

Bureau of Indian Affairs, Interior

Pt. 141

Traders shall not accept pawns or pledges of personal property by Indians to obtain credit or loans.

§ 140.24 Cash payments only to Indians.

Traders must not pay Indians in tokens, tickets, store orders, or anything else of that character. Payment must be made in money, or in credit if the Indian is indebted to the trader.

§ 140.25 Trade in antiquities prohibited.

Traders shall not deal in objects of antiquity removed from any historic or prehistoric ruin or monument on land owned or controlled by the United States.

CROSS REFERENCE: For regulations pertaining to archaeological resources, see part 262 of this chapter. For regulations of the Bureau of Land Management regarding antiquities, see 43 CFR part 3.

§ 140.26 Infectious plants.

Traders shall not introduce into, sell, or spread within Indian reservations any plant, plant product, seed, or any type of vegetation, which is infested, or infected or which might act as a carrier of any pests of infectious, transmissible, or contagious diseases, as determined by the laws and regulations of the State for plant quarantine and pest control. For the purpose of enforcement of this provision State officers may enter Indian reservations, with the consent of the superintendent, to inspect the premises of such traders and otherwise to execute such State laws and regulations.

PART 141—BUSINESS PRACTICES ON THE NAVAJO, HOPI AND ZUNI RESERVATIONS

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AUTHORITY: 5 U.S.C. 301; 25 U.S.C. 2 and 9; and Sec. 701, Pub. L. 114–74, 129 Stat. 599, unless otherwise noted.

SOURCE: 40 FR 39835, Aug. 29, 1975, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

**Subpart A—Interpretation and
Construction Guides**

§ 141.1 Purpose.

The purpose of the regulations of this part is to prescribe rules for the regulation of reservation businesses for the protection of Indian consumers on the Navajo, Hopi and Zuni Reservations as required by 25 U.S.C. 261, 262, 263, and 264.

§ 141.2 Scope.

The regulations of this part apply to all non-members of the Navajo, Hopi and Zuni Tribes, who engage in retail businesses on the above respective reservations. These regulations do not apply to businesses that are wholly owned and operated by either the Navajo, Hopi or Zuni Tribes, or by individual tribal members within their respective reservations.

[45 FR 64906, Oct. 1, 1980. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 141.3 Definitions.

For the purposes of this part—

(a) *Annual percentage rate* means the annual percentage rate of finance charge determined in accordance with 12 CFR 226.5, which defines annual percentage rates.

(b) *Consumer credit transaction* means a grant of credit or a loan that is made

by a person regularly engaged in the business of making loans or granting credit primarily for a personal, family, household, or agricultural purpose.

(c) *Draft* means a writing that is a direction to pay that:

(1) Identifies the person to pay with reasonable certainty;

(2) Is signed by the drawer;

(3) Contains an unconditional order to pay a sum certain in money and no other promise, order, obligation or power given by the drawer;

(4) Is payable on demand or at a definite time; and

(5) Is payable to order.

(d) *Finance charge* means the cost of credit determined in accordance with 12 CFR 226.4, which defines “finance charge”.

(e) *Firm* means a corporation or a partnership.

(f) *Gross receipts* include the following:

(1) All cash received from the conduct and operation of the licensee’s business at the premises described in the application for license.

(2) Receipts from both wholesale and retail transactions.

(3) Receipts resulting from transactions concluded off the reservation that originate from the conduct and operation of the licensee’s business on the reservation.

(4) The market value of all property taken in trade on the date when received and either held by the licensee for purposes other than resale or credited on any account in payment for merchandise.

(5) Proceeds from the sale of any goods bought from Indians regardless of where the sale takes place.

(6) Finance charge received on loans, but not the return of principal.

(g) *Open end credit* means consumer credit transactions made on an account by a plan under which:

(1) The creditor may permit the customer to make purchases or obtain loans, from time to time, directly from the creditor or indirectly by use of a credit card, check, or other device, as the plan may provide;

(2) The customer has the privilege of paying the balance in full or in installments; and

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(3) A finance charge may be computed by the creditor from time to time on an outstanding unpaid balance.

(h) *Pawnbroker* means a person whose business includes lending money secured by personal property deposited with the lender.

(i) *Peddler* means a person who offers goods for sale within the exterior boundaries of the Hopi, Navajo or Zuni Reservations, but does not do business from a fixed location or site on any of those reservations.

(j) *Person* includes a natural person, a corporation, trust, estate, partnership, cooperative or association.

(k) *Replacement value* means the present cost to the owner of replacing an item with one having the same quality and usefulness.

(l) *Reservation business* means a person that engages at a fixed location or site within the exterior boundaries of the Navajo, Hopi or Zuni Reservations in the sale or purchase of goods or services or in consumer credit transactions with Indians and is not a bank, saving bank, trust company, savings or building and loan association or credit union operating under the laws of the United States or the laws of New Mexico, Arizona or Utah, a business on the Hopi Reservation that is wholly owned and operated by members of the Hopi Tribe, or a business on the Zuni Reservation that is wholly owned and operated by members of the Zuni Tribe.

§ 141.4 Interpretation and construction.

(a) *Area Director* refers to the Area Director of the Bureau of Indian Affairs or the Administrator of the Joint Use Area of the Bureau of Indian Affairs who has jurisdiction over the land on which a person does business or intends to do business with Indians.

(b) *Commissioner* refers to the Commissioner of Indian Affairs or a person to whom the Commissioner of Indian Affairs has delegated authority under this part or under 25 U.S.C. 261, 262, 263, or 264.

