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§ 1815.1-2 Applications.

(a) *Place of filing.* The application for relief shall be filed in the office which issued the contract.

(b) *Form of application.* No special form of application is necessary.

(c) *Contents of application.* (1) The date of issuance of the contract and any identification number.

(2) The particular disaster and its effect upon contract performance.

(3) An estimate of the damages suffered.

(4) A statement of the relief requested.

(5) An estimate of time which will be needed to overcome the delay in performance caused by the disaster.

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Subpart 1821—Execution and Filing of Forms

AUTHORITY: R.S. 2478, 43 U.S.C. 1201; 43 U.S.C. 1740, unless otherwise noted.

SOURCE: 35 FR 9514, June 13, 1970, unless otherwise noted.

§ 1821.1 Names of claimants.

Full names of claimants must appear in applications, final certificates, and patents.

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§ 1821.2 Office hours; place for filing; time limit.

§ 1821.2-1 Office hours; place for filing.

(a) The hours during which the offices set forth in paragraph (d) of this section shall be open to the public for the filing of applications and other documents and the inspection of records shall be prominently displayed in each office.

(b) Applications and other documents cannot be received for filing by the authorized officer out of office hours, nor elsewhere than at his office; nor can affidavits or proofs be taken by him except in the regular and public discharge of his ordinary duties.

(c) Copies of forms may be obtained from any of the offices listed under paragraph (d) of this section. However, completed forms and other documents must be filed in the office having jurisdiction.

(d) The Bureau of Land Management has redelegated authority to District and Area Offices for processing certain types of public lands disposal and use authorization applications. In those instances where delegation has been made to the District or Area Office from the State Office, applications shall be filed with the District or Area Office having responsibility for the public lands covered by the requested action. Accordingly, applicants, prior to the filing of an application, should contact the State, District or Area Office of the Bureau of Land Management in their immediate vicinity or for the geographic area in which the public lands being applied for are located. The locations of the offices are as follows:

STATE OFFICE AND AREA OF JURISDICTION

Alaska State Office, 222 W. 7th Avenue, #13, Anchorage, AK 99513-7599—Alaska
Arizona State Office, 3707 North 7th Street, Phoenix, AZ 85014; Mail: P.O. Box 16563, Phoenix, AZ 85011—Arizona
California State Office, 2135 Butano Dr., Sacramento, CA 95825-0451—California
Colorado State Office, 2850 Youngfield Street, Lakewood, CO 80215-7076—Colorado
Eastern States, 7450 Boston Boulevard, Springfield, VA 22153—Arkansas, Iowa, Louisiana, Minnesota, Missouri and all States east of the Mississippi
Idaho State Office, 3380 Americana Terrace, Boise, ID 83706-2500—Idaho

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Montana State Office, Granite Tower, 222 N. 32nd Street, P.O. Box 36800, Billings, MT 59107-6800—Montana, North Dakota and South Dakota
Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, NV 89520-0006—Nevada
New Mexico State Office, 1474 Rodeo Road, P.O. Box 27115, Santa Fe, NM 87502-7115—Kansas, New Mexico, Oklahoma, and Texas
Oregon State Office, 1300 N.E. 44th Avenue, P.O. Box 2965, Portland, OR 97208-2965—Oregon and Washington
Utah State Office, 324 South State Street, Suite 301, Salt Lake City, UT 84111-2303—Utah
Wyoming State Office, 5353 Yellowstone Rd, Cheyenne WY 82009; Mail: P.O. Box 1828, Cheyenne, WY 82003—Wyoming and Nebraska

DISTRICT AND AREA OFFICES

A list of the name, address and jurisdiction of all District and Area Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1800 C Street, NW., Washington, DC 20240

(Sec. 310, Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740))

[38 FR 12111, May 9, 1973, as amended at 47 FR 12292, Mar. 22, 1982; 47 FR 40413, Sept. 14, 1982; 48 FR 40724, Sept. 9, 1983; 48 FR 42984, Sept. 21, 1983; 50 FR 38122, Sept. 23, 1985; 51 FR 23547, June 30, 1986; 51 FR 26248, July 22, 1986; 51 FR 34981, Oct. 1, 1986; 59 FR 25823, May 18, 1994; 60 FR 48905, Sept. 21, 1995; 61 FR 37687, July 19, 1996]

§ 1821.2-2 Time limit for filing documents.

(a) The authorized officer will reject all applications to make entry which are executed more than 10 days prior to filing.

