by the Director to carry firearms when engaged in transportation of confidential documents and materials affecting the national defense and security;

⁹ The Central Intelligence Agency is specifically prohibited by law from any internal security functions. However, insofar as the results of the work of this Agency must have an impact upon the internal security of the United States, its statute is included at this point.

EXEMPTION FROM PUBLICATION OF CERTAIN DATA

SEC. 6. In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 102(d) (3) of the National Security Act of 1947 (Public Law 253, Eightieth Congress, first session) that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the Agency shall be exempted from the provisions of sections 1 and 2, chapter 795 of the Act of August 28, 1935 (49 Stat. 956, 957; 5 U.S.C. 654), and the provisions of any other law which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency: *Provided*, That in furtherance of this section, the Director of the Bureau of the Budget shall make no reports to the Congress in connection with the Agency under section 607, title VI, chapter 212 of the Act of June 30, 1945, *as amended* (5 U.S.C. 947(b)).

ENTRY OF CERTAIN ALIENS INTO UNITED STATES

SEC. 7. Whenever the Director, the Attorney General, and the Commissioner of Immigration shall determine that the entry of a particular alien into the United States for permanent residence is in the interest of national security or essential to the furtherance of the national intelligence mission, such alien and his immediate family shall be given entry into the United States for permanent residence without regard to their inadmissibility under the immigration or any other laws and regulations, or to the failure to comply with such laws and regulations pertaining to admissibility: *Provided*, That the number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed one hundred persons in any one fiscal year.

APPROPRIATIONS

SEC. 8. (b) The sums made available to the Agency may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds; and for objects of a confidential, extraordinary, or emergency nature, such expenditures to be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount therein certified.

VITAL MILITARY AND NAVAL INSTALLATIONS

Executive Order 10104 of February 1, 1950 (15 F.R. 597): *Defining Certain Vital Military and Naval Installations and Equipment as Requiring Protection Against the General Dissemination of Information Relative Thereto.*

WHEREAS section 795 of Title 18 of the United States Code provides:

(a) Whenever, in the interests of national defense, the President defines certain vital military and naval installa-

tions or equipment as requiring protection against the general dissemination of information relative thereto, it shall be unlawful to make any photograph, sketch, picture, drawing, map, or graphical representation of such vital military and naval installations or equipment without first obtaining permission of the commanding officer of the military or naval post, camp, or station, or naval vessels, military or naval aircraft, and any separate military or naval command concerned, or higher authority, and promptly submitting the product obtained to such commanding officer or higher authority for censorship or such other action as he may deem necessary.

(b) Whoever violates this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both; AND WHEREAS section 797 of Title 18 of the United States Code provides:

On and after thirty days from the date upon which the President defines any vital military or naval installation or equipment as being within the category contemplated under section 795 of this [code] title, whoever reproduces, publishes, sells, or gives away any photograph, sketch, picture, drawing, map, or graphical representation of the vital military or naval installations or equipment so defined, without first obtaining permission of the commanding officer of the military or naval post, camp, or station concerned, or higher authority, unless such photograph, sketch, picture, drawing, map, or graphical representation has clearly indicated thereon that it has been censored by the proper military or naval authority, shall be fined not more than \$1,000 or imprisoned not more than one year, or both;

NOW, THEREFORE, by virtue of the authority vested in me by the foregoing statutory provisions, and in the interests of national defense, I hereby define the following as vital military and naval installations or equipment requiring protection against the general dissemination of information relative thereto:

1. All military, naval, or air-force installations and equipment which are now classified, designated, or marked under the authority or at the direction of the President, the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force as "top secret," "secret," "confidential," or "restricted," and all military, naval, or air-force installations and equipment which may hereafter be so classified, designated, or marked with the approval or at the direction of the President, and located within:

(a) Any military, naval, or air-force, reservation, post, arsenal, proving ground, range, mine field, camp, base, airfield, fort, yard, station, district, or area.

(b) Any defensive sea area heretofore established by Executive order and not subsequently discontinued by Executive order, and any defensive sea area hereafter established under authority of section 2152 of Title 18 of the United States Code.

(c) Any airspace reservation heretofore or hereafter established under authority of section 4 of the Air Commerce Act of

1926 (44 Stat. 570; 49 U.S.C. 174) except the airspace reservation established by Executive Order No. 10092 of December 17, 1949.

(d) Any naval harbor closed to foreign vessels.

(e) Any area required for fleet purposes.

(f) Any commercial establishment engaged in the development or manufacture of classified military or naval arms, munitions, equipment, designs, ships, aircraft, or vessels for the United States, Army, Navy, or Air Force.

2. All military, naval, or air-force aircraft, weapons, ammunition, vehicles, ships, vessels, instruments, engines, manufacturing machinery, tools, devices, or any other equipment whatsoever, in the possession of the Army, Navy, or Air Force or in the course of experimentation, development, manufacture, or delivery for the Army, Navy, or Air Force which are now classified, designated, or marked under the authority or at the direction of the President, the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force as "top secret," "secret," "confidential," or "restricted," and all such articles, materials, or equipment which may hereafter be so classified, designated, or marked with the approval or at the direction of the President.

3. All official military, naval, or air-force books, pamphlets, documents, reports, maps, charts, plans, designs, models, drawings, photographs, contracts, or specifications which are now marked under the authority or at the direction of the President, the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force as "top secret," "secret," "confidential," or "restricted," and all such articles or equipment which may hereafter be so marked with the approval or at the direction of the President.

This order supersedes Executive Order No. 3381 of March 22, 1940, entitled "Defining Certain Vital Military and Naval Installations and Equipment."

Act of August 3, 1950 (64 Stat. 399, ch. 524). See Act of June 8, 1938 (52 Stat. 631-633), above, at p. 94, *Foreign Agents Registration Act*.

Act of August 9, 1950 (64 Stat. 427, c. 656)—*The Magnuson Act*. See Act of June 15, 1917 (40 Stat. 220, title II), above at p. 25.

SCIENTIFIC INFORMATION

Act of September 9, 1950 (64 Stat. 824 § 5)—*Dissemination of Scientific and Technical Information to American Business and Industry*:

The Secretary of Commerce is directed to preserve the security classification of scientific or technical information, inventions, or discoveries, the classified status of which is essential to the national defense.

MCCARRAN INTERNAL SECURITY ACT

Act of September 23, 1950 (64 Stat. 987-1031)—*The Internal Security Act of 1950—as amended by Act of July 12, 1952* (66 Stat.

590, c. 697); Act of July 29, 1954 (68 Stat. 586, c. 646); by the *Communist Control Act of 1954* (68 Stat. 777-780, §§ 6-11); by Act of July 26, 1955 (69 Stat. 375, c. 381); by Act of August 5, 1955 (69 Stat. 539, c. 580)—*The Subversive Activities Control Board Tenure Act*; by Act of July 31, 1956 (70 Stat. 737, 739, §§ 105(18), 106(a, 45)); by Act of August 28, 1958 (72 Stat. 950 §§ 29, 30); by Act of May 31, 1962 (76 Stat. 91); by Act of March 26, 1964 (78 Stat. 169); by Act of January 2, 1968 (81 Stat. 765); by Act of October 15, 1970 (84 Stat. 931); and by Act of October 27, 1972 (86 Stat. 1318; 50 U.S.C. 781-844):

SUBCHAPTER I.—CONTROL OF SUBVERSIVE ACTIVITIES

APPLICATION TO COMMUNIST PARTY MEMBERS

Application of this subchapter to members of the Communist Party and other subversive organizations, see section 843 of this title, and References in Text note under that section.

SEC. 781. *Congressional finding of necessity.* As a result of evidence adduced before various committees of the Senate and House of Representatives, the Congress finds that—

(1) There exists a world Communist movement which, in its origins, its development, and its present practice, is a world-wide revolutionary movement whose purpose it is, by treachery, deceit, infiltration into other groups (governmental and otherwise), espionage, sabotage, terrorism, and any other means deemed necessary, to establish a Communist totalitarian dictatorship in the countries throughout the world through the medium of a world-wide Communist organization.

(2) The establishment of a totalitarian dictatorship in any country results in the suppression of all opposition to the party in power, the subordination of the rights of individuals to the state, the denial of fundamental rights and liberties which are characteristic of a representative form of government, such as freedom of speech, of the press, of assembly, and of religious worship, and results in the maintenance of control over the people through fear, terrorism and brutality.

(3) The system of government known as a totalitarian dictatorship is characterized by the existence of a single political party, organized on a dictatorial basis, and by substantial identity between such party and its policies and the government and governmental policies of the country in which it exists.

(4) The direction and control of the world Communist movement is vested in and exercised by the Communist dictatorship of a foreign country.

(5) The Communist dictatorship of such foreign country in exercising such direction and control and in furthering the purposes of the world Communist movement, establishes or causes the establishment, of and utilizes, in various countries, action organizations which are not free and independ-

ent organizations, but are sections of a world-wide Communist organization and are controlled, directed, and subject to the discipline of the Communist dictatorship of such foreign country.

(6) The Communist action organizations so established and utilized in various countries acting under such control, direction, and discipline, endeavor to carry out the objectives of the world Communist movement by bringing about the overthrow of existing governments by any available means, including force if necessary, and setting up Communist totalitarian dictatorships which will be subservient to the most powerful existing Communist totalitarian dictatorship. Although such organizations usually designate themselves as political parties, they are in fact constituent elements of the world-wide Communist movement and promote the objectives of such movement by conspiratorial and coercive tactics, instead of through the democratic processes of a free elective system or through the freedom-preserving means employed by a political party which operates as an agency by which people govern themselves.

(7) In carrying on the activities referred to in paragraph (6) of this section, such Communist organizations in various countries are organized on a secret, conspiratorial basis and operate to a substantial extent through organizations, commonly known as "Communist fronts", which in most instances are created and maintained, or used, in such manner as to conceal the facts as to their true character and purposes and their membership. One result of this method of operation is that such affiliated organizations are able to obtain financial and other support from persons who would not extend such support if they knew the true purposes of, and the actual nature of the control and influence exerted upon, such "Communist fronts".

(8) Due to the nature and scope of the world Communist movement, with the existence of affiliated constituent elements working toward common objectives in various countries of the world travel of Communist members, representatives, and agents from country to country facilitates communication and is a prerequisite for the carrying on of activities to further the purposes of the Communist movement.

(9) In the United States those individuals who knowingly and willfully participate in the world Communist movement, when they so participate, in effect repudiate their allegiance to the United States, and in effect transfer their allegiance to the foreign country in which is vested the direction and control of the world Communist movement.

(10) In pursuance of communism's stated objectives, the most powerful existing Communist dictatorship has, by the methods referred to above, already caused the establishment in numerous foreign countries of Communist totalitarian dictatorships, and threatens to establish similar dictatorships in still other countries.

(11) The agents of communism have devised clever and ruthless espionage and sabotage tactics which are carried out in many instances in form or manner successfully evasive of existing law.

(12) The Communist network in the United States is inspired and controlled in large part by foreign agents who are sent into the United States ostensibly as attachés of foreign legations, affiliates of international organizations, members of trading commissions, and in similar capacities, but who use their diplomatic or semidiplomatic status as a shield behind which to engage in activities prejudicial to the public security.

(13) There are, under our present immigration laws, numerous aliens who have been found to be deportable, many of whom are in the subversive, criminal, or immoral classes who are free to roam the country at will without supervision or control.

(14) One device for infiltration by Communists is by procuring naturalization for disloyal aliens who use their citizenship as a badge for admission into the fabric of our society.

(15) The Communist movement in the United States is an organization numbering thousands of adherents, rigidly and ruthlessly disciplined. Awaiting and seeking to advance a moment when the United States may be so far extended by foreign engagements, so far divided in counsel, or so far in industrial or financial straits, that overthrow of the Government of the United States by force or violence may seem possible of achievement, it seeks converts far and wide by an extensive system of schooling and indoctrination. Such preparations by Communist organizations in other countries have aided in supplanting existing governments. The Communist organization in the United States, pursuing its stated objectives, the recent successes of Communist methods in other countries, and the nature and control of the world Communist movement itself, present a clear and present danger to the security of the United States and to the existence of free American institutions, and make it necessary that Congress, in order to provide for the common defense, to preserve the sovereignty of the United States as an independent nation, and to guarantee to each State a republican form of government, enact appropriate legislation recognizing the existence of such worldwide conspiracy and designed to prevent it from accomplishing its purpose in the United States.

(16) The findings of fact contained in paragraphs (1) through (15) of this section are reiterated. Recent court decisions involving the registration provisions of this Act make it necessary to enact legislation to accomplish the purposes of such Act without the requirements of registration. Disclosure of Communist organizations and of the members

of Communist-action organizations as provided in this Act is essential to the protection of the national welfare.¹⁰

SHORT TITLE OF ACT

Congress, in enacting this chapter, the amendment to [former] sections 137 to 137-8, 156, 456, 457, 704, 705, 725, 729, 733, 734, 735 of Title 8 [now covered by subchapters II and III of chapter 12 of Title 8], and to section 793 of Title 18, section 1507 of Title 18, and the amendments to section 611 and 618 of Title 22, provided by a provision preceding section 1 of act Sept. 23, 1950, that they should be popularly known as the "Internal Security Act of 1950".

SHORT TITLE OF SUBCHAPTER

Congress in enacting this subchapter, and the amendatory provisions cited in "Short Title of Act" note under this section, provided by section 1(a) of act Sept. 23, 1950 that they should be popularly known as the "Subversive Activities Control Act of 1950".

SEPARABILITY

Sections 32 of act Sept. 23, 1950 provided: "If any provision of this title [this subchapter, (former) sections 137 to 137-8, 156, 456, 457 (b), 704, 705, 725, 729 (c), 733, 734 (b) and 735 of Title 8 (now covered by subchapters II and III of chapter 12 of Title 8), sections 793 and 1507 of Title 18, and sections 611 (e) (5) and 618 (e) of Title 22], or the application thereof to any person or circumstances, is held invalid, the remaining provisions of this title [this subchapter and said sections], or the application of such provision to other persons or circumstances, shall not be affected thereby."

EXECUTIVE ORDER No. 10207

Ex. Ord. No. 10207, Jan. 24, 1951, 16 F.R. 709, establishing the President's Commission on Internal Security and Individual Rights, was revoked by Ex. Ord. No. 10305, Nov. 16, 1951, 16 F.R. 11667.

APPLICATION TO COMMUNIST PARTY MEMBERS

Application of this section to members of the Communist Party and other subversive organizations, see section 843 of this title, and References in Text note under that section.

COMMISSION ON GOVERNMENT SECURITY

Joint resolution Aug. 9, 1955, ch. 664, 69 Stat. 595, as amended by Joint resolution July 25, 1956, ch. 715, 70 Stat. 634, provided for the establishment of a Commission on Government Security as follows:

SECTION 1. DECLARATION OF POLICY. It is vital to the welfare and safety of the United States that there be adequate protection of the national security, including the safeguarding of all national defense secrets and public and private defense installations, against loss or compromise arising from espionage, sabotage, disloyalty, subversive activities, or unauthorized disclosures.

It is, therefore, the policy of the Congress that there shall exist a sound Government program—

¹⁰ Paragraph (16) was added by Public Law 90-237, § 1; 81 Stat. 765, An Act to amend the Subversive Activities Control Act of 1950 so as to accord with certain decisions of the courts. The court decisions referred to in the text are those of the United States Supreme Court in *Albertson v. Subversive Activities Control Board*, 382 U.S. 70 (1965) and of the Court of Appeals of the District of Columbia Circuit in *Communist Party U.S.A. v. United States of America*, 384 F. 2d 957 (1967). In *Albertson*, the Court invalidated on Fifth Amendment self-incrimination grounds an order of the Subversive Control Board requiring registration by persons found to be members of the Communist Party. The act originally required members to register whenever the organization defaulted on its registration obligation. In the later *Communist Party* case the court of appeals, again on Fifth Amendment grounds, invalidated that portion of the 1950 Act requiring registration of the CPUSA under an order of the Board which found that the Party was a "Communist-action organization". Senate Report No. 513, 90th Congress, 1st Session.

(a) establishing procedures for security investigation, evaluation, and, where necessary, adjudication of Government employees, and also appropriate security requirements with respect to persons privately employed or occupied on work requiring access to national defense secrets or work affording significant opportunity for injury to the national security;

(b) for vigorous enforcement of effective and realistic security laws and regulations; and

(c) for a careful, consistent, and efficient administration of this policy in a manner which will protect the national security and preserve basic American rights.

SEC. 2. ESTABLISHMENT OF THE COMMISSION ON GOVERNMENT SECURITY.

(a) For the purpose of carrying out the policy set forth in the first section of this joint resolution, there is hereby established a commission to be known as the Commission on Government Security (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of twelve members as follows:

(1) Four appointed by the President of the United States, two from the executive branch of the Government and two from private life;

(2) Four appointed by the President of the Senate, two from the Senate and two from private life; and

(3) Four appointed by the Speaker of the House of Representatives, two from the House of Representatives and two from private life.

(c) Of the members appointed to the Commission not more than two shall be appointed by the President of the United States, or the President of the Senate, or the Speaker of the House of Representatives from the same political party.

(d) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(e) Service of an individual as a member of the Commission or employment of an individual by the Commission as an attorney or expert in any business or professional field, on a part-time or full-time basis, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of sections 281, 283, 284, 434, or 1914 of title 18 of the United States Code [Crimes and Criminal Procedure], or section 196 of the Revised Statutes [section 99 of Title 5, Executive Departments and Government Officers and Employees.]

(f) The Commission shall elect a Chairman and a Vice Chairman from among its members.

(g) Seven members of the Commission shall constitute a quorum. Each subcommittee of the Commission shall consist of at least three members of the Commission.

SEC. 3. COMPENSATION OF MEMBERS OF THE COMMISSION.

(a) Members of the Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) The members of the Commission who are in the executive branch of the Government shall serve without compensation in addition to that received for their services in the executive branch, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(c) The members of the Commission from private life shall each receive \$50 per diem when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

SEC. 4. STAFF OF THE COMMISSION.

(a) (1) The Commission shall have power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of the civil-service laws and the Classification Act of 1949, as amended, [Chapters 12 and 21 of Title 5, Executive Departments and Government Officers and Employees].

(2) The Commission may procure, without regard to the civil service laws and the Classification Act of 1949, as amended [chapters 12 and 21 of Title 5, Executive Departments and Government Officers and Employees].

temporary and intermittent services to the same extent as is authorized for the departments by section 15 of the Act of August 2, 1946 (60 Stat. 810), but at rates not to exceed \$50 per diem for individuals, and such services may be procured for any period of time during the existence of the Commission.

(b) All employees of the Commission shall be investigated by the Federal Bureau of Investigation as to character, associations, and loyalty and a report of each such investigation shall be furnished to the Commission.

SEC. 5. EXPENSES OF THE COMMISSION. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this joint resolution.

SEC. 6. DUTIES OF THE COMMISSION. The Commission shall study and investigate the entire Government security program, including the various statutes, Presidential orders, and administrative regulations and directives under which the Government seeks to protect the national security, national defense secrets, and public and private defense installations, against loss or injury arising from espionage, disloyalty, subversive activity, sabotage, or unauthorized disclosures, together with the actual manner in which such statutes, Presidential orders, administrative regulations, and directives have been and are being administered and implemented, with a view to determining whether existing requirements, practices, and procedures are in accordance with the policies set forth in the first section of this joint resolution, and to recommending such changes as it may determine are necessary or desirable. The Commission shall also consider and submit reports and recommendations on the adequacy or deficiencies of existing statutes, Presidential orders, administrative regulations, and directives, and the administration of such statutes, orders, regulations, and directives, from the standpoints of internal consistency of the overall security program and effective protection and maintenance of the national security.

SEC. 7. POWERS OF THE COMMISSION. (a) The Commission, or, on the authorization of the Commission, any subcommittee thereof, may, for the purpose of carrying out the provisions of this joint resolution, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Commission or such subcommittee may deem advisable. Subpoenas may be issued under the signature of the Chairman of the Commission, or the Chairman of any subcommittee with the approval of a majority of the members of such subcommittee and may be served by any person designated by such Chairman. The provisions of sections 102 to 104, inclusive, of the Revised Statutes [sections 192-194 of Title 2, The Congress], shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

(b) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purposes of this joint resolution, and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman or Vice Chairman.

SEC. 8. INTERFERENCE WITH CRIMINAL PROSECUTION AND INVESTIGATIVE AND INTELLIGENCE FUNCTIONS. Nothing contained in this joint resolution shall be construed to require any agency of the United States to release any information possessed by it when, in the opinion of the President, the disclosure of such information would jeopardize or interfere with a pending or prospective criminal prosecution, or with the carrying out of the intelligence or investigative responsibilities of such agency, or would jeopardize or interfere with the interests of national security.

SEC. 9. REPORTS. The Commission may submit interim reports to the Congress and the President at such time or times as it deems advisable, and shall submit its final report to the Congress and the President not later than June 30, 1957. The final report of the Commission may propose such

legislative enactments and administrative actions as in its judgment are necessary to carry out its recommendations. The Commission shall cease to exist ninety days after submission of its final report.

SEC. 782. *Definition.* For the purposes of this subchapter, sections 137 to 137-8, 156, 456, 457(b), 704, 705, 725, 729(c), 733, 734(b) and 735 of Title 8, sections 793 and 1507 of Title 18, and sections 611(c) (5) and 618(e) of Title 22—

(1) The term "person" means an individual or an organization.

(2) The term "organization" means an organization, corporation, company, partnership, association, trust, foundation, or fund; and includes a group of persons, whether or not incorporated, permanently or temporarily associated together for joint action on any subject or subjects.

(3) The term "Communist-action organization" means any organization in the United States (other than a diplomatic representative or mission of a foreign government accredited as such by the Department of State) which (i) is substantially directed, dominated, or controlled by the foreign government or foreign organization controlling the world Communist movement referred to in section 2 of this title, and (ii) operates primarily to advance the objectives of such world Communist movement referred to in section 2 of this title.¹¹

(4) The term "Communist-front organization" means any organization in the United States (other than a Communist-action organization as defined in paragraph (3) of this section) which (A) is substantially directed, dominated, or controlled by a Communist-action organization, or (B) is substantially directed, dominated, or controlled by one or more members of a Communist-action organization, and (C) is primarily operated for the purpose of giving aid and support to a Communist-action organization, a Communist foreign government, or the world Communist movement referred to in section 2 of this title.¹²

(4A) The term "Communist-infiltrated organization" means any organization in the United States (other than a Communist-action organization or a Communist-front organization) which (A) is substantially directed, dominated, or controlled by an individual or individuals who are, or who within three years have been actively engaged in, giving aid or support to a Communist-action organization, a Communist foreign government, or the world Communist movement referred to in section 2 of this title, and (B) is serving, or

¹¹ Paragraph (3) was amended by Public Law 90-237, § 2(a); 81 Stat. 765, *supra*, to eliminate a provision which included as a Communist-action organization "any section, branch, fraction, or cell of any" Communist-action organization which had not complied with the registration requirement of the Act.

¹² Paragraph (4) was amended by Public Law 90-237, § 2(a); 81 Stat. 765, *supra*, to include an organization "substantially directed, dominated, or controlled by one or more members of a Communist-action organization" in the definition of Communist-front organization. Additionally, such organizations, like the older definition of Communist-front organization retained in subpart (A), must meet the requirement set out in subpart (C) in order to be a Communist-front organization covered by the Act, that is, it must be "primarily operated for the purpose of giving aid and support to a Communist-action organization, a Communist foreign government, or the world Communist movement referred to in section 2" of the Act.

within three years has served, as a means for (i) the giving of aid or support to any such organization, government, or movement, or (ii) the impairment of the military strength of the United States or its industrial capacity to furnish logistical or other material support required by its Armed Forces: *Provided, however*, That any labor organization which is an affiliate in good standing of a national federation or other labor organization whose policies and activities have been directed to opposing Communist organizations, any Communist foreign government, or the world Communist movement, shall be presumed *prima facie* not to be a "Communist-infiltrated organization".¹³

(5) The term "Communist organization" means any Communist-action organization, Communist-front organization, or Communist-infiltrated organization.

(6) The term "to contribute funds or services" includes the rendering of any personal service and the making of any gift, subscription, loan, advance, or deposit, of money or of anything of value, and also the making of any contract, promise, or agreement to contribute funds or services, whether or not legally enforceable.

(7) The term "facility" means any plant, factory or other manufacturing, producing or service establishment, airport, airport facility, vessel, pier, water-front facility, mine, railroad, public utility, laboratory, station, or other establishment or facility, or any part, division, or department of any of the foregoing. The term "defense facility" means any facility designated by the Secretary of Defense pursuant to section 5(b) of this title and which is in compliance with the provisions of such subsection respecting the posting of notice of such designation".¹⁴

(8) The term "publication" means any circular, newspaper, periodical, pamphlet, book, letter, post card, leaflet, or other publication.

(9) The term "United States", when used in a geographical sense, includes the several States, Territories, and possessions of the United States, the District of Columbia, and the Canal Zone.

(10) The term "interstate or foreign commerce" means trade, traffic, commerce, transportation, or communication (A) between any State, Territory, or possession of the United States (including the Canal Zone), or the District of Columbia, and any place outside thereof, or (B) within any Territory or possession of the United States (including the Canal Zone), or within the District of Columbia.

(11) The term "Board" means the Subversive Activities Control Board created by section 12 of this title.

¹³ Paragraph (4A), adding a third category of Communist organizations covered by the Act, was added by Public Law 637, 83rd Congress, 2nd Session, § 7(a): 68 Stat. 777, An Act to outlaw the Communist Party, to prohibit members of Communist organizations from serving in certain representative capacities, and for other purposes.

¹⁴ Paragraph (7) was amended by Public Law 87-474, § 1(a), 76 Stat. 91, An Act to amend sections 3(7) and 5(b) of the Internal Security Act of 1950, relating to employment of members of Communist Organizations in certain defense facilities, to eliminate a provision requiring the Secretary of Defense to proclaim the designated facility, and to include it on the list published and currently in effect under section 5(b) of the Act.

(12) The term "final order of the Board" means an order issued by the Board under section 13 or 13A of this title, which has become final as provided in section 14 of this title.¹⁵

(13) The term "advocates" includes advises, recommends, furthers by overt act, and admits belief in; and the giving, loaning, or promising of support or of money or anything of value to be used for advocating any doctrine shall be deemed to constitute the advocating of such doctrine.

(14) The term "world communism" means a revolutionary movement, the purpose of which is to establish eventually a Communist totalitarian dictatorship in any or all the countries of the world through the medium of an internationally coordinated Communist movement.

(15) The terms "totalitarian dictatorship" and "totalitarianism" mean and refer to systems of government not representative in fact, characterized by (A) the existence of a single political party, organized on a dictatorial basis, with so close an identity between such party and its policies and the governmental policies of the country in which it exists, that the party and the government constitute an indistinguishable unit, and (B) the forcible suppression of opposition to such party.

(16) The term "doctrine" includes, but is not limited to, policies, practices, purposes, aims, or procedures.

(17) The giving, loaning, or promising of support or of money or any other thing of value for any purpose to any organization shall be conclusively presumed to constitute affiliation therewith; but nothing in this paragraph shall be construed as an exclusive definition of affiliation.

(18) "Advocating the economic, international, and governmental doctrines of world communism" means advocating the establishment of a totalitarian Communist dictatorship in any or all of the countries of the world through the medium of an internationally coordinated Communist movement.

(19) "Advocating the economic and governmental doctrines of any other form of totalitarianism" means advocating the establishment of totalitarianism (other than world communism) and includes, but is not limited to, advocating the economic and governmental doctrines of fascism and nazism.

APPLICATION TO COMMUNIST PARTY MEMBERS

Members of the Communist Party and other subversive organizations as subject to this section, as being members of "Communist-action" organizations defined in this section, see section 843 of this title, and References in Text note under that section.

SEC. 783. *Offenses.*

(a) *Conspiracy or attempt to establish totalitarian dictatorship.* It shall be unlawful for any person knowingly to combine, conspire, or agree with any other person to perform any act

¹⁵ Paragraph (12) was amended by Public Law 90-237, § 2(b); 81 Stat. 765, to include a reference to section 13A of the Act.

which would substantially contribute to the establishment within the United States of a totalitarian dictatorship, as defined in paragraph (15) of section 782 of this title, the direction and control of which is to be vested in, or exercised by or under the domination or control of any foreign government, foreign organization, or foreign individual: *Provided, however,* That this subsection shall not apply to the proposal of a constitutional amendment.

(b) *Communication of classified information by Government officer or employee.* It shall be unlawful for any officer or employee of the United States or of any department or agency thereof, or of any corporation the stock of which is owned in whole or in major part by the United States or any department or agency thereof, to communicate in any manner or by any means, to any other person whom such officer or employee knows or has reason to believe to be an agent or representative of any foreign government or an officer or member of any Communist organization as defined in paragraph (5) of section 782 of this title, any information of a kind which shall have been classified by the President (or by the head of any such department, agency, or corporation with the approval of the President) as affecting the security of the United States, knowing or having reason to know that such information has been so classified, unless such officer or employee shall have been specifically authorized by the President, or by the head of the department, agency, or corporation by which this officer or employee is employed, to make such disclosure of such information.

(c) *Receipt of, or attempt to receive, by foreign agent or member of Communist organization, classified information.* It shall be unlawful for any agent or representative of any foreign government, or any officer or member of any Communist organization as defined in paragraph (5) of section 782 of this title, knowingly to obtain or receive, or attempt to obtain or receive, directly or indirectly, from any officer or employee of the United States or of any department or agency thereof or of any corporation the stock of which is owned in whole or in major part by the United States or any department or agency thereof, any information of a kind which shall have been classified by the President (or by the head of any such department, agency, or corporation with the approval of the President) as affecting the security of the United States, unless special authorization for such communication shall first have been obtained from the head of the department, agency, or corporation having custody of or control over such information.

(d) *Penalties for violation.* Any person who violates any provision of this section shall, upon conviction thereof, be punished by a fine of not more than \$10,000, or imprisonment for not more than ten years, or by both such fine and such imprisonment, and shall, moreover, be thereafter ineligible to hold any office, or place of honor, profit, or trust created by the Constitution or laws of the United States.

(e) *Limitation period.* Any person may be prosecuted, tried, and punished for any violation of this section at any time within

ten years after the commission of such offenses, notwithstanding the provisions of any other statute of limitations: *Provided*, That if at the time of the commission of the offense such person is an officer or employee of the United States or of any department or agency thereof, or of any corporation the stock of which is owned in whole or in major part by the United States or any department or agency thereof, such person may be prosecuted, tried, and punished for any violation of this section at any time within ten years after such person has ceased to be employed as such officer or employee.

(f) Neither the holding of office nor membership in any Communist organization by any person shall constitute per se a violation of subsection (a) or subsection (c) of this section or of any other criminal statute. (50 U.S.C. 783(f).)¹⁶

APPLICATION TO COMMUNIST PARTY MEMBERS

Application of this section to members of the Communist Party and other subversive organizations, see section 843 of this title, and References in Text note under that section.

SEC. 784. *Employment of members of Communist organization.*

(a) *Failure to disclose membership; defense facilities; contribution of funds, services or advice by Government personnel.* When a Communist organization, as defined in paragraph (5) of section 782 of this title, is registered or there is in effect a final order of the Board requiring such organization to register, it shall be unlawful—

(1) For any member of such organization, with knowledge or notice that such organization is so registered or that such order has become final—

(A) in seeking, accepting, or holding any nonelective office or employment under the United States, to conceal or fail to disclose the fact that he is a member of such organization; or

(B) to hold any nonelective office or employment under the United States; or

(C) in seeking, accepting, or holding employment in any defense facility, to conceal or fail to disclose the fact that he is a member of such organization; or

(D) if such organization is a Communist-action organization, to engage in any employment in any defense facility; or¹⁷

(E) to hold office or employment with any labor organization, as that term is defined in section 152(5) of Title 29, or to represent any employer in any matter or

¹⁶ Paragraph (f) was amended by Public Law 90-237, § 3; 81 Stat. 765, *supra*, to eliminate a prohibition against receiving the fact of registration of any person under section 7 or 8 of the Act as officer or member of any Communist organization in any prosecution for an alleged violation of subsection (a) or (c) of this section or for any alleged violation of any other criminal statute.

¹⁷ Section 5(a)(1)(D) providing that when a Communist-action organization is under a final order to register it shall be unlawful for any member of the organization "to engage in any employment in any defense facility", was held to be "an unconstitutional abridgement of the right of association protected by the First Amendment", *United States v. Robel*, 389 U.S. 258, 261 (1967).

proceeding arising or pending under the National Labor Relations Act, as amended.¹⁸

(2) For any officer or employee of the United States or of any defense facility, with knowledge or notice that such organization is so registered or that such order has become final—

(A) to contribute funds or services to such organization; or

(B) to advise, counsel or urge any person, with knowledge or notice that such person is a member of such organization, to perform, or to omit to perform, any act if such act or omission would constitute a violation of any provision of subparagraph (1) of this subsection.

(b) The Secretary of Defense is authorized and directed to designate facilities, as defined in paragraph (7) of section 3 of this title, with respect to the operation of which he finds and determines that the security of the United States requires the application of the provisions of subsection (a) of this section. The Secretary shall promptly notify the management of any facility so designated, whereupon such management shall immediately post conspicuously notice of such designation in such form and in such place or places as to give notice thereof to all employees of, and to all applicants for employment in, such facility. Such posting shall be sufficient to give notice of such designation to any person subject thereto or affected thereby. Upon the request of the Secretary, the management of any facility so designated shall require each employee of the facility, or any part thereof, to sign a statement that he knows that the facility has, for the purposes of this title, been designated by the Secretary under this subsection.¹⁹

§ (c) [Repealed.]

APPLICATION TO COMMUNIST PARTY MEMBERS

Application of this section to members of the Communist Party and other subversive organizations, see section 843 of this title, and References in Text note under that section.

SEC. 785. *Denial of passports to members of Communist organizations.*

(a) When a Communist organization as defined in paragraph (5) of section 3 of this title is registered, or there is in effect a final order of the Board requiring such organization to register,

¹⁸ Subsection (a) (1) (E), imposing a new employment disability on members of Communist-action and Communist-front organizations, was added by Public Law 637, 83d Congress, Second Session, § 6; 68 Stat. 777, *supra*.

¹⁹ Subsection (b) was amended by Public Law 87-474, § 1(b); 76 Stat. 91, *supra*, for purposes of eliminating provisions which directed the Secretary of Defense to proclaim, and from time to time revise, a list of defense facilities and to publish such list in the Federal Register, and inserted provisions making the posting of the list sufficient to give notice of the designation as a defense facility, and requiring the management of any facility so designated, upon the request of the Secretary, to obtain a signed statement from each employee that he knows that the facility has been so designated.

Former subsection (c) which suspended imposition of employment sanctions on individuals who sought to correct erroneous listings of their names in the registration statement of a Communist organization, was repealed by Public Law 637, § 7(c); 68 Stat. 778, *supra*.

it shall be unlawful for any member of such organization, with knowledge or notice that such organization is so registered or that such order has become final—

(1) to make application for a passport, or the renewal of a passport, to be issued or renewed by or under the authority of the United States; or

(2) to use or attempt to use any such passport.

(b) When an organization is registered, or there is in effect a final order of the Board requiring an organization to register, as a Communist-action organization, it shall be unlawful for any officer or employee of the United States to issue a passport to, or renew the passport of, any individual knowing or having reason to believe that such individual is a member of such organization.²⁰

(c) [Repealed.]

APPLICATION TO COMMUNIST PARTY MEMBERS

Application of this section to members of the Communist Party and other subversive organizations, see section 843 of this title, and References in Text note under that section.

SEC. 786. *Registration and annual reports of Communist organizations.*²¹

SEC. 787. *Registration and statements of members of Communist-action organizations.*²²

SEC. 788. *Records of Final Orders of the Board; Public Inspection: Reports to the President and Congress:*

(a) The Board shall keep and maintain records, which shall be open to public inspection, giving the names and addresses of all organizations as to which, and individuals as to whom, there are in effect final orders of the Board issued pursuant to any of the provisions of subsections (g) through (j), inclusive, of section 13, or subsection (f) of section 13A.

(b) Copies of all public proceedings and hearings before the Board, including the reports and orders of the Board, shall be furnished by the Board to any person upon request and upon the payment of the reasonable costs thereof as then currently fixed by the Board.

(c) The Board shall submit to the President and to the Congress on or before June 1 of each year (and at any other time when requested by either House by resolution) a report giving the names and addresses of all Communist-action, Communist-

²⁰ Section 6, providing that when a Communist-action organization is under a final order to register it shall be unlawful for any member of the organization to apply for a passport, was held to restrict the right to travel too broadly and thereby abridged the liberty guaranteed by the Fifth Amendment, *Aptheker v. Secretary of State*, 378 U.S. 500 (1964).

Former subsection (c) which suspended imposition of passport sanctions on individuals who sought to correct erroneous listings of their names in the registration statement of a Communist organization, was repealed by Public Law 637, § 7(c); 68 Stat. 778, *supra*.

²¹ Section 786, captioned Registration and Annual Reports of Communist Organizations, was repealed by Public Law 90-237, § 5; 81 Stat. 766. Former section 786 required all Communist-action and Communist-front organizations to register with the Attorney General and submit a registration statement containing, among other information, a list of their officers and members.

²² Section 787, captioned Registration of Members of Communist-Action Organizations, was repealed by Public Law 90-237, § 5; 81 Stat. 66. Former section 8 required each member of a Communist-action organization to register individually if the organization failed to register as required by section 786.

front, or Communist-infiltrated organizations as to which, and all individual members of Communist-action organizations as to whom, there are in effect such final orders of the Board.²³

APPLICATION TO COMMUNIST PARTY MEMBERS

Application of this section to members of the Communist Party and other subversive organizations, see section 843 of this title, and References in Text note under that section.

SEC. 789. *Use of the Mails and Instrumentalities of Interstate or Foreign Commerce:*

It shall be unlawful for any organization with respect to which there is in effect a final order of the Board determining it to be a Communist organization as defined in paragraph (5) of section 3 of this title, or for any person with knowledge or notice of such final order acting for or on behalf of any such organization—

(1) to transmit or cause to be transmitted, through the United States mails or by any means or instrumentality of interstate or foreign commerce, any publication which is intended to be, or which it is reasonable to believe is intended to be, circulated or disseminated among two or more persons, unless such publication, and any envelope, wrapper, or other container in which it is mailed or otherwise circulated or transmitted, bears the following, printed in such manner as may be provided in regulations prescribed by the Attorney General: "Disseminated by _____," (with the name of the organization in lieu of the blank) "an organization determined by final order of the Subversive Activities Control Board to be a Communist-_____ organization" (setting forth in lieu of the blank whether action, front or infiltrated, as the case may be); or

(2) to broadcast or cause to be broadcast any matter over any radio or television station in the United States, unless such matter is preceded by the following statement: "The following program is sponsored by _____," with the name of the organization in lieu of the blank) "an organization determined by final order of the Subversive Activities Control Board to be a Communist-_____ organization" (setting forth in lieu of the blank whether action, front, or infiltrated, as the case may be); or

(3) to use the United States mails or any means, facility, or instrumentality of interstate or foreign commerce, including but not limited to radio and television broadcasts, to solicit any money, property, thing, or service, unless such solicitation if made orally is preceded by the following state-

²³ Section 788 was amended by Public Law 90-237, § 6; 81 Stat. 766, *supra*, generally, to reflect the fundamental change from *registration* of Communist-action and Communist-front organizations and members of Communist-action organizations, to Board *determinations* respecting similar organizations and their members. Section 9 requires, among other things, that the Board maintain public records of all such determinations. Former section 9 required the Attorney General to keep and maintain separate Registers of Communist-action and Communist-front organizations and to make them available for public inspection. Also, the Attorney General was required to make an annual report of his activities under this part of the Act to both the President and the Congress. Former section 9 also required publication of the fact of organizational registration in the Federal Register.

ment, and if made in writing or in print is preceded by the following written or printed statement: "This solicitation is made for or on behalf of -----" (with the name of the organization in lieu of the blank) "an organization determined by final order of the Subversive Activities Control Board to be a Communist----- organization" (setting forth in lieu of the blank whether action, front, or infiltrated, as the case may be).²⁴

APPLICATION TO COMMUNIST PARTY MEMBERS

Application of this section to members of the Communist Party and other subversive organizations, see section 843 of this title, and References in Text note under that section.

SEC. 790. *Denial of tax deductions and exemptions.*

(a) Notwithstanding any other provision of law, no deduction for Federal income tax purposes shall be allowed in the case of a contribution to or for the use of any organization if at the time of the making of such contribution there is in effect a final order of the Board determining such organization to be a Communist-action, Communist-front, or Communist-infiltrated organization.

(b) No organization shall be entitled to exemption from Federal income tax, under section 501 of the Internal Revenue Code of 1954, for any taxable year if at any time during such taxable year there is in effect a final order of the Board determining such organization to be a Communist-action, Communist-front, or Communist-infiltrated organization.²⁵

²⁴ Section 789 was amended by Public Law 90-237, § 7; 81 Stat. 766, *supra*, generally, to accord with the change from the organizational registration scheme to Board determination of subversive organizations. In the opening paragraph, the 1968 amendment substituted "any organization with respect to which there is in effect a final order of the Board determining it to be a Communist organization as defined in paragraph (5) of section 3 of this title" for "any organization which is registered under section 7 of this title, or for any organization with respect to which there is in effect a final order of the Board requiring it to register under said section or determining that it is a Communist-infiltrated organization". Also, the recent amendment inserted the phrase "with knowledge or notice of such final order" following "any person".

In paragraph (1) the 1968 amendment substituted "Disseminated by -----" (with the name of the organization in lieu of the blank) "an organization determined by final order of the Subversive Activities Control Board to be a Communist ----- organization" (setting forth in lieu of the blank whether action, front, or infiltrated, as the case may be) for "with the name of the organization appearing in lieu of the blank; 'Disseminated by -----, a Communist organization'."

In paragraph (2) the 1968 amendment substituted "The following program is sponsored by -----" (with the name of the organization in lieu of the blank) "an organization determined by final order of the Subversive Activities Control Board to be a Communist ----- organization" (setting forth in lieu of the blank whether action, front, or infiltrated, as the case may be) for "with the name of the organization being stated in place of the blank; 'The following program is sponsored by -----, a Communist organization'."

Paragraph (3) was added by the 1968 amendment.

²⁵ Section 790 was amended by Public Law 90-237, § 8; 81 Stat. 767, *supra*, generally to accord with the change from the organizational registration scheme to Board determinations of subversive organizations. Subsection (a) of the 1968 amendment substituted "there is in effect a final order of the Board determining such organization to be a Communist-action, Communist-front, or Communist-infiltrated organization" for "(1) such organization is registered under section 786 of this title, or (2) there is in effect a final order of the Board requiring such organization to register under section 7 of this title or determining that it is a Communist-infiltrated organization".

Subsection (b) of the 1968 amendment substituted "section 501 of Title 26" for "section 101 of Title 26" and "there is in effect a final order of the Board determining such organization to be a Communist-action, Communist-front or Communist-infiltrated organization" for "(1) such organization is registered under section 7 of this title, or (2) there is in effect a final order of the Board requiring such organization to register under section 7 of this title or determining that it is a Communist-infiltrated organization".

APPLICATION TO COMMUNIST PARTY MEMBERS

Application of this section to members of the Communist Party and other subversive organizations, see section 843 of this title, and References in Text note under that section.

SEC. 791. *Subversive Activities Control Board.*²⁶

(a) There is hereby established a board, to be known as the Subversive Activities Control Board, which shall be composed of five members, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three members of the Board shall be members of the same political party. The terms of office of the members of the board in office on the date of enactment of the Subversive Activities Control Board Tenure Act shall expire at the time they would have expired if such Act had not been enacted. The term of office of each member of the Board appointed after the date of enactment of the Subversive Activities Control Board Tenure Act shall be for five years from the date of expiration of the term of his predecessor, except that (1) the term of office of that member of the Board who is designated by the President and is appointed to succeed one of the two members of the Board whose terms expire on August 9, 1955, shall be for four years from the date of expiration of the term of his predecessor, and (2) the term of office of any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be for the remainder of the term of his predecessor. Upon the expiration of his term of office a member of the Board shall continue to serve until his successor shall have been appointed and shall have qualified. The President shall designate one member to serve as Chairman of the Board. Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.²⁷

(b) A vacancy in the Board shall not impair the right of the remaining members to exercise all the powers of the Board, and three members of the Board shall, at all times, constitute a quorum. The Board shall have an official seal which shall be judicially noticed.

(c) The Board shall at the close of each fiscal year make a report in writing to the Congress and to the President stating in detail the cases it has heard, the decisions it has rendered, the names, salaries, and duties of all employees of the Board, and an account of all moneys it has disbursed.

(d) Each member of the board shall receive a salary of \$15,000 a year, shall be eligible for reappointment, and shall not engage in any other business, vocation, or employment.²⁸

²⁶ No funding requested for 1974. *The Budget of the United States Government, Fiscal Year 1974*, p. 951.

²⁷ Subsection (a) was amended by Public Law 254, 84th Congress, 1st Sessions, § 1; 67 Stat. 539, 'Subversive Activities Control Board Tenure Act, to provide staggered terms of office and to increase the term of office of members of the Board from three to five years.

²⁸ Subsection (d) was amended by Public Law 516, 83rd Congress, 2nd Session; 66 Stat. 590, to increase the salary of Board members from \$12,500 to \$15,000 a year. The salary feature of subsection (d) is obsolete since the subject is now controlled by the Federal Executive Salary Schedule, 5 U.S.C. 5311.

(e) It shall be the duty of the Board—

(1) upon application made by the Attorney General under section 13(a) of this title, or by any organization under section 13(b) of this title, to determine whether any organization is a “Communist-action organization” within the meaning of paragraph (3) of section 3 of this title, or a “Communist-front organization” within the meaning of paragraph (4) of section 3 of this title; and

(2) upon application made by the Attorney General under section 13(a) of this title, or by any individual under section 13(b) of this title, to determine whether any individual is a member of any organization as to which there is in effect a final order of the Board determining such organization to be a Communist-action organization; and

(3) upon any application made under subsection (a) or subsection (b) of section 13A of this title, to determine whether any organization is a Communist-infiltrated organization.²⁹

(f) Subject to the civil-service laws and Classification Act of 1949, the Board may appoint and fix the compensation of a chief clerk and such examiners and other personnel as may be necessary for the performance of its functions.

(g) The Board may make such rules and regulations, not inconsistent with the provisions of this title, as may be necessary for the performance of its duties.

(h) There are hereby authorized to be appropriated to the Board such sums as may be necessary to carry out its functions.

(i) The Board shall cease to exist on June 30, 1969, unless in the period beginning on the date of enactment of this subsection and ending on December 31, 1968, a proceeding under this Act shall have been instituted before the Board and a hearing under this Act shall have been conducted by the Board. On or before June 30, 1968, the Attorney General shall report to the Congress on the proceedings he has instituted before the Board under this Act during the period from the enactment of this subsection to the date of the report, and the Board shall report on the progress it has made in conducting hearings under the Act during such period. If no proceedings have been instituted before the Board by the Attorney General, the Attorney General shall report his reasons for not having done so. If no hearings have been conducted, the Board shall report the reasons for not having done so. Similar reports shall be filed by the Attorney General and the Board on or before January 10, 1969, and each year thereafter, to cover the immediately preceding calendar year.³⁰

²⁹ Subsection (e) was amended by Public Law 637, 83rd Congress, 2d Session, § 9: 66 Stat. 590, *supra*, to add subsection (e) (3).

Subsection (e) was amended by Public Law 90-237, § 9(a): 81 Stat. 767, *supra*, to substitute “any organization as to which there is in effect a final order of the Board determining such organization to be a Communist-action organization” for “any Communist-action organization registered, or by final order of the Board required to be registered under section 7(a) of this title.”

³⁰ Subsection (i), providing for termination of the Board unless proceedings have been instituted before the Board and hearings conducted by it before December 31, 1968, was added by the 1968 amendment. The Attorney General, who was made the sole judge as to whether proceedings had been instituted and hearings conducted, took the necessary action to keep the Board alive shortly before the terminal date.

APPLICATION TO COMMUNIST PARTY MEMBERS

Application of this section to members of the Communist Party and other subversive organizations, see section 843 of this title, and References in Text note under that section.

SEC. 792. *Board proceedings with respect to Communist-action or Communist-front organizations—Petition by Attorney General for determination: verification: contents; joinder of respondents; dissolution of organization subsequent to filing.*³¹

(a) Whenever the Attorney General shall have reason to believe that any organization is a Communist-action organization or a Communist-front organization, or that any individual is a member of an organization which has been determined by final order of the Board to be a Communist-action organization, he shall file with the Board and serve upon such organization or individual, as the case may be, a petition for a determination that such organization is a Communist-action or Communist-front organization, or determining that such individual is a member of such Communist-action organization. Each such petition shall be verified under oath, and shall contain a statement of the facts upon which the Attorney General relies in support thereof. Two or more such individual members of a Communist-action organization or of any section, branch, fraction, cell, board, committee, commission, or unit thereof, may be joined as respondents in one petition for an order determining each of such individuals to be a member of such organization. A dissolution of any organization subsequent to the date of the filing of any petition for a determination that such organization is a Communist-action or Communist-front organization shall not moot or abate the proceedings, but the Board shall receive evidence and proceed to a determination of the issues: *Provided, however,* That if the Board shall find such organization to be a Communist-action or Communist-front organization as of the time of the filing of such petition and prior to its alleged dissolution, and shall find that a dissolution of the organization has in fact occurred, the Board shall enter an order determining such organization to be a Communist-action or Communist-front organization, as the case may be, and the Board shall include it as such in the appropriate records maintained pursuant to section 788 of this title, together with a notation of its dissolution.³²

PETITIONS BY ORGANIZATION OR INDIVIDUAL FOR DETERMINATION;
VERIFICATION; CONTENTS; NOTICE AND TIME OF HEARING

(b) Any organization as to which there is in effect a final order of the Board determining it to be a Communist-action or Communist-front organization, and any individual as to whom there

³¹ The catchline was amended by Public Law 90-237, § 10(a); 81 Stat. 768, *supra*, to substitute "Proceedings Before the Board" for "Registration Proceedings Before the Board." Earlier, the catchline had been amended by Public Law 637, 83rd Congress, 2nd Session, § 9(b), *supra*, to insert the word "Registration."

³² Subsection (a) was amended by Public Law 90-237, § 10(b); 81 Stat. 768, *supra*, to substitute provisions authorizing the Attorney General to file a petition for a determination that an organization is a Communist-action or Communist-front organization or that an individual is a member of a Communist-action organization for provisions which authorized the Attorney General to petition the Board for an order requiring such organization or individual to register.

is in effect a final order of the Board determining such individual to be a member of a Communist-action organization may, not more often than once in each calendar year, file with the Board and serve upon the Attorney General a petition for a determination that such organization no longer is a Communist-action or Communist-front organization, or that such individual no longer is a member of a Communist-action organization, as the case may be. Each petition filed under this subsection shall be verified under oath, and shall contain a statement of the facts relied upon in support thereof. Upon the filing of any such petition, the Board shall serve upon each party to such proceeding a notice specifying the time and place for hearing upon such petition. No such hearing shall be conducted within twenty days after the service of such notice.

HEARINGS; OATHS, EXAMINATION, EVIDENCE, AND SUBPENAS; AID OF COURTS; CONTEMPT; PROCESS; EXEMPTION FROM LIABILITY

(c) Upon the filing of any petition pursuant to subsection (a) or subsection (b) of this section, the Board (or any member thereof or any examiner designated thereby) may hold hearings, administer oaths and affirmations, may examine witnesses and receive evidence at any place in the United States, and may require by subpoena the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed relevant, to the matter under inquiry. Subpenas may be signed and issued by any member of the Board or any duly authorized examiner. Subpenas shall be issued on behalf of the organization or the individual who is a party to the proceeding upon request and upon a statement or showing of general relevance and reasonable scope of the evidence sought. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing. Witnesses summoned shall be paid the same fees and mileage paid witnesses in the district courts of the United States. In case of disobedience to a subpoena, the Board may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear (and to produce documentary evidence if so ordered) and give evidence relating to the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. No person shall be held liable in any action in any court, State or Federal, for any damages resulting from (1) his production of any documentary evidence in any proceeding before the Board if he is required, by a subpoena issued under this subsection, to produce the evidence; or (2) any statement under oath he makes in answer to a question

he is asked while testifying before the Board in response to a subpoena issued under this subsection, if the statement is pertinent to the question.³³

HEARINGS OPEN TO PUBLIC; RIGHTS OF PARTIES; RECORD AND TRANSCRIPT OF TESTIMONY; FAILURE TO APPEAR; PENALTY FOR MISBEHAVIOR; JURISDICTION OF COURTS

(1) All hearings conducted under this section shall be public. Each party to such proceeding shall have the right to present its case with the assistance of counsel, to offer oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. An accurate stenographic record shall be taken of the testimony of each witness, and a transcript of such testimony shall be filed in the office of the Board.

(2) Where an organization or individual declines or fails to appear at a hearing accorded to such organization or individual by the Board in proceedings initiated pursuant to subsection (a) of this section, the Board shall, nevertheless, proceed to receive evidence, make a determination of the issues, and enter such order as shall be just and appropriate. Upon failure of an organization or individual to appear at a hearing accorded to such organization or individual in proceedings under subsection (b) of this section the Board may forthwith and without further proceedings enter an order dismissing the petition of such organization or individual.³⁴

(3) Any person who, in the course of any hearing before the Board or any member thereof or any examiner designated thereby, shall misbehave in their presence or so near thereto as to obstruct the hearing or the administration of the provisions of this title, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than \$500 nor more than \$5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment. Whenever a statement of fact constituting such misbehavior is reported by the Board to the appropriate United States attorney, it shall be his duty to bring the matter before the grand jury for its action.³⁵

³³ Subsection (c) was amended by Public Law 90-237, § 10(b); 81 Stat. 768, *supra*, to substitute provisions authorizing Communist-action and Communist-front organizations or individual members of the former to file a petition for a redetermination of their status whenever they feel they are no longer covered by this title for provisions that authorized the filing of an application with the Attorney General for removing their names from the registers and recourse to the Board in the event the Attorney General denied their application.

Subsection (c) was amended by Public Law 90-237, § 10(b); 81 Stat. 768, *supra*, to add the provision compelling a person to give testimony or produce evidence before the Board in obedience to a subpoena whenever such testimony or evidence is necessary to accomplish the purpose of this title but giving a natural person immunity from prosecution for or on account of anything on which he testifies or produces evidence.

³⁴ Subsection (d)(2) was amended by Public Law 90-237, § 10(b); 81 Stat. 769, *supra*, to substitute provisions requiring the Board to receive evidence, make a determination of the issues, and enter the appropriate order when an organization or individual declines to or fails to appear at a hearing under subsection (a) of this section and authorizing the Board to dismiss a petition for a redetermination under subsection (b) of this section on similar grounds for provisions which authorized the Board, without more, to enter an order requiring an organization or individual either to register or denying its application for a redetermination of registration for declining or failing to appear. The former subsection also authorized the Board to exclude a party or his counsel for conduct that interfered or obstructed the hearing.

³⁵ Subsection (d)(3) was added by Public Law 90-237, § 10(b); 81 Stat. 769, *supra*.

(4) The authority, function, practice, or process of the Attorney General or Board in conducting any proceeding pursuant to the provisions of this title shall not be questioned in any court of the United States, nor shall any such court, or judge or justice thereof, have jurisdiction of any action, suit, petition, or proceeding, whether for declaratory judgment, injunction, or otherwise, to question such authority, function, practice, or process, except on review in the court or courts having jurisdiction of the actions and orders of the Board pursuant to the provisions of section 14, or when such authority, function, practice, or process, is appropriately called into question by the accused or respondent, as the case may be, in the court or courts having jurisdiction of his prosecution or other proceeding (or the review thereof) for any contempt or any offense charged against him pursuant to the provisions of this title.³⁶

(e) In determining whether any organization is a "Communist-action organization", the Board shall take into consideration—

(1) the extent to which its policies are formulated and carried out and its activities performed, pursuant to directives or to effectuate the policies of the foreign government or foreign organization in which is vested, or under the domination or control of which is exercised, the direction and control of the world Communist movement referred to in section 2 of this title; and

(2) the extent to which its views and policies do not deviate from those of such foreign government or foreign organization; and

(3) the extent to which it receives financial or other aid, directly or indirectly, from or at the direction of such foreign government or foreign organization; and

(4) the extent to which it sends members or representatives to any foreign country for instruction or training in the principles, policies, strategy, or tactics of such world Communist movements; and

(5) the extent to which it reports to such foreign government or foreign organization or to its representatives; and

(6) the extent to which its principal leaders or a substantial number of its members are subject to or recognize the disciplinary power of such foreign government or foreign organization or its representatives; and

(7) the extent to which, for the purpose of concealing foreign direction, domination, or control, or of expediting or promoting its objectives, (i) it fails to disclose, or resist efforts to obtain information as to, its membership (by keeping membership lists in code, by instructing members to refuse to acknowledge membership, or by any other method); (ii) its members refuse to acknowledge membership therein; (iii) it fails to disclose, or resists efforts to obtain information as to, records other than membership lists; (iv)

³⁶ Subsection (d) (4) was added by Public Law 90-237, § 10(b); 81 Stat. 769, *supra*.

its meetings are secret; and (v) it otherwise operates on a secret basis; and

(8) the extent to which its principal leaders or a substantial number of its members consider the allegiance they owe to the United States as subordinate to their obligations to such foreign government or foreign organization.

DETERMINATION OF COMMUNIST-FRONT ORGANIZATION; MATTERS CONSIDERED

(f) In determining whether any organization is a "Communist-front organization", the Board shall take into consideration—

(1) the extent to which persons who are active in its management, direction, or supervision, whether or not holding office therein, are active in the management, direction, or supervision of, or as representatives or members of, any Communist-action organization, Communist foreign government, or the world Communist movement referred to in section 781 of this title;³⁷ and

(2) the extent to which its support, financial or otherwise, is derived from any Communist-action organization, Communist foreign government, or the world Communist movement referred to in section 2; and

(3) the extent to which its funds, resources, or personnel are used to further or promote the objectives of any Communist-action organization, Communist foreign government, or the world Communist movement referred to in section 2; and

(4) the extent to which the positions taken or advanced by it from time to time on matters of policy do not deviate from those of any Communist-action organization, Communist foreign government, or the world Communist movement referred to in section 2.

WRITTEN REPORT OF FINDINGS; ISSUANCE AND SERVICE OF ORDERS GRANTING DETERMINATION SOUGHT BY PETITION OF ATTORNEY GENERAL

(g) If, after hearing upon a petition filed under subsection (a) of this section the Board determines—

(1) that an organization is a Communist-action organization or a Communist-front organization, as the case may be, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such organization an order determining the organization to be a Communist-action organization or a Communist-front organization as the case may be;³⁸

³⁷ Subsection (f)(1) was amended by Public Law 90-237, § 10(b); 81 Stat. 769, *supra*, to insert "or members" following the word "representatives".

³⁸ Subsection (g)(1) was amended by Public Law 90-237, § 10(b); 81 Stat. 770, *supra*, to substitute "order determining the organization to be a Communist-action organization or a Communist-front organization as the case may be" for "order requiring such organization to register as such under section 7 of this title".

(2) that an individual is a member of a Communist-action organization it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such individual an order determining such individual to be a member of a Communist-action organization. (50 U.S.C. 792(g) (Supp. III))³⁹

WRITTEN REPORT OF FINDINGS; ISSUANCE AND SERVICE OF ORDERS DENYING DETERMINATION SOUGHT BY PETITION OF ATTORNEY GENERAL

(h) If, after hearing upon a petition filed under subsection (a) of this section, the Board determines—

(1) that an organization is not a Communist-action organization or a Communist-front organization, as the case may be, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served upon the Attorney General an order denying the determination sought by his petition, and shall send a copy of such order to such organization;⁴⁰

(2) that an individual is not a member of any Communist-action organization, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served upon the Attorney General an order denying the determination sought by his petition, and shall send a copy of such order to such individual.⁴¹

WRITTEN REPORT OF FINDINGS; ISSUANCE AND SERVICE OF ORDERS GRANTING DETERMINATION SOUGHT BY PETITION OF ORGANIZATION OR INDIVIDUAL

(i) If, after hearing upon a petition filed under subsection (b) of this section, the Board determines—

(1) that an organization no longer is a Communist-action organization or a Communist-front organization, as the case may be, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served upon the Attorney General and such organization an order determining that the organization no longer is a

³⁹ Subsection (g)(2) was amended by Public Law 90-237, § 10(b); 81 Stat. 770, *supra*, to eliminate "(including an organization required by final order of the Board to register under section 7(a) of this title)" following "Communist-action organization" and to substitute "order determining such individual to be a member of a Communist-action organization" for "order requiring him to register as such under section 8 of this title". Disclosure provisions of Subversive Activities Control Act which allow public disclosure of an individual's membership in a Communist-action organization without finding that he shares in any illegal purposes of the organization violates the First Amendment. *Boorda v. Subversive Activities Control Board*, 421 F. 2d 1142 (D.C. Cir. 1969) cert. denied 397 U.S. 1042 (1970).

⁴⁰ Subsection (h)(1) was amended by Public Law 90-237, § 10(b); 81 Stat. 770, *supra*, to substitute "order denying the determination sought by his petition" for "order denying his petition for an order requiring such organization to register as such under section 7 of this title".

⁴¹ Subsection (h)(2) was amended by Public Law 90-237, § 10(b); 81 Stat. 770, *supra*, to substitute "order denying the determination sought by his petition" for "order denying his petition for an order requiring such individual to register as such under section 8 of this title".

Communist-action organization or Communist-front organization as the case may be; ⁴²

(2) that an individual no longer is a member of any Communist-action organization, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served upon the Attorney General and such individual an order determining that such individual no longer is a member of a Communist-action organization.⁴³

WRITTEN REPORT OF FINDINGS; ISSUANCE AND SERVICE OF ORDERS
DENYING DETERMINATION SOUGHT BY PETITION OF ORGANIZATION
OR INDIVIDUAL

(i) If, after hearing upon a petition filed under subsection (b) of this section, the Board determines—

(1) that an organization is a Communist-action organization or a Communist-front organization, as the case may be, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such organization an order denying its petition for a determination that the organization no longer is a Communist-action organization or a Communist-front organization as the case may be; ⁴⁴

(2) that an individual is a member of a Communist action organization, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served upon such individual an order denying his petition for a determination that the individual no longer is a member of a Communist-action organization.⁴⁵

PUBLICATION IN FEDERAL REGISTER OF FACT OF FINALITY OF ORDER;
PUBLICATION AS NOTICE

(k) When any order of the Board issued under subsection (g), (h), (i), or (j) of this section becomes final under the provisions of section 14(b) of this title, the Board shall publish in the Federal Register the fact that such order has become final, and pub-

⁴² Subsection (i)(1) was amended by Public Law 90-237, § 10(b); 81 Stat. 770, *supra*, to substitute provisions requiring the Board, after determining that an organization no longer is a Communist-action or Communist-front organization, to make a written report of its findings and to serve the Attorney General and such organization with an order determining that the organization no longer is a Communist-action or Communist-front organization, for similar provisions relevant to the registration scheme authorized by the prior law.

⁴³ Subsection (i)(2) was amended by Public Law 90-237, § 10(b); 81 Stat. 770, *supra*, to substitute provisions requiring the Board, after determining that an individual no longer is a member of any Communist-action organization, to make a written report of its findings and to issue and cause to be served upon the Attorney General and such individual an order determining that an individual no longer is a member of a Communist-action organization for similar provision relevant to the registration scheme authorized by the prior law.

⁴⁴ Subsection (j)(1) was amended by Public Law 90-237, § 10(b); 81 Stat. 770, *supra*, to substitute "petition for a determination that the organization no longer is a Communist-action organization or a Communist-front organization as the case may be" for "petition for the cancellation of its registration and for relief from the requirement of further annual reports".

⁴⁵ Subsection (j)(2) was amended by Public Law 90-237, § 10(b); 81 Stat. 770, *supra*, to substitute provisions requiring the Board, after determining that an individual is a member of a Communist-action organization, to make a report of its findings and to serve upon such individual an order denying his petition for a redetermination of his status for similar provisions relevant to the registration scheme authorized by the prior law.

lication thereof shall constitute notice to all persons that such order has become final.⁴⁶

APPLICATION TO COMMUNIST PARTY MEMBERS

Application of this section to members of the Communist Party and other subversive organizations, see section 843 of this title, and References in Text note under that section.

*SEC. 792a. Board proceedings with respect to Communist-infiltrated organizations—Petition by Attorney General for determination; joint respondents; expedition of proceedings.*⁴⁷

(a) Whenever the Attorney General has reason to believe that any organization is a Communist-infiltrated organization, he may file with the Board and serve upon such organization a petition for a determination that such organization is a Communist-infiltrated organization. In any proceeding so instituted, two or more affiliated organizations may be named as joint respondents. A dissolution of such organizations subsequent to the date of the filing of any petition for a determination that it is Communist-infiltrated, shall not moot or abate the proceedings, but the Board shall receive evidence and proceed to a determination of the issues: *Provided, however*, That if the Board shall determine such organization to be a Communist-infiltrated organization as of the time of the filing of such petition and prior to its alleged dissolution, and shall find that a dissolution of the organization has in fact occurred, the Board shall enter an order determining such organization to be a Communist-infiltrated organization and the Board shall include it as such in the appropriate records maintained pursuant to section 9 of this title, together with a notation of its dissolution. Whenever any such petition is accompanied by a certificate of the Attorney General to the effect that the proceeding so instituted is one of exceptional public importance, such proceeding shall be set for hearing at the earliest possible time and all proceedings therein before the Board or any court shall be expedited to the greatest practicable extent.⁴⁸

PETITION BY ORGANIZATION AFFECTED AFTER DETERMINATION IN THE AFFIRMATIVE

(b) Any organization which has been determined under this section to be a Communist-infiltrated organization may, within six months after such determination, file with the Board and serve upon the Attorney General a petition for a determination that such organization no longer is a Communist-infiltrated organization.

VERIFICATION OF PETITIONS; NOTICE OF HEARINGS; MINIMUM TIME PERIOD BEFORE HEARING

(c) Each such petition shall be verified under oath, and shall contain a statement of the facts relied upon in support thereof.

⁴⁶ Subsection (k) was amended by Public Law 90-237, § 10(b); 81 Stat. 770, *supra*, to substitute "issued under subsection (g), (h), (i), or (j) of this section" for "requiring registration of a Communist organization" and "person" for "members of such organization".

⁴⁷ Section 792a was added to the Internal Security Act of 1950 by the Communist Control Act of 1954, Public Law 637, 83rd Congress, 2nd Session, § 10; 68 Stat. 775, *supra*.

⁴⁸ Subsection (a) was amended by Public Law 90-237, § 11(1); 81 Stat. 771, *supra*, to add the sentence relating to the effect of the dissolution of an organization subsequent to the filing of any petition.

Upon the filing of any such petition, the Board shall serve upon each party to such proceeding a notice specifying the time and place for hearing upon such petition. No such hearing shall be conducted within twenty days after the service of such notice.

APPLICABILITY OF SECTION 792 (C), (D)

(d) The provisions of subsection (c) and (d) of section 13 shall apply to hearings conducted under this section.⁴⁹

EVIDENCE CONSIDERED IN MAKING DETERMINATION

(e) In determining whether any organization is a Communist-infiltrated organization, the Board shall consider—

(1) to what extent, if any, the effective management of the affairs of such organization is conducted by one or more individuals who are, or within three years have been, (A) members, agents, or representatives of any Communist organization, and Communist foreign government, or the world Communist movement referred to in section 2 of this title, with knowledge of the nature and purpose thereof, or (B) engaged in giving aid or support to any such organization, government, or movement with knowledge of the nature and purpose thereof;⁵⁰

(2) to what extent, if any, the policies of such organization are, or within three years have been, formulated and carried out pursuant to the direction or advice of any member, agent, or representative of any such organization, government, or movement;

(3) to what extent, if any, the personnel and resources of such organization are, or within three years have been, used to further or promote the objectives of any such Communist organization, government, or movement;

(4) to what extent, if any, such organization within three years has received from, or furnished to or for the use of, any such Communist organization, government, or movement any funds or other material assistance;

(5) to what extent, if any, such organization is, or within three years has been, affiliated in any way with any such Communist organization, government, or movement;

(6) to what extent, if any, the affiliation of such organization, or of any individual or individuals who are members thereof or who manage its affairs, with any such Communist organization, government, or movement is concealed from or is not disclosed to the membership of such organization; and

(7) to what extent, if any, such organization or any of its members or managers are, or within three years have been, knowingly engaged—

(A) in any conduct punishable under section 4 or 15 of this Act or under chapter 37, 105, or 115 of title 18 of the United States Code; or

⁴⁹ Subsection (d) was amended by Public Law 90-237, § 11(2); 81 Stat. 771, *supra*, to eliminate the exception at the end of the subsection which authorized the Board to conduct a hearing in the absence of an organization which failed to appear and to enter such order as the Board found warranted by the evidence produced at the hearing.

⁵⁰ Subsection (e)(1) was amended by Public Law 173, 84th Congress, 1st Session; 69 Stat. 375, to substitute three years for two years.

(B) with intent to impair the military strength of the United States or its industrial capacity to furnish logistical or other support required by its armed forces, in any activity resulting in or contributing to any such impairment.

WRITTEN REPORT OF FINDINGS; GRANT OR DENIAL, SERVICE, AND FINALITY, OF ORDER

(f) After hearing upon any petition filed under this section, the Board shall (1) make a report in writing in which it shall state its findings as to the facts and its conclusions with respect to the issues presented by such petition, (2) enter its order granting or denying the determination sought by such petition, and (3) serve upon each party to the proceeding a copy of such order. Any order granting any determination on the question whether any organization is a Communist-infiltrated organization shall become final as provided in section 14(b) of this Act.

ORDERS REGARDING LABOR ORGANIZATIONS OR EMPLOYERS WHICH ARE ORGANIZATIONS WITHIN MEANING OF SECTION 782; SERVICE UPON NATIONAL LABOR RELATIONS BOARD; PUBLICATION IN FEDERAL REGISTER

(g) When any order has been entered by the Board under this section with respect to any labor organization or employer (as these terms are defined by section 2 of the National Labor Relations Act, as amended, and which are organizations within the meaning of section 3 of the Subversive Activities Control Act of 1950), the Board shall serve a true and correct copy of such order upon the National Labor Relations Board and shall publish in the Federal Register a statement of the substance of such order and its effective date.

EFFECT ON LABOR ORGANIZATION OF ORDER MAKING DETERMINATION IN AFFIRMATIVE

(h) When there is in effect a final order of the Board determining that any such labor organization is a Communist-action organization, a Communist-front organization, or a Communist-infiltrated organization, such labor organization shall be ineligible to—

(1) act as representative of any employee within the meaning or for the purposes of section 7 of the National Labor Relations Act, as amended (29 U.S.C. 157);

(2) serve as an exclusive representative of employees of any bargaining unit under section 9 of such Act, as amended (29 U.S.C. 159);

(3) make, or obtain any hearing upon, any charge under section 10 of such Act (29 U.S.C. 160); or

(4) exercise any other right or privilege, or receive any other benefit, substantive or procedural, provided by such Act for labor organizations.

LABOR ORGANIZATION CERTIFIED UNDER NATIONAL LABOR RELATIONS ACT; QUESTION RAISED BY FINAL ORDER IN AFFIRMATIVE; PROCEDURE

(i) When an order of the Board determining that any such labor organization is a Communist-infiltrated organization has become final, and such labor organization theretofore has been certified under the National Labor Relations Act, as amended, as a representative of employees in any bargaining unit—

(1) a question of representation affecting commerce, within the meaning of section 9(c) of such Act, shall be deemed to exist with respect to such bargaining unit; and

(2) the National Labor Relations Board, upon petition of not less than 20 per centum of the employees in such bargaining unit or any person or persons acting in their behalf, limitation of time contained therein) direct elections in such bargaining unit or any subdivision thereof (A) for the shall under section 9 of such Act (notwithstanding any limitation of time contained therein) direct elections in such bargaining unit or any subdivision thereof (A) for the selection of a representative thereof for collective bargaining purposes, and (B) to determine whether the employees thereof desire to rescind any authority previously granted to such labor organization to enter into any agreement with their employer pursuant to section 8(a) (3) (ii) of such Act.

EFFECT ON EMPLOYER OF ORDER MAKING DETERMINATION IN AFFIRMATIVE

(j) When there is in effect a final order of the Board determining that any such employer is a Communist-infiltrated organization, such employer shall be ineligible to—

(1) file any petition for an election under section 9 of the National Labor Relations Act, as amended (29 U.S.C. 157), or participate in any proceeding under such section; or

(2) make or obtain any hearing upon any charge under section 10 of such Act (29 U.S.C. 160); or

(3) exercise any other right or privilege or receive any other benefit, substantive or procedural, provided by such Act for employers.⁵¹

SEC. 793. *Judicial review—Courts of Appeals: petition; place; record; transfer; conclusiveness of Board's findings; additional evidence; modification by Board; judgment; finality.*

⁵¹ Section 792a of Public Law 90-237; 81 Stat 771, *supra*, with respect to proceedings under sections 13 and 13A, provided that—

(a) In the case of any organization which, by proceedings under section 13(a) of the Subversive Activities Control Act of 1950 completed before the date of enactment of this Act [Jan. 2, 1968], has been finally determined by the Subversive Activities Control Board to be a Communist-action organization or a Communist-front organization and has been ordered to register as a result of such determination, the Board shall forthwith modify its previously issued registration order as may be necessary to conform such order to the provisions of section 13(g) of the Subversive Activities Control Act of 1950, as amended by this Act, and shall forthwith include such organization on the record required to be maintained under section 9 of the Subversive Activities Control Act of 1950, as amended by this Act. Nothing in this subsection shall be construed so as to prevent any such organization from filing a petition as provided in subsection (b) of section 13 of the Subversive Activities Control Act of 1950, as amended by this Act.

(b) In the case of any proceeding pending before the Board on the date of enactment of this Act, the Board and the Attorney General are authorized to proceed in accordance with the provisions of the Subversive Activities Control Act of 1950, as amended by this Act, (50 U.S.C. 792 note (Supp. III)).

(a) The party aggrieved by any order entered by the Board under subsection (g), (h), (i), or (j) of section 13, or subsection (f) of section 13A, may obtain a review of such order by filing in the United States Court of Appeals for the District of Columbia, within sixty days from the date of service upon it of such order, a written petition praying that the order of the Board be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Board, and thereupon the Board shall file in the court the record in the proceeding, as provided in section 2112 of Title 28. Upon the filing of such petition the court shall have jurisdiction of the proceeding and shall have power to affirm or set aside the order of the Board; but the court may in its discretion and upon its own motion transfer any action so commenced to the United States Court of Appeals for the circuit wherein the petitioner resides. The findings of the Board as to the facts, if supported by the preponderance of the evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material, the court may order such additional evidence to be taken before the Board and to be adduced upon the proceeding in such manner and upon such terms and conditions as to the court may seem proper. The Board may modify its findings as to the facts, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by the preponderance of the evidence shall be conclusive, and its recommendations, if any, with respect to action in the matter under consideration. If the court shall set aside an order issued under subsection (j) of section 13, or under subsection (f) of section 13A, it may, in the case of an organization, enter a judgment requiring the Board to issue an order determining that such organization no longer is a Communist-action organization, Communist-front organization, or a Communist-infiltrated organization, as the case may be, or in the case of an individual, enter a judgment requiring the Board to issue an order determining that such individual no longer is a member of a Communist-action organization. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in title 28, United States Code, section 1254.⁵²

⁵² Subsections (a) and (b) were amended by Public Law 637, 83rd Congress, 2nd Session, § 11; 68 Stat. 780, *supra*, to insert a reference to section 13A elsewhere added to the Internal Security Act of 1950, by the Communist Control Act of 1954.

Subsection (a) was amended by Public Law 85-791, § 29; 72 Stat. 950, *supra*, to substitute in the second sentence "transmitted by the clerk of the court to the Board, and thereupon the Board shall file in the court the record in the proceeding, as provided in section 2112 of Title 28" for "served upon the Board, and thereupon the Board shall certify and file in the court a transcript of the entire record in the proceeding, including all evidence taken and the report and order of the Board", and to substitute in the third sentence "Upon the filing of such petition" for "Thereupon".

Subsection (a) was amended by Public Law 90-237, § 12; 81 Stat. 771, *supra*, to substitute in the seventh sentence "judgment requiring the Board to issue an order determining that such organization no longer is a Communist-action organization, Communist-front organization, or a Communist-infiltrated organization, as the case may be" for "judgment cancelling the registration of such organization and relieving it from the requirement of further annual reports" and "judgment requiring the Board to issue an order determining that such individual no longer is a member of a Communist-action organization" for "judgment requiring the Attorney General (A) to strike the name of such individual from the registration statement or annual report on which it appears, or (B) cancel the registration of such individual under section 8 of this title, as may be appropriated".

TIME OF FINALITY OF BOARD'S ORDERS

(b) Any order of the Board issued under section 13, or subsection (f) of section 13A, shall become final—

(1) upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; or

(2) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Board has been affirmed or the petition for review dismissed by a United States Court of Appeals, and no petition for certiorari has been duly filed; or

(3) upon the denial of a petition for certiorari, if the order of the Board has been affirmed or the petition for review dismissed by a United States Court of Appeals; or

(4) upon the expiration of ten days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the order of the Board be affirmed or the petition for review dismissed.⁵³

APPLICATION TO COMMUNIST PARTY MEMBERS

Application of this section to members of the Communist Party and other subversive organizations, see section 843 of this title, and References in Text note under that section.

PENALTIES

SEC. 794. Any organization which violates any provision of section 10 of this title shall, upon conviction thereof, be punished for each such violation by a fine of not more than \$10,000. Any individual who violates any provision of section 5 or 10 of this title shall, upon conviction thereof, be punished for each such violation by a fine of not more than \$10,000 or by imprisonment for not more than five years, or by both such fine and imprisonment.⁵⁴

APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT

SEC. 795. Nothing in this title shall be held to make the provisions of the Administrative Procedure Act inapplicable to the exercise of functions, or the conduct of proceedings, by the Board under this title.

SEC. 796. *Effect of subchapter on other criminal laws.*

The foregoing provisions of this title shall be construed as being in addition to and not in modification of existing criminal statutes.

SEC. 797. *Security regulations and orders; penalty for violation.*

(a) Whoever willfully shall violate any such regulation or order as, pursuant to lawful authority, shall be or has been promulgated or approved by the Secretary of Defense, or by any military commander designated by the Secretary of Defense, or

⁵³ Ibid.

⁵⁴ Section 15 was amended by Public Law 90-237, § 13; 81 Stat. 771, *supra*, to remove the penalties for failure to register or file statements or reports, for making false statements in registration statements or annual reports, and for violations of section 6 of this title.

by the Director of the National Advisory Committee for Aeronautics, for the protection or security of military or naval aircraft, airports, airport facilities, vessels, harbors, ports, piers, water-front facilities, bases, forts, posts, laboratories, stations, vehicles, equipment, explosives, or other property or places subject to the jurisdiction, administration, or in the custody of the Department of Defense, any Department or agency of which said Department consists, or any officer or employee of said Department or agency, or of the National Advisory Committee for Aeronautics or any officer or employee thereof, relating to fire hazards, fire protection, lighting, machinery, guard service, dis-repair, disuse or other unsatisfactory conditions thereon, or the ingress thereto or egress or removal of persons therefrom, or otherwise providing for safeguarding the same against destruction, loss, or injury by accident or by enemy action, sabotage or other subversive actions, shall be guilty of a misdemeanor and upon conviction thereof shall be liable to a fine of not to exceed \$5,000 or to imprisonment for not more than one year, or both.

(b) Every such regulation or order shall be posted in conspicuous and appropriate places.

SEC. 798. *Preservation of certain rights.* Nothing in this chapter, sections 137 to 137-8, 156, 456, 457 (b), 704, 705, 725, 729 (e), 733, 734 (b) and 735 of Title 8 sections 793 and 1507 of Title 18, and sections 611 (c) (5) and 618 (e) of Title 22 shall be construed to authorize, require, or establish military or civilian censorship or in any way to limit or infringe upon freedom of the press or of speech as guaranteed by the Constitution of the United States and no regulation shall be promulgated under said subchapter and sections having that effect.

Sections 23 through 30 of the Internal Security Act of 1950, generally intended to prevent immigration and naturalization of subversive aliens and to strengthen the alien registration requirements, codified at Title 8, United States Code (1958 edition), sections 137 to 137-8, 156, 456, 457, 704, 705, 725, 729, 733, and 735, have been repealed and partially or fully reenacted in various sections of the Aliens and Nationality Code.

SUBCHAPTER II.—EMERGENCY DETENTION OF SUSPECTED SECURITY RISKS⁵⁵

SUBCHAPTER III.—PERSONNEL SECURITY PROCEDURES IN NATIONAL SECURITY AGENCY⁵⁶

SEC. 831. *Regulations for employment security.*

Subject to the provisions of this subchapter, the Secretary of Defense (hereafter in this subchapter referred to as the "Secretary") shall prescribe such regulations relating to continuing security procedures as he considers necessary to assure—

(1) that no person shall be employed in, or detailed or assigned to the National Security Agency (hereafter in this

⁵⁵ Title II, "Emergency Detention Act of 1950" (§§ 801 to 826) repealed by Act of September 25, 1971 (85 Stat. 345, § 2 (a)).

⁵⁶ Title III, intended to regulate and strengthen personnel security procedures in the National Security Agency, was added by Act of March 26, 1964 (78 Stat. 168).

subchapter referred to as the "Agency"), or continue to be so employed, detailed, or assigned; and

(2) that no person so employed, detailed, or assigned shall have access to any classified information;

unless such employment, detail, assignment, or access to classified information is clearly consistent with the national security.

SEC. 832. *Full field investigation and appraisal—Conditional employment; other current security clearance; circumstances authorizing employment on temporary basis.*

(a) No person shall be employed in, or detailed or assigned to, the Agency unless he has been the subject of a full field investigation in connection with such employment, detail, or assignment, and is cleared for access to classified information in accordance with the provisions of this subchapter: excepting that conditional employment without access to sensitive cryptologic information or material may be tendered any applicant, under such regulations as the Secretary may prescribe, pending the completion of such full field investigation: *And provided further.* That such full field investigation at the discretion of the Secretary need not be required in the case of persons assigned or detailed to the Agency who have a current security clearance for access to sensitive cryptologic information under equivalent standards of investigation and clearance. During any period of war declared by the Congress, or during any period when the Secretary determines that a national disaster exists, or in exceptional cases in which the Secretary (or his designee for such purpose) makes a determination in writing that his action is necessary or advisable in the national interest, he may authorize the employment of any person in, or the detail or assignment of any person to, the Agency, and may grant to any such person access to classified information, on a temporary basis, pending the completion of the full field investigation and the clearance for access to classified information required by this subsection, if the Secretary determines that such action is clearly consistent with the national security.

BOARDS OF APPRAISAL; ESTABLISHMENT; MEMBERSHIP; APPOINTMENT; APPRAISAL IN DOUBTFUL CASES; REPORT AND RECOMMENDATION; QUALIFICATIONS OF MEMBERS; SECRETARY'S CLEARANCE CONTRARY TO BOARD'S RECOMMENDATION

(b) To assist the Secretary and the Director of the Agency in carrying out their personnel security responsibilities, one or more boards of appraisal of three members each, to be appointed by the Director of the Agency, shall be established by the Agency. Such a board shall appraise the loyalty and suitability of persons for access to classified information, in those cases in which the Director of the Agency determines that there is a doubt whether their access to that information would be clearly consistent with the national security, and shall submit a report and recommendation on each such a case. However, appraisal by such a board is not required before action may be taken under section 863 of Title 5, section 22-1 of Title 5, or any other similar provision of law. Each member of such a board shall be specially

qualified and trained for his duties as such a member, shall have been the subject of a full field investigation in connection with his appointment as such a member, and shall have been cleared by the Director for access to classified information at the time of his appointment as such a member. No person shall be cleared for access to classified information, contrary to the recommendations of any such board, unless the Secretary (or his designee for such purpose) shall make a determination in writing that such employment, detail, assignment, or access to classified information is in the national interest.

SEC. 833. *Termination of employment—Generally; finality.*

(a) Notwithstanding section 863 of Title 5, section 22—1 of Title 5, or any other provision of law, the Secretary may terminate the employment of any officer or employee of the Agency whenever he considers that action to be in the interest of the United States, and he determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of that officer or employee cannot be invoked consistently with the national security. Such a determination is final.

EMPLOYMENT IN OTHER DEPARTMENTS OR AGENCIES

(b) Termination of employment under this section shall not affect the right of the officer or employee involved to seek or accept employment with any other department or agency of the United States if he is declared eligible for such employment by the United States Civil Service Commission.

DELEGATION OF AUTHORITY; LIMITATION

(c) Notwithstanding section 133(d) of Title 10, only the Deputy Secretaries of Defense and the Director of the National Security Agency may be delegated any authority vested in the Secretary of Defense by subsection (a).

SEC. 834. *Definition of "classified information."*

For the purposes of this section, the term "classified information" means information which, for reasons of national security, is specifically designated by a United States Government agency for limited or restricted dissemination or distribution.

SEC. 835. *Nonapplicability of Administrative Procedure Act.*

The Administrative Procedure Act, as amended, shall not apply to the use or exercise of any authority granted by this subchapter.

SUBCHAPTER IV.—COMMUNIST CONTROL

CODIFICATION

This subchapter was enacted as a part of the Communist Control Act of 1954, and not as a part of the Internal Security Act of 1950, which comprises this chapter and other provisions. See note under section 781 of this title.

SEC. 841. *Findings and declarations of fact.* The Congress finds and declares that the Communist Party of the United States, although purportedly a political party, is in fact an in-

strumentality of a conspiracy to overthrow the Government of the United States. It constitutes an authoritarian dictatorship within a republic, demanding for itself the rights and privileges accorded to political parties, but denying to all others the liberties guaranteed by the Constitution. Unlike political parties, which evolve their policies and programs through public means, by the reconciliation of a wide variety of individual views, and submit those policies and programs to the electorate at large for approval or disapproval, the policies and programs of the Communist Party are secretly prescribed for it by the foreign leaders of the world Communist movement. Its members have no part in determining its goals, and are not permitted to voice dissent to party objectives. Unlike members of political parties, members of the Communist Party are recruited for indoctrination with respect to its objectives and methods, and are organized, instructed, and disciplined to carry into action slavishly the assignments given them by their hierarchical chieftans. Unlike political parties, the Communist Party acknowledges no constitutional or statutory limitations upon its conduct or upon that of its members. The Communist Party is relatively small numerically, and gives scant indication of capacity ever to attain its ends by lawful political means. The peril inherent in its operation arises not from its numbers, but from its failure to acknowledge any limitation as to the nature of its activities, and its dedication to the proposition that the present constitutional Government of the United States ultimately must be brought to ruin by any available means, including resort to force and violence. Holding that doctrine, its role as the agency of a hostile foreign power renders its existence a clear present and continuing danger to the security of the United States. It is the means whereby individuals are seduced into the service of the world Communist movement, trained to do its bidding, and directed and controlled in the conspiratorial performance of their revolutionary services. Therefore, the Communist Party should be outlawed.

SHORT TITLE

Congress, in enacting act Aug. 24, 1954, which enacted this subchapter, enacted sections 782(4A), 784(a)(1)(E), 791(e)(3), and 792a of this title, enacted provisions set out as a note under this section, amended sections 782(5), 784(a)(1)(D), 789 (opening par.), 790(a)(b), 791(e)(2), 792 (catchline), and 793(a)(b) of this title, and repealed sections 784(c) and 785(c) of this title, provided by section 1 of that act that those enactments, amendments and repeals should be popularly known as the "Communist Control Act of 1954".

SEPARABILITY OF PROVISIONS

Section 12 of act Aug. 24, 1954 provided: "If any provision of this title [Act] or the application thereof to any person or circumstances is held invalid, the remainder of the title [Act] and the application of such provisions to other persons or circumstances, shall not be affected thereby."

The use of the word "Act", in place of the word "title" as used in section 12 of act of Aug. 24, 1954, quoted above, was probably intended, since that act is not divided into titles. For distribution of that act in this Code, see Short Title note above.

SEC. 842. *Proscription of Communist Party, its successors, and subsidiary organizations.* The Communist Party of the United States, or any successors of such party regardless of the assumed name, whose object or purpose is to overthrow the Government of the United States, or the government of any State, Territory, District, or possession thereof, or the government of any political subdivision therein by force and violence, are not entitled to any of the rights, privileges, and immunities attendant upon legal bodies created under the jurisdiction of the laws of the United States or any political subdivision thereof; and whatever rights, privileges, and immunities which have heretofore been granted to said party or any subsidiary organization by reason of the laws of the United States or any political subdivision thereof, are terminated: *Provided*, however, That nothing in this section shall be construed as amending the Internal Security Act of 1950, as amended.

REFERENCES IN TEXT

The Internal Security Act of 1950, as amended, referred to in the text, is act Sept. 23, 1950, ch. 1024, 64 Stat. 987, which is classified to subchapters I and II of this chapter, and to other titles of this Code. For detailed distribution of that act in this Code, see note under section 781 of this title.

SEC. 843. *Application of Internal Security Act of 1950 to members of Communist Party and other subversive organizations; definition.*

(a) Whoever knowingly and willfully becomes or remains a member of (1) the Communist Party, or (2) any other organization having for one of its purposes or objectives the establishment, control, conduct, seizure, or overthrow of the Government of the United States, or the government of any State or political subdivision thereof, by the use of force or violence, with knowledge of the purpose or objective of such organization shall be subject to all the provisions and penalties of the Internal Security Act of 1950, as amended, as a member of a "Communist-action" organization.

(b) For the purposes of this section, the term "Communist Party" means the organization now known as the Communist Party of the United States of America, the Communist Party of any State or subdivision thereof, and any unit or subdivision of any such organization, whether or not any change is hereafter made in the name thereof.