(c) *Superintendent* refers to the Superintendent of the Bureau of Indian Affairs who has jurisdiction over the land on which a person does business or intends to do business with Indians.

(d) *Tribe* refers to the tribe that has jurisdiction over the land on which a person does business or intends to do business with Indians.

Subpart B—Licensing Requirements and Procedures

§ 141.5 Reservation business license required.

(a) No person may own or lease a reservation business without a license issued under the provisions of this subpart.

(b) The applicant shall apply in writing on a form provided by the Commissioner setting forth the following:

(1) The full name and residence of the applicant.

(2) Three (3) responsible references.

(3) The firm name and the name of each member of the board of directors if the applicant is a firm.

(4) Satisfactory evidence as to the character, experience and business ability of the applicant and the employees of the applicant.

(5) Satisfactory evidence of the general fitness of the applicant and employees of the applicant to reside on the Indian reservation.

(c) Upon the request of the Commissioner, the applicant shall furnish the following:

(1) The capital invested or to be invested and, of this, the amount of capital owned and the amount borrowed or to be borrowed.

(2) The name of the lender of any borrowed capital, the date due, the rate of interest to be paid, and the names of any endorsers and security.

(3) A copy of any contract or trade agreement whether oral or written with creditors or financing individuals or institutions, including any stipulations whereby financing fees are to be paid.

(d) Information that if released might adversely affect the competitive position of the applicant shall remain confidential.

[40 FR 39837, Aug. 29, 1975, as amended at 41 FR 3288, Jan. 22, 1976. Redesignated at 47 FR 13327, Mar. 30, 1982]

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§ 141.6 Approval or denial of license application.

(a) The Commissioner shall approve or deny each license application and notify the applicant no later than thirty (30) days after receipt of a completed application.

(b) No application is complete until any clearance or tribal council approval required by tribal or Federal regulations has been obtained.

(c) The Commissioner may not deny a license to an applicant for the purpose of limiting competition.

(d) If the application is approved the license shall be issued on a form provided by the Commissioner.

(e) If the Commissioner denies the license application the applicant may appeal under the provisions of part 2 of this title no later than thirty (30) days after the date on which notice of denial of the application was sent.

§ 141.7 Bond requirement for a reservation business.

(a) An applicant for a license or renewal of a license to operate a reservation business shall at the time the application is submitted furnish a bond on a form provided by the Commissioner in the name of the applicant in the amount of ten thousand dollars (\$10,000) or such larger sum as the Commissioner may designate, with two (2) on more sureties approved by the Commissioner or with a guaranty company qualified under the Act of August 13, 1894 (28 Stat. 279; 6 U.S.C. 6–13). The bond shall be for the same period covered by the license. No licensee may trade without a bond. Except as provided in paragraph (d) of this section, no surety may be released from liability until the license expires.

(b) The bond shall be in favor of the United States for the benefit of the United States and any customer of the licensee who recovers a judgment for damages resulting from violation of any law or regulation affecting or relating to reservation businesses. Any customer who recovers such a judgment may bring suit on the bond in his or her own name. The bond shall be conditioned on payment by the licensee of all judgments for damages resulting from violations of the regulations of this part.

(c) Any surety for a reservation business on the Hopi or Zuni Reservation shall agree in writing to submit itself voluntarily to the jurisdiction of the tribal court for the purpose of adjudicating any claim arising under the bond.

(d) Any surety on the bond of a licensed reservation business may be relieved from liabilities by complying with the provisions of § 141.57 of this title.

[40 FR 39837, Aug. 29, 1975, as amended at 41 FR 22937, June 8, 1976. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 141.8 License period for reservation businesses.

A license to operate a reservation business may not be issued unless the applicant has a right to use the land on which the business is to be conducted. The license period shall correspond to the period of the lease held by the licensee. The license period in no event may exceed twenty-five (25) years.

§ 141.9 Application for license renewal.

(a) An applicant for renewal of the license to trade shall file an application on a form provided by the Commissioner with the Area Director not less than three (3) months prior to the expiration of the existing license. The Area Director shall report in writing to the Commissioner on the record the applicant has made as a reservation business owner and the applicant's present fitness to reside on the Indian reservation.

(b) The Commissioner may issue a temporary permit for three (3) months pending consideration of application for license renewal.

(c) Prior to expiration of the existing license or, if issued, the temporary permit, the Commissioner shall approve or deny the application for license renewal and notify the applicant.

(d) No license may be renewed until any clearance or tribal council approval required by tribal or other federal regulations has been obtained.

(e) If the Commissioner denies the application for renewal, the applicant may appeal under the provisions of part 2 of this title.

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§ 141.10 License fees for reservation businesses.

(a) Prior to the issuance of an initial license, each licensee who is not a member of the Navajo tribe shall pay the following amount:

(1) If the license is issued before July 1, the licensee shall pay fifty dollars (\$50).

(2) If the license is issued on or after July 1, the licensee shall pay twenty-five dollars (\$25).

(b) Each licensed business owner who is not a member of the Navajo tribe shall pay on or before January 10 of each year an annual license fee determined as follows based on the licensee's most recent annual report:

(1) If the licensee's gross receipts are less than one hundred thousand dollars (\$100,000) for the year or the licensee has not yet been required to file its first annual report, the license fee is fifty dollars (\$50).

(2) If the licensee's gross receipts for the year are at least one hundred thousand dollars (\$100,000) but not more than four hundred and ninety-nine thousand nine hundred and ninety-nine dollars (\$499,999) the fee is one hundred dollars (\$100).