(b) Such rejections shall be subject to the right of appeal and to the right to file a new and properly executed application, or to reexecute the rejected application, without priority.

(c) The authorized officer will accept as filed within the time named in paragraph (a) of this section all applications to enter which were deposited in the mails within 10 days from the date of execution.

(d) Any document required or permitted to be filed under the regulations of this chapter, which is received in the

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proper office, either in the mail or by personal delivery when the office is not open to the public, shall be deemed to be filed as of the day and hour the office next opens to the public.

(e) Any document required by law, regulation or decision to be filed within a stated period, the last day of which falls on a day the office is officially closed, shall be deemed to be timely filed if it is received in the proper office on the next day the office is open to the public.

(f) Except when paragraph (c) of this section is applicable, filing is accomplished when a document is delivered to and received by the proper office. Depositing a document in the mails does not constitute filing.

(g) When the regulations of this chapter provide that a document must be filed or a payment made within a specified period of time, the filing of the document or the making of the payment after the expiration of that period will not prevent the authorized officer from considering the document as being timely filed or the payment as being timely made except where:

(1) The law does not permit him to do so.

(2) The rights of a third party or parties have intervened.

(3) The authorized officer determines that further consideration of the document or acceptance of the payment would unduly interfere with the orderly conduct of business.

[38 FR 12111, May 9, 1973]

§ 1821.2-3 Simultaneous filings; determination of order of priority.

(a) Two or more documents are considered as simultaneously filed when:

(1) In accordance with the regulations in §1821.2-2, they are delivered to and received by the proper office at the same time; or

(2) They are filed pursuant to an order which specifies that documents delivered to and received by the proper office during a specified period shall be considered as simultaneously filed.

(b) Whenever it is necessary, for the purposes of the regulations in this chapter, to determine the order of priority of consideration among documents which have been simultaneously filed, such order of priority will be es-

tablished by a drawing open to public view.

(c) Nothing in this regulation shall be construed as denying any preference right granted by applicable law or regulation or as validating any document which is invalid under applicable law or regulation.

[38 FR 12112, May 9, 1973]

§ 1821.2-4 Use of certified mail.

Certified mail as outlined in 39 CFR part 58, may be used in lieu of registered mail in public land matters within the jurisdiction of the Department of the Interior except where use of registered mail is specifically required by statute.

§ 1821.3 Oaths.

§ 1821.3-1 Elimination of the requirements.

(a) Written statements in public land matters under the jurisdiction of the Department of the Interior need not be made under oath unless the Secretary in his discretion shall so require (43 U.S.C. 1211). All written statements in public land matters within the jurisdiction of the Department of the Interior required prior to June 3, 1948, by law, or Chapter I of this title, to be made under oath, need no longer be made under oath, except as provided in this paragraph.

(1) Affidavits must be furnished where required by parts 1840 and 1850.

(2) Final proofs required by R.S. 2294 (43 U.S.C. 254). (See §§1821.3-2, 2511.3-4 and 2521.6(d) of this chapter.)

(3) Statements as to the financial worth of individual sureties on bonds furnished in connection with leases, licenses or permits granted under the public land laws, known as *Affidavits of Justification*, must be made in affidavit form.

(b) Unsworn statements in public land matters are subject to Title 18, U.S.C., section 1001, which makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statement or representations as to any matter within its jurisdiction.

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(c) False statements as to any material fact made by an applicant in connection with applications, allowance of which is discretionary with the authorized officer, are a proper basis for rejection of the applications.

§ 1821.3-2 Officers qualified.

(a) Oaths required under the homestead, and, desert-land acts may be made before the authorized officer of the proper office for the district embracing the land sought; or before any person authorized by the laws of or pertaining to the State to administer oaths.

§ 1821.4 Notations on applications.

§ 1821.4-1 Notation of rights-of-way.

(a) In order that all persons making entry of public lands which are affected by rights-of-way may have actual notice thereof, a reference to such right-of-way should be made upon the original entry papers and upon the notice of allowance of the application issued to the entryman.

§ 1821.4-2 When notation required.

The authorized officer will make notations of rights-of-way on entry papers, only where his records show that the land involved, or some part of it, is covered by an approved application for right-of-way. See: *Minneapolis, St. Paul & Sault Ste. Marie Railway Co. v. Doughty* (208 U.S. 251, 52 L. ed. 474). Applicants to enter public lands that are affected by a mere pending application for right-of-way, should be verbally informed thereof and given all necessary information as to the character and extent of the project embraced by the right-of-way application; and, further, that they must take the land subject to whatever right may have attached thereto under the right-of-way application, and at the full area of the subdivisions entered, irrespective of the questions of priority or damages, these being questions for the courts to determine.