REFERENCES IN TEXT

The Internal Security Act of 1950, as amended, referred to in subsec. (a) is act Sept. 23, 1950, ch. 1024, 64 Stat. 987, which is classified to subchapters I and II of this chapter, and to other titles of this Code. For detailed distribution of that act in this Code, see note under section 781 of this title.

SEC. 844. *Same; determination by jury of membership, participation, or knowledge of purpose.* In determining membership or participation in the Communist Party or any other organization defined in this Act, or knowledge of the purpose or

objective of such party or organization, the jury, under instructions from the court, shall consider evidence, if presented, as to whether the accused person :

(1) Has been listed to his knowledge as a member in any book or any of the lists, records, correspondence, or any other document of the organization ;

(2) Has made financial contribution to the organization in dues, assessments, loans, or in any other form ;

(3) Has made himself subject to the discipline of the organization in any form whatsoever ;

(4) Has executed orders, plans, or directives of any kind of the organization ;

(5) Has acted as an agent, courier, messenger, correspondent, organizer, or in any other capacity in behalf of the organization ;

(6) Has conferred with officers or other members of the organization in behalf of any plan or enterprise of the organization ;

(7) Has been accepted to his knowledge as an officer or member of the organization or as one to be called upon for services by other officers or members of the organization ;

(8) Has written, spoken or in any other way communicated by signal, semaphore, sign, or in any other form of communication orders, directives, or plans of the organization ;

(9) Has prepared documents, pamphlets, leaflets, books, or any other type of publication in behalf of the objectives and purposes of the organization ;

(10) Has mailed, shipped, circulated, distributed, delivered, or in any other way sent or delivered to others material or propaganda of any kind in behalf of the organization ;

(11) Has advised, counseled or in any other way imparted information, suggestions, recommendations to officers or members of the organization or to anyone else in behalf of the objectives of the organization ;

(12) Has indicated by word, action, conduct, writing or in any other way a willingness to carry out in any manner and to any degree the plans, designs, objectives, or purposes of the organization ;

(13) Has in any other way participated in the activities, planning, actions, objectives, or purposes of the organization ;

(14) The enumeration of the above subjects of evidence on membership or participation in the Communist Party or any other organization as above defined, shall not limit the inquiry into and consideration of any other subject of evidence on membership and participation as herein stated.

SURVEILLANCE OF PUBLICATION OF STATISTICAL INFORMATION

Notice in Federal Register of December 14, 1950 (15 F.R. 8865):

EXECUTIVE OFFICE OF THE PRESIDENT

ORGANIZATION AND FUNCTIONS

Bureau of the Budget, Functions Relating to Restrictions on Publication of Statistical Information

The Statement of Organization and Functions of the Executive office of the President (14 F.R. 7856) is hereby amended by renumbering Section III(b)(2) as Section III(b)(3), and by inserting a new Section III(b)(2) to read as follows:

(2) *Restriction upon publication of statistical information.* The President, on November 17, 1950, instructed the Director of the Bureau of the Budget to maintain a continuous surveillance of the publications of statistical information by Federal executive agencies, and to determine in any instance whether or not such publications would be compatible with national security. If the Director determines that publication would endanger the national security, the information must be withheld. Information thus withheld may be released to users authorized by the Director (unless release is forbidden by law or by regulation of the agency possessing the data). The Director has delegated to the Assistant Director in Charge of Statistical Standards the authority conferred upon him by the above-cited instruction:

CIVIL DEFENSE

Executive Order 10186 of December 1, 1950 (15 F.R. 8557):

By virtue of the authority vested in me by the Constitution and the statutes, and in furtherance of the civil defense of the United States, it is ordered as follows:

1. There is hereby established the Federal Civil Defense Administration (hereinafter referred to as the Administration) in the Office for Emergency Management of the Executive Office of the President. At the head of the Administration shall be an Administrator who shall be appointed by the President with compensation at the rate of \$17,500 a year, and who may appoint a Deputy Administrator with compensation at the rate of \$16,000 a year. The foregoing appointments shall be made without regard to the civil-service laws and the Classification Act of 1949.

2. The basic purpose of the Administration shall be to promote and facilitate the civil defense of the United States in cooperation with the several States. Subject to the direction and control of the President and within such amounts of funds as may be made available, and in accordance with law, the Administrator shall perform the following functions:

(a) Prepare comprehensive Federal plans and programs for the civil defense of the United States and coordinate them with the civil-defense activities of the States, of neighboring countries, and, with the consent of any such country, of any state, province, or similar political subdivision thereof.

(b) Conduct or arrange for the conduct of research to develop civil-defense measures and equipment and to effect the standardization thereof.

(c) Disseminate civil-defense information and exchange such information with foreign countries.

(d) Conduct or arrange for training programs for the instruction of State and local civil-defense leaders and specialists in the organization, operation, and techniques of civil defense.

(e) Assist and encourage any two States or groups of States or any one or more States and any neighboring state, province, or similar political subdivision of a foreign country, with the consent of such foreign country, in negotiating and entering into agreements or compacts for mutual aid across state lines, or into or out of the United States, to meet emergencies or disasters from enemy attacks which cannot be adequately met or controlled by the local forces: *Provided*, That all such agreements or compacts shall be subject to the consent of the Congress.

(f) Make appropriate provision for necessary civil-defense communications.

3. All departments and agencies of the Federal Government are authorized and directed to cooperate with the Administrator and, to the extent permitted by law, to furnish the Administrator such information and assistance as he may require in the performance of his functions, under this order. The Administrator shall, to the extent practicable, utilize existing facilities and services of the departments and other agencies. The Administrator shall review the civil-defense activities of the departments and agencies and promote the coordination of these activities with one another and with the comprehensive Federal plans and programs prepared by the Administrator pursuant to this order. Insofar as the functions assigned hereunder relate to negotiations or the exchange of information with foreign countries or their political subdivision, such functions shall be performed in cooperation with and subject to the approval of the Secretary of State.

4. To the extent necessary to carry out the provisions of this order, the Administrator is authorized (1) to employ civilian personnel for duty in the United States, including the District of Columbia, or elsewhere, subject to the civil-service laws, (2) to fix the compensation of such personnel in accordance with the Classification Act of 1949, and (3) to make provision for supplies, facilities, and services: *Provided*, That the rates of compensation for not more than twenty-two positions (1) may be fixed without regard to the Classification Act of 1949, (2) shall be not less than \$11,200 or more than \$14,000 *per annum*, and (3) shall be fixed subject to the approval of the Civil Service Commission in those cases in which they are \$13,000 or less

per annum and subject to the approval of the President in those cases in which they are more than \$13,000 *per annum*.

5. The Administrator is authorized to employ experts and consultants or organizations thereof, in accordance with and subject to the provisions of section 15 of the act of August 2, 1946 (5 U.S.C. 55a), at rates not in excess of \$50 *per diem*. While away from their homes or regular places of business, on the business of the Administration, persons so employed may be paid actual transportation expenses and an allowance not to exceed \$15 *per diem* in lieu of subsistence and other expenses.

6. Those activities with respect to civil defense heretofore performed by employees of the National Security Resources Board which are within the scope of this order shall hereafter be performed by the Administration; and the employees now primarily engaged in performing the said activities shall be transferred from the National Security Resources Board to the Administration. The records of the National Security Resources Board relating to the said activities shall be made available to the Administrator pursuant to the provisions of Executive Order No. 9784 of September 25, 1946.

7. As used in this order, the terms "State" and "States" include the Territories and possessions of the United States and the District of Columbia.

8. Pending the appropriation of funds for the use of the Administration, its expenditures, including the compensation of personnel, shall be financed out of an allotment or allotments to be made by the President from the appropriation under the heading "Executive Office of the President—Emergencies (National Defense)" appearing in the Supplemental Appropriation Act, 1951 (Public Law 843, 81st Congress, approved September 27, 1950).

Act of January 12, 1951 (64 Stat. 1245, ch. 1228), as last amended by Act of August 2, 1972 (86 Stat. 503 § 1(2)); 50 U.S.C. App. 2251–2297—*Federal Civil Defense Act*:

SEC. 2251. *Congressional declaration of policy.*

It is the sense of the Congress that the defense of the United States, in this thermonuclear age, can best be accomplished by enacting into law the measures set forth in this Act [sections 2251–2297 of this Appendix]. It is the policy and intent of Congress to provide a system of civil defense for the protection of life and property in the United States from attack. It is further declared to be the policy and intent of the Congress that the responsibility for civil defense shall be vested jointly in the Federal Government and the several States and their political subdivisions. The Federal Government shall provide necessary direction, coordination, and guidance; shall be responsible for the operation of the Federal Civil Defense Administration as set forth in this Act [sections 2251–2297 of this Appendix]; and shall provide necessary assistance as herein authorized.

SEC. 2252. *Definitions.*

As used in this Act [sections 2251–2297 of this Appendix]—

(a) The term "attack" means any attack or series of attacks by an enemy of the United States causing, or which may cause,

substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, shellfire, or atomic, radiological, chemical, bacteriological, or biological means or other weapons or processes;

(b) The term "civil defense" means all those activities and measures designed or undertaken (1) to minimize the effects upon the civilian population caused or which would be caused by an attack upon the United States, (2) to deal with the immediate emergency conditions which would be created by any such attack, and (3) to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by any such attack. Such term shall include, but shall not be limited to, (A) measures to be taken in preparation for anticipated attack (including the establishment of appropriate organizations, operational plans, and supporting agreements; the recruitment and training of personnel; the conduct of research; the procurement and stockpiling of necessary materials and supplies; the provision of suitable warning systems; the construction or preparation of shelters, shelter areas, and control centers; and, when appropriate, the non-military evacuation of civil population); (B) measures to be taken during attack (including the enforcement of passive defense regulations prescribed by duly established military or civil authorities; the evacuation of personnel to shelter areas; the control of traffic and panic; and the control and use of lighting and civil communications); and (C) measures to be taken following attack (including activities for fire fighting; rescue, emergency medical, health and sanitation services; monitoring for specific hazards of special weapons; unexploded bomb reconnaissance; essential debris clearance; emergency welfare measures; and immediately essential emergency repair or restoration of damaged vital facilities):

(c) The term "organizational equipment" means equipment determined by the Administrator to be (1) necessary to a civil defense organization, as distinguished from personal equipment, and (2) of such a type or nature as to require it to be financed in whole or in part by the Federal Government. It shall not be construed to include those items which the local community normally utilizes in combating local disasters except when required in unusual quantities dictated by the requirements of the civil defense plans;

(d) The word "materials" shall include raw materials, supplies, medicines, equipment, component parts and technical information and processes necessary for civil defense;

(e) The word "facilities", except as otherwise provided in this Act [sections 2251-2297 of this Appendix], shall include buildings, shelters, utilities, and land;

(f) The term "United States" or "States" shall include the several States, the District of Columbia, the Territories, and the possessions of the United States; and

(g) The term "neighboring countries" shall include Canada and Mexico. Jan. 12, 1951, c. 1228, § 3, 64 Stat. 1246.

SEC. 2253. *Administrative authority.*

For the purpose of carrying out his powers and duties under this Act [sections 2251-2297 of this Appendix], the Administrator is authorized to—

(a) employ civilian personnel for duty in the United States, including the District of Columbia, or elsewhere, subject to the civil-service laws, and to fix the compensation of such personnel in accordance with the Classification Act of 1949, as amended;

(b) employ not more than one hundred such part-time or temporary advisory personnel (including not to exceed twenty-five subjects of the United Kingdom and the Dominion of Canada) as are deemed necessary in carrying out the provisions of this Act [sections 2251-2297 of this Appendix]. Persons holding other offices or positions under the United States for which they receive compensation, while serving as members of such committees, shall receive no additional compensation for such service. Other members of such committees and other part-time or temporary advisory personnel so employed may serve without compensation or may receive compensation at a rate not to exceed \$50 for each day of service, as determined by the Administrator;

(c) utilize the services of Federal agencies and, with the consent of any State or local government, accept and utilize the services of State and local civil agencies; establish and utilize such regional and other offices as may be necessary; utilize such voluntary and uncompensated services by individuals or organizations as may from time to time be needed; and authorize the States to establish and organize such individuals and organizations into units to be known collectively as the United States Civil Defense Corps; *Provided*, That the members of such corps shall not be deemed by reason of such membership to be appointees or employees of the United States;

(d) notwithstanding any other provisions of law, accept gifts of supplies, equipment, and facilities; and utilize or distribute same for civil defense purposes in accordance with the provisions of this Act [sections 2251-2297 of this Appendix];

(e) reimburse any Federal agency for any of its expenditures or for compensation of its personnel and utilization or consumption of its materials and facilities under this Act [sections 2251-2297 of this Appendix] to the extent funds are available;

(f) purchase such printing, binding, and blank-book work from public, commercial, or private printing establishments or binderies as he may deem necessary upon orders placed by the Public Printer or upon waivers issued in accordance with section 12 of the Printing Act approved January 12, 1895, as amended [section 14 of Title 44]; and

(g) prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act

[sections 2251–2297 of this Appendix], and, without being relieved of his responsibility therefor, perform any of the powers and duties vested in him through or with the aid of such officials of the Administration as he may designate.

(h) when, after reasonable notice and opportunity for hearing to the State, or other person, he finds that there is a failure to expend funds in accordance with the regulations, terms, and conditions established under this Act [sections 2251–2297 of this Appendix] for approved civil defense plans, programs, or projects, notify such State or person that further payments will not be made to the State or person from appropriations under this Act [sections 2251–2297 of this Appendix] (or from funds otherwise available for the purposes of this Act [sections 2251–2297 of this Appendix] for any approved plan, program, or project with respect to which there is such failure to comply) until the Administrator is satisfied that there will no longer be any such failure. Until he is so satisfied, the Administrator shall either withhold the payment of any financial contribution to such State or person, or limit payments to those programs or projects with respect to which there is substantial compliance with the regulations, terms, and conditions governing plans, programs or projects hereunder: *Provided*, That person as used in this subsection, means the political subdivision of any State or combination or group thereof; or any interstate civil defense authority established pursuant to subsection 201(g) [section 2281(g) of this Appendix]; or any person, corporation, association, or other entity of any nature whatsoever, including but not limited to, instrumentalities of States and political subdivisions.

SEC. 2254. *Exemption from certain employment restrictions.*

The authority granted in sections 401(b) and (c) [section 2253(b), (c) of this Appendix] shall be exercised in accordance with regulations of the President who may also provide by regulation for the exemption of persons employed or whose services are utilized under the authority of said subsections from the operation of sections 281, 283, 284, 434, and 1914 of Title 18 and section 190 of the Revised Statutes [section 99 of Title 5].

Executive Order 10242 of May 8, 1951 (16 F.R. 4267), as amended by Executive Orders 10773, 10782, and 11051 (23 FR 5061, 23 FR 6971, 27 FR 9683); *Regulations Governing Exercise of Certain Administrative Authority*.

PART I

SECTION 101. (a) The authority conferred by subsection 401(b) of the Act [subsection (b) of this section], to employ not more than 100 such part-time or temporary advisory personnel (including not to exceed 25 subjects of the United Kingdom and the Dominion of Canada) as are deemed necessary in carrying out the provisions of the Act [sections 2251–2284, 2286 and 2291–2297 of this Appendix], and by subsection 401(c) of the Act [subsection (c) of this section] to utilize such voluntary and uncompensated serv-

ices by individuals as may from time to time be needed, shall be exercised by the delegate of the President in accordance with the regulations set forth in this part.

(b) in the exercise of such authority the delegate of the President shall be guided by the following policies:

(1) So far as possible, Federal operations under the Act [sections 2251-2284, 2286 and 2291-2297 of this Appendix] shall be carried on by full-time, salaried employees of the Government, and appointments under this authority shall be limited to advisory or consultative positions only.

(2) Appointments to positions other than advisory or consultative shall be made only when the requirements of the position are such that the incumbent must personally possess outstanding experience and ability not obtainable on a full-time, salaried basis.

(3) In the appointment of personnel and in the assignment of their duties, the delegate of the President shall take steps to avoid, to as great an extent as possible, any conflict between the governmental duties and the private interests of such personnel.

(c) Insofar as it relates to personnel employed at the regional or local levels, the authority conferred by subsection 401(c) of the Act [subsection (c) of this section] to utilize voluntary and uncompensated services shall not be subject to the policies prescribed in subsection (b) hereof. Such authority may not be exercised, however, to fill positions at the regional or local levels subject to the Classification Act of 1949, as amended [chapter 21 of Title 5], unless in any particular instance the delegate of the President makes the determinations specified in section 102 hereof.

(d) Insofar as it relates to personnel employed in positions subject to the Classification Act of 1949, as amended [chapter 21 of Title 5], the authority conferred by subsection 401(c) of the Act [subsection (c) of this section] to utilize voluntary and uncompensated services shall not be redelegated by the delegate of the President.

SEC. 102. Appointments of individuals, under the authority conferred by subsection 401(c) of the Act [subsection (c) of this section] to utilize voluntary or uncompensated services, to positions other than advisory or consultative (except such appointments to positions at the regional or local levels other than positions subject to the Classification Act of 1949, as amended [chapter 21 of Title 5]), shall be supported by written certification by the delegate of the President:

(a) That the appointment is necessary and appropriate in order to carry out the provisions of the Act [sections 2251-2284, 2286 and 2291-2297 of this Appendix];

(b) That the duties of the position to which the appointment is being made require outstanding experience and ability;

(c) That the appointee has the outstanding experience and ability required by the position; and

(d) That the delegate of the President has been unable to obtain a person with the qualifications necessary for the position on a full-time, salaried basis.

SEC. 103. With respect to appointments made under the authority conferred by subsections 401(b) and (c) of the Act [subsections (b) and (c) of this section] specified in section 101(a) of this order (except such appointments to positions at the regional or local levels other than positions subject to the Classification Act of 1949, as amended [chapter 21 of Title 5]), the delegate of the President shall file with the Division of the Federal Register (for public inspection but not for publication) a statement including the name of the appointee, the section of the Act [sections 2251-2284, 2286 and 2291-2297 of this Appendix] under which he was appointed, the title of his position, and the name of his private employer.

SEC. 104. All appointments under the authority conferred by subsections 401(b) and (c) of the Act [subsections (b) and (c) of this section], specified in section 101(a) of this order shall be made under the terms of this part after the date of this order, and the appointments heretofore made under such authority shall be deemed for all purposes to have been made under this order upon compliance with the provisions of sections 102 and 103 of this part.

SEC. 105. At least once every three months, the Chairman of the United States Civil Service Commission shall survey appointments made under this part and shall report his findings to the President and make such recommendations as he may deem proper.

SEC. 106. Any person employed under the authority conferred by subsections 401 (b) or (c) of the Act [subsections (b) and (c) of this section] specified in section 101(a) of this order is hereby exempted, with respect to such employment, from the operation of sections 281, 283, 284, 434, and 1914 of Title 18, United States Code, and section 190 of the Revised Statutes (5 U.S.C. 99), except as specified in the following subsections:

(a) Exemption hereunder shall not extend to the negotiation or execution, by an appointee under the Act [sections 2251-2284, 2286 and 2291-2297 of this Appendix], of Government contracts with the private employer of such appointee or with any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest.

(b) In the case of personnel employed under subsection 401(b) of the Act [subsection (b) of this section], and of personnel other than those employed at the regional or local levels in positions not subject to the Classification Act of 1949, as amended [chapter 21 of Title 5], under subsection

401(c) of the Act [subsection (c) of this section], exemption hereunder shall not extend to the prosecution by the appointee, or participation by the appointee in any fashion in the prosecution, of any claim against the Government involving any matter concerning which the appointee had any responsibility during his employment under this order, during the period of such employment and the further period of two years after the termination of such employment. In the case of personnel employed at the regional or local levels in positions not subject to the Classification Act of 1949, as amended [chapter 21 of Title 5], under subsection 401(c) of the Act [subsection (c) of this section], exemption hereunder shall not extend to the prosecution by the appointee, or participation by the appointee in any fashion in the prosecution, of any claim against the Government growing out of any matter with respect to which the appointee was personally concerned in his official capacity during his employment under this order, during the period of such employment and the further period of two years after the termination of such employment.

(c) In the case of personnel employed under subsection 401(c) of the Act [subsection (c) of this section], other than those employed at the regional or local levels in positions not subject to the Classification Act of 1949, as amended [chapter 21 of Title 5], exemption hereunder shall not extend to the receipt or payment of salary in connection with the appointee's Government service hereunder from any source other than the private employer of the appointee at the time of his appointment hereunder.

(d) Exemption from sections 434 and 1914 of Title 18, United States Code, shall not extend to persons employed under subsection 401(b) of the Act [subsection (b) of this section].

SEC. 107. The words "the delegate of the President" as used in this order:

(1) In respect of functions under the Act delegated or otherwise assigned by the Secretary of Defense, mean the Secretary of Defense.

(2) In respect of functions delegated or otherwise assigned to the Director of the Office of Emergency Planning, mean the Director of the Office of Emergency Planning.

SEC. 108. The authority conferred by Section 401(a) of the Act [subsec. (a) of this section] to employ part-time or temporary advisory personnel deemed necessary in carrying out the provisions of the Act and delegated by the provisions of Section 101(a) of this order, shall be available as follows:

(1) To the Secretary of Defense in respect of not to exceed eighty persons (including not to exceed twenty subjects of the United Kingdom and Canada), and (2) to the Director of the Office of Emergency Planning in respect of not to exceed twenty personnel (including not to exceed five subjects of the United Kingdom and Canada).

SEC. 109. The relevant provisions of this Part shall be subject to the provisions of the Memorandum of the President, pertaining to conflicts of interest, dated on February 9, 1962 (24 F.R. 134ff.).

PART II

SEC. 201. The authority conferred by that portion of subsection 401(c) of the Act [subsection (c) of this section] which authorizes the utilization of the services of Federal agencies may be exercised by the delegate of the President in such manner, in accordance with his own discretion, as shall best serve to carry out the purposes of the Act [sections 2251-2284, 2286 and 2291-2297 of this Appendix], subject only to his obtaining the consent of the head of the Federal agency whose services are desired to be utilized.

PART III

SEC. 301. The authority conferred by subsection 401(c) of the Act [subsection (c) of this section], except that portion of the said subsection which authorizes the utilization of such voluntary and uncompensated services by individuals as may from time to time be needed, and that portion of the said subsection which authorizes the utilization of the services of Federal agencies, may be exercised by the delegate of the President in such manner, in accordance with his own discretion, as shall best serve to carry out the purposes of the Act [sections 2251-2284, 2286 and 2291-2297 of this Appendix].

PART IV

SEC. 401. The approval of the President is hereby given for the employment of retired personnel of the armed services, pursuant to the provisions of subsection 401(a) of the Act as follows: (1) By the Secretary of Defense, not to exceed twenty persons, and (2) by the Director of the Office of Emergency Planning, not to exceed five persons.

SEC. 2255. *Security regulations; oath.*

(a) The Administrator shall establish such security requirements and safeguards, including restrictions with respect to access to information and property as he deems necessary. No employee of the Administration shall be permitted to have access to information or property with respect to which access restrictions have been established under this section, until it shall have been determined that no information is contained in the files of the Federal Bureau of Investigation or any other investigative agency of the Government indicating that such employee is of questionable loyalty or reliability for security purposes, or if any such information is so disclosed, until the Federal Bureau of Investigation shall have conducted a full field investigation concerning such person and a report thereon shall have been evaluated in writing by the Administrator. No such employee shall occupy any position determined by the Administrator to be of

critical importance from the standpoint of national security until a full field investigation concerning such employee shall have been conducted by the Civil Service Commission and a report thereon shall have been evaluated in writing by the Administrator. In the event such full field investigation by the Civil Service Commission develops any data reflecting that such applicant for a position of critical importance is of questionable loyalty or reliability for security purposes, or if the Administrator for any other reason shall deem it to be advisable, such investigation shall be discontinued and a report thereon shall be referred to the Administrator for his evaluation in writing. Thereafter the Administrator may refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation by such Bureau. The result of such latter investigation by such Bureau shall be furnished to the Administrator for his action.

(b) Each Federal employee of the Administration, except the subjects of the United Kingdom and the Dominion of Canada specified in section 401(b) of this Act [section 2253(b) of this Appendix], shall execute the loyalty oath or appointment affidavits prescribed by the Civil Service Commission. Each person other than a Federal employee who is appointed to serve in a State or local organization for civil defense shall before entering upon his duties, take an oath in writing before a person authorized to administer oaths, which oath shall be substantially as follows:

I, -----, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

And I do further swear (or affirm) that I do not advocate, nor am I a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence; and that during such time as I am a member of the (name of civil defense organization), I will not advocate nor become a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence.

After appointment and qualification for office, the director of civil defense of any State, and any subordinate civil defense officer within such State designated by the director in writing, shall be qualified to administer any such oath within such State under such regulations as the director shall prescribe. Any person who shall be found guilty of having falsely taken such oath shall be punished as provided in section 1621 of Title 18.

SEC. 2256. *Transfer of certain functions, property, and personnel.*

The functions, property, and personnel of the Federal Civil Defense Administration established by Executive Order Num-

bered 10186, issued December 1, 1950 [set out as a note under section 2271 of this Appendix], are transferred to the Administration established by this Act [sections 2251-2297 of this Appendix], and the President may transfer to the Administration such functions, property, and personnel of the National Security Resources Board concerned with civil defense activities as he deems necessary to carry out the purposes of this Act [said sections.]

SEC. 2257. *Utilization of existing facilities.*

In performing his duties, the Administrator shall (1) cooperate with the various departments and agencies of the Government; (2) utilize to the maximum extent the existing facilities and resources of the Federal Government, and, with their consent, the facilities and resources of the States and local political subdivisions thereof, and of other organizations and agencies; and (3) refrain from engaging in any form of activity which would duplicate or parallel activity of any other Federal department or agency unless the Administrator, with the written approval of the President, shall determine that such duplication is necessary to accomplish the purposes of this Act [sections 2251-2297 of this Appendix].

SEC. 2258. *Reports to Congress.*

The Administrator shall annually submit a written report to the President and the Congress covering expenditures, contributions, work, and accomplishments of the Administration, pursuant to this Act [sections 2251-2297 of this Appendix], accompanied by such recommendations as he shall deem appropriate.

SEC. 2259. *Applicability of sections 2251-2297 of this Appendix.*

The provisions of this Act [sections 2251-2297 of this Appendix] shall be applicable to the United States, its States, Territories and possessions, and the District of Columbia, and their political subdivisions.

SEC. 2260. *Appropriations and transfers of funds.*

There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this Act [sections 2251-2297 of this Appendix]. Funds made available for the purposes of this Act [said sections] may be allocated or transferred for any of the purposes of this Act [said sections], with the approval of the Bureau of the Budget, to any agency or Government corporation designated to assist in carrying out this Act [said sections]: *Provided*, That each such allocation or transfer shall be reported in full detail to the Congress within thirty days after such allocation or transfer: *Provided further*, That appropriations for the payment of travel and per diem expenses for students under section 201(e) [section 2281(e) of this Appendix] shall not exceed \$300,000 per annum; appropriations for expenditures under the fourth proviso of section 201(h) [section 2281(h) of this Appendix] (donation of radiological instruments, et cetera) shall not exceed \$35,000,000 per annum; appropriations for contribution to the States for personal equipment for State and local workers, under section 201(i) [section 2281(i) of this Appendix] shall not exceed \$2,000,000 per annum;

appropriations for contributions to the States for personnel and administrative expenses under section 205 [section 2286 of this Appendix] shall not exceed \$35,000,000 per annum.

SEC. 2261. *Loans from Reconstruction Finance Corporation; increase in loan authority of Reconstruction Finance Corporation.*

To aid in carrying out the purposes of this Act [sections 2251–2297 of this Appendix], the Administrator is authorized to certify to the Reconstruction Finance Corporation as to the necessity under its Civil Defense Program of purchasing securities or making a loan or loans (including participations therein and guarantees thereof) for the purpose of aiding in financing projects for civil defense purposes, and the Reconstruction Finance Corporation upon such certification by the Administrator is authorized to purchase such securities or to make such loan or loans (including participations therein and guarantees thereof) with maturities not to exceed fifty years and on such terms and conditions as the Corporation may determine except that any such purchases of securities or loans may be made only to the extent that financing is not otherwise available on reasonable terms. The total amount of loans, purchases, participations, and guarantees, made pursuant to this section shall not exceed \$250,000,000 outstanding at any one time. The total amount of investments, loans, purchases, and commitments authorized by law to be made by the Reconstruction Finance Corporation is increased by such sum.

SEC. 2262. *Atomic Energy Act of 1946 unaffected.*

Nothing in this Act [sections 2251–2297 of this Appendix] shall be construed to amend or modify the provisions of the Atomic Energy Act of 1946, as amended [sections 1801–1819 of Title 42].

SEC. 2263. *Investigation of espionage, sabotage, or subversive acts.*

Nothing in this Act [sections 2251–2297 of this Appendix] shall be construed to authorize investigations of espionage, sabotage, or subversive acts by any persons other than personnel of the Federal Bureau of Investigation.

SEC. 2264. *Establishment of "Civil defense procurement fund;" uses; charges against fund.*

There is established a working capital of \$5,000,000 for the "Civil defense procurement fund", which is established for the purpose of financing the procurement, by the Administrator, of materials or organizational equipment for which financial contributions to the States are otherwise authorized to be made on a matching basis by subsection (i) of section 2281 of this Appendix. Said fund shall be charged with the purchase price of said materials or equipment, and shall be paid therefor in advance, or by reimbursement, in equal amounts from (1) applicable appropriations and (2) funds provided by the States. Such materials or organizational equipment may be delivered to any State, and the Federal share of the purchase price of materials or organizational equipment so delivered shall be in lieu of equivalent financial contributions therefor.

TITLE II.—ORGANIZATION OF ADMINISTRATION

SEC. 2271. *Federal Civil Defense Administration—Establishment; appointment of Administrator.*

(a) There is established in the executive branch of the Government a Federal Civil Defense Administration (hereinafter referred to as the "Administration") at the head of which shall be a Federal Civil Defense Administrator appointed from civilian life by the President, by and with the advice and consent of the Senate.

DEPUTY ADMINISTRATOR; APPOINTMENT; DUTIES

(b) There shall be in the Administrative a Deputy Administrator who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate. The Deputy Administrator shall perform such functions as the Administrator shall prescribe and shall act for, and exercise the powers and perform the duties of, the Administrator during his absence or disability.

ADMINISTRATOR SUBJECT TO PRESIDENTIAL CONTROL

(c) The Administrator shall perform his functions subject to the direction and control of the President.

Executive Order 10952 of July 20, 1961 (26 FR 6577), as amended by Executive Order 11051 (27 FR 9683): *Assignment of Civil Defense Responsibilities.*

WHEREAS the possibility of enemy attack upon the United States must be taken into account in developing our continental defense program; and

WHEREAS following a thorough review and consideration of our military and nonmilitary defense activities, I have concluded that adequate protection of the civilian population requires a substantial strengthening of the Nation's civil defense capability; and

WHEREAS the rapid acceleration of civil defense activities can be accomplished most effectively and efficiently through performance by the regular departments and agencies of government of those civil defense functions related to their established roles and capabilities; and

WHEREAS I have concluded that the undertaking of greatly accelerated civil defense activities, including the initiation of a substantial shelter program, requires new organizational arrangements:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States and Commander-in-Chief of the armed forces of the United States, including the authority contained in the Federal Civil Defense Act of 1950, as amended [section 2251 et seq. of this Appendix], and other authorities of law vested in me pursuant to Reorganization Plan No. 1 of 1958 [set out as a note under this section], it is hereby ordered as follows:

SECTION 1. *Delegation of Authority to the Secretary of Defense.* (a) Except as hereinafter otherwise provided and

as is reserved to the Office of Emergency Planning in section 2 of this order, the Secretary of Defense is delegated all functions (including as used in this order, powers, duties, and authority) contained in the Federal Civil Defense Act of 1950, as amended (hereinafter referred to as the Act), vested in me pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799), subject to the direction and control of the President. Such functions to be performed by the Secretary of Defense, working as necessary or appropriate through other agencies by contractual or other agreements, as well as with State and local leaders, shall include but not be limited to the development and execution of:

(i) a fallout shelter program;

(ii) a chemical, biological and radiological warfare defense program;

(iii) all steps necessary to warn or alert Federal military and civilian authorities, State officials and the civilian population;

(iv) all functions pertaining to communications, including a warning network reporting on monitoring, instructions to shelters and communications between authorities;

(v) emergency assistance to State and local governments in a postattack period, including water, debris, fire, health, traffic police and evacuation capabilities;

(vi) protection and emergency operational capability of State and local government agencies in keeping with plans for the continuity of government; and

(vii) programs for making financial contributions to the States (including personnel and administrative expenses) for civil defense purposes.

(b) In addition to the foregoing, the Secretary shall:

(i) develop plans and operate systems to undertake a nationwide postattack assessment of the nature and extent of the damage resulting from enemy attack and the surviving resources, including systems to monitor and report specific hazards resulting from the detonation or use of special weapons; and

(ii) make necessary arrangements for the donation of Federal surplus property in accordance with section 203(j) (4) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(j) (4) [section 484(j) (4) of Title 40, Public Buildings, Property and Works], subject to applicable limitations.

SEC. 2. Civil Defense Responsibilities of the Office of Emergency Planning. The Director of the Office of Emergency Planning shall—

(a) advise and assist the President in:

(i) determining policy for, planning, directing and coordinating, including the obtaining of information from all departments and agencies, the total civil defense program;

(ii) reviewing and coordinating the civil defense activities of the Federal departments and agencies with each other and with the activities of the States and neighboring

countries in accordance with section 201(b) of the Act [section 2281(b) of this Appendix];

(iii) determining the appropriate civil defense roles of Federal departments and agencies, and enlisting State, local and private participation, mobilizing national support, evaluating progress of programs, and preparing reports to the Congress relating to civil defense matters;

(iv) helping and encouraging the States to negotiate and enter into interstate civil defense compacts and enact reciprocal civil defense legislation in accordance with section 201(g) of the Act [section 2281(g) of this Appendix]; and

(v) providing all practical assistance to States in arranging, through the Department of State, mutual civil defense aid between the States and neighboring countries in accordance with section 203 of the Act [section 2283 of this Appendix];

(b) develop plans, conduct programs and coordinate preparations for the continuity of Federal governmental operations in the event of attack; and

(c) develop plans, conduct programs and coordinate preparations for the continuity of State and local governments in the event of attack, which plans, programs and preparations shall be designed to assure the continued effective functioning of civilian political authority under any emergency condition.

SEC. 3. Excluded Functions. The following functions of the President under the provisions of the Act are excluded from delegations to the Secretary of Defense made by this order and are reserved to the President:

(a) Those under subsections (h) and (i) of section 201 of the Act (50 U.S.C. App. 2281 (h), (i) [section 2281 (h), (i) of this Appendix] to the extent that they pertain to medical stockpiles and food stockpiles.

(b) Those under the following provisions of the Act: Sections 192(a), 201(b), and 402 and Title III [sections 2272 (a), 2281(b), 2254 and 2291 et seq. of this Appendix].

SEC. 4. Transfer of Property, Facilities, Personnel and Funds. Subject to applicable law, there shall be hereby transferred to the Secretary of Defense such portion of the property, facilities, and personnel of the Office of Emergency Planning engaged in the performance of the civil defense responsibilities herein assigned to the Secretary of Defense as shall be agreed upon by the Secretary and the Director of the Office of Emergency Planning together with such portions of the funds currently available for those purposes as shall be approved by the Director of the Bureau of the Budget.

SEC. 5. Reports. The Secretary of Defense shall annually submit to the President a written report covering expenditures, contributions, activities, and accomplishments of the Secretary of Defense pursuant to this order.

SEC. 6. *Redelegation.* The Secretary of Defense is hereby authorized to redelegate within the Department of Defense the functions hereinabove delegated to him.

SEC. 7. *Amendment.* The Director of the Office of Emergency Planning is hereby relieved of responsibilities under the Act except as otherwise provided herein, and the provisions of Executive Order No. 10773, as amended [set out as a note under this section], are amended accordingly.

SEC. 8. *Prior actions.* (a) Except to the extent that they may be inconsistent with the provisions of this order, and except as particular Executive orders or other orders are amended, modified, or superseded by the provisions of this order, all determinations, authorizations, regulations, rulings, certificates, orders (including emergency preparedness orders), directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this order, and not revoked, superseded, or otherwise made inapplicable before the date of this order, shall continue in full force and effect until amended, modified, or terminated by the President or other appropriate authority; but, to the extent necessary to conform to the provisions of this order, any of the foregoing shall be deemed to refer to the Secretary of Defense or other appropriate officer or agency instead of, or in addition to, the Office of Emergency Planning or the Director thereof.

(b) This order shall not terminate any delegation or assignment of any substantive (program) function to any delegate agency made by any emergency preparedness order heretofore issued by the Director of the Office of Emergency Planning (26 F.R. 651-662; 835-840), (which emergency preparedness order shall remain in effect until amended or revoked by or at the specific direction of the President). No such emergency preparedness order shall limit the delegation or assignment of any substantive (program) function to the Secretary of Defense made by the foregoing sections of this order.

SEC. 9. *Effective Date.* This order shall become effective on the first day of August, 1961.

Executive Order 10958 of August 15, 1961 (26 FR 7571), as amended by Executive Order 11051 (27 FR 9683); *Delegation of Functions Respecting Stockpiles of Medical Supplies and Equipment and Food.*

By virtue of the authority vested in me by Reorganization Plan No. 1 of 1958 (72 Stat. 1799) [set out as a note under this section], and as President of the United States, it is ordered as follows:

PART I. MEDICAL STOCKPILES

SECTION 101. *Delegation of functions.* Certain functions under the Federal Civil Defense Act of 1950, as amended [section 2251 et seq. of this Appendix] (which were trans-

ferred to the President by the provisions of Reorganization Plan No. 1 of 1958 (72 Stat. 1799)), are hereby delegated to the Secretary of Health, Education, and Welfare, hereafter in this Part referred to as the Secretary, as follows:

(a) All functions (including, as used in this order, powers, duties, and authority) under section 201(h) of that Act, 50 U.S.C. App. 2281(h) [section 2281(h) of this Appendix], to the extent that they pertain to the stockpiling of medical supplies and equipment.

(b) To the extent that they are incidental to or necessary for the performance by or under the Secretary of the functions delegated by the provisions of section 101(a) of this order, other functions under the Federal Civil Defense Act of 1950, as amended, excluding, however, functions under sections 102(a), 201(b), and 402 and Title III of that Act [sections 2272(a), 2281(b), 2254, and sections 2291-2297 of this Appendix].

SEC. 102. *Redelegation.* The Secretary may redelegate any of the functions delegated to him by this order to any of his subordinates.

PART II. FOOD STOCKPILES

SEC. 201. *Delegation of functions.* Certain functions under the Federal Civil Defense Act of 1950, as amended (which were transferred to the President by the provisions of Reorganization Plan No. 1 of 1958 (72 Stat. 1799)), are hereby delegated to the Secretary of Agriculture, hereafter in this Part referred to as the Secretary, as follows:

(a) All functions under section 201(h) of that Act, 50 U.S.C. App. 2281(h) [section 2281(h) of this Appendix], to the extent that they pertain to the stockpiling of food.

(b) To the extent that they are incidental to or necessary for the performance by or under the Secretary of the functions delegated by the provisions of section 201(a) of this order, other functions under the Federal Civil Defense Act of 1950, as amended, excluding, however, functions under sections 102(a), 201(b), and 402 and Title III of that Act [sections 2272(a), 2281(b), 2254, and sections 2291-2297 of this Appendix].

SEC. 202. *Redelegation.* The Secretary may redelegate any of the functions delegated to him by this order to any of his subordinates.

PART III. GENERAL PROVISIONS

SEC. 301. *Relationships with other agencies.* The responsibilities of the Director of the Office of Emergency Planning in respect of the functions delegated by the provisions of Parts I and II of this order shall be those stated in section 2(a) of Executive Order No. 10952 of July 20, 1961 (26 F.R. 6577) [set out as a note under this section].

SEC. 302. *Property, personnel, and records.* Subject to law, property, personnel, and records of the Office of Emergency Planning shall be transferred as follows:

(a) To the Department of Health, Education, and Welfare, so much thereof, related to the functions delegated by the provisions of Part I of this order, as may be determined jointly by the Secretary of Health, Education, and Welfare and the Director of the said Office.

(b) To the Department of Agriculture, so much thereof, related to the functions delegated by the provisions of Part II of this order, as may be determined jointly by the Secretary of Agriculture and the said Director.

SEC. 303. *Funds.* There shall be transferred to the Department of Agriculture and to the Department of Health, Education, and Welfare so much of the appropriations, allocations, and other funds (available or to be made available) of the Office of Emergency Planning as shall be determined in pursuance of the provisions of section 202(b) of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c(b) [section 581c (b) of Title 31 Money and Finance] and section 1(k) of Executive Order No. 10530 of May 10, 1954 [set out as a note under section 301 of title 3, The President].

SEC. 304. *Prior Executive orders.* Exclusive of Executive Order No. 10952 of July 20, 1961 [set out as a note under this section], all prior Executive orders (including Executive Order No. 10773 of July 1, 1958, as amended, and Executive Order No. 10902 of January 9, 1961) [set out as notes under this section] are hereby superseded to the extent that, immediately prior to the issuance of this order and in respect of the functions delegated by the provisions of Parts I and II of this order to the extent there delegated), they delegate or otherwise assign, or authorize the delegation or other assignment of, functions or subject, or authorize the subjection of, the performance of functions to supervision, direction, control, or coordination.

SEC. 305. *Other prior actions.* Except to the extent that they may be inconsistent with the provisions of this order, and except to the extent revoked, superseded or otherwise rendered inapplicable before the date of this order, all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions heretofore made, issued, or entered into with respect to any function delegated by the provisions of Part I or of Part II of this order (to the extent there delegated) shall continue in effect until such time as the Secretary of Health, Education, and Welfare or the Secretary of Agriculture, as the case may be, under the authority of this order, shall amend, modify, or terminate them. The status of prior Executive orders shall be governed by the provisions of section 304 of this order.

Executive Order 11051 of September 27, 1962 (27 FR 9683), as amended by Executive Orders 11075 and 11556 (28 FR 473, 35 FR 14193); *Responsibilities of the Office of Emergency Preparedness*.

WHEREAS national preparedness must be achieved and maintained to support such varying degrees of mobilization as may be required to deal with increases in international tension, with limited war, or with general war including attack upon the United States; and

WHEREAS the national security and our continuing economic growth and prosperity are interdependent, appropriate attention must be directed to effective coordination of emergency preparedness measures with national economic policies and objectives; and

WHEREAS mobilization readiness and civil defense activities can be accomplished most effectively and efficiently through the performance by departments and agencies of the Government of those emergency preparedness functions related to their established roles and capabilities; and

WHEREAS responsibility for emergency preparedness involves virtually every agency of the Federal Government, and there is need to provide a central point of leadership and coordination in the Executive Office of the President:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, including the authorities contained in the National Security Act of 1947, the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.) [section 2061 et seq. of this Appendix], the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.) [section 2251 et seq. of this Appendix], and other authorities of law vested in me pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799) [set out as a note under this section], and also including the authority vested in me by the provisions of Section 301 of title 3 of the United States Code [section 301 of Title 3, The President], it is hereby ordered as follows:

PART I. SCOPE

SECTION 101. *Résumé of responsibilities.* The Director of the Office of Emergency Preparedness (hereinafter referred to as the Director) shall:

(a) Advise and assist the President in the coordination of and in the determination of policy for the emergency plans and preparedness assignments of the Federal departments and agencies (hereinafter referred to as Federal agencies) designed to make possible at Federal, State and local levels the mobilization of the human, natural and industrial resources of the nation to meet all conditions of national emergency, including attack on the United States.

(b) Under the direction of the President, be responsible for the preparation of nonmilitary plans and preparedness programs with respect to organization and functioning of

the Federal Government under emergency conditions and with respect to specific areas of Federal activity necessary in time of war which are neither performed in the normal operations of the regular departments and agencies nor assigned thereto by or under the authority of the President.

(c) Perform such other functions as are vested in him by law or are by this order, or by orders referred to in this order, delegated or otherwise assigned to him.

(d) Perform such additional functions as the President may from time to time direct.

PART II. GENERAL COORDINATING RESPONSIBILITIES

SEC. 201. *General.* (a) The Director shall advise and assist the President in (1) the development of planning assumptions and broad emergency preparedness objectives with respect to various conditions of national emergency, (2) the development of policies and procedures to determine the relationship between available supplies of the nation's resources and the requirements of military, foreign, and essential civilian programs, including those of civil defense, (3) the development of policies, programs, and control systems designed to deal with supply deficiencies and to meet effectively the most urgent requirements for those resources in the interests of national defense, and (4) coordinating the governmental programs designed to achieve these ends.

(b) The Director shall advise and assist the President with respect to resolving any issues, related to emergency preparedness responsibilities of Federal agencies, which arise between two or more such agencies.

SEC. 202. *Resources and Requirements.* The Director shall provide policy guidance to the heads of Federal agencies having resource mobilization or claimancy responsibilities to assist them in (1) the development and submission of estimated military and foreign as well as industrial and consumer requirements, (2) the development of resource supply estimates; and (3) the periodic evaluation of requirements estimates in relation to estimates of availability of resources from all sources.

SEC. 203. *Central program determination.* The Director shall develop an overall emergency system for reaching central program decisions for the utilization of resources on the basis that he will have the responsibility for making such central decisions in the initial period of an emergency. This system shall include uniform criteria and procedures for:

(a) The development of each Federal agency of the amounts and types of resources it must claim in order to meet the requirements of its planned programs;

(b) The central consideration of the supply-requirements evaluations of planned programs;

(c) The central determination of major resource utilization programs under varied conditions of national emer-

gency on a relative urgency basis and central direction for the adjustment of agency programs consistent with such determinations; and

(d) The decentralization of controls if required by emergency conditions.

SEC. 204. *Control systems.* The Director shall develop policies and procedures for the coordinated application by Federal agencies, in time of emergency, of priorities, allocations, and other resource control and distribution systems (including a system for the rationing of consumer goods) for the conduct of approved major programs.

SEC. 205. *Research.* The Director shall develop, maintain, and conduct a central research planning program for emergency preparedness purposes. The Director shall maintain, with the participation and support of Federal agencies concerned, a national resources evaluation capability for predicting and monitoring the status of resources under all degrees of emergency, for identifying resource deficiencies and feasible production programs and for supplying resource evaluations at national and subordinate levels to support mobilization base planning, continuity of government, resource management and economic recovery.

SEC. 206. *Dispersal and protection of facilities.* (a) The Director, after consultation with the appropriate Federal agencies, shall advise the President concerning the strategic relocation of industries, services, government and economic activities, the operations of which are essential to the nation's security. He shall coordinate the efforts of Federal agencies with respect to the application of the principle of geographic dispersal of certain industrial facilities, both government and privately owned, in the interest of national defense.

(b) The Director, under authority of, and in accordance with the provisions of, Executive Order No. 10421 of December 31, 1952 [set out as a note under section 404 of this title], shall perform functions in respect of the physical security of facilities important to the national defense.

(c) In addition, the Director shall review all measures being taken by the Federal agencies with respect to the physical security and protection of facilities important to defense mobilization, defense production, civil defense or the essential civilian economy, including those under the provisions of emergency preparedness assignments to such agencies and shall recommend to the President such actions as are necessary to strengthen such measures.

SEC. 207. *Civil defense.* (a) Under authority of the provisions of Section 2 of Executive Order No. 10952 of July 20, 1961 [set out as a note under this section], and as there prescribed, the Director shall advise and assist the President, and shall perform other functions, in respect of civil defense.

(b) Under authority of, and in accordance with the provisions of Executive Order No. 10958 of August 14, 1961

[set out as a note under this section], the Director shall advise and assist the President with respect to the stockpiling of food and medical supplies.

(c) The Director shall advise and assist the President with respect to the need for stockpiling various items essential to the survival of the population, additional to food and medical supplies, and with respect to programs for the acquisition, storage, and maintenance of such stockpiles.

SEC. 208. *Federal-State relations.* (a) The Director shall represent the President in working with State Governors to stimulate vigorous State and local participation in emergency preparedness measures.

(b) He shall provide advice and guidance to the States with regard to preparations for the continuity of State and local civilian political authority in the event of nuclear attack on the United States which shall include, but not be limited to, programs for maintaining lines of succession to office, safekeeping of essential records, provision for alternate sites of government, the protection and effective use of government resources, personnel, and facilities, and interstate compacts and reciprocal legislation relating to emergency preparedness.

(c) He shall assist the President in achieving a coordinated working relationship between the various elements of State governments and the Federal agencies to which specific emergency preparedness functions have been assigned pursuant to statute or Executive order.

(d) The civil defense activities involved in the functions prescribed by the foregoing provisions of this section shall be carried out in accordance with the provisions of Section 2 of Executive Order No. 10952 of July 20, 1961 [set out as a note under this section].

SEC. 209. *Review and evaluation.* The Director shall from time to time furnish the President overall reports and recommendations concerning the emergency preparedness programs, including the state of preparedness of Federal, State, and local governments to carry out their emergency functions.

PART III. SPECIAL EMERGENCY PLANNING RESPONSIBILITIES

SEC. 301. *General.* Under the direction of the President, the Director shall have primary responsibility (1) for planning assumptions and broad nonmilitary emergency preparedness objectives, (2) for planning the nonmilitary organization and functioning of the Federal Government in time of national emergency, (3) for developing, in association with interested agencies, the emergency planning, including making recommendations to the President as to the appropriate roles of Federal agencies, in currently unassigned matters, such as, but not necessarily limited to, economic stabilization, economic warfare, emergency information, and wartime censorship, and (4) for the development

of nonmilitary policies and programs for use in the event of enemy attack on the United States designed to restore the national defense potential of the nation.

SEC. 302. *Emergency organization.* The Director, in consultation with the Director of the Bureau of the Budget, shall plan for the organization and functioning of the Federal Government in an emergency, including provisions for the central direction of all emergency mobilization activities and the creation of such emergency agencies as may be required for the conduct of emergency activities including those within the normal jurisdiction of existing agencies. Plans shall provide for maximum practicable reliance to be placed on existing Federal agencies with competence in emergency operations and, as best may be, shall be harmonious with related operations of the Government as a whole.

SEC. 303. *Emergency authorities.* The Director shall provide for the prompt exercise of Federal emergency authority through the advance preparation of such proposed legislation, Executive orders, rules, regulations, and directives as would be necessary to put into effect operating programs appropriate to the emergency situation.

SEC. 304. *Continuity of Federal Government.* The Director shall develop policies and plans to assure the continuity of essential Federal Government activities through programs to provide for lines of succession to office, safekeeping of essential records, alternate sites for Government operations, and the protection and effective use of Government resources, personnel, and facilities.

SEC. 305. *Executive Reserve.* The Director, under authority of, and in accordance with the provisions of, Executive Order No. 10660 of February 15, 1956 [set out as a note under section 2153 of this Appendix], shall develop policies and plans for the provision of an Executive Reserve of personnel capable of filling executive positions in the Government in time of emergency.

SEC. 306. *Emergency telecommunication.* The Director shall be responsible for providing overall policy guidance to the Director of the Office of Telecommunications Policy in planning for the mobilization of the Nation's telecommunications resources in time of national emergency.

SEC. 307. *Post-attack recovery.* Under the direction of the President, the Director, with the cooperation and assistance of the Federal agencies, shall develop policies, plans, and programs designed to provide for the rapid restoration after an attack on the United States of a national capability to support a strong national defense effort.

PART IV. CURRENT MANAGEMENT RESPONSIBILITIES

SEC. 401. *Defense production.* Under the authority of, and in accordance with the provisions of, Executive Order No. 10480 of August 14, 1953 [set out as a note under section

2153 of this Appendix], the Director shall perform the functions thereby delegated or otherwise assigned to him.

SEC. 402. *Strategic and critical materials stockpiling.* (a) There are hereby delegated to the Director all those functions under the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98 et seq.) [section 98 et seq. of this title], under Section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b (h)) [section 714b(h) of Title 15, Commerce and Trade], and under Section 204(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(f)) [section 485(f) of Title 40, Public Buildings, Property, and Works], which were transferred to the President by the provisions of Reorganization Plan No. 1 of 1958 (72 Stat. 1799) [set out as a note under this section].

(b) The Director, under the provisions of the said Strategic and Critical Materials Stockpiling Act [section 98 et seq. of this title], shall determine which materials are strategic and critical and the quality and quantity of such materials which shall be stockpiled, and shall direct the General Services Administration in the purchase, storage, refinement, rotation, and disposal of materials.

(c) The Director is hereby designated as an agency under and for the purposes of the provisions of clause (b) of Section 5 of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98d (clause (b))) [section 98d (clause (b)) of this title], and, accordingly, in the event of enemy attack upon the United States the Director is authorized and directed to order the release by the Administrator of General Services of such materials from stockpiles established under the said Act [section 98 et seq. of this title], in such quantities, for such uses, and on such terms and conditions, as the Director determines to be necessary in the interests of the national defense.

SEC. 403. *Supplemental stockpile.* The Director, under authority of the provisions of Section 4(d) (2) of Executive Order No. 10900 of January 6, 1961 [set out as a note under section 1691 of Title 7, Agriculture], shall determine from time to time the materials to be contracted for or purchased for a supplemental stockpile with foreign currencies pursuant to the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1704(b)) [section 1704(b) of Title 7, Agriculture].

SEC. 404. *Imports threatening the national security.* (a) The Director, under the authority of, and in accordance with the provisions of Section 232 of the Trade Expansion Act of 1962 [section 1862 of Title 19, Customs Duties], shall make appropriate investigations of the effects of imports on the national security and shall advise the President of any case in which the Director is of the opinion that an article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security.

(b) The Director, under authority of, and in accordance with the provisions of, Section 3(d) of Executive Order No.

10582 of December 17, 1954 [set out as a note under section 10d of Title 41, Public Contracts], shall furnish advice to procuring agencies with respect to the rejection of bids or offers to furnish materials of foreign origin on the ground that such rejection is necessary to protect essential national security interests.

SEC. 405. *Disaster relief.* The Director, under authority of, and in accordance with the provisions of, Executive Order No. 10427 of January 16, 1953 [set out as a note under section 1855d of Title 42, The Public Health and Welfare], and Executive Order No. 10737 of October 29, 1957 [set out as a note under section 1855d of Title 42, The Public Health and Welfare], shall exercise authority under the Act of September 30, 1950, entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes" (42 U.S.C. 1855 et seq.) [section 1855 et seq. of Title 42, The Public Health and Welfare].

PART V. GENERAL PROVISIONS

SEC. 501. *Rules and regulations.* In carrying out his responsibilities under this order, the Director is authorized to issue such rules and regulations, and directives, consonant with law and Executive order, as he deems necessary and appropriate to the functions involved.

SEC. 502. *Boards and committees.* The Director is hereby authorized to establish in headquarters and in the field such boards and committees as he deems necessary to advise him in the conduct of activities outlined herein.

SEC. 503. *Certain additional authorities.* (a) There are hereby delegated to the Director all those now-existing functions under the National Security Act of 1947 which were transferred to the President by the provisions of Reorganization Plan No. 1 of 1958 (72 Stat. 1799) [set out as a note under this section].

(b) In performing the functions under the Federal Civil Defense Act of 1950 [section 2251 et seq. of this Appendix] assigned to him, and subject to applicable provisions of Executive orders, the Director is authorized to exercise the authority conferred by Title IV of that Act [section 2253 et seq. of this Appendix]. The foregoing provision of this subsection shall not be deemed to derogate from any authority under Title IV [section 2253 et seq. of this Appendix] heretofore available to the Secretary of Defense.

SEC. 504. *Reports.* The Director is authorized to require from Federal agencies such statistical data and progress reports at such intervals as he deems necessary to discharge his responsibilities under this order.

SEC. 505. *Prior actions.* All orders, regulations, rulings, certificates, directives, and other actions relating to any function affected by this order shall remain in effect except as they are inconsistent herewith or are hereafter amended or revoked under proper authority, and nothing in this

order shall affect the validity or force of anything done under previous delegations or other assignments of the functions affected by this order.

SEC. 506. *Executive Order 11030*. Nothing in this order or in any order amended by this order shall derogate from the provisions of Executive Order No. 11030 of June 19, 1962 [set out as a note under section 305 of Title 44, Public Printing and Documents].

SEC. 507. *References to orders and Acts*. Except as may for any reason be inappropriate, references in this order to any other Executive order or to any Act, and references in this order or in any other Executive order to this order, shall be deemed to include references thereto, respectively, as amended from time to time.

PART VI. PRIOR EXECUTIVE ORDERS AND PROCLAMATIONS

SEC. 601. *General amendments*. Each reference to the Office of Civil and Defense Mobilization or to the Director of the Office of Civil and Defense Mobilization in the following is hereby amended to refer to the Office of Emergency Planning and the Director of the Office of Emergency Planning, respectively:

- (1) Executive Order No. 10296 of October 2, 1951
- (2) Executive Order No. 10312 of December 10, 1951
- (3) Executive Order No. 10346 of April 17, 1952
(penultimate sentence of Section 2, only)
- (4) Executive Order No. 10421 of December 31, 1952
- (5) Executive Order No. 10427 of January 16, 1953
- (6) Executive Order No. 10480 of August 14, 1953
- (7) Executive Order No. 10494 of October 14, 1953
- (8) Executive Order No. 10601 of March 21, 1955
- (9) Executive Order No. 10634 of August 25, 1955
- (10) Executive Order No. 10660 of February 15, 1956
- (11) Executive Order No. 10705 of April 17, 1957
- (12) Executive Order No. 10737 of October 29, 1957
- (13) Executive Order No. 10900 of January 5, 1961
- (14) Executive Order No. 10952 of July 20, 1961
- (15) Executive Order No. 10958 of August 14, 1961
- (16) Proclamation No. 3279 of March 10, 1959

SEC. 602. *Executive Order 10242*. Executive Order No. 10242 of May 8, 1951 [set out as a note under section 2253 of this Appendix], is hereby amended:

(1) By deleting from subsection 101(a) thereof the following: "upon the Director of the Office of Civil and Defense Mobilization, hereinafter referred to as the Director."

(2) By deleting from Sections 101(c), 101((d)), 102, 103, 104, 106 (preamble), 201, and 301 the following: "upon the Director of the Office of Civil and Defense Mobilization".

(3) By substituting for the words "the Director of the Office of Civil and Defense Mobilization", at each place where they occur in the order and are not deleted or other-

wise amended by this order, the following: "the delegate of the President".

(4) By substituting for the words "shall not be delegated" in subsection 101(d) the following: "shall not be redelegated by the delegate of the President".

(5) By adding after Section 106 new Sections 107, 108, and 109, reading as follows:

"Sec. 107. The words 'the delegate of the President' as used in this order:

"(1) In respect of functions under the Act delegated or otherwise assigned to the Secretary of Defense, mean the Secretary of Defense.

"(2) In respect of functions delegated or otherwise assigned to the Director of the Office of Emergency Planning, mean the Director of the Office of Emergency Planning.

"Sec. 108. The authority conferred by Section 401(a) of the Act [section 2253(a) of this Appendix] to employ part-time or temporary advisory personnel deemed necessary in carrying out the provisions of the Act, and delegated by the provisions of Section 101(a) of this order, shall be available as follows: (1) To the Secretary of Defense in respect of not to exceed eighty personnel (including not to exceed twenty subjects of the United Kingdom and Canada), and (2) to the Director of the Office of Emergency Planning in respect of not to exceed twenty personnel (including not to exceed five subjects of the United Kingdom and Canada).

"Sec. 109. The relevant provisions of this Part shall be subject to the provisions of the Memorandum of the President pertaining to conflicts of interest, dated February 9, 1962 (27 F.R. 1341ff.)."

(6) By amending Section 401 to read as follows:

"Sec. 401. The approval of the President is hereby given for employment of retired personnel of the armed services, pursuant to the provisions of subsection 401(a) of the Act [section 2253(a) of this Appendix] as follows: (1) By the Secretary of Defense, not to exceed twenty persons, and (2) by the Director of the Office of Emergency Planning, not to exceed five persons."

SEC. 603. *Other orders.* (a) Executive Order No. 10260 of June 27, 1951 [set out as a note under section 1213 of this Appendix], is hereby amended by striking from Section 1 thereof the following: "Office of Civil and Defense Mobilization, the".

(b) Executive Order No. 10346 of April 17, 1952 [set out as a note under section 2292 of this Appendix], is hereby amended by substituting for the reference therein to the Director of the Office of Civil and Defense Mobilization, and for each reference therein to the Office and Defense Mobilization except that in the penultimate sentence of Section 2, the following: "the Office of Emergency Planning or the Department of Defense or both, as may be determined under the provisions of appropriate Executive orders".

(c) Executive Order No. 10421 of December 31, 1952 [set out as a note under section 404 of this title], is hereby amended by inserting before the period at the end of Section 3(b) (9) thereof a comma and the following: "including recommendations as to actions necessary to strengthen the program provided for in this order".

(d) Executive Order No. 10529 of April 22, 1954 [set out as a note under section 2292 of this Appendix], is hereby amended by substituting for each reference therein to the Director of the Office of Civil and Defense Mobilization the following: "the Director of the Office of Emergency Planning or the Secretary of Defense or both as may be determined under appropriate Executive orders".

(e) Executive Order No. 10582 of December 17, 1954 [set out as a note under section 10d of Title 41, Public Contracts], is hereby amended by striking from Section 3(d) thereof the words "from any officer of the Government designated by the President to furnish such advice" and by inserting in lieu of the stricken words the following:

"from the Director of the Office of Emergency Planning. In providing this advice the Director shall be governed by the principle that exceptions under this section shall be made only upon a clear showing that the payment of a greater differential than the procedures of this section generally prescribe is justified by consideration of national security".

(f) Executive Order No. 10789 of November 14, 1958 [set out as a note under section 1431 of this title], is hereby amended by striking from Section 21 thereof the words "Office of Civil and Defense Mobilization".

SEC. 604. *Superseded orders.* To the extent that the following have not heretofore been made or become inapplicable, they are hereby superseded and revoked:

- (1) Executive Order No. 9981 of July 26, 1948
- (2) Executive Order No. 10219 of February 28, 1951
- (3) Executive Order No. 10269 of July 6, 1951
- (4) Executive Order No. 10438 of March 13, 1953
- (5) Executive Order No. 10461 of June 17, 1953
- (6) Executive Order No. 10524 of March 31, 1954
- (7) Executive Order No. 10539 of June 22, 1954
(without prejudice to final liquidation of any affairs thereunder)
- (8) Executive Order No. 10638 of October 10, 1955
- (9) Executive Order No. 10773 of July 1, 1958
- (10) Executive Order No. 10782 of September 6, 1958
- (11) Executive Order No. 10902 of January 9, 1961.

CIVILIAN MOBILIZATION

Reorganization Plan No. 1 of 1958, effective July 1, 1958 (23 F.R. 4991), as last amended by Act of October 21, 1968 (82 Stat. 1194, § 406).

SECTION 1. *Transfer of functions to the President.*—(a) There are hereby transferred to the President of the United States all functions vested by law (including reorganization plan) in the following: The Office of Defense Mobilization, the Director of the Office of Defense Mobilization, the Federal Civil Defense Administration, and the Federal Civil Defense Administrator.

(b) The President may from time to time delegate any of the functions transferred to him by subsection (a) of this section to any officer, agency, or employee of the executive branch of the Government, and may authorize such officer, agency, or employee to redelegate any of such functions delegated to him.

SEC. 2. *Office of Emergency Planning.*—(a) Subject to the provisions of this reorganization plan, the Office of Defense Mobilization and the Federal Civil Defense Administration are hereby consolidated to form a new agency in the Executive Office of the President which shall be known as the Office of Emergency Preparedness, hereinafter referred to as the "Office".

(b) There shall be at the head of the Office a Director of the Office of Emergency Preparedness, who shall be appointed by the President by and with the advice and consent of the Senate.

(c) There shall be in the Office a Deputy Director of the Office of Emergency Preparedness, who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as shall be delegated or assigned to him pursuant to the provisions of this reorganization plan, and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the office of Director.

(d) There shall be in the Office three Assistant Directors of the Office of Emergency Preparedness, each of whom shall be appointed by the President by and with the advice and consent of the Senate, and shall perform such functions as shall be delegated or assigned to him pursuant to the provisions of this reorganization plan.

(e) The Office and the Director thereof shall perform such functions as the President may from time to time delegate or assign thereto. The said Director may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, or by any agency or employee of the Office of any function delegated or assigned to the Office or to the Director.

SEC. 3. *Regional directors.* There are hereby established in the Office so many new positions, not in excess of ten existing at any one time, with the title "Regional Director", as the Director of the Office shall from time to time determine. Each Regional Director shall be appointed under the classified civil service, shall be the head of a regional office of the Office of Emergency Preparedness, shall

perform such functions appropriate to such regional office as may be delegated or assigned to him pursuant to the provisions of this reorganization plan, and shall receive compensation which shall be fixed from time to time pursuant to the classification laws as now or hereafter amended.

SEC. 4. *Membership on National Security Council.* The functions of the Director of the Office of Defense Mobilization with respect to being a member of the National Security Council are excluded from the scope of the provisions of section 1(a) of this reorganization plan and are hereby transferred to the Director of the Office of Emergency Preparedness.

SEC. 5. *Civil Defense Advisory Council.* The Civil Defense Advisory Council, created by section 102(a) of the Federal Civil Defense Act (50 U.S.C. App. 2272(a)) [section 2272(a) of this Appendix], together with its functions, is hereby transferred to the Office of Emergency Preparedness.

SEC. 6. *Abolitions.* The offices of Federal Civil Defense Administrator and Deputy Administrator provided for in section 101 of the Federal Civil Defense Act (50 U.S.C. App. 2271) [this section] and the offices of the Director of the Office of Defense Mobilization and Deputy Director of the Office of Defense Mobilization provided for in section 1 of Reorganization Plan Numbered 3 of 1953 (67 Stat. 634) are hereby abolished. The Director of the Office of Emergency Preparedness shall make such provisions as may be necessary in order to wind up any outstanding affairs of the offices abolished by this section which are not otherwise provided for in this reorganization plan.

SEC. 7. *Records, property, personnel, and funds.* (a) The records, property, personnel, and unexpended balances, available or to be made available, of appropriations, allocations, and other funds of the Office of Defense Mobilization and of the Federal Civil Defense Administration shall, upon the taking effect of the provisions of this reorganization plan, become records, property, personnel, and unexpended balances of the Office of Emergency Preparedness.

(b) Records, property, personnel, and unexpended balances, available or to be made available, of appropriations, allocations, and other funds of any agency (including the Office of Emergency Preparedness), relating to functions vested in or delegated or assigned to the office of Defense Mobilization or the Federal Civil Defense Administration immediately prior to the taking effect of the provisions of this reorganization plan, may be transferred from time to time to any other agency of the Government by the Director of the Bureau of the Budget under authority of this subsection for use, subject to the provisions of the Reorganization Act of 1949, as amended, in connection with any of the said functions authorized at time of transfer under this subsection to be performed by the transferee agency.

(c) Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in connection with the provisions of subsections (a) and (b) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 8. *Interim provisions.*—The President may authorize any person who immediately prior to the effective date of this reorganization plan holds an office abolished by section 6 hereof to hold any office established by section 2 of this reorganization plan until the latter office is filled pursuant to the said section 2 or by recess appointment, as the case may be, but in no event for any period extending more than one-hundred-and-twenty days after the said effective date.

SEC. 9. *Effective date.*—The provisions of this reorganization plan shall take effect at the time determined under the provisions of section 6(a) of the Reorganization Act of 1949, as amended, or on July 1, 1958, whichever is later.

SEC. 2272. *Civil Defense Advisory Council; establishment; duties; composition; tenure; meetings; additional advisory committees; compensation.*

(a) There is created a Civil Defense Advisory Council, hereinafter referred to as the Council, which shall advise and consult with the Administrator with respect to general or basic policy matters relating to civil defense. The Council shall consist of the Administrator, who shall be chairman, and twelve additional members to be appointed by the President, of whom three members shall be representative of the State governments, three members shall be representative of the political subdivisions of the States and the remaining members shall be selected among the citizens of the United States of broad and varied experience in matters affecting the public interest, other than officers and employees of the United States (including any department or agency of the United States) who, as such, regularly receive compensation for current services. The following organizations shall be invited to establish panels of names for the members representative of the States and the political subdivisions thereof:

The Council of State Governments.

The Governor's Conference.

The American Municipal Association.

The United States Conference of Mayors.

The representatives of the States and the political subdivisions thereof appointed by the President shall be selected from the panels established by the above-mentioned organizations. Not more than a majority of two of the members shall be appointed to the Council from the same political party. Each member shall hold office for a term of three years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term; and (2) the terms of office of the members first taking office after January 12, 1951,

shall expire, as designated by the President at the time of appointment, four at the end of one year, four at the end of two years and four at the end of three years, after January 12, 1951. The Council shall meet at least once in each calendar year and at such other times as the Administrator shall determine that its advice and counsel will be of assistance to the program.

(b) The Administrator may appoint such other advisory committees as are deemed necessary.

(c) The members of the Council and the members of any other advisory committees, other than the Administrator, may be compensated at rates not in excess of those prescribed in section 401(b) of this Act [section 2253(b) of this Appendix].

TITLE III.—POWERS AND DUTIES

SEC. 2281. *Functions of Administrator.*

The Administrator is authorized, in order to carry out the above-mentioned purposes, to—

PREPARATION OF PLANS FOR CIVIL DEFENSE

(a) prepare national plans and programs for the civil defense of the United States, making such use of plans and programs previously initiated by the National Security Resources Board as is feasible; sponsor and direct such plans and programs; and request such reports on State plans and operations for civil defense as may be necessary to keep the President, the Congress and the several States advised of the status of civil defense in the United States;

DELEGATION OF CIVIL DEFENSE RESPONSIBILITIES

(b) delegate, with the approval of the President, to the several departments and agencies of the Federal Government appropriate civil defense responsibilities, and review and coordinate the civil defense activities of the departments and agencies with each other and with the activities of the States and neighboring countries;

ESTABLISHMENT OF CIVIL DEFENSE COMMUNICATIONS:

DISSEMINATION OF WARNINGS

(c) make appropriate provision for necessary civil defense communications and for the dissemination of warnings of enemy attacks to the civilian population;

DEVELOPMENT OF PROTECTIVE MEASURES, SHELTERS, AND EQUIPMENT

(d) Study and develop civil defense measures designed to afford adequate protection of life and property, including, but not limited to, research and studies as to the best methods of treating the effects of attacks; developing shelter designs and materials for protective covering or construction; and develop-

ing equipment or facilities and effecting the standardization thereof to meet civil defense requirements;

TRAINING PROGRAM: ESTABLISHMENT OF A COLLEGE AND
TECHNICAL TRAINING SCHOOLS

(e) Conduct or arrange, by contract or otherwise, for training programs for the instruction of civil defense officials and other persons in the organization, operation, and techniques of civil defense; conduct or operate schools or classes, including the payment of travel expenses, in accordance with the Travel Expenses Act of 1949, as amended [see section 5701 et seq. of Title 5], and the Standardized Government Travel Regulations, and per diem allowances, in lieu of subsistence for trainees in attendance or the furnishing of subsistence and quarters for trainees and instructors on terms prescribed by the Administrator; and provide instructors and training aids as deemed necessary: *Provided*, That the terms prescribed by the Administrator for the payment of travel expenses and per diem allowances authorized by this subsection shall include a provision that such payment shall not exceed one-half of the total cost of such expenses: *Provided further*, That the authority to pay travel and per diem expenses of students as authorized by this subsection shall terminate on June 30, 1976. *Provided further*, That not more than one national civil defense college and three civil defense technical training schools shall be established under the authority of this subsection: *Provided further*, That the Administrator is authorized to lease real property required for the purpose of carrying out the provisions of this subsection, but shall not acquire fee title to property unless specifically authorized by Act of Congress.

DISSEMINATION OF INFORMATION

(f) publicly disseminate appropriate civil defense information by all appropriate means:

ENCOURAGEMENT OF STATE CIVIL DEFENSE WORK

(g) assist and encourage the States to negotiate and enter into interstate civil defense compacts; review the terms and conditions of such proposed compacts in order to assist to the extent feasible in obtaining uniformity therein and consistency with the national civil defense plans and programs; assist and coordinate the activities thereunder; aid and assist in encouraging reciprocal civil defense legislation by the States which will permit the furnishing of mutual aid for civil defense purposes in the event of an attack which cannot be adequately met or controlled by a State or political subdivision thereof threatened with or undergoing an attack: *Provided*, That a copy of each such civil defense compact shall be transmitted promptly to the Senate and the House of Representatives. The consent of the Congress shall be granted to each such compact,

upon the expiration of the first period of sixty calendar days of continuous session of the Congress following the date on which the compact is transmitted to it; but only if, between the date of transmittal and expiration of such sixty-day period, there has not been passed a concurrent resolution stating in substance that the Congress does not approve the compact: *Provided*. That nothing in this subsection shall be construed as preventing Congress from withdrawing at any time its consent to any such compact;

ACQUISITION OF NECESSARY DEFENSE MATERIALS AND FACILITIES

(h) Procure by condemnation or otherwise, construct, lease, transport, store, maintain, renovate or distribute materials and facilities for civil defense, with the right to take immediate possession thereof: *Provided*. That facilities acquired by purchase, donation, or other means of transfer may be occupied, used, and improved for the purposes of this Act [sections 2251-2297 of this Appendix], prior to the approval of title by the Attorney General as required by section 355 of the Revised Statutes, as amended [section 255 of Title 40]: *Provided further*. That the Administrator shall report not less often than quarterly to the Congress all property acquisitions made pursuant to this subsection: *Provided further*. That the Administrator is authorized to lease real property required for the purpose of carrying out the provisions of this subsection, but shall not acquire fee title to property unless specifically authorized by Act of Congress: *Provided further*. That until June 30, 1976, the Administrator is authorized to procure and maintain under this subsection radiological instruments and detection devices, protective masks, and gas detection kits, and distribute the same by loan or grant to the States for civil defense purposes, under such terms and conditions as the Administrator shall prescribe.

FINANCIAL AID TO STATES

(i) Make financial contributions, on the basis of programs or projects approved by the Administrator, to the States for civil defense purposes, including, but not limited to the procurement, construction, leasing, or renovating of materials and facilities. Such contributions shall be made on such terms or conditions as the Administrator shall prescribe, including, but not limited to, the method of purchase, the quantity, quality, or specifications of the materials or facilities, and such other factors or care or treatment to assure the uniformity, availability, and good condition of such materials or facilities: *Provided*. That no contributions shall be made for the procurement of land: *Provided further*. That retroactive financial contributions which were otherwise approvable, approved and made to the States prior to June 30, 1960, to carry out the purposes of this subsection are ratified and affirmed: *Provided further*. That after June 30, 1964, no contribution shall be made for the purchase of personal equipment for State or local civil defense workers: *Pro-*

vided further. That the amounts authorized to be contributed by the Administrator to each State for organizational equipment shall be equally matched by such State from any source it determines is consistent with its laws: *Provided further.* That financial contributions to the States for shelters and other protective facilities shall be determined by taking the amount of funds appropriated or available to the Administrator for such facilities in each fiscal year and apportioning same among the States in the ratio which the urban population of the critical target areas (as determined by the Administrator, after consultation with the Secretary of Defense) in each State, at the time of the determination, bears to the total urban population of the critical target areas of all of the States: *Provided further.* That the amounts authorized to be contributed by the Administrator to each State for such shelters and protective facilities shall be equally matched by such State from any source it determines is consistent with its laws and, if not matched within a reasonable time, the Administrator may reallocate same to other States on the formula outlined above: *Provided further.* That the value of any land contributed by any State or political subdivision thereof shall be excluded from the computation of the State share: *Provided further.* That the amounts paid to any State under this subsection shall be expended solely in carrying out the purposes set forth herein and in accordance with State civil defense programs or projects approved by the Administrator: *Provided further.* That the Administrator shall make no contribution toward the cost of any program or project for the procurement, construction, or leasing of any facility which (1) is intended for use, in whole or in part, for any purpose other than civil defense and (2) is of such kind that upon completion it will, in his judgment, be capable of producing sufficient revenue to provide reasonable assurance of the retirement or repayment of such cost, except that (subject to the foregoing provisos of this subsection) he may make contribution to any State toward that portion of the cost of the construction, reconstruction, or enlargement of any facility which he shall determine to be directly attributable to the incorporation in such facility of any feature of construction or design not necessary for the principal intended purpose thereof but which is, in his judgment, necessary for the use of such facility for civil defense purposes. *Provided.* That the Administrator shall report not less often than quarterly to the Congress all contributions made pursuant to this subsection: *Provided further.* That all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of any contribution of Federal funds made by the Administrator under the provisions of this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended [sections 276 to 276a-5 of this title], and every such employee shall receive compensation at a rate of not less than one and one-

half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in the workweek, as the case may be. The Administrator shall make no contribution of Federal funds without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this proviso, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267 [set out as a note under section 133y-15 of Title 5], and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, as amended) [section 276c of Title 40].

SALE AND DISPOSITION OF SURPLUS PROPERTY

(j) arrange for the sale or disposal of materials and facilities found by the Administrator to be unnecessary or unsuitable for civil defense purposes in the same manner as provided for excess property in the Federal Property and Administrative Services Act of 1949, as amended, and any funds received as proceeds from the sale or other disposition of such materials and facilities shall be covered into the Treasury as miscellaneous receipts.

SEC. 2282. *Definition of "national defense" or "defense."*

The terms "national defense" or "defense" as used in title II of the Defense Production Act of 1950 [section 2081 of this Appendix] shall be construed to include "civil defense" as defined in this Act [sections 2251-2297 of this Appendix].

SEC. 2283. *Mutual aid pacts between States and neighboring countries.*

The Administrator shall give all practicable assistance to States in arranging, through the Department of State, mutual civil defense aid between the States and neighboring countries.

SEC. 2284. *Identity insignia; manufacture, possession, or wearing; penalties.*

The Administrator may prescribe insignia, arm bands, and other distinctive articles (including designs previously covered under Letters Patent which were assigned to the United States and held by the Office of Civilian Defense created by Executive Order Numbered 8757 issued May 20, 1941) which may be manufactured for or possessed or worn by persons engaged in civil defense activities pursuant to rules and regulations for the manufacture, possession, or wearing thereof established by the Administrator. The manufacture, possession, or wearing of any such insignia, arm band, or other distinctive article otherwise than in accordance with such rules and regulations shall be unlawful and shall subject such person to a fine of not more than \$1,000 or imprisonment of not more than one year, or both.

SEC. 2285. *Real property transactions—Reports to the Armed Services Committees.*

(a) The Director of the Office of Civil and Defense Mobilization, or his designee, may not enter into any of the follow-

ing listed transactions by or for the use of that agency until after the expiration of thirty days from the date upon which a report of the facts concerning the proposed transaction is submitted to the Committees on Armed Services of the Senate and House of Representatives:

(1) An acquisition of fee title to any real property, if the estimated price is more than \$50,000.

(2) A lease of any real property to the United States, if the estimated annual rental is more than \$50,000.

(3) A lease of real property owned by the United States, if the estimated annual rental is more than \$50,000.

(4) A transfer of real property owned by the United States to another Federal agency or another military department, or to a State, if the estimated value is more than \$50,000.

(5) A report of excess real property owned by the United States to a disposal agency, if the estimated value is more than \$50,000.

If a transaction covered by clause (1) or (2) is part of a project, the report must include a summarization of the general plan for that project, including an estimate of the total cost of the lands to be acquired or leases to be made.

QUARTERLY REPORTS TO ARMED SERVICES COMMITTEES

(b) The Director of the Office of Civil and Defense Mobilization shall report quarterly to the Committee on Armed Services of the Senate and the House of Representatives on transactions described in subsection (a) that involve an estimated value of more than \$5,000 but not more than \$50,000.

REAL PROPERTY GOVERNED BY THIS SECTION

(c) This section applies only to real property in the States of the Union, the District of Columbia, and Puerto Rico. It does not apply to real property for river and harbor projects or flood-control projects, or to leases of Government-owned real property for agricultural or grazing purposes.

RECITAL OF COMPLIANCE IN INSTRUMENT OF CONVEYANCE AS CONCLUSIVE

(d) A statement in an instrument of conveyance, including a lease, that the requirements of this section have been met, or that the conveyance is not subject to this section, is conclusive.

SEC. 2286. *Financial contributions to States for personnel and administrative expenses.*

To further assist in carrying out the purposes of this Act [sections 2251–2297 of this Appendix], the Administrator is authorized to make financial contributions to the States (including interstate civil defense authorities established pursuant to section 201(g) of this Act [section 2281(g) of this Appendix]) for necessary and essential State and local civil defense personnel and administrative expenses, on the basis of approved plans

(which shall be consistent with the national plan for civil defense approved by the Administrator) for the civil defense of the States: *Provided*, That the financial contributions to the States for the purposes of this section shall not exceed one-half of the total cost of such necessary and essential State and local civil defense personnel and administrative expenses.

REQUIREMENTS OF PLAN

(a) Plans submitted under this section shall

(1) provide, pursuant to State law, that the plan shall be in effect in all political subdivisions of the State and be mandatory on them, and be administered or supervised by a single State agency;

(2) provide that the State shall share the financial assistance with that provided by the Federal Government under this section from any source determined by it to be consistent with State law;

(3) provide for the development of State and local civil defense operational plans, pursuant to standards approved by the Administrator;

(4) provide for the employment of a full-time civil defense director, or deputy director, by the State, and for such other methods of administration, including methods relating to the establishment and maintenance of personnel standards on the merit basis (except that the Administrator shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as the Administrator shall find to be necessary and proper for the operation of the plan;

(5) provide that the State shall make such reports in such form and content as the Administrator may require;

(6) make available to duly authorized representatives of the Administrator and the Comptroller General, books, records, and papers necessary to conduct audits for the purposes of this section.

ESTABLISHMENT OF OTHER TERMS AND CONDITIONS BY ADMINISTRATOR

(b) The Administrator shall establish such other terms and conditions as he may deem necessary and proper.

APPLICABILITY OF OTHER LAWS

(c) In carrying out the provisions of this section, the provisions of section 201(g) [section 2281(g) of this Appendix] and 401(h) of this Act [section 2253(h) of this Appendix] shall apply.

ALLOCATION TO STATES

(d) For each fiscal year concerned, the Administrator shall allocate to each State, in accordance with his regulations and the total sum appropriated hereunder, amounts to be made

available to the States for the purposes of this section. Regulations governing allocations to the States shall give due regard to (1) the criticality of the target and support areas with respect to the development of the total civil defense readiness of the Nation, (2) the relative state of development of civil defense readiness of the State, (3) population, and (4) such other factors as the Administrator shall prescribe: *Provided*, That the Administrator may reallocate the excess of any allocation not utilized by a State in an approvable plan submitted hereunder: *Provided further*, That amounts paid to any State or political subdivision under this section shall be expended solely for the purposes set forth herein;

FAILURE TO SUBMIT PLAN; REALLOCATION

(e) In the event a State fails to submit an approvable plan as required by this section within sixty days after the Administrator notifies the States of the allocations hereunder, the Administrator may reallocate such funds, or portions thereof, among the other States in such amounts as, in his judgment will best assure the adequate development of the civil defense capability of the Nation.

REPORT TO THE CONGRESS

(f) The Administrator shall report annually to the Congress all contributions made pursuant to this section.

DEFINITION

(g) As used in this Act [sections 2251-2297 of this Appendix], the term "State" shall include interstate civil defense authorities established under section 201(g) [section 2281(g) of this Appendix].

TERMINATION DATE

(h) The provisions of this section terminate on June 30, 1976.

SEC. 2287. *Fallout protection.*

(a) On and after the date of enactment of this Act [Sept. 12, 1966] all construction authorized in annual military construction authorization Acts shall be designed using techniques developed by the Office of Civil Defense to maximize fallout protection, where such can be done without impairing the purpose for which the construction is authorized or the effectiveness of the structure, unless exempted from this requirement under regulations prescribed by the Secretary of Defense or his designee.

(b) The Secretary of Defense shall make appropriate provision for the utilization of technical design and construction methods in the preparation of design and construction plans and in construction under this Act or hereafter authorized to assure carrying out the purposes of this section; and for such

purposes expenditures on individual projects shall not exceed one per centum of the amount authorized for that project: *Provided, however,* That this authorization may be averaged and applied to a single facility of two or more facilities, or among projects on an installation, when such application will result in more fallout shelter space, or is needed to meet minimum fallout protection standards in such facilities or projects.

TITLE IV—EMERGENCY AUTHORITY

SEC. 2291. *Sections 2291-2297 of this Appendix effective only during civil defense emergency; proclamation of emergency; termination.*

The provisions of this title [sections 2291-2297 of this Appendix] shall be operative only during the existence of a state of civil defense emergency (referred to hereinafter in this title [said sections] as "emergency"). The existence of such emergency may be proclaimed by the President or by concurrent resolution of the Congress if the President in such proclamation, or the Congress in such resolution, finds that an attack upon the United States has occurred or is anticipated and that the national safety therefor requires an invocation of the provisions of this title [said sections]. Such emergency also shall exist with respect to any designated geographic area or areas of the United States when the President determines that any such attack has been made upon or is anticipated within such area or areas, and directs the Administrator to proceed pursuant to the provisions of this title [said sections] with respect to such area or areas. Any such emergency shall terminate upon the proclamation of the termination thereof by the President, or the passage by the Congress of a concurrent resolution terminating such emergency.

SEC. 2292. *Utilization of Federal departments and agencies.*

During the period of such emergency, under such terms and conditions as to donation, compensation, or return as may be prescribed, and solely for civil defense purposes, the President may direct, after taking into consideration the military requirements of the Department of Defense, any Federal department or agency to provide, and such departments and agencies are authorized to provide—

- (a) their personnel, materials, and facilities to the Administrator for the aid of the States;
- (b) emergency shelter by construction or otherwise; and
- (c) on public or private lands, protective and other work essential for the preservation of life and property, for clearing debris and wreckage, and for making emergency repairs to, and temporary replacement of, communications, hospitals, utilities, transportation facilities, or public facilities of States or their political subdivisions damaged or destroyed by attack.

Executive Order 10529 of April 23, 1954 (19 FR 2397) as amended by Executive Orders 10773, 10782 and 11051 (23 FR 5061, 23 FR 6971, 27 FR 9683); *Federal Employee Participation in State and Local Civil Defense Programs.*

SECTION 1. In arranging for the use of personnel of Federal departments and agencies for civil-defense purposes in time of emergency and for their coordination with State and local civil-defense plans in consonance with the provisions of Section 3 of Executive Order No. 10346 of April 17, 1952 [set out as a note under this section], the Director of the Office of Emergency Planning or the Secretary of Defense or both as may be determined under appropriate Executive orders, after consultation with the head of a department or agency, may recommend that the services of such personnel of the said department or agency as have volunteered their services and have been selected for civil-defense assignments be made available for participation in the program of a State or of any political sub-division thereof for training, prior to an emergency, in the performance of civil-defense duties.

SEC. 2. After consideration of the recommendation of the Director of the Office of Emergency Planning or the Secretary of Defense or both as may be determined under appropriate Executive orders, the head of a Federal department or agency, or such officer as the head thereof may designate, may from year to year authorize such of the said personnel of such department or agency as he may designate to participate in pre-emergency training programs and test exercises in cooperation with any State or political sub-division thereof, and such duties shall be performed on assignment by the particular Federal department or agency, subject to the following conditions:

(a) Personnel so assigned shall at all times remain subject to the administrative jurisdiction and control of their Federal department or agency;

(b) The period of official time that may be authorized for any such assignment pursuant to this order shall not exceed a total of forty working hours for any person during a calendar year; and

(c) There shall be satisfactory evidence from State or local civil defense authorities that such personnel served or participated in such programs or exercises pursuant to specific request of a public governmental body or organization established pursuant to and in accordance with a State civil defense law.

SEC. 3. During any period or periods in which such personnel shall be engaged in said civil-defense training duties under authority of this order, they shall continue to be compensated in usual course by their Federal department or agency, and shall continue in their status as Federal employees for all purposes. Where travel is involved in connection with the performance of such training duties, travel allowances and expenses may be authorized in accordance with the Standardized Government Travel Regulations.

SEC. 4. This order shall not be construed as restricting or limiting the activities of officers or employees of the

Office of Civil and Defense Mobilization in the performance of their functions and duties.

SEC. 5. As used in this Order:

(a) The term "personnel" shall mean persons who are in a full time pay status as civilian officers or employees of the United States Government.

(b) The term "State" shall mean any of the several States of the United States, the District of Columbia, each of the Territories and possessions of the United States, and the Commonwealth of Puerto Rico.

Executive Order 11490 of October 28, 1969 (34 FR 17567), as amended by Executive Orders 11522 and 11556 (35 FR 5659, 35 FR 14193); *Assignment of Emergency Preparedness Functions to Federal Agencies and Departments*.

WHEREAS our national security is dependent upon our ability to assure continuity of government, at every level, in any national emergency type situation that might conceivably confront the nation; and

WHEREAS effective national preparedness planning to meet such an emergency, including a massive nuclear attack, is essential to our national survival; and

WHEREAS effective national preparedness planning requires the identification of functions that would have to be performed during such an emergency, the assignment of responsibility for developing plans for performing these functions, and the assignment of responsibility for developing the capability to implement those plans; and

WHEREAS the Congress has directed the development of such national emergency preparedness plans and has provided funds for the accomplishment thereof; and

WHEREAS this national emergency preparedness planning activity has been an established program of the United States Government for more than twenty years:

Now, THEREFORE, by virtue of the authority vested in me as President of the United States, and pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799) [set out as a note under section 2271 of this Appendix], the National Security Act of 1947, as amended [section 401 et seq. of Title 50, War and National Defense], the Defense Production Act of 1950, as amended [section 2061 et seq. of this Appendix], and the Federal Civil Defense Act, as amended [section 2251 et seq. of this Appendix], it is hereby ordered as follows—

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PART 1—PURPOSE AND SCOPE

SECTION 101. *Purpose.* This order consolidates the assignment of emergency preparedness functions to various departments and agencies heretofore contained in the 21 Executive orders and 2 Defense Mobilization orders listed in section 3015 of this order. Assignments have been adjusted to conform to changes in organization which have occurred subsequent to the issuance of those Executive orders and Defense Mobilization orders.