(3) If the licensee's gross receipts for the year are at least five hundred thousand dollars (\$500,000) but not more than seven hundred and forty-nine thousand nine hundred and ninety-nine dollars (\$749,999), the fee is two hundred dollars (\$200).

(4) If the licensee's gross receipts for the year are seven hundred fifty thousand dollars (\$750,000) or more, the fee is three hundred dollars (\$300).

(c) The Navajo Area Director shall determine the annual license fee payable by licensees who are enrolled members of the Navajo Tribe. The license fee for an enrolled member of the Navajo Tribe may not be less than twenty percent (20%) nor greater than one hundred percent (100 percent) of the amount the licensee would be required to pay if the licensee were not a tribal member.

(d) All fees are payable to the Area Director and shall be deposited to the credit of the account "Special Deposits."

[40 FR 39835, Aug. 29, 1975, as amended at 59 FR 54502, Oct. 31, 1994]

§ 141.11 Tribal fees, taxes, and enforcement.

(a) The regulations in this part do not preclude the Hopi, Navajo, or Zuni tribal councils from assessing and collecting such fees or taxes as they may deem appropriate from reservation businesses.

(b) Nothing in the regulations of this part may be construed to preclude tribal enforcement of these regulations or consistent tribal ordinances.

[40 FR 39837, Aug. 29, 1975, as amended at 41 FR 3288, Jan. 22, 1976. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 141.12 Peddler's permits.

(a) Except as provided in paragraph (b) of this section, no peddler may offer goods for sale within the exterior boundaries of the Hopi, Navajo, or Zuni reservations without a peddler's permit. The permit shall state on its face the class of goods that may be offered for sale. No peddler may offer for sale any class of goods other than those listed on the face of the permit.

(b) No peddler who is an enrolled member of a federally recognized Indian tribe is required to obtain a peddler's permit for offering to sell the following items:

(1) Coal and wood for non-commercial use,

(2) Homegrown fresh products,

(3) Meat products raised locally by the peddler, or

(4) Arts and crafts made by the peddler or the peddler's family.

(c) The applicant shall apply for a permit in writing on a form provided by the Commissioner.

(d) Peddlers shall pay such fee and post such surety bond on a form provided by the Commissioner as the Commissioner requires. The surety bond required may not be less than five hundred dollars (\$500) nor more than ten thousand dollars (\$10,000).

(e) Any surety on the bond of a peddler may be relieved of liability by complying with the provisions of § 141.57.

(25 U.S.C. 261 *et seq.*)

[43 FR 27826, June 27, 1978. Redesignated at 47 FR 13327, Mar. 30, 1982]

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§ 141.13 Amusement company licenses.

(a) No person may operate a portable dance pavilion, mechanical amusement device such as a ferris wheel or carousel, or commercial games of skill within the exterior boundaries of the Navajo, Hopi, or Zuni Reservations without a license from the Commissioner.

(b) The licensee shall pay such fee as the Commissioner requires. The fee shall be not less than five dollars (\$5) nor more than twenty-five dollars (\$25) per unit.

(c) The licensee shall post a surety bond on a form provided by the Commissioner in an amount not exceeding ten thousand dollars (\$10,000) and a personal injury and property damage liability bond of not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000) as may be required by the Commissioner.

(d) The provisions of this section do not apply to amusement companies where the contract between the tribe and the amusement company provides for the payment of a fee to the tribe and for the protection of the public against personal injury and property damage by bond in the amounts specified in paragraph (c) of this section.

(e) Any surety on a bond under this section may be relieved of liability by complying with the provisions of § 141.57.

§ 141.14 Trade in livestock restricted.

(a) No person other than an enrolled member of the tribe or any association, partnership, corporation or business entity wholly owned by enrolled members of the tribe may purchase livestock from tribal members without a special permit issued by the Commissioner.

(b) The Commissioner shall issue a permit to each applicant who establishes to the Commissioner's satisfaction that the applicant is a fit person to engage in the purchase of livestock and who posts a bond on a form provided by the Commissioner in the amount of ten thousand dollars (\$10,000). This paragraph does not require a person who has posted a bond of ten thousand dollars (\$10,000) or more under other provisions of this part to

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post an additional bond to obtain a permit under this section.

(c) Any surety on a bond under this section may be relieved of liability by complying with the provisions of § 141.57.

(d) The provisions of this section do not apply to purchases of livestock made at an organized public auction.

[40 FR 39837, Aug. 29, 1975, as amended at 41 FR 22937, June 8, 1976. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 141.15 Consent to jurisdiction of Hopi and Zuni tribal courts.

As a condition to doing business on the Hopi or the Zuni Reservation each applicant for license under this part shall, in accordance with the constitutions of those tribes, voluntarily submit the applicant and the applicant's employees or agents to the jurisdiction of the tribal court for the purpose of the adjudication of any dispute, claim or obligation arising under tribal ordinance relating to commerce carried out by the licensee.

Subpart C—General Business Practices

§ 141.16 Price marking.

The price of each article offered for sale shall be marked on the article, its containers or in any other manner that is plain and visible to the customer and that affords the customer a reasonable opportunity to learn the price of the article prior to purchase.

§ 141.17 Health and sanitation requirements.

(a) Each licensee shall keep both the premises and the place of business in a clean and sanitary condition at all times and shall avoid exposure of foodstuffs to contamination. No licensee may offer for sale any goods that are banned for health or sanitation reasons from retail sale by any Federal agency or by the tribe or, where not in conflict with the tribal regulations, by the State or by any State agency. No licensee may knowingly offer for sale any food that is contaminated.

