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PART I

FEDERAL REGISTER

VOLUME 22 NUMBER 248

Washington, Tuesday, December 24, 1957

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

DEPARTMENT OF STATE

Effective upon publication in the FEDERAL REGISTER, paragraph (f) (2) of § 6.102, having expired by its own terms, is revoked.

(R. S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U. S. C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 57-10584; Filed, Dec. 23, 1957; 8:48 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter I—Farm Credit Administration

Subchapter A—Administrative Provisions

PART 4—INFORMATION AND RECORDS

PART 5—PERSONNEL

Subchapter B—Federal Farm Loan System

PART 11—NATIONAL FARM LOAN ASSOCIATIONS

Inasmuch as the current General Administrative Manual for the Farm Credit Districts and the current General Administrative Manual for the Farm Credit Administration make certain changes in the provisions heretofore included in Part 4 (Public Information) of Title 6 of the Code of Federal Regulations and it is now desired to conform such provisions accordingly, add or drop some provisions, and place some of them in a separate Part 5, such Part 4 of Title 6 of the Code of Federal Regulations is hereby revised and divided into Parts 4 (Information and Records) and 5 (Personnel) to read as follows:

PART 4—INFORMATION AND RECORDS

Sec.

4.1 Information regarding the Farm Credit Administration and agencies under its supervision.
4.2 Reports of farm credit examiners.

This issue includes two parts bound together. Part II contains a republication of 25 CFR Chapter I, Bureau of Indian Affairs, Department of the Interior.

Sec.

4.3 Reports of land bank appraisers.
4.4 Lists of borrowers.
4.5 Information and records regarding borrowers and applicants for loans.
4.6 Waiver of restrictions of § 4.5.
4.7 Officer or employee summoned as witness.
4.8 Information regarding personnel.
4.9 Reserved authority.
4.10 Official records generally.

AUTHORITY: §§ 4.1 to 4.10 issued under sec. 17, 39 Stat. 375, sec. 2, 42 Stat. 1459, sec. 4, 46 Stat. 13, sec. 6, 47 Stat. 14, as amended; 12 U. S. C. 665, 831, 1101, 1141b.

§ 4.1 *Information regarding the Farm Credit Administration and agencies under its supervision*—(a) *FCA and bank personnel.* No officer or employee of the Farm Credit Administration, of a general agent's office or of a Federal land bank, Federal intermediate credit bank, or bank for cooperatives shall disclose information of a type not ordinarily contained in published reports or press releases regarding the Farm Credit Administration or any bank or association of the Farm Credit System or any borrowers or members thereof, except (1) to the extent necessarily involved in the performance of his official duties or (2) as authorized by §§ 4.4 to 4.8. Information prepared by Farm Credit Administration personnel for newspaper, publishing and broadcasting companies, and all new or revised publications prepared by Farm Credit Administration personnel should be cleared with the Research and Information Division.

(b) *Association personnel.* No officer or employee of a national farm loan association or production credit association shall disclose information of a type not ordinarily contained in published reports or press releases, regarding such association, or any of its members, except (1) to the extent necessarily involved in the performance of his official duties or (2) as authorized by §§ 4.4 to 4.8.

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FEDERAL REGISTER

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§ 4.2 *Reports of farm credit examiners.* The contents of reports by farm credit examiners may not be disclosed without the consent of the Chief Examiner of the Farm Credit Administration, except to authorized representatives of the Farm Credit Administration or the bank or association concerned; or agents of the Federal Bureau of Investigation, Department of Justice; Office of the Chief Inspector, Post Office Department; and the Secret Service and Internal Revenue Service of the Treasury Department, who request access to such reports for confidential use in connection with the official investigation of matters touched upon therein.

§ 4.3 *Reports of land bank appraisers.* The contents of reports by land bank appraisers may not be disclosed without the consent of the Chief of Appraisals, except (a) to appropriate district and Farm Credit Administration personnel and (b) to those mentioned in § 4.5 (b).

§ 4.4 *Lists of borrowers.* Lists of borrowers shall not be released by any office or organization of the Farm Credit System, unless such release is approved by the Governor, a deputy governor, or a service director having general supervision over such office or organization concerned. This section is subject to the following exception: Production credit associations and Federal intermediate credit banks may issue lists of borrowers and loans for the information of buyers, warehousemen, and others dealing in produce or livestock of the type securing such loans.

§ 4.5 *Information and records regarding borrowers and applicants for loans.* Officers and employees of the Farm Credit Administration and every bank and association of the Farm Credit System, its officers, directors, and employees shall hold in strict confidence all information regarding the character, credit standing, and property of borrowers and applicants for loans, and shall not exhibit or quote the following listed documents: loan applications; supplementary statements by applicants; letters and statements relative to the character, property, and credit standing of borrowers and applicants; recommendations of loan committees; and reports of inspectors, fieldmen, investigators, and appraisers. This section is subject to the exceptions set forth below in paragraphs (a) to (i) of this section.

(a) Examiners and other accredited representatives of the Farm Credit Administration and the bank concerned shall have free access to all information, records, and files.

(b) Accredited representatives of the following offices of the United States Government, at their request, may be given information pertinent to official investigations of individual cases by such offices, and may be permitted to examine such portions of the records and files as contain the pertinent information: Secret Service and Internal Revenue Service, Treasury Department; Federal Bureau of Investigation, Department of Justice; Office of the Chief Inspector, Post Office Department; and General Accounting Office. Before information is given to any such representative, he shall be required to present his official identification card, and to make a written request identifying the individual case on which information is sought and the particular information desired, and to certify that such information is pertinent to the official investigation of that case and is requested for confidential use of the investigating office.

(c) The general agents and the presidents of the banks of the Farm Credit System may supply statistical and other impersonal information pertaining to groups of borrowers, applicants, and loans, in response to requests from any department or independent office of the Government of the United States, with the understanding that the information is requested for official use, and that it will not be published. Such information may be given in response to requests from non-Government sources, but only with the approval of the Governor, a deputy governor, or the appropriate service director.

(d) Full information concerning individual borrowers may be given for the confidential use of any bank or association of the Farm Credit System, or any Government agency, in response to inquiries made in contemplation of the extension of credit or the collection of loans. To the extent that such information relates to the character and personal traits of a borrower, it shall be ascribed to reports from unnamed sources believed to be reliable, and shall be accompanied by the statement that no responsibility is assumed for the accuracy of such reports.

(e) Information may be given in confidence to reliable private institutions (lending and mercantile) concerning the amount, terms, and payment records of loans to individual borrowers, in response to inquiries made in contemplation of the extension of credit.

(f) Credit information concerning any borrower (including a cooperative association) may be given when such borrower consents thereto in writing: *Provided, however,* That opinions as to the ability of such borrower to meet his obligations and commitments may be given to creditors and prospective creditors of such borrower without his consent upon the following conditions: (1) That the opinion is to be held in strict confidence by the creditor or prospective creditor; (2) that the opinion is for the private use of the creditor or prospective creditor; and (3) that the opinion be accompanied by a statement that no responsibility for its accuracy is assumed.

(g) The loan application and any supplementary statements signed by a borrower may be examined and their contents may be proved in court by the borrower who signed them, or by his accredited representative, or by the successor in interest of a deceased borrower.

(h) An unsuccessful loan applicant, or a person authorized to inquire in his behalf, may be informed of impersonal credit factors which caused the rejection of his application, but if a loan is denied because of the applicant's personal shortcomings, no explanation may be made which would tend to defame his character or betray the confidence of an informant.

(i) In litigation between a borrower (or his successor in interest) and the United States or a bank or association of the Farm Credit System, any competent evidence may be introduced on behalf of either party with respect to any relevant statements made orally or in writing by or to the borrower or his successor.

§ 4.6 *Waiver of restrictions of § 4.5.* If it appears that justice would be served by releasing information in circumstances forbidden by § 4.5, the restrictions of that section may be waived as to a particular case by the Governor, a deputy governor, or a service director having general supervision over the office or bank of the Farm Credit System concerned. A recommendation for such waiver of § 4.5 may be submitted by any bank, association, or office concerned. Any such recommendation from a national farm loan association or a production credit association shall be submitted through the appropriate Federal land bank or Federal intermediate credit bank, with the request that it be considered and forwarded to the Farm Credit Administration, if deemed advisable. Each such recommendation should be supported by a statement of facts and approved by counsel for the forwarding bank. The recommendation should be addressed to the General Counsel, Farm Credit Administration.

§ 4.7 *Officer or employee summoned as witness.* If an officer or employee of the Farm Credit Administration or of any association or bank of the Farm Credit System is summoned as a witness in litigation to which neither the Government nor any farm credit agency is a party for the purpose of testifying and/or producing documentary evidence with respect to matters which he is forbidden by this part to disclose, he shall arrange, if possible, with counsel who obtained the summons, to be excused from testifying. If such an arrangement cannot be made, the officer or employee shall appear in response to the summons but, before testifying or producing documentary evidence as to information

which this part requires shall be held in confidence, he shall respectfully advise the Court of this part against disclosure of such information and respectfully request of the Court that the confidential nature thereof be recognized and safeguarded. After so doing, the officer or employee may then testify or produce documentary evidence as to such information only to the extent and under the conditions directed by the Court. Upon receiving any such summons, the officer or employee may request advice and assistance from counsel for the agency with which he is connected and, for this purpose, the officers and employees of national farm loan associations and production credit associations shall consult counsel for the appropriate Federal land bank or Federal intermediate credit bank.

§ 4.8 *Information regarding personnel.* Lists of employees shall not be released by an office or organization of the Farm Credit System without the approval of the Governor, a deputy governor, or a service director having general supervision over such office or bank concerned. This section is subject to the exceptions set forth below in paragraphs (a) to (e) of this section.

(a) Taxing authorities shall be supplied, on request, with the names, addresses, and compensation of officers and employees of the Farm Credit Administration and of the officers, agents, and employees of any bank or association or Farm Credit Administration employees paid directly by a Federal land bank. Requests for similar information shall be forwarded to the Farm Credit Administration, Accounting and Budget Division, when they relate to the registrars, chief reviewing appraisers, examiners, or other employees on the Farm Credit Administration payroll.

(b) A Federal land bank may release lists of the national farm loan associations of its district, and their secretary-treasurers; and for use in connection with the designation of nominees for the Federal Farm Credit Board or the nomination and election of members of a district farm credit board by national farm loan associations, a Federal land bank may release lists of the presidents and directors of national farm loan associations of its district.

(c) A Federal intermediate credit bank may release lists of the production credit associations of its district, and their secretary-treasurers; and for use in connection with the designation of nominees for the Federal Farm Credit Board or the nomination and election of members of a district farm credit board by production credit associations, a Federal intermediate credit bank may release lists of the presidents and directors of production credit associations of its district.

(d) A bank for cooperatives may release lists of cooperative associations which hold stock in the bank or which have subscribed to its guaranty fund, and lists of the presidents of such cooperative associations, for use in connection with the designation of nominees for the Federal Farm Credit Board or the nomination and election of members of a district farm credit board or of the board of the Central Bank for Cooperatives.

(e) The Farm Credit Administration and banks and associations may release employees' names, addresses, positions, and spouses' names to reputable concerns for the purpose of listing in local directories. The release of such information should be with the understanding that the concern agrees to use it for directory purposes only. It is suggested that employees be permitted to withhold their names if they wish to do so.

§ 4.9 *Reserved authority.* The provisions of §§ 4.1 to 4.8 shall not operate to limit or restrict the discretionary authority of the Governor of the Farm Credit Administration or any deputy governor to release, or to authorize the release of, information by or pertaining to the Farm Credit Administration or any bank or association of the Farm Credit System.

§ 4.10 *Official records generally.* The Farm Credit Administration and the several banks or associations under its supervision keep confidential the classes of records enumerated in §§ 4.2, 4.3, 4.4, 4.5, and 4.8. Information contained in other official records in the custody of the Farm Credit Administration or of a particular bank or association may be made available to persons directly and properly concerned upon written application to the Farm Credit Administration or the particular bank or association. Such application must identify the specific information sought and must show how the applicant is concerned therewith. Such applications with respect to official records in the custody of the Farm Credit Administration may be granted by the Governor or any deputy governor or by the director or other division head in charge of the functions to which the records relate. Such applications with respect to official records in the custody of a particular bank or association may be granted by the chief executive officer of the bank or association in accordance with the provisions of this part.

PART 5—PERSONNEL

Sec.

5.1 Prohibited acts.

5.2 Soliciting support in polls for district or Federal Farm Credit Board membership.

AUTHORITY: §§ 5.1 and 5.2 issued under sec. 17, 39 Stat. 375, sec. 2, 42 Stat. 1459, sec. 4, 46 Stat. 13, sec. 6, 47 Stat. 14, as amended; 12 U. S. C. 665, 831, 1101, 1141b.

§ 5.1 *Prohibited acts.* Except as specifically authorized by law or rules and regulations promulgated thereunder, no officer, employee, or agent of the Farm Credit Administration or any corporation (including associations) under its supervision:

(a) Shall, in any manner directly or indirectly, participate in the deliberation upon, or the determination of, any question affecting his personal interests, those of any person related to him by blood or marriage, or those of any partnership, association, or any corporation in which he is directly or indirectly interested;

(b) Shall, except in the performance of his official duties, divulge to another person, or utilize for his personal benefit or that of another, any fact or information acquired by such officer, employee, or agent, directly or indirectly, by virtue of his employment;

(c) Shall speculate, directly or indirectly, in any agricultural commodity or product thereof, or in contracts relating thereto, or in the stock or membership interests of any association or corporation engaged in handling, processing, or disposing of any such commodity, or product;

(d) Shall accept or receive any salary, fee, commission, honorarium, or substantial gift, or other benefit for any purpose or in any way, directly or indirectly, from any borrower from or debtor to the Farm Credit Administration or any such corporation, or from any loan applicant or representative thereof; *Provided, however,* That such officer, employee, or agent, may, with the written approval of the Governor and upon such conditions as the Governor may prescribe, accept compensation from such borrower, debtor, applicant, or representative for bona fide services rendered while on leave of absence without pay; *And, provided further,* That a person employed and compensated by a national farm loan association solely for the purpose of taking applications for loans may also receive compensation from applicants and borrowers for services as attorney, abstractor or insurance agent if his charges for such other services are reasonable or at standard rates;

(e) (1) Shall acquire, directly or indirectly (including acquisition by membership in syndicates), any lands or interests therein, including mineral interests, which are owned by any such corporation or which were thus owned at any time within the preceding 12 months. Definition: As used in this paragraph, "mineral interests" means any interest in minerals, oil, or gas, including, but not limited to, any right derived directly or indirectly from a mineral, oil, or gas lease, deed, or royalty conveyance.

(2) Shall separately acquire, directly or indirectly (including acquisition by membership in syndicates), any mineral interests in lands which are mortgaged to any such corporation or which were thus mortgaged at any time within the preceding 12 months, but this shall not prohibit mineral interests being acquired incidentally with surface interests;

(3) Shall acquire, directly or indirectly (including acquisition by membership in syndicates), any interests in lands (including mineral interests being acquired incidentally with surface interests) which are mortgaged to any such corporation or which were thus mortgaged at any time within the preceding 12 months, without obtaining the specific prior approval of the board of directors of such corporation (meaning the Federal land bank as agent in the case of the Federal Farm Mortgage Corporation) in addition to conforming with any other applicable regulations. Exception: This paragraph shall not apply to acquisitions by will or inheritance; nor to presidents and vice presidents of national farm loan associations and production credit associations;

(f) Shall participate directly or indirectly in any transaction concerning the purchase or sale of corporate stocks or bonds, commodities, or other property for speculative purposes if such action might tend to interfere with the proper and impartial performance of his duties or bring discredit upon the Farm Credit Administration or any such corporation. Employees are not prohibited by this paragraph from making bona fide investments. When an employee is uncertain as to whether a contemplated transaction is prohibited by this paragraph, he should consult his immediate superior;

(g) Shall at any time conduct himself in a manner which might cause embarrassment to or criticism of the Farm Credit Administration or any such corporation, or interfere with the efficient performance of his duties.

§ 5.2 *Soliciting support in polls for district or Federal Farm Credit Board membership*—(a) *Bank personnel.* No officer or employee of a Federal land bank, Federal intermediate credit bank, bank for cooperatives, or general agent's office shall take any part, directly or indirectly, in the designation of nominees for the Federal Farm Credit Board or in the nomination or election of a member of a district or Central Bank board of directors, or make any statement, either orally or in writing, which may be construed as intended to influence any vote in such designations, nominations, or elections. Action shall immediately be taken to dismiss, in accordance with applicable procedures, any such officer or employee who violates the provisions of this section.

(b) *Farm Credit Administration personnel.* No officer or employee of the Farm Credit Administration except as authorized in the discharge of his or her official duties shall take any part, directly or indirectly, in the designation of nominees for the Federal Farm Credit Board or in the nomination or election of a member of a district farm credit board or the board of the Central Bank for Cooperatives or make any statement, either orally or in writing, which may be construed as intended to influence any vote in such designations, nominations, or elections. Any such officer or employee who violates the provisions of this section shall be dismissed.

PART 11—NATIONAL FARM LOAN ASSOCIATIONS

In order to reflect a proviso which has been added thereto, § 11.1073 of Title 6 of the Code of Federal Regulations is hereby amended to read as follows:

§ 11.1073 *Prohibition against fee splitting.* No officer, director, or employee of a national farm loan association shall receive, directly or indirectly, any part of any fee, commission, or other consideration paid to any other person for or in connection with abstracts prepared for applicants for loans, insurance on security for such loans, the sale of farms mortgaged to a land bank, or any services performed on behalf of applicants for loans or borrowers from a land bank; provided, however, that a person employed and compensated by an association solely for the purpose of taking applications for loans may also receive compensation from applicants and borrowers for services as attorney, abstracter or insurance agent if his charges for such other services are reasonable or at standard rates.

(Sec. 6, 47 Stat. 14, as amended; 12 U. S. C. 665)

[SEAL] R. B. TOOTELL,
Governor,
Farm Credit Administration.