SEC. 102. *Scope.* (a) This order is concerned with the emergency national planning and preparedness functions of the several departments and agencies of the Federal Government which complement the military readiness planning responsibilities of the Department of Defense; together, these measures provide the basic foundation for our overall national preparedness posture, and are fundamental to our ability to survive.

(b) The departments and agencies of the Federal Government are hereby severally charged with the duty of assuring the continuity of the Federal Government in any national emergency type situation that might confront the nation. To this end, each department and agency with essential functions, whether expressly identified in this order or not, shall develop such plans and take such actions, including but not limited to those specified in this order, as may be necessary to assure that it will be able to perform its essential functions, and continue as a viable part of the Federal Government, during any emergency that might conceivably occur. These include plans for maintaining the continuity of essential functions of the department or agency at the seat of government and elsewhere, through programs concerned with: (1) succession to office;

(2) predelegation of emergency authority; (3) safekeeping of essential records; (4) emergency relocation sites supported by communications and required services; (5) emergency action steps; (6) alternate headquarters or command facilities; and (7) protection of Government resources, facilities, and personnel. The continuity of Government activities undertaken by the departments and agencies shall be in accordance with guidance provided by, and subject to evaluation by, the Director of the Office of Emergency Preparedness.

(c) In addition to the activities indicated above, the heads of departments and agencies described in Parts 2 through 29 of this order shall: (1) prepare national emergency plans, develop preparedness programs, and attain an appropriate state of readiness with respect to the functions assigned to them in this order for all conditions of national emergency; (2) give appropriate consideration to emergency preparedness factors in the conduct of the regular functions of their agencies, particularly those functions considered essential in time of emergency, and (3) be prepared to implement, in the event of an emergency, all appropriate plans developed under this order.

SEC. 103. *Presidential assistance.* The director of the Office of Emergency Preparedness, in accordance with the provisions of Executive Order No. 11051 of September 27, 1962 [set out as a note under section 2271 of this Appendix], shall advise and assist the President in determining national preparedness goals and policies for the performance of functions under this order and in coordinating the performance of such functions with the total national preparedness program.

SEC. 104. *General and specific functions.* The functions assigned by Part 30, General Provisions, apply to all departments and agencies having emergency preparedness responsibilities. Specific functions are assigned to departments and agencies covered in Parts 2 through 29.

SEC. 105. *Construction.* The purpose and legal effect of the assignments contained in this order do not constitute authority to implement the emergency plans prepared pursuant to this order. Plans so developed may be effectuated only in the event that authority for such effectuation is provided by a law and enacted by the Congress or by an order or directive issued by the President pursuant to statutes or the Constitution of the United States.

PART 2—DEPARTMENT OF STATE

SECTION 201. *Functions.* The Secretary of State shall prepare national emergency plans and develop preparedness programs to permit modification or expansion of the activities of the Department of State and agencies, boards, and commissions under his jurisdiction in order to meet

all conditions of national emergency, including attack upon the United States. The Secretary of State shall provide to all other departments and agencies overall foreign policy direction, coordination, and supervision in the formulation and execution of those emergency preparedness activities which have foreign policy implications, affect foreign relations, or depend directly or indirectly, on the policies and capabilities of the Department of State. The Secretary of State shall develop policies, plans, and procedures for carrying out his responsibilities in the conduct of the foreign relations of the United States under conditions of national emergency, including, but not limited to (1) the formulation and implementation, in consultation with the Department of Defense and other appropriate agencies, and the negotiation of contingency and post-emergency plans with our allies and of the intergovernmental agreements and arrangements required by such plans; (2) formulation, negotiations, and execution of policy affecting the relationships of the United States with neutral States; (3) formulation and execution of political strategy toward hostile or enemy States, including the definition of war objectives and the political means for achieving those objectives; (4) maintenance of diplomatic and consular representation abroad; (5) reporting and advising on conditions overseas which bear upon the national emergency; (6) carrying out or proposing economic measures with respect to other nations, including coordination with the export control functions of the Secretary of Commerce; (7) mutual assistance activities such as ascertaining requirements of the civilian economies of other nations, making recommendations to domestic resource agencies for meeting such requirements, and determining the availability of and making arrangements for obtaining foreign resources required by the United States; (8) providing foreign assistance, including continuous supervision and general direction of authorized economic and military assistance programs, and determination of the value thereof; (9) protection or evacuation of American citizens and nationals abroad and safeguarding their property; (10) protection and/or control of international organization and foreign diplomatic, consular, and other official personnel and property, or other assets, in the United States; (11) documentary control of persons seeking to enter or leave the United States; and (12) regulation and control of exports of items on the munitions list.

PART 3—DEPARTMENT OF THE TREASURY

SECTION 301. *Functions.* The Secretary of the Treasury shall develop policies, plans, and procedures for the performance of emergency functions with respect to (1) stabilization aspects of the monetary, credit, and financial system; (2) stabilization of the dollar in relation to for-

eign currencies; (3) collection of revenue; (4) regulation of financial institutions; (5) supervision of the Federal depository system; (6) direction of transactions in government securities; (7) tax and debt policies; (8) participation in bilateral and multilateral financial arrangements with foreign governments; (9) regulation of foreign assets in the United States and of foreign financial dealings (in consultation with the Secretaries of State and Commerce); (10) development of procedures for the manufacture and/or issuance and redemption of securities, stamps, coins, and currency; (11) development of systems for the issuance and payment of Treasury checks; (12) maintenance of the central government accounting and financial reporting system; (13) administration of customs laws, tax laws, and laws on control of alcohol, alcoholic beverages, tobacco, and firearms; (14) suppression of counterfeiting and forgery of government securities, stamps, coins, and currency; (15) protection of the President and the Vice President and other designated persons; (16) granting of loans (including participation in or guarantees of loans) for the expansion of capacity, the development of technological processes, or the production of essential material; and (17) to the extent that such functions have not been transferred to the Secretary of Transportation, enforcement of marine inspection and navigation laws.

SEC. 302. *Financial coordination.* The Secretary shall assume the initiative in developing plans for implementation of national policy on sharing war losses and for the coordination of emergency monetary, credit, and Federal benefit payment programs of those departments and agencies which have responsibilities dependent on the policies or capabilities of the Department.

PART 4—DEPARTMENT OF DEFENSE

SECTION 401. *Functions.* In addition to the civil defense functions assigned to the Secretary of Defense by Executive Order No. 10952 [set out as a note under section 2271 of this Appendix], the Secretary of Defense shall perform the following emergency preparedness functions:

(1) Provide specific strategic guidance as required for emergency preparedness planning and programming, including, for example, guidance regarding such factors as accessibility of foreign sources of supply and estimated shipping loss discounts and aircraft losses in the event of war.

(2) Develop and furnish quantitative and time-phased military requirements for selected end-items, consistent with defined military concepts, and supporting requirements for materials, components, production facilities, production equipment, petroleum, natural gas, solid fuels, electric power, food, transportation, and other services needed to

carry out specified Department of Defense current and mobilization procurements, construction, research and development, and production programs. The items and supporting resources to be included in such requirements, the periods to be covered, and the dates for their submission to the appropriate resource agency will be determined by mutual agreement between the Secretary of Defense and the head of the appropriate resource agency.

(3) Advise and assist the Office of Emergency Preparedness in developing a national system of production urgencies.

(4) Advise and assist the Office of Emergency Preparedness in developing a system, in conjunction with the Department of State, for the international allocation of critical materials and products among the United States and the various foreign claimants in the event of an emergency, including an attack on the United States.

(5) Plan for and administer priorities and allocations authority delegated to the Department of Defense. Authorize procurement and production schedules and make allotments of controlled materials pursuant to program determinations of the Office of Emergency Preparedness.

(6) Assist the Department of Commerce and other appropriate agencies in the development of the production and distribution controls plans for use in any period of emergency.

(7) Develop with industry, plans for the procurement and production of selected military equipment and supplies needed to fulfill emergency requirements, making maximum use of plants in dispersed locations, and, where essential and appropriate, providing for alternative sources of supply in order to minimize the effects of enemy attack.

(8) Develop with industry, plans and programs for minimizing the effect of attack damage to plants producing major items of military equipment and supply.

(9) Recommend to the Office of Emergency Preparedness measures for overcoming potential deficiencies in production capacity to produce selected military supplies and equipment needed to fulfill emergency requirements, when necessary measures cannot be effected by the Department of Defense.

(10) Furnish information and recommendations, when requested by the Office of Emergency Preparedness, for purposes of processing applications for defense loans under Title III of the Defense Production Act of 1950, as amended [sections 2091-2094 of this Appendix].

(11) Furnish advice and assistance on the utilization of strategic and critical materials in defense production, including changes that occur from time to time.

(12) Analyze problems that may arise in maintaining an adequate mobilization production base in military-product industries and take necessary actions to overcome these

problems within the limits of the authority and funds available to the Department of Defense.

(13) Assist the Secretary of Commerce with respect to the identification and evaluation of facilities important to the national defense.

(14) Advise and assist the Office of Emergency Preparedness in the development and review of standards for the strategic location and physical security of industries, services, government, and other activities for which continuing operation is essential to national security, and exercise physical security cognizance over the facilities assigned to him for such purpose.

(15) Develop and operate damage assessment systems and assist the Office of Emergency Preparedness and other departments and agencies in their responsibilities as stated in Section 3002(2); participate with the Office of Emergency Preparedness in the preparation of estimates of potential damage from enemy attack.

(16) Advise and assist the Office of Emergency Preparedness in the development of over-all manpower policies to be instituted in the event of an emergency, including an attack on the United States, including the provision of information relating to the size and composition of the Armed Forces.

(17) Advise on existing communications facilities and furnish military requirements for commercial communications facilities and services in planning for and in event of an emergency, including an attack on the United States.

(18) Furnish military requirements for all forms of transportation and transportation facilities in planning for and in the event of emergency, including an attack upon the United States.

(19) Assist the Office of Emergency Preparedness in preparation of legislative programs and plans for coordinating nonmilitary support of emergency preparedness programs.

(20) Develop plans and procedures for the Department of Defense utilization of nonindustrial facilities in the event of an emergency in order to reduce requirements for new construction and to provide facilities in a minimum period of time.

(21) Advise and assist the Office of Emergency Preparedness in (1) determining what key foreign facilities and operating rights thereto are important to the security of the United States, and (2) obtaining through appropriate channels protection against sabotage.

(22) Develop plans and procedures to carry out Department of Defense responsibilities stated in the National Censorship Agreement between the Department of Defense and the Office of Emergency Preparedness.

(23) Advise and assist the Department of State in planning for the evacuation of dependents from overseas areas.

United States teachers and administrators in the overseas dependents schools, and such other United States citizens as may be working in United States schools overseas.

(24) Develop plans for implementation of approved Department of State/Department of Defense policies and procedures for the protection and evacuation of United States citizens and certain designated aliens abroad.

(25) Develop plans and procedures for the provision of logistical support to members of foreign forces, their employees and dependents as may be present in the United States under the terms of bilateral or multilateral agreements which authorize such support in the event of a national emergency.

(26) Develop with the Department of Transportation and Federal Communications Commission plans and programs for the control of air traffic, civil and military, during an emergency.

(27) Develop with the Federal Communications Commission and the Office of Telecommunications Policy (35 F.R. 6421) plans and programs for the emergency control of all devices capable of emitting electromagnetic radiation.

PART 5.—DEPARTMENT OF JUSTICE

SECTION 501. *Functions.* The Attorney General shall perform the following emergency preparedness functions:

(1) *Emergency documents and measures.* Provide advice, as appropriate, with respect to any emergency directive or procedure prepared by a department or agency as a part of its emergency preparedness function.

(2) *Industry support.* As appropriate, review the legal procedures developed by the Federal agencies concerned to be instituted if it becomes necessary for the Government to institute extraordinary measures with respect to vital production facilities, public facilities, communications systems, transportation systems, or other facility, system, or service essential to national survival.

(3) *Judicial and legislative liaison.* In cooperation with the Office of Emergency Preparedness, maintain liaison with Federal courts and with the Congress so there will be mutual understanding of Federal emergency plans involving law enforcement and the exercise of legal powers during emergencies of various magnitudes.

(4) *Legal advice.* Develop emergency plans for providing legal advice to the President, the Cabinet, and the heads of Executive departments and agencies wherever they may be located in an emergency, and provide emergency procedures for the review as to form and legality of Presidential proclamations, Executive orders, directives, regulations, and documents, and of other documents requiring approval by the President or by the Attorney General which may be issued by authorized officers after an armed attack.

(5) *Alien control and control of entry and departure.* Develop emergency plans for the control of alien enemies and other aliens within the United States and, in consultation with the Department of State and Department of the Treasury, develop emergency plans for the control of persons attempting to enter or leave the United States. These plans shall specifically include provisions for the following:

(a) The location, restraint, or custody of alien enemies.
 (b) Temporary detention of alien enemies and other persons attempting to enter the United States pending determination of their admissibility.

(c) Apprehension of deserting alien crewmen and stow-aways.

(d) Investigation and control of aliens admitted as contract laborers.

(e) Control of persons entering or departing from the United States at designated ports of entry.

(f) Increased surveillance of the borders to preclude prohibited crossings by persons.

(6) *Alien property.* Develop emergency plans, in consultation with the Department of State, for the seizure and administration of property of alien enemies under provisions of the Trading with the Enemy Act [section 1 et seq. of this Appendix].

(7) *Security standards.* In consultation with the Department of Defense and with other executive agencies, to the extent appropriate, prepare plans for adjustment of security standards governing the employment of Federal personnel and Federal contractors in an emergency.

(8) *Drug control.* Develop emergency plans and procedures for the administration of laws governing the import, manufacture, and distribution of narcotics. Consult with and render all possible aid and assistance to the Office of Emergency Preparedness, the Department of Health, Education, and Welfare, and the General Services Administration in the allocation, distribution, and, if necessary, the replenishment of Government stockpiles of narcotic drugs.

SEC. 502. *Civil defense functions.* In consonance with national civil defense programs developed by the Department of Defense, the Attorney General shall:

(1) *Local law enforcement.* Upon request, consult with and assist the Department of Defense to plan, develop, and distribute materials for use in the instruction and training of law enforcement personnel for civil defense emergency operations; develop and carry out a national plan for civil defense instruction and training for enforcement officers, designed to utilize to the maximum extent practicable the resources and facilities of existing Federal, State, and local police schools, academies, and other appropriate institutions of learning; and assist the States in preparing for the conduct of intrastate and interstate law

enforcement operations to meet the extraordinary needs that would exist for emergency police services under conditions of attack or imminent attack.

(2) *Penal and correctional institutions.* Develop emergency plans and procedures for the custody and protection of prisoners and the use of Federal penal and correctional institutional resources, when available, for cooperation with local authorities in connection with mass feeding and housing, for the storage of standby emergency equipment, for the emergency use of prison hospitals and laboratory facilities, for the continued availability of prison-industry products, and, in coordination with the Department of Labor, for the development of Federal prisoner skills to appropriately augment the total supply of manpower, advise States and their political subdivisions regarding the use of State and local prisons, jails, and prisoners for the purpose of relieving local situations and conditions arising from a state of emergency.

(3) *Identification and location of persons.* Develop emergency plans and procedures for the use of the facilities and personnel of the Department of Justice in assisting the Department of Health, Education, and Welfare with the development of plans and procedures for the identification of the dead and the reuniting of families during a civil defense emergency.

PART 6—POST OFFICE DEPARTMENT

SECTION 601. *Functions.* The Postmaster General shall prepare plans and programs for emergency mail service and shall cooperate with indicated Federal agencies, in accordance with existing agreements or directives, in the following national emergency programs:

(1) *Registering of persons.* Assist the Department of Health, Education, and Welfare in planning a national program and developing technical guidance for States, and directing Post Office activities concerned with registering persons and families for the purpose of receiving and answering welfare inquiries and reuniting families in civil defense emergencies. The program shall include procurement, transportation, storage, and distribution of safety notification and emergency change of address cards in quantities and localities jointly determined by the Department of Defense and the Post Office Department.

(2) *Other emergency programs.* (a) Censorship of international mails. (Department of Defense; Department of the Treasury; Office of Emergency Preparedness)

(b) Provision for emergency mail service to Federal agencies at both regular and emergency sites. (General Services Administration)

(c) Emergency registration of Federal employees. (Civil Service Commission)

- (d) Emergency leasing of space for Federal agencies. (General Services Administration)
- (e) Registration of enemy aliens. (Department of Justice)

PART 7—DEPARTMENT OF THE INTERIOR

SECTION 701. *Résumé of responsibilities.* The Secretary of the Interior shall prepare national emergency plans and develop preparedness programs covering (1) electric power; (2) petroleum and gas; (3) solid fuels; (4) minerals; and (5) water, as defined in Section 702 of this part.

SEC. 702. *Definitions.* As used in this part:

(1) "Electric power" means all forms of electric power and energy, including the generation, transmission, distribution, and utilization thereof.

(2) "Petroleum" means crude oil and synthetic liquid fuel, their products, and associated hydrocarbons, including pipelines for their movement and facilities specially designed for their storage.

(3) "Gas" means natural gas (including helium) and manufactured gas, including pipelines for their movement and facilities specially designed for their storage.

(4) "Solid fuels" means all forms of anthracite, bituminous, sub-bituminous, and lignitic coals, coke, and coal chemicals produced in the coke-making process.

(5) "Minerals" means all raw materials of mineral origin (except petroleum, gas, solid fuels, and source materials as defined in the Atomic Energy Act of 1954, as amended) [section 2011 et seq. of Title 42, The Public Health and Welfare] obtained by mining and like operations and processed through the stages specified and at the facilities designated in an agreement between the Secretary of the Interior and the Secretary of Commerce as being within the emergency preparedness responsibilities of the Secretary of the Interior.

(6) "Water" means water from all sources except water after its withdrawal into a community system, or an emergency system for treatment, storage, and distribution for public use.

SEC. 703. *Resource functions.* With respect to the resources defined in Section 702, the Secretary of the Interior shall:

(1) *Mineral development.* Develop programs and encourage the exploration, development, and mining of strategic and critical minerals for emergency purposes.

(2) *Production.* Provide guidance and leadership to assigned industries in the development of plans and programs to insure the continuity of production in the event of an attack, and cooperate with the Department of Commerce in the identification and evaluation of essential facilities.

(3) *Water.* Develop plans with respect to water, including plans for the treatment and disposal, after use, of water

after its withdrawal into a community system or an emergency system for treatment, storage, and distribution for public use. In developing any plans relating to water for use on farms and in food facilities, assure that those plans are in consonance with plans and programs of the Department of Agriculture.

(4) *Electric power and natural gas.* In preparedness planning for electric power and natural gas, the Federal Power Commission shall assist the Secretary of the Interior as set forth in Section 1901 of this order.

PART 8—DEPARTMENT OF AGRICULTURE

SECTION 801. *Résumé of responsibilities.* The Secretary of Agriculture shall prepare national emergency plans and develop preparedness programs covering: (1) food resources, farm equipment, fertilizer, and food resource facilities as defined below; (2) lands under the jurisdiction of the Secretary of Agriculture; (3) rural fire control; (4) defense against biological and chemical warfare and radiological fallout pertaining to agricultural activities; and (5) rural defense information and education.

SEC. 802. *Definitions.* As used in this part:

(1) "Food resources" means all commodities and products, simple, mixed, or compound, or complements to such commodities or products, that are capable of being eaten or drunk, by either human beings or animals, irrespective of other uses to which such commodities or products may be put, at all stages of processing from the raw commodity to the products thereof in vendible form for human or animal consumption. For the purposes of this order, the term "food resources" shall also include all starches, sugars, vegetable and animal fats and oils, cotton, tobacco, wool, mohair, hemp, flax fiber, and naval stores, but shall not include any such material after it loses its identity as an agricultural commodity or agricultural product.

(2) "Farm equipment" means machinery, equipment, and repair parts manufactured primarily for use on farms in connection with the production or preparation for market or use of "food resources".

(3) "Fertilizer" means any product or combination of products for plant nutrition in form for distribution to the users thereof.

(4) "Food resource facilities" means plants, machinery, vehicles (including on farm), and other facilities (including farm housing) for the production, processing, distribution, and storage (including cold storage) of food resources, and for domestic distribution of farm equipment and fertilizer.

SEC. 803. *Functions.* With respect to food resources, food resource facilities, lands under the jurisdiction of the Secretary, farm equipment, and fertilizer, the Secretary of Agriculture shall:

(1) *Production, processing, storage, and distribution.* Develop plans for priorities, allocations, and distribution control systems and related plans, including control of use of facilities designed to provide adequate and continuing production, processing, storage, and distribution of essential food resources in an emergency, and to provide for the domestic distribution of farm equipment and fertilizer.

(2) *Stockpiles.* In addition to the food stockpile functions identified in Executive Order No. 10958 [set out as a note under section 2271 of this Appendix], take all possible measures in the administration of Commodity Credit Corporation inventories of food resources to assure the availability of such inventories when and where needed in an emergency. The Secretary shall also develop plans and procedures for the proper utilization of agricultural items stockpiled for survival purposes.

(3) *Land management.* Develop plans and direct activities for the emergency protection, management, and utilization of the lands, resources, and installations under the jurisdiction of the Secretary of Agriculture and assist in the development of plans for the emergency operation, production, and processing of forest products in cooperation with other Federal, State, and private agencies.

SEC. 804. *Civil defense functions.* In consonance with national civil defense programs developed by the Department of Defense, the Secretary of Agriculture shall:

(1) *Rural fire defense.* In cooperation with Federal, State, and local agencies, develop plans for a national program and direct activities relating to the prevention and control of fires in the rural areas of the United States caused by the effects of enemy attack.

(2) *Biological, chemical, and radiological warfare defense.* Develop plans for a national program, direct Federal activities, and furnish technical guidance to State and local authorities concerning (a) diagnosis and strengthening of defensive barriers and control or eradication of diseases, pests, or chemicals introduced as agents of biological or chemical warfare against animals, crops, or products thereof; (b) protective measures, treatment, and handling of livestock, including poultry, agricultural commodities on farms or ranches, agricultural lands, forest lands, and water for agricultural purposes, any of which have been exposed to or affected by radiation. Plans shall be developed for a national program and direction of Federal activities to assure the safety and wholesomeness and to minimize losses from biological and chemical warfare, radiological effects, and other emergency hazards of livestock, meat and meat products, poultry and poultry products in establishments under the continuous inspection of the Department of Agriculture, and agricultural commodities and products owned by the Commodity Credit Corporation or by the Department of Agriculture.

(3) *Defense information and education.* Conduct a defense information and education program in support of the Department's emergency responsibilities.

PART 9—DEPARTMENT OF COMMERCE

SECTION 901. *Résumé of responsibilities.* The Secretary of Commerce shall prepare national emergency plans and develop preparedness programs covering:

(1) The production and distribution of all materials, the use of all production facilities (except those owned by, controlled by, or under the jurisdiction of the Department of Defense or the Atomic Energy Commission), the control of all construction materials, and the furnishing of basic industrial services except those involving the following:

(a) Production and distribution of and use of facilities for petroleum, solid fuels, gas, electric power, and water:

(b) Production, processing, distribution, and storage of food resources and the use of food resource facilities for such production, processing, distribution, and storage:

(c) Domestic distribution of farm equipment and fertilizer;

(d) Use of communications services and facilities, housing and lodging facilities, and health, education, and welfare facilities;

(e) Production, and related distribution, of minerals as defined in Subsection 702(5), and source materials as defined in the Atomic Energy Act of 1954, as amended [section 2011 et seq. of Title 42, The Public Health and Welfare]; and the construction and use of facilities designated as within the responsibilities of the Secretary of the Interior;

(f) Distribution of items in the supply systems of, or controlled by, the Department of Defense and the Atomic Energy Commission;

(g) Construction, use and management of civil aviation facilities; and

(h) Construction and use of highways, streets, and appurtenant structures.

(2) Federal emergency operational control responsibilities with respect to ocean shipping, ports, and port facilities, except those owned by, controlled by, or under the jurisdiction of the Department of Defense, and except those responsibilities of the Department of the Treasury with respect to the entrance and clearance of vessels. The following definitions apply to this part:

(a) "Ocean shipping" includes all overseas, coastwise, intercoastal, and Great Lakes shipping except that solely engaged in the transportation of passengers and cargo between United States ports on the Great Lakes.

(b) "Port" or "port area" includes any zone contiguous to or associated in the traffic network of an ocean or Great

Lakes port, or outport location, including beach loading sites, within which facilities exist for transshipment of persons and property between domestic carriers and carriers engaged in coastal, intercoastal, and overseas transportation.

(c) "Port facilities" includes all port facilities, port equipment including harbor craft, and port services normally used in accomplishing the transfer or interchange of cargo and passengers between ocean-going vessels and other media of transportation, or in connection therewith (including the Great Lakes).

(3) Scientific and technological services and functions, essential to emergency preparedness plans, programs, and operations of the Federal departments and agencies, in which the department of Commerce has the capability, including, but not limited to:

(a) Meteorological and related services;

(b) Preparation, reproduction, and distribution of nautical and aeronautical charts, geodetic, hydrographic, and oceanographic data, and allied services for nonmilitary purposes;

(c) Standards of measurement and supporting services; and,

(d) Research, development, testing, evaluation, application, and associated services and activities in the various fields and disciplines of science and technology in which the Department has special competence.

(4) Collection, compilation, and reporting of census information and the provision of statistical and related services, as required, for emergency planning and operations.

(5) Regulation and control of exports and imports, under the jurisdiction of the Department of Commerce, in support of national security, foreign policy, and economic stabilization objectives.

(6) Regulation and control of transfers of capital to, and reinvestment of earnings of, affiliated foreign nationals pursuant to authority conferred by Executive Order No. 11387 of January 1, 1968 [set out as a note under section 95a of Title 12, Banks and Banking].

SEC. 902. *Production functions.* Within the areas designated in section 901(1) hereof, the Secretary of Commerce shall:

(1) *Priorities and allocations.* Develop control systems for priorities, allocation, production, and distribution, including provisions for other Federal departments and agencies, as appropriate, to serve as allotting agents for materials and other resources made available under such systems for designated programs and the construction and operation of facilities assigned to them.

(2) *New construction.* Develop procedures by which new production facility construction proposals will be reviewed for appropriate location in light of such area factors as

locational security, availability of labor, water, power, housing, and other support requirements.

(3) *Industry evaluation.* Identify and evaluate the national security essentiality of those products and services, and their producing or supporting facilities, which are of exceptional importance to mobilization readiness, national defense, or post-attack survival and recovery.

(4) *Production capability.* Analyze potential effects of attack on actual production capability, taking into account the entire production complex, including shortages of resources, and conduct studies as a basis for recommending pre-attack measures that would strengthen capabilities for post-attack production.

(5) *Loans for plant modernization.* Develop plans, in coordination with the Small Business Administration, for providing emergency assistance to essential small business establishments through direct loans or participation loans for the financing of production facilities and equipment.

SEC. 903. *Maritime functions.* Within the areas designated in section 901(2) of this part, the Secretary of Commerce shall develop plans and procedures in consonance with international treaties, under coordinating authority of the Secretary of Transportation and in cooperation with other appropriate Federal agencies and the States and their political subdivisions, to provide for Federal operational control of ocean ports and shipping, including:

(1) *Shipping allocation.* Allocation of specific ocean shipping to meet the national requirements, including those for military, foreign assistance, emergency procurement programs, and those essential to the civilian economy.

(2) *Ship acquisition.* Provision of ships for ocean shipping by purchase, charter, or requisition, by breakout from the national defense reserve fleet, and by construction.

(3) *Operations.* Operation of ocean shipping, directly or indirectly.

(4) *Traffic control.* Provisions for the control of passengers and cargo through port areas to assure an orderly and continuous flow of such traffic.

(5) *Traffic priority.* Administration of priorities for the movement of passengers and cargo through port areas.

(6) *Port allocation.* Allocation of specific ports and port facilities to meet the needs of the Nation and our allies.

(7) *Support activities.* Performance of supporting activities needed to carry out the above-described functions, such as: ascertaining national support requirements for ocean shipping, including those for support of military and other Federal programs and those essential to the civil economy; maintenance, repair and arming of ships; recruiting, training, and assigning of officers and seamen; procurement, warehousing, and issuance of ships' stores, supplies, equipment, and spare parts; supervision of stevedoring and bunkering; management of terminals, shipyards,

repair, and other facilities; and provision, maintenance, and restoration of port facilities.

SEC. 904. *Census functions.* Within the area designated in section 901(4) hereof, the Secretary of Commerce shall:

(1) Provide for the collection and reporting of census information on the status of human and economic resources, including population, housing, agriculture, manufacture, mineral industries, business, transportation, foreign trade, construction, and governments, as required for emergency planning purposes.

(2) Plan, create, and maintain a capability for the conduct of post-attack surveys to provide information on the status of surviving populations and resources as required for the programs of the Office of Emergency Preparedness.

(3) Provide for and maintain the ability to make estimates of attack effects on industry, population, and other resources for use within the Department of Commerce.

SEC. 905. *Civil defense functions.* In consonance with national civil defense programs developed by the Department of Defense, the Secretary of Commerce shall:

(1) *Weather functions.* Prepare and issue currently, as well as in an emergency, forecasts and estimates of areas likely to be covered by radiological fallout in event of attack and make this information available to Federal, State, and local authorities for public dissemination.

(2) *Geodetic, hydrographic, and oceanographic data.* Provide geodetic, hydrographic, and oceanographic data and services to the Department of Defense and other governmental agencies, as appropriate.

PART 10—DEPARTMENT OF LABOR

SECTION 1001. *Résumé of Responsibilities.* The Secretary of Labor shall have primary responsibility for preparing national emergency plans and developing preparedness programs covering civilian manpower mobilization, more effective utilization of limited manpower resources, including specialized personnel, wage and salary stabilization, worker incentives and protection, manpower resources and requirements, skill development and training, research, labor-management relations, and critical occupations.

SEC. 1002. *Functions.* The Secretary of Labor shall:

(1) *Civilian manpower mobilization.* Develop plans and issue guidance designed to utilize to the maximum extent civilian manpower resources, such plans and guidance to be developed with the active participation and assistance of the States and local political subdivisions thereof, and of other organizations and agencies concerned with the mobilization of the people of the United States. Such plans shall include, but not necessarily be limited to:

(a) *Manpower management.* Recruitment, selection and referral, training, employment stabilization (including appeals procedures), proper utilization, and determination of the skill categories critical to meeting the labor requirements of defense and essential civilian activities;

(b) *Priorities.* Procedures for translating survival and production urgencies into manpower priorities to be used as guides for allocating available workers; and

(c) *Improving mobilization base.* Programs for more effective utilization of limited manpower resources, and, in cooperation with other appropriate agencies, programs for recruitment, training, allocation, and utilization of persons possessing specialized competence or aptitude in acquiring such competence.

(2) *Wage and salary stabilization.* Develop plans and procedures for wage and salary stabilization and for the national and field organization necessary for the administration of such a program in an emergency, including investigation, compliance, and appeals procedures; statistical studies of wages, salaries, and prices for policy decisions and to assist operating stabilization agencies to carry out their functions.

(3) *Worker incentives and protection.* Develop plans and procedures for wage and salary compensation and death and disability compensation for authorized civil defense workers and, as appropriate, measures for unemployment payments, re-employment rights, and occupational safety, and other protection and incentives for the civilian labor force during an emergency.

(4) *Skill development and training.* Initiate current action programs to overcome or offset present or anticipated manpower deficiencies, including those identified as a result of resource and requirement studies.

(5) *Labor-management relations.* Develop, after consultation with the Department of Commerce, the Department of Transportation, the Department of Defense, the National Labor Relations Board, the Federal Mediation and Conciliation Service, the National Mediation Board, and other appropriate agencies and groups, including representatives of labor and management, plans and procedures, including organization plans for the maintenance of effective labor-management relations during a national emergency.

PART 11—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SECTION 1101. *Résumé of responsibilities.* In addition to the medical stockpile functions identified in Executive Order No. 10958 [set out as a note under section 2271 of this Appendix], the Secretary of Health, Education, and Welfare shall prepare national emergency plans and develop preparedness programs covering health services, civilian health manpower, health resources, welfare services, so-

cial security benefits, credit union operations, and educational programs as defined below.

SEC. 1102. *Definitions.* As used in this part:

(1) "Emergency health services" means medical and dental care for the civilian population in all of their specialties and adjunct therapeutic fields, and the planning, provision, and operation of first aid stations, hospitals, and clinics; preventive health services, including detection, identification and control of communicable diseases, their vectors, and other public health hazards, inspection and control of purity and safety of food, drugs, and biologicals; vital statistics services; rehabilitation and related services for disabled survivors; preventive and curative care related to human exposure to radiological, chemical, and biological warfare agents; sanitary aspects of disposal of the dead; food and milk sanitation; community solid waste disposal; emergency public water supply; and the determination of the health significance of water pollution and the provision of other services pertaining to health aspects of water use and waterborne wastes as set forth in an agreement between the Secretary of Health, Education, and Welfare and the Secretary of the Interior, approved by the President, pursuant to Reorganization Plan No. 2 of 1966 [set out by the Appendix to Title 5, Government Organization and Employees], which plan placed upon the Secretary of the Interior responsibilities for the prevention and control of water pollution. It shall be understood that health services for the purposes of this order, however, do not encompass the following areas for which the Department of Agriculture has responsibility: plant and animal diseases and pest prevention, control, and eradication, wholesomeness of meat and meat products, and poultry and poultry products in establishments under continuous inspection service by the Department of Agriculture, veterinary biologicals, agricultural commodities and products owned by the Commodity Credit Corporation or the Secretary of Agriculture, livestock, agricultural commodities stored or harvestable on farms and ranches, agricultural lands and water, and registration of pesticides.

(2) "Health manpower" means physicians (including osteopaths); dentists; sanitary engineers; registered professional nurses; and such other occupations as may be included in the List of Health Manpower Occupations issued for the purposes of this part by the Director of the Office of Emergency Preparedness after agreement by the Secretary of Labor and the Secretary of Health, Education, and Welfare.

(3) "Health resources" means manpower, material, and facilities required to prevent the impairment of, improve, and restore the physical and mental health conditions of the civilian population.

(4) "Emergency welfare services" means feeding; clothing; lodging in private and congregate facilities; registration; locating and reuniting families; care of unaccompanied children, the aged, the handicapped, and other groups needing specialized care or services; necessary financial or other assistance; counseling and referral services to families and individuals; aid to welfare institutions under national emergency or post-attack conditions; and all other feasible welfare aid and services to people in need during a civil defense emergency. Such measures include organization, direction, and provision of services to be instituted before attack, in the event of strategic or tactical evacuation, and after attack in the event of evacuation or of refuge in shelters.

(5) "Social security benefits" means the determination of entitlement and the payment of monthly insurance benefits to those eligible, such as workers who have retired because of age or disability and to their dependent wives and children, and to the eligible survivors of deceased workers. It also includes determinations of eligibility and payments made on behalf of eligible individuals to hospitals, home health agencies, extended care facilities, physicians, and other providers of medical services.

(6) "Credit union operations" means the functions of any credit union, chartered either by a State or the Federal Government, in stimulating systematic savings by members, the investment and protection of those savings, providing loans for credit union members at reasonable rates, and encouraging sound credit and thrift practices among credit union members.

(7) "Education" or "training" means the organized process of learning by study and instruction primarily through public and private systems.

SEC. 1103. *Health functions.* With respect to emergency health services, as defined above, and in consonance with national civil defense plans, programs, and operation of the Department of Defense under Executive Order No. 10952 [set out as a note under section 2271 of this Appendix], the Secretary of Health, Education, and Welfare shall:

(1) *Professional training.* Develop and direct a nationwide program to train health manpower both in professional and technical occupational content and in civil defense knowledge and skills. Develop and distribute health education material for inclusion in the curricula of schools, colleges, professional schools, government schools, and other educational facilities throughout the United States. Develop and distribute civil defense information relative to health services to States, voluntary agencies, and professional groups.

(2) *Emergency public water supply.* Prepare plans to assure the provision of usable water supplies for human con-

sumption and other essential community uses in an emergency. This shall include inventorying existing community water supplies, planning for other alternative sources of water for emergency uses, setting standards relating to human consumption, and planning community distribution. In carrying on these activities, the Department shall have primary responsibility but will make maximum use of the resources and competence of State and local authorities, the Department of the Interior, and other Federal agencies.

(3) *Radiation.* Develop and coordinate programs of radiation measurement and assessment as may be necessary to carry out the responsibilities involved in the provision of emergency health services.

(4) *Biological and chemical warfare.* Develop and coordinate programs for the prevention, detection, and identification of human exposure to chemical and biological warfare agents as may be necessary to carry out the responsibilities involved in the provision of emergency health services, including the provision of guidance and consultation to Federal, State, and local authorities on measures for minimizing the effects of biological or chemical warfare.

(5) *Food, drugs, and biologicals.* Plan and direct national programs for the maintenance of purity and safety in the manufacture and distribution of food, drugs, and biologicals in an emergency.

(6) *Disabled survivors.* Prepare national plans for emergency operations of vocational rehabilitation and related agencies, and for measures and resources necessary to rehabilitate and make available for employment those disabled persons among the surviving population.

SEC. 1104. *Welfare functions.* With respect to emergency welfare services as defined above, and in consonance with national civil defense plans, programs, and operations of the Department of Defense under Executive Order No. 10952 [set out as a note under section 2271 of this Appendix], the Secretary of Health, Education, and Welfare shall:

(1) *Federal support.* Cooperate in the development of Federal support procedures, through joint planning with other departments and agencies, including but not limited to the Post Office Department, the Department of Labor, and the Selective Service System, the Department of Housing and Urban Development, and resource agencies, including the Department of Agriculture, the Department of the Interior, and the Department of Commerce, for logistic support of State and community welfare services in an emergency.

(2) *Emergency welfare training.* Develop and direct a nationwide program to train emergency welfare manpower for the execution of the functions set forth in this part, develop welfare educational materials, including self-help program materials for use with welfare organizations and

professional schools, and develop and distribute civil defense information relative to emergency welfare services to States, voluntary agencies, and professional groups.

(3) *Financial aid.* Develop plans and procedures for financial assistance to individuals injured or in want as a result of enemy attack and for welfare institutions in need of such assistance in an emergency.

(4) *Non-combatant evacuees to the Continental United States.* Develop plans and procedures for assistance, at ports of entry to U.S. personnel evacuated from overseas areas, their onward movement to final destination, and follow-up assistance after arrival at final destination.

SEC. 1105. *Social security functions.* With respect to social security, the Secretary of Health, Education, and Welfare shall:

(1) *Social security benefits.* Develop plans for the continuation or restoration of benefit payments to those on the insurance rolls as soon as possible after a direct attack upon the United States, and prepare plans for the acceptance and disposition of current claims for social security benefits.

(2) *Health insurance.* Develop plans for the payment of health insurance claims for reimbursement for items or services provided by hospitals, physicians, and other providers of medical services submitted by or on behalf of individuals who are eligible under the Medicare program [section 1395 et seq. of Title 42, The Public Health and Welfare].

SEC. 1106. *Credit union functions.* With respect to credit union functions, the Secretary of Health, Education, and Welfare shall:

(1) *Credit union operations.* Provide instructions to all State and Federally chartered credit unions for the development of emergency plans to be put into effect as soon as possible after an attack upon the United States in order to guarantee continuity of credit union operations.

(2) *Economic stabilization.* Provide guidance to credit unions that will contribute to stabilization of the Nation's economy by helping to establish and maintain a sound economic base for combating inflation, maintaining confidence in public and private financial institutions, and promoting thrift.

SEC. 1107. *Education functions.* With respect to education, the Secretary of Health, Education, and Welfare shall:

(1) *Program guidance.* Develop plans and issue guidance for the continued functions of educational systems under all conditions of national emergency. Although extraordinary circumstances may require the temporary suspension of education, plans should provide for its earliest possible resumption.

(2) *Educational adjustment.* Plan to assist civilian educational institutions, both public and private, to adjust to

demands laid upon them by a large expansion of government activities during any type of emergency. This includes advice and assistance to schools, colleges, universities, and other educational institutions whose facilities may be temporarily needed for Federal, State, or local government programs in an emergency or whose faculties and student bodies may be affected by the demands of a sudden or long-standing emergency.

(3) *Post-attack recovery.* Develop plans for the rapid restoration and resumption of education at all levels after an attack. This includes assistance to educators and educational institutions to locate and use surviving facilities, equipment, supplies, books, and educational personnel. Particular emphasis shall be given to the role of educational institutions and educational leadership in reviving education and training in skills needed for post-attack recovery.

(4) *Civil defense education.* In consonance with national civil defense plans, programs, and operations of the Department of Defense, develop and issue instructional materials to assist schools, colleges, and other educational institutions to incorporate emergency protective measures and civil defense concepts into their programs. This includes assistance to various levels of education to develop an understanding of the role of the individual, family, and community for civil defense in the nuclear age.

PART 12—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SECTION 1201. *Résumé of responsibilities.* The Secretary of Housing and Urban Development shall prepare national emergency plans and develop preparedness programs covering all aspects of housing, community facilities related to housing and urban development (except that housing assets under the jurisdiction and control of the Department of Defense, other than those leased for terms not in excess of one year, shall be and remain the responsibility of the Department of Defense).

SEC. 1202. *Definition.* As used in this part:

(1) "Emergency housing" means any and all types of accommodations used as dwellings in an emergency.

(2) "Community facilities related to housing" means installations necessary to furnish water, sewer, electric, and gas services between the housing unit or project and the nearest practical source or servicing point.

(3) "Urban development" means the building or restoration of urban community, suburban, and metropolitan areas (except transportation facilities).

SEC. 1203. *Housing and community facilities functions.* The Secretary of Housing and Urban development shall:

(1) *New housing.* Develop plans for the emergency construction and management of new housing and the com-

munity facilities related thereto to the extent that it is determined that it may be necessary to provide for such construction and management with public funds and through direct Federal action, and to the extent that such construction of new housing may have to be provided through Federal financial or credit assistance.

(2) *Community facilities.* Develop plans to restore community facilities related to housing affected by an emergency through the repair of damage, the construction of new facilities, and the use of alternate or back-up facilities.

SEC. 1204. *Urban development functions.* The Secretary of Housing and Urban Development shall:

(1) *Regional cooperation.* Encourage regional emergency planning and cooperation among State and local governments with respect to problems of housing and metropolitan development.

(2) *Vulnerability and redevelopment.* In cooperation with the Office of Emergency Preparedness, develop criteria and provide guidance for the design and location of housing and community facilities related to housing to minimize the risk of loss under various emergency situations. Develop criteria for determining which areas should be redeveloped in the event of loss or severe damage resulting from emergencies.

SEC. 1205. *Civil defense functions.* In consonance with national civil defense plans, programs, and operations of the Department of Defense under Executive Order No. 10952 [set out as a note under section 2271 of this Appendix], the Secretary of Housing and Urban Development shall:

(1) *Transitional activities.* Develop plans for the orderly transfer of people from fallout shelters and from billets to temporary or permanent housing, including advice and guidance for State and local government agencies in the administration thereof. These plans shall be coordinated with national plans and guidance for emergency welfare services of the Department of Health, Education, and Welfare.

(2) *Temporary housing.* Develop plans for the emergency repair and restoration for use of damaged housing, for the construction and management of emergency housing units and the community facilities related thereto, for the emergency use of tents and trailers, and for the emergency conversion for dwelling use of non-residential structures, such activities to be financed with public funds through direct Federal action or through financial or credit assistance.

(3) *Shelter.* In conformity with national shelter policy, assist in the development of plans to encourage the construction of shelters for both old and new housing, and develop administrative procedures to encourage the use of low-cost design and construction techniques to maximize protection in connection with national programs.

PART 13—DEPARTMENT OF TRANSPORTATION

SECTION 1301. *Résumé of responsibilities.* The Secretary of Transportation, in carrying out his responsibilities to exercise leadership in transportation matters affecting the national defense and those involving national or regional transportation emergencies, shall prepare emergency plans and develop preparedness programs covering:

(1) Preparation and promulgation of over-all national policies, plans, and procedures related to providing civil transportation of all forms—air, ground, water, and pipelines, including public storage and warehousing (except storage of petroleum and gas and agricultural food resources including cold storage): Provided that plans for the movement of petroleum and natural gas through pipelines shall be the responsibility of the Secretary of the Interior except to the extent that such plans are a part of functions vested in the Secretary of Transportation by law;

(2) Movement of passengers and materials of all types by all forms of civil transportation;

(3) Determination of the proper apportionment and allocation for control of the total civil transportation capacity, or any portion thereof, to meet over-all essential civil and military needs;

(4) Determination and identification of the transportation resources available and required to meet all degrees of national emergencies and regional transportation emergencies;

(5) Assistance to the various States, the local political subdivisions thereof, and non-governmental organizations and systems engaged in transportation activities in the preparation of emergency plans;

(6) Rehabilitation and recovery of the Nation's transportation systems; and

(7) Provisions for port security and safety, for aids to maritime navigation, and for search and rescue and law enforcement over, upon, and under the navigable waters of the United States and the high seas.

SEC. 1302. *Transportation planning and coordination functions.* In carrying out the provisions of Section 1301, the Secretary of Transportation, with assistance and support of other Federal, State and local governmental agencies, and the transport industries, as appropriate, shall:

(1) Obtain, assemble, analyze, and evaluate data on current and projected emergency requirements of all claimants for all forms of civil transportation to meet the needs of the military and of the civil economy, and on current and projected civil transportation resources—of all forms—available to the United States to move passengers or materials in an emergency.

(2) Develop plans and procedures to provide—under emergency conditions—for the collection and analysis of passenger and cargo movement demands as they relate to

the capabilities of the various forms of transport, including the periodic assessment of over-all transport resources available to meet emergency requirements.

(3) Conduct a continuing analysis of transportation requirements and capabilities in relation to economic projections for the purpose of initiating actions and/or recommending incentive and/or regulatory programs designed to stimulate government and industry improvement of the structure of the transportation system for use in an emergency.

(4) Develop systems for the control of the movement of passengers and cargo by all forms of transportation, except for those resources owned by, controlled by, or under the jurisdiction of the Department of Defense, including allocation of resources and assignment of priorities, and develop policies, standards, and procedures for emergency enforcement of these controls.

SEC. 1303. *Departmental emergency transportation preparedness.* Except for those resources owned by, controlled by, or under the jurisdiction of the Department of Defense, the Secretary of Transportation shall prepare emergency operational plans and programs for, and develop a capability to carry out, the transportation operating responsibilities assigned to the Department, including but not limited to:

(1) Allocating air carrier civil air transportation capacity and equipment to meet civil and military requirements.

(2) Emergency management, including construction, reconstruction, and maintenance of the Nation's civil airports, civil aviation operating facilities, civil aviation services, and civil aircraft (other than air carrier aircraft), except manufacturing facilities.

(3) Emergency management of all Federal, State, city, local, and other highways, roads, streets, bridges, tunnels, and appurtenant structures, including:

(a) The adaptation, development, construction, reconstruction, and maintenance of the Nation's highways and street systems to meet emergency requirements;

(b) The protection of the traveling public by assisting State and local authorities in informing them of the dangers of travel through hazardous areas: and

(c) The regulation of highway traffic in an emergency through a national program in cooperation with all Federal, State, and local governmental units or other agencies concerned.

(4) Emergency plans for urban mass transportation, including:

(a) Providing guidance to urban communities in their emergency mass transportation planning efforts, either directly or through State, regional, or metropolitan agencies;

(b) Coordinating all such emergency planning with the Department of Housing and Urban Development to assure

compatibility with emergency plans for all other aspects of urban development;

(c) Maintaining an inventory of urban mass transportation systems.

(5) Maritime safety and law enforcement over, upon, and under the high seas and waters, subject to the jurisdiction of the United States, in the following specific programs:

(a) Safeguarding vessels, harbors, ports, and waterfront facilities from destruction, loss or injury, accidents, or other causes of a similar nature.

(b) Safe passage over, upon and under the high seas and United States waters through effective and reliable systems of aids to navigation and ocean stations.

(c) Waterborne access to ice-bound locations in furtherance of national economic, scientific, defense, and consumer needs.

(d) Protection of lives, property, natural resources, and national interests through enforcement of Federal law and timely assistance.

(e) Safety of life and property through regulation of commercial vessels, their officers and crew, and administration of maritime safety law.

(f) Knowledge of the sea, its boundaries, and its resources through collection and analysis of data in support of the national interest.

(g) Operational readiness for essential wartime functions.

(6) Planning for the emergency management and operation of the Alaska Railroad, and for the continuity of railroad and petroleum pipeline safety programs.

(7) Planning for the emergency operation and maintenance of the United States-controlled sections of the Saint Lawrence Seaway.

PART 14—ATOMIC ENERGY COMMISSION

SECTION 1401. *Functions.* The Atomic Energy Commission shall prepare national emergency plans and develop preparedness programs for the continuing conduct of atomic energy activities of the Federal Government. These plans and programs shall be designed to develop a state of readiness in these areas with respect to all conditions of national emergency, including attack upon the United States and, consistent with applicable provisions of the Atomic Energy Act of 1954, as amended [section 2011 et seq. of Title 42, The Public Health and Welfare], shall be closely coordinated with the Department of Defense and the Office of Emergency Preparedness. The Atomic Energy Commission shall:

(1) *Production.* Continue or resume in an emergency essential (a) manufacture, development, and control of nuclear weapons and equipment, except to the extent that the control over such weapons and equipment shall have

been transferred to the Department of Defense; (b) development and technology related to reactors; (c) process development and production of feed material, special nuclear materials, and other special products; (d) related raw materials procurement, processing, and development; and (e) repair, maintenance, and construction related to the above.

(2) *Regulation.* Continue or resume in an emergency (a) controlling the possession, use, transfer, import, and export of atomic materials and facilities; and (b) ordering the operation or suspension of licensed facilities, and recapturing from licensees, where necessary, special nuclear materials whether related to military support or civilian activities.

(3) *Public health and safety.* Shut down, where required, in anticipation of an imminent enemy attack on the United States, and maintain under surveillance, all Commission-owned facilities which could otherwise constitute a significant hazard to public health and safety, and insure the development of appropriate emergency plans for nuclear reactors and other nuclear activities licensed by the Commission whether privately-owned or Government-owned.

(4) *Scientific, technical, and public atomic energy information.* Organize, reproduce, and disseminate appropriate public atomic energy information and scientific and technical reports and data relating to nuclear science research, development, engineering, applications, and effects to interested Government agencies, the scientific and technical communities, and approved friendly, and cooperating foreign nations.

(5) *International atomic energy affairs.* Maintain, in consultation with the Department of State, essential liaison with foreign nations with respect to activities of mutual interest involving atomic energy.

(6) *Health services.* Assist the Department of Health, Education, and Welfare, consistent with the above requirements, in integrating into civilian health programs in an emergency the Commission's remaining health manpower and facilities not required for the performance of the Commission's essential emergency functions.

(7) *Priorities and allocations.* Plan for the administration of any priorities and allocations authority delegated to the Atomic Energy Commission. Authorize procurement and production schedules and make allotments of controlled materials pursuant to program determinations of the Office of Emergency Preparedness.

PART 15—CIVIL AERONAUTICS BOARD

SECTION 1501. *Definitions.* As used in this part:

(1) "War Air Service Program" (hereinafter referred to as WASP) means the program designed to provide for the maintenance of essential civil air routes and services,

and to provide for the distribution and redistribution of air carrier aircraft among civil air transport carriers after withdrawal of aircraft allocated to the Civil Reserve Air Fleet.

(2) "Civil Reserve Air Fleet" (hereinafter referred to as CRAF) means those air carrier aircraft allocated by the Secretary of Transportation to the Department of Defense to meet essential military needs in the event of an emergency.

SEC. 1502. *Functions.* The Civil Aeronautics Board, under the coordinating authority of the Secretary of Transportation, shall:

(1) *Distribution of aircraft.* Develop plans and be prepared to carry out such distribution and redistribution of all air carrier civil aircraft allocated by the Secretary of Transportation among the civil air transport carriers as may be necessary to assure the maintenance of essential civil routes and services under WASP operations after the CRAF requirements have been met.

(2) *Economic regulations.* Develop plans covering route authorizations and operations, tariffs, rates, and fares charged the public, mail rates, government compensation and subsidy, and accounting and contracting procedures essential to WASP operations.

(3) *Operational controls and priorities.* Develop plans and procedures for the administration of operational controls and priorities of passenger and cargo movements in connection with the utilization of air carrier aircraft for WASP purposes in an emergency.

(4) *Investigation.* Maintain the capability to investigate violations of emergency economic regulations affecting air carrier operations.

(5) *Contracting.* Prepare to perform as a contracting agency, if such an agency is necessary, in connection with distribution and redistribution of aircraft for WASP.

PART 16—EXPORT-IMPORT BANK OF THE UNITED STATES

SECTION 1601. *Functions.* (a) Under guidance of the Secretary of the Treasury, the Export-Import Bank shall develop plans for the utilization of the resources of the Bank, or other resources made available to the Bank, in expansion of productive capacity abroad for essential materials, foreign barter arrangements, acquisition of emergency imports, and in support of the domestic economy, or any other plans designed to strengthen the relative position of the Nation and its allies.

(b) In carrying out the guidance functions described above, the Secretary of the Treasury shall consult with the Secretary of State and the Secretary of Commerce as appropriate.

PART 17—FEDERAL BANK SUPERVISORY
AGENCIES

SECTION 1701. *Financial plans and programs.* The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Farm Credit Administration, and the Federal Deposit Insurance Corporation shall participate with the Office of Emergency Preparedness, the Department of the Treasury, and other agencies in the formulation of emergency financial and stabilization policies. The heads of such agencies shall, as appropriate, develop emergency plans, programs, and regulations, in consonance with national emergency financial and stabilization plans and policies, to cope with potential economic effects of mobilization or an attack, including, but not limited to, the following:

(1) *Money and credit.* Provision and regulation of money and credit in accordance with the needs of the economy, including the acquisition, decentralization, and distribution of emergency supplies of currency; the collection of cash items and non-cash items; and the conduct of fiscal agency and foreign operations.

(2) *Financial institutions.* Provision for the continued or resumed operation of banking, savings and loan, and farm credit institutions, including measures for the re-creation of evidence of assets or liabilities destroyed or inaccessible.

(3) *Liquidity.* Provision of liquidity necessary to the continued or resumed operation of banking, savings and loan, credit unions, and farm credit institutions, including those damaged or destroyed by enemy action.

(4) *Cash withdrawals and credit transfers.* Regulation of the withdrawal of currency and the transfer of credits including deposit and share account balances.

(5) *Insurance.* Provision for the assumption and discharge of liability pertaining to insured deposits and insured savings accounts or withdrawable shares in banking and savings and loan institutions destroyed or made insolvent.

SEC. 1702. *Sharing of war losses.* Heads of agencies shall, as appropriate, participate with the Office of Emergency Preparedness and the Department of the Treasury in the development of policies, plans, and procedures for implementation of national policy on sharing war losses.

PART 18—FEDERAL COMMUNICATIONS
COMMISSION

SECTION 1801. *Definitions.* As used in this part:

(1) "Common carrier" means any person subject to Commission regulation engaged in providing, for use by the public, for hire, interstate or foreign communications facili-

ties or services by wire or radio; but a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier.

(2) "Broadcast facilities" means those stations licensed by the Commission for the dissemination of radio communications intended to be received by the public directly or by the intermediary of relay stations.

(3) "Safety and special radio services" includes those non-broadcast and non-common carrier services which are licensed by the Commission under the generic designation "safety and special radio services" pursuant to the Commission's Rules and Regulations.

SEC. 1802. *Functions.* The Federal Communications Commission shall develop policies, plans, and procedures, in consonance with national telecommunications plans and policies developed pursuant to Executive Order No. 10705 [set out as a note under section 606 of Title 47, Telegraphs, Telephones, and Radiotelegraphs], Executive Order No. 11556 [set out as a note under section 305 of Title 47, Telegraphs, Telephones, and Radiotelegraphs], Executive Order No. 11051 [set out as a note under section 2271 of this Appendix], the Presidential Memorandum of August 21, 1963, "Establishment of the National Communications System", and other appropriate authority, covering:

(1) *Common carrier service.* (a) Extension, discontinuance, or reduction of common carrier facilities or services, and issuance of appropriate authorizations for such facilities, services, and personnel in an emergency; and control of all rates, charges, practices, classifications, and regulations for service to Government and non-Government users during an emergency, in consonance with overall national economic stabilization policies.

(b) Development and administration of priority systems for public correspondence and for the use and resumption of leased inter-city private line service in an emergency.

(c) Use of common carrier facilities and services to overseas points to meet vital needs in an emergency.

(2) *Broadcasting service.* Construction, activation, or deactivation of broadcasting facilities and services, the continuation or suspension of broadcasting services and facilities, and issuance of appropriate authorizations for such facilities, services, and personnel in an emergency.

(3) *Safety and special radio services.* Authorization, operation, and use of safety and special radio services, facilities, and personnel in the national interest in an emergency.

(4) *Radio frequency assignment.* Assignment of radio frequencies to, and their use by, Commission licensees in an emergency.

(5) *Electromagnetic radiation.* Closing of any radio station or any device capable of emitting electromagnetic radiation or suspension or amending any rules or regula-

tions applicable thereto, in any emergency, except for those belonging to, or operated by, any department or agency of the United States Government.

(6) *Investigation and enforcement.* Investigation of violations of pertinent law and regulations in an emergency, and development of procedures designated to initiate, recommend, or otherwise bring about appropriate enforcement actions required in the interest of national security.

PART 19—FEDERAL POWER COMMISSION

SECTION 1901. *Functions.* The Federal Power Commission shall assist the Department of the Interior, in conformity with Part 7, in the preparation of national emergency plans and the development of preparedness programs for electric power and natural gas in the areas as set forth in the Memorandum of Agreement dated August 9, 1962, between the Secretary of the Interior and the Chairman of the Federal Power Commission.

PART 20—GENERAL SERVICES ADMINISTRATION

SECTION 2001. *Résumé of responsibilities.* The Administrator of General Services shall prepare national emergency plans and develop preparedness programs designed to permit modification or expansion of the activities of the General Services Administration under the Federal Property and Administrative Services Act of 1949, as amended [see short title note under section 471 of Title 40, Public Buildings, Property, and Works] and other statutes prescribing the duties and responsibilities of the Administrator. These plans and programs shall include, but not be limited to: (1) operation maintenance, and protection of Federal buildings and their sites; construction, alteration, and repair of public buildings; and acquisitions, utilization, and disposal of real and personal properties; (2) public utilities service management for Federal agencies; (3) telecommunications to meet the essential requirements of civilian activities of executive departments and agencies; (4) transportation management to meet the traffic service requirements of civilian activities of Federal agencies; (5) records management; (6) Emergency Federal Register; (7) Government-wide supply support; (8) service to survival items stockpiles; (9) national industrial reserve; (10) guidance and consultation to Government agencies regarding facilities protection measures; (11) administration of assigned functions under the Defense Production Act [section 2061 et seq. of this Appendix]; and (12) administration and operation of the stockpile of strategic and critical materials in accordance with policies and guidance furnished by the Office of Emergency Preparedness.

SEC. 2002. *Functions.* The Administrator of General Services shall:

(1) *Public buildings.* Develop emergency plans and procedures for the operation, maintenance, and protection of both existing and new Federally-owned and Federally-occupied buildings, and construction, alteration, and repair of public buildings. Develop emergency operating procedures for the control, acquisition, assignment, and priority of occupancy of real property by the Federal Government and by State and local governments to the extent they may be performing functions as agents of the Federal Government.

(2) *Public utility service management.* Develop emergency operational plans and procedures for the claimancy, procurement, and use of public utility services for emergency activities of executive agencies of the Government.

(3) *Communications.* Plan for and provide, operate, and maintain appropriate telecommunications facilities designed to meet the essential requirements of Federal civilian departments and agencies during an emergency within the framework of the National Communications System. Plans and programs of the Administrator shall be in consonance with national telecommunications policies, plans, and programs developed pursuant to Executive Order No. 10705 [set out as a note under section 606 of Title 47, Telegraphs, Telephones, and Radiotelegraphs], Executive Order No. 11556 [set out as a note under section 305 of Title 47, Telegraphs, Telephones and Radiotelegraphs], Executive Order No. 11051 [set out as a note under section 2271 of this Appendix], and the Presidential Memorandum of August 21, 1963, "Establishment of the National Communications System," or other appropriate authority.

(4) *Transportation.* Develop plans and procedures for providing: (a) general transportation and traffic management services to civilian activities of Federal agencies in connection with movement of property and supplies, including the claimancy, contracting, routing, and accounting of Government shipments by commercial transportation in time of emergency; and (b) motor vehicle service to meet the administrative needs of Federal agencies, including dispatch and scheduled Government motor service at and between headquarters, field offices, relocation sites, and other installations of the Federal and State governments.

(5) *Records.* Provide instructions and advice on appraisal, selection, preservation, arrangement, reference, reproduction, storage, and salvage of essential records needed for the operation of the Federal Government after attack, on an emergency basis, including a decentralized system.

(6) *Federal Register.* Develop emergency procedures for providing and making available, on a decentralized basis, a Federal Register of Presidential Proclamations and Executive Orders, Federal administrative regulations, Federal emergency notices and actions, and Acts of Congress during a national emergency.

(7) *Government-wide procurement and supply.* Prepare plans and procedures for the coordination and/or operation of Government-wide supply programs to meet the requirements of Federal agencies under emergency conditions, including the development of policies, methods, and procedures for emergency procurement and for emergency requisitioning of private property when authorized by law and competent authority; identification of essential civil agency supply items under the Federal catalog system; development of emergency Federal specifications and standards; determination of sources of supply; procurement of personal property and non-personal services; furnishing appropriate inspection and contract administration services; and establishment, coordination, and/or operation of emergency storage and distribution facilities.

(8) *Survival item stockpiles.* Assist the Department of Health, Education, and Welfare, insofar as civil defense medical stockpile items under its jurisdiction are concerned, and the Department of Defense, insofar as survival items under its jurisdiction are concerned, in formulating plans and programs for service activity support relating to stockpiling of such supplies and equipment. The Administrator shall arrange for the procurement, storage, maintenance, inspection, survey, withdrawal, and disposal of supplies and equipment in accordance with the provisions of interagency agreements with the departments concerned.

(9) *National industrial reserve and machine tool programs.* Develop plans for the custody of the industrial plants and production equipment in the national industrial reserve and assist the Department of Defense, in collaboration with the Department of Commerce, in the development of plans and procedures for the disposition, emergency reactivation, and utilization of the plants and equipment of this reserve in the custody of the Administrator.

(10) *Excess and surplus real and personal property.* Develop plans and emergency operating procedures for the utilization of excess and surplus real and personal property by Federal Government agencies with emergency assignments or by State and local governmental units as directed, including review of the property holdings of Federal agencies which do not possess emergency functions to determine the availability of property for emergency use, and including the disposal of real and personal property and the rehabilitation of personal property.

(11) *Facilities protection and building and shelter manager service.* In accordance with the guidance from the Department of Defense, promote, with respect to Federal buildings and installations, a Government-wide program (a) to stimulate protection, preparedness, and control in emergencies in order to minimize the effects of overt or covert attack, including dispersal of facilities; and (b) to establish shelter manager organizations, including safety

and service personnel, shelter manager service, first aid, police, and evacuation service.

SEC. 2003. *Defense production.* The Administrator of General Services shall assist the Office of Emergency Preparedness in the formulation of plans and programs relating to the certification of procurement programs, subsidy payments, and plant improvement programs provided for by the Defense Production Act of 1950, as amended [section 2061 et seq. of this Appendix].

SEC. 2004. *Strategic and critical materials stockpiles.* The Administrator of General Services shall assist the Office of Emergency Preparedness in formulating plans, programs, and reports relating to the stockpiling of strategic and critical materials. Within these plans and programs, the Administrator shall provide for the procurement (for this purpose, procurement includes upgrading, rotation, and beneficiation), storage, security, maintenance, inspection, withdrawal, and disposal of materials, supplies, and equipment.

PART 21—INTERSTATE COMMERCE COMMISSION

SECTION 2101. *Résumé of responsibilities.* The Chairman of the Interstate Commerce Commission, under the coordinating authority of the Secretary of Transportation, shall prepare national emergency plans and develop preparedness programs covering railroad utilization, reduction of vulnerability, maintenance, restoration, and operation in an emergency (other than for the Alaska Railroad—see Section 1303(6)); motor carrier utilization, reduction of vulnerability, and operation in an emergency; inland waterway utilization of equipment and shipping reduction of vulnerability, and operation in an emergency; and also provide guidance and consultation to domestic surface transportation and storage industries, as defined below, regarding emergency preparedness measures, and to States regarding development of their transportation plans in assigned areas.

SEC. 2102. *Definitions.* As used in this part:

(1) "Domestic surface transportation and storage" means rail, motor, and inland water transportation facilities and services and public storage;

(2) "Public storage" includes warehouses and other places which are used for the storage of property belonging to persons other than the persons having the ownership or control of such premises;

(3) "Inland water transportation" includes shipping on all inland waterways and Great Lakes shipping engaged solely in the transportation of passengers or cargo between United States ports on the Great Lakes;

(4) Specifically excluded, for the purposes of this part, are pipelines, petroleum and gas storage, agricultural food resources storage, including the cold storage of food re-

sources, the St. Lawrence Seaway, ocean ports and Great Lakes ports and port facilities, highways, streets, roads, bridges, and related appurtenances, maintenance of inland waterways, and any transportation owned by or pre-allocated to the military.

SEC. 2103. *Transportation functions.*

The Interstate Commerce Commission shall:

(1) *Operational control.* Develop plans with appropriate private transportation and storage organizations and associations for the coordination and direction of the use of domestic surface transportation and storage facilities for movement of passenger and freight traffic.

(2) *Emergency operations.* Develop and maintain necessary orders and regulations for the operation of domestic surface transport and storage industries in an emergency.

PART 22—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SECTION 2201. *Functions.* The Administrator of the National Aeronautics and Space Administration shall:

(1) *Research and development.* Adapt and utilize the scientific and technological capability of the National Aeronautics and Space Administration, consistent with over-all requirements, to meet priority needs of the programs of the Federal Government in an emergency. This will include the direction and conduct of essential research and development activities relating to (a) aircraft, spacecraft, and launch vehicles, (b) associated instrumentation, guidance, control and payload, propulsion, and communications systems, (c) scientific phenomena affecting both manned and unmanned space flights, (d) the life sciences (biology, medicine, and psychology) as they apply to aeronautics and space, and (e) atmospheric and geophysical sciences.

(2) *Military support.* Provide direct assistance as requested by the Department of Defense and other agencies in support of the military effort. This may include (a) undertaking urgent projects to develop superior aircraft, spacecraft, launch vehicles, and weapons systems, (b) developing methods to counter novel or revolutionary enemy weapons systems, (c) providing technical advice and assistance on matters involving air and space activities, and (d) furnishing personnel and facilities to assist in emergency repairs of equipment deficiencies and for other essential purposes.

PART 23—NATIONAL SCIENCE FOUNDATION

SECTION 2301. *Functions.* The Director of the National Science Foundation shall:

(1) *Manpower functions.* Assist the Department of Labor in sustaining readiness for the mobilization of civilian manpower by: (a) maintaining the Foundation's register

of scientific and technical personnel in such form and at such locations as will assure maximum usefulness in an emergency; (b) being prepared for rapid expansion of the Foundation's current operation as a central clearing house for information covering all scientific and technical personnel in the United States and its possessions; and (c) developing, in consultation with the Department of Labor, the Selective Service System, the Department of Defense, and the Office of Science and Technology, plans and procedures to assure the most effective distribution and utilization of the Nation's scientific and engineering manpower in an emergency.

(2) *Special functions.* (a) Provide leadership in developing, with the assistance of Federal and State agencies and appropriate non-government organizations, the ability to mobilize scientists, in consonance with over-all civilian manpower mobilization programs, to perform or assist in performance of special tasks, including the identification of and defense against unconventional warfare; (b) advance the national radiological defense capability by including, in consultation with appropriate agencies, pertinent scientific information and radiological defense techniques in the Foundation's scientific institute program for science, mathematics, and engineering teachers; (c) assemble data on the location and character of major scientific research facilities, including non-governmental as well as government facilities, and their normal inventories of types of equipment and instruments which would be useful in identification and analysis of hazards to human life in the aftermath of enemy attack; and (d) prepare to carry on necessary programs for basic research and for training of scientific manpower.

PART 24—RAILROAD RETIREMENT BOARD

SECTION 2401. *Functions.* The Railroad Retirement Board shall:

(1) *Manpower functions.* Within the framework of the over-all manpower plans and programs of the Department of Labor, assist in the mobilization of civilian manpower in an emergency by developing plans for the recruitment and referral of that segment of the Nation's manpower resources subject to the Railroad Retirement and Railroad Unemployment Insurance Acts [sections 228a et seq. and 351 et seq. of Title 45, Railroads].

(2) *Benefit payments.* Develop plans for administering under emergency conditions, the essential aspects of the Railroad Retirement Act and Railroad Unemployment Insurance Act [sections 228a et seq. and 351 et seq. of Title 45, Railroads] consistent with overall Federal plans for the continuation of benefit payments after an enemy attack.

PART 25—SECURITIES AND EXCHANGE COMMISSION

SECTION 2501. *Functions.* The Securities and Exchange Commission shall collaborate with the Secretary of the Treasury in the development of emergency financial control plans, programs, procedures, and regulations for:

(1) *Stock trading.* Temporary closure of security exchanges, suspension of redemption rights, and freezing of stock and bond prices, if required in the interest of maintaining economic controls.

(2) *Modified trading.* Development of plans designed to reestablish and maintain a stable and orderly market for securities when the situation permits under emergency conditions.

(3) *Protection of securities.* Provision of a national records system which will make it possible to establish current ownership of securities in the event major trading centers and depositories are destroyed.

(4) *Flow of capital.* The control of the formation and flow of private capital as it relates to new securities offerings or expansion of prior offerings for the purpose of establishing or reestablishing industries in relation to the Nation's needs in or following a national emergency.

(5) *Flight of capital.* The prevention of the flight of capital outside this country, in coordination with the Secretary of Commerce, and the impounding of securities in the hands of enemy aliens.

PART 26—SMALL BUSINESS ADMINISTRATION

SECTION 2601. *Functions.* The Administrator of the Small Business Administration shall:

(1) *Prime contract authority.* Develop plans to administer a program for the acquisition of prime contracts by the Administration and, in turn, for negotiating or otherwise letting of subcontracts to capable small business concerns in an emergency.

(2) *Resource information.* Provide data on facilities, inventories, and potential production capacity of small business concerns to all interested agencies.

(3) *Procurement.* Develop plans to determine jointly with Federal procurement agencies, as appropriate, which defense contracts are to go to small business concerns and to certify to the productive and financial ability of small concerns to perform specific contracts, as required.

(4) *Loans for plant modernization.* Develop plans for providing emergency assistance to essential individual industrial establishments through direct loans or participation loans for the financing of production facilities and equipment.

(5) *Resource pools.* Develop plans for encouraging and approving small business defense production and research and development pools.

(6) *Financial assistance.* Develop plans to make loans, directly or in participation with private lending institutions, to small business concerns and to groups or pools of such concerns, to small business investment companies, and to State and local development companies to provide them with funds for lending to small business concerns, for defense and essential civilian purposes.

PART 27—TENNESSEE VALLEY AUTHORITY

SECTION 2701. *Functions.* The Board of Directors of the Tennessee Valley Authority shall:

(1) *Electric power.* Assist the Department of the Interior in the development of plans for the integration of the Tennessee Valley Authority power system into national emergency programs and prepare plans for the emergency management, operation, and maintenance of the system and for its essential expansion.

(2) *Waterways.* Assist the Interstate Commerce Commission, under the coordinating authority of the Secretary of Transportation, in the development of plans for integration and control of inland waterway transportation systems and, in cooperation with the Department of Defense and the Department of the Interior, prepare plans for the management, operation, and maintenance of the river control system in the Tennessee River and certain of its tributaries for navigation during an emergency.

(3) *Flood control.* Develop plans and maintain its river control operations for the prevention or control of floods caused by natural phenomena or overt and covert attack affecting the Tennessee River System and, in so doing, collaborate with the Department of Defense with respect to the control of water in the lower Ohio and Mississippi Rivers.

(4) *Emergency health services and sanitary water supplies.* Assist the Department of Health, Education, and Welfare in the development of plans and programs covering emergency health services, civilian health manpower, and health resources in the Tennessee Valley Authority area and, in collaboration with the Department of the Interior and the Department of Health, Education, and Welfare, prepare plans for the management, operation, and maintenance of the Tennessee River System consistent with the needs for sanitary public water supplies, waste disposal, and vector control.

(5) *Coordination of water use.* Develop plans for determining or proposing priorities for the use of water by the Tennessee Valley Authority in the event of conflicting claims arising from the functions listed above.

(6) *Fertilizer.* Assist the Department of Agriculture in the development of plans for the distribution and claimancy of fertilizer; assist the Department of Commerce and

the Department of Defense in the development of Tennessee Valley Authority production quotas and any essential expansion of production facilities, and prepare plans for the management, operation, and maintenance of its facilities for the manufacture of nitrogen and phosphorous fertilizers.

(7) *Munitions production.* Perform chemical research in munitions as requested by the Department of Defense, maintain standby munitions production facilities, and develop plans for converting and utilizing fertilizer facilities as required in support of the Department of Defense's munitions program.

(8) *Land management.* Develop plans for the maintenance, management, and utilization of Tennessee Valley Authority-controlled lands in the interest of an emergency economy.

(9) *Food and forestry.* Assist the Department of Agriculture in the development of plans for the harvesting and processing of fish and game, and the Department of Commerce in the development of plans for the production and processing of forest products.

(10) *Coordination with Valley States.* Prepare plans and agreements with Tennessee Valley States, consistent with Federal programs, for appropriate integration of Tennessee Valley Authority and State plans for the use of available Tennessee Valley Authority resources.

PART 28—UNITED STATES CIVIL SERVICE COMMISSION

SECTION 2801. *Functions.* The United States Civil Service Commission shall:

(1) *Personnel system.* Prepare plans for adjusting the Federal civilian personnel system to simplify administration and to meet emergency demands.

(2) *Utilization.* Develop policies and implementing procedures designed to assist Federal agencies in achieving the most effective utilization of the Federal Government's civilian manpower in an emergency.

(3) *Manpower policies.* As the representative of the Federal Government as an employer, participate, as appropriate, in the formulation of national and regional manpower policies as they affect Federal civilian personnel and establish implementing policies as necessary.

(4) *Manpower administration.* Prepare plans, in consonance with national manpower policies and programs, for the administration of emergency civilian manpower and employment policies within the executive branch of the Government, including the issuance and enforcement of regulations to implement such policies.

(5) *Wage and salary stabilization.* Participate, as appropriate, with the Office of Emergency Preparedness and the Department of Labor in the formulation of national and regional wage and salary stabilization policies as they

affect Federal civilian personnel. Within the framework of such policies, prepare plans for the implementation of such policies and controls established for employees within the executive branch of the Government, including the issuance and enforcement of necessary regulations.

(6) *Assistance.* Develop plans for rendering personnel management and staffing assistance to new and expanding Federal agencies.

(7) *Recruiting.* Develop plans for the coordination and control of civilian recruiting policies and practices by all Federal agencies in order to increase the effectiveness of the total recruitment efforts during an emergency and to prevent undesirable recruitment practices.

(8) *Reassignment.* Develop plans to facilitate the reassignment or transfer of Federal civilian employees, including the movement of employees from one agency or location to another agency or location, in order to meet the most urgent needs of the executive branch during an emergency.

(9) *Registration.* Develop plans and procedures for a nationwide system of post-attack registration of Federal employees to provide a means for locating and returning to duty those employees who become physically separated from their agencies after an enemy attack, and to provide for the maximum utilization of the skills of surviving employees.

(10) *Deferment.* Develop plans and procedures for a system to control Government requests for the selective service deferment of employees in the executive branch of the Federal Government and in the municipal government of the District of Columbia.

(11) *Investigation.* Prepare plans, in coordination with agencies having responsibilities in the personnel security field, for the conduct of national agency checks and inquiries, limited suitability investigations, and full field investigations under emergency conditions.

(12) *Salaries, wages, and benefits.* Develop plans for operating under emergency conditions the essential aspects of salary and wage systems and such benefit systems as the Federal Employees Retirement System, the Federal Employees Group Life Insurance Program, the Federal Employees and Retired Federal Employees Health Benefits Programs, and the Federal Employees Compensation Program.

(13) *Federal manpower mobilization.* Assist Federal agencies in establishing manpower plans to meet their own emergency manpower requirements; identify major or special manpower problems of individual Federal agencies and the Federal Government as a whole in mobilizing a civilian work force to meet essential emergency requirements; identify sources of emergency manpower supply for all agencies where manpower problems are indicated;

and develop Government-wide plans for the use of surplus Federal-civilian manpower.

(14) *Distribution of manpower.* Participate in the formulation of policies and decisions on the distribution of the nation's civilian manpower resources, obtain appropriate civilian manpower data from Federal agencies, and establish necessary implementing policies and procedures within the Executive Branch.

(15) *Training.* Develop, organize, and conduct, as appropriate, interagency training programs in emergency personnel management for Federal employees.

PART 28A—UNITED STATES INFORMATION AGENCY

SECTION 2850. *Functions.* (a) The Director of the United States Information Agency shall prepare national emergency plans and develop preparedness programs for the continuation of essential emergency foreign information activities. These plans and programs shall be designed to develop a state of readiness which will permit continuing necessary activities under all conditions of national emergency including attack upon the United States.

(b) The Director shall (1) develop plans for the formulation and execution of foreign information programs utilizing the Agency's overseas posts and all media designed to promote an intelligent understanding abroad of the status of the emergency within the United States and the efforts, policies, activities, needs, and aims of the United States in dealing with the international situation then existing; (2) develop emergency plans and programs, and emergency organizational structures required thereby, as an integral part of the continuing activities of the United States Information Agency on the basis that it will have the responsibility for carrying on such programs during an emergency; (3) provide and maintain the capability necessary for simultaneous direct radio broadcasting in major world languages to all areas of the world and wireless teletype to all United States Embassies; (4) provide advice to the Executive Branch on foreign opinion, and its implications for United States policies, programs, and official statements; (5) maintain liaison with the information agencies of friendly nations for the purpose of relating the United States Government information programs and facilities to those of such nations; (6) participate in the development of policy with regard to the psychological aspects of defense and develop plans for assisting the appropriate agencies in the execution of psychological operations with special attention to overseas crises short of war; (7) maintain United States Information Service staffs abroad for the conduct of public information for all agencies of the Government, recognizing that in a theater of operations the United States Information Agency would make avail-

able to the appropriate Commander all United States citizen personnel on the staff of the Agency who agree to remain, to serve in support of psychological operations; and (8) lend appropriate support in psychological warfare to the military command in the theater or theaters of active military operations, and provide daily guidance and basic informational materials.

(c) The Director shall insure development of appropriate plans necessary under this Part and issue emergency instructions required to implement all appropriate plans developed under this Part.

PART 29—VETERANS ADMINISTRATION

SECTION 2901. *Functions.* The Administrator of Veterans Affairs shall develop policies, plans, and procedures for the performance of emergency functions with respect to the continuation or restoration of authorized programs of the Veterans Administration under all conditions of national emergency, including attack upon the United States. These include:

(1) The emergency conduct of inpatient and outpatient care and treatment in Veterans Administration medical facilities and participation with the Departments of Defense and Health, Education, and Welfare as provided for in interagency agreements.

(2) The emergency conduct of compensation, pension, rehabilitation, education, and insurance payments consistent with over-all Federal plans for the continuation of Federal benefit payments.

(3) The emergency performance of insurance and loan guaranty functions in accordance with indirect stabilization policies and controls designed to deal with various emergency conditions.

PART 30—GENERAL PROVISIONS

SECTION 3001. *Resource management.* In consonance with the national preparedness, security, and mobilization readiness plans, programs, and operations of the Office of Emergency Preparedness under Executive Order No. 11051 of September 27, 1962 [set out as a note under section 2271 of this Appendix], and subject to the provisions of the preceding parts the head of each department and agency shall:

(1) *Priorities and allocations.* Develop systems for the emergency application of priorities and allocations to the production, distribution, and use of resources for which he has been assigned responsibility.

(2) *Requirements.* Assemble, develop as appropriate, and evaluate requirements for assigned resources, taking into account estimated needs for military, atomic energy, civilian, and foreign purposes. Such evaluation shall take into con-

sideration geographical distribution of requirements under emergency conditions.

(3) *Evaluation.* Assess assigned resources in order to estimate availability from all sources under an emergency situation, analyze resource availabilities in relation to estimated requirements, and develop appropriate recommendations and programs, including those necessary for the maintenance of an adequate mobilization base. Provide data and assistance before and after attack for national resource analysis purposes of the Office of Emergency Preparedness.

(4) *Claimancy.* Prepare plans to claim from the appropriate agency supporting materials, manpower, equipment, supplies, and services which would be needed to carry out assigned responsibilities and other essential functions of his department or agency, and cooperate with other agencies in developing programs to insure availability of such resources in an emergency.

SEC. 3002. *Facilities protection and warfare effects monitoring and reporting.* In consonance with the national preparedness, security, and mobilization readiness plans, programs, and operations of the Office of Emergency Preparedness under Executive Order No. 11051 [set out as a note under section 2271 of this Appendix], and with the national civil defense plans, programs, and operations of the Department of Defense under Executive Order No. 10952 [set out as a note under section 2271 of this Appendix], the head of each department and agency shall:

(1) *Facilitate protection.* Provide facilities protection guidance material adapted to the needs of the facilities and services concerned and promote a national program to stimulate disaster preparedness and control in order to minimize the effects of overt or covert attack on facilities or other resources for which he has management responsibility. Guidance shall include, but not be limited to, organization and training of facility employees, personnel shelter, evacuation plans, records protection, continuity of management, emergency repair, dispersal of facilities, and mutual aid associations for an emergency.

(2) *Welfare effects monitoring and reporting.* Maintain a capability, both at national and field levels, to estimate the effects of attack on assigned resources and to collaborate with and provide data to the Office of Emergency Preparedness, the Department of Defense, and other agencies, as appropriate, in verifying and updating estimates of resource status through exchanges of data and mutual assistance, and provide for the detection, identification, monitoring and reporting of such warfare effects at selected facilities under his operation or control.

(3) *Salvage and rehabilitation.* Develop plans for salvage, decontamination, and rehabilitation of facilities involving resources under his jurisdiction.

(4) *Shelter.* In conformity with national shelter policy, where authorized to engage in building construction, plan,

design, and construct such buildings to protect the public to the maximum extent feasible against the hazards that could result from an attack upon the United States with nuclear weapons; and where empowered to extend Federal financial assistance, encourage recipients of such financial assistance to use standards for planning design and construction which will maximize protection for the public.

SEC. 3003. *Critical skills and occupations.* (a) The Secretaries of Defense, Commerce, and Labor shall carry out the mandate of the National Security Council, dated February 15, 1968, to "maintain a continuing surveillance over the Nation's manpower needs and identify any particular occupation or skill that may warrant qualifying for deferment on a uniform national basis." In addition, the Secretaries of Defense, Commerce, Labor, and Health, Education, and Welfare shall carry out the mandate of the National Security Council to "maintain a continuing surveillance over the Nation's manpower and education needs to identify any area of graduate study that may warrant qualifying for deferment in the national interest." In carrying out these functions, the Secretaries concerned shall consult with the National Science Foundation with respect to scientific manpower requirements.

(b) The Secretaries of Commerce and Labor shall maintain and issue, as necessary, lists of all essential activities and critical occupations that may be required for emergency preparedness purposes.

SEC. 3004. *Research.* Within the framework of research policies and objectives established by the Office of Emergency Preparedness, the head of each department and agency shall supervise or conduct research in areas directly concerned with carrying out emergency preparedness responsibilities, designate representatives for necessary ad hoc or task force groups, and provide advice and assistance to other agencies in planning for research in areas involving each agency's interest.

SEC. 3005. *Stockpiles.* The head of each department and agency, with appropriate emergency responsibilities, shall assist the Office of Emergency Preparedness in formulating and carrying out plans for stockpiling of strategic and critical materials, and survival items.

SEC. 3006. *Direct economic controls.* The head of each department and agency shall cooperate with the Office of Emergency Preparedness and the Federal financial agencies in the development of emergency preparedness measures involving emergency financial and credit measures, as well as price, rent, wage and salary stabilization, and consumer rationing programs.

SEC. 3007. *Financial aid.* The head of each department and agency shall develop plans and procedures in cooperation with the Federal financial agencies for financial and credit assistance to those segments of the private sector for which

he is responsible in the event such assistance is needed under emergency conditions.

SEC. 3008. *Functional guidance.* The head of each department and agency in carrying out the functions assigned to him by this order, shall be guided by the following:

(1) *National program guidance.* In consonance with the national preparedness, security, and mobilization readiness plans, programs, and operations of the Office of Emergency Preparedness under Executive Order No. 11051 [set out as a note under section 2271 of this Appendix], and with the national civil defense plans, programs, and operations of the Department of Defense, technical guidance shall be provided to State and local governments and instrumentalities thereof, to the end that all planning concerned with functions assigned herein will be effectively coordinated. Relations with the appropriate segment of the private sector shall be maintained to foster mutual understanding of federal emergency plans.

(2) *Interagency coordination.* Emergency preparedness functions shall be coordinated by the head of the department or agency having primary responsibility with all other departments and agencies having supporting functions related thereto.

(3) *Emergency preparedness.* Emergency plans, programs, and an appropriate state of readiness, including organizational readiness, shall be developed as an integral part of the continuing activities of each department or agency on the basis that that department or agency will have the responsibility for carrying out such plans and programs during an emergency. The head of each department or agency shall be prepared to implement all appropriate plans developed under this order. Modifications and temporary organizational changes, based on emergency conditions, shall be in accordance with policy determinations by the President.

(4) *Professional liaison.* Mutual understanding and support of emergency preparedness activities shall be fostered, and the National Defense Executive Reserve shall be promoted by maintaining relations with the appropriate non-governmental sectors.

SEC. 3009. *Training.* The head of each department and agency shall develop and direct training programs which incorporate emergency preparedness and civil defense training information programs necessary to insure the optimum operational effectiveness of assigned resources, systems, and facilities.

SEC. 3010. *Emergency public information.* In consonance with such emergency public information plans and central program decisions of the Office of Emergency Preparedness, and with plans, programs, and procedures established by the Department of Defense to provide continuity of programming for the Emergency Broadcast System, the head of each department and agency shall:

(1) Obtain and provide information as to the emergency functions or assignments of the individual department or agency for the dissemination to the American people during the emergency, in accordance with arrangements made by the Office of Emergency Preparedness.

(2) Determine requirements and arrange for prerecordings to provide continuity of program service over the Emergency Broadcast System so that the American people can receive information, advice, and guidance pertaining to the implementation of the civil defense and emergency preparedness plans or assignments of each individual department or agency.

SEC. 3011. *Emergency actions.* This order does not confer authority to put into effect any emergency plan, procedure, policy, program, or course of action prepared or developed pursuant to this order. Plans so developed may be effectuated only in the event that authority for such effectuation is provided by a law enacted by the Congress or by an order or directive issued by the President pursuant to statutes or the Constitution of the United States.

SEC. 3012. *Redelegation.* The head of each department and agency is hereby authorized to redelegate the functions assigned to him by this order, and to authorize successive redelegations to agencies or instrumentalities of the United States, and to officers and employees of the United States.

SEC. 3013. *Transfer of functions.* Any emergency preparedness function under this order, or parts thereof, may be transferred from one department or agency to another with the consent of the heads of the organizations involved and with the concurrence of the Director of the Office of Emergency Preparedness. Any new emergency preparedness function may be assigned to the head of a department or agency by the Director of the Office of Emergency Preparedness by mutual consent.

SEC. 3014. *Retention of existing authority.* Except as provided in Section 3015, nothing in this order shall be deemed to derogate from any now existing assignment of functions to any department or agency or officer thereof made by statute, Executive order, or Presidential directives, including Memoranda.

SEC. 3015. *Revoked orders.* The following are hereby revoked:

- (1) Defense Mobilization Order VI-2 of December 11, 1953.
- (2) Defense Mobilization Order I-12 of October 5, 1954.
- (3) Executive Order No. 10312 of December 10, 1951.
- (4) Executive Order No. 10346 of April 17, 1952.
- (5) Executive Order No. 10997 of February 16, 1962.
- (6) Executive Order No. 10998 of February 16, 1962.
- (7) Executive Order No. 10999 of February 16, 1962.
- (8) Executive Order No. 11000 of February 16, 1962.

- (9) Executive Order No. 11001 of February 16, 1962.
- (10) Executive Order No. 11002 of February 16, 1962.
- (11) Executive Order No. 11003 of February 16, 1962.
- (12) Executive Order No. 11004 of February 16, 1962.
- (13) Executive Order No. 11005 of February 16, 1962.
- (14) Executive Order No. 11087 of February 26, 1963.
- (15) Executive Order No. 11088 of February 26, 1963.
- (16) Executive Order No. 11089 of February 26, 1963.
- (17) Executive Order No. 11090 of February 26, 1963.
- (18) Executive Order No. 11091 of February 26, 1963.
- (19) Executive Order No. 11092 of February 26, 1963.
- (20) Executive Order No. 11093 of February 26, 1963.
- (21) Executive Order No. 11094 of February 26, 1963.
- (22) Executive Order No. 11095 of February 26, 1963.
- (23) Executive Order No. 11310 of October 11, 1966.