(b) All weights and measure shall conform to standards set by the National Bureau of Standards and to standards, if any, set by the tribe and,

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if not in conflict with tribal regulations, to the standards set by the State.

(c) If training in foodhandling is available from the Indian Health Service, each person working in a reservation business shall complete the foodhandler training offered by the Indian Health Service before handling any food sold by a reservation business.

(d) Any person whom the Service Unit Director of the Indian Health Service determines is infected with or is a carrier of any communicable disease in a stage likely to be communicable to persons exposed as a result of the infected employee's normal duties as a foodhandler may not be employed by a reservation business.

(e) Each business shall comply with all Federal health regulations and with all tribal health regulations that are consistent with Federal regulations. Each business shall comply with State health regulations that are consistent with tribal and Federal health regulations.

(f) Except as otherwise provided herein, nothing in this section may be construed as a grant of enforcement powers to any agency of a State or its subdivisions.

(g) It is the duty of the health officers of the Indian Health Service to make periodic inspections, recommend improvements, and report thereon to the Commissioner.

§ 141.18 Availability of employee authorized to transact business.

Each licensee shall provide during normal business hours an employee authorized in writing to engage in all business transactions that the licensee normally offers to customers.

§ 141.19 Check cashing.

(a) A reservation business may give a fully negotiable check in addition to U.S. currency when cashing a draft, check or money order. A reservation business may not give scrip, credit or other substitute for U.S. currency when cashing a draft, check or money order.

(b) A reservation business owner or employee may advise a customer cashing checks, money orders or drafts of

the amount due on the customer's credit accounts, pawn accounts or any other obligation the customer owes to the business, but in no event may the owner or employee withhold the proceeds of the check, money order or draft from the customer on the basis of existing credit obligations.

[40 FR 39837, Aug. 29, 1975, as amended at 41 FR 3288, Jan. 22, 1976. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 141.20 Payment for purchase of Indian goods or services.

(a) A reservation business shall pay for the purchase of Indian goods or services with cash or a fully negotiable check. A reservation business may not pay for Indian goods or services with trade slips or future credit. In any transaction involving the purchase of Indian goods on the Navajo Reservation, the reservation business shall furnish a bill of sale indicating the name of the seller, a description of the goods, the amount paid for the goods, the date of sale, and the signature of both parties and shall retain a copy of the bill of sales in its business records.

(b) A reservation business owner or employee may advise a customer selling Indian goods or services of the amount due on the customer's credit accounts, pawn accounts or any other obligation the customer owes to the business, but in no event may the owner or employee withhold the proceeds of the sale from the customer on the basis of existing credit obligations.

§ 141.21 Trade confined to premises.

The licensee shall confine all trade on the reservation to the premises specified in the license, except, where permitted under § 141.14, the buying and selling of livestock and livestock products.

§ 141.22 Subleasing prohibited.

No licensee may lease, sublet, rent, or sell any building that the licensee occupies for any purpose to any person without the approval of the Commissioner and the consent of the tribe.

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§ 141.23 Posted statement of ownership.

The licensee of a reservation business shall display in a prominent place a notice that is legible to customers stating the form of the business entity, the names and addresses of all other reservation businesses owned in whole or in part by the business entity, and if the licensee is not a corporation, the names and addresses of the owner or owners of the business. If the licensee is a corporation the notice shall list the names and addresses of the members of the Board of Directors.

§ 141.24 Attendance at semi-annual meetings.

Upon the request of a tribal official designated by the governing body, each licensee shall attend a semi-annual public meeting of a tribal governing body to respond to customer inquiries.

§ 141.25 Withholding of mail prohibited.

No owner or employee of a reservation business may open, withhold, or otherwise delay the delivery of mail.

§ 141.26 Trade in antiquities prohibited.

No licensee may knowingly buy, sell, rent or lease any artifact created before 1930 that was removed from an historic ruin or monument.

§ 141.27 Trade in imitation Indian crafts prohibited.

No person may introduce or possess for disposition or sale within the exterior boundaries of the Hopi, Navajo or Zuni Reservations any object that is represented to be an Indian handicraft unless the object was produced by an Indian or Indians with the help of only such devices as allow the manual skill of the maker to condition the shape and design of each individual's product.

§ 141.28 Gambling prohibited.

No licensee may permit any person to gamble by dice, cards, or in any way whatever, including the use of any mechanical device, on the premises of any licensed business.

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§ 141.29 Political contributions restricted.

No reservation business owner who is ineligible to vote in a Navajo tribal election may grant or donate any money or goods to any candidate for election to Navajo tribal office.

§ 141.30 Retaliation prohibited.

No licensee may refuse service to any customer for the purpose of retaliating against that customer for enforcing or attempting to enforce the regulations of this part.

§ 141.31 Trade by Indian Affairs employees restricted.

(a) Except as authorized in this section, no person employed by the U.S. Government in Indian Affairs may have any interest in any trade with an Indian or an Indian organization. Employees of the U.S. Government may trade with an Indian or Indian organization for any purpose other than to engage in a profit-making activity under the following conditions:

(1) Where the amount involved is \$500 or less a U.S. Government employee may purchase goods or services from an Indian or Indian organization.

(2) Where the amount involved is greater than \$500 a U.S. Government employee may, with the approval of the Secretary of the Interior, purchase goods or services from any Indian or Indian organization.