[F. R. Doc. 57-10578; Filed, Dec. 23, 1957; 8:47 a. m.]

Chapter III—Farmers Home Administration, Department of Agriculture

Subchapter B—Farm Ownership Loans

[FHA Instruction 443.3]

PART 333—PROCESSING SUBSEQUENT LOANS

SUBSEQUENT LOANS BY NEW LENDER

Section 333.3 (h) (5), Title 6, Code of Federal Regulations (21 F. R. 5553), is revised to simplify notification to the holder by the Finance Office of payment in full of initial loan when subsequent insured loan is made by a new lender. The revised subparagraph reads as follows:

§ 333.3 *Subsequent insured loans.* * * *

(h) *Loan closing actions.* * * *

(5) When subsequent loan is made by new lender:

(i) When the subsequent loan is ready for closing, the County Supervisor will request a check by use of Form FHA-971 in the same manner as for an initial insured loan.

(ii) The subsequent loan check will be deposited in the borrower's supervised bank account on the day of loan closing.

(iii) The borrower will be requested to draw a check to the order of the Farmers Home Administration in the amount of the unpaid balance of principal and interest on the initial loan promissory note as of the date of loan closing, plus 10 days additional interest if an initial insured loan is being refinanced, but no additional interest if a direct loan is being refinanced. In case a direct loan is being refinanced, the note, mortgage, and satisfaction or release of the mortgage, in connection with the direct loan will be handled in accordance with Subpart A of Part 366 of this chapter, except as modified by the closing instructions from the Attorney in Charge.

(iv) The borrower's check will be remitted to the Finance Office as final payment of the borrower's initial note account.

(v) Any overpayment of interest will be applied to the borrower's subsequent note account as a regular payment.

(vi) Upon receipt of the collection in the Finance Office, if the collection pays in full the outstanding balance of the borrower's initial insured note account as of the date of the U. S. Treasury check to be issued to the holder of the initial insured note, and if the amount owed the loan insurance account has been paid, the Finance Office will close the initial insured loan account as a paid-in-full account. The Finance Office will prepare Form FHA-993A, "Notice and Acknowledgment of Final Payment," and forward to the holder the original and one copy for execution and return of the original together with the canceled promissory note and any other instruments indicated on Form FHA-993A to the appropriate County Supervisor. If the collection pays in full the outstanding balance of the borrower's initial direct loan account, the final payment will be processed in accordance with Subpart A of Part 366 of this chapter.

(vii) Upon receipt in the County Office of the canceled promissory note and the original of the completed Form FHA-993A, and any other instruments indicated on Form FHA-993A, and after the satisfaction or release of the mortgage for the initial loan and, when appropriate, Form FHA-366 have been recorded, the County Supervisor will deliver to the borrower the canceled note, the satisfied mortgage, the instrument of satisfaction or release and, when appropriate, Form FHA-366.

Dated: December 18, 1957.

[SEAL] K. H. HANSEN,
Administrator,
Farmers Home Administration.

[F. R. Doc. 57-10571; Filed, Dec. 23, 1957; 8:45 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 54505]

PART 1—CUSTOMS DISTRICTS, PORTS, AND STATIONS

REVOCATION OF THE DESIGNATION OF TAKU INLET, ALASKA, AS A CUSTOMS STATION

The designation of Taku Inlet, Alaska, as a customs station in Customs Collection District No. 31 (Alaska) was revoked effective December 13, 1957.

Section 1.2 (d), Customs Regulations, is hereby amended by deleting "Taku Inlet, Alaska," from the column headed "Customs stations" and deleting "Juneau" opposite "Taku Inlet, Alaska," in the column headed "Port of entry having supervision" in District No. 31.

(R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624)

[SEAL] RALPH KELLY,
Commissioner of Customs.

Approved: December 13, 1957.

DAVID W. KENDALL,
Acting Secretary of the Treasury.

[F. R. Doc. 57-10583; Filed, Dec. 23, 1957; 8:48 a. m.]

TITLE 7—AGRICULTURE

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

PART 721—CORN

SUBPART—1958 COUNTY CORN ACREAGE ALLOTMENTS AND RESERVES

§ 721.907 *Basis and purpose.* The 1958 county corn acreage allotments and reserve acreages herein were determined under and in accordance with section 329 (a) of the Agricultural Adjustment Act of 1938, as amended. The purpose of this proclamation is to announce the apportionment among the counties in the commercial corn-producing area of the corn acreage allotment for 1958 which was established by the proclamation dated November 27, 1957 (22 F. R. 9570).

§ 721.908 *1958 county corn acreage allotments and reserves.*

ALABAMA

Counties	Acreage apportioned to counties	County reserve for new farms, corrections, and appeals
Baldwin	18,020	20
Cherokee	24,386	75
Coffee	41,873	200
Conecuh	28,641	50
Covington	42,902	300
Dale	21,841	109
De Kalb	62,507	125
Escambia	19,432	32
Etowah	22,758	100
Geneva	49,700	200
Houston	43,699	150
Jackson	53,483	267
Limestone	31,637	100
Madison	41,893	250
Marshall	46,950	125
Monroe	27,168	125
Morgan	31,864	100
State reserve	499	
Total	609,253	2,328

ARKANSAS

Clay	19,712	45
Craighead	26,030	75
Greene	22,176	45
Mississippi	19,525	50
State reserve	100	
Total	87,543	215

DELAWARE

Kent	32,154	150
New Castle	19,389	125
Sussex	56,657	200
State reserve	240	
Total	108,440	475

FLORIDA

Calhoun	7,736	100
Gadsden	22,326	200
Holmes	19,506	100
Jackson	46,243	300
Santa Rosa	15,089	125
State reserve	1,006	
Total	111,906	825

GEORGIA

Appling	17,017	50
Baker	14,597	50
Berrien	27,016	16
Brooks	34,246	50
Bulloch	51,503	60

GEORGIA—Continued

Counties	Acreage apportioned to counties	County reserve for new farms, corrections, and appeals
Candler	18,203	25
Colquitt	41,450	10
Cook	18,123	15
Decatur	31,108	40
Early	30,848	100
Emanuel	33,586	60
Evans	10,834	30
Grady	31,232	50
Houston	12,070	50
Jenkins	20,770	35
Lowndes	21,744	10
Macon	18,345	100
Miller	23,046	10
Mitchell	36,275	50
Peach	6,029	50
Screven	38,131	50
Seminole	15,956	25
Tattnall	26,781	50
Thomas	32,433	133
Tift	18,195	20
Toombs	20,441	25
Wayne	13,817	45
Worth	32,239	10
State reserve	696	
Total	696,731	1,219

ILLINOIS

Adams	62,260	217
Alexander	13,289	100
Bond	33,475	300
Boone	36,537	200
Brown	21,367	227
Bureau	129,304	950
Calhoun	16,946	100
Carroll	47,482	264
Cass	35,089	250
Champaign	148,864	500
Christian	87,822	375
Clark	42,448	250
Clay	34,180	400
Clinton	37,012	150
Coles	64,232	250
Cook	31,467	300
Crawford	37,162	300
Cumberland	33,531	200
De Kalb	102,965	300
De Witt	56,982	215
Douglas	59,438	400
Du Page	24,628	200
Edgar	74,983	800
Edwards	22,336	136
Effingham	38,984	275
Fayette	56,544	300
Ford	75,810	400
Franklin	24,035	300
Fulton	80,119	450
Gallatin	33,851	443
Greene	53,587	250
Grundy	63,988	200
Hamilton	33,051	400
Hancock	72,232	332
Hardin	5,535	100
Henderson	43,819	156
Henry	120,839	570
Iroquois	167,831	1,000
Jackson	33,484	600
Jasper	43,815	250
Jefferson	40,856	550
Jersey	28,441	141
Jo Daviess	37,645	200
Johnson	13,066	60
Kane	68,751	288
Kankakee	100,085	350
Kendall	50,827	140
Knox	85,333	250
Lake	25,949	149
La Salle	172,360	310
Lawrence	35,932	300
Lee	107,736	450
Livingston	168,443	650
Logan	93,047	200
McDonough	70,657	400
McHenry	69,814	150
McLean	194,410	350
Macon	78,290	500
Macoupin	77,872	200
Madison	53,379	250
Marion	36,409	334
Marshall	50,594	100
Mason	58,628	300
Massac	14,194	100
Menard	37,257	150
Mercer	69,884	125
Monroe	29,033	150
Montgomery	69,389	300
Morgan	60,284	300
Moultrie	46,280	280
Ogle	94,338	182
Peoria	60,189	300
Perry	27,322	200

ILLINOIS—Continued

Counties	Acreage apportioned to counties	County reserve for new farms, corrections, and appeals
Piatt	61,564	100
Pike	74,262	300
Pope	9,700	200
Pulaski	12,424	50
Putnam	18,848	70
Randolph	42,443	200
Richland	27,979	300
Rock Island	43,121	400
St. Clair	44,456	250
Saline	26,482	300
Sangamon	102,465	200
Schuyler	31,441	300
Scott	27,402	150
Shelby	90,064	400
Stark	43,372	150
Stephenson	60,534	316
Tazewell	80,122	400
Union	20,525	150
Vermilion	110,379	600
Wabash	23,133	175
Warren	73,623	200
Washington	28,862	100
Wayne	62,071	500
White	60,289	500
Whiteside	100,699	450
Will	101,634	500
Williamson	19,611	150
Winnebago	53,701	301
Woodford	73,976	161
State reserve	2,161	
Total	5,955,360	29,992

INDIANA

Adams	31,007	200
Allen	52,102	520
Bartholomew	34,162	340
Benton	62,095	310
Blackford	14,013	250
Boone	49,189	491
Brown	4,387	37
Carroll	45,560	228
Cass	44,314	264
Clark	17,369	90
Clay	25,852	130
Clinton	51,258	280
Crawford	8,689	75
Daviess	41,156	206
Dearborn	12,457	75
Decatur	38,240	250
De Kalb	32,542	244
Delaware	37,892	192
Dubois	27,237	136
Elkhart	35,895	450
Fayette	19,755	100
Floyd	4,524	150
Fountain	39,133	300
Franklin	25,449	150
Fulton	40,535	200
Gibson	52,313	313
Grant	37,068	250
Greene	33,927	589
Hamilton	40,706	204
Hancock	34,306	250
Harrison	18,009	200
Hendricks	40,797	250
Henry	42,618	225
Howard	33,414	190
Huntington	33,153	250
Jackson	34,751	200
Jasper	73,494	550
Jay	31,642	240
Jefferson	16,061	100
Jennings	21,730	217
Johnson	30,608	153
Knox	60,417	302
Kosclusko	55,938	280
Lagrange	28,456	275
Lake	44,444	600
La Porte	57,278	573
Lawrence	19,016	225
Madison	44,476	223
Marion	19,285	375
Marshall	46,645	400
Martin	9,662	48
Miami	37,500	225
Monroe	9,139	100
Montgomery	54,216	542
Morgan	28,583	203
Newton	51,573	400
Noble	38,170	200
Ohio	3,994	24
Orange	14,698	192
Owen	16,205	200
Parke	32,638	250
Perry	10,838	125
Pike	18,819	188
Porter	39,408	500
Posey	49,240	250
Pulaski	49,964	400
Putnam	37,983	600

INDIANA—Continued

Counties	Acreage apportioned to counties	County reserve for new farms, corrections, and appeals
Randolph	46,871	235
Ripley	26,697	134
Rush	54,455	275
St. Joseph	38,432	342
Scott	9,782	80
Shelby	50,011	500
Spencer	30,161	301
Starke	34,325	325
Steuben	23,726	178
Sullivan	40,792	600
Switzerland	7,229	72
Tippecanoe	56,911	611
Tipton	31,516	315
Union	17,430	90
Vanderburgh	18,993	100
Vermillion	24,071	300
Vigo	31,805	318
Wabash	41,796	208
Warren	37,494	187
Warrick	23,924	130
Washington	27,472	300
Wayne	37,918	379
Wells	36,327	182
White	67,323	336
Whitley	31,442	400
State reserve	2,994	
Total	3,097,900	24,647

IOWA

Adair	61,341	300
Adams	44,283	340
Allamakee	37,025	200
Appanoose	29,161	448
Audubon	57,085	357
Benton	97,079	250
Black Hawk	73,769	400
Boone	84,787	183
Bremer	52,832	225
Buchanan	73,835	274
Buena Vista	86,662	125
Butler	82,353	350
Calhoun	87,812	125
Carroll	85,442	375
Cass	69,771	428
Cedar	77,585	250
Cerro Gordo	85,708	600
Cherokee	78,374	250
Chickasaw	59,067	300
Clarke	32,576	204
Clay	82,506	250
Clayton	57,005	400
Clinton	92,241	350
Crawford	91,361	350
Dallas	82,115	407
Davis	28,266	400
Decatur	36,263	274
Delaware	66,789	450
Des Moines	40,755	250
Dickinson	54,344	208
Dubuque	51,178	375
Emmet	60,057	150
Fayette	78,411	230
Floyd	71,513	300
Franklin	93,082	203
Fremont	93,136	500
Greene	90,715	290
Grundy	74,196	207
Guthrie	64,545	150
Hamilton	94,439	400
Hancock	88,936	300
Hardin	84,764	250
Harrison	102,683	416
Henry	48,157	375
Howard	53,649	250
Humboldt	69,654	114
Ida	60,068	212
Iowa	69,628	325
Jackson	49,499	400
Jasper	90,002	250
Jefferson	40,995	440
Johnson	72,523	125
Jones	63,986	64
Keokuk	64,791	500
Kossuth	149,951	274
Lee	39,380	500
Linn	82,866	413
Louisa	45,159	250
Lucas	29,797	194
Lyon	87,195	250
Madison	52,331	225
Mahaska	70,494	500
Marion	59,070	650
Marshall	77,518	390
Mills	71,633	500
Mitchell	66,993	300
Monona	97,365	400
Monroe	27,241	305
Montgomery	57,140	400
Muscatine	52,243	250
O'Brien	82,884	200

IOWA—Continued

Counties	Acreage apportioned to counties	County reserve for new farms, corrections, and appeals
Osceola	60,779	156
Page	68,762	500
Palo Alto	89,674	200
Plymouth	127,045	300
Pocahontas	91,313	200
Polk	70,345	230
Pottawattamie	139,529	383
Poweshiek	72,976	283
Ringgold	40,962	500
Sac	84,697	100
Scott	56,830	275
Shelby	85,728	465
Sioux	119,758	300
Story	92,616	101
Tama	87,392	200
Taylor	51,262	619
Union	38,375	250
Van Buren	28,458	493
Wapello	34,543	550
Warren	55,265	194
Washington	70,656	700
Wayne	40,894	375
Webster	105,548	200
Winnebago	61,639	200
Winneshiek	62,020	250
Woodbury	125,511	549
Worth	55,850	236
Wright	92,028	150
State reserve	5,002	
Total	6,983,516	31,109

KANSAS

Anderson	19,357	194
Atchison	35,832	537
Brown	66,869	669
Clay	27,513	411
Cloud	25,840	346
Doniphan	47,159	283
Douglas	24,658	148
Franklin	24,983	250
Jackson	42,774	600
Jefferson	38,722	581
Jewell	42,066	800
Johnson	23,227	139
Leavenworth	25,245	379
Marshall	78,821	985
Miami	35,714	536
Nemaha	78,584	786
Phillips	34,079	570
Pottawatomie	32,892	329
Republic	53,745	1,075
Riley	20,520	200
Shawnee	27,667	277
Smith	46,314	463
Washington	54,129	541
State reserve	4,556	
Total	911,266	11,099

KENTUCKY

Allen	17,827	70
Ballard	17,924	200
Barren	30,521	100
Boone	7,932	40
Boyle	5,806	63
Breckinridge	21,611	80
Bullitt	6,470	80
Butler	19,803	195
Caldwell	15,685	100
Calloway	21,649	50
Carlisle	13,292	75
Carroll	3,935	60
Christian	42,229	200
Crittenden	15,425	250
Daviess	41,218	400
Edmonson	9,668	100
Fulton	12,629	60
Graves	43,492	1,200
Grayson	22,817	100
Green	14,032	50
Hancock	9,340	50
Hardin	19,782	200
Hart	15,171	200
Henderson	49,101	300
Hickman	17,376	250
Hopkins	25,088	150
Jefferson	6,032	50
Larue	13,982	90
Livingston	15,218	70
Logan	35,499	200
Lyon	10,545	300
McCracken	9,909	200
McLean	19,005	85
Marion	11,274	100
Mason	6,680	50
Meade	10,029	76
Monroe	16,155	150

KENTUCKY—Continued

Counties	Acreage apportioned to counties	County reserve for new farms, corrections, and appeals
Muhlenberg	20,079	100
Nelson	15,001	50
Ohio	25,525	400
Oldham	6,394	75
Shelby	13,794	40
Simpson	17,517	50
Spencer	6,613	75
Taylor	12,503	50
Todd	23,368	200
Trigg	20,328	200
Trimble	3,313	40
Union	28,725	105
Warren	31,060	250
Washington	9,544	100
Webster	22,375	100
State reserve	2,999	
Total	933,289	7,829

MARYLAND

Baltimore	12,097	100
Caroline	19,060	180
Carroll	24,417	115
Cecil	13,953	124
Dorchester	15,760	100
Frederick	23,934	100
Harford	12,418	100
Howard	6,441	55
Kent	26,213	140
Montgomery	11,808	100
Queen Annes	29,338	130
Somerset	7,219	35
Talbot	21,795	80
Washington	18,114	175
Wicomico	15,940	90
Worcester	22,268	60
State reserve	400	
Total	281,175	1,684