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§ 1821.5 Entries for lands in more than one land district.

§ 1821.5-1 Governing regulations.

Persons desiring to make and perfect entries of land lying partly within one land district and partly within another will be governed by §§ 1821.5, 1823.4(a) and (b).

§ 1821.5-2 Applications and fees to be filed in each office.

Complete applications must be filed in each office, together with the usual fee and commissions payable for the land in each land district, besides any other payment required by law. Each application should contain a proper reference to the other application.

§ 1821.5-3 Mining claims.

In applying for patent to a mining claim embracing land lying partly within one land district and partly within another, a full set of papers must be filed in each office, except that one abstract of title and one proof of patent expenditures will be sufficient. Only one newspaper publication and one posting on the claim will be required, but proof thereof must be filed in both offices, the statements as to posting plat and notice on the claim to be signed within the respective land districts, as well, also, as all of the other statements required in mineral patent proceedings, except such as, under the law, may be signed outside of the land district wherein the land applied for is situated. Publication, payment of fees, and the purchase price of the land will be further governed by the provisions of § 1823.4(a).

CROSS REFERENCE: For mining claims, see subpart 3821 of this chapter.

§ 1821.6 Alaska.

§ 1821.6-1 Applications not to be rejected because executed more than 10 days prior to filing.

Section 1821.2-2 directs authorized officers to reject all applications to make entry which are executed more than 10 days prior to filing. Until such time as the transportation facilities in

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Alaska are improved the provisions of said section will not be held applicable to applications filed in the proper offices of Alaska.

[35 FR 9514, June 13, 1970. Redesignated at 49 FR 35300, Sept. 6, 1984]

§ 1821.6-2 Joint action to acquire public lands.

(a) Ten or more persons may file in the proper office applications in a single group under any one or more of the laws relating to the acquisition of lands in Alaska, including the Homestead Laws (30 Stat. 409; 32 Stat. 1028; 48 U.S.C. 371), Small Tract Laws (52 Stat. 609, 59 Stat. 467; 43 U.S.C. 682a), Home-Site Law (48 Stat. 809; 48 U.S.C. 461) and Town-Site Laws (R.S. 2380-

2389, as amended, 43 U.S.C. 711-722; 26 Stat. 1099; 48 U.S.C. 355). Each application must be complete in itself except that information common to more than one application in a group need not be duplicated at length but may appear in or as an appendix to one such application and be adopted by reference made in the other applications.

(b) Where certain requirements must be met before an application to enter or purchase may be filed, a statement of intention to meet such requirements, signed by each prospective applicant, must be submitted in lieu of an application. Upon compliance with applicable requirements as to residence or otherwise, each such person must file an actual application as required by law.

(c) Each group of applications filed hereunder should be accompanied by two copies of a diagram showing the plan of development contemplated by the applicants. Each such application may describe the land covered by it in terms of a lot or tract as set forth in such diagram or the preliminary diagram specified in this paragraph. The diagram should include specific information as to the relative location and areal extent of each tract or site which it is contemplated will be devoted to school and other municipal or common purposes, to stores or other commercial enterprises, to housing and to agriculture and grazing. Assistance in the preparation of a preliminary diagram, which need not pertain to a particular

tract of land, may be obtained by communicating in person or by mail with the U.S. Department of the Interior, Washington, DC, 20240. Such preliminary diagram may be used as the basis for the diagram to be filed with the group of applications and which must relate to specific land.

(d) Upon the filing of such a diagram by the applicants or their authorized representative, a petition or petitions may be filed requesting the withdrawal of the lands to be devoted to school and other municipal or common purposes.

(e) If any of the applications involve unsurveyed public lands, such applications may also be accompanied by a petition, either joint or several, for the withdrawal of the lands in behalf of specified applicants, the survey, and, in appropriate cases, the classification under the Small Tract Law, of such lands. The filing of such applications confers of itself no right upon the applicants. If the withdrawal is made, and the land classified, applicants shall have the first right to acquire the interests for which they have applied, to the extent permitted by statute. Any application, entry or withdrawal made pursuant to this section shall be subject to all valid prior claims.