(b) Lease or sale of home sites or allotments on trust or restricted Indian land to or from Indian employees of the U.S. Government shall be made on sealed bids, unless the Commissioner waives this requirement on the basis of a report showing:

(1) The need for the transaction,

(2) The benefits accruing to both parties, and

(3) That the consideration for the proposed transaction is not less than the appraised value of the land or leasehold interest unless the Indian employee qualifies and is intending a transaction in accordance with § 152.5 (b) and (c) of this chapter or § 162.5(b)(1), (2) and (3) of this chapter.

An affidavit, as follows, shall accompany each proposed land transaction:

I, _____ (Name)

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_____(Title)
swear (or affirm) that I have not exercised any undue influence nor used any special knowledge received by reason of my office in obtaining the (grantor's, purchaser's, vendor's) consent to the instant transaction.

(c) This section does not prohibit any reservation business from contracting with the Federal Government to provide postal services to Indian communities in which Government postal service is unavailable.

(d) Nothing in this section prohibits an Indian employee from receiving benefits by reason of membership in a tribe or corporation or cooperative association organized by and operated for Indians.

(e) U.S. Government employees who violate this section are liable to a penalty of five thousand dollars (\$5,000) and shall be removed from office, see 25 U.S.C. 68.

[40 FR 39837, Aug. 29, 1975, as amended at 41 FR 3288, Jan. 22, 1976. Redesignated at 47 FR 13327, Mar. 30, 1982]

Subpart D—Pawnbroker Practices

§ 141.32 Reservation pawnbroker license required.

(a) No person may accept pawns or pledges of personal property as security for monies or accounts due by an Indian within the exterior boundaries of the Navajo, Hopi or Zuni Reservations unless such person is an agent of a bank, saving bank, trust company, savings or building and loan association, or credit union operating under the laws of the United States or the laws of New Mexico, Arizona, or Utah or unless such person—

(1) Holds a valid license to operate a reservation business,

(2) Holds a valid reservation pawnbroker license, and

(3) Posts a bond on a form provided by the commissioner in the name of the licensee in the amount of twenty-five thousand dollars (\$25,000) or such larger sum as may be designated by the Commissioner with two (2) or more sureties approved by the Commissioner or with a guaranty company qualified under the Act of August 13, 1894 (28 Stat. 279; 6 U.S.C. 6-13).

(b) An applicant for a reservation pawnbroker license shall apply in writ-

ing on a form provided by the Commissioner.

(c) The bond required by paragraph (a) of this section shall be in favor of the United States for the benefits of the customers of the licensee and shall specifically indemnify all customers who have recovered judgment against the licensee for destroyed, lost, misplaced or misappropriated pawn or other property. Any customer recovering such a judgment may bring suit on the bond in his or her own name. The bond shall be for the same period as the license.

(d) Any surety on a bond under this section may be relieved of liability by complying with the provisions of § 141.57.

(e) No person may accept pawns or pledges of personal property as security for monies or accounts due by an Indian after the effective date of a tribal ordinance banning the acceptance of pawn on the reservation.

[40 FR 39837, Aug. 29, 1975, as amended at 41 FR 3288, Jan. 22, 1976; 41 FR 22937, June 8, 1976. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 141.33 Fees for pawnbroker license.

(a) Prior to the issuance of an initial pawnbroker license, each licensee who is not a member of the Navajo Tribe shall pay the following amount:

(1) If the license is issued before July 1, the licensee shall pay two hundred dollars (\$200).

(2) If the license is issued on or after July 1, the licensee shall pay one hundred dollars (\$100).

(b) Each licensed pawnbroker who is not a member of the Navajo Tribe shall pay on or before January 10 of each year an annual license fee of two hundred dollars (\$200).

(c) The Area Director shall determine the annual license fee payable by licensees who are enrolled members of the Navajo Tribe. The license fee for a member of the Navajo Tribe may not be less than twenty percent (20 percent) nor greater than one hundred percent (100 percent) of the amount the licensee would be required to pay if the licensee were not tribal member.

(d) All fees are payable to the Area Director and shall be deposited to the

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credit of the account “Special Deposits.”

[40 FR 39837, Aug. 29, 1975, as amended at 41 FR 3288, Jan. 22, 1976. Redesignated at 47 FR 13327, Mar. 30, 1982; 59 FR 54502, Oct. 31, 1994]

§ 141.34 Pawnbroker records.

Each pawnbroker shall keep a written record of the following information:

- (a) Transaction number.
- (b) Name of pledgor.
- (c) Address of pledgor.
- (d) Census number or social security number of pledgor.
- (e) Date of transaction.
- (f) Replacement value of pawn.
- (g) Description of pawned item.
- (h) Amount loaned in cash.
- (i) Amount loaned as credit.
- (j) Finance charge.
- (k) Amount financed.
- (l) Date and amount of payments made by pledgor.
- (m) Date notice of default sent to pledgor.
- (n) Date pawned item sold.
- (o) Name and address of purchaser.
- (p) Amount received upon sale.
- (q) Amount of any surplus returned to the pledgor.
- (r) Such other information as the Commissioner may require.

§ 141.35 Pawnbroker disclosure requirements.

In all transactions in which pawn is taken the lender shall give the borrower a written ticket or receipt disclosing the following information to the extent applicable:

- (a) Clear identification of the property pledged.
- (b) The date of the transaction.
- (c) Amount of the loan.
- (d) Name and social security or census number of the pledgor.
- (e) Replacement value of the pawn as agreed upon by the pledgor and pledgee.
- (f) Date on which loan is due.
- (g) The amount, expressed as a dollar amount, of any finance charges.
- (h) The finance charges expressed as an annual percentage rate and computed in accordance with the provisions of 12 CFR 226.5(b).
- (i) The amount, or method of computing the amount, of any charges to

be assessed after the date the loan is due.