SEC. 2293. *Emergency powers of Administrator.*

During the period of such emergency, the Administrator is authorized to—

(a) exercise the authority contained in section 201(h) [section 2281(h) of this Appendix] without regard to the limitation of any existing law, including the provisions of the Act of June 30, 1932, as amended [section 278a of Title 40], and section 3709 of the Revised Statutes, as amended [section 5 of Title 41], and section 3734 of the Revised Statutes, as amended [sections 259 and 267 of Title 40], and the Federal Property and Administrative Services Act of 1949, as amended:

(b) sell, lease, lend, transfer, or deliver materials or perform services for civil defense purposes on such terms and conditions as the Administrator shall prescribe and without regard to the limitations of existing law: *Provided*, That any funds received from the sale or other disposition of materials or for services shall be deposited to the credit of appropriations currently available and made pursuant to this Act [sections 2251–2297 of this Appendix] and shall be available for expenditure for the purposes of such appropriations;

(c) coordinate and direct, for civil defense purposes, the relief activities of the various departments and agencies of the United States as provided in section 302 hereof [section 2292 of this Appendix];

(d) reimburse any State, including any political subdivisions thereof, for the compensation paid to and the transportation, subsistence, and maintenance expenses of any employees while engaged in rendering civil defense aid outside the State and to pay fair and reasonable compensation for the materials of the State government or any political subdivision utilized or consumed outside of the State, including any transportation costs, in accordance with rules and regulations prescribed by the Administrator. As used in this subsection, the term “employees” shall include full- or part-time paid, volunteer, auxiliary, and civil defense workers subject to the order or control of a State government or any political subdivision thereof, and such employees shall not be deemed by reason of such reimbursement to be employees or appointees of the United States;

(e) provide financial assistance for the temporary relief or aid of any civilian injured or in want as the result of any attack; and

(f) employ temporarily additional personnel without regard to the civil-service laws and to incur such obligations on behalf of the United States as may be required to meet the civil defense requirements of an attack or of an anticipated attack.

During the period of any such emergency, the Administrator shall transmit quarterly to the Congress a detailed report concerning all action taken pursuant to this section.

SEC. 2295. Waiver of Administrative Procedure Act.

During the period of such emergency, the functions and duties exercised under this Act [sections 2251-2297 of this Appendix] shall be excluded from the operation of the Administrative Procedure Act [sections 1001-1011 of Title 5], except as to the requirements of section 3 thereof [section 1002 of Title 5].

SEC. 2296. Compensation for acquisition of nongovernmental property; return of property to owner; disposal of surplus property.

(a) Except in the case of property acquired pursuant to section 201(h) of this Act [section 2281(h) of this Appendix] in conformity with the provisions of the Federal Property and Administrative Services Act of 1949, as amended, or through judicial proceedings for condemnation, the Administrator shall promptly determine the amount of the compensation to be paid for any property (other than that of the Federal Government or any department or agency thereof) or the use thereof acquired pursuant to this Act [sections 2251-2297 of this Appendix], but each such determination shall be made as of the time it is acquired in accordance with the provisions for just compensation in the fifth amendment to the Constitution of the United States. If the person entitled to receive the amount so determined by the Administrator as just compensation is unwilling to accept the same as full and complete compensation for such property or the use thereof, he shall be paid promptly 75 per centum of such amount and shall be entitled to recover from the United States, in an action brought in the Court of Claims, or, without regard to whether the amount involved exceeds \$10,000, in any district court of the United States, within three years after the date of the Administrator's award, such additional amount, if any, which, when added to the amount so paid to him, shall be just compensation.

(b) Whenever the Administrator determines that any real property acquired by him is no longer needed for the purposes of this Act [sections 2251-2297 of this Appendix], he shall, if the original owner desires the return of the property and pays to the Administrator the fair value thereof, return such property to such owner. In the event the Administrator and the original owner do not agree as to the fair value of such property, the fair value shall be determined by three appraisers, one of whom shall be chosen by the Administrator, one by the original owner, and the third by the first two

appraisers; the expenses of such determination shall be paid in equal shares by the Government and the original owner.

(c) Whenever the need for the purposes of this Act [sections 2251-2297 of this Appendix] of any personal property acquired under this Act [said sections] shall terminate, the Administrator may dispose of such property on such terms and conditions as he shall deem appropriate, but to the extent feasible and practicable he shall give to the former owner of any property so disposed of an opportunity to reacquire it (1) at its then fair value as determined by the Administrator, or (2) if it is to be disposed of (otherwise than at a public sale of which he shall give reasonable notice) at less than such value, at the highest price any other person is willing to pay therefor: *Provided*, That this opportunity to reacquire need not be given in the case of fungibles or items having a fair value of less than \$1,000.

SEC. 2297. *Termination of sections 2291 to 2297 of this Appendix.*

The provisions of this title [sections 2291 to 2297 of this Appendix] shall terminate on June 30, 1974, or on such earlier date as may be prescribed by concurrent resolution of the Congress.

LIMITATION OF PROSECUTION

Act of June 30, 1951 (65 Stat. 107, ch. 194; 18 U.S.C. § 3291)—*Nationality, Citizenship, and Passports:*

No person shall be prosecuted, tried, or punished for violation of any provision of sections 1423 to 1428, inclusive, of chapter 69 and sections 1541 to 1544, inclusive, of chapter 75 of title 18 of the United States Code, or for conspiracy to violate any of the aforementioned sections, unless the indictment is found or the information is instituted within 10 years after the commission of the offense.

Act of October 24, 1951 (65 Stat. 611, ch. 553)—*See Act of June 19, 1934 (48 Stat. 1104 § 606)—Federal Communications Act of 1934.*

EMBARGO ON SHIPMENTS TO NATIONS THREATENING SECURITY OF UNITED STATES

Act of October 26, 1951 (65 Stat. 644, c. 575, 22 U.S.C. 1611-1613c)—*Mutual Defense Assistance Control Act of 1951:*

TITLE I—WAR MATERIALS

SEC. 101. The Congress of the United States, recognizing that in a world threatened by aggression the United States can best preserve and maintain peace by developing maximum national strength and by utilizing all of its resources in cooperation with other free nations, hereby declares it to be the policy of the United States to apply an embargo on the shipment of arms, ammunition, and implements of war, atomic energy materials, petroleum, transportation materials of strategic value, and items

of primary strategic significance used in the production of arms, ammunition, and implements of war to any nation or combination of nations threatening the security of the United States, including the Union of Soviet Socialist Republics and all countries under its domination, in order to (1) increase the national strength of the United States and of the cooperating nations; (2) impede the ability of nations threatening the security of the United States to conduct military operations; and (3) to assist the people of the nations under the domination of foreign aggressors to reestablish their freedom.

It is further declared to be the policy of the United States that no military, economic, or financial assistance shall be supplied to any nation unless it applies an embargo on such shipments to any nation or combination of nations threatening the security of the United States, including the Union of Soviet Socialist Republics and all countries under its domination.

This Act shall be administered in such a way as to bring about the fullest support for any resolution of the General Assembly of the United Nations, supported by the United States, to prevent the shipment of certain commodities to areas under the control of governments engaged in hostilities in defiance of the United Nations.

SEC. 102. Responsibility for giving effect to the purposes of this Act shall be vested in the person occupying the senior position authorized by subsection (e) of section 406 of the Mutual Defense Assistance Act of 1949, as amended, or in any person who may hereafter be charged with principal responsibility for the administration of the provisions of the Mutual Defense Assistance Act of 1949. Such person is hereinafter referred to as the "Administrator."

SEC. 103. (a) The Administrator is hereby authorized and directed to determine within thirty days after enactment of this Act after full and complete consideration of the views of the Department of State, Defense, and Commerce; the Economic Cooperation Administration; and any other appropriate agencies, and notwithstanding the provisions of any other law, which items are, for the purpose of this Act, arms, ammunition, and implements of war, atomic energy materials, petroleum, transportation materials of strategic value, and those items of primary strategic significance used in the production of arms, ammunition, and implements of war which should be embargoed to effectuate the purposes of this Act: *Provided*, That such determinations shall be continuously adjusted to current conditions on the basis of investigation and consultation, and that all nations receiving United States military, economic, or financial assistance shall be kept informed of such determinations.

(b) All military, economic, or financial assistance to any nation shall, upon the recommendation of the Administrator, be terminated forthwith if such nation after sixty days from the date of a determination under section 103(a) knowingly permits the shipment to any nation or combination of nations threatening the security of the United States, including the

Union of Soviet Socialist Republics and all countries under its domination, of any item which he has determined under section 103(a) after a full and complete investigation to be included in any of the following categories: Arms, ammunition, and implements of war, atomic energy materials, petroleum, transportation materials of strategic value, and items of primary strategic significance used in the production of arms, ammunition, and implements of war: *Provided*, That the President after receiving the advice of the Administrator and after taking into account the contribution of such country to the mutual security of the free world, the importance of such assistance to the security of the United States, the strategic importance of imports received from countries of the Soviet bloc, and the adequacy of such country's controls over the export to the Soviet bloc of items of strategic importance, may direct the continuance of such assistance to a country which permits shipments of items other than arms, ammunition, implements of war, and atomic energy materials when unusual circumstances indicate that the cessation of aid would clearly be detrimental to the security of the United States: *Provided further*, That the President shall immediately report any determination made pursuant to the first proviso of this section with reasons therefor to the Appropriations and Armed Services Committees of the Senate and of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives, and the President shall at least once each quarter review all determinations made previously and shall report his conclusions to the foregoing committees of the House and Senate, which reports shall contain an analysis of the trade with the Soviet bloc of countries for which determinations have been made.

SEC. 104. Whenever military, economic, or financial assistance has been terminated as provided in this Act, such assistance can be resumed only upon determination by the President that adequate measures have been taken by the nation concerned to assure full compliance with the provisions of this Act.

SEC. 105. For the purpose of this Act the term "assistance" does not include activities carried on for the purpose of facilitating the procurement of materials in which the United States is deficient.

TITLE II—OTHER MATERIALS

SEC. 201. The Congress of the United States further declares it to be the policy of the United States to regulate the export of commodities other than those specified in title I of this Act to any nation or combination of nations threatening the security of the United States, including the Union of Soviet Socialist Republics and all countries under its domination, in order to strengthen the United States and other cooperating nations to the free world and to oppose and offset by nonmilitary action acts which threaten the security of the United States and the peace of the world.

SEC. 202. The United States shall negotiate with any country receiving military, economic, or financial assistance arrangements for the recipient country to undertake a program for controlling exports of items not subject to embargo under title I of this Act, but which in the judgment of the Administrator should be controlled to any nation or combination of nations threatening the security of the United States, including the Union of Soviet Socialist Republics and all countries under its domination.

SEC. 203. All military, economic, and financial assistance shall be terminated when the President determines that the recipient country (1) is not effectively cooperating with the United States pursuant to this title, or (2) is failing to furnish to the United States information sufficient for the President to determine that the recipient country is effectively cooperating with the United States.

TITLE III—GENERAL PROVISIONS

SEC. 301. All other nations (those not receiving United States military, economic, or financial assistance) shall be invited by the President to cooperate jointly in a group or groups or on an individual basis in controlling the export of the commodities referred to in title I and title II of this Act to any nation or combination of nations threatening the security of the United States, including the Union of Soviet Socialist Republics and all countries under its domination.

SEC. 302. The Administrator with regard to all titles of this Act shall—

(a) coordinate those activities of the various United States departments and agencies which are concerned with security controls over exports from other countries;

(b) make a continuing study of the administration of export control measures undertaken by foreign governments in accordance with the provisions of this Act, and shall report to the Congress from time to time but not less than once every six months recommending action where appropriate; and

(c) make available technical advice and assistance on export procedures to any nation desiring such cooperation.

SEC. 303. The provisions of subsection (a) of section 403, of section 404, and of subsections (c) and (d) of section 406 of the Mutual Defense Assistance Act of 1949 (Public Law 329, Eighty-first Congress), as amended, insofar as they are consistent with this Act, shall be applicable to this Act. Funds made available for the Mutual Defense Assistance Act of 1949, as amended, shall be available for carrying out this Act in such amounts as the President shall direct.

SEC. 304. In every recipient country where local currency is made available for local currency expenses of the United States in connection with assistance furnished by the United States, the local currency administrative and operating expenses incurred

in the administration of this Act shall be charged to such local currency funds to the extent available.

SEC. 305. Subsection (d) of section 117 of the Foreign Assistance Act of 1948 (Public Law 472, Eightieth Congress), as amended, and subsection (a) of section 1302 of the Third Supplemental Appropriation Act, 1951 (Public Law 45, Eighty-second Congress), are repealed.

CODE BREAKING

- Act of October 31, 1951 (65 Stat. 719, sec. 24(a), "sec. 798"): A new section 798 is added to Title 18 of the United States Code, providing a criminal penalty for knowingly and willfully disclosing classified information concerning the methods, techniques, and material used by the United States in the transmission of enciphered or coded messages; concerning the method used by the United States in breaking the secret codes of a foreign nation; and concerning information which the United States has obtained as a result of such a code breaking. *For text see Criminal Code, sec. 798, at p. 134 above.*
- Act of March 5, 1952 (66 Stat. 13, ch. 78): *See Act of January 12, 1951 (64 Stat. 1245, ch. 1228)—Federal Civil Defense Act of 1950, at p. 215, above.*
- Act of April 5, 1952 (Stat. 43, ch. 159): *See Provisions for Security Which Apply to Government Agencies, Part II, p. 650, below.*
- Act of June 25, 1952 (66 Stat. 158, ch. 461): *See Act of January 12, 1951 (64 Stat. 1245, ch. 1228)—Federal Civil Defense Act of 1950, at p. 215, above.*

MCCARRAN-WALTER IMMIGRATION AND NATIONALITY ACT ⁵⁷

Act of June 27, 1952 (66 Stat. 163-282), as last amended by Act of October 27, 1972 (86 Stat. 1289); 8 U.S.C. 1101-1503—*The Immigration and Nationality Act.*

Title I: The Act established in the State Department a Bureau of Security and Consular Affairs, headed by an Administrator with rank equal to an Assistant Secretary of State. The Commissioner of Immigration and Naturalization and the Administrator shall maintain direct liaison with the Federal Bureau of Investigation and the Central Intelligence Agency.

Title II (*Immigration*): It tightens the provisions excluding subversive aliens from the country and also excludes those aliens believed by consular officers or the Attorney General to be seeking entry in order to engage in prejudicial activities. It broadens the class of deportable aliens by provisions specifically including anarchists, Communists, and other totalitarians or persons affiliated with organizations declared subversive. Membership in a subversive organization shall be a basis for exclu-

⁵⁷ "Although the McCarran-Walter Act has been repeatedly amended, it still is the basic statute dealing with immigration and nationality. The amendments have been fitted into the structure of the parent statute and most of the original enactment remains undisturbed." Gordon and Rosenfield, *Immigration Law and Procedure*, § 1.3a (1971).

sion only if voluntary. It makes certain of the deportation provisions retroactive and others prospective, regarding certain facts, acts, and entries. It provides for the establishment in the office of the Commissioner of Immigration and Naturalization, of a central index of all aliens admitted to or excluded from the United States, and makes available to the Service, upon request by the Attorney General, any record of any agency as to the identity and location of aliens in the United States.

Grants the President the power to suspend immigration when he believes that the entry of any alien or group of aliens would be detrimental to the interests of the United States. Provides that any person who, by himself or through another, shall either bring in, encourage the entry of, move within the United States, or who shall willfully and knowingly harbor (employment does not constitute harboring), or conceal, any alien not duly admitted, shall be guilty of a felony and be subject to a fine up to \$2,000 or imprisonment up to 5 years, or both.

Title III (*Naturalization*): Generally tightens the requirements for citizenship. Extends the list of persons ineligible for naturalization to members or affiliates of the Communist or other totalitarian parties, to persons advocating similar goals, or to members of any organization required to be registered under the Subversive Activities Control Act, unless such members establish that they had no knowledge or reason to believe then, or thereafter prior to registration or requirement thereof, that the organization was a Communist-front organization. Establishes a presumption that any alien who is a member of a subversive organization within 10 years previous to petition for naturalization is not attached to the principles of the Constitution. Provides that membership or affiliation with an organization which would have precluded naturalization, within 5 years after naturalization, and without rebuttal, shall be enough in a proper proceeding to revoke his citizenship. Provides for the divestiture of citizenship derived through the subsequently revoked naturalization of a spouse or parent if the derivative citizen was not in the United States at the time of revocation.

A person who is a national of the United States whether by birth or naturalization, shall lose his nationality by committing any act of treason against, or attempting by force of arms to overthrow, or bearing arms against, the United States, if and when he is convicted thereof by a court-martial or by a court of competent jurisdiction.

The following sections of this Act are applicable to subversive activities.

SEC. 1104. *Secretary of State—Powers and duties.*

(a) The Secretary of State shall be charged with the administration and the enforcement of the provisions of this chapter and all other immigration and nationality laws relating to (1) the powers, duties, and functions of diplomatic and consular officers of the United States, except those powers, duties, and functions conferred upon the consular officers relating to the

granting or refusal of visas; (2) the powers, duties, and functions of the Bureau of Security and Consular Affairs; and (3) the determination of nationality of a person not in the United States. He shall establish such regulations; prescribe such forms of reports, entries and other papers; issue such instructions; and perform such other acts as he deems necessary for carrying out such provisions. He is authorized to confer or impose upon any employee of the United States, with the consent of the head of the department or independent establishment under whose jurisdiction the employee is serving, any of the powers, functions, or duties conferred or imposed by this chapter or regulations issued thereunder upon officers or employees of the Department of State or of the American Foreign Service.

CREATION OF BUREAU OF SECURITY AND CONSULAR AFFAIRS;
APPOINTMENT AND DUTIES OF ADMINISTRATOR

(b) There is established in the Department of State a Bureau of Security and Consular Affairs, to be headed by an administrator (with an appropriate title to be designated by the Secretary of State), with rank equal to that of an Assistant Secretary of State. He shall be appointed by the President by and with the advice and consent of the Senate. The administrator shall be a citizen of the United States, qualified by experience, and shall maintain close liaison with the appropriate committees of Congress in order that they may be advised regarding the administration of this chapter by consular officers. He shall be charged with any and all responsibility and authority in the administration of the Bureau and of this chapter which are conferred on the Secretary of State as may be delegated to him by the Secretary of State or which may be prescribed by the Secretary of State. He shall also perform such other duties as the Secretary of State may prescribe.

PASSPORT OFFICE, VISA OFFICE, AND OTHER OFFICES; DIRECTORS

(c) Within the Bureau there shall be a Passport Office, a Visa Office, and such other offices as the Secretary of State may deem to be appropriate, each office to be headed by a director. The Directors of the Passport Office and the Visa Office shall be experienced in the administration of the nationality and immigration laws.

SAME: TRANSFER OF DUTIES

(d) The functions heretofore performed by the Passport Division and the Visa Division of the Department of State shall hereafter be performed by the Passport Office and the Visa Office, respectively, of the Bureau of Security and Consular Affairs.

GENERAL COUNSEL OF VISA OFFICE; APPOINTMENT AND DUTIES

(e) There shall be a General Counsel of the Visa Office, who shall be appointed by the Secretary of State and who shall

serve under the general direction of the Legal Advisor of the Department of State. The General Counsel shall have authority to maintain liaison with the appropriate offices of the Service with a view to securing uniform interpretations of the provisions of this chapter.

DEPUTY UNDER SECRETARY OF STATE FOR ADMINISTRATION;
JURISDICTION

(f) The Bureau shall be under the immediate jurisdiction of the Deputy Under Secretary of State for Administration.

SEC. 1105. *Liaison with internal security officers.*

The Commissioner and the administrator shall have authority to maintain direct and continuous liaison with the Directors of the Federal Bureau of Investigation and the Central Intelligence Agency and with other internal security officers of the Government for the purpose of obtaining and exchanging information for use in enforcing the provisions of this chapter in the interest of the internal security of the United States. The Commissioner and the administrator shall maintain direct and continuous liaison with each other with a view to a coordinated, uniform, and efficient administration of this chapter, and all other immigration and nationality laws.

SEC. 1182. *Excludable aliens—General classes.*

(a) Except as otherwise provided in this chapter, the following classes of aliens shall be ineligible to receive visas and shall be excluded from admission into the United States:

* * * * *

(27) Aliens who the consular officer or the Attorney General knows or has reason to believe seek to enter the United States solely, principally, or incidentally to engage in activities which would be prejudicial to the public interest, or endanger the welfare, safety, or security of the United States;

(28) Aliens who are, or at any time have been, members of any of the following classes:

(A) Aliens who are anarchists;

(B) Aliens who advocate or teach, or who are members of or affiliated with any organization that advocates or teaches, opposition to all organized government;

(C) Aliens who are members of or affiliated with (i) the Communist Party of the United States, (ii) any other totalitarian party of the United States, (iii) the Communist Political Association, (iv) the Communist or any other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state, (v) any section, subsidiary, branch, affiliate, or subdivision of any such association or party, or (vi) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt: *Provided*, That nothing in this paragraph, or in any other provision of this chapter, shall be construed as declaring that the Communist Party does not

advocate the overthrow of the Government of the United States by force, violence, or other unconstitutional means;

(D) Aliens not within any of the other provisions of this paragraph who advocate the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who are members of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under the authority of such organization or paid for by the funds of, or funds furnished by, such organization;

(E) Aliens not within any of the other provisions of this paragraph, who are members of or affiliated with any organization during the time it is registered or required to be registered under section 786 of Title 50, unless such aliens establish that they did not have knowledge or reason to believe at the time they became members of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist organization;

(F) Aliens who advocate or teach or who are members of or affiliated with any organization that advocates or teaches (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage;

(G) Aliens who write or publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating or teaching (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the un-

lawful damage, injury, or destruction of property; or (iv) sabotage; or (v) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship;

(H) Aliens who are members of or affiliated with any organization that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subparagraph (G) of this paragraph;

(I) Any alien who is within any of the classes described in subparagraphs (B)–(H) of this paragraph because of membership in or affiliation with a party or organization or a section, subsidiary, branch, affiliate, or subdivision thereof, may, if not otherwise ineligible, be issued a visa if such alien establishes to the satisfaction of the consular officer when applying for a visa and the consular officer finds that (i) such membership or affiliation is or was involuntary, or is or was solely when under sixteen years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and where necessary for such purposes, or (ii) (a) since the termination of such membership or affiliation, such alien is and has been, for at least five years prior to the date of the application for a visa, actively opposed to the doctrine, program, principles, and ideology of such party or organization or the section, subsidiary, branch, or affiliate or subdivision thereof, and (b) the admission of such alien into the United States would be in the public interest. Any such alien to whom a visa has been issued under the provisions of this subparagraph may, if not otherwise inadmissible, be admitted into the United States if he shall establish to the satisfaction of the Attorney General when applying for admission to the United States and the Attorney General finds that (i) such membership or affiliation is or was involuntary, or is or was solely when under sixteen years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and when necessary for such purposes, or (ii) (a) since the termination of such membership or affiliation, such alien is and has been, for at least five years prior to the date of the application for admission actively opposed to the doctrine, program, principles, and ideology of such party or organization or the section, subsidiary, branch, or affiliate or subdivision thereof, and (b) the admission of such alien into the United States would be in the public interest. The Attorney General shall promptly make a detailed report to the Congress in the case of each alien who is or shall be admitted into the United States under (ii) of this subparagraph;

(29) Aliens with respect to whom the consular officer or the Attorney General knows or has reasonable grounds to believe probably would, after entry, (A) engage in activities which would be prohibited by the laws of the United States relating to espionage, sabotage, public disorder, or in other activity subversive to the national security, (B) engage in any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States, by force, violence, or other unconstitutional means, or (C) join, affiliate with, or participate in the activities of any organization which is registered or required to be registered under section 786 of Title 50;

SEC. 1185. *Travel control of citizens and aliens during war or national emergency—Restrictions and prohibitions on aliens.*

(a) When the United States is at war or during the existence of any national emergency proclaimed by the President, or, as to aliens, whenever there exists a state of war between or among two or more states, and the President shall find that the interests of the United States require that restrictions and prohibitions in addition to those provided otherwise than by this section be imposed upon the departure of persons from and their entry into the United States, and shall make public proclamation thereof, it shall, until otherwise ordered by the President or the Congress, be unlawful—

(1) for any alien to depart from or enter or attempt to depart from or enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President may prescribe:

(2) for any person to transport or attempt to transport from or into the United States another person with knowledge or reasonable cause to believe that the departure or entry of such other person is forbidden by this section:

(3) for any person knowingly to make any false statement in an application for permission to depart from or enter the United States with intent to induce or secure the granting of such permission either for himself or for another:

(4) for any person knowingly to furnish or attempt to furnish or assist in furnishing to another a permit or evidence of permission to depart or enter not issued and designed for such other person's use:

(5) for any person knowingly to use or attempt to use any permit or evidence of permission to depart or enter not issued and designed for his use:

(6) for any person to forge, counterfeit, mutilate, or alter, or cause or procure to be forged, counterfeited, mutilated, or altered, any permit or evidence of permission to depart from or enter the United States;

(7) for any person knowingly to use or attempt to use or furnish to another for use any false, forged, counter-

feited, mutilated, or altered permit, or evidence of permission, or any permit or evidence of permission which, though originally valid, has become or been made void or invalid.

CITIZENS

(b) After such proclamation as is provided for in subsection (a) of this section has been made and published and while such proclamation is in force, it shall, except as otherwise provided by the President, and subject to such limitations and exceptions as the President may authorize and prescribe, be unlawful for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States unless he bears a valid passport.

PENALTIES

(c) Any person who shall willfully violate any of the provisions of this section, or of any order or proclamation of the President promulgated, or of any permit, rule, or regulation issued thereunder, shall, upon conviction, be fined not more than \$5,000, or, if a natural person, imprisoned for not more than five years, or both: and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by like fine or imprisonment, or both: and any vehicle, vessel, or aircraft together with its appurtenances, equipment, tackle, apparel, and furniture, concerned in any such violation, shall be forfeited to the United States.

DEFINITIONS

(d) The term "United States" as used in this section includes the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States. The term "person" as used in this section shall be deemed to mean any individual, partnership, association, company, or other incorporated body of individuals, or corporation, or body politic.

NONADMISSION OF CERTAIN ALIENS

(e) Nothing in this section shall be construed to entitle an alien to whom a permit to enter the United States has been issued to enter the United States, if, upon arrival in the United States, he is found to be inadmissible under any of the provisions of this chapter, or any other law, relative to the entry of aliens into the United States.

REVOCAION OF PROCLAMATION AS AFFECTING PENALTIES

(f) The revocation of any proclamation, rule, regulation, or order issued in pursuance of this section shall not prevent prosecution for any offense committed, or the imposition of any penalties or forfeitures, liability for which was incurred under this section prior to the revocation of such proclamation, rule, regulation, or order.

PERMITS TO ENTER

(g) Passports, visas, reentry permits, and other documents required for entry under this chapter may be considered as permits to enter for the purposes of this section.

SEC. 1225. *Inspection by Immigration Officers—Powers of officers.*

(a) The inspection, other than the physical and mental examination, of aliens (including alien crewmen) seeking admission or readmission to or the privilege of passing through the United States shall be conducted by immigration officers, except as otherwise provided in regard to special inquiry officers. All aliens arriving at ports of the United States shall be examined by one or more immigration officers at the discretion of the Attorney General and under such regulations as he may prescribe. Immigration officers are authorized and empowered to board and search any vessel, aircraft, railway car, or other conveyance, or vehicle in which they believe aliens are being brought into the United States. The Attorney General and any immigration officer, including special inquiry officers, shall have power to administer oaths and to take and consider evidence of or from any person touching the privilege of any alien or person he believes or suspects to be an alien to enter, reenter, pass through, or reside in the United States or concerning any matter which is material and relevant to the enforcement of this chapter and the administration of the Service, and, where such action may be necessary, to make a written record of such evidence. Any person coming into the United States may be required to state under oath the purpose or purposes for which he comes, the length of time he intends to remain in the United States, whether or not he intends to remain in the United States permanently and, if an alien, whether he intends to become a citizen thereof, and such other items of information as will aid the immigration officer in determining whether he is a national of the United States or an alien and, if the latter, whether he belongs to any of the excluded classes enumerated in section 1182 of this title. The Attorney General and any immigration officer, including special inquiry officers, shall have power to require by subpoena the attendance and testimony of witnesses before immigration officers and special inquiry officers and the production of books, papers, and documents relating to the privilege of any person to enter, reenter, reside in, or pass through the United States or concerning any matter which is material and relevant to the enforcement of this chapter and the administration of the Service, and to that end may invoke the aid of any court of the United States. Any United States district court within the jurisdiction of which investigations or inquiries are being conducted by an immigration officer or special inquiry officer may, in the event of neglect or refusal to respond to a subpoena issued under this subsection or refusal to testify before an immigration officer or special inquiry officer, issue an order requiring such persons to appear before an immigration

officer or special inquiry officer, produce books, papers, and documents if demanded, and testify, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

DETENTION FOR FURTHER INQUIRY; CHALLENGE OF
FAVORABLE DECISION

(b) Every alien (other than an alien crewman), and except as otherwise provided in subsection (c) of this section and in section 1323(d) of this title, who may not appear to the examining immigration officer at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for further inquiry to be conducted by a special inquiry officer. The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien, whose privilege to land is so challenged, before a special inquiry officer for further inquiry.

TEMPORARY EXCLUSION; PERMANENT EXCLUSION BY
ATTORNEY GENERAL

(c) Any alien (including an alien crewman) who may appear to the examining immigration officer or to the special inquiry officer during the examination before either of such officers to be excludable under paragraphs (27), (28), or (29) of section 1182(a) of this title shall be temporarily excluded, and no further inquiry by a special inquiry officer shall be conducted until after the case is reported to the Attorney General together with any such written statement and accompanying information, if any, as the alien or his representative may desire to submit in connection therewith and such an inquiry or further inquiry is directed by the Attorney General. If the Attorney General is satisfied that the alien is excludable under any of such paragraphs on the basis of information of a confidential nature, the disclosure of which the Attorney General, in the exercise of his discretion, and after consultation with the appropriate security agencies of the Government, concludes would be prejudicial to the public interest, safety, or security, he may in his discretion order such alien to be excluded and deported without any inquiry or further inquiry by a special inquiry officer. Nothing in this subsection shall be regarded as requiring an inquiry before a special inquiry officer in the case of an alien crewman.

SEC. 1226. *Exclusion of aliens—Proceedings.*

(a) A special inquiry officer shall conduct proceedings under this section, administer oaths, present and receive evidence, and interrogate, examine, and cross-examine the alien or witnesses. He shall have authority in any case to determine whether an arriving alien who has been detained for further inquiry under section 1225 of this title shall be allowed to enter or shall be excluded and deported. The determination of such special in-

quiry officer shall be based only on the evidence produced at the inquiry. No special inquiry officer shall conduct a proceeding in any case under this section in which he shall have participated in investigative functions or in which he shall have participated (except as provided in this subsection) in prosecuting functions. Proceedings before a special inquiry officer under this section shall be conducted in accordance with this section, the applicable provisions of sections 1225 and 1357(b) of this title, and such regulations as the Attorney General shall prescribe, and shall be the sole and exclusive procedure for determining admissability of a person to the United States under the provisions of this section. At such inquiry, which shall be kept separate and apart from the public, the alien may have one friend or relative present, under such conditions as may be prescribed by the Attorney General. A complete record of the proceedings and of all testimony and evidence produced at such inquiry, shall be kept.

APPEAL

(b) From a decision of a special inquiry officer excluding an alien, such alien may take a timely appeal to the Attorney General, and any such alien shall be advised of his right to take such appeal. No appeal may be taken from a temporary exclusion under section 1225(c) of this title. From a decision of the special inquiry officer to admit an alien, the immigration officer in charge at the port where the inquiry is held may take a timely appeal to the Attorney General. An appeal by the alien, or such officer in charge, shall operate to stay any final action with respect to any alien whose case is so appealed until the final decision of the Attorney General is made. Except as provided in section 1225(c) of this title such decision shall be rendered solely upon the evidence adduced before the special inquiry officer.

FINALITY OF DECISION OF SPECIAL INQUIRY OFFICERS

(c) Except as provided in subsections (b) or (d) of this section, in every case where an alien is excluded from admission into the United States, under this chapter or any other law or treaty now existing or hereafter made, the decision of a special inquiry officer shall be final unless reversed on appeal to the Attorney General.

PHYSICAL AND MENTAL DEFECTS

(d) If a medical officer or civil surgeon or board of medical officers has certified under section 1224 of this title that an alien is afflicted with a disease specified in section 1182(a) (6) of this title, or with any mental disease, defect, or disability which would bring such alien within any of the classes excluded from admission to the United States under paragraphs (1) to (4) or (5) of section 1182(a) of this title, the decision of the special inquiry officer shall be based solely upon such certification. No

alien shall have a right to appeal from such an excluding decision of a special inquiry officer. If an alien is excluded by a special inquiry officer because of the existence of a physical disease, defect, or disability, other than one specified in section 1182(a) (6) of this title, the alien may appeal from the excluding decision in accordance with subsection (b) of this section, and the provisions of section 1183 of this title may be invoked.

SEC. 1227. *Immediate deportation of aliens excluded from admission or entering in violation of law—Maintenance expenses.*

(a) Any alien (other than an alien crewman) arriving in the United States who is excluded under this chapter, shall be immediately deported to the country whence he came, in accommodations of the same class in which he arrived, on the vessel or aircraft bringing him, unless the Attorney General, in an individual case, in his discretion, concludes that immediate deportation is not practicable or proper. The cost of the maintenance including detention expenses and expenses incident to detention of any such alien while he is being detained, as well as the transportation expense of his deportation from the United States, shall be borne by the owner or owners of the vessel or aircraft on which he arrived, except that the cost of maintenance (including detention expenses and expenses incident to detention while the alien is being detained prior to the time he is offered for deportation to the transportation line which brought him to the United States) shall not be assessed against the owner or owners of such vessel or aircraft if (1) the alien was in possession of a valid, unexpired immigrant visa, or (2) if the alien (other than an alien crewman) was in possession of a valid, unexpired nonimmigrant visa or other document authorizing such alien to apply for temporary admission to the United States or an unexpired reentry permit issued to him, and (A) such application was made within one hundred and twenty days of the date of issuance of the visa or other document, or in the case of an alien in possession of a reentry permit, within one hundred and twenty days of the date on which the alien was last examined and admitted by the Service, or (B) in the event the application was made later than one hundred and twenty days of the date of issuance of the visa or other document of such examination and admission, if the owner or owners of such vessel or aircraft established to the satisfaction of the Attorney General that the ground of exclusion could not have been ascertained by the exercise of due diligence prior to the alien's embarkation, or (3) the person claimed United States nationality or citizenship and was in possession of an unexpired United States passport issued to him by competent authority.

UNLAWFUL PRACTICE OF TRANSPORTATION LINES

(b) It shall be unlawful for any master, commanding officer, purser, person in charge, agent, owner, or consignee of any vessel or aircraft (1) to refuse to receive any alien (other than

an alien crewman), ordered deported under this section back on board such vessel or aircraft or another vessel or aircraft owned or operated by the same interests; (2) to fail to detain any alien (other than an alien crewman) on board any such vessel or at the airport of arrival of the aircraft when required by this chapter or if so ordered by an immigration officer, or to fail or refuse to deliver him for medical or other inspection, or for further medical or other inspection, as and when so ordered by such officer; (3) to refuse or fail to remove him from the United States to the country whence he came; (4) to fail to pay the cost of his maintenance while being detained as required by this section or section 1223 of this title; (5) to take any fee, deposit, or consideration on a contingent basis to be kept or returned in case the alien is landed or excluded; or (6) knowingly to bring to the United States any alien (other than an alien crewman) excluded or arrested and deported under any provision of law until such alien may be lawfully entitled to reapply for admission to the United States. If it shall appear to the satisfaction of the Attorney General that any such master, commanding officer, purser, person in charge, agent, owner or consignee of any vessel or aircraft has violated any of the provisions of this section or of section 1223 of this title, such master, commanding officer, purser, person in charge, agent, owner, or consignee shall pay to the collector of customs of the district in which port of arrival is situated or in which any vessel or aircraft of the line may be found, the sum of \$300 for each violation. No such vessel or aircraft shall have clearance from any port of the United States while any such fine is unpaid or while the question of liability to pay any such fine is being determined, nor shall any such fine be remitted or refunded, except that clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a bond or undertaking approved by the Attorney General or a sum sufficient to cover such fine.

RECOVERY OF MAINTENANCE EXPENSES BY UNITED STATES

(c) If the vessel or aircraft by which any alien who has been ordered deported under this section arrived, has left the United States and it is impracticable to deport the alien within a reasonable time by another vessel or aircraft owned by the same person, the cost of deportation may be paid from the appropriation for the enforcement of this chapter and recovered by civil suit from any owner, agent, or consignee of the vessel or aircraft.

STAY OF DEPORTATION; PAYMENT OF MAINTENANCE EXPENSES

(d) The Attorney General, under such conditions as are by regulations prescribed, may stay the deportation of any alien deportable under this section, if in his judgment the testimony of such alien is necessary on behalf of the United States in the prosecution of offenders against any provision of this chapter or other laws of the United States. The cost of maintenance of

any person so detained resulting from a stay of deportation under this subsection and a witness fee in the sum of \$1 per day for each day such person is so detained may be paid from the appropriation for the enforcement of this subchapter. Such alien may be released under bond in the penalty of not less than \$500 with security approved by the Attorney General on condition that such alien shall be produced when required as a witness and for deportation, and on such other conditions as the Attorney General may prescribe.

DEPORTATION OF ALIEN ACCOMPANYING PHYSICALLY DISABLED ALIEN

(e) Upon the certificate of an examining medical officer to the effect that an alien ordered to be excluded and deported under this section is helpless from sickness or mental and physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by the alien ordered excluded and deported, such accompanying alien may also be excluded and deported, and the master, commanding officer, agent, owner, or consignee of the vessel or aircraft in which such alien and accompanying alien arrived in the United States shall be required to return the accompanying alien in the same manner as other aliens denied admission and ordered deported under this section.

SEC. 1230. *Records of admission.*

(a) The Attorney General shall cause to be filed, as a record of admission of each immigrant, the immigrant visa required by section 1201(e) of this title to be surrendered at the port of entry by the arriving alien to an immigration officer.

(b) The Attorney General shall cause to be filed such record of the entry into the United States of each immigrant admitted under section 1181(b) of this title and of each nonimmigrant as the Attorney General deems necessary for the enforcement of the immigration laws.

SEC. 1251. *Deportable aliens—General classes.*

(a) Any alien in the United States (including an alien crewman) shall, upon the order of the Attorney General, be deported who—

(1) at the time of entry was within one or more of the classes of aliens excludable by the law existing at the time of such entry;

(2) entered the United States without inspection or at any time or place other than as designated by the Attorney General or is in the United States in violation of this chapter or in violation of any other law of the United States;

(3) hereafter, within five years after entry, becomes institutionalized at public expense because of mental disease, defect, or deficiency, unless the alien can show that such disease, defect, or deficiency did not exist prior to his admission to the United States;

(4) is convicted of a crime involving moral turpitude committed within five years after entry and either sentenced to confinement or confined therefor in a prison or correc-

tive institution, for a year or more, or who at any time after entry is convicted of two crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct, regardless of whether confined therefor and regardless of whether the convictions were in a single trial;

(5) has failed to comply with the provisions of section 1305 of this title unless he establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful, or has been convicted under section 1306(c) of this title, or under section 36(c) of the Alien Registration Act, 1940, or has been convicted of violating or conspiracy to violate any provision of sections 611 to 621 of Title 22, or has been convicted under section 1546 of Title 18;

(6) is or at any time has been, after entry, a member of any of the following classes of aliens:

(A) Aliens who are anarchists;

(B) Aliens who advocate or teach, or who are members of or affiliated with any organization that advocates or teaches, opposition to all organized government;

(C) Aliens who are members of or affiliated with (i) the Communist Party of the United States; (ii) any other totalitarian party of the United States; (iii) the Communist Political Association; (iv) the Communist or any other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state; (v) any section, subsidiary, branch, affiliate, or subdivision of any such association or party; or (vi) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt: *Provided*, That nothing in this paragraph, or in any other provision of this chapter, shall be construed as declaring that the Communist Party does not advocate the overthrow of Government of the United States by force, violence, or other unconstitutional means;

(D) Aliens not within any of the other provisions of this paragraph who advocate the economic, international, and governmental doctrines of world communism or in the establishment in the United States of a totalitarian dictatorship, or who are members of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under the authority of such organization or paid for by the funds of, or funds furnished by, such organization;

(E) Aliens not within any of the other provisions of this paragraph, who are members of or affiliated with any organization during the time it is registered or required to be registered under section 786 of Title 50, unless such aliens establish that they did not have knowledge or reason to believe at the time they became members of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist organization;

(F) Aliens who advocate or teach or who are members of or affiliated with any organization that advocates or teaches (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety, of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage;

(G) Aliens who write or publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating or teaching (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage; or (v) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship;

(H) Aliens who are members of or affiliated with any organization that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display any written or printed matter of the character described in paragraph (G) of this subdivision;

(7) is engaged, or at any time after entry has engaged, or at any time after entry has had a purpose to engage, in any of the activities described in paragraph (27) or (29) of section 1182(a) of this title, unless the Attorney General is satisfied, in the case of any alien within category (C) of paragraph (29) of section 1182(a) of this title, that such alien did not have knowledge or reason to believe at the time such alien became a member of, affiliated with, or participated in the activities of the organization (and did not thereafter and prior to the date upon which such organization was registered or required to be registered under section 786 of Title 50 have such knowledge or reason to believe) that such organization was a Communist organization;

(8) in the opinion of the Attorney General, has within five years after entry become a public charge from causes not affirmatively shown to have arisen after entry;

(9) was admitted as a nonimmigrant and failed to maintain the nonimmigrant status in which he was admitted or to which it was changed pursuant to section 1258 of this title, or to comply with the conditions of any such status;

(10) entered the United States from foreign contiguous territory or adjacent islands, having arrived there on a vessel or aircraft of a nonsignatory transportation company under section 1228(a) of this title and was without the required period of stay in such foreign contiguous territory or adjacent islands following such arrival (other than an alien who is a native-born citizen of any of the countries enumerated in section 1101(a) (27) (A) of this title and an alien described in section 1101(a) (27) (B) of this title):

(11) is, or hereafter at any time after entry has been, a narcotic drug addict, or who at any time has been convicted of a violation of, or a conspiracy to violate, any law or regulation relating to the illicit possession of or traffic in narcotic drugs or marihuana, or who has been convicted of a violation of, or a conspiracy to violate, any law or regulation governing or controlling the taxing, manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, exportation, or the possession for the purpose of the manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, or exportation of opium, coca leaves, heroin, marihuana, any salt derivative or preparation of opium or coca leaves or isonipecaine or any addiction-forming or addiction-sustaining opiate;

(12) by reason of any conduct, behavior or activity at any time after entry became a member of any of the classes specified in paragraph (12) of section 1182(a) of this title: or is or at any time after entry has been the manager, or is or at any time after entry has been connected with the management, of a house of prostitution or any other immoral place;

(13) prior to, or at the time of any entry, or at any time within five years after any entry, shall have, knowingly and

for gain, encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law;

(14) at any time after entry, shall have been convicted of possessing or carrying in violation of any law any weapon which shoots or is designed to shoot automatically or semi-automatically more than one shot without manual reloading, by a single function of the trigger, or a weapon, commonly called a sawed-off shotgun;

(15) at any time within five years after entry, shall have been convicted of violating the provisions of title I of the Alien Registration Act, 1940;

(16) at any time after entry, shall have been convicted more than once of violating the provisions of title I of the Alien Registration Act, 1940; or

(17) the Attorney General finds to be an undesirable resident of the United States by reason of any of the following, to wit: has been or may hereafter be convicted of any violation or conspiracy to violate any of the following Acts or parts of Acts or any amendment thereto, the judgment on such conviction having become final, namely: an Act entitled "An Act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes", approved June 15, 1917, or the amendment thereof approved May 16, 1918; sections 791, 792, 793, 794, 2388, and 3241, of Title 18; an Act entitled "An Act to prevent in time of war departure from and entry into the United States contrary to the public safety", approved May 22, 1918; section 1185 of this title; an Act entitled "An Act to punish the willful injury or destruction of war material or of war premises or utilities used in connection with war material, and for other purposes", approved April 20, 1918; sections 2151, 2153, 2154, 2155, and 2156 of Title 18; an Act entitled "An Act to authorize the President to increase temporarily the Military Establishment of the United States", approved May 18, 1917, or any amendment thereof or supplement thereto; the Selective Training and Service Act of 1940; the Selective Service Act of 1948; the Universal Military Training and Service Act; an Act entitled "An Act to punish persons who make threats against the President of the United States", approved February 14, 1917; section 871 of Title 18; an Act entitled "An Act to define, regulate, and punish trading with the enemy, and for other purposes", approved October 6, 1917, or any amendment thereof: the Trading With the Enemy Act; section 6 of the Penal Code of the United States: section 2384 of Title 18; has been convicted of any offense against section 13 of the Penal Code of the United States committed during the period of August 1, 1914, to April 6, 1917, or of a conspiracy occurring within said period to commit an offense under said section 13 or of any offense committed during said period against the Act

entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890, in aid of a belligerent in the European war; section 960 of Title 18; or

(18) has been convicted under section 1328 of this title or under section 4 of the Immigration Act of February 5, 1917.

NONAPPLICABILITY OF SUBSECTION (a) (4)

(b) The provisions of subsection (a) (4) of this section respecting the deportation of an alien convicted of a crime or crimes shall not apply (1) in the case of any alien who has subsequent to such conviction been granted a full and unconditional pardon by the President of the United States or by the Governor of any of the several States, or (2) if the court sentencing such alien for such crime shall make, at the time of first imposing judgment or passing sentence, or within thirty days thereafter, a recommendation to the Attorney General that such alien not be deported, due notice having been given prior to making such recommendation to representatives of the interested State, the Service, and prosecution authorities, who shall be granted an opportunity to make representations in the matter. The provisions of this subsection shall not apply in the case of any alien who is charged with being deportable from the United States under subsection (a) (11) of this section.

FRAUDULENT ENTRY

(c) An alien shall be deported as having procured a visa or other documentation by fraud within the meaning of paragraph (19) of section 1182(a) of this title, and to be in the United States in violation of this chapter within the meaning of subsection (a) (2) of this section, if (1) hereafter he or she obtains any entry into the United States with an immigrant visa or other documentation procured on the basis of a marriage entered into less than two years prior to such entry of the alien and which, within two years subsequent to any entry of the alien into the United States, shall be judicially annulled or terminated, unless such alien shall establish to the satisfaction of the Attorney General that such marriage was not contracted for the purpose of evading any provisions of the immigration laws; or (2) it appears to the satisfaction of the Attorney General that he or she has failed or refused to fulfill his or her marital agreement which in the opinion of the Attorney General was hereafter made for the purpose of procuring his or her entry as an immigrant.

APPLICABILITY TO ALL ALIENS

(d) Except as otherwise specifically provided in this section, the provisions of this section shall be applicable to all aliens belonging to any of the classes enumerated in subsection (a) of this section, notwithstanding (1) that any such alien entered the United States prior to June 27, 1952, or (2) that the facts, by

reason of which any such alien belongs to any of the classes enumerated in subsection (a) of this section, occurred prior to June 27, 1952.

DEPORTATION OF CERTAIN NONIMMIGRANTS

(e) An alien, admitted as a nonimmigrant under the provisions of either section 1101(a) (15) (A) (i) or 1101(a) (15) (G) (i) of this title, and who fails to maintain a status under either of those provisions, shall not be required to depart from the United States without the approval of the Secretary of State, unless such alien is subject to deportation under subsection (a) (6) or (7) of this section.

RELATIONSHIP TO UNITED STATES CITIZEN OR LAWFULLY ADMITTED ALIEN AS AFFECTING DEPORTATION FOR FRAUDULENT ENTRY

(f) The provisions of this section relating to the deportation of aliens within the United States on the ground that they were excludable at the time of entry as aliens who have sought to procure, or have procured visas or other documentation, or entry into the United States by fraud or misrepresentation shall not apply to an alien otherwise admissible at the time of entry who is the spouse, parent, or a child of a United States citizen or of an alien lawfully admitted for permanent residence.

SEC. 1252. *Apprehension and deportation of aliens—Arrest and custody; review of determination by court.*

(a) Pending a determination of deportability in the case of any alien as provided in subsection (b) of this section, such alien may, upon warrant of the Attorney General, be arrested and taken into custody. Any such alien taken into custody may, in the discretion of the Attorney General and pending such final determination of deportability, (1) be continued in custody; or (2) be released under bond in the amount of not less than \$500 with security approved by the Attorney General, containing such conditions as the Attorney General may prescribe; or (3) be released on conditional parole. But such bond or parole, whether heretofore or hereafter authorized, may be revoked at any time by the Attorney General, in his discretion, and the alien may be returned to custody under the warrant which initiated the proceedings against him and detained until final determination of his deportability. Any court of competent jurisdiction shall have authority to review or revise any determination of the Attorney General concerning detention, release on bond, or parole pending final decision of deportability upon a conclusive showing in habeas corpus proceedings that the Attorney General is not proceeding with such reasonable dispatch as may be warranted by the particular facts and circumstances in the case of any alien to determine deportability.

PROCEEDINGS TO DETERMINE DEPORTABILITY; REMOVAL EXPENSES

(b) A special inquiry officer shall conduct proceedings under this section to determine the deportability of any alien, and shall

administer oaths, present and receive evidence, interrogate, examine, and cross-examine the alien or witnesses, and, as authorized by the Attorney General, shall make determinations, including orders of deportation. Determination of deportability in any case shall be made only upon a record made in a proceeding before a special inquiry officer, at which the alien shall have reasonable opportunity to be present, unless by reason of the alien's mental incompetency it is impracticable for him to be present, in which case the Attorney General shall prescribe necessary and proper safeguards for the rights and privileges of such alien. If any alien has been given a reasonable opportunity to be present at a proceeding under this section, and without reasonable cause fails or refuses to attend or remain in attendance at such proceeding, the special inquiry officer may proceed to a determination in like manner as if the alien were present. In any case or class of cases in which the Attorney General believes that such procedure would be of aid in making a determination, he may require specifically or by regulation that an additional immigration officer shall be assigned to present the evidence on behalf of the United States and in such case such additional immigration officer shall have authority to present evidence, and to interrogate, examine and cross-examine the alien or other witnesses in the proceedings. Nothing in the preceding sentence shall be construed to diminish the authority conferred upon the special inquiry officer conducting such proceedings. No special inquiry officer shall conduct a proceeding in any case under this section in which he shall have participated in investigative functions or in which he shall have participated (except as provided in this subsection) in prosecuting functions. Proceedings before a special inquiry officer acting under the provisions of this section shall be in accordance with such regulations, not inconsistent with this chapter, as the Attorney General shall prescribe. Such regulations shall include requirements that—

- (1) the alien shall be given notice, reasonable under all the circumstances, of the nature of the charges against him and of the time and place at which the proceedings will be held;
- (2) the alien shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose;
- (3) the alien shall have a reasonable opportunity to examine the evidence against him, to present evidence in his own behalf, and to cross-examine witnesses presented by the Government; and
- (4) no decision of deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence. The procedure so prescribed shall be the sole and exclusive procedure for determining the deportability of an alien under this section. In any case in which an alien is ordered deported from the United States under the provisions of this chapter, or of any other law or treaty, the decision of the Attorney General shall be final. In the discretion of the Attorney General, and

under such regulations as he may prescribe, deportation proceedings, including issuance of a warrant of arrest, and a finding of deportability under this section need not be required in the case of any alien who admits to belonging to a class of aliens who are deportable under section 1251 of this title if such alien voluntarily departs from the United States at his own expense, or is removed at Government expense as hereinafter authorized, unless the Attorney General has reason to believe that such alien is deportable under paragraphs (4) to (7), (11), (12), (14) to (17), or (18) of section 1251(a) of this title. If any alien who is authorized to depart voluntarily under the preceding sentence is financially unable to depart at his own expense and the Attorney General deems his removal to be in the best interest of the United States, the expense of such removal may be paid from the appropriation for the enforcement of this chapter.

FINAL ORDER OF DEPORTATION: PLACE OF DETENTION

(c) When a final order of deportation under administrative processes is made against any alien, the Attorney General shall have a period of six months from the date of such order, or, if judicial review is had, then from the date of the final order of the court, within which to effect the alien's departure from the United States, during which period, at the Attorney General's discretion, the alien may be detained, released on bond in an amount and containing such conditions as the Attorney General may prescribe, or released on such other condition as the Attorney General may prescribe. Any court of competent jurisdiction shall have the authority to review or revise any determination of the Attorney General concerning detention, release on bond, or other release during such six-month period upon a conclusive showing in habeas corpus proceedings that the Attorney General is not proceeding with such reasonable dispatch as may be warranted by the particular facts and circumstances in the case of any alien to effect such alien's departure from the United States within such six-month period. If deportation has not been practicable, advisable, or possible, or departure of the alien from the United States under the order of deportation has not been effected, within such six-month period, the alien shall become subject to such further supervision and detention pending eventual deportation as is authorized in this section. The Attorney General is authorized and directed to arrange for appropriate places of detention for those aliens whom he shall take into custody and detain under this section. Where no Federal buildings are available or buildings adapted or suitably located for the purpose are available for rental, the Attorney General is authorized, notwithstanding section 5 of Title 41 or section 278a of Title 40 to expend, from the appropriation provided for the administration and enforcement of the immigration laws, such amounts as may be necessary for the acquisition of land and the erection, acquisition, maintenance, operation, remodeling, or repair of buildings, sheds, and office quarters (including living quarters for officers where none are otherwise available),

and adjunct facilities, necessary for the detention of aliens. For the purposes of this section an order of deportation heretofore or hereafter entered against an alien in legal detention or confinement, other than under an immigration process, shall be considered as being made as of the moment he is released from such detention or confinement, and not prior thereto.

SUPERVISION OF DEPORTABLE ALIEN; VIOLATION BY ALIEN

(d) Any alien, against whom a final order of deportation as defined in subsection (c) of this section heretofore or hereafter issued has been outstanding for more than six months, shall, pending eventual deportation, be subject to supervision under regulations prescribed by the Attorney General. Such regulations shall include provisions which will require any alien subject to supervision (1) to appear from time to time before an immigration officer for identification; (2) to submit, if necessary, to medical and psychiatric examination at the expense of the United States; (3) to give information under oath as to his nationality, circumstances, habits, associations, and activities, and such other information, whether or not related to the foregoing, as the Attorney General may deem fit and proper; and (4) to conform to such reasonable written restrictions on his conduct or activities as are prescribed by the Attorney General in his case. Any alien who shall willfully fail to comply with such regulations, or willfully fail to appear or to give information or submit to medical or psychiatric examination if required, or knowingly give false information in relation to the requirements of such regulations, or knowingly violate a reasonable restriction imposed upon his conduct or activity, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

PENALTY FOR WILLFUL FAILURE TO DEPART; SUSPENSION OF SENTENCE

(e) Any alien against whom a final order of deportation is outstanding by reason of being a member of any of the classes described in paragraphs (4) to (7), (11), (12), (14) to (17), or (18) of section 1251(a) of this title, who shall willfully fail or refuse to depart from the United States within a period of six months from the date of the final order of deportation under administrative processes, or, if judicial review is had, then from the date of the final order of the court, or from September 23, 1950, whichever is the later, or shall willfully fail or refuse to make timely application in good faith for travel or other documents necessary to his departure, or who shall connive or conspire, or take any other action, designed to prevent or hamper or with the purpose of preventing or hampering his departure pursuant to such order of deportation, or who shall willfully fail or refuse to present himself for deportation at the time and place required by the Attorney General pursuant to such order of deportation, shall upon conviction be guilty of a felony, and shall be imprisoned not more than ten years: *Provided*, That

this subsection shall not make it illegal for any alien to take any proper steps for the purpose of securing cancellation of or exemption from such order of deportation or for the purpose of securing his release from incarceration or custody: *Provided further*, That the court may for good cause suspend the sentence of such alien and order his release under such conditions as the court may prescribe. In determining whether good cause has been shown to justify releasing the alien, the court shall take into account such factors as (1) the age, health, and period of detention of the alien; (2) the effect of the alien's release upon the national security and public peace or safety; (3) the likelihood of the alien's resuming or following a course of conduct which made or would make him deportable; (4) the character of the efforts made by such alien himself and by representatives of the country or countries to which his deportation is directed to expedite the alien's departure from the United States; (5) the reason for the inability of the Government of the United States to secure passports, other travel documents, or deportation facilities from the country or countries to which the alien has been ordered deported; and (6) the eligibility of the alien for discretionary relief under the immigration laws.

UNLAWFUL REENTRY

(f) Should the Attorney General find that any alien has unlawfully reentered the United States after having previously departed or been deported pursuant to an order of deportation, whether before or after June 27, 1952, on any ground described in any of the paragraphs enumerated in subsection (e) of this section, the previous order of deportation shall be deemed to be reinstated from its original date and such alien shall be deported under such previous order at any time subsequent to such reentry. For the purposes of subsection (e) of this section the date on which the finding is made that such reinstatement is appropriate shall be deemed the date of the final order of deportation.

VOLUNTARY DEPORTATION; PAYMENT OF EXPENSES

(g) If any alien, subject to supervision or detention under subsections (c) or (d) of this section, is able to depart from the United States under the order of deportation, except that he is financially unable to pay his passage, the Attorney General may in his discretion permit such alien to depart voluntarily, and the expense of such passage to the country to which he is destined may be paid from the appropriation for the enforcement of this chapter, unless such payment is otherwise provided for under this chapter.

SERVICE OF PRISON SENTENCE PRIOR TO DEPORTATION

(h) An alien sentenced to imprisonment shall not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole, probation, or possibility of

rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.

SEC. 1301. *Alien seeking entry; contents.*

No visa shall be issued to any alien seeking to enter the United States until such alien has been registered and fingerprinted in accordance with section 1201(b) of this title, unless such alien has been exempted from being fingerprinted as provided in that section.

SEC. 1302. *Registration of aliens.*

(a) It shall be the duty of every alien now or hereafter in the United States, who (1) is fourteen years of age or older, (2) has not been registered and fingerprinted under section 1201(b) of this title or section 30 or 31 of the Alien Registration Act, 1940, and (3) remains in the United States for thirty days or longer, to apply for registration and to be fingerprinted before the expiration of such thirty days.

(b) It shall be the duty of every parent or legal guardian of any alien now or hereafter in the United States, who (1) is less than fourteen years of age, (2) has not been registered under section 1201(b) of this title or section 30 or 31 of the Alien Registration Act, 1940, and (3) remains in the United States for thirty days or longer, to apply for the registration of such alien before the expiration of such thirty days. Whenever any alien attains his fourteenth birthday in the United States he shall, within thirty days thereafter, apply in person for registration and to be fingerprinted.

SEC. 1303. *Registration of special groups.*

(a) Notwithstanding the provisions of sections 1301 and 1302 of this title, the Attorney General is authorized to prescribe special regulations and forms for the registration and fingerprinting of (1) alien crewmen, (2) holders of border-crossing identification cards, (3) aliens confined in institutions within the United States, (4) aliens under order of deportation, and (5) aliens of any other class not lawfully admitted to the United States for permanent residence.

(b) The provisions of section 1302 of this title and of this section shall not be applicable to any alien who is in the United States as a nonimmigrant under section 1101(a) (15) (A) or (a) (15) (G) of this title until the alien ceases to be entitled to such a nonimmigrant status.

SEC. 1304. *Forms for registration and fingerprinting—Preparation; contents.*

(a) The Attorney General and the Secretary of State jointly are authorized and directed to prepare forms for the registration and fingerprinting of aliens under section 1301 of this title, and the Attorney General is authorized and directed to prepare forms for the registration and fingerprinting of aliens under section 1302 of this title. Such forms contain inquiries with respect to (1) the date and place of entry of the alien into the United States; (2) activities in which he has been and intends to be engaged; (3) the length of time he expects to remain in the United States; (4) the police and criminal record, if any,

of such alien; and (5) such additional matters as may be prescribed.

CONFIDENTIAL NATURE

(b) All registration and fingerprint records made under the provisions of this subchapter shall be confidential, and shall be made available only to such persons or agencies as may be designated by the Attorney General.

INFORMATION UNDER OATH

(c) Every person required to apply for the registration of himself or another under this subchapter shall submit under oath the information required for such registration. Any person authorized under regulations issued by the Attorney General to register aliens under this subchapter shall be authorized to administer oaths for such purpose.

CERTIFICATE OF ALIEN REGISTRATION OR ALIEN RECEIPT CARD

(d) Every alien in the United States who has been registered and fingerprinted under the provisions of the Alien Registration Act, 1940, or under the provisions of this chapter shall be issued a certificate of alien registration or an alien registration receipt card in such form and manner and at such time as shall be prescribed under regulations issued by the Attorney General.

SAME; PERSONAL POSSESSION; PENALTIES

(e) Every alien, eighteen years of age and over, shall at all times carry with him and have in his personal possession any certificate of alien registration or alien registration receipt card issued to him pursuant to subsection (d) of this section. Any alien who fails to comply with the provisions of this subsection shall be guilty of a misdemeanor and shall upon conviction for each offense be fined not to exceed \$100 or be imprisoned not more than thirty days, or both.

SEC. 1305. *Change of address.*

Every alien required to be registered under this subchapter, or who was required to be registered under the Alien Registration Act, 1940, as amended, who is within the United States on the first day of January following the effective date of this chapter, or on the first day of January of each succeeding year shall, within thirty days following such dates, notify the Attorney General in writing of his current address and furnish such additional information as may be required by the Attorney General. Any such alien shall likewise notify the Attorney General in writing of each change of address and new address within ten days from the date of such change. Any such alien who is temporarily absent from the United States on the first day of January following the effective date of this chapter, or on the first day of January of any succeeding year shall furnish his current address and other information as required by this section within ten days after his return. Any such alien in

the United States in a lawful temporary residence status shall in like manner also notify the Attorney General in writing of his address at the expiration of each three-month period during which he remains in the United States regardless of whether there has been any change of address. In the case of an alien for whom a parent or legal guardian is required to apply for registration, the notice required by this section shall be given by such parent or legal guardian.

SEC. 1306. *Penalties—Willful failure to register.*

(a) Any alien required to apply for registration and to be fingerprinted in the United States who willfully fails or refuses to make such application or to be fingerprinted, and any parent or legal guardian required to apply for the registration of any alien who willfully fails or refuses to file application for the registration of such alien shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not to exceed \$1,000 or be imprisoned not more than six months, or both.

FAILURE TO NOTIFY CHANGE OF ADDRESS

(b) Any alien or any parent or legal guardian in the United States of any alien who fails to give written notice to the Attorney General, as required by section 1305 of this title, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not to exceed \$200 or be imprisoned not more than thirty days, or both. Irrespective of whether an alien is convicted and punished as herein provided, any alien who fails to give written notice to the Attorney General, as required by section 1305 of this title, shall be taken into custody and deported in the manner provided by part V of this subchapter, unless such alien establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful.

FRAUDULENT STATEMENTS

(c) Any alien or any parent or legal guardian of any alien, who files an application for registration containing statements known by him to be false, or who procures or attempts to procure registration of himself or another person through fraud, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not to exceed \$1,000, or be imprisoned not more than six months, or both; and any alien so convicted shall, upon the warrant of the Attorney General, be taken into custody and be deported in the manner provided in part V of this subchapter.

COUNTERFEITING

(d) Any person who with unlawful intent photographs, prints, or in any other manner makes, or executes, any engraving, photograph, print, or impression in the likeness of any certificate of alien registration or an alien registration receipt card or any colorable imitation thereof, except when and as authorized under such rules and regulations as may be prescribed by the

Attorney General, shall upon conviction be fined not to exceed \$5,000 or be imprisoned not more than five years, or both.

SEC. 1325. *Entry of alien at improper time or place; misrepresentation and concealment of facts.*

Any alien who (1) enters the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offenses, be guilty of a misdemeanor and upon conviction thereof be punished by imprisonment for not more than six months, or by a fine of not more than \$500, or by both, and for a subsequent commission of any such offenses shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment for not more than two years, or by a fine of not more than \$1,000, or both.

SEC. 1326. *Reentry of deported alien.*

Any alien who—

(1) has been arrested and deported or excluded and deported, and thereafter

(2) enters, attempts to enter, or is at any time found in, the United States, unless (A) prior to his reembarkation at a place outside the United States or his application for admission from foreign contiguous territory, the Attorney General has expressly consented to such alien's reapplying for admission; or (B) with respect to an alien previously excluded and deported, unless such alien shall establish that he was not required to obtain such advance consent under this chapter or any prior Act, shall be guilty of a felony, and upon conviction thereof, be punished by imprisonment of not more than two years, or by a fine of not more than \$1,000, or both.

SEC. 1327. *Aiding or assisting subversive alien to enter.*

Any person who knowingly aids or assists any alien excludable under section 1182(a) (27), (28), or (29) of this title to enter the United States, or who connives or conspires with any person or persons to allow, procure, or permit any such alien to enter the United States, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than five years, or both.

SEC. 1360. *Establishment of central file; information from other departments and agencies.*

(a) There shall be established in the office of the Commissioner for the use of security and enforcement agencies of the Government of the United States, a central index, which shall contain the names of all aliens heretofore admitted to the United States, or excluded therefrom, insofar as such information is available from the existing records of the Service, and the names of all aliens hereafter admitted to the United States, or excluded therefrom, the names of their sponsors of record, if any, and such other relevant information as the Attorney General shall require as an aid to the proper enforcement of this chapter.

(b) Any information in any records kept by any department or agency of the Government as to the identity and location of aliens in the United States shall be made available to the Service upon request made by the Attorney General to the head of any such department or agency.

(c) The Secretary of Health, Education, and Welfare shall notify the Attorney General upon request whenever any alien is issued a social security account number and social security card. The Secretary shall also furnish such available information as may be requested by the Attorney General regarding the identity and location of aliens in the United States.

(d) A written certification signed by the Attorney General or by any officer of the Service designated by the Attorney General to make such certification, that after diligent search no record or entry of a specified nature is found to exist in the records of the Service, shall be admissible as evidence in any proceeding as evidence that the records of the Service contain no such record or entry, and shall have the same effect as the testimony of a witness given in open court.

SEC. 1424. *Prohibition upon the naturalization of persons opposed to government or law, or who favor totalitarian forms of government.*

(a) Notwithstanding the provisions of section 405(b) of this Act, no person shall hereafter be naturalized as a citizen of the United States—

(1) who advocates or teaches, or who is a member of or affiliated with any organization that advocates or teaches, opposition to all organized government; or

(2) who is a member of or affiliated with (A) the Communist Party of the United States; (B) any other totalitarian party of the United States; (C) the Communist Political Association; (D) the Communist or other totalitarian party or any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state; (E) any section, subsidiary, branch, affiliate, or subdivision of any such association or party; (F) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt; (G) who, regardless of whether he is within any of the other provisions of this section, is a member of or affiliated with any Communist-action organization during the time it is registered or required to be registered under the provisions of section 786 of Title 50; or (H) who, regardless of whether he is within any of the other provisions of this section is a member of or affiliated with any Communist-front organization during the time it is registered or required to be registered under section 786 of Title 50, unless such alien establishes that he did not have knowledge or reason to believe at the time he became a member of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowl-

edge or reason to believe) that such organization was a Communist-front organization; or

(3) who, although not within any of the other provisions of this section, advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who is a member of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under authority of such organization or paid for by the funds of such organization; or

(4) who advocates or teaches or who is a member of or affiliated with any organization that advocates or teaches (A) the overthrow by force or violence other than unconstitutional means of the Government of the United States or of all forms of law; or (B) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government because of his or their official character; or (C) the unlawful damage, injury, or destruction of property; or (D) sabotage; or

(5) who writes or publishes or causes to be written or published, or who knowingly circulates, distributes, prints, or displays, or knowingly causes to be circulated, distributed, printed, published, or displayed, or who knowingly has in his possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating (A) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (B) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (C) the unlawful damage, injury, or destruction of property; or (D) sabotage or (E) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship; or

(6) who is a member of or affiliated with any organization that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subparagraph (5) of this subsection.

(b) The provisions of this section or of any other section of this title shall not be construed as declaring that any of the or-

ganizations referred to in this section or in any other section of this title do not advocate the overthrow of the Government of the United States by force, violence, or other unconstitutional means.

(c) The provisions of this section shall be applicable to any applicant for naturalization who at any time within a period of ten years immediately preceding the filing of the petition for naturalization or after such filing and before taking the final oath of citizenship is, or has been found to be within any of the classes enumerated within this section, notwithstanding that at the time the petition is filed he may not be included within such classes.

(d) Any person who is within any of the classes described in subsection (a) of this section solely because of past membership in, or past affiliation with, a party or organization may be naturalized without regard to the provisions of subsection (c) of this section if such person establishes that such membership or affiliation is or was involuntary, or occurred and terminated prior to the attainment by such alien of the age of sixteen years, or that such membership or affiliation is or was by operation of law, or was for purposes of obtaining employment, food rations, or other essentials of living and where necessary for such purposes.

SEC. 1425. *Ineligibility to naturalization of deserters from the armed forces.*

A person who, at any time during which the United States has been or shall be at war, deserted or shall desert the military, air, or naval forces of the United States, or who, having been duly enrolled, departed, or shall depart from the jurisdiction of the district in which enrolled, or who, whether or not having been duly enrolled, went or shall go beyond the limits of the United States, with intent to avoid any draft into the military, air, or naval service, lawfully ordered, shall, upon conviction thereof by a court martial or a court of competent jurisdiction, be permanently ineligible to become a citizen of the United States; and such deserters and evaders shall be forever incapable of holding any office of trust or of profit under the United States, or of exercising any rights of citizens thereof.

SEC. 1426. *Citizenship denied alien relieved of service in armed forces because of alienage; conclusiveness of records.*

(a) Notwithstanding the provisions of section 405(b) of this Act, any alien who applies or has applied for exemption or discharge from training or service in the Armed Forces or in the National Security Training Corps of the United States on the ground that he is an alien, and is or was relieved or discharged from such training or service on such ground, shall be permanently ineligible to become a citizen of the United States.

(b) The records of the Selective Service System or of the National Military Establishment shall be conclusive as to whether an alien was relieved or discharged from such liability for training or service because he was an alien.

SEC. 1427. *Requirements of naturalization—Residence.*

(a) No person, except as otherwise provided in this subchapter, shall be naturalized unless such petitioner, (1) immediately

preceding the date of filing his petition for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least five years and during the five years immediately preceding the date of filing his petition has been physically present therein for periods totaling at least half of that time, and who has resided within the State in which the petitioner filed the petition for at least six months, (2) has resided continuously within the United States from the date of the petition up to the time of admission to citizenship, and (3) during all the period referred to in this subsection has been and still is a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States.

ABSENCES

(a) Absence from the United States of more than six months but less than one year during the period for which continuous residence is required for admission to citizenship, immediately preceding the date of filing the petition for naturalization, or during the period between the date of filing the petition and the date of final hearing, shall break the continuity of such residence, unless the petitioner shall establish to the satisfaction of the court that he did not in fact abandon his residence in the United States during such period.

Absence from the United States for a continuous period of one year or more during the period for which continuous residence is required for admission to citizenship (whether preceding or subsequent to the filing of the petition for naturalization) shall break the continuity of such residence, except that in the case of a person who has been physically present and residing in the United States, after being lawfully admitted for permanent residence, for an uninterrupted period of at least one year, and who thereafter is employed by or under contract with the Government of the United States or an American institution of research recognized as such by the Attorney General, or is employed by an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof more than 50 per centum of whose stock is owned by an American firm or corporation, or is employed by a public international organization of which the United States is a member by treaty or statute and by which the alien was not employed until after being lawfully admitted for permanent residence, no period of absence from the United States shall break the continuity of residence if—

(1) prior to the beginning of such period of employment (whether such period begins before or after his departure from the United States), but prior to the expiration of one year of continuous absence from the United States, the person has established to the satisfaction of the Attorney General that his absence from the United States for such period is to be on behalf of such Government, or for the purpose of carrying on scientific research on behalf of such institu-

tion, or to be engaged in the development of such foreign trade and commerce or whose residence abroad is necessary to the protection of the property rights in such countries in such firm or corporation, or to be employed by a public international organization of which the United States is a member by treaty or statute and by which the alien was not employed until after being lawfully admitted for permanent residence; and

(2) such person proves to the satisfaction of the court that his absence from the United States for such period has been for such purpose.

PHYSICAL PRESENCE

(c) The granting of the benefits of subsection (b) of this section shall not relieve the petitioner from the requirement of physical presence within the United States for the period specified in subsection (a) of this section, except in the case of those persons who are employed by, or under contract with, the Government of the United States. In the case of a person employed by or under contract with Central Intelligence Agency, the requirement in subsection (b) of this section of an uninterrupted period of at least one year of physical presence in the United States may be complied with by such person at any time prior to filing a petition for naturalization.

MORAL CHARACTER

(d) No finding by the Attorney General that the petitioner is not deportable shall be accepted as conclusive evidence of good moral character.

SAME; DETERMINATION

(e) In determining whether the petitioner has sustained the burden of establishing good moral character and the other qualifications for citizenship specified in subsection (a) of this section, the court shall not be limited to the petitioner's conduct during the five years preceding the filing of the petition, but may take into consideration as a basis for such determination the petitioner's conduct and acts at any time prior to that period.

RESTRICTIONS

(f) Naturalization shall not be granted to a petitioner by a naturalization court while registration proceedings or proceedings to require registration against an organization of which the petitioner is a member or affiliate are pending under section 792 or 793 of Title 50.

SEC. 1440. *Naturalization through active-duty service in the armed forces during World War I, World War II, Korean hostilities, Vietnam hostilities, or other periods of military hostilities—Requirements.*

(a) Any person who, while an alien or a noncitizen national of the United States, has served honorably in an active-duty

status in the military, air, or naval forces of the United States during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, or during a period beginning June 25, 1950, and ending July 1, 1955, or during a period beginning February 28, 1961, and ending on a date designated by the President by Executive order as of the date of termination of the Vietnam hostilities, or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, and who, if separated from such service, was separated under honorable conditions, may be naturalized as provided in this section if (1) at the time of enlistment or induction such person shall have been in the United States, the Canal Zone, American Samoa, or Swains Island, whether or not he has been lawfully admitted to the United States for permanent residence, or (2) at any time subsequent to enlistment or induction such person shall have been lawfully admitted to the United States for permanent residence. The executive department under which such person served shall determine whether persons have served honorably in an active-duty status, and whether separation from such service was under honorable conditions: *Provided, however*, That no person who is or who has been separated from such service on account of alienage, or who was a conscientious objector who performed no military, air, or naval duty whatever or refused to wear the uniform, shall be regarded as having served honorably or having been separated under honorable conditions for the purposes of this section. No period of service in the Armed Forces shall be made the basis of a petition for naturalization under this section if the applicant has previously been naturalized on the basis of the same period of service.

EXCEPTIONS

(b) A person filing a petition under subsection (a) of this section shall comply in all other respects with the requirements of this subchapter, except that—

(1) he may be naturalized regardless of age, and notwithstanding the provisions of section 1429 of this title as they relate to deportability and the provisions of section 1442 of this title;

(2) no period of residence or specified period of physical presence within the United States or any State shall be required;

(3) the petition for naturalization may be filed in any court having naturalization jurisdiction regardless of the residence of the petitioner;

(4) service in the military, air, or naval forces of the United States shall be proved by a duly authenticated certification from the executive department under which the petitioner served or is serving, which shall state whether the petitioner served honorably in an active-duty status during

either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, or during a period beginning June 25, 1950, and ending July 1, 1955, or during a period beginning February 28, 1961, and ending on a date designated by the President by Executive order as the date of termination of the Vietnam hostilities, or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, and was separated from such service under honorable conditions; and

(5) notwithstanding section 1447(c) of this title, the petitioner may be naturalized immediately if prior to the filing of the petition the petitioner and the witnesses shall have appeared before and been examined by a representative of the Service.

REVOCATION

(c) Citizenship granted pursuant to this section may be revoked in accordance with section 1451 of this title if at any time subsequent to naturalization the person is separated from the military, air, or naval forces under other than honorable conditions, and such ground for revocation shall be in addition to any other provided by law. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation.

APPLICABILITY OF PETITIONS FILED PRIOR TO JANUARY 1, 1947

(d) The eligibility for naturalization of any person who filed a petition for naturalization prior to January 1, 1947, under section 701 of the Nationality Act of 1940, as amended (56 Stat. 182, 58 Stat. 886, 59 Stat. 658), and which is still pending on the effective date of this chapter, shall be determined in accordance with the provisions of this section.

SEC. 1442. *Alien enemies—Naturalization under specified conditions.*

(a) An alien who is a native, citizen, subject, or denizen of any country, state, or sovereignty with which the United States is at war may, after his loyalty has been fully established upon investigation by the Attorney General, be naturalized as a citizen of the United States if such alien's petition for naturalization shall be pending at the beginning of the state of war and the petitioner is otherwise entitled to admission to citizenship.

PROCEDURE

(b) An alien embraced within this section shall not have his petition for naturalization called for a hearing, or heard, except after ninety days' notice given by the clerk of the court to the Attorney General to be represented at the hearing, and

the Attorney General's objection to such final hearing shall cause the petition to be continued from time to time for so long as the Attorney General may require.

EXCEPTIONS; FROM CLASSIFICATION

(c) The Attorney General may, in his discretion, upon investigation fully establishing the loyalty of any alien enemy who did not have a petition for naturalization pending at the beginning of the state of war, except such alien enemy from the classification of alien enemy for the purposes of this subchapter, and thereupon such alien shall have the privilege of filing a petition for naturalization.

EFFECT AND CESSATION OF HOSTILITIES

(d) An alien who is a native, citizen, subject, or denizen of any country, state, or sovereignty with which the United States is at war shall cease to be an alien enemy within the meaning of this section upon the determination by proclamation of the President, or by concurrent resolution of the Congress, that hostilities between the United States and such country, state, or sovereignty have ended. Notwithstanding the provisions of section 405(b) of this Act, this subsection shall also apply to the case of any such alien whose petition for naturalization was filed prior to the effective date of this chapter and which is still pending on that date.

APPREHENSION AND REMOVAL

(e) Nothing contained herein shall be taken or construed to interfere with or prevent the apprehension and removal, consistent with law, of any alien enemy at any time prior to the actual naturalization of such alien.

SEC. 1451. *Revocation of naturalization—Concealment of material evidence; refusal to testify.*

(a) It shall be the duty of the United States attorneys for the respective districts, upon affidavit showing good cause therefor, to institute proceedings in any court specified in subsection (a) of section 1421 of this title in the judicial district in which the naturalized citizen may reside at the time of bringing suit, for the purpose of revoking and setting aside the order admitting such person to citizenship and canceling the certificate of naturalization on the ground that such order and certificate of naturalization were illegally procured or were procured by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively: *Provided*, That refusal on the part of a naturalized citizen within a period of ten years following his naturalization to testify as a witness in any proceeding before a congressional committee concerning his subversive activities, in a case where such per-

son has been convicted of contempt for such refusal, shall be held to constitute a ground for revocation of such person's naturalization under this subsection as having been procured by concealment of a material fact or by willful misrepresentation. If the naturalized citizen does not reside in any judicial district in the United States at the time of bringing such suit, the proceedings may be instituted in the United States District Court for the District of Columbia or in the United States district court in the judicial district in which such person last had his residence.

NOTICE TO PARTY

(b) The party to whom was granted the naturalization alleged to have been illegally procured or procured by concealment of a material fact or by willful misrepresentation shall, in any such proceedings under subsection (a) of this section, have sixty days' personal notice, unless waived by such party, in which to make answers to the petition of the United States; and if such naturalized person be absent from the United States or from the judicial district in which such person last had his residence, such notice shall be given either by personal service upon him or by publication in the manner provided for the service of summons by publication or upon absentees by the laws of the State or the place where such suit is brought.

MEMBERSHIP IN CERTAIN ORGANIZATIONS: PRIMA FACIE EVIDENCE

(c) If a person who shall have been naturalized after the effective date of this chapter shall within five years next following such naturalization become a member of or affiliated with any organization, membership in or affiliation with which at the time of naturalization would have precluded such person from naturalization under the provisions of section 1424 of this title, it shall be considered prima facie evidence that such person was not attached to the principles of the Constitution of the United States and was not well disposed to the good order and happiness of the United States at the time of naturalization, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the revocation and setting aside of the order admitting such person to citizenship and the cancellation of the certificate of naturalization as having been obtained by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively.

FOREIGN RESIDENCE

(d) If a person who shall have been naturalized shall, within five years after such naturalization, return to the country of his nativity, or go to any other foreign country, and take per-

manent residence therein, it shall be considered prima facie evidence of a lack of intention on the part of such person to reside permanently in the United States at the time of filing his petition for naturalization, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the revocation and setting aside of the order admitting such person to citizenship and the cancellation of the certificate of naturalization as having been obtained by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively. The diplomatic and consular officers of the United States in foreign countries shall from time to time, through the Department of State, furnish the Department of Justice with statements of the names of those persons within their respective jurisdictions who have been so naturalized and who have taken permanent residence in the country of their nativity, or in any other foreign country, and such statements, duly certified, shall be admissible in evidence in all courts in proceedings to revoke and set aside the order admitting to citizenship and to cancel the certificate of naturalization.

WIFE OR MINOR CHILD NOT AFFECTED

(e) The revocation and setting aside of the order admitting any person to citizenship and canceling his certificate of naturalization under the provisions of subsection (a) of section 338 of the Nationality Act of 1940 shall not, where such action takes place after the effective date of this chapter, result in the loss of citizenship or any right or privilege of citizenship which would have been derived by or been available to a wife or minor child of the naturalized person had such naturalization not been revoked: *Provided*, That this subsection shall not apply in any case in which the revocation and setting aside of the order was the result of actual fraud.

APPLICABILITY TO CITIZENSHIP THROUGH NATURALIZATION OF PARENT OR SPOUSE

(f) Any person who claims United States citizenship through the naturalization of a parent or spouse in whose case there is a revocation and setting aside of the order admitting such parent or spouse to citizenship under the provisions of subsection (a) of this section on the ground that the order and certificate of naturalization were procured by concealment of a material fact or by willful misrepresentation shall be deemed to have lost and to lose his citizenship and any right or privilege of citizenship which he may have, now has, or may hereafter acquire under and by virtue of such naturalization of such parent or spouse, regardless of whether such person is residing within or without the United States at the time of the revocation and setting aside of the order admitting such par-

ent or spouse to citizenship. Any person who claims United States citizenship through the naturalization of a parent or spouse in whose case there is a revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization under the provisions of subsections (c) or (d) of this section, or under the provisions of section 1440 (c) of this title on any ground other than that the order and certificate of naturalization were procured by concealment of a material fact or by willful misrepresentation, shall be deemed to have lost and to lose his citizenship and any right or privilege of citizenship which would have been enjoyed by such person had there not been a revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization, unless such person is residing in the United States at the time of the revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization.

CITIZENSHIP UNLAWFULLY PROCURED

(g) When a person shall be convicted under section 1425 of Title 18 of knowingly procuring naturalization in violation of law, the court in which such conviction is had shall thereupon revoke, set aside, and declare void the final order admitting such person to citizenship, and shall declare the certificate of naturalization of such person to be canceled. Jurisdiction is conferred on the courts having jurisdiction of the trial of such offense to make such adjudication.

CANCELLATION OF CERTIFICATE OF NATURALIZATION

(h) Whenever an order admitting an alien to citizenship shall be revoked and set aside or a certificate of naturalization shall be canceled, or both, as provided in this section, the court in which such judgment or decree is rendered shall make an order canceling such certificate and shall send a certified copy of such order to the Attorney General. In case such certificate was not originally issued by the court making such order, it shall direct the clerk of court in which the order is revoked and set aside to transmit a copy of such order and judgment to the court out of which such certificate of naturalization shall have been originally issued. It shall thereupon be the duty of the clerk of the court receiving such certified copy of the order and judgment of the court to enter the same of record and to cancel such original certificate of naturalization, if there be any, upon the records and to notify the Attorney General of the entry of such order and of such cancellation. A person holding a certificate of naturalization or citizenship which has been canceled as provided by this section shall upon notice by the court by which the decree of cancellation was made, or by the Attorney General, surrender the same to the Attorney General.

APPLICABILITY OF CERTIFICATES OF NATURALIZATION
AND CITIZENSHIP

(i) The provisions of this section shall apply not only to any naturalization granted and to certificates of naturalization and citizenship issued under the provisions of this subchapter, but to any naturalization heretofore granted by any court, and to all certificates of naturalization and citizenship which may have been issued heretofore by any court or by the Commissioner based upon naturalization granted by any court, or by a designated representative of the Commissioner under the provisions of section 702 of the Nationality Act of 1940, as amended, or by such designated representative under any other act.

POWER OF COURT TO CORRECT, REOPEN, ALTER, MODIFY OR
VACATE JUDGMENT OR DECREE

(j) Nothing contained in this section shall be regarded as limiting, denying, or restricting the power of any naturalization court, by or in which a person has been naturalized, to correct, reopen, alter, modify, or vacate its judgment or decree naturalizing such person, during the term of such court or within the time prescribed by the rules of procedure or statutes governing the jurisdiction of the court to take such action.

JOINT CONGRESSIONAL COMMITTEE

Section 401 of the Act of June 27, 1952, *McCarran-Walter Immigration and Nationality Act* (66 Stat. 274; 8 U.S.C. 1106) providing for the establishment of Joint Committee on Immigration and Nationality, including its composition, necessity of membership on House or Senate Committee on the Judiciary, vacancies and election of chairman, functions, reports, submission of regulations to Committee, hearings and subpoenas, travel expenses, employment of personnel, payments of Committee expenses, and effective date, repealed by Act of October 26, 1970 (84 Stat. 1189, § 442(a)), effective immediately prior to noon January 3, 1971 (84 Stat. 1204, § 601(1)).

Section 402 of the Act of June 27, 1952, *McCarran-Walter Immigration Act* (66 Stat. 275-276), amended Title 18 of the United States Code to read as follows:

§ 1546. FRAUD AND MISUSE OF VISAS, PERMITS, AND OTHER
ENTRY DOCUMENTS

Whoever, knowingly forges, counterfeits, alters, or falsely makes any immigrant or nonimmigrant visa, permit, or other document required for entry into the United States, or utters, uses, attempts to use, possesses, obtains, accepts, or receives any such visa, permit, or document, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or

Whoever, except under direction of the Attorney General or the Commissioner of the Immigration and Naturalization Service, or other proper officer, knowingly possesses any blank permit, or engraves, sells, brings into the United States, or has in his control or possession any plate in the likeness of a plate designed for the printing of permits, or makes any print, photograph, or impression in the likeness of any immigrant or nonimmigrant visa, permit or other document required for entry into the United States, or has in his possession a distinctive paper which has been adopted by the Attorney General or the Commissioner of the Immigration and Naturalization Service for the printing of such visas, permits, or documents; or

Whoever, when applying for an immigrant or nonimmigrant visa, permit, or other document required for entry into the United States, or for admission to the United States personates another, or falsely appears in the name of a deceased individual, or evades or attempts to evade the immigration laws by appearing under an assumed or fictitious name without disclosing his true identity, or sells or otherwise disposes of, or offers to sell or otherwise dispose of, or utters, such visa, permit, or other document, to any person not authorized by law to receive such document; or

Whoever knowingly makes under oath any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement—

Shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

SECRECY OF INVENTIONS

Act of July 19, 1952 (66 Stat. 805-808; 35 U.S.C. 181, 186)—*The Invention Secrecy Act*:

§ 181. *Secrecy of certain inventions and withholding of patent.* Whenever publication or disclosure by the grant of a patent on an invention in which the Government has a property interest might, in the opinion of the head of the interested Government agency, be detrimental to the national security, the Commissioner upon being so notified shall order that the invention be kept secret and shall withhold the grant of a patent therefor under the conditions set forth hereinafter.

Whenever the publication or disclosure of an invention by the granting of a patent, in which the Government does not have a property interest, might, in the opinion of the Commissioner, be detrimental to the national security, he shall make the application for patent in which such invention is disclosed available for inspection to the Atomic Energy Commission, the Secretary of Defense, and the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States.

Each individual to whom the application is disclosed shall sign a dated acknowledgment thereof, which acknowledgment shall be entered in the file of the application. If, in the opinion of the Atomic Energy Commission, the Secretary of a Defense Department, or the chief officer of another department or agency so designated, the publication or disclosure of the invention by the granting of a patent therefor would be detrimental to the national security, the Atomic Energy Commission, the Secretary of a Defense Department, or such other chief shall notify the Commissioner and the Commissioner shall order that the invention be kept secret and shall withhold the grant of a patent for such period as the national interest requires, and notify the applicant thereof. Upon proper showing by the head of the department or agency who caused the secrecy order to be issued that the examination of the application might jeopardize the national interest, the Commissioner shall thereupon maintain the application in a sealed condition and notify the applicant thereof. The owner of an application which has been placed under a secrecy order shall have a right to appeal from the order to the Secretary of Commerce under rules prescribed by him.

An invention shall not be ordered kept secret and the grant of a patent withheld for a period of more than one year. The Commissioner shall renew the order at the end thereof, or at the end of any renewal period, for additional periods of one year upon notification by the head of the department or the chief officer of the agency who caused the order to be issued that an affirmative determination has been made that the national interest continues so to require. An order in effect, or issued, during a time when the United States is at war, shall remain in effect for the duration of the hostilities and one year following cessation of hostilities. An order in effect, or issued, during a national emergency declared by the President shall remain in effect for the duration of the national emergency and six months thereafter. The Commissioner may rescind any order upon notification by the heads of the departments and the chief officers of the agencies who caused the order to be issued that the publication or disclosure of the invention is no longer deemed detrimental to the national security.

§ 186. *Penalty.* Whoever, during the period or periods of time an invention has been ordered to be kept secret and the grant of a patent thereon withheld pursuant to section 181 of this title, shall, with knowledge of such order and without due authorization, willfully publish or disclose or authorize or cause to be published or disclosed the invention, or material information with respect thereto, or whoever, in violation of the provisions of section 184 of this title, shall file or cause or authorize to be filed in any foreign country an application for patent or for the registration of a utility model, industrial design, or model in respect of any invention made in the United States, shall, upon conviction, be fined not more than \$10,000 or imprisoned for not more than two years or both."

- Act of July 30, 1953 (67 Stat. 231 § 104; P.L. 163, 83d Cong.): *See* Act of January 12, 1951 (64 Stat. 1245, ch. 1228)—*Federal Civil Defense Act of 1950*, p. 215, above.
- Act of August 13, 1953 (67 Stat. 577, ch. 434; P.L. 264, 83d Cong.)—*Illegal Exportation of War Materials*—*See* Act of June 15, 1917 (40 Stat. 223, Title VI, § 1), at p. 71, above.