(f) Persons who propose to file applications in a group under paragraph (a) of this section, by a writing to be filed in the proper office, may designate a representative or representatives who may, at their direction and in their behalf, make the actual filing of the applications, previously executed by the applicants and accompanying and supporting documents; pay any or all fees and costs in connection therewith; and, in complete satisfaction of the requirements of §2511.1(a) of this chapter, personally examine the lands sought to be entered and make and file a statement setting forth the information otherwise required of each individual applicant by §2511.1-6(a) of this chapter.

(g) Where ten or more settlers are entitled by statute to request and receive a free survey of the lands upon which they have settled, they may file a joint petition stating the facts as to compliance with law by each of them. Such petition must be corroborated by two

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witnesses having knowledge of the facts.

(h) Where the costs of any survey made under this section are required by statute to be borne by one who seeks the survey, the necessary deposit for costs must be made. The individual applicant is ultimately responsible in such instances for the costs entailed in satisfying his request for such a survey, but persons who file joint or group petitions for such surveys may share the costs thereof in any proportion they may determine.

[35 FR 9514, June 13, 1970. Redesignated at 49 FR 35300, Sept. 6, 1984]

Subpart 1822—Payments and Repayments

AUTHORITY: Sec. 4, 21 Stat. 287, as amended; 43 U.S.C. 263.

SOURCE: 35 FR 9519, June 13, 1970, unless otherwise noted.

§ 1822.0-3 Authority for repayments.

The repayment of moneys received by the Government and covered into the U.S. Treasury, in connection with the disposal or attempted disposal of the public lands, is authorized by sections 2362 and 2363, Revised Statutes (43 U.S.C. 689, 690). The general laws providing for the return of such moneys are contained in the act of June 16, 1880 (21 Stat. 287; 43 U.S.C. 263) and the Act of June 14, 1960 (43 U.S.C. 1374).

§ 1822.1 Payments.

§ 1822.1-1 Amount.

(a) The amount of payments required in connection with the processing of any application, sale, entry, lease, permit, or other transaction governed by the regulations in this chapter are set forth in applicable regulations.

(b) The amount of payments required for copies and abstracts of records, including plats and diagrams showing the status of lands, are determined as provided in part 2 of this title.

(R.S. 2478; 43 U.S.C. 1201)

§ 1822.1-2 Forms of remittances.

(a) Subject to the condition set forth in paragraph (b) of this section, forms of remittances that will be accepted in

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payment of fees, rentals, purchase price, and other charges required by the regulations in this chapter include cash and currency of the United States and checks, money orders, and bank drafts made payable to the Bureau of Land Management. Checks or drafts are accepted subject to collection and final payment without cost to the Government office.

(b) Personal checks are an acceptable form of remittance except where the regulations in this chapter specifically provide otherwise.

(R.S. 2478; 43 U.S.C. 1201)

§ 1822.2 Repayments.

§ 1822.2-1 Filing of applications.

Applications for repayment should be filed on a form approved by the Director with the authorized officer of the proper office.

§ 1822.2-2 Statement of grounds for repayment.

Where an application is filed, it should be accompanied by a statement by the applicant setting forth fully the grounds upon which repayment is claimed.

§ 1822.3 Act of June 16, 1880.

§ 1822.3-1 Statutory provisions.

(a) *Act of June 16, 1880.* The Act of June 16, 1880 (21 Stat. 287; 43 U.S.C. 263) provides for the repayment of fees, commissions, purchase money, and excesses paid in connection with entries of the public lands canceled for conflict, or where, from any cause, the entry was erroneously allowed. This clause directs that said moneys shall be repaid to the person who made such entry, or to his heirs or assigns, and it requires the surrender of the receipts issued and the execution of a proper relinquishment of all claims to the lands acquired under the invalid entry.

§ 1822.3-2 Applications.

(a) Claims for repayment should be made on a form approved by the Director or the equivalent thereof, which application must contain a statement

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that the title to the land under the invalid entry has not been sold or assigned and that the same has not become a matter of record.

(b) In cases where the entry has been made a matter of record, in the archives of the county recording officer, there should be added to the form of application the words "except as shown by accompanying evidence," in which event the evidence hereinafter required must be furnished.

(c) A duly executed relinquishment must be furnished by the applicant on a form approved by the Director.

(d) The relinquishment must be witnessed by two persons.

§ 1822.3-3 Recording of reconveyance.

(a) *When not required.* In all cases where patent has been issued, upon an invalid entry, a full reconveyance to the United States of all right and title to the land acquired under the patent and entry must be furnished, which deed must be recorded. If a certificate of the recording officer is produced showing that neither the entry nor the patent has been recorded, it is unnecessary to record the reconveyance in case the patent is surrendered.

