

§ 2521.8

which, by the exercise of reasonable diligence, the existence of such conditions might have been discovered: *Provided, nevertheless*, That where an applicant for amendment has made both homestead and desert land entries for contiguous lands, amendment may be granted whereby to transfer the desert-land entry, in its entirety, to the land covered by the homestead entry, and the homestead entry, in its entirety, to the land covered by the desert-land entry, or whereby to enlarge the desert-land entry in such manner as that it will include the whole or some portion of the lands embraced in the homestead entry, sufficient equitable reason for such enlargement being exhibited, and the area of the enlarged entry in no case exceeding 320 acres. Applications for such amendments may be made under §§ 1821.6-1 to 1821.6-5 of this chapter and on the prescribed form, in so far as the same are applicable. A supplemental statement should also be furnished, if necessary, to show the facts.

(c) *Evidence of water-right to accompany application to amend desert-land entry.* Application to amend desert-land entries by the addition of a new and enlarged area or by transferring the entry to lands not originally selected for entry must be accompanied by evidence of applicant's right to the use of water sufficient for the adequate irrigation of said enlarged area or of the lands to which entry is to be transferred. Such evidence must be in the form prescribed by § 2521.2.

§ 2521.8 Contests.

(a) Contests may be initiated by any person seeking to acquire title to or claiming an interest in the land involved against a party to any desert-land entry because of priority of claim or for any sufficient cause affecting the legality or validity of the claim not shown by the records of the Bureau of Land Management.

(b) Successful contestants will be allowed a preference right of entry for 30 days after notice of the cancellation of the contested entry, in the same manner as in homestead cases, and the authorizing officer will give the same notice and is entitled to the same fee for notice as in other cases.

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§ 2521.9 Relinquishments.

A desert-land entry may be relinquished at any time by the party owning the same. Conditional relinquishments will not be accepted.

Subpart 2522—Extensions of Time To Make Final Proof

SOURCE: 35 FR 9587, June 13, 1970, unless otherwise noted.

§ 2522.1 General acts authorizing extensions of time.

(a) There are five general Acts of Congress which authorize the allowance, under certain conditions, of an extension of time for the submission of final proof by a desert-land claimant. Said Acts are the following: June 27, 1906 (Sec. 5, 34 Stat. 520; 43 U.S.C. 448); March 28, 1908 (Sec. 3, 35 Stat. 52; 43 U.S.C. 333); April 30, 1912 (37 Stat. 106; 43 U.S.C. 334); March 4, 1915 (Sec. 5, 38 Stat. 1161; 43 U.S.C. 335); and February 25, 1925 (43 Stat. 982; 43 U.S.C. 336). The Act of June 27, 1906, is applicable only to entries embraced within the exterior limits of some withdrawal or irrigation project under the Reclamation Act of June 17, 1902 (32 Stat. 388).

(b) In addition to the Acts cited in this section, extensions of time for making desert-land proofs were authorized by the Acts of June 16, 1933 (48 Stat. 274; 43 U.S.C. 256a), July 26, 1935 (49 Stat. 504; 43 U.S.C. 256a), and June 16, 1937 (50 Stat. 303; 43 U.S.C. 256a). Such Acts affect only proofs becoming due on or before December 31, 1936. For that reason, the regulations which were issued thereunder have not been included in this chapter.

§ 2522.2 Procedure on applications for extensions of time, where contest is pending.

(a) A pending contest against a desert-land entry will not prevent the allowance of an application for extension of time, where the contest affidavit does not charge facts tending to overcome the prima facie showing of right to such extension (41 L.D. 603).

(b) Consideration of an application for extension of time will not be deferred because of the pendency of a contest against the entry in question