(j) A statement of the conditions of default and the pledgor's rights upon default, as defined by this part.

(k) Identification of the method of computing any unearned portion of the finance charges in the event of prepayment of the obligation.

§ 141.36 Maximum finance charges on pawn transactions.

No pawnbroker may impose an annual finance charge greater than twenty-four percent (24 percent) of the unpaid balance for the period of the loan nor assess late charges or delinquency charges on any loan.

§ 141.37 Prepayment.

(a) Subject to the provisions of paragraph (b) of this section, the pledgor may prepay in full or in any part the unpaid balance of a loan at any time without penalty.

(b) When a loan is prepaid the lender may collect the earned portion of the finance charge or may charge an administrative fee not to exceed ten percent (10 percent) of the unearned finance charge or two dollars (\$2) whichever is greater.

§ 141.38 Pawn loans, period, notice and sale.

(a) The proceeds of all loans secured by pawn and for which a finance charge is imposed shall be paid only in cash or with a fully negotiable check.

(b) The period of all such loans shall be no less than twelve (12) months, subject to the provisions of paragraph (c).

(c) Thirty (30) days prior to the end of the loan period the pledgee may make a declaration of intention to proceed with sale of the pawned item by sending notice of intent to the pledgor.

(d) The notice required in paragraph (c) of this section shall be sent to the pledgor and proof of delivery obtained and shall contain a description of the item pawned, a statement of the principal and finance charge owed, a statement of the intention to sell, the date of the sale, and the procedure for redemption.

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(e) Nothing in this section requires the business owner to proceed with notice and sale if the business owner desires to hold the pawn for a period longer than the loan period stated in the original agreement.

(f) Unless notice is given under paragraph (c) of this section, or the loan is refinanced under the provisions of § 141.41, no finance charge may be imposed for the time the loan remains unpaid after the end of the loan period stated on the pawn ticket.

§ 141.39 Sale and redemption of pawn.

(a) If the retention period has expired and notice as required under § 141.38 of this part has been sent and received, the pledgee may proceed with the sale of the pawn.

(b) The pawn shall be sold no sooner than thirty (30) days but no later than twelve (12) months after notice of intent to sell has been given. The sale shall be a public sale, with notice of the time, place, and manner to be given in a tribal newspaper of general circulation not less than fourteen (14) days prior to the sale, or in the absence of such a newspaper, in a commercially reasonable manner. The sale itself shall also be conducted in a commercially reasonable manner.

(c) A pledgor may redeem pawn which has been put up for sale at any time before the day it is to be sold by tendering to the pledgee the face amount of the loan, plus the finance charge assessed on the original loan. The pledgee may also collect an additional charge covering the period between the date due and the date of redemption, provided that the rate of charge does not exceed the finance charge on the original loan.

(d) The pledgee may buy at the pledgor's own sale if the collateral is of a type customarily sold in a recognized market or which is the subject of widely distributed standard price quotations.

(e) Pawn held for more than twelve (12) months after notice of intent to sell has been given may not be sold, but the pledgor may redeem the pawn at any time by tendering to the pledgee the face amount of the loan, plus the finance charge that accrued before the

end of the sale period provided in paragraph (b) of this section.

[40 FR 39837, Aug. 29, 1975, as amended at 41 FR 3288, Jan. 22, 1976. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 141.40 Proceeds of sale.

(a) The following items shall be deducted from the proceeds of the sale of pawned items in the following order of priority:

(1) The expense of advertising and conducting the sale, not to exceed ten percent (10%) of the amount loaned.

(2) The principal amount of the loan, plus any accrued finance charges.

(3) The finance charge calculated at the annual percentage rate of the original loan on the unpaid balance of the loan for the period from the date of default to the date of sale.

(b) Within ten (10) days after the sale of the pledge under this section, the pledgee shall send a notice to the pledgor informing the pledgor of the date of the sale, the proceeds of the sale, the allowable costs of the sale, any additional finance charges, and the amount of any surplus realized. The pledgee shall obtain proof that the notice was delivered.

(c) Any proceeds of the sale remaining after the deductions authorized in paragraph (a) of this section are deemed to be "surplus" and shall be paid over to the pledgor or the pledgor's estate in U.S. currency.

(d) The sale of pledged goods and the application of the proceeds in accordance with this section extinguishes all rights of action of the pledgee for any unpaid principal or finance charge on the original loan.

§ 141.41 Refinancing transaction.

(a) Any pawn agreement may be refinanced, either with or without an increase in the principal amount of the loan, prior to or following the date of expiration of the original period of the loan upon agreement between the parties.

(b) Such refinancing constitutes a new transaction for purposes of all disclosure and record keeping requirements of this part and requires the issuance of a new ticket or receipt.

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(c) The rate of the additional finance charge imposed as part of the refinancing agreement may not exceed the maximum rate imposed by § 141.36.

(d) The total finance charges in a refinancing agreement may not exceed the sum of the following amounts:

(1) The finance charge that the pledgor would have been required to pay upon prepayment on the date of refinancing under § 141.37 of this part, except that, for the purpose of computing this amount, no minimum finance charge or administrative fee may be included, and

(2) Such additional finance charge as is permissible on the balance of the loan over the remaining period of the loan as extended.

(e) The default and sale procedures of this part apply to a refinanced pawn transaction in the same manner as they apply to an original pawn transaction.