(b) *When required.* If, however, the patent cannot be surrendered, or should the entry or patent have been recorded, it is necessary that the proper party or parties execute a full reconveyance to the United States and have the same recorded as indicated in the next following sections.

(c) *When quitclaim deed required.* Where title under an invalid entry or patent has become a matter of record, a duly executed quitclaim deed, relinquishing to the United States all right, title, and claim to the land, acquired under the entry, or patent, must accompany the application for repayment.

(d) *Recording of quitclaim deed.* The deed referred to in the preceding section must be duly recorded, and a certificate must also be produced from the proper recording officer of the county wherein the land is situated, showing that said deed is so recorded and that the records of his office do not exhibit any other conveyance or encumbrance of the title to the land.

(e) *Conformance to State laws.* The reconveyance to the United States must conform in every particular to the laws of the State in which the land is located relative to transfers of real property.

(f) *Reconveyance unnecessary.* If the applicant has also acquired the valid title conveyed by the United States, a reconveyance of the land is unnecessary, but a relinquishment, waiving all claim under the illegal entry, is required, together with corroborative evidence of the facts, preferably an abstract of title and a statement in full in support of the claim for repayment.

§ 1822.3-4 Repayment to heirs, executors, administrators.

(a) Where application is made by heirs, satisfactory proof of heirship is required. This must be the best evidence that can be obtained and must show that the parties applying are the heirs and the only heirs of the deceased.

(b) Proof of heirship should be made in the form of a statement, corroborated by two witnesses, setting forth the date of the death of the intestate; whether the intestate left surviving a husband or wife, as the case may be; the full name and age of such husband or wife; the names and ages of all children; and also state whether there is any issue of a deceased child or children. The statement should set forth all the facts, in order that the Bureau of Land Management may determine who are the legal heirs, in accordance with the laws of descent and distribution of the State where the land is situated.

(c) In case there are minor heirs not under the guardianship of a duly appointed guardian, and the amount to be repaid is \$200 or less, the surviving parent may execute the application as the natural guardian of such heirs. Such application should be supplemented with a statement setting forth all the facts in detail.

(d) Where application is made by executors, a certificate of executorship from the probate court must accompany the application.

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(e) Where application is made by administrators, the original, or a certified copy, of the letters of administration must be furnished.

§ 1822.3-5 Repayment to assignees.

(a) Those persons are assignees, within the meaning of the statutes authorizing the repayment of purchase money, who purchase the land after the entries thereof are completed and take assignments of the title under such entries prior to complete cancellation thereof, when the entries fail of confirmation for reasons contemplated by the law.

(b) Where applications are made by assignees, the applicants must show their right to repayment by furnishing properly authenticated abstracts of title, or the original deeds or instruments of assignment, or certified copies thereof.

(c) In the place of an abstract of title the applicant may furnish a certificate of the recording officer of the county in which the land is situated, showing all alienations or liens affecting title to the land in connection with the entry upon which the claim for repayment is based.

(d) The applicants must also show that they have not been indemnified by their grantors or assignors for the failure of title, and that title has not been perfected in them by their grantors through other sources.

(e) Where there has been a conveyance of the land and the original purchaser applies for repayment, he must show that he has indemnified his assignee or perfected the title in him through another source, or produce a full reconveyance to himself from the last grantee or assignee.

(f) To construe said statutes so as to recognize the assignment or transfer of the mere claim against the United States for repayment of purchase money, or fees and commissions, disconnected from a sale of the land or attempted transfer of title thereto, would be against the settled policy of the Government and repugnant to section 3477 of the Revised Statutes (31 U.S.C. 203). (2 Lawrence, First Comp. Dec. 264, 266, and 6 Dec. Comp. of the Treasury, 334, 359.)

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(g) Assignees of land who purchase after entry are, in general, deemed entitled to receive the repayment when the lands are found to have been erroneously sold by the Government. But this rule does not apply to the repayment of double-minimum excesses. (First Comp. Dec. in case of Adrian B. Owens, Copp's Public Land Laws, 1890, vol. 2, p. 1238.)

§ 1822.3-6 Repayment to mortgagees.