CLASSIFYING INFORMATION

Executive Order 11652 of March 8, 1972 (37 FR 5209), effective June 1, 1972: *Classification and Declassification of National Security Information and Material*.

The interests of the United States and its citizens are best served by making information regarding the affairs of Government readily available to the public. This concept of an informed citizenry is reflected in the Freedom of Information Act [section 552 of Title 5, Government Organization and Employees] and in the current public information policies of the executive branch.

Within the Federal Government there is some official information and material which, because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be subject to some constraints for the security of our Nation and the safety of our people and our allies. To protect against actions hostile to the United States, of both an overt and covert nature, it is essential that such official information and material be given only limited dissemination.

This official information or material, referred to as classified information or material in this order, is expressly exempted from public disclosure by Section 552(b) (1) of Title 5, United States Code [section 552(b) (1) of Title 5, Government Organization and Employees]. Wrongful disclosure of such information or material is recognized in the Federal Criminal Code as providing a basis for prosecution.

To ensure that such information and material is protected, but only to the extent and for such period as is necessary, this order identifies the information to be protected, prescribes classification, downgrading, declassification and safeguarding procedures to be followed, and establishes a monitoring system to ensure its effectiveness.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, it is hereby ordered:

SECTION 1. *Security Classification Categories*. Official information or material which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States (hereinafter collectively termed "national security") shall be classified in one of three categories, namely "Top Secret," "Secret," or "Confidential," depending upon the degree of its significance to national security. No other categories shall be used to identify official information or material as requiring protection in the interest of

national security, except as otherwise expressly provided by statute. These classification categories are defined as follows:

(A) "*Top Secret.*" "Top Secret" refers to that national security information or material which requires the highest degree of protection. The test for assigning "Top Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security. Examples of "exceptionally grave damage" include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the national security; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security. This classification shall be used with the utmost restraint.

(B) "*Secret.*" "Secret" refers to that national security information or material which requires a substantial degree of protection. The test for assigning "Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause serious damage to the national security. Examples of "serious damage" include disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plans or intelligence operations; and compromise of significant scientific or technological developments relating to national security. The classification "Secret" shall be sparingly used.

(C) "*Confidential.*" "Confidential" refers to that national security information or material which requires protection. The test for assigning "Confidential" classification shall be whether its unauthorized disclosure could reasonably be expected to cause damage to the national security.

SEC. 2. *Authority to Classify.* The authority to originally classify information or material under this order shall be restricted solely to those offices within the executive branch which are concerned with matters of national security, and shall be limited to the minimum number absolutely required for efficient administration. Except as the context may otherwise indicate, the term "Department" as used in this order shall include agency or other governmental unit.

(A) The authority to originally classify information or material under this order as "Top Secret" shall be exercised only by such officials as the President may designate in writing and by:

- (1) The heads of the Departments listed below;
- (2) Such of their senior principal deputies and assistants as the heads of such Departments may designate in writing; and
- (3) Such heads and senior principal deputies and assistants of major elements of such Departments, as the heads of such Departments may designate in writing.

Such offices in the Executive Office of the President as the President may designate in writing.

Central Intelligence Agency
 Atomic Energy Commission
 Department of State
 Department of the Treasury
 Department of Defense
 Department of the Army
 Department of the Navy
 Department of the Air Force
 United States Arms Control and Disarmament Agency
 Department of Justice
 National Aeronautics and Space Administration
 Agency for International Development

(B) The authority to originally classify information or material under this order as "Secret" shall be exercised only by:

(1) Officials who have "Top Secret" classification authority;
 (2) Such subordinates as officials with "Top Secret" classification authority under (A) (1) and (2) above may designate in writing; and

(3) The heads of the following named Departments and such senior principal deputies or assistants as they may designate in writing.

Department of Transportation
 Federal Communications Commission
 Export-Import Bank of the United States
 Department of Commerce
 United States Civil Service Commission
 United States Information Agency
 General Services Administration
 Department of Health, Education, and Welfare
 Civil Aeronautics Board
 Federal Maritime Commission
 Federal Power Commission
 National Science Foundation
 Overseas Private Investment Corporation

(C) The authority to originally classify information or material under this order as "Confidential" may be exercised by officials who have "Top Secret" or "Secret" classification authority and such officials as they may designate in writing.

(D) Any Department not referred to herein and any Department or unit established hereafter shall not have authority to originally classify information or material under this order, unless specifically authorized hereafter by an Executive order.

SEC. 3. *Authority to Downgrade and Declassify.* The authority to downgrade and declassify national security information or material shall be exercised as follows:

(A) Information or material may be downgraded or declassified by the official authorizing the original classification, by a successor in capacity or by a supervisory official of either.

(B) Downgrading and declassification authority may also be exercised by an official specifically authorized under regu-

lations issued by the head of the Department listed in Section 2 (A) or (B) hereof.

(C) In the case of classified information or material officially transferred by or pursuant to statute or Executive order in conjunction with a transfer of function and not merely for storage purposes, the receiving Department shall be deemed to be the originating Department for all purposes under this order including downgrading and declassification.

(D) In the case of classified information or material not officially transferred within (C) above, but originated in a Department which has since ceased to exist, each Department in possession shall be deemed to be the originating Department for all purposes under this order. Such information or material may be downgraded and declassified by the Department in possession after consulting with any other Departments having an interest in the subject matter.

(E) Classified information or material transferred to the General Services Administration for accession into the Archives of the United States shall be downgraded and declassified by the Archivist of the United States in accordance with this order, directives of the President issued through the National Security Council and pertinent regulations of the Departments.

(F) Classified information or material with special markings, as described in Section 8, shall be downgraded and declassified as required by law and governing regulations.

SEC. 4. *Classification.* Each person possessing classifying authority shall be held accountable for the propriety of the classification attributed to him. Both unnecessary classification and over-classification shall be avoided. Classification shall be solely on the basis of national security considerations. In no case shall information be classified in order to conceal inefficiency or administrative error, to prevent embarrassment to a person or Department, to restrain competition or independent initiative, or to prevent for any other reason the release of information which does not require protection in the interest of national security. The following rules shall apply to classification of information under this order:

(A) *Documents in General.* Each classified document shall show on its face its classification and whether it is subject to or exempt from the General Declassification Schedule. It shall also show the office of origin, the date of preparation and classification and, to the extent practicable, be so marked as to indicate which portions are classified, at what level, and which portions are not classified in order to facilitate excerpting and other use. Material containing references to classified materials, which references do not reveal classified information, shall not be classified.

(B) *Identification of Classifying Authority.* Unless the Department involved shall have provided some other method of identifying the individual at the highest level that authorized classification in each case, material classified under this order shall indicate on its face the identity of the highest authority

authorizing the classification. Where the individual who signs or otherwise authenticates a document or item has also authorized the classification, no further annotation as to his identity is required.

(C) *Information or Material Furnished by a Foreign Government or International Organization.* Classified information or material furnished to the United States by a foreign government or international organization shall either retain its original classification or be assigned a United States classification. In either case, the classification shall assure a degree of protection equivalent to that required by the government or international organization which furnished the information or material.

(D) *Classification Responsibilities.* A holder of classified information or material shall observe and respect the classification assigned by the originator. If a holder believes that there is unnecessary classification, that the assigned classification is improper, or that the document is subject to declassification under this order, he shall so inform the originator who shall thereupon re-examine the classification.

SEC. 5. *Declassification and Downgrading.* Classified information and material, unless declassified earlier by the original classifying authority, shall be declassified and downgraded in accordance with the following rules:

(A) *General Declassification Schedule.*

(1) "*Top Secret.*" Information or material originally classified "Top Secret" shall become automatically downgraded to "Secret" at the end of the second full calendar year following the year in which it was originated, downgraded to "Confidential" at the end of the fourth full calendar year following the year in which it was originated, and declassified at the end of the tenth full calendar year following the year in which it was originated.

(2) "*Secret.*" Information and material originally classified "Secret" shall become automatically downgraded to "Confidential" at the end of the second full calendar year following the year in which it was originated, and declassified at the end of the eighth full calendar year following the year in which it was originated.

(3) "*Confidential.*" Information and material originally classified "Confidential" shall become automatically declassified at the end of the sixth full calendar year following the year in which it was originated.

(B) *Exemptions from General Declassification Schedule.* Certain classified information or material may warrant some degree of protection for a period exceeding that provided in the General Declassification Schedule. An official authorized to originally classify information or material "Top Secret" may exempt from the General Declassification Schedule any level of classified information or material originated by him or under his supervision if it falls within one of the categories described below. In each case such official shall specify in writ-

ing on the material the exemption category being claimed and, unless impossible, a date or event for automatic declassification. The use of the exemption authority shall be kept to the absolute minimum consistent with national security requirements and shall be restricted to the following categories:

(1) Classified information or material furnished by foreign governments or international organizations and held by the United States on the understanding that it be kept in confidence.

(2) Classified information or material specifically covered by statute, or pertaining to cryptography, or disclosing intelligence sources or methods.

(3) Classified information or material disclosing a system, plan, installation, project or specific foreign relations matter the continuing protection of which is essential to the national security.

(4) Classified information or material the disclosure of which would place a person in immediate jeopardy.

(C) *Mandatory Review of Exempted Material.* All classified information and material originated after the effective date of this order which is exempted under (B) above from the General Declassification Schedule shall be subject to a classification review by the originating Department at any time after the expiration of ten years from the date of origin provided:

(1) A Department or member of the public requests a review;

(2) The request describes the record with sufficient particularity to enable the Department to identify it; and

(3) The record can be obtained with only a reasonable amount of effort.

Information or material which no longer qualifies for exemption under (B) above shall be declassified. Information or material continuing to qualify under (B) shall be so marked and, unless impossible, a date for automatic declassification shall be set.

(D) *Applicability of the General Declassification Schedule to Previously Classified Material.* Information or material classified before the effective date of this order and which is assigned to Group 4 under Executive Order No. 10501, as amended by Executive Order No. 10964, shall be subject to the General Declassification Schedule. All other information or material classified before the effective date of this order, whether or not assigned to Groups 1, 2, or 3 of Executive Order No. 10501, as amended, shall be excluded from the General Declassification Schedule. However, at any time after the expiration of ten years from the date of origin it shall be subject to a mandatory classification review and disposition under the same conditions and criteria that apply to classified information and material created after the effective date of this order as set forth in (B) and (C) above.

(E) *Declassification of Classified Information or Material After Thirty Years.* All classified information or material which

is thirty years old or more, whether originating before or after the effective date of this order, shall be declassified under the following conditions:

(1) All information and material classified after the effective date of this order shall, whether or not declassification has been requested, become automatically declassified at the end of thirty full calendar years after the date of its original classification except for such specifically identified information or material which the head of the originating Department personally determines in writing at that time to require continued protection because such continued protection is essential to the national security or disclosure would place a person in immediate jeopardy. In such case, the head of the Department shall also specify the period of continued classification.

(2) All information and material classified before the effective date of this order and more than thirty years old shall be systematically reviewed for declassification by the Archivist of the United States by the end of the thirtieth full calendar year following the year in which it was originated. In his review, the Archivist will separate and keep protected only such information or material as is specifically identified by the head of the Department in accordance with (E)(1) above. In such case, the head of the Department shall also specify the period of continued classification.

(F) *Departments Which Do Not Have Authority For Original Classification.* The provisions of this section relating to the declassification of national security information or material shall apply to Departments which, under the terms of this order, do not have current authority to originally classify information or material, but which formerly had such authority under previous Executive orders.

SEC. 6. *Policy Directives on Access, Marking, Safekeeping, Accountability, Transmission, Disposition and Destruction of Classified Information and Material.* The President acting through the National Security Council shall issue directives which shall be binding on all Departments to protect classified information from loss or compromise. Such directives shall conform to the following policies:

(A) No person shall be given access to classified information or material unless such person has been determined to be trustworthy and unless access to such information is necessary for the performance of his duties.

(B) All classified information and material shall be appropriately and conspicuously marked to put all persons on clear notice of its classified contents.

(C) Classified information and material shall be used, possessed, and stored only under conditions which will prevent access by unauthorized persons or dissemination to unauthorized persons.

(D) All classified information and material disseminated outside the executive branch under Executive Order No. 10865 [set out as a note under this section] or otherwise shall be properly protected.

(E) Appropriate accountability records for classified information shall be established and maintained and such information and material shall be protected adequately during all transmissions.

(F) Classified information and material no longer needed in current working files or for reference or record purposes shall be destroyed or disposed of in accordance with the records disposal provisions contained in Chapter 33 of Title 44 of the United States Code [sections 3301-3314 of Title 44, Public Printing and Documents] and other applicable statutes.

(G) Classified information or material shall be reviewed on a systematic basis for the purpose of accomplishing downgrading, declassification, transfer, retirement and destruction at the earliest practicable date.

SEC. 7. *Implementation and Review Responsibilities.* (A) The National Security Council shall monitor the implementation of this order. To assist the National Security Council, an Interagency Classification Review Committee shall be established, composed of representatives of the Departments of State, Defense and Justice, the Atomic Energy Commission, the Central Intelligence Agency and the National Security Council Staff and a Chairman designated by the President. Representatives of other Departments in the executive branch may be invited to meet with the Committee on matters of particular interest to those Departments. This Committee shall meet regularly and on a continuing basis shall review and take action to ensure compliance with this order, and in particular:

(1) The Committee shall oversee Department actions to ensure compliance with the provisions of this order and implementing directives issued by the President through the National Security Council.

(2) The Committee shall, subject to procedures to be established by it, receive, consider and take action on suggestions and complaints from persons within or without the government with respect to the administration of this order, and in consultation with the affected Department or Departments assure that appropriate action is taken on such suggestions and complaints.

(3) Upon request of the Committee Chairman, any Department shall furnish to the Committee any particular information or material needed by the Committee in carrying out its functions.

(B) To promote the basic purposes of this order, the head of each Department originating or handling classified information or material shall:

(1) Prior to the effective date of this order submit to the Interagency Classification Review Committee for approval a copy of the regulations it proposes to adopt pursuant to this order.

(2) Designate a senior member of his staff who shall ensure effective compliance with and implementation of this order and shall also chair a Departmental committee which shall have authority to act on all suggestions and complaints with respect to the Department's administration of this order.

(3) Undertake an initial program to familiarize the employees of his Department with the provisions of this order. He shall also establish and maintain active training and orientation programs for employees concerned with classified information or material. Such programs shall include, as a minimum, the briefing of new employees and periodic reorientation during employment to impress upon each individual his responsibility for exercising vigilance and care in complying with the provisions of this order. Additionally, upon termination of employment or contemplated temporary separation for a sixty-day period or more, employees shall be debriefed and each reminded of the provisions of the Criminal Code and other applicable provisions of law relating to penalties for unauthorized disclosure.

(C) The Attorney General, upon request of the head of a Department, his duly designated representative, or the Chairman of the above described Committee, shall personally or through authorized representatives of the Department of Justice render an interpretation of this order with respect to any question arising in the course of its administration.

SEC. 8. *Material Covered by the Atomic Energy Act.* Nothing in this order shall supersede any requirements made by or under the Atomic Energy Act of August 30, 1954, as amended [section 2011 et seq. of Title 42, The Public Health and Welfare]. "Restricted Data," and material designated as "Formerly Restricted Data," shall be handled, protected, classified, downgraded and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and the regulations of the Atomic Energy Commission.

SEC. 9. *Special Departmental Arrangements.* The originating Department or other appropriate authority may impose, in conformity with the provisions of this order, special requirements with respect to access, distribution and protection of classified information and material, including those which presently relate to communications intelligence, intelligence sources and methods and cryptography.

SEC. 10. *Exceptional Cases.* In an exceptional case when a person or Department not authorized to classify information originates information which is believed to require classification, such person or Department shall protect that information in the manner prescribed by this order. Such persons or Department shall transmit the information forthwith, under appropriate safeguards, to the Department having primary interest in the subject matter with a request that a determination be made as to classification.

SEC. 11. *Declassification of Presidential Papers.* The Archivist of the United States shall have authority to review and declassify information and material which has been classified by a President, his White House Staff or special committee or commission appointed by him and which the Archivist has in his custody at any archival depository, including a Presidential Library. Such declassification shall only be undertaken in ac-

cord with (i) the terms of the donor's deed of gift, (ii) consultations with the Departments having a primary subject-matter interest, and (iii) the provisions of Section 5.

SEC. 12. *Historical Research and Access by Former Government Officials.* The requirements in Section 6(A) that access to classified information or material be granted only as is necessary for the performance of one's duties shall not apply to persons outside the executive branch who are engaged in historical research projects or who have previously occupied policy-making positions to which they were appointed by the President; *Provided*, however, that in each case the head of the originating Department shall:

(i) determine that access is clearly consistent with the interests of national security; and

(ii) take appropriate steps to assure that classified information or material is not published or otherwise compromised. Access granted a person by reason of his having previously occupied a policy-making position shall be limited to those papers which the former official originated, reviewed, signed or received while in public office.

SEC. 13. *Administrative and Judicial Action.* (A) Any officer or employee of the United States who unnecessarily classifies or overclassifies information or material shall be notified that his actions are in violation of the terms of this order or of a directive of the President issued through the National Security Council. Repeated abuse of the classification process shall be grounds for an administrative reprimand. In any case where the Departmental committee or the Interagency Classification Review Committee finds that unnecessary classification or overclassification has occurred, it shall make a report to the head of the Department concerned in order that corrective steps may be taken.

(B) The head of each Department is directed to take prompt and stringent administrative action against any officer or employee of the United States, at any level of employment, determined to have been responsible for any release or disclosure of national security information or material in a manner not authorized by or under this order or a directive of the President issued through the National Security Council. Where a violation of criminal statutes may be involved, Departments will refer any such case promptly to the Department of Justice.

SEC. 14. *Revocation of Executive Order No. 10501.* Executive Order No. 10501 of November 5, 1953, as amended by Executive Orders No. 10816 of May 8, 1959, No. 10901 of January 11, 1961, No. 10964 of September 20, 1961, No. 10985 of January 15, 1962, No. 11097 of March 6, 1963 and by Section 1(a) of No. 11382 of November 28, 1967, is superseded as of the effective date of this order.

SEC. 15. *Effective date.* This order shall become effective on June 1, 1972.

National Security Council Directive on Classification, Downgrading, Declassification and Safeguarding of National Security Information of May 17, 1972 (37 FR 10053).

The President has directed that Executive Order 11652 "Classification and Declassification of National Security Information and Material," approved March 8, 1972 (37 F.R. 5209, March 10, 1972) [set out as a note under this section] be implemented in accordance with the following:

I AUTHORITY TO CLASSIFY

A. *Personal and non-delegable.* Classification authority may be exercised only by those officials who are designated by, or in writing pursuant to, Section 2 of Executive Order 11652 (hereinafter the "Order") [set out as a note under this section]. Such officials may classify information or material only at the level authorized or below. This authority vests only to the official designated under the Order, and may not be delegated.

B. *Observance of classification.* Whenever information or material classified by an official designated under A above is incorporated in another document or other material by any person other than the classifier, the previously assigned security classification category shall be reflected thereon together with the Identity of the classifier.

C. *Identification of classifier.* The person at the highest level authorizing the classification must be identified on the face of the information or material classified, unless the identity of such person might disclose sensitive intelligence information. In the latter instance the Department shall establish some other record by which the classifier can readily be identified.

D. *Record requirement.* Each Department listed in Section 2(A) of the Order shall maintain a listing by name of the officials who have been designated in writing to have Top Secret classification authority. Each Department listed in Section 2(A) and (B) of the Order shall also maintain separate listings by name of the persons designated in writing to have Secret authority and persons designated in writing to have Confidential authority. In cases where listing of the names of officials having classification authority might disclose sensitive intelligence information, the Department shall establish some other record by which such officials can readily be identified. The foregoing listings and records shall be compiled beginning July 1, 1972 and updated at least on a quarterly basis.

E. *Resolution of doubts.* If the classifier has any substantial doubt as to which security classification category is appropriate, or as to whether the material should be classified at all, he should designate the less restrictive treatment.

II DOWNGRADING AND DECLASSIFICATION

A. *General declassification schedule and exemptions.* Classified information and material shall be classified as soon as there are no longer any grounds for continued classification within the classification category definitions set forth in Section 1 of the Order. At the time of origination the classifier shall, whenever possible, clearly mark on the information or material a

specific date or event upon which downgrading or declassification shall occur. Such dates or events shall be as early as is permissible without causing damage to the national security as defined in Section 1 of the Order. Whenever earlier dates or events cannot be determined, the General Declassification Schedule set forth in Section 5(A) of the Order shall apply. If the information or material is exempted under Section 5(B) of the Order from the General Declassification Schedule, the classifier shall clearly mark the material to show that it is exempt and indicate the applicable exemption category. Unless impossible, the exempted information or material shall be assigned with a specific date or event upon which declassification shall occur. Downgrading and declassification dates or events established in accordance with the foregoing, whether scheduled or non-scheduled, shall to the extent possible be carried forward and applied whenever the classified information or material is incorporated in other documents or material.

B. *Extracts and compilations.* When classified information or material from more than one source is incorporated into a new document or other material, the document or other material shall be classified, downgraded or declassified in accordance with the provisions of the Order and Directives thereunder applicable to the information requiring the greatest protection.

C. *Material not officially transferred.* When a Department holding classified information or material under the circumstances described in Section 3(D) of the Order notifies another Department of its intention to downgrade or declassify, it shall allow the notified Department 30 days in which to express its objections before taking action.

D. *Declassification of material 30 years old.* The head of each Department shall assign experienced personnel to assist the Archivist of the United States in the exercise of his responsibility under Section 5(E) of the Order to systematically review for declassification all materials classified before June 1, 1972 and more than 30 years old. Such personnel will: (1) provide guidance and assistance to archival employees in identifying and separating those materials originated in their Departments which are deemed to require continued classification; and (2) develop a list for submission to the head of the Department which identifies the materials so separated, with recommendations concerning continued classification. The head of the originating Department will then make the determination required under Section 5(E) of the Order and cause a list to be created which identifies the documentation included in the determination, indicates the reason for continued classification and specifies the date on which such material shall be declassified.

E. *Notification of expedited downgrading or declassification.* When classified information or material is downgraded or declassified in a manner other than originally specified, whether scheduled or exempted, the classifier shall, to the extent practicable, promptly notify all addressees to whom the information or material was originally officially transmitted. In turn, the

addressees shall notify any other known recipient of the classified information or material.

III REVIEW OF CLASSIFIED MATERIAL FOR DECLASSIFICATION PURPOSES

A. Systematic reviews. All information and material classified after the effective date of the Order and determined in accordance with Chapter 21, 44 U.S.C. (82 Stat. 1287) [section 2101 et seq. of Title 44, Public Printing and Documents] to be of sufficient historical or other value to warrant preservation shall be systematically reviewed on a timely basis by each Department for the purpose of making such information and material publicly available in accordance with the determination regarding declassification made by the classifier under Section 5 of the Order. During each calendar year each Department shall segregate to the maximum extent possible all such information and material warranting preservation and becoming declassified at or prior to the end of such year. Promptly after the end of such year the Department responsible, or the Archives of the United States if transferred thereto, shall make the declassified information and material available to the public to the extent permitted by law.

B. Review for declassification of classified material over 10 years old. Each Department shall designate in its implementing regulations an office to which members of the public or Departments may direct requests for mandatory review for declassification under Section 5(C) and (D) of the Order. This office shall in turn assign the request to the appropriate office for action. In addition, this office or the office which has been assigned action shall immediately acknowledge receipt of the request in writing. If the request requires the rendering of services for which fair and equitable fees should be charged pursuant to Title 5 of the Independent Offices Appropriations Act, 1952, 65 Stat. 290, 31 U.S.C. 483a [section 483a of Title 31, Money and Finance] the requester shall be so notified. The office which has been assigned action shall thereafter make a determination within 30 days of receipt or shall explain the reasons why further time is necessary. If at the end of 60 days from receipt of the request for review no determination has been made, the requester may apply to the Departmental Committee established by Section 7(B) of the Order for a determination. Should the office assigned action on a request for review determine that under the criteria set forth in Section 5(B) of the Order continued classification is required, the requester shall promptly be notified, and whenever possible, provided with a brief statement as to why the requested information or material cannot be declassified. The requester may appeal any such determination to the Departmental Committee and the notice of determination shall advise him of this right.

C. Departmental committee review for declassification. The Departmental Committee shall establish procedures to review

and act within 30 days upon all applications and appeals regarding requests for declassification. The Department head, acting through the Departmental Committee shall be authorized to overrule previous determinations in whole or in part when, in its judgment, continued protection is no longer required. If the Departmental Committee determines that continued classification is required under the criteria of Section 5(B) of the Order it shall promptly so notify the requester and advise him that he may appeal the denial to the Interagency Classification Review Committee.

D. Review of classified material over 30 years old. A request by a member of the public or by a Department under Section 5(C) or (D) of the Order to review for declassification documents more than 30 years old shall be referred directly to the Archivist of the United States, and he shall have the requested documents reviewed for declassification in accordance with Part II.D. hereof. If the information or material requested has not been transferred to the General Services Administration for accession into the Archives, the Archivist shall, together with the head of the Department having custody, have the requested documents reviewed for declassification. Classification shall be continued in either case only where the head of the Department concerned makes at that time the personal determination required by Section 5(E) (1) of the Order. The Archivist shall promptly notify the requester of such determination and of his right to appeal the denial to the Interagency Classification Review Committee.

E. Burden of proof for administrative determinations. For purposes of administrative determinations under B., C., or D., above, the burden of proof is on the originating Department to show that continued classification is warranted within the terms of the Order.

F. Availability of declassified material. Upon a determination under B., C., or D, above that the requested material no longer warrants classification it shall be declassified and made promptly available to the requester, if not otherwise exempt from disclosure under Section 552(b) of Title 5 U.S.C. [section 552(b) of Title 5, Government Organization and Employees] (Freedom of Information Act) or other provision of law.

G. Classification review requests. As required by Section 5(C) of the Order, a request for classification review must describe the document with sufficient particularity to enable the Department to identify it and obtain it with a reasonable amount of effort. Whenever a request is deficient in its description of the record sought, the requester should be asked to provide additional identifying information whenever possible. Before denying a request on the ground that it is unduly burdensome, the requester should be asked to limit his request to records that are reasonably obtainable. If none-the-less the requester does not describe the records sought with sufficient particularity, or the record requested cannot be obtained with a reasonable amount of effort, the requester shall be notified

of the reasons why no action will be taken and of his right to appeal such decision.

IV MARKING REQUIREMENTS

A. *When document or other material is prepared.* At the time of origination, each document or other material containing classified information shall be marked with its assigned security classification and whether it is subject to or exempt from the General Declassification Schedule.

(1) For marking documents which are subject to the General Declassification Schedule, the following stamp shall be used:

(TOP SECRET, SECRET OR CONFIDENTIAL) CLASSIFIED BY

 SUBJECT TO GENERAL DECLASSIFICATION SCHEDULE OF EXECUTIVE ORDER 11652 AUTOMATICALLY DOWNGRADED AT TWO YEAR INTERVALS AND DECLASSIFIED ON DEC. 31

(insert year)

(2) For marking documents which are to be automatically declassified on a given event or date earlier than the General Declassification Schedule the following stamp shall be used:

(TOP SECRET, SECRET OR CONFIDENTIAL) CLASSIFIED BY

 AUTOMATICALLY DECLASSIFIED ON (effective date or event)

(3) For marking documents which are exempt from the General Declassification Schedule the following stamp shall be used:

(TOP SECRET, SECRET OR CONFIDENTIAL) CLASSIFIED BY

 EXEMPT FROM GENERAL DECLASSIFICATION SCHEDULE OF EXECUTIVE ORDER 11652 EXEMPTION CATEGORY (SECS. 5B(1), (2), (3), OR (4) AUTOMATICALLY DECLASSIFIED ON (EFFECTIVE DATE OR EVENT, IF ANY)

Should the classifier inadvertently fail to mark a document with one of the foregoing stamps the document shall be deemed to be subject to the General Declassification Schedule. The person who signs or finally approves a document or other material containing classified information shall be deemed to be the classifier. If the classifier is other than such person he shall be identified on the stamp as indicated.

The "Restricted Data" and "Formerly Restricted Data" stamps (H below) are, in themselves, evidence of exemption from the General Declassification Schedule.

B. *Overall and page marking of documents.* The overall classification of a document, whether or not permanently bound, or any copy or reproduction thereof, shall be conspicuously marked or stamped at the top and bottom of the outside of the front cover (if any), on the title page (if any), on the first page, on the back page and on the outside of the back cover (if any). To the extent practicable each interior page of a document which is not permanently bound shall be conspicuously marked

or stamped at the top and bottom according to its own content, including the designation "Unclassified" when appropriate.

C. *Paragraph marking.* Whenever a classified document contains either more than one security classification category or unclassified information, each section, part or paragraph should be marked to the extent practicable to show its classification category or that it is unclassified.

D. *Material other than documents.* If classified material cannot be marked, written notification of the information otherwise required in markings shall accompany such material.

E. *Transmittal documents.* A transmittal document shall carry on it a prominent notation as to the highest classification of the information which is carried with it, and a legend showing the classification, if any, of the transmittal document standing alone.

F. *Wholly unclassified material not usually marked.* Normally, unclassified material shall not be marked or stamped "Unclassified" unless the purpose of the marking is to indicate that a decision has been made not to classify it.

G. *Downgrading, declassification and upgrading markings.* Whenever a change is made in the original classification or in the dates of downgrading or declassification of any classified information or material it shall be promptly and conspicuously marked to indicate the change, the authority for the action, the date of the action, and the identity of the person taking the action. In addition, all earlier classification markings shall be cancelled, if practicable, but in any event on the first page.

(1) *Limited use of posted notice for large quantities of material.* When the volume of information or material is such that prompt re-marking of each classified item could not be accomplished without unduly interfering with operations, the custodian may attach downgrading, declassification or upgrading notices to the storage unit in lieu of the re-marking otherwise required. Each notice shall indicate the change, the authority for the action, the date of the action, the identity of the person taking the action and the storage units to which it applies. When individual documents or other materials are withdrawn from such storage units they shall be promptly re-marked in accordance with the change, or if the documents have been declassified, the old markings shall be canceled.

(2) *Transfer of stored quantities covered by posted notice.* When information or material subject to a posted downgrading, upgrading or declassification notice are withdrawn from one storage unit solely for transfer to another, or a storage unit containing such documents or other materials is transferred from one place to another, the transfer may be made without re-marking if the notice is attached to or remains with each shipment.

H. *Additional warning notices.* In addition to the foregoing marking requirements, warning notices shall be prominently displayed on classified documents or materials as prescribed below. When display of these warning notices on the documents

or other materials is not feasible, the warnings shall be included in the written notification of the assigned classification.

(1) *Restricted data.* For classified information or material containing Restricted Data as defined in the Atomic Energy Act of 1954, as amended [section 2011 et seq. of Title 42, The Public Health and Welfare]:

“RESTRICTED DATA”

This document contains Restricted Data as defined in the Atomic Energy Act of 1954. Its dissemination or disclosure to any unauthorized person is prohibited.

(2) *Formerly restricted data.* For classified information or material containing solely Formerly Restricted Data, as defined in Section 142.d., Atomic Energy Act of 1954, as amended [section 2162(d) of Title 42, The Public Health and Welfare]:

“FORMERLY RESTRICTED DATA”

Unauthorized disclosure subject to Administrative and Criminal Sanctions. Handle as Restricted Data in Foreign Dissemination. Section 144.b., Atomic Energy Act, 1954.

(3) *Information other than restricted data or formerly restricted data.* For classified information or material furnished to persons outside the Executive Branch of Government other than as described in (1) and (2) above:

“NATIONAL SECURITY INFORMATION”

Unauthorized Disclosures Subject to Criminal Sanctions.

(4) *Sensitive intelligence information.* For classified information or material relating to sensitive intelligence sources and methods, the following warning notice shall be used, in addition to and in conjunction with those prescribed in (1), (2), or (3), above, as appropriate:

“WARNING NOTICE—SENSITIVE INTELLIGENCE SOURCES AND
METHODS INVOLVED”

V PROTECTION AND TRANSMISSION OF CLASSIFIED INFORMATION

A. *General.* Classified information or material may be used, held, or stored only where there are facilities or under conditions adequate to prevent unauthorized persons from gaining access to it. Whenever such information or material is not under the personal supervision of an authorized person, the methods set forth in Appendix A hereto shall be used to protect it. Whenever such information or material is transmitted outside the originating Department the requirements of Appendix B hereto shall be observed.

B. *Loss or possible compromise.* Any person who has knowledge of the loss or possible compromise of classified information shall immediately report the circumstances to a designated official of his Department or organization. In turn, the originat-

ing Department and any other interested Department shall be notified about the loss or possible compromise in order that a damage assessment may be conducted. An immediate inquiry shall be initiated by the Department in which the loss or compromise occurred for the purpose of taking corrective measures and appropriate administrative, disciplinary, or legal action.

VI ACCESS AND ACCOUNTABILITY

A. *General access requirements.* Except as provided in B. and C. below, access to classified information shall be granted in accordance with the following:

(1) *Determination of trustworthiness.* No person shall be given access to classified information or material unless a favorable determination has been made as to his trustworthiness. The determination of eligibility, referred to as a security clearance, shall be based on such investigations as the Department may require in accordance with the standards and criteria of E.O. 10450 [set out as a note under section 7311 of Title 5, Government Organization and Employees] and E.O. 10865 [set out as a note under this section] as appropriate.

(2) *Determination of need-to-know.* In addition to a security clearance, a person must have a need for access to the particular classified information or material sought in connection with the performance of his official duties or contractual obligations. The determination of that need shall be made by officials having responsibility for the classified information or material.

(3) *Administrative withdrawal of security clearance.* Each Department shall make provision for administratively withdrawing the security clearance of any person who no longer requires access to classified information or material in connection with the performance of his official duties or contractual obligations. Likewise, when a person no longer needs access to a particular security classification category, the security clearance shall be adjusted to the classification category still required for the performance of his duties and obligations. In both instances, such action shall be without prejudice to the person's eligibility for a security clearance should the need again arise.

B. *Access by historical researchers.* Persons outside the Executive Branch engaged in historical research projects may be authorized access to classified information or material provided that the head of the originating Department determines that:

(1) The project and access sought conform to the requirements of Section 12 of the Order.

(2) The information or material requested is reasonably accessible and can be located and compiled with a reasonable amount of effort.

(3) The historical researcher agrees to safeguard the information or material in a manner consistent with the Order and Directives thereunder.

(4) The historical researcher agrees to authorize a review of his notes and manuscript for the sole purpose of determining that no classified information or material is contained therein.

An authorization for access shall be valid for the period required but no longer than two years from the date of issuance unless renewed under regulations of the originating Department.

C. *Access by former presidential appointees.* Persons who previously occupied policy making positions to which they were appointed by the President, other than those referred to in Section 11 of the Order, may be authorized access to classified information or material which they originated, reviewed, signed or received while in public office. Upon the request of any such former official, such information and material as he may identify shall be reviewed for declassification in accordance with the provisions of Section 5 of the Order.

D. *Consent of originating department to dissemination by recipient.* Except as otherwise provided by Section 102 of the National Security Act of 1947, 61 Stat. 495, 50 U.S.C. 403 [section 403 of this title], classified information or material originating in one Department shall not be disseminated outside any other Department to which it has been made available without the consent of the originating Department.

E. *Dissemination of sensitive intelligence information.* Information or material bearing the notation "WARNING NOTICE—SENSITIVE INTELLIGENCE SOURCES AND METHODS INVOLVED" shall not be disseminated in any manner outside authorized channels without the permission of the originating Department and an assessment by the senior intelligence official in the disseminating Department as to the potential risk to the national security and to the intelligence sources and methods involved.

F. *Restraint on special access requirements.* The establishment of special rules limiting access to, distribution and protection of classified information and material under Section 9 of the Order requires the specific prior approval of the head of a Department or his designee.

G. *Accountability procedures.* Each Department shall prescribe such accountability procedures as are necessary to control effectively the dissemination of classified information or material. Particularly stringent controls shall be placed on information and material classified Top Secret.

(1) *Top secret control officers.* Top Secret Control Officers shall be designated, as required, to receive, maintain current accountability records of, and dispatch Top Secret material.

(2) *Physical inventory.* A physical inventory of all Top Secret material shall be made at least annually. As an exception, repositories storing large volumes of classified material, shall develop inventory lists or other finding aids.

(3) *Current accountability.* Top Secret and Secret information and material shall be subject to such controls including current accountability records as the head of the Department may prescribe.

(4) *Restraint on reproduction.* Documents or portions of documents containing Top Secret information shall not be reproduced without the consent of the originating office. All other classified material shall be reproduced sparingly and any stated prohibition against reproduction shall be strictly adhered to.

(5) *Restraint on number of copies.* The number of copies of documents containing classified information shall be kept to a minimum to decrease the risk of compromise and reduce storage costs.

VII DATA INDEX SYSTEM

Each Department originating classified information or material shall undertake to establish a data index system for Top Secret, Secret and Confidential Information in selected categories approved by the interagency Classification Review Committee as having sufficient historical or other value appropriate for preservation. The index system shall contain the following data for each document indexed: (a) Identity of classifier, (b) Department of origin, (c) Addressees, (d) Date of classification, (e) Subject/Area, (f) Classification category and whether subject to or exempt from the General Declassification Schedule, (g) If exempt, which exemption category is applicable, (h) Date or event set for declassification, and (i) File designation. Information and material shall be indexed into the system at the earliest practicable date during the course of the calendar year in which it is produced and classified, or in any event no later than March 31st of the succeeding year. Each Department shall undertake to establish such a data index system no later than July 1, 1973, which shall index the selected categories of information and material produced and classified after December 31, 1972.

VIII COMBAT OPERATIONS

The provisions of the Order and this Directive with regard to dissemination, transmission, or safekeeping of classified information or material may be so modified in connection with combat or combat-related operations as the Secretary of Defense may by regulations prescribe.

IX INTERAGENCY CLASSIFICATION REVIEW COMMITTEE

A. *Composition of interagency committee.* In accordance with Section 7 of the Order, an Interagency Classification Review Committee is established to assist the National Security Council in monitoring implementation of the Order. Its membership is comprised of senior representatives of the Departments of State, Defense, and Justice, the Atomic Energy Commission, the Central Intelligence Agency, the National Security Council staff, and a Chairman designated by the President.

B. *Meetings and staff.* The interagency Committee shall meet regularly, but no less frequently than on a monthly basis, and take such actions as are deemed necessary to insure uniform compliance with the Order and this Directive. The Chairman

is authorized to appoint an Executive Director, and to maintain a permanent administrative staff.

C. *Interagency committee's functions.* The Interagency Committee shall carry out the duties assigned it by Section 7(A) of the Order. It shall place particular emphasis on overseeing compliance with and implementation of the Order and programs established thereunder by each Department. It shall seek to develop means to (a) prevent overclassification, (b) ensure prompt declassification in accord with the provision of the Order, (c) facilitate access to declassified material and (d) eliminate unauthorized disclosure of classified information.

D. *Classification complaints.* Under such procedures as the Interagency Committee may prescribe, it shall consider and take action on complaints from persons within or without the government with respect to the general administration of the Order including appeals from denials by Departmental Committees or the Archivist of declassification requests.

X DEPARTMENTAL IMPLEMENTATION AND ENFORCEMENT

A. *Action programs.* Those Departments listed in Section 2(A) and (B) of the Order shall insure that adequate personnel and funding are provided for the purpose of carrying out the Order and Directives thereunder.

B. *Departmental committee.* All suggestions and complaints, including those regarding overclassification, failure to declassify, or delay in declassifying not otherwise resolved, shall be referred to the Departmental Committee for resolution. In addition, the Departmental Committee shall review all appeals of requests for records under Section 522 of Title 5 U.S.C. (Freedom of Information Act) [probably means section 552 of Title 5, Government Organization and Employees] when the proposed denial is based on their continued classification under the Order.

C. *Regulations and reports.* Each Department shall submit its proposed implementing regulations of the Order and Directives thereunder to the Chairman of the Interagency Classification Review Committee for approval by the Committee. Upon approval such regulations shall be published in the FEDERAL REGISTER to the extent they affect the general public. Each Department shall also submit to the said Chairman (1) copies of the record lists required under Part I.D. hereof by July 1, 1972 and thereafter quarterly, (2) quarterly reports of Departmental Committee actions on classification review requests, classification abuses and unauthorized disclosures, and (3) provide progress reports on information accumulated in the data index system established under Part VII hereof and such other reports as said Chairman may find necessary for the Interagency Classification Review Committee to carry out its responsibilities.

D. *Administrative enforcement.* The Departmental Committees shall have responsibility for recommending to the head of the respective Departments appropriate administrative action

to correct abuse or violation of any provision of the Order or Directives thereunder, including notifications by warning letter, formal reprimand, and to the extent permitted by law, suspension without pay and removal. Upon receipt of such a recommendation the head of the Department concerned shall act promptly and advise the Departmental Committee of his action.

Publication and effective date: This Directive shall be published in the FEDERAL REGISTER and become effective June 1, 1972.

HENRY A. KISSINGER,
Assistant to the President for
National Security Affairs.
May 17, 1972.

APPENDIX A—PROTECTION OF CLASSIFIED INFORMATION

A. Storage of Top Secret. Top Secret information and material shall be stored in a safe or safe-type steel file container having a built-in three-position dial-type combination lock, vault, or vault-type room, or other storage facility which meets the standards for Top Secret established under the provisions of (C) below, and which minimizes the possibility of unauthorized access to, or the physical theft of, such information or material.

B. Storage of Secret or Confidential. Secret and Confidential material may be stored in a manner authorized for Top Secret information and material, or in a container or vault which meets the standards for Secret or Confidential, as the case may be, established under the provisions of (C) below.

C. Standards for security equipment. The General Services Administration shall, in coordination with Departments originating classified information or material, establish and publish uniform standards, specifications and supply schedules for containers, vaults, alarm systems and associated security devices suitable for the storage and protection of all categories of classified information and material. Any Department may establish for use within such Department more stringent standards. Whenever new security equipment is procured, it shall be in conformance with the foregoing standards and specifications and shall, to the maximum extent practicable, be of the type designated on the Federal Supply Schedule, General Services Administration.

D. Exception to standards for security equipment. As an exception to (C) above, Secret and Confidential material may also be stored in a steel filing cabinet having a built in, three-position, dial-type combination lock; or a steel filing cabinet equipped with a steel lock bar, provided it is secured by a GSA approved changeable combination padlock.

E. Combinations. Combinations to security equipment and devices shall be changed only by persons having appropriate security clearance, and shall be changed whenever such equipment is placed in use, whenever a person knowing the combina-

tion is transferred from the office to which the equipment is assigned, whenever a combination has been subjected to possible compromise, and at least once every year. Knowledge of combinations shall be limited to the minimum number of persons necessary for operating purposes. Records of combinations shall be classified no lower than the highest category of classified information or material authorized for storage in the security equipment concerned.

F. Telecommunications conversations. Classified information shall not be revealed in telecommunications conversations, except as may be authorized under Appendix B with respect to the transmission of classified information over approved communications circuits or systems.

G. Responsibilities of custodians. Custodians of classified material shall be responsible for providing protection and accountability for such material at all times and particularly for locking classified material in approved security equipment whenever it is not in use or under direct supervision of authorized persons. Custodians shall follow procedures which insure that unauthorized persons do not gain access to classified information or material by sight or sound, and classified information shall not be discussed with or in the presence of unauthorized persons.

APPENDIX B.—TRANSMISSION OF CLASSIFIED INFORMATION

A. Preparation and receipting. Classified information and material shall be enclosed in opaque inner and outer covers before transmitting. The inner cover shall be a sealed wrapper or envelope plainly marked with the assigned classification and address. The outer cover shall be sealed and addressed with no indication of the classification of its contents. A receipt shall be attached to or enclosed in the inner cover, except that Confidential material shall require a receipt only if the sender deems it necessary. The receipt shall identify the grader, addressee, and the document, but shall contain no classified information. It shall be signed by the recipient and returned to the sender.

B. Transmission of Top Secret. The transmission of Top Secret information and material shall be effected preferably by oral discussions in person between the officials concerned. Otherwise the transmission of Top Secret information and materials shall be by specifically designated personnel, by State Department diplomatic pouch, by a messenger-courier system especially created for that purpose, over authorized communications circuits in encrypted form or by other means authorized by the National Security Council; except that in the case of information transmitted by the Federal Bureau of Investigation, such means of transmission may be used as are approved by the Director, Federal Bureau of Investigation, unless express reservation to the contrary is made in exceptional cases by the originating Department.

C. Transmission of secret. The transmission of Secret material shall be effected in the following manner.

(1) *The Fifty States, District of Columbia, Puerto Rico.* Secret information and material may be transmitted within and between the forty-eight contiguous states and District of Columbia, or wholly within the State of Hawaii, the State of Alaska, or the Commonwealth of Puerto Rico by one of the means authorized for Top Secret information and material, the United States Postal Service registered mail and protective services provided by the United States air or surface commercial carriers under such conditions as may be prescribed by the head of the Department concerned.

(2) *Other areas, vessels, military postal services, aircraft.* Secret information and material may be transmitted from or to or within areas other than those specified in (1) above, by one of the means established for Top Secret information and material, captains or masters of vessels of United States registry under contract to a Department of the Executive Branch, United States registered mail through Army, Navy or Air Force Postal Service facilities provided that material does not at any time pass out of United States citizen control and does not pass through a foreign postal system, and commercial aircraft under charter to the United States and military or other government aircraft.

(3) *Canadian Government Installations.* Secret information and material may be transmitted between United States Government or Canadian Government installations, or both, in the forty-eight contiguous states, Alaska, the District of Columbia and Canada by United States and Canadian registered mail with registered mail receipt.

(4) *Special cases.* Each Department may authorize the use of the United States Postal Service registered mail outside the forty-eight contiguous states, the District of Columbia, the State of Hawaii, the State of Alaska, and the Commonwealth of Puerto Rico if warranted by security conditions and essential operational requirements provided that the material does not at any time pass out of United States Government and United States citizen control and does not pass through a foreign postal system.

D. *Transmittal of Confidential.* Confidential information and material shall be transmitted within the forty-eight contiguous states and the District of Columbia, or wholly within Alaska, Hawaii, the Commonwealth of Puerto Rico, or a United States possession, by one of the means established for higher classifications, or by certified or first class mail. Outside these areas, Confidential information and material shall be transmitted in the same manner as authorized for higher classifications.

E. *Alternative Transmission of Confidential.* Each Department having authority to classify information or material as "Confidential" may issue regulations authorizing alternative or additional methods for the transmission of material classified "Confidential" outside of the Department. In the case of material originated by another agency, the method of trans-

mission must be at least as secure as the transmission procedures imposed by the originator.

F. *Transmission within a department.* Department regulations governing the preparation and transmission of classified information within a Department shall ensure a degree of security equivalent to that prescribed above for transmission outside the Department.

Regulations of the Atomic Energy Commission

Issued July 27, 1972 by authority of Executive Order 11652 (37 FR 5209) [10 C.F.R. Part 9 Appendix]:

APPENDIX A—REQUESTS FOR DECLASSIFICATION REVIEW

The following guidance is provided for members of the public desiring a classification review of a document of the Atomic Energy Commission (AEC) pursuant to section V.(C) of Executive Order 11652 (37 F.R. 5209, March 10, 1972) and section III.B. of the National Security Council Directive Covering the Classification, Downgrading, Declassification and Safeguarding of National Security Information, 37 F.R. 10053, May 19, 1972.

1. *Request for classification review of documents.* a. Any person desiring a classification review of an AEC document containing information classified as National Security Information by reason of the provisions of Executive Order 11652 (or any predecessor Executive order) and which is more than 10 years old, should address such requests to the Director, Division of Classification, U.S. Atomic Energy Commission, Washington, D.C. 20545.

b. Requests need not be made on any special form but shall, as specified in the Executive order, describe the document with sufficient particularity to enable AEC personnel to identify and obtain the document from AEC records without expending more than a reasonable amount of effort.

c. Charges for locating and reproducing copies of records will be made when deemed applicable in accordance with § 9.9 of the AEC regulations (10 CFR 9.9).

2. *Action on Requests for Classification Review.* a. Every effort will be made to complete action on each request within thirty (30) days of receipt of the request. If action cannot be completed within thirty (30) days, the requester shall be so advised by the Director, Division of Classification, along with the reasons for the need for additional time. If the requester does not receive a decision on his request within sixty (60) days from the date of receipt of his request by AEC, or from the date of the most recent receipt of his response to an AEC request for more particulars, he may apply to the Chairman of the AEC Classification Review Committee for a decision on his request.

b. In the event the Director, Division of Classification, determines that requested information must remain classi-

fied by reason of the provisions of Executive Order 11652, the requester shall be given prompt notification of that decision and whenever possible shall be provided with a brief statement as to why the information or material cannot be declassified. He shall also be advised that if he desires he may appeal that determination to the AEC Classification Review Committee, by submitting a request for re-review in writing to the Chairman of the Committee, U.S. Atomic Energy Commission, Washington, D.C. 20545. Any such request shall include a brief statement as to why the requester disagrees with the decision which he is appealing.

c. The AEC Classification Review Committee shall normally render a decision thereon within 30 days of its receipt of a request. If a longer period is likely to be required because of the need for additional communications or conferences with the requester, he shall be advised of the time needed to complete review of the matter.

d. In the event of the Director, Division of Classification, or the Classification Review Committee in the case of submission to it under a or b above, determine that the information is unclassified but the information appears to be of the type exempt from public disclosure as set forth in § 9.5 of the AEC regulations (10 CFR 9.5), the matter shall be referred to the General Manager or the Director of Regulation, as appropriate, for decision. Thereafter, the matter shall be processed as specified in § 9.10 of the AEC regulations (10 CFR 9.10).

3. *Appeal to Interagency Classification Review Committee.* Whenever the AEC Classification Review Committee confirms a determination of the Director, Division of Classification, it shall so notify the requester who shall, except in the case of information subject to the provisions of the Atomic Energy Act, be entitled to appeal that action to the Interagency Classification Review Committee established under section 7(A) of Executive Order 11652. Such appeals should be addressed to the Interagency Classification Review Committee, The Executive Office Building, Washington, D.C. 20500.

4. *Suggestions and Complaints.* Any person may also direct suggestions or complaints with respect to the administration of the other provisions of Executive Order 11652 and the NSC Directive by the AEC to the AEC Classification Review Committee, U.S. Atomic Energy Commission, Washington, D.C. 20545.

5. *Other Material.* AEC Manual Chapters covering the AEC's Classification and Declassification Policies and Procedures are available for inspection by the public in the AEC's Public Document Room, USAEC, 1717 H Street NW., Washington, D.C.

6. *Classification Advice in General.* The procedures specified herein are intended to supplement the longstanding

policy and practice of the AEC to provide classification guidance with respect to information generated by those working in the atomic energy field. The AEC will respond as promptly as available resources permit, to questions about the proper classification of information and material less than 10 years old.

Effective date. This regulation shall be effective upon its publication in the FEDERAL REGISTER (8-3-72).

Dated at Washington, D.C., this 27th day of July 1972.

Regulations of the Secretary of State

Issued July 28, 1972 by authority of Executive Order 11652 (37 FR 5209) [22 C.F.R. §§ 9.1 to 9.65]

§ 9.1 *Physical and procedural security.* These regulations implement Executive Order 11652 dated March 8, 1972 (37 F.R. 5209, March 10, 1972), entitled "Classification and Declassification of National Security Information and Material."

§ 9.2 *General policy.* The interests of the United States and its citizens are best served by making information regarding the affairs of Government readily available to the public. This concept of an informed citizenry is reflected in the Freedom of Information Act (5 U.S.C. 552) and in the current public information policies of the executive branch.

(a) *Safeguarding national security information.* Within the Federal Government there is some official information and material which, because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be subject to some constraints for the security of our Nation and the safety of our people and our allies. To protect against actions hostile to the United States, of both an overt and covert nature, it is essential that such official information and material be given only limited dissemination.

(b) *Exemption from public disclosure.* This official information or material, hereinafter referred to as classified information or material, is expressly exempted from compulsory public disclosure by section 552(b)(1) of title 5, United States Code. Wrongful disclosure of such information or material is recognized in the Federal Criminal Code as providing a basis for prosecution.

(c) *Scope.* To ensure that such information and material is protected, but only to the extent and for such period as is necessary, these regulations identify the information to be protected, prescribe classification, downgrading, declassification, and safeguarding procedures to be followed, and establish a monitoring system to ensure their effectiveness.

(d) *Limitation.* The requirement to safeguard information and material in the interest of national defense and the conduct of foreign relations in no way implies an indiscriminate license to restrict information from the public. It is important that the citizens of the United States have the fullest possible access, consistent with national security, to information concerning the policies and programs of their Government.

§ 9.3 *Implementation and review responsibilities.* Executive Order 11652 and NSC Directives require the establishment of departmental committees to have the authority to act on all suggestions and complaints with respect to each Department's administration of the Executive order and NSC Directives.

(a) Each committee will have responsibility for the following additional functions:

(1) To establish and monitor policies and procedures within its Department to prevent overclassification, to insure the orderly and effective downgrading and declassification of Department documents, and to facilitate the release of information:

(2) To serve as a forum for systematic review of proposed classified disclosures of an exceptional nature bearing upon issues of concern to the Congress and the public;

(3) To establish policies and procedures to assess the risks to intelligence sources and methods whenever any classified intelligence is proposed for declassification or for use in public forums, or other activities in the course of which there is danger that intelligence sources and methods might be revealed;

(4) To determine, as required, the net advantage to the United States of a disclosure of classified information relating to U.S. foreign policy objectives as against attendant risks;

(5) To consider and decide such other questions concerning classification and declassification as may from time to time be referred to the committee;

(6) To protect from unauthorized disclosure properly classified information and intelligence bearing upon important aspects of national defense and foreign policy;

(7) To provide guidance concerning corrective or disciplinary action in unusually important cases involving unauthorized disclosure:

(8) To review all appeals of requests for records under the Freedom of Information Act.

(b) Department of State: Within the State Department, these functions will be performed by the Council on Classification Policy, which is composed of the Director of Intelligence and Research, the Director of Planning and Coordination, the Assistant Secretary for Public Affairs, the Executive Secretary of the Department, the Legal Adviser, and the Deputy Assistant Secretary for Security, with appropriate advisers, and chaired by the Deputy Under Secretary for Management.

(c) Agency for International Development: Within the Agency for International Development these functions will be performed by the AID Security Information Committee (ASIC). It shall be chaired by the Auditor General, shall include the Director, Office of Security, as Secretary, and shall consist of the following members of the AID senior staff or their alternates: Assistant Administrator, Bureau of Program and Management Services; Director, Office of Public Affairs; the Executive Secretary, the General Counsel, the Coordinator

of Supporting Assistance, and one additional member of the senior staff to be appointed for 1-year term by the Administrator of AID.

(d) U.S. Information Agency: Within the U.S. Information Agency, these functions will be performed by the Council on Classification Policy, comprised of the senior officials of the Office of Research and Assessment, Office of Assistant Director (Administration), Office of Assistant Director (Public Information), and Office of the General Counsel, with representatives of other elements consulted as needed, and chaired by the Assistant Director U.S.I.A. (Security).

(e) Delegation of responsibilities: The Chairman of each such Department Committee is delegated responsibilities of the senior agency official defined in section 7(b) of Executive Order 11652 for developing programs to insure effective compliance with and implementation of the order.

(f) Reports to the Interagency Classification Review Committee: The departmental committees shall provide quarterly reports to the Interagency Classification Review Committee on Departmental Committee actions on classification review requests, classification abuses and unauthorized disclosure, and progress reports on information accumulated in the data index system established under part VII of the National Security Council Directive of May 17, 1972, and such other reports as the Chairman of the Interagency Classification Review Committee may find necessary for the committee to carry out its responsibilities.

§ 9.4 *Responsibility for safeguarding classified information.*

(a) *Primary.* The specific responsibility for the maintenance of the security of classified information rests with each person having knowledge or physical custody thereof, no matter how obtained. A holder of classified information or material shall observe and respect the classification assigned by the originator. If a holder believes that there is unnecessary classification, that the assigned classification is improper, or that the document is subject to declassification under the Executive order, he shall so inform the originator who shall thereupon reexamine the classification.

(b) *Individual.* Each employee is responsible for becoming familiar with and adhering to all security regulations.

(c) *Supervisory.* The ultimate responsibility for safeguarding classified information rests upon each supervisor to the same degree that the supervisor is charged with functional responsibility for the organizational unit. While certain employees may be assigned specific security responsibilities, such as Top Secret control officer or unit security officer, it is nevertheless the basic responsibility of supervisors to insure that classified material entrusted to their organizational units is handled in accordance with the procedures prescribed in these regulations. Each supervisor should insure that no one employee is assigned unreasonable security responsibilities in addition to usual administrative or functional duties.

(d) *Organizational.* The Offices of Security in State, U.S.I.A., and AID are responsible for physical and personnel security in their respective agencies. The Office of Communications in the Department of State is responsible for communications security (COMSEC).

§ 9.5 *Classification.* (a) *Security classification categories.* Official information or material which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States (hereinafter collectively termed "national security") shall be classified in one of three categories; namely, "Top Secret," "Secret," or "Confidential," depending upon the degree of its significance to national security. No other categories shall be used to identify official information or material as requiring protection in the interest of national security, except as otherwise expressly provided by statute. These classification categories are defined as follows:

(1) *Top Secret.* "Top Secret" refers to that national security information or material which requires the highest degree of protection. The test for assigning "Top Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security. Examples of "exceptionally grave damage" include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the national security; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security. The classification "Top Secret" shall be used with the utmost restraint.

(2) *Secret.* "Secret" refers to that national security information or material which requires a substantial degree of protection. The test for assigning "Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause serious damage to the national security. Examples of "serious damage" include disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plans or intelligence operations; and compromise of significant scientific or technological developments relating to national security. The classification "Secret" shall be sparingly used.

(3) *Confidential.* "Confidential" refers to that national security information or material which requires protection. The test for assigning "Confidential" classification shall be whether its unauthorized disclosure could reasonably be expected to cause damage to the national security.

§ 9.6 *Authority to classify.* The following persons have authority to originally classify information or material in the categories indicated:

(a) *Top Secret.* Such officials as the President may designate in writing: Secretary of State: Administrator, Agency for In-

ternational Development. With respect to the Department of State, such of the following officers who are designated in writing by the Secretary of State:

(1) In the United States, officers of Deputy Assistant Secretary or equivalent rank or above.

(2) Outside the United States, the Chief of Mission and, where operational necessity warrants, the Deputy Chief of Mission.

(3) With respect to AID, the Deputy Administrator, Assistant Administrators, the Auditor General, the General Counsel, and the Director, Office of Public Safety.

(b) *Secret*. Officials who have "Top Secret" classification authority; Director, U.S. Information Agency.

(1) In the United States, such subordinate officers of the Department of State and AID of office director or equivalent rank or above as officials with "Top Secret" classification authority may designate in writing, and such senior principal deputies or assistants to the Director of U.S.I.A. as the Director may designate in writing.

(2) Outside the United States, such subordinate officers of section head or equivalent rank or above as officials with "Top Secret" classification authority may designate in writing, and such senior principal deputies as assistants to the Director of U.S.I.A. as the Director may designate in writing.

(c) *Confidential*. Officials who have "Top Secret" or "Secret" classification authority, and such officials of Division Chief or equivalent rank as may be designated in writing by officials who have "Top Secret" or "Secret" classification authority. Such officials may classify information or material only at the level authorized or below. This authority rests only in the official designated, and may not be delegated. However, classification authority vested in a designated official may be exercised by another assuming the full duties and responsibilities of such official in an acting capacity.

§ 9.7 *Responsibility to assign*. (a) Any person who originates a classified document has the responsibility to assign the appropriate classification at the time the document is prepared. The final classification and declassification schedule, however, must be approved by an official with the appropriate level of classifying authority.

(b) It is the intent of Executive Order 11652 that the authority to originally classify information or material be restricted solely to those officers concerned with matters of national security, and shall be limited to the minimum number of individuals absolutely required for efficient administration. Each person possessing classifying authority shall be held accountable for the propriety of the classifications attributed to the person.

(c) *Observance of classification*: Any person who incorporates into a document or material information or material previously classified by an authorized official or makes substantial reference thereto, shall reflect the original classification and the identity of the original classifier on the new document or material.

Performance of this duty shall not constitute original classification.

(d) *Listing of those with classifying authority*: The office of Security in each Department shall maintain separate lists by name of the officials who have been designated in writing to have Top Secret, Secret, and Confidential authority. Office heads shall submit to the appropriate Office of Security, on or before July 1, 1972, a list current as of that date and shall submit on or before the beginning of each subsequent calendar quarter a list current as of the beginning of that quarter. Each list shall identify officials exercising classification authority by name, title, office, and designating officer. These quarterly reports shall, in turn, be forwarded to the Interagency Classification Review Committee.

§ 9.8 *Classification procedure*. Each person possessing classifying authority shall be held accountable for the propriety of the classifications attributed to the person. Both unnecessary classification and overclassification shall be avoided. Classification shall be solely on the basis of national security considerations. In no case shall information be classified in order to conceal inefficiency or administrative error, to prevent embarrassment to a person or Department, to restrain competition or independent initiative, or to prevent for any other reason the release of information which does not require protection in the interest of national security. The following rules shall apply to classification of information:

(a) *Documents in general*. Each classified document shall show on its face its classification and whether it is subject to or exempt from the General Declassification Schedule referred to in § 9.11. It shall also show the office of origin, the date of preparation and classification, and, to the extent practicable, be so marked as to indicate which portions are classified, at what level, and which portions are not classified in order to facilitate excerpting and other use. Material containing references to classified materials, which references do not reveal classified information, shall not be classified.

(b) *Identification of classifying authority*. Material classified shall indicate on its face the identity of the highest authority authorizing the continued classification. Where the individual who signs or otherwise approves a document or item has also authorized the classification, no further annotation as to the individual's identity is required.

(c) *Information or material furnished by a foreign government or international organization*. (1) Classified information or material furnished to the United States by a foreign government or international organization shall either retain its original classification or be assigned a U.S. classification. In either case, the classification shall assure a degree of protection equivalent to that required by the government or international organization which furnished the information or material.

(2) NATO, CENTO, and SEATO information must be safeguarded in accordance with instructions and procedures pro-

mulgated by the U.S. Security Authority (USSA) as contained in USSAN 1-69 dated December 20, 1969; USSAN 1-68 dated June 5, 1968; and USSAS 1-67 dated September 23, 1967, respectively.

(3) Classification responsibilities: A holder of classified information or material shall observe and respect the classification assigned by the originator. If a holder believes that there is unnecessary classification, that the assigned classification is improper, or that the document is subject to declassification hereunder, the holder shall so inform the originator who shall thereupon reexamine the classification.

(4) Limiting number of copies: In the preparation of classified documents, the number of copies must be kept to an absolute minimum. Every copy prepared increases the risk that the information may fall into unauthorized hands.

§ 9.9 *Declassification and downgrading.* (a) *Authority to downgrade and declassify.* Classified material should be kept under appropriate review and be downgraded or declassified as conditions warrant. The authority to downgrade or declassify national security information or material shall be exercised as follows:

(1) Information or material may be downgraded or declassified by the official authorizing the original classification, by a successor in capacity, or by a supervisory official of either.

(2) In the case of classified information or material officially transferred by or pursuant to statute or Executive order in conjunction with a transfer of function and not merely for storage purposes, the receiving Department shall be deemed to be the originating Department for all purposes including downgrading and declassification.

(3) In the case of classified information or material not officially transferred within subparagraph (2) of this paragraph, but originated in a Department which has since ceased to exist, each Department in possession shall be deemed to be the originating Department for all purposes. Such information or material may be downgraded and declassified by the Department in possession after consulting with any other Departments having an interest in the subject matter in accordance with § 9.15(b).

(4) All information and material classified after the effective date of the executive order and determined in accordance with Chapter 21, 44 U.S.C. (82 Stat. 1287), to be of sufficient historical or other value to warrant preservation shall be systematically reviewed on a timely basis by each Department for the purpose of making such information and material publicly available in accordance with the determination regarding declassification made by the classifier under section 5 of the Executive order. During each calendar year each Department shall segregate to the maximum extent possible all such information and material warranting preservation and becoming declassified at or prior to the end of such year. Promptly after the end of such year the Department responsible, or the Ar-

chives of the United States if transferred thereto, shall make the declassified information and material available to the public to the extent permitted by law.

(5) Each Department shall undertake to establish a data index system for Top Secret, Secret, and Confidential information in selected categories approved by the Interagency Classification Review Committee as having sufficient historical or other value appropriate for preservation. The index system shall contain the following data for each document indexed: (i) Identity of classifier; (ii) Department of origin; (iii) addresses; (iv) date of classification; (v) subject/area; (vi) classification category and whether subject to or exempt from the General Declassification Schedule; (vii) if exempt, which exemption category is applicable; (viii) date or event set for declassification; and (ix) file designation. Information and material shall be indexed into the system at the earliest practicable date during the course of the calendar year in which it is produced and classified, or in any event no later than March 31 of the succeeding year. Each Department shall undertake to establish such a data index system no later than July 1, 1973, which shall index the selected categories of information and material produced and classified after December 31, 1972.

§ 9.10 *General declassification requirements.* (a) *Declassification instructions.* Classified information and material shall be declassified as soon as there are no longer any grounds for continued classification within the classification category definitions set forth in § 9.5. At the time of origination the classifier shall, whenever possible, clearly mark on the information or material a specific date or event upon which downgrading or declassification shall occur. Such dates or events shall be as early as is permissible without causing damage to the national security. Whenever earlier dates or events cannot be determined, the General Declassification Schedule set forth in § 9.11 shall apply. If the information or material is exempted under § 9.12 from the General Declassification Schedule, the classifier shall clearly mark the material to show that it is exempt and indicate the applicable exemption category. Unless impossible, the exempted information or material shall be assigned and clearly marked by the classifier with a specific date or event upon which declassification shall occur. Downgrading and declassification dates or events established in accordance with the foregoing, whether scheduled or nonscheduled, shall to the extent possible be carried forward and applied whenever the classified information or material is incorporated in other documents or material.

(b) *Changes in classification.* Any recipient of a classified document which bears a classification control which in the judgment of the recipient should be more or less restrictive must be referred to the office of origin or office of primary interest or action. When the action office concurs with the review, a new designation or notation should be substituted by the initiating officer. The date and the approving authority for this change must be identified on the face of the document.

The approving officer then must notify the custodian of the record copy and all original addressees of the change. The custodian and all original addressees must also notify all to whom they have made a subsequent distribution.

§ 9.11 *General Declassification Schedule.* (a) *Top Secret.* Information or material originally classified "Top Secret" shall become automatically downgraded to "Secret" at the end of the second full calendar year following the year in which it was originated, downgraded to "Confidential" at the end of the fourth full calendar year following the year in which it was originated, and declassified at the end of the 10th full calendar year following the year in which it was originated.

(b) *Secret.* Information and material originally classified "Secret" shall become automatically downgraded to "Confidential" at the end of the second full calendar year following the year in which it was originated, and declassified at the end of the eighth full calendar year following the year in which it was originated.

(c) *Confidential.* Information and material originally classified "Confidential" shall become automatically declassified at the end of the sixth full calendar year following the year in which it was originated.

(d) *Applicability of the General Declassification Schedule to previously classified material.* Information or material classified before the effective date of Executive Order 11652 (June 1, 1972) and which is assigned to Group 4 under Executive Order No. 10501 of November 5, 1953, as amended by Executive Order No. 10964 of September 20, 1961, shall be subject to the General Declassification Schedule. All other information or material classified before the effective date of Executive Order 11652, whether or not assigned to Groups 1, 2, and 3 of the Executive Order No. 10501, as amended, shall be excluded from the General Declassification Schedule. However, at any time after the expiration of 10 years from the date of origin it shall be subject to a mandatory classification review and disposition under the same conditions and criteria that apply to classified information and material created after the effective date of Executive Order 11652.

§ 9.12 *Exemptions from General Declassification Schedule.* Certain classified information or material may warrant some degree of protection for a period exceeding that provided in the General Declassification Schedule. An official authorized to originally classify information or material "Top Secret" may exempt from the General Declassification Schedule any level of classified information or material originated by or under such official's supervision if it falls within one of the categories described below. In each case, the official shall specify in writing on the material the exemption category being claimed, and unless impossible, a date or event for automatic declassification. The use of the exemption authority shall be kept to the absolute minimum consistent with national security requirements and shall be restricted to the following categories:

(a) *Category 1.* Classified information or material furnished by foreign governments or international organizations and held

by the United States on the understanding that it be kept in confidence.

(b) *Category 2.* Classified information or material specifically covered by statute, or pertaining to cryptography, or disclosing intelligence sources or methods.

(c) *Category 3.* Classified information or material disclosing a system, plan, installation, project, or specific foreign relations matter the continuing protection of which is essential to the national security.

(d) *Category 4.* Classified information or material the disclosure of which would place a person in immediate jeopardy.

§ 9.13 *Mandatory review of exempted material.* All classified information and material originated after the effective date of Executive Order 11652 which is exempted under § 9.12 from the General Declassification Schedule shall be subject to a classification review by the originating department at any time after the expiration of 10 years from the date of origin: *Provided,*

(a) A department or member of the public requests a review;

(b) The request describes the record with sufficient particularity to enable the department to identify it; and

(c) The record can be obtained with only a reasonable amount of effort.

Information or material which no longer qualifies for exemption under § 9.12 shall be declassified. Information or material continuing to qualify under § 9.12 shall be so marked and, unless impossible, a date for automatic declassification shall be set.

§ 9.14 *Review of classified material for declassification purposes.* (a) *Review of classified material over 10 years old.* Members of the public or departments may direct requests for mandatory review for declassification to the Chief, Record Services Division, for the State Department, the Director, Office of Public Affairs, for A.I.D., and the Assistant Director, Office of Public Information, for USIA, which shall in turn assign the requests to the appropriate office for action. In addition, the office which has been assigned action shall immediately acknowledge receipt of the request in writing. If the request requires the rendering of services for which fair and equitable fees should be charged pursuant to title 5 of the Independent Offices Appropriations Act, 1952 (65 Stat. 290; 31 U.S.C. 483a), the requester shall be so notified. The office which has been assigned action shall thereafter make a determination within 30 days of receipt or shall explain the reasons why further time is necessary. If at the end of 60 days from receipt of the request for review no determination has been made, the requester may apply to the appropriate departmental committee provided in § 9.3 for a determination. Should the office assigned action on a request for review determine that under the criteria set forth herein continued classification is required, the requester shall promptly be notified, and, whenever possible, provided with a brief statement why the requested information or material cannot be declassified. The requester may appeal any such determination to the appropriate departmental com-

mittee and the notice of determination shall advise the requester of this right.

(b) *Departmental committee.* The departmental committee shall establish procedures to review and act within 30 days upon all applications and appeals regarding requests for declassification. If the department or agency head acting through the departmental committee, determines that continued classification is required hereunder it shall promptly so notify the requester and advise that the denial may be appealed to the NSC Interagency Classification Review Committee.

(c) *Declassification of classified information or material after 30 years.* All classified information or material which is 30 years old or more, whether originating before or after the effective date of Executive Order 11652, shall be declassified under the following conditions:

(1) All information and material classified after the effective date of Executive Order 11652 shall, whether or not declassification has been requested, become automatically declassified at the end of 30 full calendar years after the date of its original classification, except for such specifically identified information or material which the head of the originating department personally determines in writing at that time to require continued protection because such continued protection is essential to the national security or disclosure would place a person in immediate jeopardy. In such case, the head of the department shall also specify the period of continued classification.

(2) A request by a member of the public or by a Department to review for declassification documents more than 30 years old shall be referred directly to the Archivist of the United States, who shall have the requested documents reviewed for declassification in accordance with the above. If the information or material requested has not been transferred to the General Services Administration for accession into the Archives, the Archivist shall, together with the head of the Department having custody, have the requested documents reviewed for declassification. Classification shall be continued in either case only where the head of the Department concerned makes at the time the personal determination required above. The Archivist shall promptly notify the requester of such determination and that right of the requester to appeal the denial to the NSC Interagency Classification Review Committee.

(d) *Burden of proof for administrative determinations.* For purposes of administrative determinations under paragraph (a), (b), or (c) of this section, the burden of proof is on the originating Department to show that continued classification is warranted.

(e) *Availability of declassified material.* Upon a determination under paragraph (a), (b), or (c) of this section that the requested material no longer warrants classification, it shall be declassified and made promptly available to the requester, if not otherwise exempt from disclosure under 5 U.S.C. 552(b) (Freedom of Information Act), or other provisions of law.

(f) *Classification, review requests.* A request for classification review must describe the document with sufficient particularity to enable the Department to identify it and obtain it with a reasonable amount of effort. Whenever a request is deficient in its description of the record sought, the requester should be asked to provide additional identifying information whenever possible. Before denying a request on the ground that it is unduly burdensome, the requester should be asked to limit the request to records that are reasonably obtainable. If, nonetheless, the requester does not describe the records sought with sufficient particularity, or the record requested cannot be obtained with a reasonable amount of effort, the requester shall be notified of the reasons why no action will be taken and of the right to appeal such decision.

(g) *Redesignating material.* (1) If an official having original Top Secret classification authority at any time determines that information or material for which they are responsible falls within one of the four exempt categories described in § 9.12, the fact that such information or material was previously placed under the General Declassification Schedule, or marked for earlier downgrading and declassification, shall not prevent it being redesignated as falling within an exempt category.

(2) Likewise, such an official may determine that exempted information and material should be subject to the General Declassification Schedule. In either case, such a determination shall be based on a finding either that the original designation was in error, or that the material or information, due to a significant change in circumstances, is or is not, as the case may be, within one of the four exempt categories. Action to redesignate scheduled information or material as exempt may be taken only when the responsible Top Secret original classification authority is reasonably certain that notice can and will be given to all holders prior to the time when previously scheduled downgrading or declassification is to occur.

§ 9.15 *Other declassification requirements.* (a) *Extracts and compilations.* When classified information or material from more than one source is incorporated into a new document or other material, the document or other material shall be classified, downgraded, or declassified in accordance with the provisions hereunder applicable to the information requiring the greatest protection.

(b) *Material not officially transferred.* When a Department holding classified information or material under the circumstances described in § 9.9 notifies another Department of its intention to downgrade or declassify, it shall allow the notified Department 30 days in which to express its objections before taking action.

(c) *Notification of expedited downgrading or declassification.* When classified information or material is downgraded or declassified in a manner other than originally specified, whether scheduled or exempted, the classifier shall, to the extent practicable, promptly notify all addressees to whom the information or material was originally officially transmitted. In turn, the

addresses shall [sic]* any other known recipient of the classified information or material.

§ 9.16 *Marking of documents.* (a) *Marking—security classification and declassification status:* At the time of origination, each document or other material containing classified information shall be marked with its assigned security classification and whether it is subject to the General Declassification Schedule, whether it can be declassified earlier, or whether it is exempt from the General Declassification Schedule.

(1) *General Declassification Schedule.* For marking documents which are subject to the General Declassification Schedule, the following stamp shall be used:

(*Top Secret, Secret or Confidential*) Classified by _____
subject to General Declassification Schedule of Executive Order 11652
automatically downgraded at two-year intervals and declassified on Dec.
31 (*insert year*)

(2) *Accelerated declassification schedule.* For marking documents which are to be automatically declassified on a given event or date earlier than the General Declassification Schedule, the following stamp shall be used:

(*Top Secret, Secret or Confidential*) classified by _____
automatically declassified on (*effective date or event*)

(3) *Exemptions.* For marking documents which are exempt from the General Declassification Schedules the following stamp shall be used:

(*Top Secret, Secret or Confidential*) Classified by _____
Exempt From General Declassification Schedule of Executive Order 11652
Exemption Category (§ 5B (1), (2), (3), or (4)) Automatically Declassified
on (*effective date or event, if any*)

(b) Should the classified inadvertently fail to mark a document with one of the foregoing markings, the recipient shall take appropriate action to mark it properly, either by direct action or by referral to the originator. The person who signs or finally approves a document or other material containing classified information shall be deemed to be the classifier. If the classifier is another person the individual shall be identified on the stamp as indicated.

(c) The "Restricted Data" and "Formerly Restricted Data" stamps (see section 9.18) are, in themselves, evidence of exemption from the General Declassification Schedule.

(d) Overall marking and page marking: The overall classification of a document, whether or not permanently bound, or any copy or reproduction thereof, shall be conspicuously marked or stamped at the top and bottom of the outside of the front cover (if any), on the title page (if any), on the first page, on the back page, and on the outside of the back cover (if any). Each interior page of a document which is not permanently bound shall be conspicuously marked or stamped at the top and bottom according to its own content, including the designation "Unclassified" when appropriate.

*The word "notify" was inadvertently omitted from the Federal Register and the Code of Federal Regulations.

(e) **Physically connected documents:** The classification assigned to a file or group of physically connected documents must be at least as high as that of the most highly classified document in it. Documents separated from the file are handled in accordance with their individual classification or control designation. A cover sheet, JF-18, Classified or Controlled File, may be placed on the front of each file or group of physically connected documents, marked to indicate the highest classification it covers, or the front and back of the folder must be stamped or marked according to the highest classification of the combined information contained in it.

(f) **Paragraph marking:** Whenever a classified document contains either more than one security classification category or unclassified information, each section, part, or paragraph should be marked to the extent practicable to show its classification category or that it is unclassified. When appropriate, the classification of each paragraph (including "Unclassified") may be indicated by closing the paragraph with the appropriate classification symbol for that paragraph, as follows: (TS), (S), (C), (UNCLAS).

(g) **Material other than documents:** If classified material cannot be marked, written notification of the information otherwise required in markings shall accompany such material.

(1) *Books or pamphlets.* Permanently bound books or pamphlets are to be conspicuously marked with the assigned classification or control designation at the top and bottom on the outside of the front cover, on the title page, on the first page, on the back page, and on the outside of the back cover. Other required markings must be placed on the outside of the front cover.

(2) *Reproducible masters.* Reproducible masters such as airgrams, mimeograph stencils, hectograph masters, photostatic negatives, or multilith plates used in the reproduction of classified or administratively controlled documents are to be marked so that each copy made from them will show the classification or control designation and other required markings. Preprinting of paper with classification control designation, or other pertinent markings, is authorized.

(3) *Photographic negatives, prints, slides, and films.* Whenever possible, photographic negatives and slides are to be marked with the assigned classification or control designation at the top and bottom on the front. Photographic negatives in roll form contain the assigned classification or control designation at the beginning and end of each roll. In all cases, photographic prints are to be marked at the top and bottom of the front and on the back with the classification and control designation. If additional special markings are required, apply them conspicuously.

(4) *Containers.* Each container of photographic prints, negatives, slides, or motion picture film is conspicuously marked on the outside with the appropriate classification or control designation and additional required markings.

(5) *Classified or controlled recordings.* Containers for wire, film, tape recordings, and microfilm are to be marked with the

appropriate classification or control designation and other required markings and, whenever possible, the recordings themselves are to be marked also. Microfilm projects undertaken for the purpose of destroying record copies must be approved by the Department or Agency office responsible for the records management function.

(6) *Charts, maps, and drawings.* On classified or administratively controlled charts, maps, or drawings, the classification or control designation is to be inserted under the legend, title block, or scale in such manner that it can be reproduced on all copies made. The classification or control designation also appears at the top and bottom of the reverse side of each chart, map, or drawing. Apply additional required special marking conspicuously.

(h) *Transmittal documents:* A transmittal document shall carry on it a prominent notation as to the highest classification of the information which is carried with it, and a legend showing the classification, if any, of the transmittal document standing alone.

(i) *Wholly unclassified material:* Normally, unclassified material should not be marked or stamped "Unclassified" unless it is essential to convey to its recipient that it has been examined specifically for the need of a security classification or control designation and has been determined not to require such classification or control. However, preprinted forms such as telegrams which make provision for an assigned classification, shall include the term "Unclassified" if the information contained in the text is not classified. Envelopes containing unclassified information to be sent by diplomatic pouch must be marked or stamped "Unclassified" on both sides.

§ 9.17 *Downgrading, declassification, and upgrading markings.* Whenever a change is made in the original classification or in the dates of downgrading or declassification of any classified information or material it shall be promptly and conspicuously marked to indicate the change, the authority for the action, the date of the action, and the identity of the person taking the action. In addition, all earlier classification markings shall be canceled, if practicable, but in any event on the first page.

(a) *Limited use of posted notice for large quantities of material.* When the volume of information or material is such that prompt remarking of each classified item could not be accomplished without unduly interfering with operations, the custodian may, upon approval from the Office of Security, attach downgrading, declassification, or upgrading notices to the storage unit in lieu of the remarking otherwise required. Each notice shall indicate the change, the authority for the action, the date of the action, the identity of the person taking the action, and the storage units to which it applies. When individual documents or other materials are withdrawn from such storage units they shall be promptly re-marked in accordance with the change, or if the documents have been declassified, the old markings shall be canceled.

(b) *Transfer of stored quantities covered by posted notice.* When information or material subject to a posted downgrading, upgrading, or declassification notice are withdrawn from one storage unit solely for transfer to another, or a storage unit containing such documents or other materials is transferred from one place to another, the transfer may be made without remarking if the notice is attached to or remains with each shipment.

§ 9.18 *Additional warning notices.* In addition to the foregoing marking requirements, warning notices shall be prominently displayed on classified documents or materials as prescribed below. When display of these warning notices on the documents or other materials is not feasible, the warnings shall be included in the written notification of the assigned classification.

(a) *Restricted data.* For classified information or material containing Restricted Data as defined in the Atomic Energy Act of 1954, as amended:

RESTRICTED DATA

This document contains Restricted Data as defined in the Atomic Energy Act of 1954. Its dissemination or disclosure to any unauthorized person is prohibited.

Section 11r of the Atomic Energy Act of 1954 defines Restricted Data as follows:

The term "Restricted Data" means all data concerning:

(a) Design, manufacture, or utilization of atomic weapons;

(b) The production of special nuclear material; or

(c) The use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data Category.

(Before any person may be permitted to have access to Restricted Data, the person must have a "Q" clearance from the Atomic Energy Commission. Nothing in the regulations in this part shall be construed as superseding any requirements of the Atomic Energy Act of 1954, as amended. Restricted Data and Formerly Restricted Data shall be handled, protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and the regulations of the Atomic Energy Commission.)

(c) *Formerly Restricted Data.* For classified information or material containing solely Formerly Restricted Data, as defined in section 142.3, Atomic Energy Act of 1954, as amended:

FORMERLY RESTRICTED DATA

Unauthorized disclosure subject to Administrative and Criminal Sanctions. Handle as Restricted Data in Foreign Dissemination. Section 144.b., Atomic Energy Act, 1954.

(Formerly Restricted Data is information removed from Restricted Data category upon determination jointly by the

Atomic Energy Commission and Department of Defense that such information relates primarily to the military utilization of atomic weapons and that such information can be adequately safeguarded as classified defense information. Formerly Restricted Data may not be transmitted or otherwise made available to any regional defense organization or foreign nation while it remains classified defense information except under provision of that Act.)

(c) *Information other than Restricted Data or Formerly Restricted Data.* For classified information or material furnished to persons outside the executive branch of Government other than as described in paragraphs (a) and (b) of this section:

NATIONAL SECURITY INFORMATION

Unauthorized Disclosure Subject to Criminal Sanctions.

(d) *Sensitive intelligence information.* For classified information relating to sensitive intelligence sources and methods, the following warning notice shall be used, in addition to and in conjunction with those prescribed in paragraph (a), (b), or (c) of this section, as appropriate:

Warning Notice—Sensitive Intelligence Sources and Methods Involved.

§ 9.19 *Marking of classified telegrams.* Information contained in Top Secret, Secret, and Confidential telegrams is subject to automatic downgrading, declassification, and decontrol procedures to the same extent as the substantive contents of nontelegraphic documents. In order to eliminate costly transmissions, standard abbreviations for required notations have been substituted, and will appear as the final unnumbered paragraph of the message text, as follows:

(a) For classified information that has been assigned to the General Declassification Schedule, add the abbreviation: GDS.

(b) For classified information that is to be declassified without reference to the General Declassification Schedule, add: ADS (Accelerated Declassification Schedule) DECLAS (insert date or other event or condition for declassification).

(c) For classified information that has been exempted from the General Declassification Schedule, add: XGDS (insert the category number 1, 2, 3, 4) DECLAS (insert appropriate date) BY AUTH (insert identity of person or source document).

(d) The following abbreviations may be substituted for the warning notices indicated in § 9.18:

RD (Restricted Data)

FRD (Formerly Restricted Data)

NSI (National Security Information)

SIS (Special Intelligence Sources and Methods)

§ 9.20 *Access to classified material; general access requirements.* Access to classified information shall be granted in accordance with the following:

(a) *Determination of trustworthiness.* No person shall be given access to classified information or material unless a favorable determination has been made as to the person's trust-

worthiness. The determination of eligibility, referred to as a security clearance, shall be based on such investigations as the Department may require in accordance with the standards and criteria of Executive Order 10450 of April 27, 1953, and Executive Order 10865 dated February 20, 1960, as appropriate. Special and specifically authorized clearances are required for access to information identified as Restricted Data, Cosmic, NATO, SEATO, CENTO, Cryptographic, Intelligence, and other information given special protection by law or regulation.

(b) *Need-to-know doctrine.* A person is not entitled to receive classified information solely by virtue of official position or by virtue of having been granted security clearance. A person must also have a need for access to the particular classified information or material sought in connection with the performance of official duties. The determination of that need shall be made by officers having responsibility for the classified information or material. The "need-to-know" doctrine shall be enforced at all times.

§ 9.21 *Access by foreign national employees.* (a) Classified information must not be dictated to, typed, or otherwise prepared by local employees. This restriction must not be circumvented by the assignment of classifications after a local employee has prepared a particular document. However, when warranted, information collected by local employees and prepared in report form by such employees may receive classification protection by appending such reports to classified transmittal reports prepared by U.S. employees.

(b) Except as noted in paragraph (d) and (e), classified information must not be made available to, or left in the custody of, Foreign Service local employees or alien employees resident in the United States nor will such employees be permitted to attend meetings where classified information is discussed.

(c) Authorization for limited access: When local employees obtain information from privileged sources or otherwise develop information warranting an administrative control designation or must be given access to administratively controlled information or material originated elsewhere in order to perform their official duties, they may be authorized limited access to such information provided that:

(1) The local employee's U.S. citizen supervisor requests authority to permit access to administratively controlled material in writing, specifying the reasons the employee must have access in order to perform official duties and describing the type of material, reports, etc., contemplated for access.

(2) The regional security officer concurs in the request, issues a memorandum of limited access, and recommends approval to the principal officer.

(3) The principal officer must authorize the limited access in writing. Such authority shall be reviewed by each succeeding principal officer, and the officer shall affirm or discontinue such authority as the officer deems appropriate.

(4) The employee's access is not construed to mean blanket authority to receive administratively controlled information or

material. Select local employees authorized to have access to administratively controlled material shall be permitted access only to that type of material specified in subparagraph (1) of this paragraph on a strict "need-to-know" basis.

(d) Broadcasting services alien personnel: When it is essential that information contained in classified documents (excluding Top Secret) be disseminated to the broadcasting services alien personnel resident in the United States, in order for them to perform their duties, such information must be given verbally. They are prohibited access to Top Secret information and are not authorized visual access to classified documents or material.

(e) Foreign Service local employees: Foreign Service local employees in very limited cases, may be permitted access to **Confidential** information coming from or to be delivered to the government of the host country. The internal procedures for granting access are the same as those provided in the foregoing parts of § 9.21 with regard to local employee access. Almost all instances of use of this authority will involve necessary translations. Access to such material should be allowed only after consideration of the host government's reaction to the particular Foreign Service local employee's having such access. When and where feasible, the local employee should be given such access only after a responsible agency of the host country has indicated it has no objection to the specific local employee's access to the information.

§ 9.22 *Access by historical researchers.* Persons outside the executive branch who are engaged in historical research projects may be authorized access to classified information or material provided that the head of the originating Department determines as follows:

(a) The project and access sought conform to the security and administrative requirements of the originating Department.

(b) The material requested is reasonably accessible and can be located and compiled with a reasonable amount of effort.

(c) The historical researcher agrees to safeguard the information in a manner consistent with NSC Directives.

(d) The historical researcher agrees to authorize a review of his notes and manuscript for the sole purpose of determining that no classified information is contained therein.

(e) An authorization for access shall be valid for the period required but no longer than 2 years from the date of issuance unless renewed under regulations of the originating Department.

§ 9.23 *Access by other persons outside the executive branch.*

(a) Release of classified information to Congress shall be approved and coordinated by the Office of Congressional Relations and the Office of Security.

(b) In all other cases, classified material will not normally be released to persons outside the executive branch of the U.S. Government, except that the head of the Department or agency or designee may authorize a person outside the executive branch to have access to classified information or material, provided that all the following conditions are satisfied:

(1) Knowledge or possession of such information or material is required by the intended recipient and is consistent with the interest of national security.

(2) The intended recipient is determined to be trustworthy in accordance with established standards of the Department concerned.

(3) The intended recipient can and will safeguard the information from unauthorized disclosure in a manner consistent with the provisions of appropriate Executive orders.

(4) The information or material involved will not be further disseminated without the express permission of the Department or agency concerned.

(5) Granting access to the person involved is consistent with appropriate Executive orders and with applicable statutes and national policy.

The Office of Security must, however, specify the manner in which the authorized access or release is to be effected to insure that such action is consistent with the provisions of the appropriate Executive order and NSC Directives.

§ 9.24 *Access by contractors or consultants.* (a) Contractors or consultants may not have access to classified material until a personnel security clearance has been authorized in writing by the Office of Security. Such clearances shall also be administratively withdrawn when the person no longer requires access to classified information or material in connection with the performance of his official duties or contractual obligations. Likewise, when a person no longer needs access to a particular security category, the security clearance shall be adjusted to the classification category still required for the performance of his duties and obligations. In both instances, such action shall be without prejudice to the person's eligibility for a security clearance should the need again arise.