§ 141.42 Lost pawn receipts or tickets.

(a) Redemption may not be denied on the sole ground that the pledgor is unable to produce a receipt or pawn ticket, provided the pledgor gives a reasonable description of the pawned item or makes an actual identification of the item. The pledgee may require the pledgor to sign a receipt for the redeemed pawn. No person other than the pledgor may redeem pawn without a ticket.

(b) No additional charges may be imposed for the loss of a pawn receipt or ticket.

§ 141.43 Outstanding obligations owed to pledgee.

If the pledgor tenders payment to be applied toward redemption of a pawned item, it shall be so applied by the pledgee, irrespective of other outstanding obligations owed by the pledgor to the pledgee. The pledgee may not deny the pledgor the right to redeem the pawn.

§ 141.44 Insurance on pawn.

(a) Any licensee under this part who lends money or extends credit with personal property as security and holds such property as a pledge shall maintain in vault all risk insurance coverage running in favor of the pledgor for such

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property in amounts based upon a report issued monthly to the insurer. Such monthly report shall be an amount not less than the total agreed replacement value of all pawned items then held by the licensee.

(b) A copy of the insurance policy shall be available for inspection at the licensee's place of business and a copy shall be filed with the Commissioner.

Subpart E—Consumer Credit Transactions Other Than Pawn

§ 141.45 Consumer credit applications.

Any reservation business offering credit which is not secured by pawn shall provide an application for credit to any customer requesting credit. Within thirty (30) days of the date of application, the lender shall act upon the application and notify the customer in writing of the decision with the reason therefor. A business owner who reduces the amount of credit available to a customer or terminates a credit account shall provide written notice to the customer stating the reason for the reduction or termination of such credit.

§ 141.46 Credit disclosure statements.

Upon approval of a credit application the lender shall give the applicant the following information where applicable in a written disclosure statement:

(a) The maximum credit limit of the account.

(b) The conditions under which a finance charge may be imposed.

(c) The period in which payment may be made without incurring a finance charge.

(d) The method used in determining the balance on which the finance charge is calculated.

(e) The method used to calculate the finance charge.

(f) The periodic rates used and the range of balances to which each rate applies.

(g) The conditions under which additional charges may be made and the method for calculating those charges.

(h) A description of any lien that may be acquired on a customer's property.

(i) The minimum payment that must be made on each billing.

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§ 141.47 Monthly billing statement.

On all credit accounts on which a finance charge may be imposed and for all other credit accounts when requested by the customer, a licensee shall issue a monthly billing statement to the customer stating the following information where applicable:

(a) The unpaid balance at the start of the billing period.

(b) The amount and date of each extension of credit and identification of each item costing more than ten dollars (\$10).

(c) Payments made by a customer and other credits, including returns, rebates, and adjustments.

(d) The finance charge shown in dollars and cents.

(e) The rates used in calculating the finance charge plus the range of balances to which the finance charge was calculated.

(f) The closing date of the billing cycle.

(g) The unpaid balance at that time.

§ 141.48 Translation of disclosure statements.

Disclosure required by §§141.46 and 141.47 shall be made in writing regardless of the customer's ability to speak, read, or write the English language. Disclosure to non-English speaking persons shall be translated orally into the appropriate language.

§ 141.49 Usury prohibited.

No reservation business may take or receive money, goods, or other things of value for a loan or forbearance on a debt that exceeds in value the principal plus twenty-four percent (24 percent) per annum finance charge. Any reservation business contracting for, reserving, or receiving directly or indirectly, any greater amount shall forfeit the finance charge.

Subpart F—Enforcement Powers, Procedures and Remedies

§ 141.50 Penalty and forfeiture of merchandise.

Any person other than an enrolled member of the tribe who either resides as a reservation business owner within the exterior boundaries of the Navajo,

Hopi, or Zuni Reservations or introduces or attempts to introduce goods or to trade therein without a license shall forfeit all merchandise offered for sale to the Indians or found in the person's possession and is liable to a penalty of \$1,352. This section may be enforced by commencing an action in the appropriate United States District Court under the provisions of 28 U.S.C. 1345.

[40 FR 39835, Aug. 29, 1975, as amended at 81 FR 42481, June 30, 2016; 82 FR 7652, Jan. 23, 2017; 83 FR 5195, Feb. 6, 2018; 84 FR 15101, Apr. 15, 2019; 85 FR 9369, Feb. 19, 2020]

§ 141.51 Authority to close unlicensed reservation businesses.

The Commissioner shall close any reservation business subject to the provisions of this part that does not hold a valid license or temporary permit.

§ 141.52 Revocation of license and lease and recovery on bond.

The reservation business owner is subject to revocation of license and lease and recovery on the bond in whole or in part in the event of any violation of the regulations of this part after a show cause proceeding according to the provisions of §141.56.

[41 FR 22937, June 8, 1976. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 141.53 Cease and desist orders.

(a) If the Commissioner believes that violation of the regulations in this part is occurring, the Commissioner may order the person believed to be in violation to show cause according to the provisions of §141.56 why a cease and desist order should not be issued.

(b) If the person accused of the violations fails to show cause at the hearing why such an order should not issue, the Commissioner shall issue the order.

(c) A person subject to a cease and desist order issued under this section who violates the order is liable to revocation of license after a show cause proceeding according to the provisions of § 141.56 of this part.

§ 141.54 Periodic review of performance.

(a) The Commissioner shall review licenses at ten (10) year intervals to determine whether or not the business is

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operating in accordance with these regulations and all other applicable laws and regulations and whether the business is adequately serving the economic needs of the community.