MICHIGAN

Allegan	35,458	300
Barry	21,783	300
Bay	13,356	300
Berrien	20,719	200
Branch	40,798	400
Calhoun	38,764	200
Cass	26,372	300
Clinton	38,746	200
Eaton	37,689	250
Genesee	20,663	400
Gratiot	39,295	600
Hillsdale	45,840	350
Ingham	35,006	300
Ionia	33,990	300
Isabella	21,861	400
Jackson	30,913	400
Kalamazoo	26,358	150
Kent	25,184	400
Lapeer	29,162	400
Lenawee	74,441	600
Livingston	22,192	450
Macomb	20,926	300
Mecosta	12,029	150
Midland	10,193	150
Monroe	47,897	500
Montcalm	20,993	150
Oakland	15,826	300
Ottawa	25,636	400
Saginaw	34,792	300
St. Clair	29,049	600
St. Joseph	34,574	350
Sanilac	34,025	300
Shiawassee	29,456	400
Tuscola	31,850	500
Van Buren	26,367	400
Washtenaw	37,722	400
Wayne	11,870	200
State reserve	1,000	
Total	1,102,795	12,600

MINNESOTA

Anoka	11,499	200
Benton	22,607	300
Big Stone	39,931	200
Blue Earth	89,637	150
Brown	71,322	250
Carver	32,646	200
Chippewa	76,129	200
Chisago	18,769	150
Cottonwood	85,803	200
Dakota	44,359	300
Dodge	44,858	200
Douglas	33,524	300

MINNESOTA—Continued

Counties	Acreage apportioned to counties	County reserve for new farms, corrections, and appeals
Faribault	95,684	400
Fillmore	67,701	400
Freeborn	86,618	400
Goodhue	48,276	350
Grant	36,524	300
Hennepin	25,044	250
Houston	27,443	150
Isanti	16,631	75
Jackson	104,529	300
Kandiyohi	80,344	350
Lac qui Parle	89,674	250
Le Sueur	41,634	250
Lincoln	57,896	300
Lyon	102,312	300
McLeod	49,870	250
Martin	113,457	250
Meeker	59,874	200
Mille Lacs	13,611	100
Morrison	33,971	125
Mower	85,785	400
Murray	97,482	300
Nicollet	46,710	300
Nobles	104,779	200
Olmsted	58,535	250
Otter Tail	81,310	400
Pipestone	60,438	200
Pope	45,831	250
Redwood	124,464	300
Renville	122,143	400
Rice	45,835	300
Rock	67,863	150
Scott	30,101	200
Sherburne	21,016	200
Sibley	62,377	300
Stearns	79,216	500
Steele	48,418	200
Stevens	56,025	300
Swift	78,008	400
Todd	47,370	300
Traverse	38,182	350
Wabasha	31,136	200
Waseca	49,424	200
Washington	23,215	200
Watonwan	62,136	300
Wilkin	32,564	175
Winona	32,340	100
Wright	57,164	175
Yellow Medicine	103,153	200
State reserve	963	
Total	3,516,160	15,400

MISSOURI

Adair	23,464	150
Andrew	40,284	50
Atchison	88,240	175
Audrain	50,819	200
Bates	42,877	300
Benton	17,915	100
Bollinger	17,060	150
Boone	28,949	200
Buchanan	38,149	146
Caldwell	28,653	250
Callaway	29,710	125
Cape Girardeau	30,194	200
Carroll	64,988	500
Cass	39,734	250
Chariton	52,627	200
Clark	29,788	200
Clay	20,905	300
Clinton	28,928	48
Cole	13,100	60
Cooper	37,047	125
Daviess	36,345	200
De Kalb	32,825	164
Dunklin	26,812	50
Franklin	28,596	175
Gasconade	13,569	150
Gentry	36,631	100
Grundy	25,254	154
Harrison	42,805	300
Henry	37,428	200
Holt	68,178	200
Howard	30,381	125
Jackson	26,190	100
Jefferson	11,257	150
Johnson	40,801	450
Knox	28,857	100
Lafayette	57,664	360
Lewis	29,866	100
Lincoln	39,579	200
Linn	32,173	150
Livingston	32,078	150
Macon	37,058	150
Marion	25,739	100
Mercer	20,390	125
Mississippi	35,494	50
Moniteau	21,006	80

MISSOURI—Continued

Counties	Acreage apportioned to counties	County reserve for new farms, corrections, and appeals
Monroe	39,513	125
Montgomery	32,235	180
Morgan	10,349	75
New Madrid	35,499	100
Nodaway	84,805	400
Perry	20,956	250
Pettis	43,177	275
Pike	44,919	200
Platte	33,801	150
Putnam	18,976	150
Ralls	30,566	125
Randolph	21,331	200
Ray	45,496	250
St. Charles	35,144	190
St. Clair	23,168	50
St. Louis	12,296	96
Ste. Genevieve	14,641	50
Saline	82,085	350
Schuyler	11,457	150
Scotland	23,271	150
Scott	34,372	20
Shelby	29,629	150
Stoddard	53,318	100
Sullivan	26,607	125
Vernon	38,999	150
Warren	18,064	150
Wayne	9,176	75
Worth	19,863	63
State reserve	2,001	
Total	2,436,121	12,161

NEBRASKA

Adams	55,006	300
Antelope	97,127	250
Boone	87,007	257
Boyd	35,781	357
Buffalo	107,179	500
Burt	83,217	200
Butler	88,539	350
Cass	88,218	150
Cedar	102,868	300
Clay	62,801	275
Colfax	61,014	250
Cuming	89,913	400
Custer	125,188	625
Dakota	39,496	400
Dawson	95,421	600
Dixon	69,973	300
Dodge	84,385	200
Douglas	45,408	150
Fillmore	72,360	300
Franklin	39,718	250
Furnas	51,658	250
Gage	101,799	500
Garfield	7,928	65
Gosper	32,097	160
Greeley	46,226	275
Hall	72,351	362
Hamilton	80,753	350
Harlan	38,456	300
Holt	48,514	350
Howard	50,689	225
Jefferson	48,666	200
Johnson	43,621	171
Kearney	53,327	250
Knox	99,273	573
Lancaster	106,701	500
Lincoln	68,442	500
Madison	86,476	800
Merrick	63,933	250
Nance	55,280	250
Nemaha	58,560	150
Nuckolls	56,395	200
Otoe	86,708	200
Pawnee	44,231	350
Phelps	63,367	317
Pierce	73,502	400
Platte	102,520	300
Polk	68,394	170
Richardson	75,315	250
Saline	65,220	250
Sarpy	39,459	150
Saunders	126,050	350
Seward	82,184	200
Sherman	49,369	200
Stanton	59,309	200
Thayer	48,521	242
Thurston	60,566	50
Valley	49,330	160
Washington	58,145	150
Wayne	70,327	440
Webster	46,830	250
York	96,258	300
State reserve	4,173	
Total	4,171,542	18,024

NEW JERSEY

Counties	Acreage apportioned to counties	County reserve for new farms, corrections, and appeals
Burlington	14,248	120
Cumberland	5,479	100
Gloucester	4,409	100
Hunterdon	18,134	160
Mercer	8,103	100
Middlesex	4,899	100
Monmouth	15,095	100
Ocean	2,048	96
Salem	14,916	125
Somerset	6,270	100
Warren	12,265	100
State reserve	1,001	
Total	106,867	1,141

NORTH CAROLINA

Beaufort	27,860	194
Bertie	21,626	33
Camden	10,426	64
Chowan	8,810	62
Columbus	41,325	561
Craven	16,649	107
Currituck	9,536	26
Duplin	54,212	161
Edgecombe	32,769	65
Gates	14,677	70
Greene	27,829	33
Halifax	27,470	136
Harnett	28,660	143
Hertford	13,413	42
Hyde	8,776	231
Johnston	57,100	322
Jones	16,057	100
Lenoir	36,705	45
Martin	20,113	46
Nash	30,087	171
Northampton	22,399	28
Onslow	17,192	200
Pasquotank	13,263	83
Perquimans	13,382	72
Pitt	48,832	131
Robeson	71,522	407
Sampson	53,035	247
Tyrrell	4,540	131
Wake	23,455	268
Washington	7,462	33
Wayne	50,286	350
Wilson	30,907	13
State reserve	300	
Total	860,675	4,645

NORTH DAKOTA

Richland	73,550	1,550
State reserve	173	
Total	73,723	1,550

OHIO

Adams	22,628	100
Allen	34,448	300
Ashland	21,446	200
Athens	6,130	100
Auglaize	39,241	300
Brown	32,268	50
Butler	36,555	200
Champaign	41,778	200
Clark	36,613	200
Clermont	23,232	80
Clinton	46,916	200
Columbiana	13,906	250
Coshocton	17,941	200
Crawford	35,924	200
Darke	72,568	350
Defiance	28,373	310
Delaware	34,310	150
Erie	18,407	200
Fairfield	39,087	100
Fayette	44,116	200
Franklin	32,672	225
Fulton	48,251	200
Greene	42,152	50
Hamilton	10,874	200
Hancock	50,897	400
Hardin	48,224	150
Henry	41,529	150
Highland	43,856	200
Hocking	6,675	150
Holmes	18,351	200
Huron	33,443	50
Jackson	6,314	200
Knox	29,195	

OHIO—Continued

Counties	Acreage apportioned to counties	County reserve for new farms, corrections, and appeals
Lawrence	2,896	15
Licking	37,797	500
Logan	36,955	300
Lorain	17,792	125
Lucas	16,977	150
Madison	47,680	350
Mahoning	10,817	200
Marion	37,746	300
Medina	17,933	300
Mercer	44,490	275
Miami	46,256	150
Montgomery	35,071	200
Morgan	5,676	101
Morrow	26,427	250
Muskingum	17,693	125
Ottawa	15,642	250
Paulding	30,153	200
Perry	10,684	150
Pickaway	55,994	120
Pike	13,434	80
Preble	49,687	200
Putnam	43,851	250
Richland	23,665	100
Ross	41,841	175
Sandusky	36,381	140
Scioto	14,021	100
Seneca	49,270	225
Shelby	39,655	200
Stark	21,295	50
Tuscarawas	14,814	100
Union	37,190	275
Van Wert	39,903	353
Vinton	3,937	75
Warren	32,299	200
Wayne	36,682	182
Williams	35,543	200
Wood	56,955	400
Wyandot	34,824	350
State reserve	2,001	
Total	2,200,847	14,081

PENNSYLVANIA

Adams	30,090	125
Berks	39,745	200
Blair	7,039	75
Bucks	23,715	200
Carbon	2,721	50
Centre	15,712	125
Chester	26,203	300
Clinton	5,430	50
Columbia	15,335	150
Cumberland	31,177	100
Dauphin	16,801	100
Delaware	1,039	75
Franklin	34,577	150
Fulton	7,364	100
Huntingdon	11,378	75
Juniata	10,710	100
Lancaster	67,929	150
Lebanon	19,894	125
Lehigh	17,823	150
Lycoming	16,687	125
Mifflin	9,533	50
Monroe	3,003	50
Montgomery	16,541	150
Montour	6,402	100
Northampton	20,631	200
Northumberland	17,105	50
Perry	13,346	50
Schuylkill	10,227	125
Snyder	11,774	100
Union	9,605	100
York	57,741	350
State reserve	499	
Total	577,776	3,850

SOUTH CAROLINA

Dillon	15,772	631
Horry	33,249	2,750
State reserve	1,000	
Total	50,021	3,381

SOUTH DAKOTA

Aurora	53,806	200
Beadle	81,890	400
Bon Homme	72,088	88
Brookings	82,683	300
Brule	63,992	294
Charles Mix	118,370	610
Clark	43,969	200
Clay	66,187	660
Codington	24,385	488
Davison	47,063	100
Day	27,389	219
Deuel	35,534	150
Douglas	48,249	150
Grant	38,466	300
Gregory	53,397	267
Hamlin	36,244	150
Hanson	49,962	250
Hutchinson	95,528	528
Jerauld	30,710	150
Kingsbury	65,428	327
Lake	67,625	300
Lincoln	86,826	200
McCook	72,518	175
Miner	51,417	317
Minnehaha	106,307	300
Moody	70,359	159
Roberts	54,151	270
Sanborn	49,622	250
Tripp	56,300	300
Turner	84,432	300
Union	67,817	300
Yankton	67,194	400
State reserve	2,465	
Total	1,972,373	9,102

TENNESSEE

Bedford	16,185	100
Benton	11,694	60
Carroll	33,562	300
Cheatham	7,183	50
Coffee	17,852	30
Crockett	13,121	71
Dyer	24,163	200
Franklin	16,980	175
Gibson	38,249	350
Grundy	3,005	50
Haywood	23,593	75
Henry	24,791	350
Lake	4,545	150
Lauderdale	22,836	100
Lincoln	25,899	50
Marion	6,070	150
Montgomery	21,438	300
Moore	3,960	35
Obion	36,150	250
Robertson	24,940	150
Sequatchie	1,880	100
Stewart	11,685	100
Tipton	18,899	125
Warren	13,325	25
Weakley	41,583	260
State reserve	1,103	
Total	464,691	3,606

VIRGINIA

Accomac	6,162	75
Charles City	2,721	50
Clarke	4,694	150
Isle of Wight	18,283	25
Loudoun	16,922	500
Nansemond	18,858	50
Norfolk	11,065	60
Northampton	2,605	40
Northumberland	6,065	185
Princess Anne	7,662	40
Richmond	4,460	135
Southampton	28,692	100
Surry	9,697	50
Sussex	12,921	40
Westmoreland	5,768	175
State reserve	500	
Total	156,175	1,675

WEST VIRGINIA

Berkeley	6,277	180
Jefferson	9,796	200
State reserve	150	
Total	16,223	380

WISCONSIN

Adams	12,328	90
Buffalo	24,076	120
Columbia	55,580	540
Crawford	21,537	150
Dane	102,060	500
Dodge	65,201	400
Dunn	37,075	180
Eau Claire	16,553	80
Fond du Lac	45,562	221
Grant	67,725	500
Green	42,687	210
Green Lake	23,885	115
Iowa	38,260	100
Jackson	19,153	125
Jefferson	44,532	350
Juneau	18,560	150
Kenosha	22,180	140
La Crosse	18,347	100
Lafayette	49,014	200
Marquette	16,227	80
Milwaukee	4,224	48
Monroe	24,941	240
Outagamie	37,465	150
Pepin	10,317	30
Pierce	34,254	200
Polk	33,283	200
Racine	29,383	286
Richland	22,312	125
Rock	78,680	600
St. Croix	44,867	475
Sauk	41,183	200
Trempealeau	28,226	148
Vernon	28,448	280
Walworth	54,504	480
Waukesha	32,248	200
Waupaca	28,920	200
Waushara	23,039	200
Winnebago	25,816	125
State reserve	13,361	
Total	1,336,013	8,538
U. S. total	38,818,381	

(Sec. 375, 52 Stat. 66, 7 U. S. C. 1375. Interprets or applies Sec. 329, 52 Stat. 52, 7 U. S. C. 1329)

Issued at Washington, D. C., this 19th day of December 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 57-10609; Filed, Dec. 23, 1957; 8:53 a. m.]

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

Subchapter I—Determination of Prices

[Sugar Determination 877.10]

PART 877—PRICES: SUGARCANE: PUERTO RICO

1957–58 CROP

Pursuant to the provisions of section 301 (c) (2) of the Sugar Act of 1948, as amended, (herein referred to as "act"), after investigation, and due consideration of the evidence presented at the public hearing held in Santurce, Puerto Rico, on October 10, 1957, the following determination is hereby issued:

§ 877.10 *Fair and reasonable prices for the 1957–58 crop of Puerto Rican sugarcane.* A producer of sugarcane in Puerto Rico who is also a processor of sugarcane (herein referred to as "processor"), shall have paid, or contracted to pay, for sugarcane of the 1957–58 crop grown by other producers and processed by him, in accordance with the following requirements:

(a) *Definitions.* For the purpose of this section, the term:

(1) "Raw sugar" means raw sugar, 96° basis.

(2) "Sugar yield period" means any period not exceeding one calendar month

as may be elected by the processor to determine the yield of raw sugar. The period adopted by the processor shall be used uniformly throughout the grinding season. In instances where odd days occur because a processor begins or ends grinding on a day which does not correspond with the beginning or ending of the sugar yield period, or grinding is interrupted because of holidays or for other reasons, such odd days shall be either included in the prior or subsequent sugar yield period, or treated as a separate sugar yield period.

(3) "Price of raw sugar" means the daily spot quotation of raw sugar of the New York Coffee and Sugar Exchange (domestic contract), adjusted to a duty-paid basis by adding the U. S. duty prevailing on Cuban raw sugar, except, that if the Director of the Sugar Division determines that such price does not reflect the true market value of raw sugar, he may designate the price to be effective under this determination which he determines will reflect the true market value of raw sugar.

(4) "Inferior varieties of sugarcane" means sugarcane of the Saccharum Spontaneum or Saccharum Sinense variety (including sugarcane of the Japanese, Uba, Kavangerie, Zuinga, Caledonia, Coimbatore 213 and Coimbatore 281 varieties).

(5) "Yield of raw sugar" means the yield of raw sugar, 96° basis, per 100 pounds of net sugarcane determined for the sugar yield period in accordance with the formula set forth in Schedule A below and made a part hereof.

(6) "Net sugarcane" means (i) the gross weight of the sugarcane delivered to the mill determined to contain a quantity of trash not in excess of 5 percent of the gross weight, or (ii) the gross weight of the sugarcane delivered to the mill less the quantity of trash determined to be in excess of 5 percent of such gross weight.

(7) "Trash" means green or dried leaves, sugarcane tops, soil, stones, and all other extraneous material.

(b) *Payment for sugarcane.* (1) The payment for net sugarcane delivered by the producer (colono) to the processor shall be made as agreed upon by the producer and the processor, either by the delivery to the producer of his share of raw sugar or by the payment to the producer of the money value of his share of raw sugar. In instances where raw sugar is delivered to the producer, the processor shall deliver such sugar packed in the customary bags or, if the raw sugar is delivered in bulk, the processor shall also pay to the producer an allowance per 100 pounds of bulk sugar for non-use of bags equal to the average bag discount sustained by the processor on the processor's own bulk sugar of the 1957–58 crop.