(b) Employees are personally responsible for obtaining clearance from the Office of Security prior to release of classified material as the former official may identify shall be reviewed for storage of classified material by persons not regularly employed, see § 9.47(e).

§ 9.25 *Access by former Presidential appointees.* Persons who previously occupied policy making positions to which they were appointed by the President, other than those referred to in section 11 of Executive Order 11652 may be authorized access to classified information or material which they originated, reviewed, signed, or received while in public office. Upon the request of any such former official, such information and material as the former official may identify shall be reviewed for declassification in accordance with the provisions of these regulations.

§ 9.26 *Referral of public requests.* (a) Requests from the public for classified records, whether made to a department or agency office within the United States, or to a post abroad, must be referred to the Chief, Records Services Division (State); Director, Information Staff (AID); or Assistant Director, Office of Public Information (USIA), as appropriate.

(b) Unclassified records may be released upon approval by chiefs of mission at Foreign Service posts in accordance with 5 FAM 482.2. Unclassified records abroad of AID and of USIA may also be released by the AID country mission director and by the USIA country public affairs officer, respectively. (See M.O. 820.1 and M.O.A. III 524.)

(c) Requests for classified records which the chief of mission (for AID, the mission director, or for USIA, the public affairs officer) has declined to make available on such officer's own authority, should be submitted to the appropriate agency, by operations memorandum for USIA and by airgram for State and AID, containing sufficient information to permit consideration of the request.

(d) Classified records to be made available to the public by the above-identified authorized officers in the United States and abroad must first be declassified or decontrolled in accordance with the provision of § 9.1.

For more detailed procedures on releasing records to the public, see the appropriate Department or agency regulations. (State, 5 FAM 480; AID, M.O. 820.1; USIA, M.O.A. III 524.)

§ 9.27 *Controlling and safeguarding other official information.* (a) The Freedom of Information Act (5 U.S.C. 552) and earlier legislation recognize the necessity for the Government to withhold from public disclosure certain categories of records in addition to those containing information specified in Executive Order 11652 and other Executive orders. These include, but are not limited to, records, the disclosure of which would be a clearly unwarranted invasion of personal privacy or would violate a privileged relationship.

(b) The absence of a security classification or an administrative control designation on a record should not be regarded as authorizing the public disclosure of information contained therein without independent consideration of the appropriateness of the disclosure. In this regard, Department and agency policy with respect to disclosure of information under the Freedom of Information Act, or otherwise, does not alter the individuals' responsibility arising from his employment relationship with the Department or agency.

§ 9.28 *Administratively controlled information.* (a) *Designation.* Certain official information and material which is not national security information and, therefore, cannot be classified, is nonetheless protected by law against disclosure. Such information and material includes, among other things, information received through privileged sources and certain personnel, medical, investigative, commercial, and financial records. Such information and material which requires limited dissemination shall be afforded physical protection comparable to that given "Confidential" material in order to safeguard it from unauthorized disclosure. Such information and material shall be designated and marked "Limited Official Use" by officials authorized to classify information "Confidential," in which case it shall be physically handled, transmitted, and stored as if it were "Confidential."

(b) *Decontrol.* Unless otherwise provided, administratively controlled information shall be automatically decontrolled at the end of the fourth full calendar year after the year in which it is originated. If physical protection is not required for that period of time, the official designating a document "Limited Official Use" shall specify on the document that it shall be decontrolled upon the occurrence of a specified event, removal of controlled attachments, or a passage of an appropriate period of time not to exceed 4 years. If physical protection is required for a period longer than 4 years, the official designating the document "Limited Official Use" shall specify that it is exempted from automatic decontrol. Information and material not exempted by statute may be exempted from automatic decontrol only with the approval of an official authorized to classify information "Secret."

(c) *Decontrol notations.* Administratively controlled information and material shall be marked with the "Limited Official Use" designation in the same manner as classification markings are applied. All such documents and material must also be marked with a decontrol notation.

(1) Information which may be decontrolled upon the conclusion of a specific date, action, or event earlier than 4 years shall be noted to read as follows:

Decontrolled following ----- (Date or conclusion of specific event, or action)

(2) Information or material which is exempt from automatic decontrol by statute should be marked as follows:

Exempt from Automatic Decontrol By Statute

(3) In rare instances where information or material designated "Limited Official Use" is not exempt by statute or decontrolled on an earlier date or event but requires physical protection for a period longer than 4 years, the official designating the material "Limited Official Use" shall mark it as follows:

Exempt from Automatic Decontrol Authorized by -----

In the latter category, information and material may be exempted from automatic decontrol only with the approval of an official authorized to classify information "Secret."

(d) *Review of control status.* The administrative control status of any information or material shall be reviewed upon request. Such information or material shall be decontrolled and disclosed unless the office of origin or the office of primary interest or action determines, within a reasonable period of time after the request and after consultation with legal counsel, that the information is protected by law against disclosure.

§ 9.29 *Other Federal agency information.* (a) Classified material that originated in another U.S. department or agency must not be communicated outside the receiving agency without the consent of the originating department or agency, including material originated in State, USJA, and AID. Such approval must be obtained in writing, and a record of the approval and communication must be maintained by the communicator.

(b) Distribution to other Federal agencies: Classified material may be sent to other Federal departments or agencies only through established liaison or distribution channels. An exception is permitted when a post transmits classified material to an office of another U.S. Government agency within the executive branch located outside the United States.

§ 9.30 *Controls for dissemination and use of intelligence information.* (a)(1) Information contained in intelligence documents (including those produced by the Bureau of Intelligence and Research) that is marked with specific control markings must be handled within the framework of the limitations imposed by such controls. For details and definitions of these controls, refer to 11 FAM 418.

(2) Failure to comply with these provisions will be considered a violation to be handled as prescribed under § 9.62.

(b) Dissemination of sensitive intelligence information: Information or material bearing the notation "WARNING NOTICE—SENSITIVE INTELLIGENCE SOURCES AND METHODS INVOLVED," shall not be disseminated in any manner outside authorized channels without the permission of the originating department and an assessment by the appropriate intelligence chief as to the risk to the national security and to the intelligence sources and methods involved.

§ 9.31 *Dissemination ordered or requested by a court of law or other official body.* (a) Except as provided in § 9.29(b) any subpoena, demand, or request for classified information or records from a court of law or other official body shall be handled in accordance with the regulations of the agency concerned which prescribe procedures for responding to subpoenas (State, 5 FAM 485; USIA, M.O.A. III 527 and 625.6).

(b) Testimony involving classified information is subject to the procedures for responding to subpoenas must not be given before a court or other official body without the approval required by those procedures. An employee called upon to give such testimony without prior authorization shall state that to disclose the information desired is not authorized and that a written request for the specific information should be transmitted to the head of the department or agency concerned. Such testimony, when so approved, shall be given only under such conditions as the authorizing officer may prescribe.

(c) All reports, records, and files relative to the loyalty of employees or prospective employees (including reports of such investigative agencies) shall be maintained in confidence, and shall not be transmitted or disclosed except as required in the efficient conduct of business, and then only in accordance with the provisions of the President's directive of March 13, 1948.

§ 9.32 *Dissemination to foreign governments.* (a) *Dissemination of classified information to foreign governments and international organizations.* For detailed instructions governing the release of classified information to foreign governments and international organizations, see 11 FAM 600. (AID M.O. 6314.)

(b) *Disclosure of classified military information to foreign governments and international organizations.* The National Dis-

closure Policy Committee establishes the procedures governing the release of classified military information to foreign governments and international organizations. All referrals for the release of such information shall be directed to the National Military Information Disclosure Policy Committee (NDPC), National Disclosure Policy Affairs, Bureau of Politico-Military Affairs, U.S. Department of State, Washington, D.C. 20520.

(c) *Disclosure of communications security information to foreign governments and international organizations.* The U.S. Communications Security Board (USCSB) establishes the national policy governing the release of communications security information and the procedure to be followed when communications security assistance is requested by foreign governments and international organizations. Requests for such communications security assistance or advice must be referred to the Deputy Assistant Secretary for Communications (Department of State member of the USCSB).

§ 9.33 *Restrictions on personal use.* (a) *Personal interests.* Classified information must not be used for personal interests of any employee and must not be entered in personal diaries or other nonofficial records.

(b) *In conversation.* The discussion of classified information must not be held in the presence or hearing of persons who are not authorized to have knowledge thereof. Classified information must not be discussed in conversations on telephones or office intercoms, except as may be authorized over approved secure communications circuits.

§ 9.34 *Special dissemination categories.* (a) *Cryptomarking.* A designation of marking of "Crypto" is applied to cryptographic material and cryptographic information indicating that it requires special consideration with respect to access, storage, handling, and accounting. Regulations and procedures governing use and disposition of documents or material so marked are established by the Communications Security Division as indicated in § 9.50 and documented in communications security publications.

(b) *Authorized special distribution captions.* (1) No Distribution (nodis) means no distribution to other than addressee without the approval of the Executive Secretary. (See 5 FAM 212.a.) This caption is used only on messages of the highest sensitivity between the President, Secretary of State, and chiefs of mission.

(2) Exclusive Distribution (exdis) means distribution exclusively to officers with essential need to know. This caption is used only for highly sensitive traffic between the White House, the Secretary, the Under Secretaries, and chiefs of mission.

(3) Limited Distribution (limdis) means distribution strictly limited to officers, offices, and agencies with need to know. This caption is reserved for messages of more than usual sensitivity.

(4) No Distribution Outside Department: This caption precludes initial distribution to other Federal agencies and is used when disclosure of certain communications to other agencies would be prejudicial to the best interests of the Department of

State. This caption may be used in conjunction with the captions "exdis" and "limdis."

(5) For specific details regarding the procedures to be followed in handling a captioned message, see 5 FAM 212. Within USIA, M.O.A. III, section 352.2 (paragraphs b, c, d), identifies authorized captions used in communications for special distributions and handling of message copy. These captions are properly used to limit the distribution of copies of particularly sensitive messages.

§ 9.35 *Transmission and control of classified material.* (a) *Top secret control procedures—Requirements.* Executive Order 11652 and NSC Directives require the designation of Top Secret control officers to provide positive control over the movement, use, and disposition of all Top Secret documents. The use of Top Secret Cover Sheets (JF-9) and a system of Top Secret control numbers and receipts are prescribed to insure that Top Secret documents are fully accounted for at all times, and that information is available on the identity of each person who has had access.

(b) *Required assignment of Top Secret control numbers.* (1) A Top Secret control number must be marked on each copy of each Top Secret document. For telegrams and other documents to which a control number has already been assigned prior to receipt, no additional control number is necessary. If no control number appears on the document when it is received, one must be assigned.

(2) Draft copies should be destroyed when a final version is reproduced and distributed. If it is necessary to retain the draft copy because of draft clearances or for other reasons, it should be assigned a control and copy number and included in the original series designation.

(c) *Composition of Top Secret control numbers.* (1) A Top Secret control symbol must be used by each Top Secret control officer. The symbol belongs to the post or organizational element and not personally to the designated Top Secret control officer. Each successive Top Secret control officer shall use the same post or organizational element symbol.

(2) Control symbols for organizational elements in AID and the Department are devised and issued by management authority having responsibility for regulations and procedures used within the respective agency or Department. Information concerning organizational changes or other circumstances which require changes in assigned symbols shall be submitted immediately to such management authority. Posts and U.S. missions should route such requests through the responsible bureau executive office.

(3) The control symbol plus the copy number, series designation, and capital letter designating the Department or agency of origin constitute the Top Secret control number. For example:

(i) *At posts.* If Top Secret control number is "LND-18-3A-S"—LND is the Top Secret control symbol for London; 18 indicates this is the 18th document numbered under that sym-

bol; 3 is the copy number; A is the series designation; and S identifies State as the agency of origin.

(ii) *In the domestic service.* (a) If the Top Secret control number is "GC-6-1B-A"—GC is the Top Secret control symbol for the Office of the General Counsel; 6 indicates this is the sixth document numbered under that symbol; 1 is the copy number; B is the series designation; and A identifies AID as the originating agency.

(b) The final capital letter of the Top Secret control number shall be S, or A, identifying the originator as the State Department, or Agency for International Development, respectively.

(d) *Use of Top Secret control numbers.* Top Secret control numbers must be assigned to all Top Secret documents and reproduced on all forms serving to identify Top Secret documents. The Top Secret Cover Sheet (JF-9), Classified Material Receipt (JF-6), Top Secret Document Inventory Record (JF-17), etc., must be completed to identify the Top Secret document by its control number and the type of document, subject matter, date, addressee, and originator.

(e) *Assigning Top Secret control numbers.* (1) Upon receipt of a Top Secret document to which a Top Secret control number has not been assigned, regardless of the agency, post or area of origin, the receiving Top Secret control officer must immediately insert the Top Secret control number on each copy of the document and must affix a Top Secret Cover Sheet (JF-9) to each copy marked with the appropriate Top Secret control number on it.

(2) The Top Secret control officer distributes the document and copies thereof as indicated by the signing officer or according to established procedures within control officer's area of Top Secret control responsibility.

(3) In AID, these functions are reserved solely to the central Top Secret control officer. In USIA, notify the Office of Security if a Top Secret document is received without a control number.

(f) *Maintenance of records for Top Secret documents.* The following forms are used and maintained in connection with the control of Top Secret material:

- (1) Top Secret Cover Sheet, JF-9.
- (2) Classified Material Receipt, JF-6.
- (3) Receipt Manifest, Form DS-794.
- (4) Record of Top Secret Material, JF-10.
- (5) Top Secret Document Inventory Record, JF-17.
- (6) Index to Consolidated File Number ———, JF-19.

§ 9.36 *Distribution of Top Secret documents within State, AID, and USIA posts.* (a) Within the area of responsibility of the Top Secret control officer: Top Secret documents to be distributed within the area of the Top Secret control officer shall be distributed by the Control officer, the officer's alternate, or a U.S. citizen employee under the administrative supervision of either. The individual making the distribution must witness the signature of the recipient on each Top Secret Cover Sheet

(JF-9). The transmitting office must maintain a record of the transmission of each copy of each Top Secret document. For accountability and annual inventory purposes, the record must be maintained separately from records or receipts of other classified material. Dependent upon the volume of Top Secret traffic within area of responsibility, the Top Secret control officer may elect to account for internal distribution by using JF-6, JF-10, or DS-794.

(b) Outside the area of responsibility of the Top Secret control officer: (1) Top Secret documents to be distributed outside the area of the Top Secret control officer must be covered by their individual Top Secret Cover Sheets and either:

- (i) Classified Material Receipt, JF-6; or
- (ii) Receipt Manifest, DS-794, in duplicate.

(2) Top Secret documents must be transmitted by the Top Secret control officer or alternate to the receiving Top Secret control officer by either:

- (i) A Top Secret messenger;
- (ii) An authorized courier;
- (iii) Electrical means in encrypted form; or
- (iv) Pneumatic tube.

(c) Top Secret documents must be enclosed in a single, sealed, opaque envelope addressed to the agency, post, or area concerned and to the attention of the appropriate official by title, if known. The envelope must be marked on both sides. These requirements are mandatory for the transmission of all Top Secret material outside the area of the Top Secret control officer.

(1) The envelope, marked "Top Secret," must be transmitted inside another cover, such as a brief case, portfolio, or diplomatic pouch.

(2) Material to be transmitted in the pneumatic tube need only be enclosed in a single, opaque envelope properly addressed and marked "Top Secret" on both sides.

(d) For accountability and annual inventory purposes, receipts reflecting the transmission or receipt of Top Secret material must be filed separately from receipts concerned with material of a lesser classification.

(e) Distribution of Top Secret documents outside posts, the Department, AID, and USIA: Top Secret documents to be distributed to another Federal agency, or elsewhere, are prepared for distribution as indicated in § 9.36 except that the Top Secret Cover Sheet is removed and annotated to record the date, the identity of the addressee, and the preprinted number appearing on the JF-6. When the Top Secret control officer is certain that the addressee has received the Top Secret document (reconciliation of parts I and IV of JF-6, or other notification), the officer files the Top Secret Cover Sheet in Top Secret files for 5 years. At the end of the 5-year period, the Top Secret Cover Sheet should be destroyed when authorized by Department or agency records disposal schedules.

§ 9.37 *Top secret cover sheets.* (a) The original and each copy of Top Secret documents must be covered by a Top Se-

cret Cover Sheet (JF-9). The cover sheet must be completed by the Top Secret control officer and shall include the control number, the type of document, subject matter, date, addressee, and originator. All persons having access to the document attached to the Top Secret Cover Sheet must sign and date the cover sheet before accepting responsibility for its custody. The Top Secret Cover Sheet must remain with the document until the document is:

(1) Transferred to another department or agency, outside State, AID, and USIA.

(2) Destroyed.

(3) Retired.

(4) Downgraded or declassified.

(b) When one of the above-listed actions is taken, the Top Secret control officer must record the action on the Top Secret Cover Sheet, retain it in the files for 5 years, and then destroy it.

§ 9.38 *Inventories of Top Secret documents.* (a) As of October 31 of each year, each Top Secret control officer assisted by a representative of the Office of Security, must make a physical inventory of all Top Secret documents for which he is accountable. Such an inventory shall reflect the following information: (1) Who authorized the original classification; (2) department or organization; (3) date of classification; (4) subject; (5) whether the material is subject to or exempt from the General Declassification Schedule; (6) if exempt, which exemption category is claimed; (7) addressee—current holder; (8) Top Secret control number; and (9) copy number.

(b) As an exemption, repositories or libraries storing large volumes of classified material may request from the appropriate Office of Security a limitation of their annual inventory to all documents and material to which access has been given in the past 12 months and 10 percent of the remaining inventory.

(c) It is mandatory that the presence of each document shown must be physically verified. A report of this inventory is prepared on the Top Secret Document Inventory Record, JF-17, which must be retained for 3 years from date of the inventory by the Top Secret control officer. A copy of the JF-17 also must be forwarded to the appropriate Officer of Security. The JF-17 may be destroyed, when authorized by Department or agency records disposal schedules.

(d) Any documents unreconciled at the time of the annual inventory, must be reported immediately to the appropriate Office of Security or regional security office. (See § 9.44.)

§ 9.39 *Consolidation of Top Secret documents.* (a) Purpose and criteria: In order to simplify the recordkeeping required for the accountability of Top Secret documents, they may be consolidated under a single Top Secret control number when such documents may be physically connected because of their relationship to subject matter, their similarity, recurrence and use, or other features which make them susceptible to consolidation. A consolidation of Top Secret documents reduces the document-to-document receipts and signatures required for the

dissemination of individual Top Secret documents and permits accountability, including annual inventories, under a single control number.

(b) Authority: Top Secret control officers or higher authority shall determine which Top Secret documents may be consolidated and shall effect the consolidation, utilizing JF-19, Index to Consolidated File No. -----.

(c) Identification: A consolidation of Top Secret documents is assigned a new Top Secret control number in the same manner as an original Top Secret document by the Top Secret control officer making the consolidation.

(d) Assembly and indexing: (1) Each consolidation should be permanently fastened together by the use of staples, by inclusion in binders, or by other equally effective means. An index or list of the control numbers originally assigned to each controlled document included therein (or its subject, if no control number was previously assigned) should be affixed to the front of the consolidation.

(2) Top Secret material contained in a consolidation is shown on the annual inventory report as one document. The list or index affixed to the consolidation permits the dropping of previously assigned control numbers for inventory purposes.

(e) Top Secret COMSEC material is controlled within the provisions of § 9.55.

§ 9.40 *Authorized channels for transmission of classified material.* (a) Under no circumstances shall classified material be transmitted physically across international boundaries except by diplomatic courier or in accordance with § 9.47(d).

(1) Classified material must not be transmitted through U.S. mail or other postal services except through the central mail or pouch unit serving the post or area (in the department or agency) of the sender.

(2) The "mail stop" interagency mail service is not an authorized messenger for delivery of classified material.

(3) See § 9.36 for Top Secret material.

(b) Primary methods of transmission for Secret material: Secret documents must be transmitted, dependent upon the urgency of the information, the maximum security obtainable, and the medium available, by one of the following: (1) Electrical means in encrypted form; (2) pneumatic tube; (3) diplomatic courier (see § 9.47(d)); or (4) authorized messenger of the sending or receiving agency.

(c) Secondary methods of transmission: Whenever the primary methods of transmission (which are under the positive control of the department or agency) are not readily available the registered mail facilities of the United States and U.S. military postal channels, must be used as follows:

(1) U.S. registered mail within and between the 50 States and the District of Columbia, the Commonwealth of Puerto Rico, or a U.S. possession.

(2) U.S. registered mail facilities of the Army, Navy, Air Force, or other U.S. Post Offices outside the areas enumerated in subparagraph (1) of this paragraph: *Provided*, That the

information or material does not at any time pass out of U.S. citizen employee control and does not pass through a foreign postal system.

(d) Preparation for transmission: (1) Secret documents must be covered by a cover sheet or folded inwards and, except as authorized in paragraph b of this section, be enclosed in opaque inner and outer envelopes. The inner envelope should be addressed to the appropriate official by title, if known. It must be marked "Secret" on both sides. (See § 9.41(a) for registration if sent by pouch.) The outer envelope should be addressed in the same manner but shall not bear a security classification.

(2) Secret documents must be covered by a JF-6, Classified Material Receipt, or a DS-794, Receipt Manifest, or other receipt approved by the Office of Security or regional security officer whenever the transmission is from one area serviced by one message center to another, from offices and areas not serviced by a decentralized message center or comparable communications unit, from one post to another, etc.

(3) The transmission or distribution of Secret material within the positive control of message center or similar communications unit need not be covered by a receipt, provided that adequate records reflect its distribution (such as JF-7, Register—Distribution of Classified Material, or other logs approved by the Office of Security or regional security officer).

(4) Secret documents transmitted via pouch (i.e., by diplomatic courier) or by authorized messenger or by pneumatic tube need not be enclosed in a second or outer envelope. The pouch, the messenger's portfolio or briefcase, and the pneumatic tube carrier are considered second or outer covers.

(f) Confidential material: (1) Confidential material must be transmitted by one of the means established for Secret material or by certified mail (see section 9.40(b)): *Provided*, That it does not at any time pass out of U.S. Government control and does not pass through a foreign postal system.

(2) Confidential and Limited Official Use material must be prepared for transmission in the manner prescribed for Secret material (see section 9.40(d) of this section). The only exception is that a receipt is not required unless the sender deems one necessary. If material is transmitted by one of the primary methods (section 9.40(b) of this section) without a JF-6, the classification appears on the outer envelope. (See also § 9.41 for transmission by diplomatic pouch.)

(g) Unclassified material: (1) At posts, Unclassified material may be transmitted by diplomatic pouch, U.S. first-class mail; or through foreign postal systems according to instructions issued by principal officers. Unclassified material originating in the United States should be transmitted through the official communications center serving the Department or agency of the sender.

(2) Unclassified material, when transmitted by diplomatic pouch facilities, must be enclosed in an addressed envelope marked "Unclassified" on both sides. When transmitted by postal facilities, it must not be marked "Unclassified."

(h) Transmission to pouch room: During transmission to the pouch room the same safeguards are required as those prescribed for other internal transfers.

§ 9.41 *Registering diplomatic pouch mail.* (a) Each piece (envelope, package, or other outer cover) of classified material must be registered by the use of a JF-14, Diplomatic Pouch Mail Registration; JF-6, Classified Mail Receipt; or other registry system approved by the Diplomatic Pouch and Courier Operations Division for items sent by diplomatic pouch. Normally, JF-14 shall be utilized to register Confidential items, leaving JF-6 for Top Secret and Secret items.

(b) Receipts for classified documents: Classified Material Receipt, JF-6, or Form DS-794, Receipt Manifest, or other receipt approved by the Office of Security or regional security officer, must be used in the transmission of all Top Secret and Secret documents when transmitted outside the organizational control of the sender. These receipts may be used for the transmission control of any other document at the discretion of the sender.

(1) *Use of JF-6.* Classified Material Receipt, JF-6, is prepared so that all items are completed and signatures are recorded on parts I, III, and IV. These parts, together with part V, shall be retained for 3 years. If the addressee or unit maintaining records of receipt for the addressee does not receive all the items identified on part IV, and if part IV is not returned promptly to the sender or unit maintaining records of transmission for the originator respectively, the sender shall follow up on the transmission, notifying security personnel and Top Secret control officers when appropriate. The identity of enclosures (on parts I, IV, and V) shall include the type of document, subject, copy number, and series and date of document. Several items may be transmitted in the same address under cover of a single JF-6, provided a listing of the items is retained by the sender and a copy accompanies part V for the addressee's use. Instructions for the preparation and disposition of the JF-6 are contained on it.

(2) *Use of Form DS-794, Receipt Manifest.* Form DS-794, Receipt Manifest, or other approved receipt, is used to cover the transmission of more than one Secret document between the sender and a single addressee such as occurs in the wide distribution of Secret telegrams, etc., reproduced by a central reproduction area. Such receipts are forwarded in duplicate, so that the addressee may acknowledge receipt of the material by signing and returning a copy to the transmitter, retaining the original for addressee's records. Such receipts are retained for 3 years.

(3) *Disposition of receipts.* Originating and receiving elements or employees are not required to maintain additional logs of transmission and receipt of Secret material other than to note internal distribution which may be recorded on part V of the JF-6, the original of DS-794, or other approved means. Three years after the date of transmission or receipt of Secret material, receipts covering the transaction may be destroyed.

§ 9.42 *Reproduction and distribution of classified material.*

(a) Top Secret and Secret material originated in another Federal agency must not be reproduced without the specific written approval of the originating agency. The authority for the reproduction should be noted on the copy from which the reproduction is made.

(b) Reproduction of Top Secret documents: Permission for reproduction of a Top Secret document must be obtained by the Top Secret control officer of the reproducing office from the Top Secret control officer of the originating office, or the Top Secret control officer of the operating element authorized to make initial distribution. Both the originating and reproducing offices must maintain appropriate records to reflect the number of copies reproduced and observe all other requirements concerning the control of distribution of such copies. Unauthorized reproduction of classified material (Top Secret, Secret, Confidential) will be subject to appropriate disciplinary action.

(c) Reproduction of Secret documents: Permission for the reproduction of a Secret document originated by State, AID, or USIA is granted interchangeably to their employees without the approval of the originating Department or agency. However, the authority to approve such reproductions is delegated to officers of the area requiring reproduction who have signing authority to approve the classification Secret, as specified in § 9.8. Such officers are responsible for determining that reproduction of the document is essential for efficient operations and that the number of copies reproduced is kept to the absolute minimum required to meet the operational need.

(d) Marking reproduced Top Secret and Secret documents: When reproduction beyond the initial production is required, the copy from which reproduction is made must show the authority for reproduction, the officer requesting the reproduction, and the number of copies made. The certification should be in the following form:

Reprod. Authority By: John Doe (Department or Agency).

----- copies
Robert L. Brown
Department or Agency

(e) Reproduction of Confidential documents: Confidential documents may be reproduced without permission of the originator. However, all material shall be reproduced sparingly and any stated prohibition against reproduction shall be strictly adhere to.

(f) Protection of Classified reproduction facilities: Classified reproduction facilities should be controlled and kept separate from unclassified operations and must be monitored periodically during normal working hours and secured within a locked room during nonworking hours. Where this is not possible, the Office of Security or regional security officer must be consulted in determining the procedures necessary to protect facilities used for classified reproduction. Classified material

should only be produced on those reproduction machines under the continual control of U.S. personnel.

§ 9.43 *Destruction of classified material.* (a) Disposable classified material must be carefully and completely destroyed in the presence of responsible U.S. citizen personnel. Disposable classified material does not include record material, or other material exempted from destruction by agency or department instructions. It does comprise information and extra copies of documents, cylinders, discs, tapes, rough drafts, shorthand notes, carbon paper, and any other nonrecord material, except those specifically prohibited by instructions emanating from offices responsible for records management. Record copies of classified material must not be burned or otherwise destroyed except in accordance with Federal laws and agency regulations governing the disposition of records.

(b) *Methods of destruction:* Normally, classified material is destroyed by burning. Any other method must have the specific approval of the Office of Security.

(c) *Use of burnbags:* All classified material to be destroyed must be torn and placed in containers designated as burnbags, which are clearly and distinctly recognizable as burnbags. Burnbags awaiting destruction must be protected by safeguards commensurate with the classification or control designation of the material involved.

(d) *Record of destruction for Top Secret material:* (1) *Requirement.* Each Top Secret control officer is requested to maintain a record of destruction of Top Secret material in accordance with instructions printed on JF-9, Top Secret Cover Sheet.

(2) *Witness to destruction.* The Top Secret control officer in recording the destruction of a Top Secret document, must sign form JF-9 as the officer destroying the documents and one other U.S. citizen employee must sign as witness to the actual destruction; or, they must sign as participants in preparing the material for destruction: i.e., tearing and depositing in burnbags and securing the burnbags for destruction.

(e) *Destruction of Secret and Confidential material:* (1) Secret and Confidential nonrecord material must be destroyed by burning or other authorized means with the same degree of care and protection required for information of higher sensitivity. A record of destruction need not be made unless the material bears a serialization marking, there is special need to record its destruction, or recording is required by a special regulation. See subparagraph (3) of this paragraph.

(2) Destruction of serialized Secret and Confidential material must be recorded on JF-8, Register—Destruction of Classified Material, or other form or log approved by the Office of Security or the regional security officer. The reverse of part V of JF-6, Classified Material Receipt may also be used as a destruction record provided it bears the signatures of destroying and witnessing officers and the destruction date. All records of destruction must be retained for 3 years following the destruction date.

(3) Documents subject to special regulations, such as NATO, SEATO, Restricted Data, etc., must be destroyed and destruction recorded in accordance with requirements of the applicable special regulation.

§ 9.44 *Report of missing or compromised classified documents.* Any employee who discovers that a classified document is missing must make a prompt report to the Office of Security or regional security officer via the unit or post security officer. In the case of a known or suspected compromise of a Top Secret document or cryptographic material, the report must be made immediately. Telegraphic or oral reports must be followed by a prompt submission of a memorandum addressed to the Office of Security or regional security officer, which includes the following information:

(a) Complete identification of the material, including, when possible, the date, subject, originator, address serial or legend markings classification, and type of material (i.e., telegram, memorandum, airgram, etc.).

(b) Where compromise is believed to have occurred, a narrative statement detailing the circumstances which gave rise to the compromise, the unauthorized person who had or may have had access to the material, the steps taken to determine whether compromise in fact occurred, and the office or post evaluation of the importance of the material compromised.

(c) Where a document is lost or missing, the narrative statement should detail the movements of the material from the time it was received by the post or office, including to whom it was initially delivered; later routings; the persons having access to the material; the time, date, and circumstances under which loss was realized; and the steps taken to locate the material.

(d) When material is either compromised or missing, identify if possible the person responsible and state the action taken with regard to the person and/or procedures to prevent a recurrence.

(e) Where cryptographic material is involved, a report is also to be made to the Office of Communications using FS-507, Report of Violation of Communications Security.

§ 9.45 *Physical protection of classified material.* (a) *Storage repositories for classified material.* Classified material must be stored in prescribed repositories. Personnel must assure that such repositories are locked prior to leaving the room unattended. Any question concerning the approval of the type of repository to be used must be referred to the Office of Security or regional security officer. These minimum security requirements for the storage of classified material may be supplemented by additional safeguards which, at the discretion of the Office of Security or regional security officer, may be necessitated by unusual or changing conditions. Classified documents must not be routinely stored overnight, at overseas facilities, unless there is present a satisfactory emergency destruction capability.

(b) *Top Secret documents.* (1) Top Secret documents must be stored in a security-approved safe-file cabinet, safe, or vault, equipped with a three-way dial combination lock and located in a restricted area. Other supplemental safeguards, as justified by individual circumstances, will be prescribed by the Office of Security or regional security officer.

(2) At AID overseas facilities, Top Secret documents must be stored in security approved safe-file containers located within a vault, in an area controlled by security cleared American personnel on a 24-hour basis.

(3) At those AID installations where diplomatic status and recognition have not been negotiated, Top Secret documents must not be stored routinely at USAID.

(c) *Secret documents.* (1) Secret documents may be stored in a repository authorized for Top Secret documents or in a barlock cabinet located in a restricted area. Other supplemental safeguards, as justified by individual circumstances, may be prescribed by the Office of Security or regional security officer. In the domestic service, Secret documents need not be stored in restricted areas if the building where such documents are stored is protected by security cleared guards.

(2) At AID overseas facilities all safe-files or barlock cabinets, containing Secret documents, must be located in a vault unless area access is controlled by security cleared American personnel on a 24-hour basis.

(d) *Confidential documents.* Confidential documents must be stored in the same manner prescribed for Secret material in a safe-file container or in a barlock cabinet located in a vault if the area is not controlled by security-cleared American personnel on a 24-hour basis. In the United States, barlock cabinets containing Confidential documents need not be located in a restricted area. Other supplemental safeguards, as justified by individual circumstances, will be prescribed by the Office of Security or regional security officer.

§ 9.46 *Keys and combination to repositories.* (a) Security keys must be stored in a security approved repository equipped with a three-way dial combination lock. Any duplication of keys required shall be made only by the Office of Security or regional security officer. Under no circumstances are such keys to be removed from the premises.

(b) The Office of Security or regional security officer will furnish only two keys with each padlock and will determine the number of keys to be issued for other locks used for the protection of classified operations.

(c) *Combination locks:* Combinations to security equipment and devices shall be changed only by persons having appropriate security clearance.

(1) When setting combinations of three-way combination locks, the combination of each repository must be set in such a fashion as to require the use of three different numbers. In selecting combinations, multiples and simple ascending or descending arithmetical series must be avoided. The combination of each lock must be changed:

- (i) When the lock is initially put into use;
- (ii) When an employee knowing the combination terminates employment or is permanently transferred to duties which no longer require employee's access;
- (iii) Upon knowledge or suspicion that the combination has become known to an unauthorized person;
- (iv) At least once every year.

Security officers must insure that combinations are changed as required. Records of combination shall be classified no lower than the highest category of classified information or material authorized for storage in the security equipment concerned.

(2) Combinations must be recorded on a JF-5, Safe Card. Such cards must be completed in their entirety and filed in central repositories in the custody of unit, post, or other security officers according to distribution instructions printed on the card. At a minimum, they must be stored in repositories authorized for the storage of material at the highest combined classification level to which the combinations permit access. However, in the domestic service they must be stored in safes or safe-file cabinets whenever feasible and at posts they must be afforded maximum available security storage.

(3) Defects in or malfunctioning of storage equipment or locking devices must be reported immediately to the Office of Security or regional security officer.

(4) Combinations to repositories containing official funds are subject to the requirements and the instructions of the responsible regional security officer.

(d) Data to be posted on each repository: On the inside of the drawer with the combination lock on a safe-file cabinet, on the inside door to a vault or safe, and on the inside of the top drawer of a barlock cabinet, the names and home telephone numbers of personnel responsible for custody of the combination must be posted. Part 3 of JF-5 is designated for this purpose. Persons on the list may be called after normal working hours. A security officer will determine when it is necessary to have an individual return to check contents of an open and unattended repository. Identifying data described above may be posted on the outside of repositories in lieu of the inside, provided the Office of Security or regional security officer has authorized the substitution.

(e) Cautions involving safe combinations: Except for JF-5, Combination Safe Card, and cards posted inside repositories listing combinations in the immediate area, the recording of combinations is prohibited. Combination numbers must be committed to memory. When closing a combination lock, the dial must be turned at least four complete revolutions in the same direction after closing. It is not sufficient to manipulate the dial in a to-and-from motion to clear the combination.

§ 9.47 *Removal of classified material from official premises.*

(a) *Where overnight custody is not involved.* Classified material must not be removed from official premises except when necessary in the conduct of official meetings, conferences, or consultations and must be returned to safe storage facilities

immediately upon the conclusion of the meeting, conference, or consultation. Residences are not considered official premises except as specifically authorized in writing by the Office of Security. Classified material must not be removed for reasons of personal convenience or be kept overnight in personal custody.

(b) *Where overnight custody is requested.* Under normal circumstances, classified material must not be removed from official premises and kept in overnight personal custody. In unusual circumstances, requiring the overnight removal of such material from official premises, prior approval from the Office of Security or the regional security officer is mandatory. This is to ensure adequate storage measures and compliance with the Executive Order 11652 and applicable NSC Directives.

(c) *Certification upon permanent departure from post.* When departing a post upon transfer, resignation, or retirement, each employee, irrespective of rank, must certify as part of the post clearance procedure that: (1) Classified material is not being taken from the post through other than authorized means; (2) such material is not in their household or personal effects; (3) such material will not be mailed or otherwise transmitted in violation of paragraph (d) of this section.

(d) *Transporting classified material across international borders.* Classified material is carried across international border by professional diplomatic couriers. Nonprofessional diplomatic couriers are given such material for international transmission only in emergencies when the professional service will not cover the area into which the pouch must be carried or the post to which the pouch is addressed within the time that official business must be conducted. In such isolated cases, the nonprofessional diplomatic courier must be in possession of a diplomatic passport and a courier letter, and material must be enclosed in sealed diplomatic pouches until delivered to its official destination.

(e) *Storage of classified material by persons not regularly employed.* Authorized consultants and contractors engaged in work involving classified material may not store such material overnight on their premises unless the Office of Security has granted approval for such storage. No classified material may be made available to consultants or contractors off the official premises or transmitted to such persons off the premises except with the approval of the Office of Security and in conformity with Executive Order 11652.

§ 9.48 *Physical security; safeguarding classified information.* Employees using classified material or responsible for its custody, must take every precaution to prevent deliberate or casual inspection of it by unauthorized persons.

(a) *Precautions.* (a) Employees responsible for the custody of such materials should complete JF-15, Security Check Sheet, columns 1 and 2, respectively, when opening and closing security repositories. JF-15 is to be posted on all security repositories (vault doors, safes, safe-file, and barlock cabinets) housing classified documents.

(2) "Open" signs should be placed on the outside handle or drawer-pull of each safe or file cabinet which contains classified material when the repository is unlocked. When such equipment is locked, the sign should be reversed to read "closed."

(3) Classified material must not be delivered to unoccupied rooms, or be left inadequately protected in an occupied office or one occupied by other than security-cleared U.S. citizen employees.

(b) *After working hours and during lunch periods.* (1) Classified material must not be stored in desks or anywhere other than in approved storage containers.

(2) Copies of classified documents, including disposable material such as rough drafts, shorthand notes, extra carbon, or tissue copies, used carbon paper, hectograph masters, and mimeograph stencils, must be safeguarded and locked in appropriate security repositories whenever unattended. Typewriter ribbons must be removed and appropriately stored at the close of business and whenever the office is unattended if the ribbon is a so-called one-time tape or a cloth ribbon which has not been used a sufficient number of times to make it illegible. Recording discs, spools, tapes, etc., must also be removed from recording machines and locked in appropriate security repositories whenever the machines are unattended. Compliance with this requirement is a sound security practice and is advantageous to efficient administrative operations regardless of whether the recording media contain classified information.

(3) All keys to doors kept locked after working hours must be turned in to the U.S.-citizen guard force and released only to authorized personnel. Where no U.S.-citizen guard force is assigned, personal custody of keys may be authorized by the Office of Security or regional security officer. Such instances should be held to an absolute minimum.

(c) *Closing hours security check*—(1) *Report of closing hours security check.* A system of security checks prior to those conducted by security guards should be instituted at the close of each working day, or as soon thereafter as administrative operations permit, to ascertain that classified materials have been properly stored and that containers are locked; that windows and doors, where appropriate, are locked; and that the area is otherwise secure and not susceptible to overt penetration or compromise. In order to fulfill this fundamental, mandatory requirement in all areas, at all echelons, supervisory officers in the United States and at posts must designate employees, on a weekly basis, to conduct a closing hours security inspection of offices within a specifically defined area of responsibility. Such designees will utilize JF-16, Report of Closing Hours Security Check, to record the results of the closing hours security check and forward it to the unit or post security officer upon completion of the final check.

(2) *Reporting infractions.* An infraction of the regulations discovered by an employee designated to conduct the closing security check is not to be construed as a security violation in itself. It should not be reported on JF-11, Notice of Security

Violation, unless higher administrative authority determines otherwise or the closing hour security check is, in fact, the final inspection where building guards or U.S. Marines are not on duty. Custodians of classified material are responsible for its safekeeping. Consequently, a violation which is discovered after the closing hours security check, if it is the final inspection after normal working hours, will be charged to the individual personally responsible for the violation.

(3) *Employee responsibility.* Employees designated to conduct closing hours security checks will, as a minimum: (i) insure that all repositories containing classified and controlled material are secured; (ii) check the tops of all desks, including "in" and "out" boxes, and repositories to insure that all classified and controlled material has been put away; (iii) make a visual check of the remainder of the office. This section imposes a direct and important security responsibility on employees conducting closing hours checks, even though primary responsibility remains with the custodian. Consequently, when a security violation is discovered by a security guard after closing hour check and involving an area over which a checker is responsible, the post unit or regional security officer will inquire into the circumstances and include comments regarding the delinquency of the checker. The Office of Security will then determine total responsibility and recommend the appropriate disciplinary action to be taken.

(d) *Exceptions to requirements.* Exceptions to the foregoing requirements, based upon physical or personnel considerations such as the unusual number of repositories located in a specific area, communications areas, alarmed rooms, posts, and areas with few assigned employees and other operations imponderables, must be requested in writing to the Office of Security or regional security officer.

(e) *Conferences.* (1) In conducting conferences where classified information or material may be involved, every precaution should be observed to ensure that:

(i) in the interests of technical security classified conferences are held on official premises.

(ii) Proper physical security measures are implemented to provide equal or better protection for such information or material than the measures required during normal operations.

(iii) Participants are entitled to access to such information.

(2) Advance notice to (and coordination with) the appropriate post or regional security office or Office of Security should be given by the operations element calling or conducting the conference whenever:

(i) Classified material is to be removed from its normal place of storage and transmitted or carried to the conference site.

(ii) Participants are not personally known to have appropriate security clearance by the officer calling or conducting the classified meetings except when the participants are U.S. citizen employees of the Department AFD, or USIA, or regularly assigned U.S. personnel at diplomatic and consular posts.

(f) *Cameras.* Cameras are not permitted in restricted areas or restricted buildings or in rooms containing classified material without prior approval from the Office of Security or regional security officer.

(g) *Package control.* In unusual or emergency circumstances, the Office of Security or regional security officer, with the approval of higher authority, may impose such restrictions as deemed appropriate to insure that foreign objects are not introduced into U.S. Government facilities or classified materials are not removed.

(h) *Identification of employees.* Official employee identification cards are issued and controlled by the Office of Security or regional security officer.

(i) *Entry of employees in buildings.* Employees must present authorized identification cards to guards, receptionists, and/or other employees on request when entering buildings or restricted areas at any time.

(j) *After hours access to buildings.* (1) In addition to showing proper identification, all employees may be required to sign a register when entering or leaving a building outside of regular working hours.

(2) When local employees are required to work after hours in post buildings and when nonregular employees, contractors, etc., are required to enter or remain in buildings after working hours the U.S. officer authorizing the work must obtain the concurrence of the Office of Security or regional security officer or the post security officer. Such persons must sign in and out on the appropriate register. Nonregular employees and contractors must be escorted.

(k) *Loss of identification cards.* When an employee identification card is lost in Washington, a memorandum report must be submitted immediately to the Identification Unit, Office of Security. A card lost at a post must be reported immediately to the Identification Unit, Office of Security, through the post's administrative officer. In each case, the report should include a statement of the circumstances surrounding the loss and the details of any efforts to recover the card.

(l) *Entry of visitors.* Visitors are not permitted in any building housing classified material or operations after working hours, unless they are escorted in and out of the building by a U.S. citizen employee. Normally, visitors who are escorted in and out of a building after working hours are required to register at the guard desk.

§ 9.49 *Security plans for office moves.* A security plan must be devised by the unit or post security officer concerned to insure that proper security measures are observed during office moves. The security plan must then be forwarded to the Office of Security or regional security officer well in advance of the intended move. It should include provisions for assuring that repositories of classified material are securely locked, and that a means is provided for accounting for their dispatch and receipt by a designated U.S. citizen employee. While in transit,

repositories containing classified material must be accompanied by a U.S. citizen employee.

§ 9.50 *Communications security (COMSEC)*. (a) The National Security Council Communications Security Directive dated August 26, 1968, affirms that the security of Federal telecommunications is a national responsibility, "and the activities pertaining thereto must be so organized and managed as to satisfy the requirements of the National Security Council and the departments and agencies of the Government." In addition to establishing and prescribing specific responsibilities and authorities, the directive states that "Nothing in this Directive shall relieve the heads of the individual departments and agencies of their responsibilities for executing all measures required to assure the security of Federal telecommunications."

(b) Communications security regulations are authorized by section 9 of Executive Order 11652, which states in part:

The originating Department * * * may impose, in conformity with the provisions of this order, special requirements with respect to access, distribution and protection of classified information and material, including those which presently relate to * * * cryptography.

(c) Cryptographic information and all material used in the encryption or decryption of telegrams are protected by law. (See 18 U.S.C. 798 and 952, quoted in Appendix III.)

(d) Responsibilities: The Office of Communications, Communications Security Division is responsible for the development of regulations and procedures for the control of communications security and is responsible for prescribing or approving all systems and techniques used in any manner to assure the security of telecommunications. Included are the application of protective measures to telecommunications systems and facilities and establishment of regulations and procedures governing the operation, use, modification, or removal from use of such systems and techniques.

(e) COMSEC (Communications Security) Officer:

(1) *Designation*. The principal officer at each post and the officer in charge of a major functional area at Washington, D.C., holding cryptographic or other communications security must appoint a COMSEC officer or personally act in that capacity. A current cryptographic clearance is a prerequisite to appointment.

(2) *Responsibilities*. (i) The COMSEC officer is responsible for insuring that the communications security regulations and procedures are observed at the post or unit, and for the prompt investigation and submission of reports regarding violations. The detailed responsibilities of the COMSEC officer are contained in the current edition of the COMSEC publication titled "S/KAG-1" and/or "S/KAO-150" obtainable from the COMSEC custodian.

(ii) Any violation of communications regulations, or procedures which may affect the security of telecommunications is a communications security violation and must be reported by

COMSEC officers to the Communications Security Division on Form FS-507, Report of Violation of Communications Security. When such a violation may have resulted in the compromise of classified or administratively controlled information, the initial report must be by official telegram from posts, or by telephone from those units at Washington, D.C. Detailed instructions on the reporting of cryptographic and other communications security violations are contained in the current edition of the COMSEC publication titled "S/KAO-150" obtainable from the COMSEC custodian. (See also §§ 9.44. and 9.62.)

(f) COMSEC (Communications Security) Custodian:

(1) *Designation.* The principal officer at each post and the officer in charge of a major functional area at Washington, D.C., holding cryptographic or other communications security material must appoint an employee to serve as COMSEC custodian and one or more employees to serve as alternates or must personally act as COMSEC custodian and appoint an alternate(s). A current cryptographic clearance is a prerequisite to appointment. The appointment is to be documented on Form DS-1657, Cryptocustodian and Alternate Cryptocustodian; the completed form is to be forwarded to the Communications Security Division and a copy retained with COMSEC account records. Personnel of other Departments or agencies are not to be appointed either COMSEC custodian or alternate.

(2) *Responsibilities.* The COMSEC custodian is held personally responsible for all material issued to the COMSEC account. The detailed responsibilities of the COMSEC custodian are contained in the current edition of the COMSEC publication titled "S/KAG-1" and/or "S/KAO-150" obtainable from the COMSEC custodian.

(3) *Transfer of custody:* At least 30 days prior to a custodian's departure from the assignment, a new custodian is to be appointed. Both the incoming and outgoing custodian are to conduct an inventory by sight-checking all material and are to submit a report on SF-153, COMSEC Material Report, to document the transfer of accountability in accordance with § 9.55(c)(6). The COMSEC Central Office of Record is to verify the report with its records and is to relieve the custodian formally of accountability for the material when any discrepancies have been resolved. The new custodian assumes responsibility for all material present in the account as of the time the new custodian signs the report.

§ 9.51 *Transmission of classified and administratively controlled telegrams.* (a) *Electrical transmission.* Classified or administratively controlled telegrams must be encrypted prior to transmission by any exposed communications channel.

(b) *Transmission by pouch or mail.* (1) Plain text copies of classified or administratively controlled telegrams must be transmitted in accordance with the regulations for other documents of similar classification or control designation.

(2) A cipher text may be transmitted by unaccompanied pouch or by any postal facilities. Delivery can frequently be

expedited by this means when courier-accompanied pouch service is not available. Inquiries regarding this type of transmission must be made to the Department or post communications center.

§ 9.52 *Protecting classified and administratively controlled telegrams.* Sections 9.27, 9.35, and 9.45 contain the regulations regarding safeguarding and dissemination of classified and administratively controlled information in any form. No special regulations are applied to the handling, use, physical storage, downgrading, and declassification, dissemination, or reproduction of telegrams.

§ 9.53 *Cryptographic clearance.* (a) Cryptographic material holds the key to the information contained in classified or administratively controlled telegrams and requires a high degree of protection. Authorization for access to and/or use of cryptographic material therefore must be limited and controlled.

(b) Cryptographic clearance is the necessary, specific formal authorization for access to cryptographic information.

(c) Principal officers, by virtue of appointment and office, have cryptographic clearance and no formal grant of clearance is necessary.

(d) Persons possessing cryptographic clearance have such access on a "need-to-know" basis only.

(e) Responsibility for clearances: The Office of Communications will grant the formal clearance and forward necessary notification for those employees requiring cryptographic clearance provided they meet the established criteria. Cryptographic clearances remain valid as indicated in paragraph (h) of this section except that they may be revoked for cause.

(f) Criteria for clearance: Each employee who is to use and/or have access to cryptographic systems and cryptographic information must be a U.S. citizen and must have a clearance for access to Top Secret information based on a full field investigation.

(g) Categories of clearance: Cryptographic clearance falls into two categories.

(1) *Cryptographic clearance for use.* "Cryptographic Clearance for Use" is the prerequisite to, and authorization for operation, keying, and maintenance of cryptographic systems and equipment issued by the Department of State.

(2) *Cryptographic clearance for access only.* "Cryptographic Clearance for Access Only" is the prerequisite to and authorization for access to crypto information, but does not constitute authorization for use of crypto keying material issued by the Department.

(h) Effective period:

(i) Cryptographic clearance granted by the Department is valid only for the duration of the assignment of the individual to a given post, except that it may be revoked for cause. For this purpose, consecutive tours of duty at the same post will be considered one assignment.

(2) Temporary cryptographic clearance granted by a principal officer is valid only for the duration of the emergency.

The Department must be advised when such temporary clearance is withdrawn.

(i) Cryptographic clearance for use: All clearances in this category must be formally granted by the Department, except that in an emergency the principal officer may grant temporary "Cryptographic Clearance for Use" in accordance with paragraph (k) of this section. Each employee cleared for use must be adequately trained in the cryptographic systems to be used and must maintain a working familiarity with communications duties as long as a "use" category clearance is held. Failure to do so constitutes just cause for revocation of clearance.

(j) Employees trained for cryptographic duties:

(1) The Department initiates action covering an employee trained in the Department for cryptographic duties and notifies the post or the appropriate operational unit in the United States that "Cryptographic Clearance for Use" has been granted.

(2) The post should request Departmental training for personnel who are or will be designated by the principal officer to serve as part-time or relief communicators prior to arrival at post so as to avoid on-the-job training.

(k) Regional communications officers and communications technicians. The Department initiates action covering regional communications officers and communications technicians and notifies the post of assignment, and all posts to be visited in line of duty, that "Cryptographic Clearance for Use" has been granted.

(1) *Temporary cryptographic clearance for use.* The principal officer in an emergency may grant a temporary "Cryptographic Clearance for Use" in writing to any U.S. citizen employee of the executive branch of the U.S. Government who is cleared for access to Top Secret information. The principal officer must inform the Communications Security Division by telegram designated "Limited Official Use" at the time clearance is granted. The notification must provide the name and date of birth and justification for such authorization and the anticipated duration.

(2) *Requests for "Cryptographic clearance for use."* (i) Requests for "Cryptographic Clearance for Use" for those persons not specifically assigned to communications duties, but who may be required to key cryptographic equipment, are directed to the Communications Security Division. No person can be allowed to key such equipment prior to receipt of "Cryptographic Clearance for Use." When clearance is received, such employees must be trained in keying by qualified personnel.

(ii) The principal officer at a post having no more than two employees assigned to cryptographic duties may, within the limits of post resources, designate at least one other person for part-time or relief cryptographic work. He must request "Cryptographic Clearance for Use" for personnel so designated. Part-time or relief cryptographic personnel may not assume these duties prior to receipt of "Cryptographic Clearance for Use" from the Communications and Security Division. When

such clearance is received they must be trained on the job by qualified cryptographic personnel and be required to maintain a working familiarity with their cryptographic duties. Continuation of clearance is contingent upon successful completion of on-the-job training. At the conclusion of the training, the post must certify to Communications Security Division whether or not a satisfactory level of proficiency in communications operations has been reached.

(iii) Requests for "Cryptographic Clearance for Use" are to be submitted to the Communications Security Division giving the full name, date, date of birth, grade, and function of the person for whom clearance is requested.

§ 9.54 *Cryptographic clearance for access only.* Clearances in this category must be formally granted by the Communications Security Division except as specified in paragraph (f) of this section.

(a) *Foreign Service Inspectors, public members of inspection teams, professional security officers, and auditors.* The Department initiates action covering auditors, Foreign Service Inspectors, public members of inspection teams, and representatives of the Office of Security, such as regional security officers, technical security officers, etc., and notifies the post of assignment (and/or posts to be visited in line of duty) that "Cryptographic Clearance for Access Only" has been granted.

(b) *Personnel of the Office of Communications and the Office of Security.* The Department initiates action covering personnel of the Office of Security and the Office of Communications who do not have "Cryptographic Clearance for Use." These persons may not have access to cryptographic material and/or information until formal "Cryptographic Clearance for Access Only" is forwarded to the office or division in which they are employed.

(c) *Post security and COMSEC officers.* In order to perform their assigned functions, the designated post security and COMSEC officers require cryptographic clearance. If they do not already possess either of the two categories of cryptographic clearance, "Cryptographic Clearance for Access Only" must be requested for them in accordance with paragraph (f) of this section.

(d) *Other persons.* Requests for "Cryptographic Clearance for Access Only" for other persons whose duties require access to cryptographic material and/or information are to be directed to the Communications Security Division.

(e) *Requests for "Cryptographic Clearance for Access Only."* Requests for "Cryptographic Clearance for Access Only" are to be submitted to the Communications Security Division giving the full name, date of birth, grade, and function of the person for whom clearance is requested and a justification for the request.

(f) *Temporary "Cryptographic Clearance for Access Only."*
 (1) The principal officer in an emergency may grant a temporary "Cryptographic Clearance for Access Only" in writing to any U.S. citizen employee of the executive branch of the U.S.

Government who is cleared for access to Top Secret information. The principal officer must inform the Communications Security Division by telegram designated "Limited Official Use" at the time clearance is granted. The notification must provide the name and date of birth and justification for such authorization and the anticipated duration.

(2) Concurrent with a request to the Communications Security Division for formal clearance, the principal officer may grant temporary "Cryptographic Clearance for Access Only" to personnel having management or supervisory responsibility for communications, provided such employees meet the criteria in § 9.53(f). When such a clearance has been granted, so state in the request to the Communications Security Division for formal clearance.

§ 9.55 *COMSEC material control*. The COMSEC material control system is designed to afford maximum physical security consistent with maximum utilization of communications security material through positive and continuing control during its production, storage, handling, physical transmission, and disposition. The systems management function and the special measures prescribed governing access to and physical transmission of storage, destruction, and accountability of COMSEC material are the means by which the control is to be established and maintained.

(a) *Management of COMSEC Systems*. The Communications Security Division (OC/S) is responsible for managing the COMSEC assets of the Department of State to ensure the proper and most effective use of the equipment and materials involved. Requests must be submitted to and approved by OC/S prior to a transfer or issue of new or existing equipment or material accounted for in the COMSEC material control system except in an emergency involving safety of human life or the COMSEC material. Requests for a change in types of COMSEC equipment or material or services to satisfy new or changing requirements are to be submitted to OC/S for approval. Specific information can be found in the current edition of the publication title "S/KAG-1" and/or "S/KAO-150" obtainable from the COMSEC custodian.

(b) *Access to COMSEC material*. Access to COMSEC material or information requires that the individual possess a security clearance equivalent to the level of classification of the material, and a need-to-know. In addition, access to cryptographic information requires formal authorization in the form of cryptographic clearance granted in accordance with § 9.53.

(c) *Transmission of COMSEC material*—(1) *Authorization for transfer*. Except in an emergency only the COMSEC custodian or alternate, with prior OC/S approval is to transfer COMSEC material either within or outside the post or unit of assignment or responsibility. In an emergency, preferably the COMSEC custodian, or alternate should transfer COMSEC material.

(2) *Package preparation*. All packages or envelopes containing accountable COMSEC material are to be marked or

stamped "To Be Opened Only by the COMSEC Custodian" and are to be registered (JF-14), Packages or envelopes containing cryptographic material (that is, COMSEC material bearing the marking "CRYPTO") or other classified COMSEC material bearing an accounting or register number are to be stamped or marked "Top Secret" if the material is Top Secret, or stamped or marked "Requires Handling as Top Secret" if the material is classified lower than Top Secret. Packages or envelopes containing accountable COMSEC material that does not bear an accounting or register number are to be marked or stamped with a classification reflecting the classification of the contents. Additional information is found in the current edition of the COMSEC publication titled "S/KAG-1" and/or "S/KAO-150" obtainable from the COMSEC custodian.

(3) *Method of transportation (shipment).* Cryptographic material (that is, COMSEC material bearing the marking "Crypto") and other classified COMSEC material bearing an accounting or register number are to be transmitted in the custody of and under constant surveillance of a courier designated or approved by the department for the handling of Top Secret material, using handling procedures specified for Top Secret material in § 9.40. Accountable COMSEC material that does not bear an accounting or register number is to be transmitted using the same method as for other information of equal classification except that the package is to be registered (using JF-14, Diplomatic Pouch Mail Registration). Additional information is found in the current edition of the COMSEC publication titled "S/KAG-1" and/or "S/KAO-150" obtainable from the COMSEC custodian.

(4) *Storage of COMSEC Material.* All cryptographic material (that is, COMSEC material bearing the marking "Crypto") and other COMSEC material bearing an accounting or register number must be stored as specified in the current edition of the COMSEC publication titled "S/KAG-1" and/or "S/KAO-150" obtainable from the COMSEC custodian. All other COMSEC material is to be stored in the same manner as non-COMSEC material of equal classification.

(5) *Destruction of COMSEC material*—(i) *Routine.* When destruction is authorized accountable COMSEC material is to be destroyed beyond any possibility of recovery by two persons possessing a current cryptographic clearance and the destruction is to be documented (subparagraph (5)). The destruction of certain types of COMSEC material requires that the COMSEC custodian be one of the persons. Additional information is found in the current edition of the COMSEC publication titled "S/KAG-1" and/or "S/KAO-150" obtainable from the COMSEC custodian.

(ii) *Emergency.* All activities conducting cryptographic operations and/or holding classified COMSEC material must consider and plan for the possibility of an emergency which could expose COMSEC material to possible compromise. Plans must be made, and facilities provided, which will prevent entirely,

or at least minimize, the extent and effects of such a compromise. A destruction plan must be formulated by the COMSEC officer in conjunction with the security officer at each post, and the necessary equipment must be readily available to effect the destruction of COMSEC material and equipment in an emergency. Specific guidelines pertinent to all aspects of emergency planning and execution, including types of emergencies, the emergency plan, precautionary destruction priorities, and necessary reports, are found in the current edition of the COMSEC publication titled "S/KAG-1" and/or "S/KAO-150" obtainable from the COMSEC custodian.

(6) *Accountability of COMSEC Material*—(i) *COMSEC Central Office of Record (COR)*. A COMSEC accounting system is to be maintained by the COR in the Communications Security Division (OC/S) to provide rapid and accurate identification and location of all COMSEC material held by any organization element within the Department of State.

(ii) *COMSEC accounts*. A COMSEC account is to be established and maintained by the COMSEC custodian and one or more alternates at each post and major functional area at Washington, D.C., holding communications security material. The COR is to establish regulations and procedures for operation of each COMSEC account to provide a uniform reporting and inventory system which will permit a complete "audit trail" of every item of COMSEC material. The detailed regulations and procedures are located in the current edition of the COMSEC publication titled "S/KAG-1" and/or "S/KAO-150" obtainable from the COMSEC custodian.

(iii) *COMSEC transaction reports*. In order that a complete record may be maintained of each COMSEC item, reports must be made on SF-153, COMSEC material report, or other form specified by the COR to record each transaction (e.g., shipment, inventory, destruction, transfer of custodian) involving the material. The reports are to be prepared and forwarded to the COR in OC/S in accordance with instructions detailed in the current edition of the COMSEC publication titled "S/KAG-1" and/or "S/KAO-150" obtainable from the COMSEC custodian.

(iv) *Periodic physical inventory*. Inventories are required for physical security and COMSEC material management reasons. In accordance with the detailed instructions in the current edition of the COMSEC publication titled "S/KAG-1" and/or "S/KAO-150" obtainable from the COMSEC custodian a complete physical inventory of each COMSEC account is to be conducted periodically, whenever there is a change in COMSEC custodians (see also § 9.50) during regularly scheduled security surveys by the regional security officer or as directed by the COR. The periodic inventory on the specified date, is to be conducted by the COMSEC custodian of the account and another individual possessing a current cryptographic clearance. In any inventory, both individuals are to sight check each item in the account as the basis for signing the certification required by the instructions in the effective edition of the COMSEC pub-

lication titled "S/KAG-1" and/or "S/KAO-150" obtainable from the COMSEC custodian.

§ 9.56 *Access to code room.* (a) Only individuals whose duties require it and who have been specifically authorized by the principal officer may enter the code room. The names of personnel authorized to enter this room during normal operations must be posted inside the code room entrance. The list must include all regular employees assigned to the code room as well as those whose duties may require occasional admittance during normal operations. Individuals listed must have a Department of State cryptographic clearance; or be a U.S. citizen employee of the executive branch of the U.S. Government with Top Secret clearance and be formally authorized access to cryptographic information by the employing department or agency. Verification of Top Secret clearance and verification of authorization for access to cryptographic information must be obtained in writing prior to allowing those individuals access to the code room. Such employees of other agencies are not to have access to telegrams, particularly those bearing restrictive captions, or physical access to cryptographic keying material issued by the Department of State on the basis of being granted access to the code room.

(b) U.S. citizen employees of the executive branch of the U.S. Government not included on the authorized entrance list must meet access requirements prescribed in appropriate communications security publications, and additionally must be specifically authorized by the principal officer to enter the code room.

(c) Non-U.S. citizen personnel access to code rooms is covered in appropriate communications security documents obtainable from the COMSEC custodian.

§ 9.57 *Unauthorized material.* Equipment, devices, materials or codes and authentication schemes intended to provide security, privacy, or authentication to information transmitted by electrical means (radio, telephone, wireline, etc.) not furnished or authorized for use by the Communications Security Division are not to be used.

§ 9.58 *Administration of security regulations.* (a) *Office of Security.* The Office of Security is responsible for developing, defining, inspecting, and advising on facilities procedures and controls for safeguarding classified material, and for the enforcement of these regulations as they pertain to such material in the domestic and field services. It establishes inspection programs and maintains active training and orientation programs for employees, concerned with classified information and material to impress upon each employee his individual responsibility for exercising vigilance and care in complying with the provisions of these regulations. These programs include a continuing review of the implementation of these regulations to insure that national security material is properly safeguarded.

(b) *Office of Communications.* The Office of Communications Department of State is responsible for providing facilities to

afford protection in transit of classified information transmitted electrically. It establishes and maintains communications security procedures and controls for the use of these facilities. It administers a training program for personnel assigned to communications duties.

(c) *Regional security officers.* Under the direction of the Deputy Assistant Secretary for Security, regional security officers assist and advise principal officers in discharging security responsibilities. They assist and advise post security officers and conduct security surveys of all overseas establishments, including facilities occupied by personnel of other Federal agencies under the jurisdiction of the principal officer.

§ 9.59 *Post security program.* (a) *Designation of post security officers.* A post security officer and deputy must be designated by the principal officer at each post to assist in carrying out the post's security responsibilities. At a post where a regional security officer is stationed that officer assumes the functions of the post security officer in addition to regional security responsibilities. At a post where a regional security officer is not stationed the administrative officer should generally be designated as the post security officer. Written notification of post deputy post security officer designations and changes must be made to the appropriate regional security office.

(b) *Designation of post unit security officer.* At each post, the post security officer determines the number of unit security officers required and their individual areas of jurisdiction. Such designations must be made in writing and forwarded to the regional security officer. Designation of AID overseas unit security officers must be made with the concurrence of the principal AID officer and the AID Office of Security.

(c) *Responsibilities of post and unit security officers.* Employees designated as post or unit security officers perform the security duties prescribed for them in addition to the duties of their regular positions. Each post security officer maintains active training and orientation programs, at the post to impress each employee with individual responsibility for exercising vigilance and care in complying with the provisions of the security regulations. The post security officer maintains liaison with the regional security officer and otherwise assists in the general administration of the security program within the assigned area of jurisdiction. In addition to the general duties and responsibilities set forth above, the post or unit security officer performs the specific duties prescribed in the various parts of these regulations and such other security duties as may be required by the regional security officer. Unit security officers assist the post security officer within their areas of jurisdiction.

(d) *Designation of Top Secret control officer and alternate at posts.* At each post, a Top Secret control officer and at least one alternate are designated to control and maintain accountability records of material classified Top Secret (except COMSEC) in the custody of the posts. At diplomatic missions, the Top Secret control officer normally is the deputy chief of mis-

sion and the primary alternate is the communications and records supervisor. At consular establishments, the Top Secret control officer normally is the principal officer and the primary alternate is the officer or employee with primary responsibility for communications. The number of alternates should be limited to the minimum required to meet operational needs. When Top Secret control officers and alternates are designated by the principal officer, no action other than written notification to the regional security officer is required. The written notification should include the names and functional titles of the designees and the date of designation.

§ 9.60 *Domestic security program.* (a) *Designation of principal unit security officers in the domestic service.* Each officer in charge of a major functional area may designate two officers, for the concurrence of the Office of Security, to serve as the principal unit security officer and alternate. They assist the nominating officer in carrying out day-to-day operational responsibilities for the security of the area.

(d) *Responsibilities of the principal unit security officer in the domestic service.* The principal unit security officer nominates two officers each for the unit security officer and Top Secret control officer positions required in component organizational elements, or one officer to fill more than one of the primary positions. The Office of Security designates one of the two nominees as the unit security officer and, unless requested otherwise, another as the Top Secret control officer, and the remainder as alternates. The principal unit security officer is responsible for submitting the names of nominees to the Office of Security to ensure that the designations are made, and that the unit area is otherwise effectively organized and equipped to carry out its security responsibilities.

(c) *Duties and responsibilities of unit security officers in the domestic services.* Employees designated as unit security officers and alternates perform the duties prescribed for them in addition to the duties of their regular positions. Each unit security officer maintains an active training and orientation program for employees of the unit area and impresses each such employee with individual responsibility for exercising vigilance and care in complying with the provisions of the security regulations. The unit security officer maintains liaison with the appropriate security officer in the Office of Security and otherwise assists in the general administration of the security program within the assigned area of jurisdiction. In addition to the general duties and responsibilities set forth above, such officer performs the specific security duties prescribed in the various parts of these regulations and such other security duties as may be prescribed.

(d) *Duties and responsibilities of Top Secret control officer and alternate.* Top Secret control officers formally designated according to §§ 9.59(d) and paragraph (a) of this section have the following responsibilities and duties:

(1) Assign appropriate Top Secret control numbers to Top Secret documents originating or received within their area without a control number. In USIA, see § 9.35(e).

(2) Maintain required records of incoming and outgoing Top Secret documents.

(3) Maintain a permanent register to account for all Top Secret documents either originating in or used in the area using JF-10 Record of Top Secret material, or similar log, or JF-9 Top Secret cover sheet, or JF-6, Classified Material Receipt, and prepare annual inventories of Top Secret documents.

(4) Consolidate Top Secret documents when desirable to simplify work procedures.

(5) Exercise stringent controls on the reproduction of Top Secret documents.

(6) Change classification when directed by appropriate authority.

(7) Destroy or arrange for the destruction of Top Secret documents.

(8) Retire or arrange for the retirement of Top Secret documents.

(9) Maintain liaison with the Office of Security or regional security officer on all matters relating to the accountability for the safeguarding of Top Secret documents.

§ 9.61 *Security briefing of employees.* (a) *New employees.* All new U.S. citizen employees must be afforded indepth security briefings concerning Executive Order 11652 and National Security Council Directives. Each employee is provided with a copy of the security regulations or told where these regulations are available. Each new employee is also required to read and sign JF-4, Security Acknowledgement, at the time of initial security briefing. In addition, it is the responsibility of the post concerned to insure that all newly assigned or newly employed U.S. citizen personnel are given security briefings.

(b) *Terminating personnel.* Personnel at all levels of employment and without exception, when terminating employment or contemplated separation for 60 days or more, are given security briefing concerning their continued responsibility to safeguard classified information. The briefing includes information pertinent to laws and regulations concerned with the protection and disclosure of classified information and the execution of JF-3, Separation Statement.

§ 9.62 *Enforcement of security regulations.* Section 13 of Executive Order 11652 directs that the head of each Department take prompt and stringent administrative action against any officer or employee of the United States, at any level of employment, determined to have been knowingly responsible for any release or disclosure of national security information or material, except in manner authorized by the order and, where a violation of criminal statutes may be involved, to refer any such case promptly to the Department of Justice.

(a) *Reports of violation:* Guards and other persons specifically designated are responsible for making inspections during and after working hours to ensure that these regulations for safeguarding classified material are being properly ob-

served. Their official duties authorize their entry into any unprotected office at any time. In addition, each employee must inform the appropriate security officer orally or in writing of any improper observance or poor security practice which comes to the employee's attention in order that remedial action may be taken.

(b)(1) Guards and employees specifically designated for security functions (excluding the closing hours security check, when subsequent inspection will be conducted) must submit JF-11, Notice of a Security Violation, identifying apparent violations to the next higher level in the chain of security operations. Reports of security violations are prepared on JF-12, Record of Violation, and should include, at a minimum, the information required to respond to the instructions printed on the reverse side.

(2) If any violation of the security regulations results in the loss, theft, or unauthorized viewing of cryptographic material or the transmission of an unencrypted classified telegram by an exposed communication channel, a report must also be made immediately by telegram to the Office of Communications, Department of State. (See § 9.44 for reporting missing or compromised material.) It is mandatory that the JF-12 be unclassified. If material is considered compromised, or if for other reasons a classified report is advisable, the report should be submitted in a separate memorandum and be referred to in the JF-12.

(c) *Violations by employees of other agencies.* Violations are reported and processed for employees of other Federal agencies in the same manner as above.

(d) *Evaluation of security violations.* (1) All reports of infractions of the security regulations will be evaluated initially by the post or unit security officer (except communications security violations) to determine whether or not a violation may have occurred. If a violation has occurred, appropriate remarks will be included on the JF-12, Record of Violation, and it will be forwarded to the Office of Security through the unit security officer or the regional security officer. While the presumption of responsibility for a violation will be guided by the principle of primary and individual responsibility as defined in § 9.2 (a) and (b), supervisors may be held responsible for failure to provide effective organizational security procedures, particularly when other than normal conditions cause the interruption of routine security procedures or controls that are not normally the sole responsibility of any individual. Substantive conflicting disclaimer or statement of mitigation in section 2 of the JF-12 must be resolved or responded to by the investigating officer before the form is forwarded for adjudication.

(2) Violation reports in all cases will be made a matter of record pending final adjudication and, at posts, a copy of the report will be placed in the employee's personnel file. If, after adjudication, it is determined that a security violation should

not be charged to the employee, the Office of Security will so notify the employee and instruct the unit, post, or regional security officers concerned to amend their records accordingly, after the foregoing period. The Office of Security will determine whether first violations should be submitted with recommendations to the responsible personnel office. All subsequent violations will be forwarded with recommendations for appropriate action to the personnel office unless 2 years have elapsed or in AID and USIA, unless 1 year has elapsed. The Office of Security may, in its discretion, treat a subsequent violation as a first violation.

§ 9.63 *Disciplinary action for security violations.* (a) *For State and AID.* After an affirmative adjudication of a violation one of the following actions may be taken under applicable personnel rules and regulations:

- (1) Letter of warning;
- (2) Letter of reprimand;
- (3) Administrative action less than dismissal; or
- (4) Dismissal.

As the occasions demand, reports of charged security violations may be placed in the employee's permanent personnel and security files. The Office of Security will recommend to the responsible personnel office that disciplinary action be taken when such action is indicated. The responsible personnel office has final authority and responsibility to take disciplinary action with respect to security violations. However, should circumstances warrant, the department may take action under the provisions of section 13 of Executive Order 11652 and Executive Order 11652 and Executive Order 10450.

(b) *U.S. Information Agency.* (1) After an affirmative adjudication of a violation the following actions may be taken under applicable personnel rules and regulations:

- (a) First violation—Letter of Warning;
- (b) Second violation—Letter of Reprimand;
- (c) Third violation—Suspension without pay for 1 day.

The above progression of penalties is normally followed for a succession of violations that result from unintentional errors of omission. Where particularly serious violations result from errors of commission, more severe penalties may be recommended, including more than 1 day's suspension without pay, reassignment to a nonsensitive position, or dismissal.

(2) Report of a first violation is filed in the employee's permanent security file, but is not forwarded for inclusion in the employee's permanent personnel file unless it is to be considered along with a subsequent violation for disciplinary action of a letter of reprimand or greater penalty. Reports of violation that result in disciplinary action greater than a letter of warning are forwarded for inclusion in the employee's permanent personnel file as well as the security file. The Office of Personnel has final authority and responsibility to take disciplinary action with respect to security violations. However, should cir-

cumstances warrant, the Office of Security may initiate action under the provisions of Executive Order 10450 and section 13 of Executive Order 11652.

§ 9.64 *Abuse of classification and declassification policies.* The Council on Classification Policy is responsible for recommending appropriate administrative action against any officer or employee who unnecessarily classifies or overclassifies information or material, including warning letter, formal reprimand, and to the extent permitted by law suspension without pay, and removal.

§ 9.65 *Applicable criminal laws.* Penalties of fine and imprisonment are established by statute for the unauthorized disclosure, dissemination, communication, furnishing, transmission, or other unlawful release of classified information, and for making false or fraudulent statements to an agency of the Government.

APPENDIX A—DEFINITIONS

The following definitions are applicable to this part:

Access. The ability and opportunity to obtain knowledge of classified or administratively controlled information.

Administrative Control Designation. The label "Limited Official Use" is used to safeguard certain privileged and other nonclassified information from indiscriminate disclosure.

Airgram. A message form used by State and AID for written communications on matters of policy, economic, and political reporting and other subjects requiring multiple distribution. An airgram is not encrypted. (See also Field Message.)

Chief of Mission. The principal diplomatic representative of the United States in charge of a U.S. mission, who is an ambassador, minister, minister resident, chargé d'affaires, commissioner, or diplomatic agent. Reporting directly to the Secretary of State, the Chief of Mission directs all programs and operations of the entire U.S. mission within the country to which accredited, including those of other U.S. agencies except the military commands.

Classification. The determination that official information requires in the interest of national security, a specific degree of protection against unauthorized disclosure, coupled with the designation of the appropriate category: Top Secret, Secret, or Confidential.

Classified Information. Official information which has been determined to require, in the interest of national security, protection against unauthorized disclosure and to which the appropriate category, Top Secret, Secret, or Confidential has been applied.

Code Room. The designated area in which cryptographic operations are conducted.

Communications Security (COMSEC). Measures designated to protect information during electrical transmission or associated processing.

Communications Security (COMSEC) Material. All material associated with the security of telecommunications. Term used to cover both cryptographic and noncryptographic items.

Compromise. Loss of security enabling unauthorized access to classified or administratively controlled information. Affected material is not automatically declassified. Possible Compromise means unauthorized access physically possible but it cannot be established that an unauthorized person took advantage of the opportunity. Considerable Compromise means circumstances indicate a strong likelihood that unauthorized access was attained. Countermeasures or special precautions may be appropriate to minimize effects of the security loss.

Courier. A U.S. citizen employee of the Department of State whose chief function is to transport diplomatic pouches across international frontiers between the Department and posts and between posts.

Cryptographic material. All COMSEC material bearing the marking "Crypto" or otherwise designated as incorporating cryptographic information.

Declassification. The determination that particular classified information no longer requires protection against unauthorized disclosure in the interest of national security. Such determination shall be by specific action or automatically after the lapse of a requisite period of time or the occurrence of a specified event. If such determination is by specific action, the material shall be so marked with the new designation.

Decontrol. The authorized removal of an assigned administrative control designation.

Department. The term also includes any agency or other Government unit and their contractors, unless the text indicates otherwise.

Document. Any recorded information regardless of its physical form or characteristics, including, but not limited to, the following:

(a) Written material, whether handwritten, printed, or typed.

(b) Painted, drawn, or engraved material.

(c) Sound or voice recordings.

(d) Printed photographs and exposed or printed film, still or motion picture.

(e) Reproductions of the foregoing, by whatever process reproduced.

Downgrading. The determination that particular classified information requires a lesser degree of protection against unauthorized disclosure than currently provided. Such determination shall be by specific action or automatically after lapse of the requisite period of time or the occurrence of a specified event. If such determination is by specific action, the material shall be so marked with the new designation.

Field Message. A nonencrypted, multiple copy message from a USIS post abroad to USIA headquarters, Washington, D.C. (See also Airgram.)

Formerly Restricted Data. Information removed from the Restricted Data category upon determination jointly by the Atomic Energy Commission and Department of Defense that such information relates primarily to the military utilization of atomic weapons and that such information can be adequately safeguarded as classified defense information subject to the restrictions on transmission to other countries and regional defense organizations that apply to Restricted Data.

Information. Knowledge which can be communicated by any means.

Material. Any document, product, substance, equipment, supplies, or apparatus.

National Security. Refers to national defense or foreign relations matters of the United States.

Nonrecord Material. Extra and/or duplicate copies that are only of temporary value, including shorthand notes, carbon paper, preliminary drafts, and other material of similar nature.

Office of Security. The offices which have been designated in State, AID, and U.S.I.A. to administer their respective security programs.

Official Information. Information which is owned, produced, or subject to the control of the U.S. Government.

Original Classifier. An authorized individual in the executive branch who initially determines that particular official information requires a specific degree of protection against unauthorized disclosure in the interest of national security and applies the appropriate category, Top Secret, Secret, or Confidential.

Paraphrasing. A restatement of text in different phraseology without alteration of the meaning.

Post Security Officer. A U.S. citizen employee of the Foreign Service who is a nonprofessional security officer designated to perform security functions.

Pouch Message. A nonencrypted, multiple copy message from headquarters to a U.S.I.S. post.

Principal Officer. As defined by the Foreign Service Act of 1946, as amended, "the officer in charge of an embassy, legation, or other diplomatic mission or a consulate general, consulate, or vice consulate of the United States." Principal officers, other than chiefs of mission, are responsible for the effective organization, operation, and supervision of programs within their jurisdiction at subordinate post. (See also Chief of Mission.)

Product and Substance. Any item of material (other than a document) in all stages of development, processing, or construction, and including elements, ingredients, components, accessories, fixtures, dies, models, and mockups associated with such items.

Record Material. All books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by the U.S. Government in connection with the transaction of public business and preserved or appropriated by any agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, or other activities of any agency of the Government, or because of the informational data contained therein.

Regional Security Officer. The officer who has been designated to administer the security program for a specific area or post.

Restricted Area. A specifically designated and posted area in which classified or administratively controlled information or material is located or in which sensitive functions are performed, access to which is controlled and to which only authorized personnel are admitted.

Restricted Data. All data (information) concerning: (1) Design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) energy, but not to include data declassified or removed from the Restricted Data category pursuant to section 142 of the Atomic Energy Act. (See section 11w, Atomic Energy Act of 1954, as amended; 42 U.S.C. 2014(y).)

Security Classification Categories. Refer to Top Secret, Secret, and Confidential designations on classified information or material as defined in section 1 of Executive Order 11652.

Sensitive Intelligence Information.—Such intelligence information, the unauthorized disclosure of which could lead to counteraction: (a) Jeopardizing the continued productivity of intelligence sources or methods which provide intelligence vital to the national security, or (b) offsetting the value of intelligence vital to the national security.

Telegram.—Any document recording information or for transmission by telegraphic, telephone, cable, radio, or other electrical means. An airgram or field message is not transmitted by electrical means.

Unit Security Officer.—A U.S. citizen employee who is nonprofessional security officer designated within a specific homogeneous working unit to assist the Office of Security in carrying out functions prescribed in these regulations.

Upgrading.—The determination and designation that particular classified information or material falls within a higher security classification category, in the interests of national security, than currently provided.

U.S. Aid Director.—The senior officer in charge of the AID program in designated countries.

U.S.I.A. Field Establishment, Head of.—The senior U.S.I.A. officer at a post, or at an installation or activity located outside Washington, D.C.

Regulations of the Attorney General

Issued July 31, 1973 by authority of Executive Order 11652
(37 FR 5209) [28 C.F.R. §§ 17.1 to 17.81]

SUBPART A—GENERAL PROVISIONS

§ 17.1 *Purpose and effect.* (a) The purpose of these regulations is to insure that official information and materials originating in or coming under the control or jurisdiction of the Department which requires classification or which is classified in the interest of national security in accordance with provisions of the executive order, is protected against unauthorized disclosure, but only to the extent and for such period as is necessary.

(b) No information or material originated within the Department shall be classified in the interest of national security except in accordance with these regulations, the order, directives issued pursuant to the order through the National Security Council (the "Directives"), or the Atomic Energy Act of 1954, as amended (the "Atomic Energy Act").

§ 17.2 *Applicability.* (a) These regulations apply to classified information and material relating to national security as defined herein, and no information or material shall be classified hereunder unless it requires protective safeguarding in the interest of national security.

(b) The assignment of a classification under these regulations to information or material which does not require safeguarding in the interest of national security is hereby strictly prohibited.

(c) Information and material shall only be classified under these regulations in accordance with the tests for assigning a classification category set forth in Subpart C of this part. Under no circumstances shall information or material be classified under these regulations to conceal inefficiency or administrative error to prevent embarrassment to an individual or the Department to restrain competition or independent initiative or to prevent for any other reason the release of information or material which does not require protection in the interest of national security. Each person possessing classifying authority pursuant to Subpart E of this part, shall be held accountable for the propriety of the classifications attributable to him.

§ 17.3 *Responsibility.* Responsibility for observance of the rules governing classification, declassification, and protection of national security information and material originating in or coming under the control or jurisdiction of the Department shall be the obligation and duty of each individual officer or employee of the Department having such information or knowledge thereof, no matter how that information or material was obtained; and in meeting that responsibility each officer or employee shall comply with the provisions of the Order, the directives, and these regulations. If an officer or employee holding

classified information or material believes that the information or material is unnecessarily or improperly classified, or that the information or material is subject to declassification under the Order, the directives or these regulations, he shall so inform the classifying authority who shall thereupon reexamine the classification.

§ 17.4 *Orientation.* It shall be the duty of each officer and employee of the Department having knowledge of classified information or material relating to the national security no matter how such knowledge was obtained to familiarize himself with, and adhere to these regulations relating to the classification, declassification, and protection of national security information and material. It shall be the duty of the Security Office of the Department to establish an orientation program throughout the Department for the instruction and familiarization of employees with these regulations. Such program shall initially emphasize the changes in the rules governing classification, declassification, and protection of national security information and material resulting from the Order, the directives and these regulations. In addition, the Security Office shall establish a continuing program for the instruction of employees regarding national security information or material and the requirements of these regulations.

§ 17.5 *Construction.* Nothing in these regulations shall be construed to authorize or permit the dissemination, handling, or transmission of classified information or material in a manner contrary to the provisions of any Federal statute, Executive order or directive.

§ 17.6 *Interpretation.* The Attorney General, upon the request of the head of a Division made through the Security Office of the Department, shall, personally or through the Department Review Committee, render an interpretation of these regulations in connection with any problem arising out of the administration thereof.

§ 17.7 *Penalties for violation and administrative action.* Any officer or employee who violates any provision of the order, of the directives, or of these regulations shall be subject to appropriate disciplinary action. The Department Review Committee established by § 17.38 hereof shall recommend to the Attorney General such prompt and stringent administrative action as it deems appropriate to be taken against any officer or employee determined to have been knowingly responsible for any failure to classify, or release or disclosure of classified national security information or material except in the manner authorized by these regulations, or knowingly responsible for classification of information or material not related to the national security, or not meeting the tests for assigning a classification set forth in Subpart C of this part, or knowingly responsible for overclassifying information or material relating to the national security. Such action may include, but shall not be limited to, notifications by warning letter, formal reprimand, and to the extent permitted by law, suspension without pay and

removal. In all cases, upon receipt of such a recommendation, the Attorney General shall act promptly and advise the Department Review Committee of his action. Whenever a violation of criminal statutes may be involved in a deliberate unauthorized release or disclosure of classified national security information or material, criminal prosecution, in an appropriate case, shall also be instituted.

§ 17.8 *The Atomic Energy Act: Restricted data; and intelligence and cryptography.* Nothing in these regulations shall supersede any requirements made by or under the Atomic Energy Act. "Restricted Data" and material designated as "Formerly Restricted Data" shall be handled, protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act and the regulations of the Atomic Energy Commission. Further, nothing in these regulations shall prohibit compliance with any special requirements that another department or agency may impose as to classified information or material relating to communications intelligence, cryptography, and related matters originated by that department or agency.

SUBPART B—DEFINITIONS

§ 17.8a *Definitions.* As used in these regulations the following terms shall have the meanings indicated:

(a) *Classification.* The determination that official information requires, in the interest of national security, a specific degree of protection against unauthorized disclosure, coupled with the designation of the appropriate classification category.

(b) *Classification categories.* The "Top Secret," "Secret," and "Confidential" designations of classified information or material as defined herein.

(c) *Classified information.* Official information which has been determined to require, in the interest of national security, protection against unauthorized disclosure and to which an appropriate classification category has been applied.

(d) *Classifying authority.* Any officer or employee of the Department who is authorized in writing to assign a classification to information or material pursuant to Subpart E of this part, and, with respect to specific classified national security information or material, an officer or employee of the Department who assigned the classification thereto.

(e) *Compromise.* The known or suspected exposure of classified material to an unauthorized person.

(f) *Custodian.* An individual who has possession of or is otherwise charged with the responsibility for safeguarding and accounting for classified information or material.

(g) *Cryptographic system.* Any method or system employed to change information from plain language form into coded form, or from coded form into plain language form.

(h) *Declassification.* The determination that particular classified information or material no longer requires, in the interest of national security, protection against unauthorized disclosure,

coupled with a removal or cancellation of the classification designation. Such determination and removal or cancellation shall be by specific action or automatically on a specified date, upon the occurrence of a specified event, under the General Declassification Schedule or after 30 years. If such determination and removal or cancellation is by specific action the material shall be so marked.

(i) *Department*. The Department of Justice, including all Divisions, Bureaus, Services, Offices, Administrations and Boards of the Department, as well as the offices of the U.S. Attorneys and U.S. Marshals.

(j) *Division*. All Divisions, Bureaus, Services, Offices, Administrations and Boards of the Department, and includes offices of the U.S. Attorneys and U.S. Marshals.

(k) *Document*. Any recorded official information regardless of its physical form or characteristics, including, without limitation, written or printed material; data processing cards and tapes; maps and charts; paintings; drawings; engravings; sketches; working notes and papers; reproductions of such things by any means or process; and sound, voice, or electronic recordings in any form.

(l) *Downgrading*. The determination that particular classified information or material requires a lower degree of protection against unauthorized disclosure than currently provided, coupled with a changing of the classification designation to reflect such lower degree. Such determination and changing shall be by specific action or automatically on a specified date, upon the occurrence of a specified event, under the General Declassification Schedule, or after 30 years. If such determination and changing is by specific action the information or material shall be so marked.

(m) *Formerly Restricted Data*. Information or material removed from the "Restricted Data" category upon determination jointly by the Atomic Energy Commission and Department of Defense that such information or material relates primarily to the military utilization of atomic weapons and that such information or material can be adequately safeguarded as classified national security information or material.

(n) *Information*. Knowledge which can be communicated by any means.

(o) *Material*. Any document, product or substance, on or in which information may be recorded or embodied.

(p) *National security*. Any matters relating to the national defense or the foreign relations of the United States.

(q) *Nonrecord material*. Extra copies and duplicates, and shall also include shorthand notes, preliminary drafts, used carbon paper, onetime typewriter ribbons, and other material of similar temporary nature.

(r) *Official information*. Information which is owned by, produced by, or subject to the control of the U.S. Government.

(s) *Record material*. All documentary material made or received by a department or agency of the Government in connection with transaction of public business and preserved as

evidence of the organization, functions, policies, operations, decisions, procedures, or other activities of any department or agency of the Government, or because of the informational value of the data contained therein.

(t) *Restricted data.* All data, information, and material concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but not to include data declassified or removed from the "Restricted Data" category pursuant to section 142 of the Atomic Energy Act.

(u) *Sensitive intelligence information.* Such intelligence information, the unauthorized disclosure of which could lead to counteraction (1) jeopardizing the continued productivity of intelligence sources or methods which provide intelligence affecting the national security, or (2) offsetting the value of intelligence affecting the national security.

(v) *Upgrading.* The determination that particular classified information or material requires, in the interest of national security, a higher degree of protection against unauthorized disclosure than currently provided, coupled with a changing of the classification designation to reflect such higher degree. Such material shall be marked to reflect the change pursuant to the requirements of § 17.40.

SUBPART C—CLASSIFICATION CATEGORIES

§ 17.9 *Classification categories.* Official information or material which requires protection against unauthorized disclosure in the interest of national security shall be limited to three categories of classification, which, in descending order of importance, shall carry one of the following designations: "Top Secret," "Secret," or "Confidential."

