SUBJECT: Rules of Procedure in Individual Exclusion Order Cases.

1. a. Executive Order No. 9066 provides:

"WHEREAS the successful prosecution of the war requires every possible protection against espionage and against sabotage to national-defense material, national-defense premises, and national-defense utilities as defined in Section 4, Act of April 20, 1918, 40 Stat. 533, as amended by the Act of November 30, 1940, 54 Stat. 1220, and the Act of August 21, 1941, 55 Stat. 655 (U.S.C., Title 50, Sec. 104):

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, and Commander in Chief of the Army and Navy, I hereby authorize and direct the Secretary of War, and the Military Commanders whom he may from time to time designate, whenever he or any designated Commander deems such action necessary or desirable, to prescribe military areas in such places and of such extent as he or the appropriate Military Commander may determine, from which any or all persons may be excluded, and with respect to which, the right of any person to enter, remain in, or leave shall be subject to whatever restrictions the Secretary of War or the appropriate Military Commander may impose in his discretion. The Secretary of War is hereby authorized to provide for residents of any such area who are excluded therefrom, such transportation, food, shelter, and other accommodations as may be necessary, in the judgment of the Secretary of War or the said Military Commander, and until other arrangements are made, to accomplish the purpose of this order. The designation of military areas in any region or locality shall supersede designations of prohibited and restricted areas by the Attorney General under the Proclamations of December 7 and 8, 1941, and shall supersede the responsibility and authority of the Attorney General under the said Proclamations in respect of such prohibited and restricted areas.

I hereby further authorize and direct the Secretary of War and the said Military Commanders to take such other steps
as he or the appropriate Military Commander may deem advisable to enforce compliance with the restrictions applicable to each Military area hereinabove authorized to be designated, including the use of Federal troops and other Federal Agencies, with authority to accept assistance of state and local agencies.

I hereby further authorize and direct all Executive Departments, independent establishments and other Federal Agencies to assist the Secretary of War or the said Military Commanders in carrying out this Executive Order, including the furnishing of medical aid, hospitalization, food, clothing, transportation, use of land, shelter, and other supplies, equipment, utilities, facilities, and services.

This order shall not be construed as modifying or limiting in any way the authority heretofore granted under Executive Order No. 8972, dated December 12, 1941, nor shall it be construed as limiting or modifying the duty and responsibility of the Federal Bureau of Investigation, with respect to the investigation of alleged acts of sabotage or the duty and responsibility of the Attorney General and the Department of Justice under the Proclamations of December 7 and 8, 1941, prescribing regulations for the conduct and control of alien enemies, except as such duty and responsibility is superseded by the designation of military areas hereunder.

THE WHITE HOUSE,
February 19, 1942.

b. The Act of March 21, 1942 (Public Law 503, 56 Stat. 173) provides:

"To Provide a Penalty for Violation of Restrictions or Orders With Respect to Persons Entering, Remaining in, Leaving, or Committing Any Act in Military Areas or Zones

is enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that whoever shall enter, remain in, leave, or commit any act in any military area or military zone prescribed, as prescribed under the authority of an Executive Order of the President, by the Secretary of War, or by any military commander designated by the Secretary of War, contrary to the restrictions applicable in any such area or zone or contrary to the order of the Secretary of War or any such military commander, 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 guilty of a misdemeanor and upon conviction shall be liable to a fine not to exceed $5,000 or to imprisonment for not more than one year, or both, for each offense."
2. In determining which individuals shall be excluded from such military areas, or otherwise restricted, it is impracticable to establish any fixed procedure of inquiry or a definite standard to determine under what circumstances exclusion is required. However, in order to prevent abuse of the powers conferred and to safeguard the interests of individuals who may be the subject of inquiry, certain minimum measures should be included which afford such a subject of inquiry a reasonable opportunity to answer the charges or imputations against him which the inquiry has disclosed and to present such evidence and witnesses on his behalf as he deems desirable and are material to the question.