(2) For each 100 pounds of net sugarcane (including inferior varieties of sugarcane) having a yield of raw sugar of 9 pounds or more, the payment shall be not less than the quantity of raw sugar determined by applying the following applicable percentage to the yield of raw sugar of the producer's net sugarcane:

Pounds of raw sugar per 100 pounds of net sugarcane:	Percentage
9.0	63.0
9.5	63.5
10.0	64.0
10.5	64.5
11.0	65.0
11.5	65.5
12.0	66.0
12.5	66.5
13.0	67.0
13.5 and over	67.5

Intermediate points within the above scale are to be interpolated to the nearest one-tenth point.

(3) For each 100 pounds of net sugarcane (including inferior varieties of sugarcane) having a yield of raw sugar of less than 9 pounds, the payment shall be not less than the quantity determined by subtracting 3⅓ pounds of raw sugar from the yield of raw sugar of the producer's net sugarcane.

(4) If settlement with the producer is made in cash, the processor shall pay to the producer the money value of his share of raw sugar determined on the basis of the simple average price of raw sugar for the period January 1, 1958 through December 31, 1958, converted to an f. o. b. mill price by subtracting the admissible deductions for selling and delivery expenses on raw sugar in accordance with Schedule B below and made a part hereof.

(c) *Molasses payment.* For each ton of net sugarcane delivered, the processor shall pay to the producer an amount equal to the product of (1) 66 percent of the net proceeds per gallon of blackstrap molasses sold of the 1957–58 crop in excess of five cents per gallon, and (2) the average production of blackstrap molasses per ton of net sugarcane of the 1957–58 crop processed at each mill. A processor operating more than one mill shall compute the average gross proceeds from the sales of molasses produced at all mills operated by such processor and shall compute the net proceeds separately for each mill operated by such processor. Admissible items of selling and delivery expenses to be used in calculating molasses net proceeds are listed in Schedule C below and made a part hereof.

(d) *Determination of net sugarcane.* (1) The net sugarcane of each producer (including the processor) which is delivered to the mill each day shall be determined as follows: The processor jointly with a representative designated by the producers or producer organizations in any mill area, or in the absence of a producer representative the processor, shall examine the sugarcane deliveries and estimate whether the deliveries contain a quantity of trash (i) not in excess of 5 percent of the gross weight, or (ii) in excess of 5 percent of the gross weight. In the event the processor and the representative of producers do not agree as to whether a delivery should be sampled, the processor shall determine the quantity of trash in such sugarcane in the same manner as for deliveries of sugarcane estimated to contain trash in excess of 5 percent. As to the deliveries of sugarcane of any producer which are estimated to contain trash not in excess of 5 percent, the gross weight of the sugarcane delivered shall be the net weight. As to the deliveries of sugarcane of any producer estimated to contain trash in excess of 5 percent, the net weight shall be determined by taking a representative sample within the range of 100 to 200 pounds of sugarcane from one or more of the deliveries deemed to be representative and separate therefrom all trash. The weight of the trash which is removed from the sample of sugarcane shall be expressed as a percentage of the gross weight of the sample. If such percentage exceeds 5 percent, that percentage in excess of 5 percent shall be applied to the gross weight of the sugarcane delivery from which the sample was taken to determine the net weight of such sugarcane, and the same percentage shall be applied to the gross weight of all other deliveries of sugarcane delivered by that producer during the same day which are estimated to contain a trash content reasonably similar to the delivery from which the sample was taken.

(2) With respect to the sample taken as provided in this paragraph, the processor may make a separate determination of the weight of soil and stones contained in such sample taken of a producer's sugarcane and may charge the producer 5 cents per ton of net sugarcane delivered during the day which is represented by the sample for each one percent, fractions in proportion, by which the weight of soil and stones is in excess of one percent of the gross weight of the sample.

(e) *Sampling charges.* The processor may charge the producer 66 percent of the actual cost, but not to exceed $2.64, for each sample taken to cover the cost of sampling and measuring the actual quantity of trash. If a separate determination is made of the weight of soil and stones, the cost thereof shall be borne by the processor.

(f) *Services and allowances to producers.* (1) When payment is made to the producer by the delivery of raw sugar, the processor shall store and insure all such sugar through December 31, 1958, and shall bear the costs thereof.

(2) When payment is made to the producer by the delivery of raw sugar, the processor shall share with the producer on a pro rata basis all ocean shipping facilities available to the processor.

(3) Allowances made to producers by the processor for the 1956–57 crop shall be made for the 1957–58 crop at the rates which were effective under comparable conditions in 1956–57; the costs of services which were borne by the processor for the 1956–57 crop, shall be borne for the 1957–58 crop: *Provided*, That nothing in this subparagraph shall be construed as prohibiting modification of practices which may be necessary because of unusual circumstances, any modifications to be subject to approval of the Caribbean Area Agricultural Stabilization and Conservation Office, Santurce, Puerto Rico (herein referred to as the "Area Office").

(g) *Reporting requirements.* (1) The processor shall submit to the Area Office a list of those producers with whom set-

tlement will be made in cash and those with whom settlement will be made in sugar, together with a statement as to the sugar yield period which will be used during the grinding season. Such information shall be submitted not later than 7 days after grinding commences, except that in extenuating circumstances an extension may be granted by the Director of the Area Office.

(2) The processor shall submit in duplicate to the Area Office statements verified by a Certified Public Accountant of the deductions made in determining the f. o. b. mill price of sugar and the net proceeds from molasses. Such statements shall be submitted not later than August 1, 1959, except that in extenuating circumstances an extension may be granted by the Director of the Area Office.

(h) *Subterfuge.* The processor shall not reduce returns to the producer below those determined herein through any subterfuge or device whatsoever.

STATEMENT OF BASES AND CONSIDERATIONS

(a) *General.* The foregoing determination establishes the fair and reasonable price requirements which must be met, as one of the conditions for payment under the act, by a producer who processes sugarcane of the 1957–58 crop grown by other producers.

(b) *Requirements of the act.* Section 301 (c) (2) of the act provides as a condition for payment, that the producer on the farm who is also directly or indirectly a processor of sugarcane, as may be determined by the Secretary, shall have paid, or contracted to pay under either purchase or toll agreements, for sugarcane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing.

(c) *1957–58 price determination.* The 1957–58 determination differs from the 1956–57 determination in the following respects: (1) The sugar yield period has been redefined as any period the processor may elect, not exceeding one calendar month, except for odd days at the beginning or ending of grinding or during grinding which may be added to the prior or subsequent regular period or treated as a separate period; (2) the pricing period for raw sugar extends from January 1, 1958 through December 31, 1958; (3) a processor operating more than one mill is required to compute the average gross proceeds from the sales of molasses produced by all mills operated by him while the net proceeds must be calculated separately for each such mill; and (4) the processor must notify the area office of the method of settlement and the sugar yield period to be used within 7 days after grinding commences. In addition it has been made clear that when the processor and the grower representative do not agree as to whether a specific delivery of sugarcane contains trash in excess of 5 percent, the processor shall sample the delivery in question.

A public hearing was held in Santurce, Puerto Rico on October 10, 1957 at which interested persons were afforded the opportunity to present their views relating to fair and reasonable prices for the 1957-58 crop of sugarcane. At the hearing and in a supplemental brief the representative of the Grower-Processor Committee recommended that the provisions of the 1956-57 determination with regard to trash sampling be continued, but on a permissive basis; that the pricing period extend from January 1, 1958 through December 31, 1958; that the sugar-yield period be defined as the 2-week, 4-week, or any other period not longer than one month, as may be elected by the processor, and that this period be used throughout the season, except that the period could be changed for cause with prior approval of the Area Director; that a processor operating more than one mill be required to compute the net proceeds from the sale of molasses on the basis of the average gross proceeds from the sales of molasses produced at all mills operated by such processor; and that when the processor and the representative of producers do not agree as to whether the deliveries of sugarcane contain trash in excess of 5 percent the processor should sample and test such deliveries for trash.

A representative of one processor recommended that the determination provide for the washing of all sugarcane received by the mill. The witness stated that mechanization increased the amount of dirt in sugarcane delivered to the mill, and that they proposed to wash all of the cane before milling. He contended that if only mechanically loaded cane was washed it would be necessary to make an adjustment in the sugar recovery formula to correct for the dilution of sugarcane juices whereas if all cane were washed no such adjustments would be necessary.

Consideration has been given to the recommendations made at the public hearing, to analysis of the returns, costs, and profits of processing and producing sugarcane obtained for prior years and recast in terms of prospective price, production, and income conditions for the 1957–58 crop and to other pertinent factors. Consideration of all the factors indicates the sharing relationship between producers and processors provided by the 1956–57 determination is also equitable for the 1957–58 crop.

The sugar yield period has been redefined to limit such period to a calendar month, except for the addition of the odd days, and to permit flexibility on the part of the processor in the handling of odd days which may occur at the beginning and ending of grinding or because of interruptions during grinding.

The pricing period for raw sugar as recommended by the representative of the Grower-Processor Committee has been adopted. Inasmuch as the 1956–57 crop was below normal it appears that there will be little if any carryover of sugar by the end of 1957, and it is anticipated that all 1957–58 crop sugar will be marketed by the end of 1958.

The provisions relating to the determination of net sugarcane are substantially the same as in the prior determination, although language changes make it clear that if the grower and processor representatives do not agree as to whether any delivery of sugarcane contains trash in excess of the specified tolerance, the processor is required to sample such sugarcane. Provision has not been made for trash determinations on a permissive basis as recommended at the hearing. In view of the adverse effects of trash on the recovery of sugar and the resultant inequities among producers delivering cane containing wide variations in quantities of trash if uniform requirements were not followed, it is deemed equitable to require that trash determinations be made with respect to all sugarcane.

The processor is required to submit to the Area Office not later than 7 days after grinding commences a list of producers who will receive settlement for sugarcane in sugar and those who will be paid in cash, together with a statement as to the sugar yield period to be used.

The recommendation of one processor that the determination include a provision which would permit processors to wash all sugarcane before it is ground bears upon the problem of improving practices in the area to achieve greater efficiency of operations. Mechanical loading of sugarcane has been developed in recent years on some of the large farms. Such practice has resulted in the delivery to the mill of sugarcane containing varying quantities of trash, including soil and stones, which contribute to lower recoveries of raw sugar from sugarcane and higher milling costs. Experience in other producing areas indicates that the washing of cane prior to milling tends to eliminate a high proportion of the soil, stones, and some of the other trash, thereby reducing losses in sugar recoveries and the adverse cost effects of such extraneous material on milling operations.

The washing of sugarcane introduces a variable quantity of water (because of variations in leafy trash) which may dilute the crusher juice, and results in a lower sucrose test than would otherwise obtain. However, under the sugar recovery formula the "F" factor computed on the basis of the actual outturn of raw sugar and the tentative recoveries as indicated by the diluted crusher juice would tend to correct for the lower sucrose tests and give essentially the same sugar distribution among producers and the processor as if the sugarcane had not been washed. While it is recognized that some sugar losses may occur in the wash water and in the absorption of juice in sugarcane leaves, it is expected that a gain in sugar recoveries will result because of the elimination of soil which, if present, generally reduces boiling house efficiency.

It appears desirable that mills in Puerto Rico adopt practices tending to result in more efficient operations which will be of benefit to the industry. This determination contains no provision which would prohibit the washing of sugarcane prior to milling.

After consideration of all factors this determination is considered to be fair and reasonable. Accordingly, I hereby find and conclude that the foregoing

price determination will effectuate the price provisions of the Sugar Act of 1948, as amended.

(Sec. 403, 61 Stat. 932; 7 U. S. C. 1153. Interprets or applies sec. 301, 61 Stat. 929 as amended; 7 U. S. C. 1131).

Issued this 19th day of December 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

SCHEDULE A

FORMULA FOR DETERMINING THE "YIELD OF RAW SUGAR" FOR EACH PRODUCER

$$R=TI\ (S-0.3B)F$$

where:

R = Yield of raw sugar;

S = Polarization of the crusher juice obtained from the sugarcane of each producer;

B = Brix of the crusher juice obtained from the sugarcane of each producer;

T = Trash correction factor which varies inversely with the amount of trash contained in the sugarcane of each producer from 1.0 for sugarcane which contains an amount of trash not in excess of 5 percent of the gross weight of sugarcane to 0.90075 for sugarcane which contains an amount of trash in excess of 16 percent of the gross weight of sugarcane.

I = Inferior sugarcane correction factor which is applied only to inferior varieties of sugarcane of each producer and is determined as follows:

(a) When the purity, P, (where $P=100\ S\div B$), of the crusher juice of sugarcane is equal to 75 or more, the factor, $I=0.9$; or

(b) When the purity, P, (where $P=100\ S\div B$), of the crusher juice of such sugarcane is less than 75, the factor, $I=0.9-0.02\ (75-P)$;

F = Yield factor which is determined as follows:

(a) Determine the "tentative recovery of raw sugar" for each producer delivering sugarcane during the settlement period from the product of the formula $(S-0.3B)$, the number of hundredweights of net sugarcane, the applicable trash correction factor, T; and where applicable the inferior sugarcane correction, I; and

(b) Divide the pounds of the raw sugar, 96° basis, produced during the settlement period at the mill by the sum of the "tentative recoveries of raw sugar" for all producers to obtain the yield factor, F.

SCHEDULE B

ADMISSIBLE DEDUCTIONS FOR SELLING AND DELIVERY EXPENSES ON RAW SUGAR

Admissible deductions for selling and delivery expenses are for those expenses incurred on 1957–58 crop raw sugar which commence with the unstacking of raw sugar in bags or in bulk at the warehouse and include expenses incurred thereafter incidental to the delivery of raw sugar to the purchaser. The deductions are limited to the sum of the following expenses actually incurred at each mill operated by a processor, net of any receipts which reduce such expenses:

1. Freight from warehouse to dock, including covering cars or trucks where necessary;
2. Handling at dock, including unloading and stacking;
3. Wharfage, lighterage, and dock warehousing when incurred as an item separate from wharfage and when necessary in delivery of sugar from warehouse or mill to shipside;
4. Ocean freight, including loading and unloading where freight rate is "free in and free out";
5. Freight demurrage resulting from causes beyond the control of the shipper;

and an allowance of 8.7 cents per hundredweight of 96° raw sugar in bags, or 7.0 cents per hundredweight of 96° raw sugar in bulk, in lieu of:

6. Unstacking, tallying and loading at warehouse;
7. Shore risk, marine and war risk insurance;
8. Rebagging and mending sugar bags whenever and wherever incurred;
9. Brokerage or commissions and exchange;
10. Weighing, testing, sampling, mending sugar bags, and taring at destination;
11. All other expenses not itemized herein.

When any of the necessary services included in items 1 through 5 above are furnished by the processor, costs incurred shall include for each of the services rendered;

1. Direct and immediate supervisory labor;
2. Maintenance labor and supplies required for the facilities used;
3. Taxes and insurance assessed or charged to the processor on such labor and a proportionate share of retirement and pension, bonuses and vacation expenses properly allocable to such labor;
4. Direct supplies;
5. Depreciation (at rates allowed by the taxing authority), property taxes, and property insurance on the facilities used.

Administrative expenses and interest shall be excluded from the computation of costs. In the event that facilities used in providing the necessary services are also used for other purposes by the processor, only that portion of the maintenance, depreciation, property taxes, and property insurance of such facilities properly apportionable to the necessary service shall be allowed.

The Director of the Area Office, may permit the use of the lowest rate charged by a public utility or carrier for comparable service in lieu of the costs incurred by the processor in furnishing the necessary service in the event that the costs incurred therefor cannot be accurately determined.

In determining the f. o. b. mill price of raw sugar sold or processed in Puerto Rico, equivalent selling and delivery expenses as approved by the Director of the Area Office, may be allowed in lieu of expenses actually incurred.

The following certification shall be made on statements submitted in duplicate not later than August 1, 1959 to the Area Office:

CERTIFICATION

I hereby certify that the deductions set forth herein are properly chargeable as deductions for selling and delivery expenses for sugar in accordance with the determination of fair and reasonable prices for the 1957–58 crop of Puerto Rican sugarcane.

SCHEDULE C

DEFINITION OF ADMISSIBLE DEDUCTIONS FOR SELLING AND DELIVERY EXPENSES FOR MOLASSES

Admissible deductions for selling and delivery expenses in connection with the molasses payment provided in paragraph (c) of the 1957–58 price determination, are limited to the sum of the following expenses actually incurred at each mill operated by a processor, net of any receipts which reduce such expenses:

1. Operation of pumps to deliver molasses from mill tank to shipside or other delivery point;
2. Freight from mill tank to shipside (or to local buyers when such molasses is sold on a delivered price basis);
3. Operation of tank barges, tugs, or other marine equipment used in delivering molasses to shipside;
4. Weighing and testing;
5. Wharfage;
6. Shore risk insurance (limited in coverage from mill to shipside);
7. Freight demurrage resulting from causes beyond the control of the shipper;
8. Insular taxes on molasses produced in Puerto Rico;
9. Brokerage paid to a bona fide broker.

When any of the necessary services included in items (1) through (9) above are furnished by the processor, costs incurred shall include for each of the services rendered:

1. Direct and immediate supervisory labor;
2. Maintenance labor and supplies required for the facilities used;
3. Taxes and insurance assessed or charged to the processor on such labor and a proportionate share of retirement and pensions, bonuses and vacation expenses properly allocable to such labor;
4. Fuel, energy or direct supplies;
5. Depreciation (at rates allowed by the taxing authorities), property taxes and property insurance on the facilities used.

Administrative expenses and interest shall be excluded from the computation of cost. In the event that facilities used in providing the necessary services are also used for other purposes by the processor, only that portion of the maintenance, depreciation, property taxes, and property insurance of such facilities, properly apportionable to the necessary service, shall be allowed.

The Director of the Area Office may permit the use of the lowest rate charged by a public utility or carrier for comparable service in lieu of the cost incurred by the processor in furnishing the necessary service in the event that the costs incurred therefor cannot be accurately determined.