(a) Mortgagees are not assignees within the meaning of the repayment laws, but may become such by pursuing the course suited to the particular case as follows:

(1) Where, after date of entry and prior to cancellation thereof, the land is mortgaged and the mortgagee receives a sheriff's deed under foreclosure proceedings, the mortgagee becomes an assignee. (See 193 U.S. 651, 58 L. ed. 830; 28 L.D. 201, 30 L.D. 136.)

(2) Where a mortgage is executed prior to the cancellation of an entry, and a deed made to the mortgagee after such cancellation, the holder of such deed becomes the assignee. (See 26 L.D. 425.)

(b) In either case, complete evidence must be furnished to establish the applicant's right to repayment by producing the original deeds or instruments, or certified copies thereof showing all transactions, together with certified copies of the court proceedings.

Subpart 1823—Proofs and Testimony

AUTHORITY: R.S. 2478, 43 U.S.C. 1201.

SOURCE: 35 FR 9520, June 13, 1970, unless otherwise noted.

§ 1823.1 Time and place; appearances.

§ 1823.1-1 Time; place; continuance.

Final proofs should in every case be made at the time and place advertised, and before the officer named in the notice, at his regularly established office or place of business, and not elsewhere. Between the hours of 8 a.m. and 6 p.m. on the day advertised the officer named in the notice should call the case for hearing, and should the claimant fail to appear with his witnesses between those hours, or the taking of the proof

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fail to be completed on that day, the officer should continue the case until the next day, and on that day or any succeeding day should the claimant or his witnesses fail to so appear he should proceed in like manner to continue the case from day to day until the expiration of 10 days from the date advertised, but proof cannot be taken after the expiration of the tenth day. Upon continuing any case in the manner indicated the officer continuing the same should in the most effective way available give notice of such continuance to all interested parties.

§ 1823.1-2 Who may appear.

Protestants, adverse claimants, or other persons desiring to be present at the taking of any proof for the purpose of cross-examining the claimant and his witnesses, or to submit testimony in rebuttal, should be allowed to appear for that purpose on the day advertised, or upon any succeeding day to which the case may be continued. If any person appears for the purpose of filing a formal protest against the acceptance or approval of the proofs or contest against the entry and does nothing more than file same, such protest or contest should be received and forwarded to the manager for his consideration and action.

§ 1823.2 Procedures.

§ 1823.2-1 Examination of claimant and witnesses.

All final proofs should be reduced to writing by or in the presence of and under the supervision of the officer taking them, and in all cases where no representative of the Government appears for the purpose of making cross-examinations the officer taking the proof should use his utmost endeavor and diligence so to examine the entryman and his witnesses as to obtain full, specific, and unevasive answers to all questions propounded on the blank forms prescribed for the taking of such proofs, and in addition to so doing he should make and reduce to writing and forward to the authorized officer with the proof such other and further rigid cross-examination as may be necessary clearly to develop all pertinent and material facts affecting or

showing the validity of the entry, the entryman's compliance with the law, and the credibility of the claimant and his witnesses. And, in addition to this, he should inform the authorized officer of any facts not set out in the testimony which in his judgment cast suspicion upon the good faith of the applicant or the validity of the entry.

§ 1823.2-2 Testimony to be taken separate and apart from and not within the hearing of the others.

The testimony of each claimant should be taken separate and apart from and not within the hearing of either of his witnesses, and the testimony of each witness should be taken separate and apart from and not within the hearing of either the applicant or of any other witness, and both the applicant and each of the witnesses should be required to state in and as a part of the final proof testimony given by them that they have given such testimony without any actual knowledge of any statement made in the testimony of either of the others.

§ 1823.2-3 Advice concerning laws and penalties for false swearing.

Officers taking affidavits and testimony should call the attention of parties and witnesses to the laws respecting false swearing and the penalties therefor and inform them of the purpose of the Government to hold all persons to a strict accountability for any statements made by them.

§ 1823.2-4 Fees; costs.

(a) Reducing testimony to writing. On all final proofs made before the officer of the Bureau of Land Management authorized to take proofs, the claimant must pay to the authorized officer the costs of reducing the testimony to writing, as determined by the authorized officer. No proof shall be accepted or approved until such payment has been made.

§ 1823.3 Transmittal of proof papers.

The officer who has taken a proof should, after duly certifying the papers, promptly transmit them to the authorized officer. In no case should the transmittal thereof be left to the claimant.

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§ 1823.4 Proof on entries in more than one district.