§ 17.10 *Scope of categories.* No other categories shall be used to classify official information or material as requiring protection in the interest of national security except as otherwise provided by statute or in these regulations. Additional warning notices as specified in § 17.44 or other limitations on access promulgated under § 17.63 hereof may be placed on any classified official information or material.

§ 17.11 *Top Secret.* Except as may be otherwise expressly provided by statute, the use of the classification "Top Secret" shall be authorized by the appropriate classifying authority only for national security information or material which requires the highest degree of protection. The "Top Secret" classification shall be applied only to that information or material the national security aspect of which is paramount, and the unauthorized disclosure of which could reasonably be expected to cause exceptionally grave damage to the national security. Examples of "exceptionally grave damage" include, but are not limited to, disruption of foreign relations vitally affecting the national security; armed hostilities against the United

States or its allies; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of sensitive intelligence operations; or the disclosure of scientific or technological developments vital to the national security. This classification shall be used with utmost restraint.

§ 17.12 *Secret*. Except as may be otherwise expressly provided by statute, the use of the classification "Secret" shall be authorized by the appropriate classifying authority only for national security information or material which requires a substantial degree of protection. The "Secret" classification shall be applied only to that information or material the unauthorized disclosure of which could reasonably be expected to cause serious damage to the national security. Examples of "serious damage" include, but are not limited to, disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plants or intelligence operations; or compromise of significant scientific or technological developments relating to national security. This classification shall be sparingly used.

§ 17.13 *Confidential*. Except as may be otherwise expressly provided by statute, the use of the classification "Confidential" shall be authorized by the appropriate classifying authority only for national security information or material which requires protection. The "Confidential" classification shall be applied only to that information or material the unauthorized disclosure of which could reasonably be expected to cause damage to the national security.

SUBPART D—CLASSIFICATION PROCEDURES

§ 17.14 *Documents*. Each document or other material containing national security information requiring protection under the order shall be marked with its assigned classification at the time of origination. Documents shall be classified according to their own content and not merely according to their relationship to other documents or to a classified file. Information or material containing references to classified information or material, which references do not reveal classified national security information or material, shall not be classified.

§ 17.15 *Unnecessary and overclassification*. Information or material shall be assigned to the lowest classification category consistent with its proper protection. Unnecessary classification and overclassification shall be scrupulously avoided in order to prevent depreciation of the importance of properly classified information or material, to eliminate unnecessary withholding from the public and to prevent unnecessary delay and expense in the handling, transmission, storage, and downgrading and declassification of documents and other material.

§ 17.16 *Physically connected documents*. The classification of a file or group of physically connected documents shall be

at least as high as that of the highest classified document therein. Documents separated from a file or group shall be handled in accordance with the individual classification.

§ 17.17 *Multiple classification.* A document, product, or substance shall bear a classification at least as high as that of its highest classified component. The document, product, or substance shall bear only one overall classification, notwithstanding that pages, paragraphs, sections, or components thereof bear different classifications.

§ 17.18 *Extracts and compilations.* When classified information or material from more than one source is incorporated into a new document or other material, the new document or material shall be classified at least as high as the most highly classified information or material incorporated into such document or material. If an extract or paraphrase is based upon information or material in a classified document, and the information or material extracted or paraphrased was not in and of itself a basis for assigning a classification, such extract or paraphrase shall be classified only in accordance with its own content.

§ 17.19 *Information originated by a foreign government or organization.* Classified information or material furnished to the United States by a foreign government or international organization shall either retain its original classification or be assigned an appropriate classification under Subpart C of this part. In either case the classification shall assure a degree of protection equivalent to that required by the foreign government or international organization which furnished the classified information or material.

§ 17.20 *Observance of classification.* Whenever classified information or material is incorporated in another document or other material by any person other than the classifying authority, the previously assigned classification shall be reflected thereon together with the identity of the classifying authority and all other markings relevant to such incorporated information or material.

§ 17.21 *Identification of classifying authority.* The highest level officer or employee authorizing a classification must be identified on the face of the information or material classified, unless the identity of such person might disclose sensitive intelligence information. In the latter instance, the Security Officer of the division shall establish procedures and maintain records by which the classifying authority can readily be identified.

§ 17.22 *Resolution of doubts.* If the classifying authority has any substantial doubt as to which classification category is appropriate or as to whether the information or material should be classified at all, he should designate the less restrictive treatment.

SUBPART E—AUTHORITY FOR CLASSIFICATION AND DECLASSIFICATION

§ 17.23 *Top Secret.* National security information or material may be classified "Top Secret" only by the Attorney Gen-

eral and such other officials and employees of the Department as he has designated in writing pursuant to the provisions of section 2(A) of the order. Such designations shall be by title and shall also authorize "Top Secret" classification by an official or employee serving in an acting capacity in the designated office. The Attorney General shall designate the minimum number absolutely required for efficient conduct of the business of the Department.

§ 17.24 *Secret and Confidential.* The Attorney General and those persons he has designated in writing pursuant to § 17.23 hereof are authorized to classify national security information or material in the "Secret" and "Confidential" categories. The Attorney General or the head of a division of the Department with "Top Secret" classification authority pursuant to § 17.23 hereof may designate in writing a minimum number of subordinates to have the authority to originally classify national security information or material in the "Secret" and "Confidential" categories or in the "Confidential" category. As in the case of "Top Secret" designations these designations shall be by title and shall also authorize classification by an official serving in an acting capacity in the designated office. The designation of such positions shall be limited to the minimum number absolutely required for the efficient conduct of the business of the Department.

§ 17.25 *Classifying authority: Personal and nondelegable.* Classifying authority of national security information or material vests in and may only be exercised by those persons authorized and designated in writing under §§ 17.23 and 17.24. Such persons may only classify information or material at the level authorized or below, and such authority may not be delegated.

§ 17.26 *Authority to downgrade and declassify.* Classified national security information or material may be downgraded or declassified by the official authorizing the original classification, by a successor in the same capacity or by a supervisory official of either. In addition, national security information or material may be downgraded or declassified by any person designated in writing for that purpose by the Attorney General or by the head of the originating division, and by the Department Review Committee.

§ 17.27 *Authority to exempt.* Classified national security information or material may be exempted from downgrading and declassification within the time periods set by the General Declassification Schedule only by a person with "Top Secret" classifying authority as provided in § 17.23. Such person may exempt only classified information or material originated by him or under his supervision, and only if it falls within one of the categories specified in § 17.31. The use of the exemption authority shall be kept to the absolute minimum consistent with national security requirements.

§ 17.28 *Procedure.* National security information or material shall be classified in the manner provided in Subpart II by the appropriate classifying authority. In extreme circumstances which require national security information or material

to be classified immediately when an appropriate classifying authority is not available, an unauthorized officer or employee of the department may place a tentative classification thereon. Such tentatively classified information or material shall be safeguarded in accordance with these regulations. The tentative classifier thereof shall at the earliest possible time, and in no event later than 5 days, assure that the classification is reviewed, and confirmed or revised, by the appropriate classifying authority. When a document is marked with a classification only because it contains information or material which was previously classified within or outside the department, the classification of that document need not be submitted to a classifying authority for review.

SUBPART F—DOWNGRADING AND DECLASSIFICATION

§ 17.29 *Earlier downgrading and declassification.* Classified national security information and material shall be downgraded or declassified as soon as there are no longer any grounds for continued classification within the classification categories set forth in Subpart C hereof. At the time of classification, whenever possible, the classifying authority shall clearly mark on the information or material a specific date or event, earlier than that called for in the General Declassification Schedule set forth in § 17.30 hereof, upon which downgrading or declassification shall occur. Such dates or events shall be as early as is possible without causing damage to the national security.

§ 17.30 *General declassification schedule.* Classified information and material, unless downgraded and declassified earlier under the provisions of § 17.29 or exempted from the General Declassification Schedule under § 17.31, shall be assigned a date or event on which downgrading and declassification shall occur within the prescribed limits outlined below:

(a) *Top Secret.* Information or material originally classified "Top Secret" shall become automatically downgraded to "Secret" at the end of the second full calendar year following the year in which it was originated, downgraded to "Confidential" at the end of the fourth full calendar year following the year in which it was originated, and declassified at the end of the 10th full calendar year following the year in which it was originated.

(b) *Secret.* Information and material originally classified "Secret" shall become automatically downgraded to "Confidential" at the end of the 2d full calendar year following the year in which it was originated, and declassified at the end of the 8th full calendar year following the year in which it was originated.

(c) *Confidential.* Information and material originally classified "Confidential" shall become automatically declassified at the end of the 6th full calendar year following the year in which it was originated.

The rules of this section apply to information or material classified before June 1, 1972, which is assigned to Group 4

under Executive Order No. 10501, as amended. Unless exempted, the application of the General Declassification Schedule to such information and material will commence beginning December 31, 1972. All other information or material classified before June 1, 1972, whether or not assigned to Groups 1, 2, or 3 under Executive Order No. 10501, as amended, shall be excluded from the General Declassification Schedule.

§ 17.31 *Exemptions from general declassification schedule.* Certain classified information or material may warrant some degree of protection for a period exceeding that provided in the General Declassification Schedule in § 17.30 above. An official authorized to classify information or material "Top Secret" may exempt from the General Declassification Schedule any level of classified information or material originated by him or under his supervision if it falls within one of the categories described below. In each case such official shall specify in writing on the material the exemption category being claimed and, unless impossible, a date or event for automatic declassification of the information or material involved. The use of the exemption authority shall be kept to the absolute minimum consistent with national security requirements and shall be strictly limited to information or material in the following categories:

(a) Classified information or material furnished by foreign governments or international organizations and held by the United States on the understanding that it be kept in confidence.

(b) Classified information or material specifically covered by statute, or pertaining to cryptography, or disclosing intelligence sources or methods.

(c) Classified information or material disclosing a system, plan, installation, project or specific foreign relations matter the continuing protection of which is essential to the national security.

(d) Classified information or material the disclosure of which would place a person in immediate jeopardy.

§ 17.32 *Declassification of classified material after 10 years.* All classified information or material, whether classified before or after June 1, 1972, shall be subject to mandatory classification review pursuant to the provisions of Subpart G of this part at any time after the expiration of 10 years from the date of origin.

§ 17.33 *Declassification of classified material after 30 years.* All classified information or material which is 30 years old or more is subject to automatic declassification as follows:

(a) All information and material classified by the Department after June 1, 1972, shall become automatically declassified at the end of 30 full calendar years after the date of its original classification except for such specifically identified information or material as the Attorney General personally determines in writing at that time to require continued protection because such continued protection is essential to the national security, or when disclosure would place a person in immediate jeopardy.

In either such case the Attorney General shall also specify the period of continuing classification.

(b) All information and material classified before June 1, 1972, and more than 30 years old shall be systematically reviewed for declassification by the Archivist of the United States by the end of the 30th full calendar year following the year it was originated. All such information and material shall be declassified except that specifically identified by the Attorney General for continued classification as set forth in paragraph (a) of this section.

§ 17.34 *Notification of change in classification.* When classified information or material is downgraded or declassified in a manner other than that originally specified, the classifying authority shall, to the extent practicable, promptly notify all recipients of the classified information or material. In turn, the recipients shall notify any other known holders of the declassification or downgrading of the information or material.

SUBPART G—REVIEW OF CLASSIFIED MATERIAL

§ 17.35 *Systematic reviews.* All information and material classified after June 1, 1972 by the Department, and evaluated under 44 U.S.C. 2101-2114 as being of sufficient historical or other value to warrant preservation, shall be systematically reviewed on a timely basis by the Department for the purpose of making such information and material publicly available in accord with the declassification determination made by the classifying authority. During each calendar year the Department shall segregate to the maximum extent reasonably possible all such information and material warranting preservation and becoming declassified at or prior to the end of such year. Promptly after the end of such year the Department, or the Archives of the United States, if transferred thereto, shall make the declassified information and material available to the public to the extent permitted by law.

§ 17.36 *Mandatory review of material over 10 years old.* (a) All classified information and material specified in § 17.32 hereof shall be subject to a classification review provided:

(1) A department (any agency of the Government or other governmental unit) or a member of the public requests the review;

(2) The request is in writing and describes the classified information or material with sufficient particularity to enable the Department to identify it; and

(3) The classified information or material can be obtained with only a reasonable amount of effort.

(b) Deficient requests: When the description in a request is deficient the requester should be asked to provide as much additional identifying information as possible. Before denying a request on the ground that the information or material is not obtainable with a reasonable amount of effort, the requester should be asked to limit his request to information or material

that is reasonably obtainable. If the requester then fails to describe the information or material he seeks with sufficient particularity, or it cannot be obtained with a reasonable amount of effort, the requester shall be notified of the reasons why no action will be taken and of his right to appeal the decision to the Department Review Committee.

(c) Procedure: Requests for classification review under this section should be directed to the Office of the Deputy Attorney General. The Office of the Deputy Attorney General shall assign the request to the appropriate division within the Department for action, and the latter shall immediately acknowledge receipt of the request to the requester in writing. If the request requires the rendering of services requiring the charging of fees pursuant to 31 U.S.C. 483a, the requester shall so be notified, and fees shall be charged in accordance with the schedule set forth in § 16.4 of this chapter. The division shall thereafter make a determination within 30 days of receipt of the request or shall explain to the requester the reasons why further time is necessary. If at the end of 60 days from receipt of the request for review no determination has been made, the requester may apply to the Department Review Committee established by § 17.38 for a determination. If the division determines that continued classification is required, the requester shall promptly be notified and, whenever possible, provided with a brief statement as to why the requested information or material cannot be declassified. The requester may appeal any such determination to the Department of Review Committee and the notice of determination shall advise him of this right. If, after appeal by the requester, the Department Review Committee determines that continued classification is required, it shall promptly so notify the requester and advise him that he may appeal the denial to the Interagency Classification Review Committee.

§ 17.37 *Mandatory review of material over 30 years old.* All classified information or material which is thirty (30) years old or more, shall be declassified in accordance with § 17.33 hereof. In addition, a department or agency of the Government or a member of the public may request a review of the classification of such information or material. Such requests should meet the conditions for requests set forth in § 17.36. Such requests shall be referred directly to the Archivist of the United States for processing. The Attorney General shall cooperate with the Archivist in the review of such request, and shall determine personally whether continued classification of such information or material is required, and specify the period of continued classification.

§ 17.38 *Department Review Committee.* (a) A Department Review Committee is hereby established. The Committee is responsible for the continuing review of the administration of these regulations with respect to classification and declassification of information or material originated within the Department. It shall establish procedures to review and act within 30 days upon all applications and appeals regarding requests for

declassification. The Committee is authorized to overrule on behalf of the Attorney General classification determinations in whole or in part, when in its judgment, continued protection is not required. If the Committee determines that continued classification is required it shall promptly so notify the requester and advise him that he may appeal the denial to the Inter-agency Classification Review Committee.

(b) The Committee shall review all appeals of requests for records under the Freedom of Information Act, 5 U.S.C. 552, when the proposed denial is based on continued classification under the order. The Committee shall have the responsibility for recommending to the Attorney General appropriate administrative action to correct abuse or violation of any provision of the order, the directives or these regulations, including but not limited to notifications by warning letter, formal reprimand, and to the extent permitted by law, suspension without pay and removal.

§ 17.39 *Burden of proof.* In making its determinations concerning requests for declassification of classified information or material the Department Review Committee shall impose for administrative purposes the burden of proof on the originating division to show that continued classification is warranted.

SUBPART II—MARKING REQUIREMENTS

§ 17.40 *Face markings.* All classified documents, and insofar as practicable all other classified materials, shall show on the face thereof:

- (a) The overall classification assigned;
- (b) Whether the document is subject to or exempt from the General Declassification Schedule or subject to declassification at an earlier date or event;
- (c) The office of origin;
- (d) The date of preparation and classification, and if preparation and classification are distinct in time, the date of each should be shown; and
- (e) The identity of the highest authority authorizing the classification; where the individual who signs or otherwise authenticates a document or item has also authorized the classification, no further annotation as to his identity is required.

§ 17.41 *Security classification markings.* (a) *Overall and page marking of documents.* The overall classification of a document, whether or not permanently bound or any copy or reproduction thereof, shall be conspicuously marked or stamped at the top and bottom of the outside of the front cover (if any), on the title page (if any), on the first page, on the back page, and on the outside of the back cover (if any). To the extent practicable each interior page of a document which is not permanently bound shall be conspicuously marked or stamped at the top and bottom according to its own content, including the designation "Unclassified" when appropriate.

(b) *Paragraph marking.* Whenever portions of a classified document require different levels of classification or a portion

requires no classification, each section, part, or paragraph should be marked to the extent practicable to show its classification category or that it is unclassified.

(c) *Material other than documents.* If classified material cannot be marked, written notification of the information otherwise required in markings shall accompany such material.

(d) *Transmittal documents.* A transmittal document shall carry on it a prominent notation as to the highest classification of the information which is carried with it, and a legend showing the classification, if any, of the transmittal document standing alone.

(e) *Wholly unclassified material not usually marked.* Normally, unclassified material shall not be marked or stamped "Unclassified" unless the purpose of the marking is to indicate that a decision has been made not to classify it.

§ 17.42 *General declassification schedule markings.* (a) For marking documents which are subject to the General Declassification Schedule, the following stamp shall be used:

(Top Secret, Secret or Confidential)

Classified by _____ Subject to General
Declassification Schedule of Executive Order 11652 Auto-
matically Downgraded at 2-Year Intervals and Declassi-
fied on December 31, _____
(insert year)

(b) For marking documents which are to be automatically declassified on a given event or date earlier than the General Declassification Schedule the following stamp shall be used:

(Top Secret, Secret, or Confidential)

Classified by _____ Automatically De-
classified on _____
(effective date or event)

(c) For marking documents which are exempt from the General Declassification Schedule the following stamp shall be used:

(Top Secret, Secret, or Confidential)

Classified by _____ Exempt From Gen-
eral Declassification Schedule of Executive Order 11652
Exemption Category (section 5B (1), (2), (3), or (4))
Automatically Declassified on _____
(effective date or event, if any)

Should the classifying authority inadvertently fail to mark a document with one of the foregoing stamps the document shall be deemed to be subject to the General Declassification Schedule. In the absence of a marking indicating otherwise, the officer or employee who signs or finally approves a document or other material containing classified information or material shall be deemed to be the classifying authority. If the classifying authority is other than such officer or employee he shall be identified on the stamps required in this section. The "Restricted Data and Formerly Restricted Data" stamps, below, are, in themselves, evidence of exemption from the General Declassification Schedule.

§ 17.43 *Downgrading, declassification, and upgrading markings.* (a) *Changes in markings.* Whenever a change is made in the original classification or in the date of downgrading or declassification of any classified information or material it shall be promptly and conspicuously marked to indicate the change, the authority for the action, the date of the action, and the identity of the person taking the action. In addition, all earlier classification markings shall be canceled, if practicable; in any event, those on the first page shall be canceled.

(b) *Limited use of posted notice for large quantities of material.* When the volume of information or material is such that prompt remarking of each classified item could not be accomplished without unduly interfering with operations, the custodian may attach downgrading, declassification or upgrading notices to the storage unit in lieu of the remarking otherwise required. Each notice shall indicate the change, the authority for the action, the date of the action, the identity of the person taking the action and the storage units to which it applies. When individual documents or other materials are withdrawn from such storage units they shall be promptly remarked in accordance with the change, or if the documents have been declassified, the old markings shall be canceled.

(c) *Transfer of stored quantities covered by posted notice.* When information or material subject to a posted downgrading, upgrading, or declassification notice are withdrawn from one storage unit solely for transfer to another, or a storage unit containing such documents or other materials is transferred from one place to another, the transfer may be made without remarking if the notice is attached to or remains with each shipment.

§ 17.34 *Additional warning notice markings.* In addition to the marking requirements set forth in §§ 17.40-17.43 warning notices shall be prominently displayed on classified documents or materials as prescribed in paragraphs (a), (b), (c), and (d) of this section. When display of these warning notices on the documents or other materials is not feasible, the warnings shall be included in the written notification of the assigned classification.

(a) *Restricted Data.* For classified information or material containing "Restricted Data":

RESTRICTED DATA

This document contains Restricted Data as defined in the Atomic Energy Act of 1954. Its dissemination or disclosure to any unauthorized person is prohibited.

(b) *Formerly Restricted Data.* For classified information or material containing solely "Formerly Restricted Data":

FORMERLY RESTRICTED DATA

Unauthorized disclosure subject to Administrative and Criminal Sanctions. Handle as Restricted Data in foreign dissemination. Section 114.b, Atomic Energy Act, 1954.

(c) *Information Other Than Restricted Data or Formerly Restricted Data.* For classified information or material furnished to persons outside the executive branch of Government other than as described in paragraphs (a) and (b) of this section:

NATIONAL SECURITY INFORMATION

Unauthorized disclosure subject to criminal sanctions.

(d) *Sensitive intelligence information.* For classified information or material relating to sensitive intelligence sources and methods, the following warning notice shall be used, in addition to and in conjunction with those prescribed in paragraph (a), (b), or (c) of this section, as appropriate:

Warning Notice—Sensitive Intelligence Sources and Methods Involved.

§ 17.45 *Origin, date of preparation and classification.* If not otherwise clearly shown, the originator of a classified document shall add information to the face thereof reflecting the office originating the document and its date of preparation and classification.

§ 17.46 *Uniform abbreviations.* Except in the case of face markings required under § 17.40 and the markings required by §§ 17.42 and 17.44 the following uniform abbreviations may be used:

- (a) *GDS.* General Declassification Schedule.
- (b) *XGDS 1, 2, 3, or 4.* Exempt from General Declassification Schedule (exemption number indicated).
- (c) *ADS.* Accelerated Declassification Schedule, that is, information or material automatically declassified on a specified date or event earlier than the General Declassification Schedule.
- (d) *RD.* Restricted Data.
- (e) *FRD.* Formerly Restricted Data.
- (f) *NSI.* National Security Information.
- (g) *SIS.* Sensitive Intelligence Sources and Methods.

SUBPART 1—CUSTODY AND SAFEKEEPING OF CLASSIFIED INFORMATION AND MATERIAL

§ 17.47 *General.* Classified national security information and material shall be used, held, or stored only where there are facilities or under conditions adequate for secure storage or protection thereof, and which prevent unauthorized persons from gaining access thereto.

§ 17.48 *Storage requirements.* Whenever classified information or material is not under the direct supervision of authorized persons, whether during or outside of working hours, the following means shall be taken to protect it:

(a) *Storage of Top Secret.* "Top Secret" information and material shall be stored in a safe or safe-type steel file container having a built-in, three-position, dial-type combination lock, vault, or vault-type room, or other storage facility which meets the standards for "Top Secret" established under the

provisions of paragraph (c) of this section, and which minimizes the possibility of unauthorized access to, or the physical theft of, such information or material.

(b) *Storage of Secret or Confidential.* "Secret" and "Confidential" material may be stored in a manner authorized for "Top Secret" information and material, or in a container or vault which meets the standards for "Secret" or "Confidential," as the case may be, established under the provisions of paragraph (c) of this section.

(c) *Standards for security equipment.* The General Services Administration (GSA) shall, in coordination with departments or agencies originating classified information or material, establish and publish uniform standards, specifications, and supply schedules for containers, vaults, alarm systems, and associated security devices suitable for the storage and protection of all categories of classified information and material. The Department may establish for its own use more stringent standards. Whenever new security equipment is procured by the Department, it shall be in conformance with the foregoing standards and specifications and shall, to the maximum extent practicable, be of the type designated on the Federal Supply Schedule, GSA. No other equipment to be used for the storage of classified national security information shall be procured without the prior approval of the Department Security Officer.

(d) *Exception to Standard for Security Equipment.* As an exception to paragraph (c) of this section "Secret" and "Confidential" material may also be stored in a steel filing cabinet having a built-in, three-position, dial-type combination lock, or a steel filing cabinet equipped with a steel lock bar, provided it is secured by a GSA approved changeable combination padlock.

§ 17.49 *Changes of combinations.* Combinations to security equipment and devices shall be changed only by persons having appropriate security clearance and shall be changed whenever such equipment is placed in use, whenever a person knowing the combination is transferred from to office to which the equipment is assigned. Whenever a combination has been subjected to possible compromise, and at least once every year. Such changes shall be under the supervision of the Division Security Officer.

§ 17.50 *Knowledge of combinations.* The knowledge of the combinations shall be limited to the minimum number of persons necessary for operating purposes. The name, address, and telephone number of each person knowing the combination of a safe, vault, or cabinet and the combination shall be entered on a single list which shall be maintained by the Division Security Officer.

§ 17.51 *Classification of combinations.* Records of combinations shall be classified no lower than the highest category of classified material authorized for storage in the security equipment concerned and shall be handled and stored in accordance with the provisions of these regulations.

§ 17.52 *Responsibilities of custodians.* Custodians of classified information or material shall be responsible for providing

protection and accountability for such information or material at all times and particularly for locking classified information or material in approved security equipment whenever it is not in use or under direct supervision of authorized persons. Custodians shall follow procedures which insure that unauthorized persons do not gain access to classified information or material by sight or sound, and classified information or material shall not be discussed with or in the presence of unauthorized persons.

§ 17.53 *Telecommunications conversations.* Classified information or material shall not be revealed in telecommunications conversations, except as may be authorized under these regulations.

§ 17.54 *Inspections.* It shall be the duty of the Security Officer of the Department, the Security Officer of each Division and of each officer or employee charged with the custody of classified national security information to accomplish such periodic inspections as are necessary to insure that all procedural safeguards prescribed by these regulations are taken to protect such information at all times.

§ 17.55 *Loss or compromise of classified information.* Any officer or employee of the Department who has knowledge of the loss or possible compromise of classified national security information or material shall promptly report and confirm in writing the circumstances to the Security Officer of his Division, who shall take appropriate action forthwith, including: (a) Notice to the originating office and any interested department or agency; (b) an assessment of the damage incurred; and (c) an inquiry to determine whether corrective measures and appropriate administrative, disciplinary or legal action should be taken. A copy of the report shall be furnished the Security Officer of the Department and the Department Review Committee.

§ 17.56 *Removal of classified material.* Whenever it is absolutely necessary to remove classified information and material from the Department, including its field installations, the officer or employee removing such material shall obtain written permission in duplicate of the head of his Division. One copy of such permission shall be forwarded to the Division Security Officer and the other copy to the Office of Records Operations and Management or other file custodians to be made a permanent part of the file. The officer or employee who removes classified material from the Department, including its field installations, shall assume full responsibility for the safekeeping of such material in conformity with the provisions of these regulations or shall keep it under his personal supervision at all times.

SUBPART J—DISSEMINATION

§ 17.57 *Security clearance.* Except as hereinafter provided in § 17.60, no person shall be given access to any classified information or material originated by, in the custody or under the control of the Department unless such person has been

determined to be trustworthy and unless access to such information or material is necessary in the performance of his duties.

§ 17.58 *Determination of trustworthiness.* The trustworthiness determination of eligibility for access to classified information or material, referred to as a security clearance, shall be made by the Security Officer of the Department and shall be based on such investigation as the Department by regulation requires in accordance with the standards and criteria of Executive Order No. 10450, as amended. Current and valid clearances issued to persons by other departments and agencies may be accepted in appropriate cases in lieu of such clearance by the Security Officer but only for access purposes. No determination of trustworthiness shall be required by the Department Security Office as to any presidential appointee employed by the Department. Such appointees shall be considered to have a security clearance at the level necessary by virtue of such appointment and effective as of the date of entrance on duty.

(a) Security clearances of employees of the Federal Bureau of Investigation (FBI) and the Immigration and Naturalization Service (Immigration) for access to classified information shall be made in the manner provided by the respective head of each such organization.

(b) Security clearances of employees of other Divisions for access to classified information shall be made by the Department Security Office upon the submission by heads of such Divisions of the names of the persons proposed for such clearance together with an indication of the category of classified information to which access is required.

(c) The Administrative Officer, or other officer serving in such capacity, of the Division concerned (except for those Divisions which maintain their own record files) shall immediately notify the Office of Records Operations and Management whenever an employee who has been cleared for access to classified information is separated, transferred, or suspended, or whenever the necessity for clearance has ceased to exist in order that the employee's name may be deleted from the list of those authorized to receive classified files.

(d) The Department Security Officer also shall be notified immediately by the Administrative Officer, or other officer serving in such capacity, of the Division concerned whenever an employee of a Division (other than the FBI or Immigration) who has been cleared for access to classified information is separated, transferred or suspended, or whenever the necessity for clearance otherwise has ceased to exist.

§ 17.59 *Determination of need-to-know.* In addition to a security clearance, a person must have a need for access to particular classified information or material necessary to the performance of his official duties or contractual obligations. The determination of that need shall be made by the official or employee having responsibility for such classified information or material.

§ 17.60 *Exception from need-to-know requirement for historical researchers and presidential appointees.* The requirement in § 17.57 that access to classified information or material be granted only to persons whose official duties require such access shall not apply to persons outside the executive branch who are engaged in historical research projects or who have previously occupied policymaking positions to which they were appointed by the President with respect to those papers which the former official originated, reviewed, signed, or received while in public office; *Provided, however,* That in each case the Attorney General determines that granting access to such researchers and former appointees is clearly consistent with the interests of national security and assures that the classified information or material to which access is granted will not be published or disseminated to unauthorized persons, or otherwise compromised in any manner.

(a) *Access by historical researchers.* (1) Prior to granting access to persons engaged in historical research projects, the Attorney General shall also determine that the information or material to which access is sought is reasonably accessible and is identified with such particularity as to be located and/or compiled with a reasonable amount of effort; that the researcher agrees to safeguard the information or material in a manner consistent with these regulations and to a review of his notes and subsequent manuscript or other writings prepared therefrom if any, for the sole purpose of determining that no classified information is revealed by either.

(2) An authorization for access for historical research shall be made a matter of record in the Department Security Office. Such authorization shall be valid for the period required but in no event for a period longer than 2 years from date of issuance at which time it may be renewed under the same conditions and agreements as when initially granted.

(b) *Access by former presidential appointees.* (1) Persons who have previously occupied policy positions in the Department to which they were appointed by the President may be authorized access to classified information or material to the extent they originated, reviewed, signed, or received such information or material during their tenure.

(2) Former presidential appointees seeking such access shall be required to identify the information or material with sufficient particularity as to make it retrievable with reasonable time and effort and, if not otherwise apparent, establish that they did in fact originate, review, sign, or receive such during their tenure. They shall also agree to the same conditions regarding the protection of such information or material as is required of historical researchers as set forth in subparagraph (1) of this paragraph. An authorization for access granted a former presidential appointee shall be made a matter of record in the Department Security Office.

§ 17.61 *Consent of originating department to dissemination by recipient.* Except as otherwise provided by section 102 of the National Security Act of 1947, 50 U.S.C. 403, classified information or material originating in one department or agency shall not be disseminated outside any other department or agency to which it has been made available without the consent of the originating department or agency.

§ 17.62 *Dissemination of sensitive intelligence information.* Information or material bearing the notation "Warning Notice—Sensitive Intelligence Sources and Methods Involved" shall not be disseminated in any manner outside authorized channels without the permission of the originating department or agency and an assessment by the senior intelligence official in the disseminating department or agency as to the potential risk to the national security and to the intelligence sources and methods involved.

§ 17.63 *Special departmental requirements.* As considered necessary with respect to classified information originated in the Department, special requirements, in addition to those set forth herein, may be established with respect to access, distribution, and protection of classified information and material, including any which presently relate to communications intelligence, intelligence sources, and methods and cryptography. Such special requirements may only be established upon the specific prior approval of the Attorney General.

§ 17.64 *Dissemination outside the executive branch.* Classified information or material shall not be disseminated outside the executive branch except under conditions and through channels authorized or heretofore authorized by the Attorney General, and assuring its proper protection.

SUBPART K—ACCOUNTABILITY

§ 17.65 *Designation of Top Secret Control Officers.* The head of each Division shall designate a person or persons within his Division to serve as Top Secret Control Officer or Officers. A person so designated will be responsible for carrying out the procedure for the control of national security information classified "Top Secret" which is set forth below.

§ 17.66 *Top Secret Control.* (a) All "Top Secret" material coming into the Department must be received initially and registered by the Top Secret Control Officer of the Office of Records Operations and Management except that Top Secret material addressed to the FBI, Immigration, Bureau of Prisons, Bureau of Narcotics and Dangerous Drugs ("BNDD"), Community Relations Service, and Law Enforcement Assistance Administration ("LEAA") shall be delivered to their respective Top Secret Control Officers. No other official or employee of the Department is authorized to receive "Top Secret" material before it is recorded except as authorized by the Department Security Officer. Any courier or messenger delivering "Top Secret" material shall be directed to the Top Secret Con-

trol Officer of the Office of Records Operations and Management. All copies of "Top Secret" material originating within the Department which material has been processed by the Records Administration Office shall immediately be submitted to the Top Secret Control Officer of the Office of Records Operations and Management for recording. All copies shall be identified by number, by means of a stamp reading "copy ----- of ----- copies." The record shall indicate the disposition of all copies of the material, including any which may be dispatched from the Department. In recording "Top Secret" documents only enough information to identify the document shall be recorded, and recording of the contents thereof shall be avoided.

(b) The Top Secret Control Officer of the Office of Records Operations and Management shall transmit all "Top Secret" material for a particular Division to the Top Secret Control Officer for that Division, who shall maintain a register and such other records as are necessary to indicate the custody and location of such material at all times at which such material is in the custody of the Division.

(c) When "Top Secret" material received by the Department or originating within the Department is transmitted from one official of the Department to another or to other departments or agencies a receipt signed by the recipient shall be obtained. In the case of "Top Secret" material transferred between officials within a particular Division of the Department, strict accountability shall likewise be maintained through a similar system of receipts, or, with the specific consent of the Security Office, by comparable methods which are not inconsistent with the requirements of the Order. In all such cases the Top Secret Control Officer of the Division shall retain such receipts and make a record which will identify the material and the receipt thereof and which will indicate the disposition of all copies.

(d) In addition to the requirements in paragraph (c) of this section when a "Top Secret" departmental file is transferred from one Division to another, a transfer slip identifying the transferor, the transferee, and the file, and indicating the date of transfer shall be sent by the Top Secret Control Officer of the transferring Division and to the Top Secret Control Officer of the Office of Records Operations and Management.

(e) The procedure set forth above is to apply to all Divisions of the Department except that the FBI, Immigration, Bureau of Prisons, BNDD, Community Relations Service, and LEAA shall establish independent control for the receiving, transmission and safekeeping of "Top Secret" material which shall be consistent with the provisions of the Order.

§ 17.67 *Control of secret and confidential information and material.* The head of each Division shall prescribe such accountability procedures as are necessary to control effectively the dissemination of classified national security information in the categories of "Secret" and "Confidential". As a minimum,

however, records shall be maintained which will identify the original and all copies of all "Secret" and "Confidential" information and material received from other Divisions of the Department or other departments or agencies, the date of receipt and disposition; and the original and all copies of all "Secret" and "Confidential" information and material sent out of the Division.

§ 17.68 *Physical inventory; restraint on reproduction and number of copies.* (a) A physical inventory of all "Top Secret" material shall be made at least annually. To the extent required, because of depositories storing large volumes of "Top Secret" material, development and maintenance of current inventory lists of such material or other finding aids shall be acceptable in lieu of all annual physical inventory.

(b) Documents or portions of documents containing "Top Secret" information shall not be reproduced without the consent of the originating office. All other classified material shall be reproduced sparingly and any stated prohibition against reproduction shall be strictly adhered to.

(c) The number of copies of documents containing classified information shall be kept to a minimum to decrease risk of compromise and reduce storage costs.

SUBPART L—TRANSMISSION OF CLASSIFIED INFORMATION AND MATERIAL

§ 17.69 *Preparation and receipting.* Classified information and material shall be enclosed in opaque inner and outer covers before transmitting. The inner cover shall be a sealed wrapper or envelope plainly marked with the assigned classification and address. The outer cover shall be sealed and addressed with no indication of the classification of its contents. A receipt shall be attached to or enclosed in the inner cover, except that Confidential material shall require a receipt only if the sender deems it necessary. The receipt shall identify the sender, addressee, and the document, but shall contain no classified information. It shall be signed by the recipient and returned to the sender.

§ 17.70 *Transmission of Top Secret.* The transmission of "Top Secret" information and material shall be effected preferably by oral discussions in person between the officials concerned. Otherwise the transmission of "Top Secret" information and material shall be by specifically designated personnel, by State Department diplomatic pouch, by a messenger-courier system especially created for that purpose, over authorized communications circuits in encrypted form or by other means authorized by the National Security Council; except that in the case of information transmitted by the FBI, such means of transmission may be used as are approved by the Director of the FBI, unless express reservation to the contrary is made in exceptional cases by the originating department or agency.

§ 17.71 *Transmission of Secret.* The transmission of "Secret" material shall be effected in the following manner:

(a) *The 50 States, District of Columbia, Puerto Rico.* "Secret" information and material may be transmitted within and between the 48 contiguous States and District of Columbia, or wholly within the State of Hawaii, the State of Alaska, or the Commonwealth of Puerto Rico by one of the means authorized for "Top Secret" information and material, the U.S. Postal Service registered mail and protective services provided by the U.S. air or surface commercial carriers under such conditions as may be prescribed by the head of the Department or agency concerned.

(b) *Other areas, vessels, military postal services, aircraft.* "Secret" information and material may be transmitted from or to or within areas other than those specified in paragraph (a) of this section, by one of the means established for "Top Secret" information and material, captains or masters of vessels of U.S. registry under contract to a department or agency of the executive branch, U.S. registered mail through Army, Navy, or Air Force Postal Service facilities provided that material does not at any time pass out of U.S. citizen control and does not pass through a foreign postal system and commercial aircraft under charter to the United States and military or other government aircraft.

(c) *Canadian government installations.* "Secret" information and material may be transmitted between U.S. Government or Canadian Government installations, or both, in the 48 contiguous States, Alaska, the District of Columbia, and Canada by United States and Canadian registered mail with registered mail receipt.

(d) *Special cases.* The Department Security Office may authorize the use of the U.S. Postal Service registered mail outside the 48 contiguous States, the District of Columbia, the State of Hawaii, the State of Alaska, and the Commonwealth of Puerto Rico if warranted by security conditions and essential operational requirements provided that the material does not at any time pass out of U.S. Government and U.S. citizen control and does not pass through a foreign postal system.

§ 17.72 *Transmission of confidential.* "Confidential" information and material shall be transmitted within the 48 contiguous States and the District of Columbia, or wholly within Alaska, Hawaii, the Commonwealth of Puerto Rico, or a U.S. possession, by one of the means established for higher classifications, or by certified or first-class mail. Outside these areas, "Confidential" information and material shall be transmitted in the same manner as authorized for higher classifications.

§ 17.73 *Transmission within the department.* When classified national security information is transmitted within the Department by direct personal contact between officers or employees who are required, and cleared, to know the contents thereof, no special preparation thereof for transmission shall be required. When transmittal is other than by such direct personal contact, classified national security information shall be prepared in the manner specified for transmission thereof

outside the Department, except that it shall be covered by a receipt only when the accountability procedures prescribed in Part XI of these regulations so provide. In the case of information transmitted by the FBI, such means of transmission may be used as are currently approved by the Director of the FBI unless express reservation to the contrary is made in exceptional cases by the originating Department or agency.

SUBPART M—DESTRUCTION OF CLASSIFIED INFORMATION AND MATERIALS

§ 17.74 *Record material.* (a) Record material may be destroyed only in accordance with 44 U.S.C. 3301-3314.

(b) Classified record material may be destroyed, pursuant to the statutory authority mentioned in paragraph (a) of this section, only by written authorization of the Security Officer of the Department, or a Security Officer of the Division involved.

§ 17.75 *Nonrecord material.* Nonrecord material containing classified information (including shorthand notes, used carbon paper, one-time typewriter ribbons, preliminary drafts, type, plates, records and tapes, stencils, negatives, and the like, and wastage incidental thereto) shall be destroyed, in accordance with section 1303 hereof, as soon as it has served its purpose.

§ 17.76 *Method of destruction.* Material marked "Top Secret" or "Secret," or "Confidential" shall be destroyed by burning or preferably by equally complete methods of destruction. Such material shall not be destroyed except in the presence of an appropriate officer or employee specifically designated for such purpose by the Security Officer of the Department, or a Security Officer of the Division involved.

§ 17.77 *Records of destruction.* Appropriate records of the destruction of record material classified as "Top Secret" or "Secret" shall be maintained by the Office of Records Operations and Management. Such records shall contain the nature of the document destroyed, the nature of the information therein contained, the method used, the time and place of destruction, the reason for such destruction, and the name of the witness, or witnesses, present.

SUBPART N—DATA INDEX SYSTEM AND RECORDS

§ 17.78 *Central data index system.* The Office of Records Operation and Management of the Department shall establish and maintain a central data index system for all "Top Secret," "Secret" and "Confidential" information classified after December 31, 1972, in categories specified to the Department by the Interagency Classification Review Committee. The index system shall contain the following data for each document indexed:

- (a) Identity of classifier.
- (b) Department of origin.
- (c) Addresses.

- (d) Date of classification.
- (e) Subject/area.
- (f) Classification category and applicability of or exemption from General Declassification Schedule.
- (g) If exempt from General Declassification Schedule, the exemption relied upon.
- (h) Date or event set for declassification.
- (i) File designation.

Each classifying authority in the Department shall, commencing January 1, 1973, immediately upon the original classification of any national security information or material, forward to the Top Secret Control Officer of the Office of Records Operations and Management a form containing all of the data specified above with respect to the classified information or material.

§ 17.79 *Records.* (a) Each Division of the Department shall establish and maintain current listings by name of the officials who have been designated in writing to have "Top Secret," "Secret," and "Confidential" classification authority. The foregoing lists and records shall be updated by each Division on a quarterly basis commencing on September 20, 1972, and copies of such lists and records shall be forwarded to the Department Security Officer not later than 5 days after they must be updated.

(b) The office of Records Operations and Management shall maintain lists for submission to the Attorney General and the Department Review Committee identifying all classified materials classified before June 1, 1972, and more than 30 years old. Such lists shall contain the recommendations of the Office of Records Operations and Management with respect to continued classification or declassification of such material. In addition, with respect to all classified materials classified before June 1, 1972, and more than 30 years old which the Attorney General has determined in writing shall remain classified, the Office of Records Operations and Management shall maintain lists identifying the material indicating the reason for continued classification, and specifying the date on which such material shall be declassified.

SUBPART O—SECURITY OFFICERS

§ 17.80 *Department Security Officer.* There shall be a Security Officer of the Department, and such assistants as he may designate, whose duty it shall be to supervise the administration of these regulations. Except as otherwise provided in these regulations, the Department Security Officer shall also carry out the functions and exercise the authority of the Attorney General and Department Review Committee in the administration within the Department of the regulations.

§ 17.81 *Division of Security Officers.* (a) The head of each Division of the Department shall designate or appoint one or more Security Officers for his Division.

(b) It shall be the duty of each Division Security Officer, under the general direction of the Department Security Officer, and for the FBI, its Security Officer, to administer these regulations insofar as they pertain to his Division and to conduct such inspections and to make such reports as will enable the head of his Division, the Attorney General and the Department Review Committee to be fully and currently informed concerning the administration of these regulations.

This order supersedes Order No. 433-70 of March 23, 1970, entitled "Regulations Relating to the Protection of Defense Information Pursuant to Executive Order No. 10501, as Amended."

Regulations of the Secretary of Defense

Issued July 15, 1972 by authority of Executive Order 11652 (37 FR 5209) and last amended March 15, 1973 (38 FR 6994) [32 C.F.R. §§ 159.100 to 159.1500-3]

SUBPART—GENERAL PROVISIONS

REFERENCES

§ 159.100 *References.* (a) DOD Directive 5200.1, DOD Information Security Program, June 1, 1972.¹

(b) Executive Order 11652, "Classification and Declassification of National Security Information and Material," dated March 8, 1972.

(c) National Security Council "Directive Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information," dated May 17, 1972.

(d) DOD Directive 5230.9, "Clearance of Department of Defense Public Information," dated December 24, 1966.¹

(e) DOD Directive C-5200.5, "Communications Security (U)," dated April 13, 1971.²

(f) DOD Instruction 5200.22, "Reporting of Security and Criminal Violations," dated September 12, 1966.¹

(g) DOD Directive 5210.50, "Investigation of and Disciplinary Action Connected with Unauthorized Disclosure of Classified Defense Information," dated April 29, 1966.¹

(h) DOD Directive 5210.8, "Policy on Investigation and Clearance of DOD Personnel for Access to Classified Defense Information," dated February 15, 1962 (reprint March 1, 1966).¹

(i) DOD Directive 5400.4, "Provision of Information to Congress," dated February 20, 1971.¹

(j) DOD Directive 7650.1, "General Accounting Office Comprehensive Audits," dated July 9, 1958.

(k) DOD Directive 5220.22, "DOD Industrial Security Program," dated July 30, 1965.¹

(l) DOD Directive 5230.11, "Disclosure of Classified Military Information to Foreign Governments and International Organizations," dated March 26, 1970.¹

¹ Filed as part of original. Copies available from U.S. Naval Publication and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120.

² Classified document. Not available to the public.

(m) DOD Directive 5200.15, "Controlling the Dissemination and Use of Intelligence and Intelligence Information Produced by Members of the Intelligence Community," dated July 26, 1962.¹

(n) DOD Directive 5210.2, "Access to and Dissemination of Restricted Data," dated October 18, 1968.¹

(o) DOD Instruction C-5210.21, "Implementation on NATO Security Procedure (U)," dated December 20, 1969.²

(p) DOD Instruction C-5210.35, "Implementation of CENTO Security Regulation (U)," dated June 5, 1968.¹

(q) DOD Instruction 5210.54, "Implementation of SEATO Security Manual (U)," dated September 27, 1967.¹

(r) DOD Directive 5400.7, "Availability to the Public of DOD Information," dated June 23, 1967.¹

(s) DOD Instruction 7230.7, "User Charges," dated August 17, 1970.¹

(t) DOD Directive 5220.6, "Industrial Personnel Security Clearance Program," dated December 7, 1966.¹

(u) Joint Army-Navy-Air Force Publication (JANAP) No. 119 December 1970 and No. 299 September 1971.

(v) Allied Communication Publications (ACP) No. 119 August 1970.

(w) National Security Agency KAG 1-D December 1967.

(x) DOD Directive S-5200.17, "The Security Use and Dissemination of Communications Intelligence (COMINT) (U)," dated January 26, 1965.²

(y) DOD Directive 5535.2, "Secretary of Certain Inventories and Withholding of Patent; Delegation of Authority to Secretaries of Army, Navy and Air Force," dated September 30, 1966.¹

(z) DOD Directive 5200.12, "Security Measures, Approval and Sponsorship for Scientific and Technical Meetings Involving Disclosure of Classified Information," March 7, 1967.¹

PURPOSE AND APPLICABILITY

§ 159.101 *Purpose.* To insure that official information of the Department of Defense relating to national security is protected, but only to the extent and for such period as is necessary, this part establishes the bases for identification of information to be protected; prescribes a progressive system for classification, downgrading and declassification; prescribes safeguarding policies and procedures to be followed; and establishes a monitoring system to ensure the effectiveness of the Information Security Program throughout the Department of Defense.

§ 159.101-1 *Applicability.* This part governs the Department of Defense Information Security Program and takes precedence over all other departmental publications affecting that program. In accordance with the provisions of references § 159.100(b) and (c) above, it establishes for uniform application throughout the Department of Defense, the policies, standards, criteria, and procedures for the security classification, downgrading, declassification and safeguarding of official

* See footnotes on p. 460.

information or material originated, produced or handled by, or under the sponsorship of, the Department of Defense or components thereof.

§ 159.101-2 *Nongovernment operations.* Except as otherwise provided herein, the provisions of this Part shall be made applicable by contract, or other legally binding instrument, to operations of nongovernment personnel entrusted or to be entrusted with classified information.

§ 159.101-3 *Combat Operations.* The provisions of this part with regard to accountability, dissemination, transmission, or safekeeping of classified information or material may be modified as necessary to meet local conditions by military commanders in connection with combat or combat-related operations. Classified information or material should be introduced into forward combat areas or zones only to the extent essential to accomplishment of the military mission. When so introduced, the appropriate military commander shall provide the degree of protection prescribed by this part for the classification involved as nearly as the circumstances permit.

§ 159.101-4 *Atomic Energy Act.* Nothing in this part shall supersede any requirements made by or under the Atomic Energy Act of August 30, 1954, as amended, "Restricted Data," and material designated as "Formerly Restricted Data," shall be handled, protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and the regulations of the Atomic Energy Commission.

§ 159.101-5 *Exceptions.* (a) For material under his special cognizance, in lieu of the requirements of §§ 159.701-7(a) and 159.702, the Director, National Security Agency, shall prescribe for the internal handling of such material such special procedures as may be necessary to conform to policies and standards prescribed for NSA by higher authority outside the DOD.

(b) Provisions for security, use and dissemination of Communications Intelligence (COMINT) are governed by DOD Directive S-5200.17, reference § 159.100(x).

DEFINITIONS

§ 159.102 *Definitions.* As used herein, the following terms and meanings shall be applicable:

§ 159.102-1 *Classification.* The determination that official information requires, in the interests of national security, a specific degree of protection against unauthorized disclosure, coupled with a designation signifying that such a determination has been made.

§ 159.102-2 *Classified information.* Official information which has been determined to require, in the interests of national security, protection against unauthorized disclosure and which has been so designated.

§ 159.102-3 *Classifier.* An individual who either:

(a) Determines that official information, not known by him to be already classified, currently requires, in the interests of

national security, a specific degree of protection against unauthorized disclosure and having the authority to do so, designates that official information as Top Secret, Secret, or Confidential; or

(b) Determines that official information is in substance the same as information known by him to be already classified by the Government as Top Secret, Secret, or Confidential and designates it accordingly.

§ 159.102-4 *Component*. The Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the unified and specified commands, and the Defense Agencies.

§ 159.102-5 *Compromise*. The known or suspected exposure of classified information or material to an unauthorized person.

§ 159.102-6 *Custodian*. An individual who has possession of or is otherwise charged with the responsibility for safeguarding and accounting for classified information.

§ 159.102-7 *Declassification*. The determination that classified information no longer requires, in the interests of national security, any degree of protection against unauthorized disclosure, coupled with a removal or cancellation of the classification designation.

§ 159.102-8 *Document*. Any recorded information regardless of its physical form or characteristics, including, without limitation, written or printed material; data processing cards and tapes; maps, charts; paintings; drawings; engravings; sketches; working notes and papers; reproductions of such things by any means or process; and sound, voice, or electronic recordings in any form.

§ 159.102-9 *Downgrade*. To determine that classified information requires, in the interests of national security, a lower degree of protection against unauthorized disclosure than currently provided, coupled with a changing of the classification designation to reflect such lower degree.

§ 159.102-10 *Formerly restricted data*. Information removed from the Restricted Data category upon determination jointly by the Atomic Energy Commission and Department of Defense that such information relates primarily to the military utilization of atomic weapons and that such information can be adequately safeguarded as classified defense information.

§ 159.102-11 *Information*. Knowledge which can be communicated by any means.

§ 159.102-12 *Material*. Any document, product or substance on or in which information may be recorded or embodied.

§ 159.102-13 *Official information*. Information which is owned by, produced for or by, or is subject to the control of the United States Government.

§ 159.102-14 *Original classification authority*. Original classification authority is the authority to make original classifications vested specifically and in writing in an official of the Government as the incumbent of an office and in the official specifically and in writing designated to act in the absence of the incumbent.

§ 159.102-15 *Restricted data.* (a) All data (information) concerning: (1) Design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but not to include data declassified or removed from the Restricted Data category pursuant to section 142 of the Atomic Energy Act. (See section 11w, Atomic Energy Act of 1954, as amended, and "Formerly Restricted Data.")

§ 159.102-16 *Upgrade.* To determine that certain classified information requires, in the interests of national security, a higher degree of protection against unauthorized disclosure than currently provided, coupled with a changing of the classification designation to reflect such higher degree.

POLICIES

§ 159.103 *Classification.* (a) *Basic policy.* The introduction to Executive Order 11652 states in part: The interests of the United States and its citizens are best served by making information regarding the affairs of Government readily available to the public. This concept of an informed citizenry is reflected in the Freedom of Information Act and in the current public information policies of the executive branch.

Within the Federal Government there is some official information and material which, because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be subject to some constraints for the security of our Nation and the safety of our people and our allies. To protect against actions hostile to the United States, of both overt and covert nature, it is essential that such official information and material be given only limited dissemination.

(1) Consistent with the foregoing, the use and application of security classification shall be limited to only that information which is truly essential to national security because it provides the United States with: (i) A military or defense advantage over any foreign nation or group of nations, or (ii) a favorable foreign relations posture, or (iii) a defense posture capable of successfully resisting hostile or destructive action from within or without, overt or covert; which could be damaged, minimized, or lost by the unauthorized disclosure or use of the information.

(b) *Resolution of doubts.* Unnecessary classification and higher than necessary classification shall be scrupulously avoided. Any substantial doubts as to which of two levels of security classification is appropriate, or as to whether certain information or material should be classified at all, should be resolved in favor of the less restrictive treatment.

(c) *Improper classification.* Classification shall apply only to official information requiring protection in the interests of national security. It may not be used for the purpose of concealing administrative error or inefficiency, to prevent personal or departmental embarrassment, to restrain competition or

independent initiative, or to prevent for any other reason the release of official information which does not require protection in the interests of national security.

§ 159.103-1 *Regrading and declassification*. In order to preserve the effectiveness and integrity of the information security program, assigned classifications shall be responsive at all times to the current needs of national security. Classification, when determined to be required, shall be retained for the minimum length of time considering the degree of sensitivity, cost, and probability of compromise. When classified information is determined in the interests of national security to require a different level of protection than that presently assigned, or no longer to require any such protection, it shall be regraded or declassified.

§ 159.103-2 *Safeguarding*. Official information or material classified under the provisions of this part shall be afforded the level of protection against unauthorized disclosure commensurate with the level of classification assigned under the varying conditions which may arise in connection with its use, dissemination, storage, movement or transmission, and destruction.

SECURITY CLASSIFICATION CATEGORIES

§ 159.104 *General*. Official information or material which requires protection against unauthorized disclosure in the interests of national security shall be classified in one of three categories, namely, "Top Secret," "Secret," or "Confidential," depending upon the degree of its significance to national security. No other categories shall be used to identify official information or material as requiring protection in the interests of national security, except as otherwise expressly provided by statute.

§ 159.104-1 "*Top Secret*". "Top Secret" refers to that national security information or material which requires the highest degree of protection. The test for assigning "Top Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security. Examples of "exceptionally grave damage" include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the national security; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security. This classification shall be used with the utmost restraint.

§ 159.104-2 "*Secret*". "Secret" refers to that national security information or material which requires a substantial degree of protection. The test for assigning "Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause serious damage to the national security. Examples of "serious damage" include disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national

security; revelation of significant military plans or intelligence operations; and compromise of significant scientific or technological developments relating to national security. The classification "Secret" shall be sparingly used.

§ 159.104-3 "*Confidential*". "Confidential" refers to that national security information or material which requires protection. The test for assigning "Confidential" classification shall be whether its unauthorized disclosure could reasonably be expected to cause damage to the national security.

AUTHORITY TO CLASSIFY, DOWNGRADE AND DECLASSIFY

§ 159.105 *Original classification authority*. The authority for making original classification determinations shall be restricted solely to those officials specifically designated in writing pursuant to the provisions of this part, including the officials who are specifically designated in writing to act in their absence. These designations shall be limited to the minimum number absolutely required for efficient administration. Such officials may classify information or material only at the level authorized or below. This authority is personal to the incumbent of the designated office and may not be delegated. For the purpose of assuring both positive management control of classification determinations and ability to meet local operational requirements in an orderly and expeditious manner, the Assistant Secretary of Defense (Comptroller) shall exercise control over the exercise of authority for original classification of official information. Pursuant to section 2 of reference § 159.100 (b), above, original classification authority may be exercised by the following:

(a) *For Top Secret*. The officials designated in or pursuant to Part 1 of Appendix A (§ 159.1500).

(b) *For Secret*. The officials designated in or pursuant to Parts 1 and 2 of Appendix A (§ 159.1500).

(c) *For Confidential*. The officials designated in or pursuant to Parts 1, 2, and 3 of Appendix A (§ 159.1500).

§ 159.105-1 *Record and report requirements*. Records and reports of designations of original classification authority shall be maintained and submitted as follows:

(a) *Top Secret listings*. The Office of the Assistant Secretary of Defense (Comptroller), for (1) the Office of the Secretary of Defense, (2) the Organization of the Joint Chiefs of Staff, (3) the unified and specified commands, and (4) the Defense Agencies, shall maintain currently a listing of the officials by title, designated to exercise Top Secret original classification authority in those organizations. The offices named shall advise the Assistant Secretary of Defense (Comptroller) of any changes deemed necessary in the designations made. The offices of the secretaries of the military departments shall maintain lists of the officials by title in their respective departments designated to exercise original Top Secret classification authority.

(b) *Secret and Confidential listings.* The head of each Department of Defense component, the Office of the Assistant Secretary of Defense (Comptroller) acting for the Office of the Secretary of Defense, the Director, Joint Staff acting for the Organization of the Joint Chiefs of Staff, and the Commanders in Chief of unified and specified commands for their respective headquarters, shall maintain listings by title of the officials designated to exercise Secret and Confidential original classification authority in their respective organizations.

§ 159.105-2 *Currency of designations.* Designations of original classification authorities shall be kept current by written action of the officials authorized to make such designations.

§ 159.105-3 *Reports.* The military departments shall submit by July 1, 1972, to the Deputy Assistant Secretary of Defense (Security Policy) a listing by title of the officials designated to exercise Top Secret original classification authority. The heads of all Department of Defense components, as indicated in § 159.105-1(b) above, shall submit to the Deputy Assistant Secretary of Defense (Security Policy) by July 1, 1972, the listings by title of the officials in their respective organizations who have been designated to exercise Secret and Confidential original classification authority. Changes in such reports shall be submitted quarterly beginning October 1, 1972. These reporting requirements have been assigned Reports Control Symbol DD-A(Q)1183.

§ 159.105-4 *Downgrading and declassification authority.* Original classification authorities or higher officials in the same chain of command or supervisory responsibility are authorized to downgrade or declassify information classified by the original classifier. In addition, to the maximum extent practicable, heads of Department of Defense components shall establish procedures by which officials are designated at headquarters level who are authorized to downgrade and declassify information under the classification jurisdiction of any subordinate offices or echelons and to resolve conflicts or doubts as to the classifications that are appropriate as of a current date.

SUBPART—CLASSIFICATION

CLASSIFICATION RESPONSIBILITIES

§ 159.200 *Accountability of Classifiers.* Each classifier shall be held accountable for the propriety of the classifications assigned by him, whether in the exercise of original classification authority or in the determination and application of classifications assigned in source documents or as prescribed by applicable classification guidance, and shall maintain adequate records to support his actions. Such records could take the form of an approved security classification guide or a notation on the record copy of the classified document indicating the source of the classification or, if an original classification, a brief justification for the classification determination. In any case, the classifier is required to maintain a record to show the basis for

classification or by which the chain of classification authority can be traced to an original classification authority who can justify the initial classification determination, should an occasion demand such action. (See also § 159.302.) An official with the requisite classification authority who classifies a document or other material and who identifies himself thereon as the classifier, is and continues to be, the accountable classifier even though the document or material is finally approved or signed at a higher level in the same organization.

§ 159.200-1 *Classification Review.* (a) When an official signs or finally approves a document or other material already marked to reflect a particular level of classification, he shall review the information contained therein to determine if the classification marking(s) is (are) appropriate. If, in his judgment, the classification marking(s) is (are) not supportable, he shall cause such marking(s) to be removed or changed as appropriate to reflect accurately the classification of the information involved prior to issuance.

(b) A higher level official through or to whom a document or other material passes for signature or final approval becomes jointly responsible with the accountable classifier for the classification(s) assigned. In any particular organization a determination as to whether the higher level official wishes to have his subordinates who have requisite classification authority to be shown as the accountable classifier is a matter for internal management to decide.

(c) If no one is specifically identified as the classifier, the official who finally signs or approves the document or other material is the accountable classifier.

§ 159.200-2 *Classification planning.* (a) Advance classification planning is an essential part of the development of any plan, operation, program, research and development project, or procurement action in which security is a major factor, or which involves classified information. The classification aspects must be considered from the beginning to assure adequate protection for the information and for the activity itself, and to eliminate impediments to the execution or implementation of the plan, operations order, program, project, or procurement action.

(b) The commander or official charged with the development of any plan, program, or project, in which classification is a factor, shall include therein, under a clearly identifiable title or heading, a classification guide covering the information involved in that effort or a classification plan, prepared by qualified personnel who have at hand the necessary knowledge and technical intelligence to make reasonable determinations covering the following:

(1) Isolation and identification of items of information involved in the effort which require classification.

(2) Classification guidance specifying the levels of classification to be applied to identified items of information and material developed in connection with the plan, program, or project.

(3) A schedule for phased downgrading and declassification covering each item of classified information and material. If the information is of a nature which is exempted from the general declassification schedule (see § 159.302-1), a statement shall be included indicating which of the four exemption categories is applicable and, unless impossible, a date or event on which declassification will occur.

(4) Provision for periodic review to determine the currency and accuracy of the classification, downgrading, and declassification guidance provided.

§ 159.200-3 *Recipient of classified information or material.* If the recipient of classified information or material has reason to believe that it should not be classified or that current security considerations justify a change in the assigned classification, he shall make such changes if he is authorized to do so. If not so authorized, he shall promptly submit the matter to the appropriate classifier with his recommendations and reasons therefor. Pending final determination, the material shall be safeguarded as required for its assigned or proposed classification, whichever is higher, until the classification is changed or otherwise verified. The responsible classifying authority shall act on such recommendations within thirty (30) days of receipt.

IDENTIFICATION OF CLASSIFIER

§ 159.201 *Identification of classifier.* (a) Information or material classified under this part shall indicate on its face, in the case of documents, or by notice or other means, in the case of material, the identity of the classifier. Such identification shall be shown on the "Classified by" line of the notations authorized under § 159.403-1. Clear and complete identification is construed to mean that the description standing alone shall be sufficient to identify a particular official, source document or classification guide, as the case may be.

(1) If all of the information in the document or other material is classified as an act of original classification, the official with requisite classification authority who made the classification determination shall be identified on the face of the document in the "Classified by" space by his title and position in his organization.

(2) If all of the classified information contained in a document is classified because of classification imposed by a single outside source, for example, a source document or classification guide, and no original classification is involved, the outside source shall be identified on the face of the document in the "Classified by" space. In this case, if the classifier of the source document or the official responsible for the substantive content of the classification guide is known, the official title and position of that official in his organization shall be shown in the "Classified by" space.

(3) If the situation is like subparagraph (2) of this paragraph except that the identity of the classifier or official responsible for the classification guide is not known, an accurate

description of the source document or classification guide shall be shown in the "Classified by" space.

(4) If the classified information contained in a document or other material is classified because of classifications imposed by more than one outside source document, classification guide or combination thereof, the official title and position in his organization of the signer or final approver of the new document or other material shall be shown in the "Classified by" space.

(5) If a particular official has been designated by the head of an organization to be the approver of the security classification assigned to all classified material leaving the organization, the official title and position in his organization of that designated official shall be shown in the "Classified by" space.

(b) In all of the situations in subparagraphs (1) through (5) of this paragraph, the official responsible for completing the blank space in the stamp shall establish and retain adequate records to support his action.

CLASSIFICATION PRINCIPLES, CRITERIA AND CONSIDERATIONS

§ 159.202 *Balanced judgment requirement.* Classification is a balanced judgment. There must be a positive basis for classification, but both advantages and disadvantages to classifying must be considered. Determination to classify shall not be made and a classification marking shall not be applied until after full consideration of both aspects. All §§ 159.202 through 159.202-15 must be considered before a classification determination is made or a classification marking is applied.

§ 159.202-1 *Identification of specific information.* Classification determinations must be preceded by an exact identification of each item of information which may require security protection in the interests of national security. This process involves identification of that specific information which comprises the basis for the particular national advantage or advantages which, if the information were compromised, would or could be damaged, minimized, or lost, thereby adversely affecting national security.

§ 159.202-2 *Reasons for classification.* An evaluation of information forms the base for classification. A document or other material is classified either: (a) Because of the information it contains which may be ascertained by study, analysis, observation, or use of it; or (b) because of the information it may reveal when associated with other information, including that which the classifier knows already has been officially released into the public domain.

§ 159.202-3 *Specific classifying criteria.* A determination to classify shall be made only when one or more of the following considerations are present and the unauthorized disclosure of the information could reasonably be expected to result in a degree of harm to the national security:

(a) The information provides the United States, in comparison with other nations, with a scientific, engineering, tech-

nical, operational, intelligence, strategic, or tactical advantage directly related to the national security.

(b) Disclosure of the information would weaken the position of the United States in the discussion, avoidance, or peaceful resolution of potential or existing international differences which could otherwise generate a military threat to the United States or its mutual security arrangements, create or increase international tensions contrary to the national security of the United States, result in a disruption in foreign relations, or lead to hostile political or military action against the United States or its allies, thereby adversely affecting the national security.

(c) Disclosure of the information would weaken the ability of the United States to wage war or defend itself successfully, limit the effectiveness of the armed forces, or make the United States vulnerable to attack.

(d) There is sound reason to believe that other nations do not know that the United States has, or is capable of obtaining, certain information or material which is important to the national security of the United States vis-a-vis those nations.

(e) There is sound reason to believe that knowledge of the information would: (1) Provide a foreign nation with an insight into the war potential or the war or defense plans or posture of the United States; (2) allow a foreign nation to develop, improve, or refine a similar item of war potential; (3) provide a foreign nation with a base upon which to develop effective countermeasures; and (4) weaken or nullify the effectiveness of a defense or military plan, operation, project or activity which is vital to the national security.

§ 159.202-4 *Dissemination considerations.* The degree of intended or anticipated dissemination and use of material, and whether the end purpose to be served renders effective security control impractical, are factors which must be considered. These factors do not necessarily preclude classification, but they do force consideration of the extent to which classification under such circumstances may degrade the classification system by attempting to impose a security control in impractical situations. Determinations significantly dependent upon these factors shall not be made below the level of the official having original classification authority over the particular plan, program project or item.

§ 159.202-5 *Net national advantage.* In exceptional circumstances involving scientific and technical information or material, it may be necessary to weigh the benefits which would accrue to the United States generally from the unclassified use by other U.S. government agencies or commercial interests of information which is classified or otherwise classifiable under this part, against the advantage which would be gained or retained by classification or continued classification of the information. When a net advantage to the United States resulting from unclassified use distinctly can be ascertained beyond a reasonable doubt, that factor should be considered in reaching

the classification determination which is to be made by a designated classification authority having classification jurisdiction over the information involved.

§ 159.202-6 *Lead time advantage.* Unlike § 159.202-5, this section concerns situations in which obtaining or maintaining a national defense lead time advantage is essential.

(a) Lead time is the interval between the acquisition of knowledge by or on behalf of the Government of the United States and the time when the Government of the United States believes that the same knowledge is known to, or reasonably could be known to, the private community in the United States or to other nations through the application of their own resources.

(b) The United States as a Nation may have a sufficient edge on a sufficiently broad basis of technical competence over other nations that an essential national defense lead time advantage might be obtained or maintained through an open race with other nations.

(c) If it is reasonably believed that an essential national defense lead time advantage can be obtained or maintained as well or better through reliance upon the total available U.S. technological base, open circulation, after public release approval, will be preferred to security classification.

(d) If it is reasonably believed that an essential national defense lead time advantage which could be obtained or maintained through security classification more than likely would be lost through open circulation after public release approval, the determination will be to use security classification.

§ 159.202-7 *Cost factor.* Cost alone is not a positive basis for classification. Cost may be a reason for not classifying under certain conditions as shown below.

(a) If cost resulting from classification in terms of time, money, or personnel becomes a critical factor and actually might impede or prevent attainment of the desired mission or objective of the program, project, or operation, it will be necessary to consider:

(1) Value to national defense of accomplishing the desired mission or objective.

(2) Risk attendant upon nonclassification of certain information in order to attain the desired goal.

(3) Maximum extent to which classification can be employed without actually impeding attainment of the goal.

(b) Whenever officials responsible for carrying out a program, project, or operation consider that the cost factor resulting from classification may impede or prevent attainment of the desired mission or objective, the matter shall be referred, with appropriate explanations and recommendations, to the original classifying authority for the program, project, or operation.

(c) Final determinations of the effect of the cost factor on classification under circumstances set forth in paragraph (b) of this section, above, shall be made only at or above the level

of the original classifying authority for the program, project, or operation.

§ 159.202-8 *Classifying research data.* Ordinarily, except for information which meets the definition of Restricted Data, basic scientific research or results thereof shall not be classified. However, classification would be appropriate if the information concerns an unusually significant scientific "breakthrough" and there is sound reason to believe it is not known or within the state-of-the-art of other nations, and it supplies the United States with an advantage directly related to national security.

§ 159.202-9 *Classifying documents.* Each document shall be classified on the basis of the information it contains or reveals. The fact that a document makes reference to a classified document is not a basis for classification unless the reference, standing alone, reveals classified information. The overall classification of a document, file, or group of physically connected documents shall be at least as high as that of the most highly classified component. Each component, however, shall be classified individually on its own merits.

§ 159.202-10 *Classifying material other than documents.* (a) Items of equipment or other physical objects may be classified only when classified information may be derived from them by visual observation of internal or external appearance, structure, operation, test, application, or use. The overall classification assigned to equipment or physical objects shall be at least as high as the highest classification of any of the items of information revealed by the equipment or objects.

(b) In every instance when classification of an item of equipment or other physical object is determined to be warranted, such determination must be based on a finding that there is at least one aspect of the item or object which affords the United States a national defense advantage. If mere knowledge of the existence of the item of equipment or physical object would compromise or nullify its national defense advantage, its existence would warrant classification.

§ 159.202-11 *State-of-the-art and intelligence.* Classification requires consideration of the information available from intelligence sources concerning the extent to which the same or similar information is known or is available to others. It is also important to consider whether it is known, publicly or internationally, that the United States has the information or even is interested in the subject matter. The state-of-the-art in other nations is a vital factor requiring consideration.

§ 159.202-12 *Effect of open publication.* Appearance in the public domain of information currently classified or being considered for classification does not preclude initial or continued classification; however, such disclosures require immediate reevaluation of the information to determine whether the publication has so compromised the information that downgrading or declassification is warranted. Similar consideration must be given to related items of information in all programs, projects, or items incorporating or pertaining to the compromised items

of information. In these cases, if the release is shown to have been made or authorized by an official Government source, classification of clearly identified items shall no longer be continued. However, holders should continue classification until advised to the contrary by a competent Government authority. Under no circumstances may a compilation of official releases be classified.

§ 159.202-13 *Reevaluation of classification because of compromise.* Specific classified information subjected to compromise or possible compromise and information related thereto shall be reevaluated and acted upon as follows:

(a) The original classifying authority, upon learning that a compromise or possible compromise of specific classified information has occurred, shall:

(1) Reevaluate the information involved and determine whether: (i) The classification should be continued without changing the specific information involved; (ii) the specific information, or parts thereof, should be modified to minimize or nullify the effects of the reported compromise and the classification retained; (iii) immediate downgrading is appropriate; (iv) the original schedule specified for downgrading the information involved should be changed to reflect an earlier downgrading time; or (v) declassification is warranted.

(2) When such determination is within category in subdivision (ii), (iii), (iv), or (v) of subparagraph (1) of this paragraph, give prompt notice thereof to all holders of such information.

(b) Upon learning that a compromise or possible compromise of specific classified information has occurred, any official having original classification jurisdiction over related information shall reevaluate the related information and determine whether one of the courses of action enumerated in paragraph (a)(1) of this section should be taken or, in lieu thereof, upgrading of the related information is warranted. When such a determination is within category in subdivision (ii), (iii), (iv), or (v) of paragraph (a)(1) of this section, or that upgrading of the related items is warranted, prompt notice of the determination shall be given to all holders of the related information.

§ 159.202-14 *Compilation of information.* The general rule is that a compilation of unclassified items shall not be classified. In rare and unusual circumstances, however, classification may be required if the combination of unclassified items together provides an added factor which warrants classification. Classification on this basis shall be used sparingly. (See also § 159.202-12.)

§ 159.202-15 *Extracts of information.* Information or material extracted from a classified source will be classified, or not classified, as the case may be, in accordance with the classification markings shown in the source. The overall marking and internal markings of the source should supply adequate classification guidance to the person making the extraction. However,

if internal markings, as an exception to the general rule, are lacking, and if no classification guidance is included in the source and no reference is made to an applicable classification guide which is available for use by the person making the extraction, the extracted information or material will be classified to correspond to the overall marking of the source, or in accordance with guidance specifically sought and received from the classifier of the source material.

CLASSIFICATION GUIDES

§ 159.203 *General.* A classification guide, based upon classification determinations made by appropriate classification authorities, shall be issued for each system, program, or project. Successive operating echelons shall prescribe any further detailed supplemental guides deemed essential to assure accurate, uniform, and consistent classification.

§ 159.203-1 *Multiservice interest.* For each system, program, project, or item involving or being used by more than one component of the Department of Defense (a) the component in the Office of the Secretary of Defense which assumes or is expressly designated to exercise overall cognizance or (b) the Department of Defense component which is expressly designated to serve as the executive or administrative agent for development and administration of the particular effort shall be responsible for assuring the issuance of an appropriate classification guide for the particular system, program, project, or item.

§ 159.203-2 *Other multiservice interest cases.* The Assistant Secretary of Defense (Comptroller) shall develop, in coordination with the designated senior official (§§ 159.1302-1, 159.1302-2) of each interested Department of Defense component, and issue appropriate classification guides covering:

(a) General subject matters which will be involved in any individual systems or equipments and for which it is deemed essential to establish proper bases for uniform, consistent classification assignments.

(b) Any system, program, project, or item of multiservice interest not covered in § 159.203-1.

§ 159.203-3 *Research, development, test and evaluation programs.* Each system and equipment development program which involves Research, Development, Test and Evaluation (R.D.T. & E.) of technical information shall be supported by a program security classification guide which is both meaningful and timely. For all active programs of this kind, the following rules apply:

(a) For each such program covered by an approved Development Concept Paper (DCP) or Program Memorandum (PM), initial basic security classification guidance shall be developed and submitted with the proposed DCP or PM to the Director, Defense, Research and Engineering, for approval of the proposed security classifications applicable to technical character-

istics of the system or equipment. A detailed security classification guide shall be developed and issued in accordance with the policies and procedures established by this part as nearly contemporaneously as practicable with the granting of approval of the DCP or PM.

(b) A recommended master security classification guide for each such program falling below the DCP or PM threshold shall be approved at the level of the Assistant Secretary (R. & D.) of the Military Departments, the Assistant to the Chairman, Joint Chiefs of Staff, or the Deputy Directors of the Defense Agencies, or their respective designees.

§ 159.203-4 *Project phases.* Whenever feasible, classification guides shall cover, phase by phase, the transition from research through development, test, and evaluation, procurement, production, service use, and obsolescence, with changes made in assigned classifications which are appropriate to changing sensitivity of the information involved. Classifications shall be specific as to the system or item concerned.

§ 159.203-5 *Review of classification guides.* Classification guides shall be reviewed by the originator for currency and accuracy not less often than once each year. Changes shall be issued promptly to all holders. If no changes are made, the originator shall place on the record copy of the guide a notation, signed by an appropriate official, attesting to the fact of the review and the date thereof.

§ 159.203-6 *Sufficiency of classification guides.* Classification guides must be sufficiently detailed to identify the critical items of information which require classification and yet sufficiently flexible to assure accurate classification of documentation and other material developed at various levels and during different stages of the program or project. It is particularly important that such guides not result in stagnation and overclassification through automatic application of their content.

§ 159.203-7 *Distribution of guides to office, Secretary of Defense.* Except as determined by the Secretary of Defense for certain categories of information, a copy of each classification guide and changes thereto shall be sent to the Directorate for Security Review, Office, Assistant Secretary of Defense (Public Affairs) and to the Information Security Division, Office, Deputy Assistant Secretary of Defense (Security Policy), Office, Assistant Secretary of Defense (Comptroller).

RESOLUTION OF CONFLICTS

§ 159.204 *General.* When two or more offices, headquarters, or activities disagree concerning a classification, declassification, or regrading action, the disagreement must be resolved promptly. Normally, mutual consideration by the offices, headquarters, or activities concerned of the arguments for and against classification will provide adequate basis for reaching agreement.

§ 159.204-1 *Procedures.* If agreement cannot be reached at the operating level, the matter shall be referred for decision to

the lowest superior common to the disagreeing parties. If agreement cannot be reached at the major command (or equivalent) level, the matter shall be referred for decision to the headquarters office having overall classification management responsibilities for the component. To avoid undue delay, that office shall also be advised, on an information basis, of any disagreement at any echelon if it appears that prompt resolution is not likely. This will permit the headquarters to consider direct action to hasten resolution.

§ 159.204-2 *Final decision.* Disagreements between Department of Defense component headquarters, if not resolved promptly, shall be referred to the Deputy Assistant Secretary of Defense (Security Policy) (DASD(SP)) for resolution. If appropriate, DASD(SP) may refer the question to the DOD Information Security Advisory Board (§ 159.1301-2) for action.

§ 159.204-3 *Timing.* Action at each level of consideration on any disagreement on a classification, declassification, or regrading problem shall be completed as soon as possible but within thirty (30) days. Failure to reach decision within thirty (30) days shall be cause for referral to the next higher echelon.

OBTAINING CLASSIFICATION EVALUATIONS

§ 159.205 *Tentative classification.* If a person not authorized to classify originates or develops information which he believes should be safeguarded he shall:

(a) Safeguard the information in the manner prescribed for the intended classification.

(b) Mark the information (or cover sheet) with a tentative classification (e.g., "TENTATIVE CONFIDENTIAL").

(c) Forward the material to an appropriate classifying authority for evaluation and decision. If such authority is not readily identifiable, the material should be forwarded to a headquarters activity of a Department of Defense component to the headquarters office having overall classification management responsibilities for a Department of Defense component or to the Deputy Assistant Secretary of Defense (Security Policy) (DASD(SP)).

(d) In an emergency requiring immediate communication of the information, after taking the action prescribed by paragraphs (a) and (b) of this section, transmit the information and then proceed in accordance with paragraph (c) of this section.

Upon decision by the classifying authority, the tentative marking shall be removed. If a classification has been assigned, appropriate markings shall be applied as prescribed by this part.

PRIVATE INFORMATION

§ 159.206 *General.* Although only official information may be classified, there are some circumstances in which information not meeting the definition of § 159.102-13 may warrant protection in the interest of national security.

§ 159.206-1 *Patent Secrecy Act.* The Patent Secrecy Act of 1952 (35 U.S.C. 181-188) provides that the Secretary of Defense, among others, may determine that disclosure of an invention by granting of a patent would be detrimental to national security. DOD Directive 5535.2, reference § 159.100(y), delegates to the Secretaries of the Army, Navy, and Air Force the authority to make such determinations on behalf of the Secretary of Defense. When such determination is made, the Commissioner of Patents on request of the DOD representative takes specified actions concerning grant of a patent and protection of the information. A patent application on which a secrecy order has been imposed shall be handled as follows within the Department of Defense:

(a) If the patent application contains official information which warrants classification, it shall be assigned a classification and be marked and safeguarded accordingly. In addition, a cover sheet with wording as in § 159.206-1(b) below, shall be attached.

(b) If the patent application does not contain official information which warrants classification, the following procedures shall be followed:

(1) A cover sheet (or cover letter for transmittal) shall be placed on the application with substantially the following language:

The attached material contains information on which secrecy orders have been issued by the United States Patent Office after determination that disclosure would be detrimental to national security (Patent Secrecy Act of 1952, 35 U.S.C. 181-188). Its transmission or revelation in any manner to an unauthorized person is prohibited by law. Handle as though classified: *Confidential* for such other classification as would have been assigned had the patent application been official information).

(2) The information shall be withheld from public release; its dissemination within the Department of Defense shall be controlled; the applicant shall be instructed not to disclose it to any unauthorized person; and the patent application (or other document incorporating the protected information) shall be safeguarded in manner prescribed for equivalent classified material.

(c) If filing of a patent application with a foreign government is approved under provisions of the Act of 1952 and agreements on interchange of patent information for defense purposes, the copies of the patent application prepared for foreign registration (but only those copies) shall be marked at the bottom of each page as follows:

Withheld under the Patent Secrecy Act of 1952 (35 U.S.C. 181-188). Handle as: *Confidential* (or such other level as has been determined).

§ 159.206-2 *Independent research and development.* (a) The product of independent research and development shall not be classified unless the product incorporates classified information to which the person or the company was given prior access.

(b) Independent research and development may be Government sponsored, or may be a purely private, unsponsored effort. Government sponsored independent research and development may be done by a person who or company which previously was given, classification is not permissible unless the Government first acquires a proprietary interest.

(c) In cases in which no prior access was given but the person or company conducting the independent research or development believes that protection may be warranted in the interest of national security, he should safeguard the information in accordance with § 159.205 and submit it to an appropriate Department of Defense element for evaluation. The Department of Defense element receiving such a request for evaluation shall make or obtain a determination whether a classification would be assigned if the information were official. If the determination is negative the originator shall be advised that the information is unclassified. If the determination is affirmative the Department of Defense element shall make or obtain a determination whether an official proprietary interest in the research and development will be acquired. If such an interest is acquired, the information shall be assigned proper classification. If no such interest is acquired, the originator shall be informed that there is no basis for classification and the tentative classification shall be canceled.

§ 159.206-3 *Other private information.* In any other instance, for example, an unsolicited bid, in which a firm, organization, or individual submits to the Government private information for determination of classification, the steps specified in § 159.205 shall be taken.

UPGRADING

§ 159.207 *Raising to a higher level of classification.* Upgrading classified information to a higher level than previously determined is permitted only when it is determined by the upgrading authority that:

(a) All holders of the information are authorized access to the higher classification category;

(b) All holders of the information can be promptly notified of the upgrading; and

(c) Any dissemination to holders not authorized access to the higher classification category can be neutralized through retrieval.

§ 159.207-1 *Classification of information previously determined to be unclassified.* Unclassified information, once communicated as such, is permitted to be classified only when the classifying authority makes the same determination described for upgrading in § 159.207 and in addition, determines that control of the information has not been lost by such communication and can still be prevented from being lost.

§ 159.207-2 *Information released to secondary distribution centers.* No attempt shall be made to classify information previously determined to be unclassified which is contained in documents released to secondary distribution centers, such as

the Defense Documentation Center, unless it is determined that no secondary distribution has been made and can still be prevented. The provision of § 159.207-1 apply to this kind of material.

§ 159.207-3 *Notification.* Notification of upgrading or the classification of information previously determined to be unclassified shall not be given to holders from whom retrieval is accomplished or cannot be accomplished.

INDUSTRIAL OPERATIONS

§ 159.208 *Classification in industrial operations.* Classification in industrial operations shall be based strictly on security classification guidance furnished by the Government. Industrial management does not make original classification determinations but applies the classification decisions of the contracting authority with respect to information and material developed, produced or handled by the contracting facility itself. Industrial management shall designate persons who shall have the responsibility for assuring that Government security classification guidance is applied accurately and uniformly. Numbers of persons authorized to determine the proper classifications to be applied in accordance with the Government guidance shall be limited to the minimum consistent with operational requirements.

SUBPART—DOWNGRADING AND DECLASSIFICATION

GENERAL PROVISIONS

§ 159.300 *Downgrading and declassification determinations.* When a classification determination is made, it is necessary to determine how long the classification shall last in accordance with the policy expressed in § 159.103-1. Classified information and material shall be downgraded and declassified as soon as there are no longer any grounds for continued classification within the classification category definitions set forth in §§ 159.104-159.104-3, and the classification principles, criteria and considerations set forth in §§ 159.202-159.202-15.

§ 159.300-1 *Priority consideration of earliest possible date or event.* The individual exercising original classifying authority shall, to the maximum extent practicable predetermine at the time of origination, dates or events on which downgrading and declassification shall occur. These dates or events shall be as early as the national security will permit, and shall be in accordance with the limits of the dates of the General Declassification Schedule as set forth in § 159.301, below, only if earlier dates cannot be predetermined.

§ 159.300-2 *Dates or events carried forward.* Downgrading and declassification dates or events under § 159.300-1, above, or dates scheduled under the General Declassification Schedule (§ 159.301), below, shall be carried forward and applied whenever the classified information is incorporated in later documents or other material.

GENERAL DECLASSIFICATION SCHEDULE

§ 159.301 *Automatic downgrading and declassification.* Classified information and material, unless downgraded or declassified earlier under the provisions of § 159.300-1 or exempted from the General Declassification Schedule under § 159.302-1, below, shall be assigned a date or event on which downgrading and declassification shall occur in accordance with the prescribed limits of the General Declassification Schedule outlined below:

(a) *Top Secret.* Information or material originally classified Top Secret shall be automatically downgraded to Secret at the end of the second full calendar year following the year in which it was originated, downgraded to Confidential at the end of the fourth full calendar year following the year in which it was originated and declassified at the end of the 10th full calendar year following the year in which it was originated. For example, a document classified Top Secret on June 1, 1972 will automatically be downgraded to Secret on December 31, 1974, downgraded to Confidential on December 31, 1976 and declassified on December 31, 1982.

(b) *Secret.* Information and material originally classified Secret shall be automatically downgraded to Confidential at the end of the second full calendar year following the year in which it was originated and declassified at the end of the eighth full calendar year following the year in which it was originated.

(c) *Confidential.* Information and material originally classified Confidential shall be automatically declassified at the end of the sixth full calendar year following the year in which it was originated.

§ 159.301-1 *Retrospective application.* Information or material classified before June 1, 1972 shall be treated as follows:

(a) When marked as Group 4 under Executive Order 10501, as amended, it shall be subject to the General Declassification Schedule (§ 159.301). However, the fact that under the preceding sentence, Group 4 information or material is being declassified in advance of originally scheduled dates shall not prevent it being redesignated as falling within an exempt category as provided for in § 159.302-1 below. Unless exempted, these advanced declassifications will take effect beginning December 31, 1972. Such exemption may be made only if action is taken in time for notification thereof to be received by all holders of the document prior to the advanced downgrading or declassification date established under the General Declassification Schedule.

(b) Information or material marked as Group 1, 2, or 3 under Executive Order 10501, as amended, or other information or material not group-marked under Executive Order 10501, shall be excluded from (not "exempted" from) the General Declassification Schedule. However, it shall be subject to the same conditions and criteria that apply to classified information and material created after June 1, 1972, as set forth in §§ 159.303-159.304-3.

§ 159.301-2 *Redesignating material as exempted.* If an original classifier at any time determines that information or material falls within one of the four exempt categories described in § 159.302-1, below, the fact that such information or material was previously placed under the General Declassification Schedule (159.301) or marked for earlier declassification (159.300-1, 159.301-1), shall not prevent it being redesignated as falling within an exempt category. This determination shall be based on a finding either that the original downgrading and declassification determination was in error, or that the material or information, due to a change in circumstances, falls within one of the four exempt categories. Upon such redesignation, notice shall be promptly given to all holders of such information. Such redesignation may be made only when all recipients of the information can be notified prior to the scheduled date for declassification. Redesignation shall preserve the level of classification in effect at the time of redesignation, subject, however to § 159.300, above, and §§ 159.303-159.304-3 below.

EXEMPTIONS FROM GENERAL DECLASSIFICATION SCHEDULE

§ 159.302 *General provisions.* Certain classified information or material may warrant some degree of protection against unauthorized disclosure for a period exceeding that provided in the General Declassification Schedule in §§ 159.301-159.301-2, above. An official authorized to exercise original Top Secret classification authority may exempt from the General Declassification Schedule any level of classified information or material originated by him or under his supervision if it falls within one of the categories described below. In each case, the original Top Secret classification authority shall specify in writing on the material or by means of written policy direction issued in advance, the exemption category being claimed and, unless impossible, shall specify a date or event for automatic declassification of the information involved. The head of each component shall establish procedures to assure that original Top Secret classification authorities limit the use of this exemption authority to the absolute minimum consistent with national security requirements. When a document or other material is being prepared and an exemption determination is based upon a classification guide or on a source document, the classifier's (see § 159.201) retained records shall be maintained in such manner as to enable the identification of the source(s) of the exemption(s) used. (See also § 159.200.)

§ 159.201 *Exemption categories.* (a) Exemptions from the General Declassification Schedule are strictly limited to information or material in the following categories (numbered according to section 5(B), Executive Order 11652).

(1) Furnished by foreign governments or international organizations and held by the United States on the understanding that it be kept in confidence.

(2) Specifically covered by statute or pertaining to cryptography, or disclosing intelligence sources or methods.

(3) Disclosing a system, plan, installation, project, or specific foreign relations matter the continuing protection of which is essential to the national security.

(4) Disclosure would place a person in immediate jeopardy.

MANDATORY REVIEW OF MATERIAL OVER 10 YEARS OLD

§ 159.303 *Material covered.* (a) All classified information and material originated on or after June 1, 1972 which is exempted under § 159.302-1 above from the General Declassification Schedule, and all classified information and material which is "excluded" from the General Declassification Schedule under § 159.301-1(b), shall, upon request, be subject to mandatory classification review by the originating DoD component at any time after the expiration of 10 years from date of origin.

(b) Effective date is February 16, 1973.

§ 159.303-1 *Processing requirements.* Requests for review of the classification of information or material exempted from the General Declassification Schedule (§§ 159.302-159.302-1) shall be processed promptly, subject to the following:

(a) A U.S. Government department or agency or a member of the public has requested review.

(b) The request is in writing and describes the record with sufficient particularity to enable the component to identify it. Whenever a request is deficient in the description of the record sought, the requester should be asked to provide additional identifying information.

(c) The record can be obtained with only a reasonable amount of effort. What is "reasonable" depends on the amount of records sought, their location and accessibility, and the time, effort and related costs required to identify and compile them. Before denying a request on the grounds that it is unduly burdensome, the requester should be asked to limit his request to records that are reasonably obtainable.