The following certification shall be made on statements submitted in duplicate not later than August 1, 1959, to the Area Office:

CERTIFICATION

I hereby certify that the deductions set forth herein are properly chargeable as deductions for selling and delivery expenses for molasses in accordance with the determination of fair and reasonable prices for the 1957–58 crop of Puerto Rican sugarcane.

[F. R. Doc. 57-10607; Filed, Dec. 23, 1957; 8:52 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

Subchapter C—Interstate Transportation of Animals and Poultry

[B. A. I. Order 383, Revised, Amdt. 98]

PART 76—HOG CHOLERA, SWINE PLAGUE, AND OTHER COMMUNICABLE SWINE DISEASES

SUBPART B—SWINE DISEASES SPREAD THROUGH RAW GARBAGE

CHANGES IN AREAS QUARANTINED

Pursuant to the provisions of sections 1 and 3 of the act of March 3, 1905, as amended (21 U. S. C. 123, 125), sections

1 and 2 of the act of February 2, 1903, as amended (21 U. S. C. 111–113, 120), and section 7 of the act of May 29, 1884, as amended (21 U. S. C. 117), § 76.27, as amended, Subpart B, Part 76, Title 9, Code of Federal Regulations (22 F. R. 3005, 4377, 6910, 7223, 8929, 9384, 9725), which quarantines certain areas because of vesicular exanthema, a contagious, infectious, and communicable disease of swine, is hereby further amended in the following respects:

1. A new subdivision (xix) is added to subparagraph (2) of paragraph (d), relating to Burlington County in New Jersey, to read:

(xix) Block 19, Lot 2, Plate 3, in Lumberton Township, owned and operated by John West.

2. New subdivisions (xvi), (xvii), and (xviii), are added to subparagraph (6) of paragraph (d), relating to Hudson County in New Jersey, to read:

(xvi) Block 30C, Lots 34, 35, 36, 37, and 38, Plot 7, in Secaucus Township, owned and operated by Charles Becker.

(xvii) Block 42, Lot 13, in Secaucus Township, owned and operated by Francis A. Niznik.

(xviii) Block 12, Lot 9, Plot 2312, in Secaucus Township, owned and operated by John Simsek.

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment excludes certain areas in New Jersey from the areas heretofore quarantined because of vesicular exanthema. Hereafter, the restrictions pertaining to the interstate movement of swine, and carcasses, parts and offal of swine, from or through quarantined areas, contained in 9 CFR, 1956 Supp., Part 76, Subpart B, as amended, will not apply to such areas. However, the restrictions pertaining to such movement from nonquarantined areas, contained in said Subpart B, as amended, will apply thereto.

The amendment relieves certain restrictions presently imposed, and must be made effective immediately to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under section 4 of the Administrative Procedure Act (5 U. S. C. 1003), it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and the amendment may be made effective less than 30 days after publication in the FEDERAL REGISTER.

(Sec. 7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, secs. 1, 3, 33 Stat. 1264, as amended, 1265, as amended; 21 U. S. C. 111–113, 117, 120, 123, 125)

Done at Washington, D. C., this 18th day of December 1957.

B. T. SHAW,
Administrator,
Agricultural Research Service.

[F. R. Doc. 57-10608; Filed, Dec. 23, 1957; 8:53 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

Subchapter B—Food and Food Products

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

TOLERANCES FOR RESIDUES OF THIRAM

A petition was filed with the Food and Drug Administration requesting the establishment of tolerances for residues of thiram in or on certain raw agricultural commodities. Later the request for the establishment of tolerances on celery, peaches, and strawberries was withdrawn without prejudice to a future filing.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which tolerances are being established.

After consideration of the data submitted in the petition and other relevant material which show that the tolerances established in this order will protect the public health, and by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (2), 68 Stat. 512; 21 U. S. C. 346a (d) (2)) and delegated to the Commissioner of Food and Drugs by the Secretary (21 CFR 120.7 (g)), the regulations for tolerances for pesticide chemicals in or on raw agricultural commodities (21 CFR Part 120; 21 CFR, 1956 Supp., 120.132) are amended by changing § 120.132 to read as follows:

§ 120.132 *Tolerances for residues of thiram.* A tolerance of 7 parts per million is established for residues of thiram (tetramethyl thiuram disulfide) in or on apples and tomatoes.

Any person who will be adversely affected by the foregoing order may, at any time prior to the thirtieth day from the effective date thereof, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D. C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by this order, specify with particularity the provisions of the order deemed objectionable and reasonable grounds for the objections, and request a public hearing upon the objections. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 371. Interprets or applies sec. 408, 68 Stat. 511; 21 U. S. C. 346a)

Dated: December 17, 1957.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F. R. Doc. 57-10572; Filed, Dec. 23, 1957; 8:45 a. m.]

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

TOLERANCES FOR RELATED PESTICIDE CHEMICALS; RECODIFICATION OF SECTION

Section 120.3 of the general regulations for setting tolerances and granting exemptions from tolerances (21 CFR, Part 120; 21 CFR, 1956 Supp., 120.3; 22 F. R. 348, 3106, 4017, 6589, 7503, 8082, 9528) is reissued for recodification purposes. No change is made in the text of these regulations.

§ 120.3 *Tolerances for related pesticide chemicals.* (a) Pesticide chemicals that cause related pharmacological effects will be regarded, in the absence of evidence to the contrary, as having an additive deleterious action. (For example, pesticide chemicals within each of the following groups have related pharmacological effects: Many chlorinated hydrocarbons, arsenic-containing chemicals, metallic dithiocarbamates, many organic phosphates.)

(b) Tolerances established for such related pesticide chemicals may limit the amount of a common component (such as As_2O_3) that may be present, or may limit the amount of biological activity (such as cholinesterase inhibition) that may be present, or may limit the total amount of related pesticide chemicals (such as chlorinated hydrocarbons) that may be present.

(c) Where tolerances for inorganic bromide in or on the same raw agricultural commodity are set in two or more sections in this part, the over-all quantity of inorganic bromide to be tolerated from use of two or more pesticide chemicals for which tolerances are established is the highest of the separate applicable tolerances. For example, where the bromide tolerance on lima beans from ethylene dibromide soil treatment is 5 parts per million and on lima beans from methyl bromide fumigation is 50 parts per million, the over-all inorganic bromide tolerance for lima beans grown on ethylene dibromide treated soil and also fumigated with methyl bromide after harvest is 50 parts per million.

(d) Where tolerances are established for both calcium cyanide and hydrogen cyanide on the same raw agricultural commodity, the total amount of such pesticides shall not yield more than 25 parts per million, calculated as hydrogen cyanide.

(e) Except as noted in subparagraphs (1) and (2) of this paragraph, where residues from two or more chemicals in the same class are present in or on a raw agricultural commodity the tolerance for the total of such residues shall be the same as that for the chemical having the lowest numerical tolerance in this class.

(1) Where residues from two or more chemicals in the same class are present in or on a raw agricultural commodity and there are available methods that permit quantitative determination of each residue, the quantity of combined residues that are within the tolerance may be determined as follows:

(i) Determine the quantity of each residue present.

(ii) Divide the quantity of each residue by the tolerance that would apply if it occurred alone, and multiply by 100 to determine the percentage of the permitted amount of residue present.

(iii) Add the percentages so obtained for all residues present.

(iv) The sum of the percentages shall not exceed 100 percent.

(2) Where residues from two or more chemicals in the same class are present in or on a raw agricultural commodity and there are available methods that permit quantitative determinations of one or more, but not all of the residues, the amounts of such residues as may be determinable shall be deducted from the total amount of residues present, and the remainder shall have the same tolerance as that for the chemical having the lowest numerical tolerance in that class. The quantity of combined residues that are within the tolerance may be determined as follows:

(i) Determine the quantity of each determinable residue present.

(ii) Deduct the amounts of such residues from the total amount of residues present and consider the remainder to have the same tolerance as that for the chemical having the lowest numerical tolerance in that class.

(iii) Divide the quantity of each determinable residue by the tolerance that would apply if it occurred alone and the quantity of the remaining residue by the tolerance for the chemical having the lowest numerical tolerance in that class and multiply by 100 to determine the percentage of the permitted amount of residue present.

(iv) Add the percentages so obtained for all residues present.

(v) The sum of the percentages shall not exceed 100 percent.

(3) The following compounds are members of the class of dithiocarbamates.

Ferbam.
Maneb.
Manganous dimethyldithiocarbamate.
Sodium dimethyldithiocarbamate.
Thiram.
Zineb.
Ziram.

(4) The following compounds are members of the class of chlorinated hydrocarbons:

Aldrin.
Benzene hexachloride.
Chlordane.
Chlorinated camphene (toxaphene).
Chlorobenzilate (ethyl 4,4'-dichlorobenzilate).
p-Chlorophenyl *p*-chlorobenzenesulfonate.
DDD (TDE).
DDT.
1,1-Dichloro-2,2-Bis(*p*-ethylphenyl) ethane.
2,4-Dichlorophenoxyacetic acid.
Dieldrin.
Heptachlor.
Lindane.
Methoxychlor.
Sesone (sodium 2,4-dichlorophenoxyethyl sulfate, SES).
Sulphenone (*p*-chlorophenyl phenyl sulfone).

(5) The following compounds are members of the class of organic phosphates:

S-(*p*-Chlorophenylthio) methyl *O,O*-diethyl phosphorodithioate.
O,O-Diethyl *O*-(2-isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate.
O,O-Dimethyl S-(4-oxo-1,2,3-benzotriazin-3-yl-methyl) phosphorodithioate.
EPN.
Malathion.
1-Methoxycarbonyl-1-propen-2-yl-dimethyl phosphate and its beta isomer.
Methyl parathion.
Parathion.
Systox (*O,O*-diethyl-(2-ethylmercaptoethyl) thiophosphate, a mixture of the thiono and thiol isomers).

(6) The following compounds are members of the class of dinitro compounds:

Dinitro-o-cyclohexylphenol.
Dicyclohexylamine salt of dinitro-o-cyclohexylphenol.

(Sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 371. Interprets or applies sec. 408, 68 Stat. 511; 21 U. S. C. 346a)

Dated: December 17, 1957.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F. R. Doc. 57-10573; Filed, Dec. 23, 1957; 8:46 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Housing and Home Finance Agency

Subchapter C—Mutual Mortgage Insurance and Servicemen's Mortgage Insurance

PART 222—MUTUAL MORTGAGE INSURANCE; RIGHTS AND OBLIGATIONS OF MORTGAGEE UNDER THE INSURANCE CONTRACT

Subchapter D—Multifamily and Group Housing Insurance

PART 233—RENTAL HOUSING INSURANCE; RIGHTS AND OBLIGATIONS OF MORTGAGEE

Subchapter M—Military and Armed Services Housing Mortgage Insurance

PART 293a—ARMED SERVICES HOUSING INSURANCE; RIGHTS AND OBLIGATIONS OF THE MORTGAGEE UNDER THE INSURANCE CONTRACT

1. Section 222.13 (a) (1) (vi) is amended to read as follows:

§ 222.13 *Condition of property when transferred; delivery of debentures and certificate of claim.* (a) * * *

(1) * * *

(vi) Bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date the mortgage was endorsed for insurance, whichever rate is the higher. The following interest rates are effective for the dates listed:

Effective rate (percent)	On or after—	Prior to—
2¾	Aug. 9, 1954	Sept. 1, 1954
2½	Sept. 1, 1954	Jan. 1, 1955
2⅝	Jan. 1, 1955	July 1, 1955
2⅞	July 1, 1955	July 1, 1956
3	July 1, 1956	Jan. 1, 1957
3¼	Jan. 1, 1957	July 1, 1957
3⅜	July 1, 1957	Jan. 1, 1958
3½	Jan. 1, 1958	

(Sec. 211, 52 Stat. 23; 12 U. S. C. 1715b. Interprets or applies sec. 203, 52 Stat. 10, as amended; 12 U. S. C. 1709)

2. Section 233.9 (a) (1) (vii) is amended to read as follows:

§ 233.9 *Insurance benefits.* (a) * * *

(1) * * *

(vii) Bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date of initial insurance endorsement of the mortgage, whichever rate is the higher. The following interest rates are effective for the dates listed:

Effective rate (percent)	On or after—	Prior to—
2½	Aug. 13, 1954	Jan. 1, 1955
2⅝	Jan. 1, 1955	July 1, 1955
2⅞	July 1, 1955	July 1, 1956
3	July 1, 1956	Jan. 1, 1957
3¼	Jan. 1, 1957	July 1, 1957
3⅜	July 1, 1957	Jan. 1, 1958
3½	Jan. 1, 1958	

(Sec. 211, 52 Stat. 23; 12 U. S. C. 1715b. Interprets or applies sec. 207, 52 Stat. 16, as amended; 12 U. S. C. 1713)

3. Section 293a.9 (a) (1) (vii) is amended to read as follows:

§ 293a.9 *Delivery of debentures and certificate of claim.*

(a) * * *

(1) * * *

(vii) Bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date of initial insurance endorsement of the mortgage, whichever rate is the higher. The following interest rates are effective for the dates listed:

Effective rate (percent)	On or after—	Prior to—
2⅞	July 1, 1955	July 1, 1956
3	July 1, 1956	Jan. 1, 1957
3¼	Jan. 1, 1957	July 1, 1957
3⅜	July 1, 1957	Jan. 1, 1958
3½	Jan. 1, 1958	

(Sec. 807, 69 Stat. 651; 12 U. S. C. 1748f. Interpret or apply sec. 803, 69 Stat. 646; 12 U. S. C. 1748b)

Issued at Washington, D. C., December 18, 1957.

[SEAL] NORMAN P. MASON,
Federal Housing Commissioner.

[F. R. Doc. 57-10582; Filed, Dec. 23, 1957; 8:48 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

CONTINUANCE IN EFFECT OF ALL CURRENT REGULATIONS AND OTHER FORMAL ISSUES

All current Veterans Administration regulations, manuals, instructions, bulletins, circulars, Administrator's decisions, delegations of authority and other issues applicable to the Veterans Administration shall remain in full force

and effect until such time as the same may be specifically amended or revoked.

[SEAL] SUMNER G. WHITTIER,
Administrator of Veterans Affairs.

DECEMBER 20, 1957.

[F. R. Doc. 57-10665; Filed, Dec. 23, 1957; 8:53 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 112—PARCEL POST

CHART OF RATES AND MAILING CONDITIONS

In § 112.1 *Chart of rates and mailing conditions* make the following changes:

1. Opposite the following countries and under the column headed "Air Parcel Post rates" insert the applicable rate data herewith:

Country of destination	Air parcel rates	
	First 4 oz.	Each additional 4 oz.
Afghanistan	$1.61	$0.91
Cape Verde Islands	1.19	.52
Eritrea	1.30	.73
Ethiopia	1.34	.76
French Equatorial Africa	1.47	.93
Gambia	1.16	.67
Jordan	1.27	.65
Libya	1.18	.55
Macao	2.24	1.39
Rhodesia and Nyasaland	1.29	.94
Spanish Guinea	1.34	.72
Viet-Nam	2.06	1.44
Western Samoa	1.70	1.05

2. Opposite Western Samoa and under "Weight limit (pounds)" change the weight limit to 22 pounds.

3. Footnote 46 (22 F. R. 6338) is amended to read as follows:

"Service to Grenada, the Grenadines, and St. Lucia only.

The foregoing amendments are effective January 1, 1958.

(R. S. 161, 396, as amended, 398 as amended; 5 U. S. C. 22, 369, 372)

[SEAL] ABE MCGREGOR GOFF,
General Counsel.

[F. R. Doc. 57-10575; Filed, Dec. 23, 1957; 8:46 a. m.]

TITLE 46—SHIPPING

Chapter II—Federal Maritime Board, Maritime Administration, Department of Commerce

Subchapter I—Philippine Rehabilitation

[General Order 68]

PART 311—CHARTERS UNDER PHILIPPINE REHABILITATION ACT OF 1946

REVOCATION OF PART

Part 311 (General Order 68, as amended) is hereby revoked.

(Sec. 204, 49 Stat. 1987, as amended; 46 U. S. C. 1114)

Dated: December 18, 1957.

CLARENCE G. MORSE,
Maritime Administrator.

[F. R. Doc. 57-10569; Filed, Dec. 23, 1957; 8:45 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Rules Amdt. 15-1; FCC 57-1394]

PART 15—INCIDENTAL AND RESTRICTED RADIATION DEVICES

LOW POWER COMMUNICATION DEVICES; CERTIFICATION

At a session of the Federal Communications Commission held at its office in Washington, D. C., on the 18th day of December 1957;

The Commission having under consideration requests from Telectron Company to extend the time within which Low Power Communication Devices operating on frequencies above 70 Mc must comply with the certification requirements of Part 15 of the rules governing incidental and restricted radiation devices; and

It appearing that § 15.208 of the rules provides that all low power communication devices manufactured after January 1, 1958, must be certificated to demonstrate compliance with Part 15 of the rules including § 15.206 (a) which requires that operation on frequencies above 70 Mc be limited to one second duration and to occur not more than once in 30 seconds; and

It further appearing that Telectron Company and Advance Industries, Inc., have been unable, in the time allowed, to complete the field and laboratory testing of their low power communication devices of revised design, and that an additional 6 month period will be needed to assure compliance with the requirements of § 15.206 (a); and

It further appearing that Multi-Products Company opposes the requested extension of time since it has spent large sums of money in developing radio controls that comply with the Commission's regulations applicable to low power communication devices which operate on frequencies below 70 Mc; and

It further appearing that Telectron Company and Advance Industries, Inc., have made reasonable efforts to meet the certification requirements of Part 15; and

It further appearing that the evidence before the Commission indicates that industry as a whole will, in a limited period of time, find it practicable to comply with the Commission's requirements; and

It further appearing, that the public interest would be served by granting an extension of time as requested; and

It further appearing that in view of the time element involved, compliance with the notice provisions of section 4 of the Administrative Procedure Act would be impracticable; and that, because the amendment relieves a restriction, it may be made effective immediately;

It is ordered, That pursuant to the authority of section 4 (i), 301 and 303 (f) of the Communications Act of 1934, as amended, Subpart E of Part 15 of the Commission's rules and regulations is amended as set forth below effective January 1, 1958.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply secs. 301, 303, 48 Stat. 1081, 1082; 47 U. S. C. 301, 303)

Released: December 19, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

1. Amend § 15.208 (a) to read as follows:

(a) No low power communication device manufactured after the dates set forth in § 15.211 shall be operated without a station license unless it has been certificated to demonstrate compliance with the requirements in this part.