(a) In submitting proof, the two entries should be treated as one, and the published notice of intention should describe all the land and specify in which land district each part of the claim is located. If the notice is published correctly and the proof is satisfactory, the authorized officer who issued the notice for publication will issue final certificate for the portion within his land district on payment of the testimony fees and payment of the commissions and (if required) the purchase money due for the land in his district. He will then advise the authorized officer of the district wherein the remainder of the claim is located, who will, on receipt of the final commissions and purchase money (if any) due for the part in his district, issue final certificate for that portion without further proof.

(b) Should a proof be rejected by the office from which the notice of intention is issued the appeal or further showing must be filed in the office which rejected the proof.

§ 1823.5 Conduct of officers.

§ 1823.5-1 Prohibited activities.

No officer authorized to take final proofs shall, directly or indirectly, either as agent, attorney, or otherwise, in any manner or by any means cause, aid, encourage, induce, or assist any person wrongfully or illegally to acquire, or attempt to acquire, any title to, interest in, use of, or control over any public lands belonging to the United States.

Subpart 1824—Publication and Posting of Notices

AUTHORITY: 20 Stat. 472; 43 U.S.C. 251.

SOURCE: 35 FR 9521, June 13, 1970, unless otherwise noted.

§ 1824.0-1 Purpose.

The object of the law requiring publication of notices of intended final proof on entries of public lands is to bring to the knowledge and attention of all persons who are or who might be interested in the lands described therein or who have information concerning the

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illegality or invalidity of the asserted claims thereto, the fact that it is proposed to establish and perfect such claims, to the end that they may interpose any objection they may have, or communicate information possessed by them to the officers of the Bureau of Land Management.

§ 1824.1 Selection of newspaper.

§ 1824.1-1 Qualifications of newspaper.

(a) A notice of intended final proof must be published in a newspaper of established character and of general circulation in the vicinity of the land affected thereby, such paper having a fixed and well-known place of publication. No newspaper shall be deemed a qualified medium of notice unless it shall have been continuously published during an unbroken period of 6 months immediately preceding the publication of the notice, nor unless it shall have applied for and been granted the privilege of transportation in and by the United States mails at the rate provided by law for second-class matter (39 CFR part 132).

§ 1824.1-2 Discretionary authority of authorized officer; limitations.

(a) The law invests authorized officers with discretion in the selection of newspapers to be the media of notice in such cases as are here referred to, but that discretion is official in character, and not a purely personal and arbitrary power to be exercised without regard for the object of the law by which it is conferred.

(b) In designating papers in which notices of intention to make final proof under the Act of March 3, 1879 (20 Stat. 472; 43 U.S.C. 251) shall be published, the authorized officer shall designate only such reputable papers of general circulation nearest the land applied for, the rates of which do not exceed the rates established by State laws for the publication of legal notices.

§ 1824.2 Payment for republication of notice.

(a) The law imposes upon managers the duty of procuring the publication of proper final-proof notices, and charges the claimant with no obligation in that behalf, except that he shall

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bear and pay the cost of such publication.

(b) Neglect of the duty defined in paragraph (a) of this section, resulting in a requirement of republication, should not visit its penalty upon the claimant. In all such cases, therefore, the entire cost of such republication shall be borne by the Government. If an error is committed by the printer of the paper in which the notice appears, the manager may require such printer to correct his error by publishing the notice anew for the necessary length of time at his own expense, and for his refusal to do so may decline to designate his said paper as an agency of notice in cases thereafter arising.

§ 1824.3 Frequency of publication.

(a) In many cases it is necessary to designate a daily paper in which to publish the notices of intention to submit final proof required to be given by homestead and desert land entrymen as well as the notices of location of other claims.

(b) The expense of publishing such notices for the prescribed period in every issue of a daily paper is often prohibitive, and the object of publication of such notices can be accomplished by a less number of insertions. Therefore, in all cases where the law does not specifically otherwise direct, publication will be made as follows:

(1) Where publication is required for 30 days, if the authorized officer designates a daily paper, the notice should be published in the Wednesday issue for five consecutive weeks; if weekly, in five consecutive issues, and if semi-weekly, or triweekly, in any one of the weekly issues for five consecutive weeks.

(2) Where publication is required for 60 days, except in mining cases, if the authorized officer designates a daily paper the notice should be published in the Wednesday issues for nine consecutive issues; if weekly in nine consecutive issues; if semiweekly or triweekly in any one of the weekly issues for nine consecutive weeks.

(c) Publication of notice in mining cases must be made in accordance with §3862.4-1 of this chapter.