3. In determining whether exclusion or other action is required, it should be borne in mind that the purpose of the inquiry is not to determine whether a crime has been committed. The orders issued are not punitive in character, but preventive or precautionary. Ordinarily, but not necessarily, a person will be excluded because, if he remains, there is reasonable ground for supposing that he may commit some act prejudicial to the prosecution of the war, or omit the performance of some act which it is his duty to perform, which act or omission would be prejudicial to the prosecution of the war. That act or omission need not necessarily be a crime, though it may be; but in general, the possibility that the subject may commit a crime or misdemeanor will not alone be a sufficient ground for exclusion unless the crime or misdemeanor be one prejudicial to the war effort and of so serious a character that it is desirable to prevent any possibility of its commission by the exclusion of the subject. The basis for the supposition that the subject may commit an act prejudicial to the war effort, or omit an act which omission is likewise prejudicial, may arise from one or more of the following indications, or from some other:

   a. He is of hostile origin or associations.

   b. He has been concerned in acts prejudicial to the prosecution of the war, or in the preparation or instigation of such acts.

   c. His conduct or words, written or spoken, indicate he is in sympathy with the enemy or is likely to assist, give aid, comfort, or information to the enemy.
d. He has been or is a member of an organization which is subject to foreign influence or control, or the person or persons in control of which organization have had or have associations with or are in sympathy with persons in the government or armed forces of a foreign power.

4. When an inquiry is initiated by an authority specified in Executive Order No. 9066 to determine whether the successful prosecution of the war requires the exclusion or other restraint of any person in a military area a Board of Officers (hereinafter called "Board") may be appointed for the conduct of an inquiry.

5. The Board is appointed to accomplish a confidential mission. Its meetings and hearings will not be open to the public or to military personnel except on order of the appointing authority. No publicity will be given its work or proceedings, and no report will be made except to the appointing authority, which report shall be classified according to its content.

6. The Board will examine and consider such information, documents, and reports as are submitted to it through the appointing authority; it will examine such other witnesses, documents, and reports as it deems necessary and proper in order to ascertain the facts and make an impartial recommendation to the appointing authority.

a. It shall be the duty of the Board to afford the subject an opportunity to be heard and to present any witnesses and evidence material to the question. Not less than three days prior to the hearing, the Board shall cause a notice to be served on the subject stating the general nature of the inquiry, the hour, day, and place of the hearing, and, to the extent that sources of information are not compromised and confidential or secret matters not divulged, the matters to be inquired into at the hearing. Service of such notice may be made in the manner provided for service of subpoena in courts-martial (CM 1928) par. 97b). A suggested form of notice is annexed (A).

b. If he so desires, the subject may be represented by counsel of his own choice who may cross-examine such witnesses (if any) as the Board may think proper to examine in open session, may present evidence, introduce and examine witnesses on the subject's behalf, subject to further examination by the board, may address the Board, and subject to the limitations herein stated and such others as are
inherent in the nature of the inquiry, may take such other action as is usually allowable to counsel before a board of officers or other administrative tribunal. The subject and his counsel may attend such hearings as the Board may designate.

7. All witnesses shall be sworn.

8. The provisions of AR 420-5 will apply in all circumstances not herein covered insofar as not inconsistent herewith and to such extent that sources of information are not compromised and confidential or secret matters not divulged.
To -

1. You are hereby notified that an inquiry is in progress to determine whether the protection of the successful prosecution of the war requires your exclusion from Military Area, or certain parts or zones thereof and similar areas in other parts of the United States prescribed pursuant to Executive Order No. 9066, dated February 19, 1942.

2. The general nature of the matters to be inquired into are: (See 3 a, b, c, and d of Rules.)

3. You will be given the opportunity of a hearing before a Board of Officers convened for the purpose at on the day of 1943, at o'clock m. You may, if you so desire appear before the Board at that time and present such evidence and witnesses in your behalf as you deem desirable.

4. It is requested that you advise the Board in writing in the attached self-addressed envelope, at least 24 hours in advance of the hearing, whether you will be present.

5. For your information and guidance, the following may assist you in your appearance before the Board.

   a. All matters pertaining to the hearing are confidential and no publicity will be given them by the Board.

   b. If you so desire, you may be represented by counsel of your own choice at the hearing. You or your counsel may cross-examine such witnesses as the Board may examine in open session; present evidence and examine witnesses on your behalf, subject to further examination by the Board; address the Board; and, in the discretion of the Board, take such other action as will aid it in developing the facts.

   c. You and your witnesses may refuse to answer any questions asked by the Board without assigning any specific reason for such refusal.

   d. The Board will consider such affidavits, documents, and records presented by you as are material to the question.
Place ____________________________
Date ____________________________
Hour ____________________________

I acknowledge receipt of a notice of which the foregoing is a copy.

_____________________________

Place ____________________________
Date ____________________________
Hour ____________________________

I hereby certify that at the above place, date, and hour I duly served the notice of which the foregoing is a copy upon the person therein named by personally delivering the original thereof to him. Acknowledgement of service by signature was made — refused.

______________________________________________
Title and official position