2. Add the following new section:

§ 15.211 *Date when certification is required.* All low power communication devices which operate on frequencies of 70 Mc or above, manufactured after June 30, 1958, shall comply with the certification requirements of this subpart. All low power communication devices which operate on frequencies below 70 Mc, manufactured after December 31, 1957, shall comply with the certification requirements of this subpart.

[F. R. Doc. 57-10597; Filed, Dec. 23, 1957; 8:51 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

PARTS 150-160—VALUATION

MISCELLANEOUS AMENDMENTS

At a session of the Interstate Commerce Commission, division 2, held at its office in Washington, D. C., on the 18th day of December A. D. 1957.

The matter of valuation records and reports being under consideration pursuant to provisions of section 19a of the Interstate Commerce Act, as amended (37 Stat. 701, as amended; 49 U. S. C. 19a, as amended); and,

It appearing that regulations published in Parts 150 to 160, both inclusive, of this subchapter include references to the internal organization of the Commission and to other regulations prescribed by the Commission, many of which references are now inaccurate due to changes in such organization and regulations, notice of which changes was timely given to all interested carriers and to the general public when the changes were made, so that the necessary corresponding corrections in such Parts 150 to 160, both inclusive, are not subject to the public rule making requirements of section 4 (a) of the Administrative Procedure Act, and good cause otherwise appearing:

It is ordered, That, effective with publication of this order and the attached corrections in the FEDERAL REGISTER, such corrections shall be made in Parts 150 to 160, both inclusive, as shown in the attachments which by this reference are made a part of this order.

By the Commission, division 2.

[SEAL] HAROLD D. MCCOY,
Secretary.

PART 150—CORPORATE HISTORY: AID, GIFTS, GRANTS, AND DONATIONS

In § 150.1 (e), last sentence, substitute the word, "Commission" for the words, "Director of Valuation".

PART 151—LAND SCHEDULES AND INDUSTRIAL TRACKS

In § 151.4 (a), first sentence, substitute the expression, "specified for that purpose," for the words, "fixed by the director of valuation,".

PART 152—MAP SPECIFICATIONS

1. In § 152.0 (a), first sentence, substitute the expression, "in the valuation records of the Commission;" for the words, "in the office of the Bureau of Valuation;".

2. In § 152.12 (f), first sentence, substitute the word, "Commission" for the words, "Bureau of Valuation".

PART 154—MATERIALS AND SUPPLIES

Following the part title and preceding the caption, "Instructions for reporting purchases and prices paid for materials," insert the following note:

NOTE: All requirements for returns to Valuation Order No. 14, which are published in this part, have been canceled and a select group of named carriers are required to file data annually in lieu thereof in accordance with a notice dated December 31, 1936.

PART 155—UNIFORM SYSTEM OF RECORDS AND REPORTS OF PROPERTY CHANGES; COMMON CARRIERS

1. Following the part title and preceding the caption, "Regulations and instructions," insert the following note:

NOTE: Requirements in this part for filing reports with the Commission have been restricted, until further notice, to Class I railroad companies, and to a list of named Class II railroad companies the operating properties of which are generally inseparable from those of an affiliated Class I company. All carriers temporarily so exempted from such reporting requirements were individually notified. This temporary exemption by notice did not relieve any carrier from compliance with requirements for maintaining records or with any other provision of Valuation Order No. 3, second revised issue, and supplements thereto.

2. In § 155.0 (b), last sentence, substitute the expression, "prescribed by the Commission, to file" for the words, "prescribed by the Director, Bureau of Valuation to file with the Commission".

3. In § 155.2 (b) at the end of the fourth, or next to the last sentence, substitute the word, "Commission." for the words, "Bureau of Valuation."

4. In § 155.19 (a) in the proviso to the first sentence, substitute the word, "Commission" for the words, "Director of the Bureau of Valuation".

5. In § 155.20 (a) in the proviso to the first sentence, substitute the word, "Commission" for the words, "Director of the Bureau of Valuation".

6. In § 155.22 in the proviso to the last sentence, substitute the word, "Commission," for the words, "Director of the Bureau of Valuation,".

7. In § 155.112 (c) (1), substitute the word, "Commission" for the words "Bureau of Valuation".

8. In § 155.118, second sentence, substitute the word, "Commission" for the words, "Bureau of Valuation".

9. In § 155.120, revise paragraph (d) to read as follows:

(d) All items in Account 13, Fences, snowsheds, and signs.

10. In § 155.120 (e), correct the reference to, "account 26, Telegraph and telephone lines," to read, "account 26, Communication systems".

11. In § 155.120, revise paragraph (g) to read as follows:

(g) All items in Account 37, Roadway machines; Account 38, Roadway small tools; and paving in Account 39, Public improvements—Construction.

12. In § 155.121 (b), correct the reference to, "Account 15, Crossings and signs," to read, "Account 39, Public improvements—Construction,".

13. In § 155.121 (f), eliminate the expression, "or cinder pit" and substitute the following: "cinder pit, or gas producing plant, each plant".

14. In § 155.121, delete paragraph (i).

15. In § 155.121 (j), correct the reference to, "Account 26, Telegraph and telephone lines," to read, "Account 26, Communication systems,".

16. In § 155.121, delete paragraph (l).

17. In § 155.121, revise paragraph (m) to read as follows:

(m) Under Account 29, Power plants, each building, including power substation buildings.

18. In § 155.121, revise paragraph (n) to read as follows:

(n) Under Account 31, Power-transmission systems, each shop plant or each power system, including each power-distribution system, power-line poles and fixtures system, and underground conduits system.

19. In § 155.121, revise paragraph (p) to read as follows:

(p) Under Account 44, Shop machinery, and Account 45, Power-plant machinery, each separate plant.

20. In § 155.126 (b) and (c), substitute the word, "Commission" for the words, "Bureau of Valuation" where they appear in each.

21. Revise § 155.128 to read as follows:

§ 155.128 *Separations by sheets or subschedules.* The following accounts or groups of accounts should be reported on a single sheet or series of sheets: Accounts 1 and 71 to 77, inclusive; 2, 2½ (reproductible), and 39 (assessments); 2½ (nonreproductible), 3, and 5; 6 and 7; 8 to 13, inclusive, and 39 (construction); 16, 17, and 35; 18 and 19; 20 to 22, inclusive; 23 and 24; 26; 27; 29; 31; 40 to 43, inclusive; and, 44 and 45.

22. In § 155.129, first sentence, substitute the word, "Commission" for the words, "Bureau of Valuation".

23. In § 155.130 (b), third sentence, substitute the word, "Commission" for the words, "Bureau of Valuation".

24. In § 155.200 (b) (3), substitute the word, "Commission" for the words, "Bureau of Valuation".

25. In § 155.200 (c) in the list of units by account numbers correct the reference to, "Account 26. Telegraph and Telephone Lines" to read, "Account 26, Communication Systems".

PART 156—UNIFORM SYSTEM OF RECORDS AND REPORTS OF PROPERTY CHANGES; PIPELINE CARRIERS

1. In § 156.0 (b) amend the second or last sentence, to read as follows: "Reports shall cover such period from the date of the basic inventory, or of any previous report, as may be fixed by the Commission and shall be filed within 90 days from the date prescribed for that purpose".

2. In § 156.7 (b), first sentence, substitute the word, "Commission" for the words, "Bureau of Valuation".

3. In § 156.15, second sentence, substitute the word, "Commission" for the words, "Bureau of Valuation".

4. In § 156.22, first sentence, substitute the word, "Commission" for the words, "Bureau of Valuation".

5. In § 156.100, third paragraph, substitute the word, "Commission" for the words, "Bureau of Valuation".

PART 157—INVENTORY OF RECORDS

1. In § 157.3, revise the second, or next to the last, sentence to read as follows: "The following records and documents, which are more particularly described in the currently effective regulations to govern the destruction of railroad records and are listed as separate items in § 110.7 of this subchapter, are important and should be listed."

2. Delete the list of records and documents, including the caption and footnotes of the list, which is appended to this same section and substitute the following list for it:

LIST OF RECORDS

Item No.	*Description*
2	Minute books of directors', executive committee's, stockholders', and other meetings.
4 (a)	Capital stock ledger.
6	Record of securities owned.
8 (a)	Annual reports or statements to stockholders, file copies of.
9	Ledgers.
10	General journals.
11	Cash books.
12	Journal entries.
17	Copies of applications to and authorities from regulating bodies for the issuance of stocks, bonds, and other securities.
53	Distribution of labor expenditures.
54	Distribution of expenditures for material and supplies.
55 (a)	Register of audited invoices and vouchers and indexes thereto.
55 (c)	Paid and canceled vouchers, audit office copies of vouchers and supporting papers.
60 (a)	Register of bills collectible and indexes thereto.
60 (b)	Audit office copies of bills issued for collection, and supporting papers which do not accompany the original bills.

LIST OF RECORDS—Continued

Item No.	Description
70	Road and equipment records. (Exclusive of those records the retention of which is optional with the carrier.)
71	Engineering records.
101	Records of roadway and track work performed.
102	Reports and records of repairs and renewals of buildings, bridges, and other structures.
130	Records and reports of equipment numbers changed.
300 (a)	Annual report forms.
300 (q)	Reports to regulating bodies regarding expenditures of proceeds from sale of authorized securities, file copies of, and supporting papers.

PART 158—SPECIFICATIONS FOR PIPE-LINE CARRIERS

In § 158.1 (b), first sentence; substitute the word, "Commission" for the words, "Bureau of Valuation".

PART 159—FIELD INVENTORIES OF PROPERTY OF PIPE LINE COMPANIES

In § 159.0 (b), revise the first sentence to read as follows: "Such inventory shall be made as of such date as shall be prescribed by the Commission, shall begin within 30 days from the receipt of written notice of this part and of the date of valuation prescribed, and shall be completed and filed within such time as may be prescribed: *Provided*, That in all cases a reasonable time for preparation and filing of such inventory shall be allowed which in no case shall be less than 30 days."

2. In § 159.2 make the following changes:

a. In the title of this section substitute the word, "Commission" for the words, "Bureau of Valuation".

b. In the first sentence, substitute the word, "Commission" for the words, "Bureau of Valuation".

c. In the second sentence, substitute the word, "Commission" for the word, "Bureau".

3. In § 159.4 (a) (1), first sentence, eliminate the expression, "of August 22, 1947,".

4. In § 159.4 (b), third sentence, substitute the word, "Commission" for the words, "Bureau of Valuation".

5. In § 159.4 (c) (1), second sentence, substitute the word, "Commission's" for the word "Bureau".

6. In § 159.4 (g), first sentence, change the comma following the word, "valuation" to a period and delete the expression, "December 31, 1934."

7. In § 159.4 (g), second sentence, substitute the word, "Commission's" for the word, "Bureau's".

PART 160—INVENTORIES AND ORIGINAL COST STATEMENTS

1. In § 160.1, revise the second or closing sentence of first paragraph to read as follows: "Such inventory and report shall be as of the date set by the Commission and shall be undertaken within 30 days from receipt of written notice of this part and shall be completed and filed within such time as shall be required, provided that in all cases a reasonable time for the preparation and filing of such inventory and report shall be allowed which in no case shall be less than 30 days."

2. In § 160.2, second paragraph, substitute the word, "Commission" for the words, "Bureau of Valuation".

3. In § 160.3, first sentence, substitute the word, "Commission" for the words, "Director of the Bureau of Valuation".

4. In § 160.4, third or last sentence, substitute the word, "Commission" for the words, "Bureau of Valuation".

5. In § 160.13, second sentence, substitute the word, "Commission" for the words, "Bureau of Valuation".

6. In § 160.19, first paragraph, substitute the word, "Commission" for the words "Bureau of Valuation".

7. In § 160.20, first sentence, substitute the word, "Commission" for the words, "Bureau of Valuation".

(Sec. 12, 24 Stat. 383, as amended; 49 U. S. C. 12)

[F. R. Doc. 57-10574; Filed, Dec. 23, 1957; 8:46 a. m.]

PROPOSED RULE MAKING

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 12251]

TELEVISION BROADCAST STATIONS, PANAMA CITY, FLA.; TABLE OF ASSIGNMENTS

ORDER EXTENDING TIME FOR FILING COMMENTS

In the matter of amendment of § 3.606 *Table of assignments*, Television Broadcast Stations (Panama City, Florida).

1. The Commission has before it for consideration a letter filed December 17, 1957, by W. A. Simpson, Secretary, Air Coordinating Committee, Airspace Panel, requesting the Commission to extend the time for filing comments in this proceeding from December 16, 1957, to January 15, 1958.

2. Petitioner states that the Airspace Panel is considering the effects, if any, of the proposal on aviation operations in the Panama City area, and that since additional information must be obtained from the aeronautical interests concerned, it will not be possible for the Panel to reach a definite conclusion within the specified time.

3. The Commission is of the view that the public interest, convenience and necessity would be served by extending the time for filing comments in this proceeding.

4. *Accordingly, it is ordered*, That the request of W. A. Simpson, is granted; that the time for filing comments in this proceeding is extended from December 16, 1957, to January 15, 1958; and the time for filing reply comments, is extended, from December 26, 1957, to January 25, 1958.

Adopted: December 18, 1957.

Released: December 19, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-10598; Filed, Dec. 23, 1957; 8:51 a. m.]

[47 CFR Part 3]

[Docket No. 12273; FCC 57-1386]

TELEVISION BROADCAST STATIONS, CONCORD, N. H.; TABLE OF ASSIGNMENTS

NOTICE OF PROPOSED RULE MAKING

In the matter of amendment of § 3.606 *Table of assignments*, Television Broadcast Stations (Concord, New Hampshire).

1. Notice is hereby given that the Commission has received a proposal for rule making in the above-entitled matter.

2. The Commission has before it for consideration petitions filed October 10, 1957, and December 13, 1957, by Springfield Television Broadcasting Corporation, licensee of television station WWLP, Channel 22, Springfield, Massachusetts, requesting an amendment of § 3.606 *Table of assignments*, Television Broadcast Stations, to assign Channel 15 to Concord, New Hampshire, as follows:

City	Channel No.	
	Delete	Add
Concord, N. H.	75+	15
Portsmouth, N. H.	15	21+
St. Johnsbury, Vt.	30	75+
Bennington, Vt.	74+	69—
Springfield, Vt.	----------	74+

3. In support of the requested amendments, petitioner alleges that Concord, the capital of New Hampshire, does not have a television station and that no application has been filed for Channel 75 in Concord and represents that it will apply for a construction permit in Concord if the proposed allocations are adopted. It alleges that its experience in operating on Channel 61 proved that the operation of high-powered stations on the higher UHF frequencies is not yet technically feasible, that there are no outstanding permits or applications for any of the channels involved and that the proposed assignments meet all minimum mileage separation requirements. Petitioner also proposes to apply for a translator station in Springfield, Vermont, if the requested changes are made.

4. The Commission is of the view that rule making proceedings should be instituted in this matter in order that all interested parties may submit their views and relevant data.

5. Authority for the adoption of the amendment proposed herein is contained in sections 4 (i), 301, 303 (c), (d), and (r) and 307 (b) of the Communications Act of 1934, as amended.

6. Any interested party who is of the view that the proposed amendment should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before January 17, 1958, a written statement or brief setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed within 10 days from the last day for filing said original comments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established.

7. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: December 18, 1957.

Released: December 19, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-10599; Filed, Dec. 23, 1957; 8:51 a. m.]

[47 CFR Part 3]

[Docket No. 12274; FCC 57-1387]

DAYTIME STANDARD BROADCAST STATIONS

EXTENSION OF HOURS OF BROADCASTING

In the matter of amendment of Part 3 of the rules to permit extended hours of broadcasting for daytime standard broadcast stations.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. On December 9, 1955, the Daytime Broadcasters Association, Inc. (DBA) filed a petition requesting, inter alia, that all daytime standard broadcast stations be authorized to operate from 5:00 a. m., or local sunrise (whichever is earlier) to 7:00 p. m., or local sunset (whichever is later), in lieu of the sunrise to sunset hours provided for in the present rules. This petition superseded two petitions previously filed by DBA for extended hours of operation of daytime stations.[1]

3. Oppositions to the DBA petition now before us were filed by the licensees of 5 Class I stations, one Class II station, 21 Class III stations, one Class IV station, and by the Clear Channel Broadcasting Service, an association of 14 Class I–A stations.

4. It has not been practicable, until now, to determine what action would be appropriate on the petition before us, owing principally to the necessity for examining this proposal in the light of further review of the issues in two major, related proceedings: the Clear Channel proceeding (Docket No. 6741) and the Daytime Skywave proceeding (Docket No. 8333). Although additional analysis and study will be needed before it will be possible to reach a decision in those proceedings, work on them has now progressed to a point where it is possible to consider the instant proposal for extended hours for daytime standard broadcast stations in proper perspective.

5. This proposal has evident bearing on the two other proceedings. The Clear Channel proceeding is basicly concerned with the problems of providing an aural broadcast service to rural and sparsely populated areas and questions as to whether it is in the public interest to attempt to provide this service by means of relatively high power stations operating on channels primarily devoted to that purpose and cleared of other, interfering signals. Since a large number of the daytime stations for which extended hours of operation are requested operate on the channels under scrutiny and because extended hours of operation automatically involves extended hours of interference, the questions concerning the extensions must be treated with due regard for the record and findings in the Clear Channel matter. In the daytime skywave proceeding, Docket No. 8333, the basic question is whether skywave interference during daytime hours, i. e., after sunrise and before sunset is of sufficient magnitude to warrant consideration in fixing standards for daytime operations, particularly on the so-called clear channels. The relationship to the latter proceeding of a proposal that would extend daytime operation into nighttime hours, where skywave interference is an important factor for consideration, is obvious.