(d) If, after taking the alternative action prescribed by paragraph (b) or (c) of this section, the request does not describe the records sought with sufficient particularity, or the record cannot be obtained with a reasonable amount of effort, the requester shall be notified of the reasons why his request cannot be granted.

§ 159.303-2 *Submission of requests for review.* (a) Requests described in § 159.303 shall be submitted in accordance with the following:

(1) Requests originating within DoD shall in all cases be submitted directly to the DoD element which originated the material involved for action as indicated in § 159.204. Such cases are not referred to the Departmental Classification Review Committees (§ 159.1301-1, § 159.1302-1).

(2) Requests originating in other agencies of the Executive Branch should be submitted directly to the DoD element which originated the material. If the originating element is not known or cannot be located, the request may be submitted as indicated in paragraph (a)(3), of this section.

(3) For most expeditious action, requests from outside the executive branch should be submitted directly to the DoD element which originated the material. If the originating element is not known or cannot be located, the requester may submit the request to any of the following:

(i) The facilities established in the Office, Secretary of Defense, the military departments and the Defense Agencies under DoD Directive 5400.7 (Part 286), to receive requests for records under the Freedom of Information Act. These facilities are identified in appropriate sections of Title 32 of the Code of Federal Regulations for each DoD component.

(ii) The head of the DoD component which is most concerned with the subject matter of the material requested.

(iii) Chief, Records Management Branch, Office, Deputy Assistant Secretary of Defense (Administration), (Comptroller), Department of Defense, Washington, D.C. 20301.

(b) Effective date is February 16, 1973.

§ 159.303-3 *Action on requests for review.* The office which first acts upon a request for review for declassification shall immediately acknowledge receipt of such request in writing. The following procedures shall apply:

(a) Such office shall make a determination within thirty (30) days of receipt or shall explain to the requester the reasons why further time is necessary.

(b) If at the end of sixty (60) days from receipt of the request for review no determination has been made, the requester may appeal through appropriate channels to the DoD Classification Review Committee (§ 159.1301-1).

(c) Information or material which no longer qualifies for exemption under §§ 159.302 and 159.302-1 shall be declassified and processed for release to the requester in accordance with DoD Directive 5239.9, reference § 159.100(d).

(d) Information or material continuing to qualify for an exemption under § 159.302-1 shall be marked in accordance with §§ 159.400-159.405-4, and unless impossible, a date for automatic declassification shall be set. The requester shall be so notified and, whenever possible, he shall be provided with a brief statement as to why the requested information or material cannot be declassified. This notice shall also advise him of his right to the DoD Classification Review Committee (§ 159.1301-1).

(e) Fair and equitable fees for copies of available records shall be established pursuant to DoD Instruction 7230.7, reference § 159.100(s).

ACTION ON 30-YEAR-OLD MATERIAL

§ 159.303-4 *Burden of proof.* In considering appeals from denials of declassification requests, the DoD and Military Department Classification Review Committees shall place the burden of proof, for administrative purposes, on the originating DoD component to show that continued classification is warranted.

§ 159.304 *Material Covered.* All classified information or material which is 30 years old or more over which the Department of Defense exercises exclusive or final original classification authority is subject to declassification under the conditions stated below.

§ 159.304-1 *Systematic Review.* All information and material in the custody of the National Archives and Records Service which was classified before the effective date of this part and more than 30 years old is to be systematically reviewed for declassification by the Archivist of the United States. The Archivist shall refer to the Department of Defense such material as has been indicated by the Department of Defense to require further review. In the case of 30-year-old information in the custody of the components of the Department of Defense, such review will be accomplished by the custodians of the respective components. The Department of Defense component having primary jurisdiction over the material received from the Archivist or in its custody, shall proceed as follows:

(a) Classified information or material over which the Department of Defense exercises exclusive or final original classification authority and which is to be kept protected in accordance with § 159.304-2 shall be listed by the responsible custodian and referred through established channels to the Secretary of Defense or the Secretary of the appropriate Military Department depending upon which of these officials has current security classification jurisdiction over it. This listing shall:

(1) Identify the information or material involved, including its date of origin and field of interest;

(2) Recommend continued classification beyond 30 years to a specific future event which is certain to happen, or for a fixed period of time to terminate on December 31 of a given future year; and

(3) State that the reason for the recommended continued classification is that earlier disclosure would place an identified or identifiable person in immediate jeopardy, or that, because of reasons which are stated, continued classification is essential to the national security.

(b) The Secretary of Defense or the Secretary of the Military Department concerned shall personally consider and determine which category of material shall be kept classified and the period of continued classification. The Archivist shall be so notified.

(c) The provisions of §§ 159.400—159.405-5 of this part govern the remarking of all documents or other materials determined, under the provisions of §§ 159.304—159.304-2 to be declassified.

§ 159.304-2 *Exceptions to automatic declassification.* All information and material classified after the effective date of this part, whether or not declassification has been requested, becomes automatically declassified at the end of 30 full calendar years after the date of its original classification except for such specifically identified categories of information or material which the head of the originating Military Department or the

Secretary of Defense for other components personally determines in writing at that time to require continued protection against unauthorized disclosure because such continued protection is essential to the national security or disclosure would place a person in immediate jeopardy. In such case, the aforementioned officials shall also specify the period of continued classification.

§ 159.304-3 *Requests for review.* A request by a member of the public or by a U.S. Government department or agency to review classified information more than 30 years old shall be referred directly to the Archivist of the United States for action in accordance with § 159.304-1. Such requests shall be processed within the Department of Defense in the manner prescribed in § 159.303-3. The provisions of § 159.303-4 are also applicable to these cases.

TRANSFER OF CLASSIFIED DOCUMENTS OR MATERIAL

§ 159.305 *Material officially transferred.* In the case of classified information or material transferred by or pursuant to statute or executive order from one department or agency to another for the latter's use and as part of its official files or property, as distinguished from transfers merely for purposes of storage, the receiving department or agency shall be deemed to be the classifying authority over such material for purposes of downgrading and declassification.

§ 159.305-1 *Material not officially transferred.* When any department or agency of the Department of Defense has in its possession any classified information or material originated in an agency outside the Department of Defense which has since become defunct and whose files and other property have not been officially transferred to another department or agency within the meaning of § 159.305, or when it is impossible for the possessing department or agency to identify the originating agency, and a review of the material indicates that it should be downgraded or declassified, the said possessing department or agency shall have the power to declassify or downgrade such material. If it appears probable that another department or agency may have a substantial interest in whether the classification of any particular information should be maintained, the possessing department or agency shall not exercise the power conferred upon it by this section, except with the consent of the other department or agency, until 30 days after it has notified such other department or agency of the nature of the material and of its intention to downgrade or declassify the same. During such 30-day period the other department or agency may, if it so desires, express its objections to downgrading or declassifying the particular material, but the power to make the ultimate decision shall reside in the possessing department or agency.

§ 159.305-2 *Transfer for storage or retirement.* Insofar as practicable, classified documents shall be reviewed to determine

whether or not they can be downgraded or declassified prior to being forwarded to records centers or to the National Archives for storage. When this is done, certification of classification review shall be entered on or affixed to the transmittal form. Records Transmittal and Receipt Form, SF 135, or similar document, and appropriate changes reflecting downgrading or declassification shall be indicated as necessary on each document.

MISCELLANEOUS ACTIONS

§ 159.306 *Notification of changes in classification or of declassification.* When classified material which has been properly marked with specific dates or events under § 159.403-1 (a) or (b), is remarked in accordance therewith, it is not necessary to issue notices of those remarkings to any holders. However, when downgrading or declassification action is determined by appropriate authority to occur earlier than originally scheduled, or upgrading is involved, or the exemption status is changed, the action official or the custodian of the records shall promptly notify all addressees to whom the information or material was originally transmitted. Notification shall include the specific action to be taken, the authority therefor and the effective date. Upon receipt of notification of change in classification or exemption status or of declassification, recipients shall effect the proper changes and shall notify addressees to whom in turn they have transmitted the classified information or material.

§ 159.306-1 *Presidential papers.* The Archivist of the United States has the authority to review and declassify information and material which has been classified by a President, his White House staff or special committee or commission appointed by him and which the Archivist has in his custody at any archival depository, including a presidential library. Such declassification shall only be undertaken in accord with:

(a) The terms of the donor's deed of gift.

(b) Consultations with the departments having a primary subject matter interest.

(c) The provisions of this subpart.

§ 159.306-2 *General review requirements.* All information and material classified after June 1, 1972, which is determined under applicable records administration standards to be of sufficient historical or other value to warrant preservation as permanent records, shall be systematically reviewed on a timely basis by the appropriate custodian for the purpose of making such information and material publicly available if, after consideration under §§ 159.300-159.302-1, it is declassified. Whenever possible without destroying the integrity of the files, such information and material should be set aside for public release on request.

§ 159.306-3 *Declassification of encrypted messages.* (a) Declassification of encrypted messages will be accomplished in accordance with the following policy:

(1) *Messages encrypted prior to February 1, 1946.* Declassification of messages in this category has been and will continue to be based solely on the informational content of the messages.

(2) *Messages encrypted during the period February 1 through May 31, 1960.* The requirement that messages in this category (so-called category "B" messages) be paraphrased and the date-time group physically removed prior to declassification is canceled. Effective immediately, declassification of such messages will be based solely on the informational content of the messages.

(3) *Messages encrypted subsequent to May 31, 1960.* Communications Centers have received instructions via KAG-1 and Department and Agency implementing documents to perform necessary cryptographic editing on these messages prior to release from the Communications Center. Declassification of messages in this category by holders outside Communications Centers is based solely on the informational content of the messages. Further cryptographic editing is not required.

(b) Effective date is February 2, 1973.

SUBPART—MARKING

GENERAL PROVISIONS

§ 159.400 *Designations.* Subject to the special situation set forth in § 159.400-2, information determined to require classification protection against unauthorized disclosure under the provisions of this part shall be so designated, generally in the form of physical marking. Designation by means other than physical marking may be used but should be followed by physical marking as soon as practicable.

§ 159.400-1 *Purpose of designation.* Designation by physical marking, notation or other means, serves to inform and to warn the holder of the classification of the information involved, the degree of protection against unauthorized disclosure which is required for that particular level of classification, and to facilitate downgrading and declassification actions.

§ 159.400-2 *Exception.* No article which in whole or in part, has appeared in newspapers, magazines, or elsewhere in the public domain, nor any copy thereof, which is being reviewed and evaluated by any component of the Department of Defense to compare its content with official information which is being safeguarded in the Department of Defense by security classification, may be marked on its face with any security classification, control or other kind of restrictive marking. The results of the review and evaluation shall be separate from the article in question.

§ 159.400-3 *Documents or other material in general.* Each classified document shall, in addition to other markings required by this subpart, show on its face its overall classification and whether it is subject to or exempt from scheduled downgrading and declassification (see §§ 159.300—159.306-2).

It shall also show the office of origin the identity of the classifier (see § 159.201), the date of preparation and classification, and, except as provided herein, be so marked as to indicate which portions are classified, at what level, and which portions are not classified in order to facilitate excerpting and other use. Other material shall, whenever practicable, show the foregoing information on the material itself or in related or accompanying documentation.

§ 159.400-4 *Wholly unclassified material.* Normally, unclassified material shall not be marked or stamped "Unclassified" unless it is essential to convey to a recipient of such material that it has been examined specifically with a view to imposing a security classification and has been determined not to require classification.

CLASSIFICATION MARKINGS ON DOCUMENTS

§ 159.401 *Overall and page marking.* Except as otherwise specified for working papers (see § 159.702-4) the overall classification of a document, whether or not permanently bound, or any copy or reproduction thereof, shall be conspicuously marked or stamped at the top and bottom on the outside of the front cover (if any), on the title page (if any), on the first page, on the back page and on the outside of the back cover (if any). Each interior page of a document shall be conspicuously marked or stamped at the top and bottom with the highest classification of information appearing thereon, including the designation "Unclassified" when appropriate. In special situations, such as the printing by the Government Printing Office or similar facility of classified documents comprised of many pages (studies, manuscripts, reports, manuals, etc.), the overall classification assigned to the document may be shown on each page: *Provided*, That the classified and unclassified parts of that page are clearly identified to the recipient by paragraph marking or by other means set forth in the document. In such cases, paragraph marking or other means shall take precedence over page marking.

§ 159.401-1 *Marking components.* In some complex documents, its major components are likely to be used separately. In such instances, each major component shall be marked as a separate document. Examples include: (a) Each annex, appendix, or similar components of a plan, program, or operations order; (b) attachments and appendices to a memorandum or letter; and (c) each major part or chapter of a report.

§ 159.401-2 *Paragraph marking.* Each section, part, paragraph, or subparagraph, when there are differences in their classifications, shall be marked to show the level of classification, if any, or that such section, part, paragraph or subparagraph is unclassified. If, in an exceptional situation, such marking is determined to be impracticable, the document shall contain a description sufficient to identify the exact information which is classified and the categories to which it is assigned.

When different items of information in one paragraph require different classifications, but segregation into separate paragraphs would destroy continuity or context, the highest classification required for any item shall be applied to that paragraph. In marking paragraphs, sections, or parts, the appropriate marking shall be placed immediately preceding and to the left of the parts involved. If desired, the symbols (TS) for Top Secret, (S) for Secret, (C) for Confidential, and (U) for Unclassified, may be used. When appropriate, the symbols (RD) for Restricted Data and (FRD) for Formerly Restricted Data shall be added.

§ 159.401-3 *Compilations.* In cases where the use of a classification is required to protect a compilation of information under § 159.202-14, the overall classification assigned to such documents shall be placed conspicuously at the top and bottom of each page and on the outside of the front and back covers, if any, and an explanation of the basis for the assigned classification shall be included on the document or in its text.

§ 159.401-4 *Subjects, titles, abstracts and index terms.* Subjects, titles, abstracts, and index terms shall be selected, if possible, so as not to require classification. However, a classified subject, title, abstract or index term may be used when necessary to convey meaning. To show its classified or unclassified status, each such item shall be marked with the appropriate symbol, (TS), (S), (C), or (U) placed immediately following and to the right of the item. When appropriate, the symbols (RD) and (FRD) shall be added.

§ 159.401-5 *File, folder or group of documents.* Files, folders or groups of documents shall be conspicuously marked to assure their protection to a degree as high as that of the most highly classified document included therein. Documents separated from the file, folder, or group shall be marked as prescribed herein for individual documents.

§ 159.401-6 *Transmittal documents.* A transmittal document, including indorsements and comments when such indorsements and comments are added to the basic communication, shall carry on its face a prominent notation as to the highest classification of the information transmitted by it, and a legend showing the classification, if any, of the transmitted document, indorsement or comment standing alone. For example, in the case of an unclassified document which transmits as an attachment a classified document, it shall bear a notation substantially as follows: "Regarded Unclassified When Separated From Classified Enclosure."

§ 159.401-7 *Electrically transmitted messages.* Classified messages shall be marked at the top and bottom with the assigned classification and paragraph marked in the manner prescribed above for documents. In the case of a message printed by an automated system, these classification markings may be applied by that system, provided that the markings so applied are made clearly distinguishable on the face of the

document from the printed text. In addition, the first item of information in the text of a classified message will be the overall classification of the message. The last line or paragraph of the message will show either:

- (a) "ADS (*date*)" Advanced Declassification Schedule for date or event earlier than GDS;
- (b) "GDS (*date*)" for GDS cases; or
- (c) "XGDS (*number of exemption category*)" for exemption cases.

Dates shall be the last two digits of the declassification year.

§ 159.401-8 *Translations*. Translations of United States classified information into a language other than English shall be marked to show the United States as the country of origin and shall be marked with the appropriate classification markings under §§ 159.401-159.401-8 and the foreign language equivalent thereof. [See Appendix B (§ 159.1500-1).]

CLASSIFICATION MARKINGS ON MATERIAL OTHER THAN DOCUMENTS

§ 159.402 *General provisions*. The assigned security classification shall be conspicuously stamped, printed, written, painted, or affixed by means of a tag, sticker, decal, or similar device, on classified material other than documents, and on their containers, if possible. If the material or container cannot be marked, written notification of the security classification shall be furnished to recipients. Following are the procedures for marking the security classification on various kinds of material other than ordinary documents. These are not all inclusive and may vary somewhat with organizational and operational requirements and with the physical characteristics of the material.

§ 159.402-1 *Charts, maps and drawings*. Charts, maps, and drawings shall bear the appropriate classification marking under the legend, title block or scale, in such manner as to differentiate between the classification assigned to the document as a whole and the classification assigned to the legend or title. The markings also shall be inscribed at the top and bottom of each such document. Where the customary method of folding or rolling charts, maps, or drawings would cover the classification markings, additional classification markings shall be placed so as to be clearly visible when the document is folded or rolled.

§ 159.402-2 *Photographs, films and recordings*. Photographs, films, including negatives, recordings, and their containers shall be marked in such a manner as to assure that any recipient or viewer will know that classified information of a specified level of classification is involved.

(a) *Photographs*. Negatives and positives shall be marked with the appropriate classification markings and kept in containers bearing conspicuous classification markings. Roll negatives shall be marked at the beginning and end of each strip and single negatives marked with the appropriate classifica-

tion. Each photographic print shall be marked with the appropriate classification at the top and bottom of the face side and where practicable the center of the reverse side. Caution must be exercised when using self-processing film or paper to photograph or reproduce classified material, since the negative of the last exposure may remain in the camera. All component parts of the last exposure shall be removed and destroyed as classified waste or the camera shall be protected as classified material.

(b) *Transparenc'ies and slides.* The applicable classification markings shall be shown on each transparency or slide. Other applicable markings, when practical, shall be shown on the border, holder, or frame.

(c) *Motion picture films.* Classified motion picture films shall be marked at the beginning and end of each reel by titles bearing the appropriate classification. Such markings shall be visible when projected on the screen. Reels shall be kept in containers bearing conspicuous classification markings.

(d) *Recordings.* Recordings, sound or electronic, shall contain at the beginning and end a statement of the assigned classification which will provide adequate assurance that any listener or receiver will know that classified information of a specified level of classification is involved. The recording material and containers also shall be marked conspicuously.

§ 159.402-3 *Decks of accounting machine cards.* A deck of classified accounting machine cards need not be marked individually but may be marked as one single classified document so long as they remain within the deck. A deck so marked shall be stored, transmitted, destroyed, and otherwise handled in the manner prescribed for other classified documents of the same classification. An additional card shall be added, however, to identify the contents of the deck and the highest classification involved. Cards removed for separate processing or use, and not immediately returned to the deck after processing, shall be protected to prevent compromise of any classified information contained therein, and for this purpose shall be marked individually as prescribed herein for an individual ordinary document.

§ 159.402-4 *Electrical machine and automatic data processing tapes.* Electrical machine and Automatic Data Processing (ADP) tapes shall bear external markings and internal notations sufficient to assure that any recipient of the tapes, or of the classified information contained therein when reproduced by any medium, will know that classified information of a specific classification category is involved.

§ 159.402-5 *Pages of ADP listings.* Classification markings on pages of listings produced by ADP equipment may be applied by the equipment provided that the markings so applied are made clearly distinguishable on the face of the document from the printed text. As a minimum, such listings shall be marked with the security classification on the first and last

pages of the listing and on the front and back covers, if any, as prescribed in § 159.401 for ordinary documents.

§ 159.402-6 *Material for training purposes.* Classified material used for training purposes shall be transmitted, stored, and otherwise safeguarded as prescribed in this Part. In utilizing unclassified documents (material) for training purposes, the unclassified documents (material) shall be marked "(insert classification) for training, otherwise unclassified."

§ 159.402-7 *Miscellaneous material.* Material, such as rejects, typewriter ribbons, carbons, and similar items, developed in connection with the handling, processing, production, and utilization of classified information shall be handled in a manner which assures adequate protection of the classified information involved and that destruction is effected at the earliest practicable moment. Unless a requirement exists to retain this type material for a specific purpose there is no need to mark, stamp, or otherwise indicate that the recorded information is classified.

DOWNGRADING AND DECLASSIFICATION MARKINGS

§ 159.403 *Regrading and declassification markings.* Whenever classified material is downgraded, declassified, or upgraded, the material shall be promptly and conspicuously marked to indicate the change, the authority for the action, the date of the action and the identity of the person or activity taking the action. In addition except for upgrading (see § 159.403-2), all the old classification markings shall be cancelled, if practicable, but in any event on the first page, and the new classification markings, if any, shall be substituted. In cases where classified material is downgraded or declassified under the provisions of this part and is marked as prescribed in § 159.403-1, such markings shall suffice to meet the aforementioned requirements.

§ 159.403-1 *Downgrading and declassification.* At the time of origination, each classified document or other material, shall, in addition to the security classification markings prescribed by § 159.401-159.402-7 above and the foregoing provision of § 159.403 be marked to reflect downgrading and declassification instructions in accordance with the following:

(a) *Action by specific date or event.* When specific dates or events for downgrading and declassification; with emphasis on declassification without intervening downgrading, are predetermined under the provisions of § 159.300-2 (earlier than those limits of the General Declassification Schedule), documents and other material shall be conspicuously marked to show clearly to the recipient of such material when downgrading and declassification action is intended by the originator to occur. For this purpose, the following marking shall be stamped or otherwise printed at the bottom of the first page or title page or shall be placed conspicuously in a similar prominent place immediately below or adjacent to and in conjunction with the classification marking:

Downgrade to:

Secret on (-----)
effective date

Confidential on (-----)
effective date

Declassify on (-----)
effective date

Classified by ----- (see (e) below)

The effective date in this case may fall on any specific day or month of a calendar year or, in its place, could be inserted a specific event such as, for example, "Declassify on Date of Rollout."

(b) *General declassification schedule.* When specific dates for downgrading and declassification are assigned in accordance with the provisions of §§ 159.301-159.301-2 hereof (General Declassification Schedule), documents and other material shall be marked in the following manner:

Classified by ----- Subject to General Declassification Schedule of Executive Order 11652, automatically downgraded at 2-year intervals, declassified on December 31, (year).

(c) *Exemptions from General Declassification Schedule.* Unless marked RD or FRD (§§ 159.405-1 and 159.405-2), documents or material containing information which is exempt from the General Declassification Schedule under the provisions of §§ 159.306-159.306-2, hereof, shall be marked for downgrading and declassification purposes in the following manner:

Classified by ----- (see (e) below).
Exempt from General Declassification Schedule of Executive Order 11652, exemption category -----,
declassify on -----
(effective date)

As prescribed by the aforementioned in §§ 159.306-159.306-2, unless impossible, a specific date or event for automatic declassification of the exempted material shall be specified. Such effective dates shall reflect December 31 of a particular calendar year as the anniversary date for declassification for insertion in the space provided. The exemption category to be identified in the above prescribed marking is the citation of the applicable number of the exemption category listed in § 159.302-1. For example, a classified document originated on June 1, 1972, containing information which is exempt from the General Declassification Schedule by appropriate authority because it discloses a particular intelligence collection method but which the originator believes could be declassified 15 years from date of origin, would be marked as follows:

Classified by ----- (see (e) below).
Exempt from General Declassification Schedule of Executive Order 11652, exemption category (2), declassify on December 31, 1987.

(d) If the classifier inadvertently fails to mark a document with one of the foregoing markings, the recipient shall take

appropriate action to mark it properly, either by direct action in accordance with §§ 159.300-159.306-2 or by referral to the originator.

(e) In the space for showing the classifier to the maximum extent possible, the original classification authority shall be shown, including, if applicable, the controlling classification guide. Otherwise, the person who signs or finally approves a document or other material containing classified information shall be deemed to be the classifier (§ 159.201).

(f) The Restricted Data (§ 159.405-1) and Formerly Restricted Data (§ 159.405-2) markings are, in themselves, evidence of exemption stamp paragraph (c) of this section above, is not to be used when such markings appear on the material.

(g) When a document or material includes classified information, either newly developed or extracted from one or more sources, which is designated under more than one of the provisions of paragraph (b), or (c), of this section, above, the single downgrading and declassification marking assigned the document or material shall be the most restrictive of those which are applicable to the information contained therein. When more than one category of exempted material is involved, the single downgrading and declassification marking shall reflect the identification of such categories.

§ 159.403-2 *Upgrading*. When material is upgraded under the provisions of this part it shall be promptly and conspicuously marked as prescribed in § 159.403, except that in all such cases the old classification markings shall be cancelled and the new substituted therefor.

§ 159.403-3 *Limited use of posted notice for large quantities of material*. When the volume of material is such that prompt remarking of each classified item could not be accomplished without unduly interfering with operations, the custodian may attach downgrading and declassification notices to the storage in lieu of the remarking otherwise required by § 159.403. Each notice shall specify the authority for the downgrading or declassification action, the date of the action and the storage unit to which it applies. When individual documents or other materials are withdrawn from storage units, they shall be promptly remarking with the proper security classification category, or the classification marking canceled, if declassified, on at least the first page. However, when documents or other material subject to a downgrading or declassification notice are withdrawn from one storage unit solely for transfer to another, or a storage unit containing such documents or other material is transferred from one place to another the transfer may be made without remarking if the notice is attached to or remains with each shipment.

REMARKING OLD MATERIAL

§ 159.404 *Remarking material already marked Group 4*. When a document or other material classified before June 1, 1972, and marked with a Group 4 marking under E.O. 10501,

as amended, is removed from file or storage for any purpose, it shall be remarked in accordance with § 159.403-1 (b) or (c), as appropriate to the determination made under § 159.301-1.

§ 159.404-1 *Marking material already marked Group 1, 2, or 3, or not group marked.* When a document or other material classified before June 1, 1972, and marked with a Group 1, 2, or 3 marking or not group marked at all under Executive Order 10501, as amended, is removed from file or storage for any purpose, it shall be marked "Excluded from General Declassification Schedule." Such marking does not relieve the original classification authority of the information involved from immediately downgrading or declassifying the information in accordance with § 159.300, or from setting specific future dates or events for automatic downgrading or declassification in accordance with § 159.300-1, or from placing the information under the General Declassification Schedule in accordance with § 159.301, or from referring the information to an appropriate Top Secret classification authority for consideration for exemption in accordance with § 159.302. If any of these actions is taken by the original classification authority, the document or other material shall be appropriately marked in accordance with § 159.403-1 and appropriate notice given in accordance with § 159.306.

ADDITIONAL WARNING NOTICES

§ 159.405 *General provisions.* When applicable, in addition to the foregoing marking requirements, one or more of the following warning notices shall be prominently displayed on classified documents or materials. When display of warning notices on the documents or other materials is not feasible, the warnings shall be included in the written notification of the assigned classification.

§ 159.405-1 *Restricted data.* For classified information or material containing Restricted Data as defined in the Atomic Energy Act of 1954, as amended:

RESTRICTED DATA

This material contains Restricted Data as defined in the Atomic Energy Act of 1954. Its dissemination or disclosure to any unauthorized person is prohibited.

§ 159.405-2 *Formerly Restricted Data.* Except when the Restricted Data notice is used, for classified information or material containing Formerly Restricted Data, as defined in section 142.d, Atomic Energy Act of 1954, as amended:

FORMERLY RESTRICTED DATA

Unauthorized disclosure subject to administrative and criminal sanctions. Handle as Restricted Data in foreign dissemination. Section 144b, Atomic Energy Act, 1954.

§ 159.405-3 *Information other than Restricted Data or formerly Restricted Data.* For classified information or material

other than described in § 159.405-1 or § 159.405-2 furnished to persons outside the Executive Branch:

NATIONAL SECURITY INFORMATION

Unauthorized disclosure subject to criminal sanctions.

§ 159.405-4 *Sensitive intelligence information.* For classified information or material containing sensitive intelligence information, the following warning notice shall be used in addition to and in conjunction with those prescribed in § 159.405-1, § 159.405-2, or § 159.405-3, as appropriate

WARNING NOTICE—SENSITIVE INTELLIGENCE SOURCES AND METHODS INVOLVED

SUBPART—SAFEKEEPING AND STORAGE

STORAGE AND STORAGE EQUIPMENT

§ 159.500 *General policy.* Classified information or material may be used, held, or stored only where there are facilities or under conditions adequate to prevent unauthorized persons from gaining access to it. The exact nature of security requirements will depend on a thorough security evaluation of local conditions and circumstances. They must permit the accomplishment of essential functions while affording selected items of information various reasonable degrees of security with a minimum of calculated risk. The requirements specified in this part represent the minimum acceptable standards.

§ 159.500-1 *Standards for storage equipment.* The General Services Administration establishes and publishes uniform standards, specifications, and supply schedules for containers, vault doors, alarm systems, and associated security devices suitable for storage and protection of classified information and material throughout the Government. The head of a DOD component may establish for the use of such component equal or more stringent standards. Security filing cabinets conforming to Federal Specifications bear a Test Certification Label on the locking drawer attesting to the security capabilities of the container and lock (on some early cabinets, the label was located on the wall inside the locking drawer compartment). Such cabinets manufactured after February 1962 will also be marked "General Services Administration Approved Security Container" on the outside of the top drawer.

§ 159.500-2 *Storage of classified material.* Whenever classified material is not under the personal control and observation of an authorized person, it will be guarded or stored in a locked security container as prescribed below:

(a) *Top Secret.* Top Secret material shall be stored in:

(1) A safe or safe-type steel file container having a three-position dial-type combination lock as approved by the General Services Administration, or a Class A vault which meets the standards established by the head of the DOD component concerned.

(2) An alarmed area, provided such facilities are adjudged by the local responsible official to afford protection equal to or better than that prescribed in subparagraph (1) of this paragraph. When an alarmed area is utilized for the storage of Top Secret material, the physical barrier must be adequate to prevent surreptitious removal of the material, and observation when observation would result in the compromise of the material. The physical barrier must be such that forcible attack is required which will give evidence of attempted entry into the area or room. The alarm system must as a minimum provide immediate notice to a security force of attempted surreptitious forced entry.

(b) *Secret and Confidential*. Secret and Confidential material may be stored in the manner authorized for Top Secret; or, in a Class B vault, or a vault-type room, strong room, or secure storage room, which has been approved in accordance with the standards prescribed by the head of the DOD component; or, until phased out, in containers described in paragraph (d) of this section.

(c) *Specialized Security Equipment*—(1) *One-drawer container*. One-drawer, GSA-approved security containers are used primarily for storage of classified information in mobile communication assemblages or transportable tactical assemblages. Such containers must be securely fastened or guarded to prevent the theft of the container. Mobile facilities which contain one-drawer security containers housing classified material will be afforded the protection necessary to prevent the theft of the entire mobile unit.

(2) *Field safe*. A field safe has been approved by GSA and listed on the Federal Supply Schedule. Similar precautions as those prescribed for the one-drawer container should be taken to prevent theft.

(3) *Map and Plan file*. A GSA-approved Map and Plan file has been developed for storage of odd-sized items such as computer cards, maps, and charts.

(d) *Non-GSA approved containers*. In addition to the security containers meeting GSA standards, Secret and Confidential material may be stored in a steel filing cabinet having a built-in, three-position, dial-type combination lock; or, as a last resort, an existent steel filing cabinet equipped with a steel lock bar, provided it is secured by a GSA-approved changeable combination padlock.

§ 159.500-3 *Procurement and phase-in of new storage equipment*. (a) *Preliminary survey*: New security storage equipment shall not be procured until:

(1) A current physical survey has been made of on-hand security equipment and classified records, and

(2) It has been determined, based upon the survey, that it is not feasible to use available equipment or to retire, return, declassify, or destroy a sufficient volume of records currently **on hand** to make the needed security storage space available.

(b) Purchase: Whenever new security storage equipment is procured, it will be from the security containers listed on the Federal Supply Schedule, GSA. Further acquisition of security containers not on the Federal Supply Schedule, or modification of cabinets to bar-padlock type as storage equipment for classified information and material is prohibited. Exceptions may be made by heads of components, with notification to the Assistant Secretary of Defense (Comptroller).

(c) Nothing in this subpart shall be construed to modify existing Federal Supply Class Management Assignments made under DOD Directive 5030.47, "National Supply System," May 27, 1971.

§ 159.500-4 *Designations and Combinations.* (a) Numbering and designating storage facilities: Each vault or container used for the storage of classified material shall be designated but not externally marked as to the level of classified material authorized to be stored therein. Each vault or container shall be assigned a number or symbol for identification purposes. The number or symbol shall be affixed in a conspicuous location on the outside of the vault or container.

(b) Combinations to containers:

(1) *Changing.* Combinations to security containers will be changed only by individuals having an appropriate security clearance. Combinations will be changed under any of the following circumstances:

(i) When placed in use after procurement.

(ii) Whenever an individual knowing the combination is transferred, discharged, or reassigned from the element to which the security container is assigned, or the security clearance of an individual knowing the combination is reduced, suspended, or revoked by proper authority.

(iii) When the combination or record of combination has been compromised or possibly compromised or the security container has been discovered unlocked and unattended.

(iv) At least annually unless more frequent change is dictated by the type material stored therein.

(2) *Classifying combinations.* The combination of a vault or container used for the storage of classified material shall be assigned a security classification equal to the highest category of the classified material authorized to be stored therein.

(3) *Recording Storage Facility Data.* A record shall be maintained for each vault, secure room, or container used for storing classified material, showing location, the names, home addresses, and home telephone numbers of persons having knowledge of the combinations to such storage facilities.

(4) *Dissemination.* Knowledge of or access to the combination of a vault or container used for the storage of classified material shall be given only to those appropriately cleared persons who are authorized access to the classified information stored therein and who must have it for efficient operation.

(5) *Repair.* Uncleared personnel will not be permitted to change combinations or to neutralize lockouts on security con-

tainers utilized for the storage of classified material. This service will be provided by personnel specifically trained in approved methods of combination changing, maintenance, neutralization of lockouts, and repair of any perforations affected during neutralization of lockouts.

CUSTODIAL PRECAUTIONS

§ 159.501 *Responsibilities of custodians.* (a) Custodians of classified material shall be responsible for providing protection and accountability for such material at all times and particularly for locking classified material in approved security equipment whenever it is not in use or under direct supervision of authorized persons. Custodians shall follow procedures which insure that unauthorized persons do not gain access to classified information or material by sight or sound, and classified information shall not be discussed with or in the presence of unauthorized persons.

(b) Classified information or material shall not be removed from officially designated office or working areas for the purpose of working on such material during off duty hours or for other purposes involving personal convenience. The head of a component or his designee may authorize removal from such working areas in cases of compelling necessity, provided that appropriate component regulations applicable to such situations insure maximum protection possible under the circumstances.

§ 159.501-1 *Care during working hours.* Each individual shall take every precaution to prevent access to classified information by unauthorized persons. Among the precautions to be followed are:

(a) Classified documents, when removed from storage for working purposes shall be kept under constant surveillance and face down or covered when not in use.

(b) Preliminary drafts, carbon sheets, plates, stencils, stenographic notes, worksheets, and all similar items containing classified information shall be either (1) destroyed by the person responsible for their preparation immediately after they have served their purposes or (2) shall be given the same classification and safeguarded in the same manner as the classified material produced from them.

(c) Typewriter ribbons used in typing classified material shall be protected in all respects in the same manner as the highest level of classification for which they have been so used. When destruction is necessary, it shall be accomplished in the manner prescribed for classified working papers, of the same classification. After the upper and lower sections have been cycled through the machine five times in the course of regular typing all fabric ribbons will be treated as unclassified. Carbon, plastic, typewriter ribbons and carbon paper which have been used in the production of classified information shall be destroyed in the manner prescribed for working papers of the same classification after initial usage. As an exception to the

foregoing, any typewriter ribbon which remains substantially stationary in the typewriter until it has received at least five consecutive impressions shall be treated as unclassified.

§ 159.501-2 *Care after working hours.* All heads of activities shall require a system of security checks at the close of each working day to insure that the classified material held by the activity is properly protected. They shall require the custodians of the classified material to make an inspection which shall insure, as a minimum, that:

- (a) All classified material is stored in the manner prescribed.
- (b) Burn bags are properly stored or destroyed.
- (c) The contents of wastebaskets which contain classified material have been properly stored or destroyed.

(d) Classified shorthand notes, carbon paper, carbon paper typewriter ribbons, rough drafts, and similar papers have been properly stored or destroyed. As a matter of routine during the day, such items shall be placed in burn bags immediately after they have served their purpose.

§ 159.501-3 *Care of working spaces.* The following precautions shall be taken to provide protection of classified information.

(a) Necessary safeguards shall be afforded to buildings and areas in which classified material is kept.

(b) Precautions shall be taken to minimize any danger of inadvertent disclosure of classified information in conversations. Classified information shall not be discussed in public places.

(c) Conference rooms and areas designated for classified discussions are places where extraordinary precautions are necessary; they shall be subject to frequent and thorough inspections, within the capability of the activity, for unauthorized wiring and possible concealment of listening devices in such places as behind pictures, radiators, under desks, etc.

§ 159.501-4 *Emergency planning.* (a) Plans shall be developed for the protection, removal or destruction of classified material in case of natural disaster, civil disturbance, or enemy action. Such plans shall establish detailed procedures and responsibilities for the protection of classified material so that it does not fall into unauthorized hands in event of an emergency; and shall indicate what material is to be guarded, removed, or destroyed. An adequate emergency plan should provide for: Guarding the material; removing the classified material from the area; complete destruction of the classified material on a phased, priority basis; or appropriate combinations of those actions.

(b) Emergency plans shall provide for the protection of classified information in a manner which will minimize the risk of loss of life or injury to personnel. The immediate placement of a perimeter guard force around the affected area, pre-instructed and trained to prevent the removal of classified material by unauthorized personnel, is an acceptable means of protecting classified material and reducing casualty risk.

§ 159.501-5 *Telecommunications conversations.* Classified information shall not be discussed in telephone conversations except as may be authorized over approved secure communication circuits.

SUBPART—COMPROMISE OF CLASSIFIED INFORMATION

§ 159.600 *Policy.* The compromise of classified information presents a threat to the national security. The seriousness of that threat must be determined and appropriate measures taken to negate or minimize the adverse effect of such a compromise. Simultaneously, action must be taken to regain custody of the material and to identify and correct the cause of the compromise.

§ 159.600-1 *Cryptographic Information.* The procedures for handling compromise of cryptographic information are set forth in National Security Agency KAG-ID. [reference § 159-100(w)]

§ 159.600-2 *Responsibility of discoverer.* Any person who has knowledge of the actual or possible compromise of classified information shall immediately report the circumstances to a designated responsible official.

§ 159.600-3 *Preliminary inquiry.* The designated responsible official will initiate a preliminary inquiry to determine the circumstances surrounding the actual or possible compromise. The preliminary inquiry should establish either:

(a) That a loss of classified information or material did not occur or that the circumstances indicate the possibility that classified information was compromised as being remote. Expenditure of time and effort on unproductive investigation should be avoided. If the responsible official determines that the probability of compromise is remote, and that no significant activity security weakness is found and disciplinary action is not appropriate, the report of initial inquiry will suffice, or

(b) That an actual compromise did occur or that the possibility of compromise cannot be discounted. Upon this determination, the responsible official will:

(1) Report the circumstances to appropriate authority as specified in component instructions.

(2) If the responsible official is the originator, he shall take the action prescribed in § 159.600-6, below.

(3) If other than the originator, notify the originator of the known details of the compromise to include identification of the classified information or material involved. In the event the originator is unknown, notification will be sent to the office specified in component instructions.

§ 159.600-4 *Investigation.* If it is determined that further investigation is warranted, such investigation will include the following:

(a) Complete identification of each item of classified information involved.

(b) A thorough search for the classified material.

(c) Fixing responsibility for the compromise.

(d) A statement that compromise or that compromise is probable, or

(e) Statement that compromise did not occur or that possibility of compromise is considered remote.

§ 159.600-5 *Responsibility of authority ordering investigation.* (a) The report of investigation shall be reviewed to insure compliance with this part and instructions issued by component.

(b) The adequacy of recommendations contained in the report of investigation shall be reviewed for remedial, administrative or disciplinary action and the report of investigation forwarded with recommendations through supervisory channels.

§ 159.600-6 *Responsibility of originator.* The originator or an official higher in the originator's supervisory chain will, upon receipt of notification of loss or possible compromise of classified information, take action as prescribed in § 159.202-13.

§ 159.600-7 *Espionage and deliberate compromise.* Cases of espionage and deliberate compromise shall be reported in accordance with DOD Instruction 5200.22 reference § 159.100(f), DOD Directive 5210.50 reference § 159.100(g), and implementing issuances.

§ 159.600-8 *Unauthorized absentees.* When an individual who has had access to classified material is on unauthorized absence, appropriate inquiry, depending upon the length of absence and the degree of sensitivity of the classified information involved, shall be conducted to determine if there are any indications that his activities, behavior, or associations may be inimical to the interests of national security. In those cases where there are such indications a report shall be made to the component counterintelligence organization.

SUBPART—ACCESS, DISSEMINATION AND ACCOUNTABILITY

ACCESS

§ 159.700 *Policy.* The dissemination of classified information orally, in writing, or by any other means, shall be limited to those persons whose official duties require knowledge or possession thereof. No one has a right to have access to classified information solely by virtue of rank or position. The final responsibility for determining whether a person's official duties require that he possess or have access to any element or item of classified information, and whether he has been granted the appropriate security clearance by proper authority, rests upon each individual who has authorized possession, knowledge, or control of the information involved and not upon the prospective recipient. These principles are equally applicable if the prospective recipient is an organizational entity, including commands, other Federal agencies, defense contractors, foreign governments, and others.

§ 159.700-1 *Determination of trustworthiness.* Except as provided in § 159.700-6 below, no person shall be given access to classified information or material unless a determination has been made as to his trustworthiness. The determination of eligibility, referred to as a security clearance, will be based on a background or full field investigation for Top Secret and on a National Agency Check or Entrance NAC for Secret and Confidential, and in accordance with the standards and criteria of DOD Directives 5210.8 reference § 159.100(h) and 5220.6 reference § 159.100(t), as appropriate. Interim clearances may be granted in accordance with the provisions of DOD Directive 5210.8. However, United States citizen employees of contractors with classified Government contracts may be granted Confidential clearances by the contractor under policies established by the Assistant Secretary of Defense (comptroller) and published by the Defense Supply Agency (DSA) under the Industrial Security Program, except that such limited clearances are not valid for Restricted Data, cryptographic information, communications intelligence, or NATO, SEATO, and CENTO information classified Confidential.

§ 159.700-2 *Continuous evaluation of eligibility.* All DOD elements shall initiate a program for a periodic evaluation of clearance for classified information with special emphasis directed to the clearance criteria cited in DOD Directives 5210.8 and 5220.6. This program should include close coordination with security, personnel, medical, legal, and other supervisory officials to assure that all pertinent information available within a command is evaluated when an individual is cleared or is being considered for clearance.

§ 159.700-3 *Determination of need-to-know.* In addition to a security clearance, a person must have a need for access to the particular classified information or material sought in connection with the performance of his official duties or contractual obligations. The determination of that need shall be made as provided in § 159.700, above.

§ 159.700-4 *Administrative withdrawal of security clearance.* Each component and the DSA for the Industrial Security Program, shall make provision for administratively withdrawing the security clearance of any persons for whom there is no foreseeable need for access to classified information or material in connection with the performance of their official duties or contractual obligations of contractors. Likewise, when a person no longer needs access to a particular security classification category, the security clearance shall be adjusted to the classification category still required for the performance of his duties and obligations. In both instances, such action will be without prejudice to the person's eligibility for a future security clearance.

§ 159.700-5 *Revocation of security clearance for cause.* Security clearances may be revoked for cause when it is determined in consonance with due process of law that any person holding such clearance is no longer reliable or trustworthy.

§ 159.700-6 *Access by persons outside the executive branch.* Classified information may be made available to persons or agencies outside the executive branch provided that such classified information is necessary for their performance of a function from which the Government will derive a benefit or advantage, and that such release is not prohibited by the originating department or agency. Heads of DOD components shall designate appropriate officials who shall determine, prior to the release of classified information under this provision, the propriety of such action in the interest of national security and assurance of the recipient's trustworthiness and need-to-know.

(a) *Congress.* Access to classified information or material by Congress, its committees, Members, and staff representatives shall be in accordance with DOD Directive 5400.4 reference § 159.100(i). Additionally, any DOD individual testifying before a congressional committee in executive session in relation to a classified matter, shall obtain the assurance of committee representatives that everyone present has a security clearance commensurate with the highest classification of the information that may possibly come up for discussion. Members of Congress, by virtue of their elected positions, are not investigated or cleared by the Department of Defense.

(b) *Government Printing Office (GPO).* In order to utilize efficiently the most appropriate Government facilities for large scale reproduction of DOD printed materials, material of all classifications may be processed by the GPO, which protects the information in accordance with Department of Defense-Government Printing Office Agreement, dated June 26, 1956.

(c) *Representatives of the General Accounting Office (GAO).* Representatives of the GAO may be granted access to classified information originated by and in possession of the DOD when such information is relevant to the performance of the statutory responsibilities of that office, as set forth in DOD Directive 7650.1 reference § 159.100(j). Officials of the GAO, as designated in Appendix C (§ 159.1500-2), are authorized to certify security clearances, and the bases therefor. (The GAO has adopted DOD standards for granting personnel security clearances.) Certifications will be made by these officials pursuant to arrangements with the DOD component concerned. Personal recognition or presentation of the official credential cards issued by the GAO to its personnel are acceptable for identification purposes.

(d) *Industrial, Educational and Commercial Entities.* Bidders, contractors, grantees, educational, scientific or industrial organizations, may be determined to be eligible for access to classified information only when it is essential to the accomplishment of a function which is necessary in the interest of promoting the national security, provided the individuals are appropriately cleared in accordance with the DOD Industrial Security Regulation; DOD 5220.22-R.

(e) *Historical Researchers.* Persons outside the executive branch who are engaged in historical research projects, may be

authorized access to classified information or material, provided that:

(1) It is determined that such access is clearly consistent with the interests of national security.

(2) The material requested is reasonably accessible and can be located and compiled with a reasonable amount of effort.

(3) The person agrees to safeguard the information and to authorize a review of his notes and manuscript for determination that no classified information is contained therein by signing a statement entitled "Conditions Governing Access to Official Records for Historical Research Purposes."

(4) An authorization for access shall be valid for a period of 2 years from the date of issuance and may be renewed under regulations of the issuing component.

(f) *Former Presidential Appointees.* Persons who previously occupied policymaking positions to which they were appointed by the President, may be authorized access to classified information or material which they originated, reviewed, signed, or received, or which was addressed to them while in public office. DOD components may authorize access to such material if it is determined to be consistent with the interests of national security and the person agrees to safeguard the information and to authorize a review of his notes for determination that no classified information is contained therein, and that no classified information will be further disseminated or published. The former Government officials referred to herein do not include the White House Staff, or Presidential special committees or commissions.

(g) *Foreign Nationals, Foreign Governments and International Organizations.* Classified information may be released:

(1) To foreign nationals, foreign governments and international organizations, only when specifically authorized under the provisions of the National Disclosure Policy and reference § 159.100(1), and

(2) To immigrant aliens who reside and intend to reside permanently in the United States, only at the Confidential and Secret level, in the performance of official duties: *Provided*, That they have been granted a security clearance of the required level based upon a favorable background investigation. With regard to Top Secret information, immigrant aliens may be granted a Limited Access authorization for a specific contract or program based upon the personal and written determination by the Head of the DOD component concerned that such access is essential to meet Government requirements and that the individual is reliable and trustworthy in accordance with reference § 159.100(t). A report of each such determination shall be furnished currently to the Assistant Secretary of Defense (Comptroller). As an exception to the foregoing, those immigrant aliens who hold Top Secret clearances as of June 1, 1972, remain eligible to hold such clearances until July 1, 1974.

§ 159.700-7 *Emergency situations.* Where time is of the essence and it is in the interest of national security to do so,

Heads of DOD components may authorize persons outside the Federal Government other than those enumerated in § 159.700-6, to have access to classified information or material on a finding that the person to receive the information is trustworthy for the purpose of accomplishing the national security objective and that the intended recipient can and will safeguard the information from unauthorized disclosure sufficiently to accomplish the purposes for which it was given him.

§ 159.700-8 *Access required by other executive branch investigative and law enforcement agents.* (a) Under normal procedures investigative agents of other departments or agencies obtain access to DOD information, whether classified or not, through established liaison or investigative channels.

(b) In special cases when the urgent or delicate nature of a Federal Bureau of Investigation or Secret Service investigation precludes advance coordination with and obtaining prior approval of the Head of the DOD installation or activity, such photographs or other records as are required for the instant investigative case may be made by the FBI or Secret Service agents involved. However, these photographs or other records must be protected as required for the classification of the material concerned, and copies provided to the Head of the installation or activity or higher authority for review pursuant to 18 U.S.C. section 795, to determine security classification or the need to sanitize for open publication.

DISSEMINATION

§ 159.701 *Policy.* Components shall establish procedures for the dissemination of classified material originated or received by that organization, subject to specific rules established by higher authority and by this part. As a further limit on dissemination, the originating official or activity may prescribe specific restrictions on a classified document or in its text when security considerations make it necessary.

§ 159.701-1 *Restraints on special access requirements.* Special requirements with respect to access distribution and protection of classified information shall require prior specific approval in accordance with §§ 159.1200-159.1200-3.

§ 159.701-2 *Material originating in a non-DOD department or agency.* Except under rules established by the Secretary of Defense, classified material originating in a non-DOD Department or Agency shall not be disseminated outside the DOD without the consent of the originating Department or Agency, except as otherwise provided by section 102 of the National Security Act, 61 Stat. 495, 50 U.S.C. section 403 which authorizes the Director of Central Intelligence to correlate and disseminate intelligence within the Government.

§ 159.701-3 *Intelligence material.* Dissemination of intelligence material shall be in accordance with the provisions of DOD Directive 5200.15, reference § 159.100(m). Material bearing the notation "WARNING NOTICE—SENSITIVE INTELLIGENCE

SOURCES AND METHODS INVOLVED," shall not be disseminated in any manner outside authorized channels without the permission of the originating Department or Agency and an assessment by the appropriate intelligence office as to the risk to the national security and to the intelligence sources and methods involved.

§ 159.701-4 *Restricted data and formerly restricted data.* Material bearing the warning notices prescribed in §§ 159.400-159.400-4 shall not be disseminated outside authorized channels without the permission of the originator. The policy and procedures governing access to and dissemination of Restricted Data by DOD personnel are specified in DOD Directive 5210.2, reference § 159.100(n).

§ 159.701-5 *NATO, CENTO, SEATO information.* Classified information originated by NATO, CENTO, or SEATO shall be safeguarded in accordance with DOD Instructions C-5210.21, C-5210.35, and C-5210.54 (references § 159.100 (o), (p), and (q), respectively).

§ 159.701-6 *Cryptographic information.* Cryptographic information shall be disseminated in accordance with NSA KAG I D (reference § 159.100(w)).

§ 159.701-7 *Dissemination of top secret material.* (a) Top Secret material, originated within DOD, may not be disseminated outside the DOD, without the consent of the originating Department or Agency, or higher authority.

(b) Top Secret material, whenever severable from lower classified portions, shall be accorded separate distribution on a more selective basis than the balance of the information.

§ 159.701-8 *Dissemination of secret and confidential material.* Classified material other than Top Secret, originating within DOD, may be disseminated within the executive branch, unless specifically prohibited by the originator.

§ 159.701-9 *Restraint on reproduction.* Those portions of documents and material which contain Top Secret information shall not be reproduced without the consent of the originating activity or higher authority. All other classified material shall be reproduced sparingly, in the minimum number of copies, and any stated prohibition against reproduction shall be strictly observed. The following restrictive measures apply to reproduction equipment and to the reproduction of classified material:

(a) The number of copies of documents containing classified information shall be kept to a minimum to decrease the risk of compromise and reduce storage costs.

(b) Officials, by position title, authorized to approve the reproduction of Top Secret and Secret material shall be designated. These designated officials will carefully review the need for reproductions with a view toward minimizing classified reproductions consistent with operational requirements and reproduction prohibitions imposed by the material originator or higher authority.

(c) Specific reproduction equipment shall be designated for the reproduction of classified material. Reproduction of classified material shall be restricted to equipment so designated. Rules to minimize human error, inherent in the reproduction of classified material, will be posted on or near the designated equipment.

(d) Appropriate warning notices prohibiting reproduction of classified material shall be posted on equipment used only for the reproduction of unclassified material.

(e) If the designated equipment involves reproduction processes using extremely sensitive reproduction paper, such paper shall be used and stored in a manner to preclude image transfer of classified information.

§ 159.701-10 *Code words, nicknames and exercise terms.* The DOD policy and procedures governing the use of code words, nicknames and exercise terms are set forth in Appendix E (§ 159.1500-4).

§ 159.701-11 *Scientific and technical meetings.* Security measures for use of classified information in scientific and technical meetings are prescribed in DOD Directive 5200.12, reference § 159.100(z).

ACCOUNTABILITY AND CONTROL

§ 159.702 *Top Secret.* All elements of the DOD shall establish the following procedures:

(a) *Inventories:* Top Secret documents shall be physically sighted, or accounted for by examination of written evidence of proper disposition, such as, certificate of destruction, transfer receipt, etc., at least once annually, and more frequently where circumstances warrant. At the same time, each Top Secret document account shall be audited to determine completeness and accuracy. As an exception, repositories, libraries, or activities which store large volumes of classified material, may limit their annual inventory to all documents and material to which access has been given in the past 12 months, and 10 percent of the remaining inventory.

(b) *Accountability:* Top Secret accountability registers shall be maintained within offices. In addition, the originating and any subsequent offices shall keep records on each document copy that contain the document title, name, and date, of all individuals, including stenographic and clerical personnel, who, during such originator's or holder's period of custody, are afforded access to information contained in the documents. This does not include individuals within an activity who may have had access to containers in which Top Secret information is stored, or who regularly administratively handle a large volume of such information. Such personnel are considered identifiable by roster as having had access to such type information on any given date.

(c) *Control officers:* Top Secret control officers, and alternates, shall be designated within offices to be responsible for

receiving, maintaining accountability registers of, and dispatching Top Secret documents. Such individuals shall be selected on the basis of experience and reliability, and shall have appropriate security clearances.

(d) **Reproduction and retention:** Top Secret documents shall be kept to the minimum consistent with current requirements. In this connection, provision shall be made for responsible custodians to destroy nonrecord Top Secret documents, as soon as their intended purpose has been served. Top Secret record documents which cannot be destroyed shall be reevaluated and, when appropriate, downgraded, declassified, or retired to designated records centers.

(e) **Receipts:** Top Secret material will be accounted for by a continuous chain of receipts.

(f) Each copy of a Top Secret document will be numbered serially for accounting purposes.

§ 159.702-1 *Secret*. Administrative procedures shall be established for controlling Secret material (a) originated or received by an element; (b) distributed or routed to components of, or activities within, the element; and (c) disposed of by the element by transfer or custody or destruction. The control system for Secret must be determined by the practical balance of security and operating efficiency.

§ 159.702-2 *Confidential*. Administrative provisions shall be established which will provide protection for Confidential information received, originated, transmitted or stored by an element.

§ 159.702-3 *Receipt of classified material*. Procedures shall be developed within DOD activities to insure that all incoming mail, bulk shipments, and material delivered by messenger are adequately protected until a determination is made as to whether classified material is contained therein. Screening points, determined by the activity mail handling procedures, shall be established to insure that incoming classified material is properly controlled and that access to classified material is limited to cleared personnel.

§ 159.702-4 *Working papers*. Working papers are documents, including drafts, photographs, etc., accumulated or created to assist in the formulation and preparation of a finished document. Working papers containing classified information will be:

(a) Dated when created.

(b) Marked with the highest classification of any information contained in the document.

(c) Protected in accordance with the classification assigned.

(d) Destroyed when they have served their purpose.

(e) Accounted for or controlled in the same manner prescribed for a finished document of comparable classification when:

(1) Released by the originator to an agency or activity outside a headquarters or when transmitted through message center channels within a headquarters.

- (2) Placed permanently in a file system.
- (3) Retained more than 180 days from date of origin.
- (f) All working papers shall be marked with downgrading or exemption instruction when placed in permanent files.

§ 159.702-5 *Data index system.* The NSC Directive, reference § 159.100 (c), requires each Department to undertake to establish a data index system covering classified information and material in selected categories as having sufficient historical or other value appropriate for preservation. The DOD is considering the identification of such categories of information and material and the feasibility of various systems for the reporting and indexing such information.

SUBPART—TRANSMISSION

METHODS OF TRANSMISSION OR TRANSPORTATION

§ 159.800 *Policy.* When classified material must be physically moved, any means of transportation may be used, with the following exceptions:

(a) Classified material may not be carried or shipped on commercial passenger aircraft moving to or from the area encompassed by the 48 contiguous States and the District of Columbia, Alaska, and Canada, or from place to place outside such area; as an exception to the above rule, commercial passenger aircraft are authorized for carriage or shipment of classified material on flights between such area and Hawaii and Puerto Rico or wholly within Hawaii and Puerto Rico.

(b) Foreign carriers may not be utilized unless the U.S. escort has physical control of the classified material.

(c) Classified material shall not be carried across national borders unless the responsible official concerned determines that customs, postal, or other inspections will not be made.

§ 159.800-1 *Top Secret.* Transmission of Top Secret material shall be effected by only:

(a) Military personnel and U.S. Government civilian employees who have been cleared for access to Top Secret information. Personnel whose primary duties involve the transmitting or escorting of Top Secret material shall be specifically designated in writing.

(b) Within U.S. boundaries only, Department of Defense contractor employees who have been specifically designated and approved in accordance with the Department of Defense Industrial Security Manual.

(c) Armed Forces Courier Service (ARFCOS).

(d) Accompanied State Department diplomatic pouch.

(e) Electrical means when encrypted in a cryptosystem approved for encryption of Top Secret information.

(f) Electrical means in unencrypted form over protected wireline distribution systems.

§ 159.800-2 *Secret.* Transmission of Secret material may be effected by:

(a) Any of the means approved for the transmission of Top Secret, except that Secret material other than that containing Cryptological information may be introduced into the ARF-COS only when the control of such material cannot otherwise be maintained in U.S. custody.

(b) Appropriately cleared military and civilian personnel.

(c) Appropriately cleared contractor employees for transmission within the 48 contiguous States and the District of Columbia or wholly within Alaska, Hawaii, and Puerto Rico. In other areas, contractor employees may transmit Secret material, within national borders only, when it is necessary for the contractor employee in the performance of the contract, project, or mission to remove the classified information from a U.S. Government activity. The material must remain in the employee's physical possession and custody at all times and not be stored outside of a U.S. Government activity.

(d) U.S. registered mail, provided the material does not at any time pass through a foreign postal system (except Canadian as noted in paragraph (e) of this section). Registered mail in the custody of a transporting agency of the U.S. Army, Navy, Air Force or civilian postal system is considered within U.S. Government control unless the transporting agent is foreign controlled or operated.

(e) U.S. registered mail (registered by a U.S. postal facility) with registered mail receipt between U.S. Government and/or Canadian Government installations in the United States and Canada.

(f) Within U.S. boundaries only, qualified carriers authorized to transport Secret material via a protective security service (PSS) under the Department of Defense industrial security program. This method is authorized only when the size, bulk, weight, nature of the shipment, or escort considerations make the use of other methods impractical.

(g) Government carriers under escort of appropriately cleared personnel. Carriers included are Government vehicles, aircraft, ships of the U.S. fleet or civil service manned U.S. Naval ships. Appropriately cleared operators of vehicles, officers of ships or pilots of aircraft who are U.S. citizens may be designated as escorts provided the control and surveillance of the carrier is maintained on a 24-hour basis. The escort shall protect the shipment at all times, through personal observation or authorized storage to prevent inspection, tampering, pilferage, or unauthorized access until delivery to the consignee. However, observation of the shipment is not required during the period it is stored in an aircraft or ship in connection with flight or sea transit, provided the shipment is loaded into a compartment which is not accessible to any unauthorized persons aboard, or loaded in specialized shipping containers, including closed cargo containers.

(h) Electrical means over approved communication circuits.

§ 159.800-3 *Confidential*. Transmission of Confidential material may be effected by :

(a) Any means approved for the transmission of Secret material. However, U.S. registered mail shall be used for Confidential only where indicated in paragraph (b) of this section.

(b) U.S. certified or first-class mail within U.S. boundaries. U.S. registered mail shall be used for (1) Confidential material of NATO, SEATO, and CENTO; (2) FPO or APO addressees; and (3) other addressees when the originator is uncertain that their location is within the U.S. boundaries. Use of return postal receipts on a case-by-case basis is authorized.

(c) Within U.S. boundaries, commercial carriers which provide a security signature service (SSS), under the Department of Defense industrial security program. This method is authorized only when the size, bulk, weight, nature of the shipment, or escort considerations make the use of other methods impractical.

(d) In the custody of commanders or masters of ships of U.S. registry who are U.S. citizens. Confidential material shipped on ships of U.S. registry may not pass out of U.S. Government control. The commanders or masters must receipt for the cargo and agree to: (1) Deny access to the Confidential material by unauthorized persons, including customs inspectors. With the understanding that Confidential cargo which would be subject to customs inspections will not be unloaded; and (2) maintain control of the cargo until a receipt is obtained from an authorized representative of the consignee.

(e) Alternative transmission of Confidential. The head of any component having authority to originally classify information or material as "Confidential" may, by rule or regulation provide alternate or additional methods affording at least an equal degree of security for the transmission of such material outside the department.

§ 159.800-4 *Transmission of classified material to foreign governments.* (a) Subsequent to a determination by competent authority that classified material may be released to a foreign government, it shall be transmitted only:

(1) To an Embassy or other official agency of the recipient government which has extraterritorial status, or

(2) For on-loading aboard a ship, aircraft, or other carrier designated by the recipient government at the point of departure from the United States, its territories, or possessions, provided that at the time of delivery a duly authorized representative of the recipient government is present at the point of departure to accept delivery, to insure immediate loading, and to assume security responsibility for the classified material.

(b) U.S. classified material shall be transferred on a government-to-government basis by duly authorized representatives of each government, and shall not pass to a foreign government until a delivery receipt, to include a U.S. postal receipt where applicable, has been executed by a duly authorized representative of the recipient foreign government.

(c) Each contract, agreement, or arrangement which contemplates transfer of U.S. classified material to a foreign gov-

ernment within the United States, its territories, and possessions, shall designate a point of delivery in accordance with paragraphs (a) (1) or (a) (2) of this section. If delivery is to be made at a point described in paragraph (a) (2) of this section, the contract, agreement, or arrangement shall provide for U.S. Government storage, or storage by a cleared or certified forwarder or transshipper at or near the delivery point, so that the U.S. classified material may be temporarily stored in the event the carrier designated by the recipient foreign government is not available for loading. Any storage facility used or designated for this purpose must afford to the U.S. classified material the protection required by this part.

(d) If U.S. classified material is to be delivered to a foreign government within the recipient country, it shall be transmitted in accordance with this subpart. Unless the material is accompanied by a designated or approved courier or escort, it shall, on arrival in the recipient country, be delivered to a U.S. Government representative who shall arrange for transfer to a duly authorized representative of the recipient foreign government.

§ 159.800-5 *Consignor-consignee responsibility for shipment of bulky material.* The consignor of a bulk shipment shall:

(a) Normally, select a carrier which will provide a single line service from the point of origin to destination, when such service is available.

(b) Ship packages weighing less than 200 pounds gross only in closed vehicles.

(c) Notify the consignee, and military transshipping activities, of the nature of the shipment (including level of classification), the means of shipment, the numbers of seals if used, and the anticipated time and date of arrival by separate communication at least 24 hours in advance of arrival of the shipment. (In the absence of other classified information, stating the level of classification of the shipment would not require classification of the advance notice.) Advise the first military transshipping activity that, in the event the material does not move on the conveyance originally anticipated, the transshipping activity should so advise the consignee with information of firm transshipping date and estimated time of arrival. Upon receipt of the advance notice of a shipment of classified material, consignees and transshipping activities shall take appropriate steps to receive the classified shipment and to protect it upon arrival.

(d) Annotate the bills of lading to require the carrier to notify the consignor immediately, by the fastest means, if the shipment is unduly delayed en route. Such annotations shall not, under any circumstances, disclose the classified nature of the commodity.

(e) Require the consignee to advise the consignor of any shipment not received more than 48 hours after the estimated time of arrival furnished by the consignor or transshipping activity. Upon receipt of such notice, the consignor shall imme-

diately trace the shipment. If there is evidence that the classified material was subjected to compromise, the procedures set forth in §§ 159.600-159.600-8 of this part for reporting compromises shall apply.

§ 159.800-6 *Transmission of communications security (COMSEC) material.* Communications Security (COMSEC) material shall be transmitted in accordance with National Security Agency KAG-ID.

§ 159.800-7 *Transmission of restricted data.* Restricted Data documents shall be transmitted in the same manner as other material of the same security classification. The transporting and handling of nuclear weapons or nuclear components shall be in accordance with applicable component directives.

RESTRICTIONS ON CLASSIFIED MATERIAL

§ 159.801 *Personnel in a travel status.* Responsible officials shall permit personnel in a travel status to carry classified material only in exceptional situations and where hand carrying is not otherwise specifically prohibited. A determination shall be made in each instance that it is absolutely necessary for a traveler, in the performance of his official duties, to have classified information at his destination. When it is necessary in the performance of official travel duties, the following procedures shall apply:

(a) A determination shall be made to ascertain whether the necessary classified material is available at the destination of the traveler. If the material is available, no additional transmission shall be authorized.

(b) If the needed classified material is not available at the destination of the traveler, responsible officials shall, whenever possible, have the classified material transmitted to the activity being visited by authorized means.

(c) If it is impossible to comply with either paragraph (a) or (b) of this section, responsible officials may authorize appropriately cleared personnel to carry or transmit classified material on their persons between their duty station and the activity to be visited subject to the following conditions:

(1) The classified material shall be in the physical possession of the individual at all times if proper storage at a U.S. Government activity or appropriately cleared contractor facility (continental United States only) is not available. Classified material shall not be left in such places as locked automobiles, hotel rooms, hotel safes, train compartments, private residences, public lockers, etc.

(2) Classified material shall not be read, studied, displayed, or used in any manner in public conveyances or places.

(3) When classified material is carried in a private, public or Government conveyance, it shall not be stored in any detachable storage compartment such as automobile trailers, luggage racks, aircraft travel pods, or drop tanks.

(4) Written statements authorizing the transmission or carrying of classified material shall be provided by responsible offi-

cial to all individuals traveling outside the United States. This authorization statement, together with official travel orders, should ordinarily permit the individual to pass through any customs without the need for subjecting the classified material to inspection. If difficulty is encountered, the individual should refuse to disclose the classified material to customs inspection and should insist upon the assistance of the local U.S. military or State Department representatives at the port of entry or departure.

(5) A list of all classified material carried or transmitted by individuals traveling will be maintained by the command to which the individual is attached. Upon return of the traveler, all classified material shall be accounted for.

(6) All individuals authorized to carry or transmit classified material while in a travel status shall be fully informed of the provisions of these requirements prior to departure from their duty station.

§ 159.801-1 *Travel on commercial passenger aircraft susceptible to hijacking.* (a) As a result of hijackings, close attention must be given to the necessity for travel by commercial passenger aircraft of personnel hand-carrying classified material and of personnel having knowledge of sensitive information.

(b) In the event that an individual is a passenger aboard a commercial passenger aircraft which is hijacked and landed in a foreign country, he shall conduct himself as follows:

(1) If identification is required and an individual is in uniform, he shall show his Armed Forces Identification Card. If in civilian clothes, he should show civilian identification initially; however, if asked directly if he is in the Armed Forces, he should not attempt to deny military affiliation.

(2) If questioned or interrogated in a foreign country, commonsense judgment shall be used in making any response, but personnel shall not under any circumstances reveal classified information.

(3) Upon return to U.S. control, official U.S. investigators may want to debrief detainees. Personnel should, therefore, observe and mentally note the methods and procedures used by the detainer during their stay in the foreign country.

(c) If, as the result of hijacking of an aircraft to a foreign country, classified material is compromised or subjected to compromise, or there are indications of attempts at foreign intelligence exploitation of personnel or material, appropriate security officials shall be notified immediately.

PREPARATION OF MATERIAL FOR TRANSMISSION OR SHIPMENT

§ 159.802 *Envelopes or containers.* (a) Whenever classified information is transmitted, it shall be enclosed in two opaque sealed envelopes or similar wrappings where size permits, except as provided below.

(b) Whenever classified material is transmitted of a size not making it suitable for transmission as in paragraph (a) of this

section, it shall be enclosed in two opaque sealed containers, such as boxes or heavy wrappings. So long as this requirement is observed, the materials may be wrapped, boxed, or crated, or a combination thereof.

(1) If the classified material is an internal component of a packageable item of equipment, the outside shell or body may be considered as the inner enclosure.

(2) If the classified material is an inaccessible internal component of a bulky item of equipment that is not reasonably packageable, such as a missile, the outside shell or body of the item may be considered as the outer enclosure provided the shell or body is not classified.

(3) If the classified material is an item of equipment that is not reasonably packageable and the shell or body is classified it shall be draped with an opaque covering that will conceal all classified features. Such coverings must be capable of being secured so as to prevent inadvertent exposure of the item.

(4) Specialized shipping containers including closed cargo transporters, may be used in lieu of the above packaging requirements. In such cases, the container may be considered the outer wrapping or cover.

(c) Material used for packaging shall be of such strength and durability as to provide security protection while in transit, to prevent items from breaking out of the container, and to facilitate the detection of any tampering with the container. The wrappings shall conceal all classified characteristics.

(d) Closed and locked compartments, vehicles, or cars shall be used for shipments of classified material except when another method is authorized by the consignor. In any event, individual packages weighing less than 200 pounds gross shall be shipped only in a closed vehicle.

(e) To minimize the possibility of compromise of classified material caused by improper or inadequate packaging thereof, responsible officials shall ensure that proper wrappings are used for mailable bulky packages. Activities should provide for the stocking of several sizes of cardboard containers, and corrugated paper. Bulky packages shall be sealed with kraft tape laminated with asphalt and containing rayon fibers (snake tape) or nylon sensitive tape. Responsible officials shall require the inspection of bulky packages to determine whether the material is suitable for mailing or whether it should be transmitted by other approved means.

§ 159.802-1 *Addressing.* (a) Classified material shall be addressed to an official government activity or DOD contractor with a facility clearance and not to an individual. This is not intended, however, to prevent use of office code numbers or such phrases in the address as "Attention: Research Department," or similar aids in expediting internal routing, in addition to the organization address.

(b) Classified written material shall be folded or packed in such a manner that the text will not be in direct contact with the inner envelope or container. A receipt form shall be attached

to or enclosed in the inner envelope or container for all Secret and Top Secret material. Confidential material will require a receipt only if the originator deems it necessary. The mailing of written materials of different classifications in a single package should be avoided, particularly the inclusion of Confidential and Unclassified with Secret material. However, when written materials of different classifications are transmitted in one package, they shall be wrapped in a single inner envelope or container and a receipt listing all classified material contained therein shall be attached or enclosed. The inner envelope or container shall be marked with the highest classification of the contents.

(c) The inner envelope or container shall show the address of the receiving activity, classification, including where appropriate the "Restricted Data" marking, and any applicable special instructions. It shall be carefully sealed to minimize the possibility of access without leaving evidence of tampering.

(d) An outer or single envelope or container shall show the complete and correct address and the return address of the sender. However, the address may be omitted from the outer enclosures for shipment in full truckload or carload lots.

(e) An outer cover or single envelope or container shall not bear a classification marking, a listing of the contents divulging classified information, or any other unusual data or marks which might invite special attention to the fact that the contents are classified.

(f) Care must be taken to ensure that classified material intended only for the United States elements of international staffs or other organizations is addressed specifically to those elements.

§ 159.802-2 *Receipt systems.* (a) Top Secret material shall be transmitted under a continuous chain of receipts.

(b) Secret material shall be covered by a receipt between commands and other authorized addresses.

(c) Receipts for Confidential material are not required.

(d) Receipts shall be provided by the transmitter of the material and the forms shall be attached to the inner cover.

(1) Postcard receipt forms may be used.

(2) Receipt forms shall be unclassified and contain only such information as is necessary to identify the material being transmitted.

(3) Receipts shall be retained for at least 2 years.

(e) In those instances where a fly-leaf (page check) form is used with classified publications the postcard receipt will not be required.

§ 159.802-3 *Exceptions.* Exceptions may be authorized to the requirements contained in this subpart by the head of the component concerned or his designee, provided the exception affords equal protection and accountability to that provided above.

SUBPART—DISPOSAL AND DESTRUCTION

§ 159.900 *Policy.* Documentary record material made or received by a DOD component in connection with the transaction of public business, and preserved as evidence of the organiza-

tion, functions, policies, operations, decisions, procedures, or other activities of any department or agency of the Government, or because of the informational value of the data contained therein, may be disposed of or destroyed only in accordance with DOD component record management regulations which conform to the Act of July 7, 1943, controlling the disposition of such material; c. 192.57 Stat. 380, as amended (44 U.S.C. 366-380). Nonrecord classified material and other material of similar temporary nature, shall be destroyed as soon as their intended purpose has been served under procedures established by the head of the DOD component consistent with the following requirements.

§ 159.900-1 *Methods of destruction.* Classified material shall be destroyed in the presence of an appropriate official by burning, melting, or chemical decomposition, pulping, pulverizing, shredding, or mutilation sufficient to preclude recognition or reconstruction of the classified information, provided the head of the DOD component concerned, or his designee, has approved the method of destruction, except burning, as one which will preclude reconstruction of the material. The GSA Federal Supply Schedule lists some of the approved destruction devices.

§ 159.900-2 *Records of destruction.* Records of destruction are required for Top Secret and Secret material and shall be dated and signed by two officials witnessing actual destruction unless the classified material has been placed in burn bags for central disposal. In that case, the destruction record shall be signed by the witnessing officials at the time the material is placed in the burn bags.

§ 159.900-3 *Classified waste.* Waste material such as handwritten notes, carbon paper, typewriter ribbons, et cetera, which contains classified information must be protected in a manner to prevent unauthorized disclosure of the information. Classified waste material shall be destroyed as soon as it has served its intended purpose by one of the methods described in § 159.900-1, above, but a record of destruction and a witnessing official are not required.

SUBPART—SECURITY EDUCATION

§ 159.1000 *Responsibility and purpose.* Heads of DOD components are responsible for establishing security education programs for their personnel, designed to carry out the purposes of Executive Order 11652 and its implementing National Security Council Directive. Such programs shall, among other things, stress the objective of classifying less information, declassifying more information, and protecting better that which requires protection, and shall stress appropriate balance between the need to release the maximum information appropriate under the Freedom of Information Act with the interest of the Government in protecting the national security.

§ 159.1000-1 *Scope and principles.* The security education program shall include all personnel entrusted with classified information regardless of their position, rank, or grade. Each activity shall design its program to fit the particular require-

ments of the different groups of personnel who have access to classified information. Care must be exercised to assure that the program does not evolve into a perfunctory compliance with formal requirements without achieving the real goals of the program. The program shall be designed to:

(a) Advise personnel of the need for protecting classified information and the adverse effects to the national security resulting from compromise.

(b) Indoctrinate personnel fully in the principles, criteria, and procedures for the classification, downgrading, and declassification, including marking, of information as prescribed in §§ 159.100—159.405-4 and alert them to the strict prohibitions on improper use and abuses of the classification and declassification exemption systems.

(c) Familiarize personnel with the specific security requirements of their particular assignment.

(d) Inform personnel of the techniques employed by foreign intelligence activities in attempting to obtain classified information and of their responsibility for reporting such attempts.

(e) Advise personnel of the hazards involved and the strict prohibition against discussing classified information over the telephone or in such manner as to be intercepted by unauthorized persons.

(f) Advise personnel of the disciplinary actions that may result from violations of this part.

§ 159.1000-2 *Indoctrination briefing*. Persons being assigned to duties requiring access to classified information shall be indoctrinated. This indoctrination shall as a minimum cover the elements outlined in §159.1000-1.

§ 159.1000-3 *Refresher briefings*. Positive programs shall be established to provide periodic security training for personnel having continued access to classified information. The elements outlined in § 159.1000-1 above, shall be updated and designed to fit the needs of experienced personnel.

§ 159.1000-4 *Foreign travel briefings*. Personnel who have had access to classified material shall be given a foreign travel briefing as a defensive measure prior to travel to alert them of their possible exploitation under the following conditions:

(a) Travel to or through communist controlled countries for any purpose.

(b) Attendance at international, scientific, technical, engineering, or other professional meetings in the United States or in any country outside the United States where it can be anticipated that representatives of communist-controlled countries will participate or be in attendance.

§ 159.1000-5 *Debriefings*. Upon termination of employment or contemplated temporary separation for a 60 day period or more, employees shall be debriefed, return all classified material and be required to execute a security termination statement. A copy of the statement shall become a part of the individual's permanent file. This statement shall include the following:

(a) An acknowledgment that the individual executing the statement has read the appropriate provisions of the Espionage

Act, other criminal statutes and DOD regulations applicable to the level of classified information to which he has had access and understands the implications thereof.

(b) A recital that the individual no longer has any material containing classified defense information in his possession.

(c) A recital that the individual shall not communicate or transmit classified information orally or in writing to any unauthorized person or agency.

(d) A recital that the individual will report to the FBI or the DOD component concerned, as appropriate, without delay any incident wherein an attempt is made by any unauthorized person to solicit classified information.

SUBPART—FOREIGN ORIGIN MATERIAL

CLASSIFICATION

§ 159.1100 *Classifying foreign material.* Classified information or material furnished by a foreign government or international organization shall either retain its original assigned classification or be assigned a U.S. classification that assures equivalent protection. The origin of all material bearing foreign classifications, including material extracted and placed in Department of Defense documents or material, shall be clearly indicated on or in the body of the material to assure among other things, that the information is not released to nationals of a third country without consent of the originator.

§ 159.1100-1 *Equivalent U.S. classifications.* Foreign security classifications generally parallel U.S. classifications. A table of equivalents is contained in Appendix B (§ 159.1500-1).

§ 159.1100-2 *Foreign restricted.* As shown in Appendix B (§ 159.1500-1), a fourth foreign designation, "Restricted," is frequently used. Foreign Restricted information usually does not warrant U.S. security classification under Executive Order 11652, but it shall be marked as prescribed in § 159.1101-1.

MARKING

§ 159.1101 *NATO, CENTO, and SEATO.* Classified information or material originated by NATO, CENTO, or SEATO, if not already marked with the appropriate classification in English, shall be so marked. The exemption marking under § 159.403-1(c) and the special warning notice under § 159.405-3 shall not be entered. In addition, the following notation shall be entered in all cases: "To be safeguarded in accordance with -----." In the blank space insert:

For NATO: "USSAN Instruction 1-69" (Promulgated by DOD Instruction C-5210.21)

For CENTO: "USSAC Instruction 1-68" (Promulgated by DOD Instruction C-5210.35)

For SEATO: "USSAS Instruction 1-67" (Promulgated by DOD Instruction 5210.54)

§ 159.1101-1 *Other foreign material.* Foreign security classifications generally parallel U.S. classifications. (See § 159.100,

Appendix B.) If the foreign classification is shown in English, no additional classification marking is required. If the foreign classification is not in English, the equivalent English classification, including Restricted when appropriate, shall be entered as prescribed for U.S. documents. The exemption marking under § 159.403-1(c) and the warning notice under § 159.405-3 shall not be entered.

PROTECTIVE MEASURES

§ 159.1102 *NATO, CENTO, and SEATO classified information.* NATO, CENTO, and SEATO classified information shall be safeguarded in accordance with the respective provisions of DOD Instructions C-5210.21, DOD Instruction C-5210.35 and DOD Instruction 5210.54.

§ 159.1102-1 *Classified material of foreign origin.* Classified material of foreign origin shall be protected in accordance with the requirements prescribed for U.S. classified information of a comparable category. Foreign Restricted material shall be protected in all respects in the same manner as United States Confidential, except that Restricted material may be stored in locked filing cabinets, desks, or other similar closed spaces which will prevent access to unauthorized persons.

§ 159.1102-2 *Downgrading or regrading.* Action will be taken by all U.S. authorities holding foreign classified information to downgrade or regrade such information on receipt of notice of such action by the originating foreign government or international organization.

SUBPART—SPECIAL ACCESS PROGRAMS

§ 159.1200 *Policy.* It is the policy of the Department of Defense to utilize the standard classification categories and the applicable sections of Executive Order 11652 and its implementing National Security Council Directive (NSCD) to limit access to classified information on a "need-to-know" basis to personnel who have been determined to be trustworthy pursuant to such order and directive. It is the further policy to apply the "need-to-know" principle in the regular system so that there will be no need to resort to formal Special Access Programs requiring extraordinary procedures, and controls, such as formal access determinations, special briefings, reporting procedures, and recorded formal access lists.

§ 159.1200-1 *Definition.* A Special Access Program is any program imposing "need-to-know" or access controls beyond those normally provided for access to Confidential, Secret, or Top Secret information. Such a program includes, but is not limited to, special clearance, adjudication, or investigative requirements, special designation of officials authorized to determine "need-to-know," or special lists of persons determined to have a "need-to-know."

§ 159.1200-2 *Existing programs.* All Special Access Programs, as defined above, which are in existence and which were originated by any Department of Defense Component or ele-

ment of a Component, shall be reported to the Assistant Secretary of Defense (Comptroller) within thirty (30) days from the date of promulgation of this part. Such report shall include the following information:

(a) The full name of the program, and its code name, if applicable.

(b) The date the program was established and the title of the authorizing official.

(c) The number of persons on the Special Access list.

(d) The rationale for the selection of the Special Access Program.

(e) A full statement of the rules governing the program, including the determination of eligibility of individuals on the Special Access list.

§ 159.1200-3 *Future programs.* (a) All Special Access Programs, as above defined, which are desired to be established in the Departments of the Army, Navy, and Air Force after promulgation date of this Part, shall be submitted to the Secretary of the respective Department, with the information referred to in § 159.1200-2, above, for prior approval. If the Secretary of the Military Department approves the establishment of such program, he shall advise the Assistant Secretary of Defense (Comptroller) and furnish a copy of the information and rationale submitted to him on which he based his approval.

(b) All Special Access Programs, as defined above, which are desired to be established in any Department of Defense Component or Agency other than the three Military Departments shall be submitted to the Assistant Secretary of Defense (Comptroller), with the information referred to in § 159.1200-2, above, for prior approval.

SUBPART—PROGRAM MANAGEMENT

EXECUTIVE OFFICE OF THE PRESIDENT

§ 159.1300 *National Security Council (NSC).* The National Security Council is charged under Executive Order 11652, reference § 159.100(b) with monitoring implementation of the order. The NSC is also charged with issuing and maintaining Presidential directives to implement the order reference § 159.100(c).

§ 159.1300-1 *Interagency Classification Review Committee (ICRC).* To assist the National Security Council, an Interagency Classification Review Committee has been established.

(a) *Composition.* The Chairman of the ICRC is designated by the President. Its membership is comprised of representatives of the Departments of Defense, State, and Justice, the Atomic Energy Commission, the Central Intelligence Agency, and the National Security Council Staff. The General Counsel is the Department of Defense representative. Representatives of other Departments in the Executive Branch may be invited to meet with the Committee on matters of particular interest to those Departments.

(b) *Meetings and staff.* The ICRC meets regularly, but no less frequently than monthly. The Chairman appoints an Executive Director and permanent staff.

(c) *Functions.* The ICRC is charged with the following functions:

(1) Oversee Department actions to insure compliance with the provisions of the order and the implementing NSC directives with particular emphasis on Departmental programs established to implement the order and such directives.

(2) Receive, consider and take action on suggestions and complaints from persons within or without the Government with respect to the general administration of the order including appeals from denials by Departmental Committees or the Archivist of declassification requests. In consultation with the affected Department or Departments, the Committee will assure that appropriate action is taken on such suggestions and complaints.

(3) Seek to develop means to (i) prevent overclassification, (ii) ensure prompt declassification in accord with the provisions of the Order, (iii) facilitate access to declassified material, and (iv) eliminate unauthorized disclosure of classified information.

(d) *Information requests.* The Committee Chairman is authorized to request information or material concerning the Department of Defense, including its components, and needed by the Committee in carrying out its functions.

DEPARTMENT OF DEFENSE

§ 159.1301 *Management responsibility.* The Assistant Secretary of Defense (Comptroller) is the senior DOD official having authority and responsibility to insure effective and uniform compliance with and implementation of Executive Order 11652 and NSC implementing directives, references § 159.100 (b) and (c). Under the Assistant Secretary of Defense (Comptroller), the Deputy Assistant Secretary of Defense (Security Policy) is responsible for the development of policies, standards, criteria, and procedures governing the Department of Defense Information Security Program and for its effective and uniform implementation.

§ 159.1301-1 *DOD Classification Review Committee (DCRC).* The Department of Defense Classification Review Committee (DCRC) is comprised of the Assistant Secretary of Defense (Comptroller), Chairman, the Assistant Secretary of Defense (Public Affairs), and the General Counsel of the Department of Defense, as permanent members. Representatives from DOD components may be invited by the Chairman to meet with the Committee on matters of particular interest to those components. Its functions are:

(a) Receive, consider and take action upon all suggestions and complaints with respect to the administration of the Department of Defense Information Security Program, including without limitation, those regarding overclassification, unnecessary classification, failure to declassify, or delay in declassifying, not otherwise resolved at the component level.

(b) Review all appeals of requests for records under Section 552 of Title 5, U.S.C. (Freedom of Information Act) when the proposed denial is based on their continued classification under this Part.

(c) Receive, consider and take action upon appeals from the departmental Classification Review Committees of the Military Departments specified in § 159.1302-1.

(d) Recommend to the Secretary of Defense appropriate administrative action to correct abuse or violation of any provision of references § 159.100 (b) or (c) or this part, including notification, warning letters, formal reprimand, and to the extent permitted by law, suspension without pay, forfeiture of pay, and removal.

§ 159.1301-2 *DOD Information Security Advisory Board (DISAB)*. To advise and assist the Assistant Secretary of Defense (Comptroller), there is established a DOD Information Security Advisory Board. The Board shall be comprised of the Deputy Assistant Secretary of Defense (Security Policy), Chairman, and senior representatives designated by the Secretaries of the Military Departments, the Chairman, Joint Chiefs of Staff, the Director, Defense Research and Engineering, the Assistant Secretary of Defense (Intelligence), the Assistant Secretary of Defense (Public Affairs), the General Counsel of the Department of Defense, and the Director, Defense Supply Agency, as permanent members. Representatives of other components may be invited by the Chairman to participate in matters of specific interest. The Board shall review and evaluate the effectiveness of the administration of the program by DOD components, developing and recommending new or revised uniform policies, standards, criteria or procedures necessary to meet changing conditions or to correct deficiencies in the program.

DOD COMPONENTS

§ 159.1302 *Overall program responsibility*. The head of each DOD component is responsible for the establishment and maintenance of an Information Security Program, with adequate funding and sufficient experienced staff at all levels, designed to ensure effective compliance with the provisions of this part throughout his component.

§ 159.1302-1 *Military departments*. The Secretary of each Military Department shall designate a senior official who shall be responsible for the effective compliance with and implementation of this part within his Department. Each such official shall also serve as chairman of a departmental Classification Review Committee of his Department which shall have authority and responsibility to perform functions for his Department similar to those described in § 159.1301-1.

§ 159.1302-2 *Other components*. The head of each other DOD component shall designate a senior official who shall be responsible for the effective compliance with and implementation of this part within his component.

§ 159.1302-3 *Program monitorship.* The senior officials designated under §§ 159.1302-1 and 159.1302-2, above, are responsible within their respective jurisdictions for monitoring, inspecting and reporting on the status of administration of the DOD Information Security Program at all levels of activity under their cognizance.

§ 159.1302-4 *Field program management.* Each activity throughout the DOD shall assign (as a sole, principal or additional duty, depending upon operational responsibilities as dictated by the level and quantity of classified information involved in operations) an official to serve as security manager for the activity. He shall be responsible for administration of an effective Information Security Program in that activity with particular emphasis on (a) the assignment of proper classifications; (b) effective prevention of unauthorized disclosures of classified information; (c) progressive downgrading and declassification; and (d) systematic reviews to eliminate by destruction, transfer or retirement all unneeded classified material on the fastest basis consistent with operational requirements. Security managers should have sufficient staff assistance and authority to carry out an effective program.

REPORTS REQUIREMENTS

§ 159.1303 *Reports requirements.* In addition to the reports required by § 159.105-3 (classification authorities), the DOD and Military Department Classification Review Committees (§§ 159.1301-1 and 159.1302-1) shall submit through appropriate channels to the senior DOD official named in § 159.1301, quarterly reports covering committee actions on classification review requests, classification abuses and unauthorized disclosures, and provide such other reports as the senior DOD official may require. Such reports are covered by the Reports Control Symbol specified in § 159.105-3.

SUBPART—ADMINISTRATIVE AND JUDICIAL ACTION

§ 159.1400 *Individual responsibility.* Every officer or employee, military or civilian, is responsible for complying with the provisions of this Part in all respects.

§ 159.1400-1 *Administrative actions.* With the view of emphasizing the importance and necessity of carrying out both the letter and the spirit of Executive Order 11652, the implementing National Security Council directives, and this part, violations of these instruments shall be the subject of administrative action as follows:

(a) Repeated abuse by an officer or employee of the classification process, or repeated failure, neglect, or disregard by an officer or employee of established requirements with respect to safeguarding classified information or material, shall be grounds for adverse administrative action. Such action may include a warning notice, formal reprimand, suspension without pay or forfeiture of pay, or discharge, as appropriate in the particular case, in accordance with applicable policies and procedures.

(b) An officer or employee, regardless of office or level of employment, who is responsible for any unauthorized release or disclosure of classified information or material shall be notified that his action is in violation of the executive order, the implementing National Security Council directives, and this part, and, in addition, shall be subject to prompt and stringent action including, as appropriate in the particular case, a warning notice, formal reprimand, suspension without pay, forfeiture of pay, or discharge, in accordance with applicable policies and procedures.

§ 159.1400-2 *Judicial action.* Any action resulting in unauthorized disclosure of classified information which constitutes a violation of the criminal statutes shall be the subject of a report processed in accordance with DOD Directive 5210.50, reference § 159.100(g) and DOD Instruction 5200.22, reference § 159.100(f).

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