(b) If, as a result of the review provided in paragraph (a) of this section, the Commissioner finds that the licensee has repeatedly violated these regulations, the Commissioner may order the licensee to show cause according to the provisions of §141.56 why the licensee's license should not be revoked.

(c) If the licensee fails to show cause why the license should not be revoked, the Commissioner shall revoke the license.

§ 141.55 Price monitoring and control.

(a) A reservation business may not charge its customers unfair or unreasonable prices. To insure compliance with this section, the Commissioner shall perform audits as provided in §141.58. In performing those audits the Commissioner may inspect all original books, records, and other evidences of the cost of doing business. In addition, at least once a year the Commissioner shall cause to be made a survey of the prices of flour, sugar, fresh eggs, lard, coffee, ground beef, bread, cheese, fresh milk, canned fruit, and such other goods as the Commissioner deems appropriate in all stores licensed under these regulations and in a representative number of similar stores located in communities immediately adjoining the reservations. The results of the survey shall be posted publicly, sent to each licensed business, and made available to the appropriate agency of the tribal government. Copies of the survey shall be available at the office of the Area Director.

(b) If the Commissioner finds that a reservation business is charging higher prices, especially for basic consumer commodities, than those charged on the average based on the studies conducted under the provisions of paragraph (a) of this section, the Commissioner may order the business owner to show cause under the provisions of §141.56 why an order should not be issued to reduce prices. If the Commissioner determines that the prices charged by the business are not eco-

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nomically justified, based on all of the information, then the Commissioner may order the business to reduce its price on all items determined to be priced too high to a reasonable price as determined by the Commissioner, but in no event to a lower price than the cost of the item increased by a reasonable mark-up.

§ 141.56 Show cause procedures.

(a) When the Commissioner believes there has been a violation of this part the Commissioner shall serve the licensee with written notice setting forth in detail the nature of the alleged violation and stating what remedial action the Commissioner proposes to take.

(b) The licensee shall have ten (10) days from the date of receipt of notice in which to show cause why the contemplated remedial action should not be ordered.

(c) If within the ten (10) day period the Commissioner determines that the violation may be corrected and the licensee agrees to take the necessary corrective measure, the licensee shall be given the opportunity to take the necessary corrective measures.

(d) If the licensee fails within a reasonable time to correct the violation or to show cause why the contemplated remedial action should not be ordered, the Commissioner shall order the appropriate remedial action.

(e) If the Commissioner orders remedial action the licensee may appeal under the provisions of part 2 of this title not later than thirty (30) days after the date on which the remedial action is ordered.

§ 141.57 Procedures to cancel liability on bond.

(a) Any surety who wishes to be relieved from liability arising on a bond issued under this part shall file with the Commissioner a statement in writing setting forth the desire of the surety to be relieved of liability and the reasons therefor.

(b) The surety shall mail a copy of the statement by certified mail, return receipt requested, to the last known address of the licensee named in the bond.

(c) Twenty (20) days after the statement required in paragraph (b) of this section is mailed to the licensee and the statement required in paragraph (a) of this section is filed with the Commissioner, the surety from all liability thereafter arising on the bond.

(d) If the licensee does not have other bond sufficient to meet the requirements of this part or has not executed and filed a new or substitute bond within twenty (20) days after the service of the statement, the Commissioner shall declare the license and lease void.

(e) No surety is released from liability under the bond for claims which arose prior to the issuance of the Commissioner's order releasing the surety.

[40 FR 39837, Aug. 29, 1975, as amended at 41 FR 3288, Jan. 22, 1976; 41 FR 22937, June 8, 1976. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 141.58 Records, reports, and obligations of reservation business owners.

(a) The Commissioner may, in consultation with interested persons and agencies, promulgate a model book-keeping system for use in reservation businesses. Until such model book-keeping system is promulgated, each business owner shall keep records in accordance with generally accepted accounting principles.

(b) Each reservation business owner shall file with the Area Director an annual report on or before April 15 in a form approved by the Commissioner. Reports shall be subject to a yearly audit. The reports shall contain the names and respective interests of all persons participating in the business.

(c) The business owner or an employee shall record all sales and purchases whether for cash or credit. If the business is on the Navajo Reservation the owner or an employee shall supply the customer with a copy of the sale transaction containing a description of the article purchased or sold, the date of the transaction, and the price. A cash register receipt complies with this paragraph for grocery or dry goods purchases for cash.

(d) The licensee shall keep a duplicate copy of any writing required by paragraph (c) of this section for a period of not less than three (3) years and

shall provide the customer or the customer's representative one copy of those writings upon request.

[40 FR 39837, Aug. 29, 1975, as amended at 41 FR 3288, Jan. 22, 1976; 41 FR 13937, Apr. 1, 1976. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 141.59 Customer complaint procedures.

(a) Any customer of a licensee may file a complaint with the Commissioner alleging that the licensee has committed a violation of this part.

(b) Upon receipt of a customer complaint the Commissioner shall initiate show cause proceedings under the provisions of § 141.56 of this part.

(c) If the Commissioner fails to order remedial action within forty (40) days from the date the complaint is filed, the complainant may appeal under the provisions of part 2 of this title not later than seventy (70) days after the date the complaint is filed.

(d) If the Commissioner orders remedial action, the complainant may appeal under the provisions of part 2 of this title not later than thirty (30) days after the date on which the remedial action is ordered.

PART 142—ALASKA RESUPPLY OPERATION

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