6. The proposed operation of daytime stations during some nighttime hours envisages a departure from the basic allocation principles under which the assignment of daytime-only stations originated. These principles, and the rules which implement them, derive from the familiar fact that the range of standard broadcast signals is vastly greater during the hours of skywave propagation, than during those daytime hours when propagation is, for practical purposes, confined to so-called groundwave signals, whose service and interference ranges are very substantially shorter.

7. Skywave propagation, brought about by reflection of transmitted signals from the ionosphere, a series of electrified layers in the earth's upper atmosphere, reaches its maximum during the nighttime hours. Negligible during most of the daytime hours, it begins a build up of significant proportions about 2 hours before sunset, reaches its top nighttime values about 2 hours after sunset, maintains approximately those levels until about 2 hours prior to sunrise, and then deteriorates progressively until it again reaches insignificant levels about 2 hours after sunrise.

8. Because these natural phenomena cause such a wide disparity in the daytime and nighttime range of standard broadcast signals, the rules governing the assignment and operation of standard broadcast stations are different for the daytime and nighttime hours. Under long-standing domestic practice and international agreement, local sunrise and local sunset delimit the periods during which the separate rules for daytime and nighttime operations are effective. For example, in the case of the U. S. clear channels, in order to protect the capacity of the Class I stations to render skywave service over wide areas domestic co-channel stations are generally not permitted to operate after sunset on the 24 Class I–A clear channels, while the Class I stations on the 22 Class I–B channels are required to directionalize their antennas at night to protect each other's service area. Also, unlimited time Class II stations on the Class I–B channels are required at sunset to reduce power, directionalize, or both, to render protection, as specified in the rules, to the nighttime service areas of the Class I–B stations and other Class II stations.

9. The substantial difference between daytime and nighttime propagation conditions has also made it possible to permit operation of stations, on regional channels, which can render a useful service during the daytime hours, but whose operations after sunset would create skywave interference to stations which have been authorized to operate at night on the basis of carefully engineered assignments utilizing directional antennas so as to afford mutual protection from interference.

10. In round figures there are now 1300 daytime stations, of which nearly 800 are assigned to regional channels and the remaining 500 (with one exception) to Clear Channels. Of the latter, 100 are assigned to U. S. clear channels and 400 to clear channels on which other countries in the North American Region have priority.

11. At base, the DBA proposal raises the question whether the public interest would be better served by permitting all daytime stations wishing to do so to broadcast after local sunset and before local sunrise (to the extent that, depending on season and latitude, local sunrise occurs after 5:00 a. m., and local sunset prior to 7:00 p. m.), despite resultant interference to unlimited time stations, or whether the public interest would be better served by retaining the present rules forbidding the operation of daytime stations during the nighttime hours.

12. The answer to this question does not, of course, depend on the resultant advantages or disadvantages to the several classes of stations concerned, but must be determined in terms of the resultant gains and losses of service to the

[1] A DBA petition filed May 14, 1954 requested permission for all daytime stations to operate from 5:00 a. m. to 7:00 p. m. Pursuant to written requests submitted early in 1955 by counsel for DBA, the Commission deferred action on this petition pending receipt of an amendment which DBA filed May 18, 1955, in which DBA substituted the variable hours set out above in paragraph 2, but limited the revised petition to daytime stations on regional channels.

public. Protection of service of unlimited time clear and regional channel stations from nighttime skywave interference from daytime stations is now achieved at the expense of terminating the operation of daytime stations at local sunset. The fact that this occurs at varying hours at different times of the year prevents daytime stations from conducting their operations during a constant or fixed broadcast day. The service of daytime broadcasters is accordingly curtailed to the greatest degree during the winter months. DBA alleges that this requirement precludes the rendering of needed services during the early morning and later afternoon hours in the communities served by daytime stations.

13. Parties who have filed oppositions to the DBA petition have on the other hand pointed out that extension of the broadcast day of daytime stations into the nighttime hours could be achieved only at the cost of substantial reduction of the primary service areas of the unlimited time clear and regional channel stations and the obliteration pro tem of the skywave service of Class I stations. It has also been pointed out that the cumulative skywave signals of daytime stations broadcasting during nighttime hours would have the additional effect of substantially reducing the range of the primary service which the daytime stations themselves could render during the nighttime hours, as compared with their pre-sunset and post-sunrise primary service areas.

14. It is difficult for the Commission to assess the extent of service gains and losses which would result from adoption of the DBA proposal, or to evaluate the net advantages or disadvantages to the public in the light of such gains and losses, without more detailed information than has been provided in the pleadings before us.

15. We have concluded that an opportunity should be afforded to the petitioner and to parties favoring and opposing petitioner's proposal to offer such concrete support for their views as they may desire to submit to the Commission in the rule making proceeding initiated herein. It is stated in the brief filed by DBA in support of its petition of December 9, 1955, that: "Engineering data is important, of course, and shows the technical feasibility of the petitioner's position." The petition is, however, unaccompanied by data giving adequate indication of the impact of the implementation of the DBA proposal on the services now protected from nighttime interference from daytime stations.[2]

16. While, as DBA urges, the ultimate judgment may not necessarily follow automatically from a numerical comparison of gains and losses of service to calculated areas and populations, it is nevertheless not possible to make a proper or adequate evaluation of all the pros and cons attaching to DBA's proposal without taking into account a reasonable assessment of the probable resultant losses of service as well as a showing of the extent of the service gains which could be achieved through its adoption.

17. It is necessary, moreover, to reckon not only with the domestic service gains and losses within the United States, but also with the implications of the DBA proposal in relation to international agreements under which the governments of the signatory North American countries allocate the use of the frequencies commonly employed for radio broadcasting in such manner as to avoid chaotic interference which would be mutually destructive of each other's broadcast services. Almost 400 of the U. S. daytime stations are currently assigned on frequencies on which other North American governments have priority use for clear channel stations protected from interference from U. S. cochannel stations on the same basis as those countries protect the larger numbers of clear channels on which the United States has priority under the relevant agreements. These are the North American Regional Broadcasting Agreement of 1950 and the Agreement between the United States of America and United Mexican States signed January 29, 1957, neither of which has been ratified, but both of which in the interim furnish the basis for standard broadcast allocations and station assignments. Pertinent provisions are found also in Executive Agreement between the U. S. and Mexican Governments, which became effective March 29, 1941, and continues in force until ratification of the successor agreement signed January 29, 1957.

18. These Agreements represent the results of lengthy negotiations and reflect what the Contracting Parties considered to be fair and equitable compromises of conflicting interests among the countries concerned in the international allocation of the use of the limited spectrum space available for standard broadcasting. It is not possible, without more data than has been provided by the parties so far, to evaluate the desirability, either from the standpoint of the daytime broadcasters, or of the U. S. standard broadcast industry as a whole, of reopening negotiations on the provisions of these agreements relating to clear and regional channels. A judgment in this regard requires more detailed information than have been provided by the parties concerning not only the domestic service gains and losses which are involved, but also the extent to which implementation of the DBA proposal would infringe, and therefore require revision of the 1957 Agreement with the United Mexican States and the 1950 NARBA. Under the former, it is stipulated that daytime Class II assignments by either Contracting Party on clear channels upon which the other Contracting Party has the Class I–A priority will be subject to the following conditions, among others:

(a) Operation only between sunrise and sunset at the location of the Class II station,[3]

(b) Field intensity of the groundwave signal of the Class II station at the boundary of the country which has the Class I–A priority of the channel, not to exceed 5 uv/m.[4]

NARBA provides that: "Day-time operation in general means operation between the times of local sunrise and local sunset at the transmitter location of the station; however, in particular cases other hours for day-time operation may be established, either in the present Agreement or any bilateral agreements, between the respective Contract Governments taking into account the location of the station it is intended to protect." [5]

NARBA also provides that no country shall assign a Class II station for nighttime operation on a clear channel within 650 miles of the boundary of another country having Class I–A priority use of the channel. NARBA contains additional limitations concerning maximum permissible interfering groundwave and skywave signals transmitted by stations in countries other than those which have Class I priority use of the clear channels.

19. While neither the 1957 Agreement with the United Mexican States nor the 1950 NARBA Agreement has yet entered into formal effect, through requisite ratification by the parties, the signatory governments, in the interest of avoiding chaotic mutual interference to the several broadcast services concerned are, in general practice, observing the limitations which these agreements stipulate. It is not possible, therefore, to disregard these international agreements, nor would it be possible to make a proper evaluation of the desirability of attempting to renegotiate them, in the absence of a much more explicit showing than is available in the present pleadings, of the extent of the gains and losses involved and of the consequent net effect of adopting the DBA proposal.

20. Evaluation of the effect of the DBA proposal on the public interest would be facilitated by reasonably complete and accurate data indicating:

(a) The times during which, the areas in which and the populations for which the DBA proposal would result in added primary service.

(b) The extent to which such primary service gains would occur where no other primary service is available:

(1) from any other station

(2) from any other station located in the same city or town.

(c) The periods during which, the areas in which, and the populations for

[2] The previous petition filed by DBA on May 18, 1955, was accompanied by a document entitled "Engineering Statement in Connection with Rule Making Proceeding for Additional Operating Hours on Class III Channels for Daytime Stations." This document sheds no light on the subsequently renewed proposal to extend the broadcast hours of daytime stations on clear channels, and contains only limited and inadequate data relating to the regional channels.

[3] The Executive Agreement between the U. S. and Mexican Governments (Executive Series 196), which entered into effect in 1941 and still remains in effect, similarly bars nighttime broadcasitng by U. S. stations on Mexican clear channels.

[4] Article 2, section B (8) (c) of the Agreement between the United States of America and the United Mexican States concerning Radio Broadcasting in the Standard Broadcast Band, signed January 29, 1957.

[5] Annex II, section A (6), 1950 NARBA.

whom primary service available under the present rules would be subjected to objectionable interference to the signals of U. S. Class I–A, I–B, unlimited time Class II and Class III stations.

(d) The extent to which the foregoing losses of service would occur in areas and for populations receiving no other primary service.

(e) A showing similar to (c) and (d) with respect to losses of skywave service within the .5 mv/m 50 percent skywave contours of Class I stations.

(f) To the extent to which limitations set out in the above-referenced international agreements would be infringed.

(g) Views of the parties concerning the need for the additional services which would be made possible by extending the hours of operation of daytime stations and the effect on the public interest of the consequent losses of service from other classes of stations.

21. On the basis of the foregoing, the Commission is of the view that rule making proceedings should be instituted in this matter in order that interested parties may submit their views and relevant data.

22. There remain for disposition collateral requests contained in the DBA petition of December 9, 1955, as follows:

(a) To consolidate, with a rule making proceeding on extended hours for daytime stations, so much of Issue No. 7 of the clear channel proceeding (Docket No. 6741) as deals with hours of operation of daytime stations operating on clear channels. Issue No. 7 reads: "What new rules or regulations, if any, should be promulgated to govern the power or hours of operation of Class II stations operating on clear channels."

(b) Similarly, to consolidate with a rule making proceeding on extended hours for daytime stations, the daytime skywave proceeding (Docket No. 8333).

(c) To defer, until the submission of comments in a rule making proceeding covering the extended hours question, further action on the proposed Report and Order of March 11, 1954 in Docket No. 8333, in which the Commission announced and designated for oral argument certain proposed restrictions on the daytime skywave radiations toward protected clear channel stations.

23. To the extent that the instant proceeding relates to the hours of operation of Class II daytime stations, it concerns Issue No. 7 of the clear channel proceeding. *Accordingly, it is ordered,* That Request (a), above, of the Daytime Broadcasters Association, Inc. is granted.

24. Earlier in this Notice we took cognizance of the relationship between the instant DBA petition for extended hours and the issues in the daytime skywave proceeding relating to interference to Class I clear channel stations caused by daytime skywave radiations of Class II and Class I–B clear channel stations during the two hours preceding sunset and two hours following sunrise. We recognize that, owing to the relationship between these issues, it is desirable to ensure that any decision concerning the restriction of daytime skywave radiations should be compatible with such decision as may be reached on the petition for extended hours. In our opinion, however, this neither necessitates nor makes it desirable to consolidate the two proceedings. This proceeding is concerned primarily with the effect of permitting daytime stations to operate for a limited time prior to sunrise and after sunset, and thus with nighttime skywave interference problems. The daytime skywave proceeding is concerned with skywave interference that occurs after sunrise and before sunset, i. e. daytime skywave interference. The obvious necessity for correlation of these two problems has already been discussed. While it is desirable that the decisions reached in both proceedings reflect consistent policy it is not necessary, in order to achieve this, that the instant proceeding dealing with nighttime conditions be consolidated with the other which relates to daytime conditions. *Accordingly, it is ordered,* That request (b), above, of the Daytime Broadcasters Association, Inc., is denied.

25. Request (c) above, contemplates a deferral of the final decision in the daytime skywave proceeding until the parties have had an opportunity to submit their comments and reply comments in a rule making proceeding on the DBA proposal for extended hours. Because this course of action will help to ensure that the decisions reached in the daytime skywave proceeding and the instant proceeding are harmonious: *It is ordered,* That Request (c), above, of the Daytime Broadcasters Association, Inc., is granted.

26. In a separate petition filed on December 20, 1956, DBA requested that the Commission:

(a) Dismiss the clear channel and daytime skywave proceedings (Docket Nos. 6741 and 8333 respectively), delete Footnote 10 (b) of Section 1.371 of the Commission's rules (which freezes the processing of certain types of applications for daytime stations on clear channels pending the conclusion of the daytime skywave proceeding) and simultaneously institute rule making on the DBA petition of December 9, 1955 for extended hours; or in the alternative

(b) In any event, terminate the freeze on the assignment of daytime stations on clear channels and inaugurate rule making on the DBA petition for extended hours.

While the Commission has during recent months made substantial progress in its reanalysis of the records of the clear channel and daytime skywave proceedings, further study and discussion will be necessary before we will be able to decide the appropriate course to be followed in those proceedings. Nor, until such decisions can be made, would it be desirable to lift the freeze provided for in Footnote 10 (b) of § 1.371 of the rules, since the assignment of additional daytime stations on the clear channels would restrict the opportunities for implementing certain of the proposed modes of revising clear channel allocations and of affording protection against daytime skywave radiations, at least in the case of new daytime stations. In our opinion it is necessary, for these reasons, that the freeze be continued in effect. We are, however, aware of the desirability of reaching a final conclusion on these matters at the earliest possible date and are endeavoring to complete our studies and reach a decision in these proceedings at the earliest practicable date. *Accordingly, it is ordered,* That requests (a) and (b) in the DBA petition of December 20, 1956, are denied, except insofar as they request the institution of rule making on the DBA petition of December 9, 1955 for extended hours of operation of daytime stations.

27. Authority for the adoption of the amendment proposed herein is contained in sections 4 (i) and 303 (a), (b), (c), (d), (f), (g) and (r) of the Communications Act of 1934, as amended.

28. Any interested party who is of the view that the proposed amendment should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before March 18, 1958, a written statement setting forth his comments. Comments supporting the proposed amendments may also be filed on or before the same date. Comments in reply to original comments may be filed within 30 days from the last date for filing said original comments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established.

29. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: December 18, 1957.

Released: December 19, 1957.

FEDERAL COMMUNICATIONS COMMISSION[*]

[SEAL] MARY JANE MORRIS, *Secretary.*

[F. R. Doc. 57–10600; Filed, Dec. 23, 1957; 8:51 a. m.]

NOTICES

CIVIL AERONAUTICS BOARD

[Docket No. 7038 et al.]

SOUTHEASTERN AREA LOCAL SERVICE CASE

NOTICE OF HEARING

In the matter of the investigation of the need for improvements in the local air service pattern in the area including the States of Alabama, Florida, Georgia, Mississippi, and Tennessee.

Notice is hereby given pursuant to the Civil Aeronautics Act of 1938, as amended, and particularly sections 401

[*] Commissioner Lee dissenting.

and 1002 thereof, that public hearing in the above entitled proceeding is assigned to be held in two sessions: The first commencing January 6, 1958, at 10 a. m., e. s. t., in the Assembly Room on the basement floor of the Atlanta Public Library, Forsyth Street and Carnegie Way, Atlanta, Georgia, for the primary purpose of hearing civic presentations; and thereafter, the second session will commence for the purpose of hearing airline presentations on January 27, 1958, in Room E-210 in the Temporary 5 Building, 16th Street and Constitution Avenue NW., Washington, D. C., at 10 a. m., e. s. t., before Hearing Examiner Paul N. Pfeiffer.

Without limiting the scope of the issues in this proceeding, particular attention will be directed to:

1. The need for additional local air service as set forth in the applications therefor of Eastern Airlines, Inc., Mackey Airlines, Inc., National Airlines, Inc., Piedmont Aviation, Inc., Southeastern Aviation, Southern Airways, Inc., and Trans-Texas Airways, on file in the docket of this proceeding;

2. The need for suspension or termination of:

(a) The authority of Eastern Airlines to serve Albany, Georgia on Route No. 10; Dothan, Alabama on Route No. 5; Gainesville and Ocala, Florida on Routes No. 6 and 10; Florence-Sheffield-Tuscumbia, Alabama on Route No. 10; and Huntsville, Alabama served by exemption on Route No. 10;

(b) The authority of National Airlines, Inc., to serve Marianna, Florida on Route No. 39; Fort Myers and Lakeland, Florida on Route No. 31; Panama City and Tallahassee, Florida; Valdosta, Georgia; and Gulfport, Mississippi on Route No. 39;

(c) The authority of Delta Air Lines, Inc., to serve Selma, Alabama, and Hattiesburg and Meridian, Mississippi on Route No. 24.

3. As to the need for air service to St. Augustine, Florida; Douglas and Tifton, Georgia; Pascagoula, Moss Point, Ocean Springs, and Corinth, Mississippi.