Subpart 1825—Relinquishments

AUTHORITY: R.S. 2478; 43 U.S.C. 1201.

§ 1825.1 When relinquished land becomes subject to further appropriation.

(a) Upon the filing in the proper office of the relinquishment of a homestead claim, the land, if otherwise available, will at once become subject to further application or other appropriation in accordance with the applicable public land laws. A provision to this effect is contained in section 1 of the Act of May 14, 1880 (21 Stat. 140; 43 U.S.C. 202).

(b) Upon the filing of a relinquishment of an entry or claim (other than a homestead claim), or a lease, the land will not become subject to further application or other appropriation until the entry, claim or lease has been canceled pursuant to the relinquishment and the fact of the cancellation has been noted on the tract books in the proper office.

[35 FR 9521, June 13, 1970]

§ 1825.2 Relinquishment of right-of-way.

The relinquishment of an approved right-of-way may be conditioned upon the approval of a subsequent application, filed as an amendment to the approved right-of-way, or as an independent application, but conflicting in whole or in part with the approved right-of-way. Such a relinquishment will not be accepted and noted on the proper office tract books until action on the subsequent application is taken.

[35 FR 9521, June 13, 1970]

Subpart 1826—Reinstatement of Canceled Entries

AUTHORITY: R.S. 2478; 43 U.S.C. 1201.

§ 1826.1 Application for reinstatement.

(a) An application for the reinstatement of a canceled entry, while pending, operates to reserve the land covered thereby from other disposition.

(b) Applications for reinstatement of canceled entries must be filed in the proper office and must be executed by

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the entryman, his heirs, legal representatives, assigns, or transferees, as the case may require. If made by other than the entryman, such petition for reinstatement must fully set forth the nature and extent of petitioner's interest in the land, how acquired, and the names and addresses of any other person or persons who have or claim an interest therein. All petitions for reinstatement should set forth all facts and state clearly and concisely upon what grounds reinstatement is urged. Such petition must be signed by the applicant.

(c) Applications for reinstatement of canceled entries executed by agents and attorneys will not be recognized.

(d) Should an application for reinstatement be filed not conforming to the foregoing, the authorized officer will promptly advise the party thereof, calling his attention to the defects and allow 15 days in which to file a proper application.

(e) All applications must be accompanied by an application service fee of \$10 which is not returnable.

[35 FR 9521, June 13, 1970]

PART 1840—APPEALS PROCEDURES

AUTHORITY: R.S. 2478, as amended; 43 U.S.C. 1201.

§ 1840.1 Cross reference.

For special procedural rules applicable to appeals from decisions of Bureau of Land Management officers or of administrative law judges, within the jurisdiction of the Board of Land Appeals, Office of Hearings and Appeals, see subpart E of part 4 of this title. Subpart A of part 4 and all of the general rules in subpart B of part 4 of this title not inconsistent with the special rules in subpart E of part 4 of this title are also applicable to such appeals procedures.

[36 FR 15119, Aug. 13, 1971]

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PART 1850—HEARINGS PROCEDURES

Subpart 1850—Hearing Procedures; General

AUTHORITY: R.S. 2478, as amended; 43 U.S.C. 1201.

§ 1850.1 Cross reference.

For special procedural rules applicable to hearings in public lands cases, including hearings under the Federal Range Code for Grazing Districts and hearings in both Government and private contest proceedings, within the jurisdiction of the Board of Land Appeals, Office of Hearings and Appeals, see subpart E of part 4 of this title. Subpart A of part 4 and all of the general rules in subpart B of part 4 of this title not inconsistent with the special rules in subpart E of part 4 of this title are also applicable to such hearings, contest, and protest procedures.

[36 FR 15119, Aug. 13, 1971]

PART 1860—CONVEYANCES, DISCLAIMERS AND CORRECTION DOCUMENTS

Subpart 1862—Patent Preparation and Issuance

- Sec. 1862.0–3 Authority.
- 1862.1 Contents.
- 1862.2 Delivery.
- 1862.3 Issuance of supplemental noncoal patents.
- 1862.4 Patent to be withheld pending report from Forest Service.
- 1862.5 Suits to vacate and annul patents.
- 1862.6 Patent to issue after 2 years from date of manager's final receipt.

Subpart 1863—Other Title Conveyances

- 1863.5 Title transfer to the Government.
- 1863.5–1 Evidence of title.

Subpart 1864—Recordable Disclaimers of Interest in Land

- 1864.0–1 Purpose.
- 1864.0–2 Objectives.