For further details regarding the issues in this proceeding, interested persons are referred to the Report of the Prehearing Conference served April 2, 1957; the Supplemental Report served May 17, 1957; Orders Nos. E-11519 adopted July 2, 1957, and E-11821 adopted September 26, 1957, and all other documents on file in the docket of this proceeding with the Docket Section of the Civil Aeronautics Board.

Notice is further given that any person other than parties of record desiring to be heard in this proceeding should file with the Board on or before January 6, 1958, a statement setting forth the issues of fact or law desired to be controverted.

Dated in Washington, D. C., December 17, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57-10604; Filed, Dec. 23, 1957; 8:51 a. m.]

[Docket No. 7149 et al.]

SOUTHWEST AIRWAYS CO. ET AL.; SERVICE TO SANTA CATALINA ISLAND, CALIFORNIA

NOTICE OF PREHEARING CONFERENCE

In the matter of the applications of Southwest Airways Company, Docket No. 7109; Avalon Air Transport, Inc., Docket No. 7149; Catalina Air Transport, Docket No. 9041; Los Angeles Airways, Inc., Docket No. 8446; Channel Airways, Docket No. 3706; and Channel Air Service, Docket No. 6283 for air service to Santa Catalina Island, California.

Notice is hereby given that a prehearing conference in the above-entitled applications is assigned to be held on January 15, 1958, at 10:00 a. m., e. s. t., in Room 1510, Temporary Building No. 4, 17th Street and Constitution Avenue NW., Washington, D. C., before Thomas L. Wrenn.

Dated at Washington, D. C., December 17, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57-10605; Filed, Dec. 23, 1957; 8:52 a. m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

FLORIDA

DESIGNATION OF AREA FOR PRODUCTION EMERGENCY LOANS

For the purpose of making production emergency loans pursuant to section 2 (a) of Public Law 38, 81st Congress (12 U. S. C. 1148a-2 (a)), as amended, it has been determined that in the following counties in the State of Florida a production disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

FLORIDA

Broward.[1]	Lee.[1]
Charlotte.[1]	Manatee.
Collier.[1]	Martin.[1]
Dade.[1]	Okeechobee.[1]
De Soto.	Osceola.
Glades.[1]	Palm Beach.[1]
Hardee.	Pinellas.
Hendry.[1]	Polk.
Highlands.	Sarasota.
Hillsborough.	St. Lucie.[1]
Indian River.[1]	

Pursuant to the authority set forth above, production emergency loans will not be made in the above-named counties after June 30, 1958, except to applicants who previously received such assistance and who can qualify under established policies and procedures.

Done at Washington, D. C., this 19th day of December, 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 57-10610; Filed, Dec. 23, 1957; 8:53 a. m.]

[1] Presently designated for production emergency loans through December 31, 1957.

LOUISIANA

DESIGNATION OF AREA FOR PRODUCTION EMERGENCY LOANS

For the purpose of making production emergency loans pursuant to section 2 (a) of Public Law 38, 81st Congress (12 U. S. C. 1148a-2 (a)), as amended, it has been determined that in the following parishes in the State of Louisiana a production disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

LOUISIANA

Bienville.	Madison.
Bossier.	Morehouse.
Caddo.	Natchitoches.
Caldwell.	Ouachita.
Claiborne.	Rapides.
Concordia.	Red River.
DeSoto.	Richland.
East Carroll.	Tensas.
Franklin.	Union.
Grant.	Webster.
Iberville.	West Baton Rouge.
Jackson.	West Carroll.
LaSalle.	Winn.
Lincoln.	

Pursuant to the authority set forth above, production emergency loans will not be made in the above-named parishes after December 31, 1958, except to applicants who previously received such assistance and who can qualify under established policies and procedures.

Done at Washington, D. C., this 19th day of December 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 57-10611; Filed, Dec. 23, 1957; 8:53 a. m.]

DEPARTMENT OF COMMERCE

Civil Aeronautics Administration

[Amdt. 18]

FLIGHT OPERATIONS AND AIRWORTHINESS DISTRICT OFFICES

FUNCTIONS, LOCATIONS AND SPECIALTIES

In accordance with the public information requirements of the Administrative Procedure Act, the description of functions and locations of field offices of the Civil Aeronautics Administration is hereby amended. The purpose of this amendment is to publish revised titles of district offices, and revise addresses for certain district offices.

Section 22 as published on February 16, 1957, 22 F. R. 990, and as amended on August 30, 1957, 22 F. R. 6996, and September 11, 1957, 22 F. R. 7243, is further amended to read as follows:

SEC. 22. *Flight Operations and Airworthiness District Offices*—(a) *Functions.* Flight Operations and Airworthiness District Offices are composed of Air Carrier Safety District Offices, General Safety District Offices or Aircraft Engineering District Offices, in accord-

ance with their specialties. These offices serve as contact points with the general public and the aviation industry. The offices are responsible for the initial handling of all matters dealing with: aeronautical competency of airmen, air agencies, and air carriers; manufacture, repair, alteration and maintenance of aircraft and components; compliance with rules and standards governing flight operations; investigation of accidents and violations; promotion of safe flying; and maintenance of close liaison with state and local enforcement agencies.

(b) *Locations and specialties.* In the following tables the specialty column includes all specialties found at a particular office location. Although Engineering Flight Test Inspectors are assigned to a few district offices for the purpose of having administrative headquarters, the public can make initial engineering contact at any Flight Operations and Airworthiness District Office.

"(G)" indicates a General Safety District Office which specializes in flight operations and airworthiness activities relating to: air agencies, general operators (operators of aircraft other than scheduled air carriers, irregular air carriers operating aircraft having a maximum certificated gross takeoff weight of more than 12,500 pounds, and commercial operators certificated under Part 45 of the Civil Air Regulations); general airmen (all persons who hold or are eligible for airmen certificates other than airline transport pilot, airport control tower operator, dispatcher, or aircrewman); and other general aviation activities.

"(C)" indicates an Air Carrier Safety District Office which specializes in flight operations and airworthiness activities relating to air carrier operations (operations of scheduled air carriers, irregular air carriers operating aircraft having a maximum certificated gross takeoff weight of more than 12,500 pounds, and commercial operators certificated under Part 45 of the Civil Air Regulations); air carrier aircraft in service (aircraft used in air carrier operations described herein); air carrier airmen (persons who hold or are candidates of such certificates as airline transport pilot, airport control tower operator, dispatcher, or aircrewman); and other air carrier matters.

"(M)" indicates an Aircraft Engineering District Office which specializes in manufacturing inspection, including matters pertaining to the type, production, and original airworthiness certification of new or modified aircraft, engines, propellers, and components.

"(E)" indicates an Aircraft Engineering District Office which specializes in rendering engineering assistance in the evaluation of aircraft and equipment designs and redesigns, and in the evaluation of aircraft repairs and alterations.

All inspectors are generally familiar with, and can furnish information and advice on, the flight operations and airworthiness matters outside their area of specialization.

REGION 1

State	City	Location	Mailing address	Specialty
Connecticut	Stratford	Sikorsky Aircraft Corp.	Care Sikorsky Aircraft Corp.	(M).
	Windsor	181 Broad St.	181 Broad St.	(M).
District of Columbia.	Washington	Hangar 6, Washington National Airport.	Hangar 6, Washington National Airport.	(C).
Kentucky	Louisville	Administration Bldg., Bowman Field.	Administration Bldg., Bowman Field.	(G).
Maine	Portland	Municipal Airport	Municipal Airport	(G).
Maryland	Hagerstown	Fairchild Aircraft Division of Fairchild Engine and Airplane Corp.	Care of Fairchild Aircraft Division of Fairchild Engine and Airplane Corp.	(M).
Massachusetts	Boston	287 East Marginal St.	287 East Marginal St., East Boston 28.	(C).
	Norwood	Municipal Airport	Municipal Airport	(G).
	Westfield	Barnes Westfield Airport	P. O. Box 464	(G).
New Jersey	Haddonfield	Echelon Airport	P. O. Box 154	(G).
	Newark	Room 221, Air Mail and Express Terminal, Newark Airport.	Room 221, Air Mail and Express Terminal, Newark Airport.	(C).
	Teterboro	Teterboro Air Terminal	Teterboro Air Terminal	(G) (C).
New York	Albany	Albany Airport, Watervliet.	P. O. Box 577, Latham	(G).
	Flushing	#7 North Annex, La Guardia Field.	P. O. Box 82, N. Y. Airport Station, Flushing 71.	(G).
	Ithaca	Cornell University Airport	Cornell University Airport.	(C).
	New York	Terminal Bldg., La Guardia Field.	P. O. Box 575, La Guardia Airport Station, Flushing 71.	(C).
	New York	Room 102-103, Federal Bldg., International Airport.	Room 102-103, Federal Bldg., International Airport, Jamaica.	(C) (M).
	Lindenhurst	Zahn's Airport, North Wellwood Ave.	Zahn's Airport, North Wellwood Ave.	(G).
	Rochester	Rochester Municipal Airport.	Rochester Municipal Airport.	(G).
Ohio	Cincinnati	Administration Bldg., Lunken Airport.	Administration Bldg., Lunken Airport.	(G).
	Cleveland	Cleveland Hopkins Airport	Cleveland Hopkins Airport Bldg., S-21, Cleveland 11.	(G).
	Columbus	Tower Bldg., Port Columbus Airport.	Tower Bldg., Port Columbus Airport.	(G).
	Vandalia	James M. Cox-Dayton Municipal Airport.	P. O. Box 385	(M).
Oklahoma	Tulsa	American Airlines Bldg., Municipal Airport.	P. O. Box 8186	(C).
Pennsylvania	Allentown	Allentown-Bethlehem-Easton Airport.	Allentown-Bethlehem-Easton Airport.	(G).
	Harrisburg	Harrisburg State Airport, New Cumberland.	Harrisburg State Airport, New Cumberland.	(G).
	Pittsburgh	Room 303, Administration Bldg., Greater Pittsburgh Airport.	Room 303, Administration Bldg., Greater Pittsburgh Airport.	(C).
	do	Allegheny County Airport, Dravosburg.	Allegheny County Airport, Dravosburg.	(G).
	Williamsport	Lycoming Division, Aviation Corp.	P. O. Box 928	(M).
Virginia	Alexandria	Beacon Field, 2013 Richmond Highway.	Beacon Field, 2013 Richmond Highway.	(G).
	Richmond	Byrd Field, Sandston	Byrd Field, Sandston	(G).
West Virginia	Charleston	Kanawha County Airport	P. O. Box 5276, Capitol Station.	(G).

REGION 2

Alabama	Birmingham	Municipal Airport	Municipal Airport	(G).
Arkansas	Little Rock	Admas Field	R. F. D. 77	(G).
Florida	Jacksonville	Room 221-225, U. S. Post Office and Court House Bldg., 311 West Monroe St.	P. O. Box 1504, Jacksonville 1.	(G).
	Miami	International Airport	P. O. Box 226, International Airport Branch, Miami 48.	(C) (G). (M) (E).
	St. Petersburg	Pinellas County International Airport.	Pinellas County International Airport.	(G).
	Tampa	Peter O. Knight Airport	P. O. Box 2112	(G).
Georgia	Atlanta	Bldg. No. 5, Municipal Airport.	P. O. Box 738, Municipal Airport.	(C).
	do	3999 Gordon Rd., Fulton County Airport.	3999 Gordon Rd	(G).
Louisiana	New Orleans	New Orleans Airport	P. O. Box 8068, Gentilly Branch, New Orleans Airport.	(G) (C).
	Shreveport	Down Town Airport	Down Town Airport, Shreveport 194.	(G).
Mississippi	Jackson	334 A. A. B. Bldg	P. O. Box 1727	(G).
North Carolina	Charlotte	Room 214, New Terminal Bldg., Municipal Airport.	P. O. Box 598	(G).
	Raleigh	506-507 Commercial Bldg.	P. O. Box 1858	(G).
	Winston-Salem	Terminal Bldg., Smith Reynolds Airport.	Terminal Bldg., Smith Reynolds Airport.	(C).
Oklahoma	Bethany	Tulakes Airport	Care of Aero Design and Engineering Co., P. O. Box 118.	(M).
	Oklahoma City	Municipal Airport	P. O. Box 5158, Farley Station.	(G).
	Tulsa	Administration Bldg., Room 107, Municipal Airport.	Administration Bldg., Room 107.	(G) (C).
South Carolina	Columbia	Capital Airport	P. O. Box 368, West Columbia.	(G).
Tennessee	Nashville	Berry Field	Berry Field	(C) (G).
	Memphis	2d Floor, Hangar No. 1, Memphis Municipal Airport.	P. O. Box 7097	(G).
Texas	Amarillo	Tradewind Airport	P. O. Box 2306	(G).
	Brownsville	Rio Grande International Airport.	Administration Bldg., Rio Grande International Airport.	(G).

REGION 2—Continued

State	City	Location	Mailing address	Specialty
Texas	Dallas	Room 241, Terminal Bldg., Love Field.	Room 241, Terminal Bldg., Love Field.	(G).
	do	Room 207, Administration Bldg., Love Field.	Room 207, Administration Bldg., Love Field.	(C).
	Fort Worth	Meacham Field	P. O. Box 1689, Meacham Field.	(G).
	do	Amon Carter Field, Room 213 Terminal Bldg.	P. O. Box 2506	(C).
	Garland	Temco Aircraft Corp., Garland Plant.	P. O. Box 397	(M).
	Hurst	Bell Aircraft Corp	Care Bell Aircraft Corp., P. O. Box 482, Fort Worth.	(M).
	Houston	2d Floor, Old Terminal Bldg., International Airport.	P. O. Box 12387, Houston 17	(C) (G).
	Midland	Midland Air Terminal	P. O. Box 198, Terminal, Texas.	(G).
	San Antonio	International Airport	371 North Terminal Drive, Room 2, International Airport.	(G) (C).

REGION 3

Illinois	Chicago	5448 South Kildare	5448 South Kildare, Chicago.	(C).
	do	Du Page County Airport, St. Charles.	P. O. Box 337, Du Page County Airport, West Chicago.	(G).
	Springfield	Capital Airport	P. O. Box 197	(G).
Indiana	Indianapolis	Administration Bldg., Weir-Cook Municipal Airport.	Administration Bldg., Weir-Cook Municipal Airport.	(G) (C).
	do	Allison Division, General Motors Corporation, Plant No. 5.	Allison Division, General Motors Corporation, Plant No. 5, Raymond St. and Tibbs Ave.	(M).
	South Bend	St. Joseph County Airport	St. Joseph County Airport	(G).
Iowa	Cedar Rapids	Administration Bldg., Municipal Airport.	P. O. Box 1907	(G).
	Des Moines	228 Administration Bldg., Municipal Airport.	228 Administration Bldg., Municipal Airport.	(G).
Kansas	Dodge City	Municipal Airport	P. O. Box 550	(G).
	Kansas City	2d and 3d floors, Administration Bldg., Fairfax Airport.	2d and 3d floors, Administration Bldg., Fairfax Airport.	(C) (G).
	Wichita	Third Floor, Tower Bldg., New Municipal Airport Prospectus.	P. O. Box 2497, West Wichita Station, Wichita, 13.	(G).
	do	Beech Aircraft Corp	Care of Beech Aircraft Corp	(M).
	do	Cessna Aircraft Co	Care of Cessna Aircraft Co	(M).
Michigan	Grand Rapids	Kent County Airport	Kent County Airport	(G).
	Detroit	Administration Bldg., Detroit-Wayne Major Airport, Inkster.	Administration Bldg., Detroit-Wayne Major Airport, Inkster.	(G).
	Muskegon	Continental Aviation & Engineering Corp.	P. O. Box 538	(M).
	Ypsilanti	Terminal Bldg., Willow Run Airport.	Terminal Bldg., Willow Run Airport.	(C).
Minnesota	Minneapolis	Administration Bldg., Wold-Chamberlain Field.	Box 1, Administration Bldg., Wold-Chamberlain Field, Minneapolis, 23.	(G).
	do	6355 34th Ave. South, Wold-Chamberlain Field.	6355 34th Ave. South, Wold-Chamberlain Field.	(C).
Missouri	Springfield	Municipal Airport, Route 6.	Box 502A, Municipal Airport, Route 6.	(G).
	St. Louis	Administration Bldg., St. Louis Lambert Field.	Box 127, Lambert Field; Box 6127, Lambert Field, St. Louis 21.	(G). (C).
Nebraska	Lincoln	Terminal Bldg., Municipal Airport Union.	P. O. Box 1748	(G).
	North Platte	128 Administration Bldg., Municipal Airport.	P. O. Box 581	(G).
North Dakota	Bismarck	Municipal Airport	P. O. Box 805	(G).
	Fargo	Administration Bldg., Hector Airport.	P. O. Box 1756, Hector Airport.	(G).
South Dakota	Huron	Municipal Airport	P. O. Box 96	(G).
	Rapid City	do	P. O. Box 27	(G).

REGION 3—Continued

State	City	Location	Mailing address	Specialty
Wisconsin	Milwaukee	General Mitchell Field	General Mitchell Field, Milwaukee 7.	(G).
	Wausau	Wausau Municipal Airport	Wausau Municipal Airport	(G).

REGION 4

Arizona	Phoenix	Sky Harbor Airport	3000 Sky Harbor Blvd., Sky Harbor Airport.	(G).
California	Burbank	Hangar No. 4, Lockheed Air Terminal.	Hangar No. 4, Lockheed Air Terminal.	(C).
	do	Lockheed Aircraft Corp., Plant A-1, Bldg. 19.	Care of Lockheed Aircraft Corp., Plant A-1, Bldg. 19.	(M).
	Fresno	Fresno Air Terminal	P. O. Box 591	(G).
	Long Beach	Administration Bldg., Municipal Airport.	Administration Bldg., Municipal Airport.	(G).
	do	Douglas Aircraft Co., Long Beach Div. C-8, Bldg. 83, 3855 Lakewood.	Care of Douglas Aircraft Co., Long Beach Div. C-8, Bldg. 83, 3855 Lakewood.	(M).
	Los Angeles	5651 West Manchester Ave.	P. O. Box 45007, Airport Station.	(G) (C).
	Oakland	Municipal Airport	Airport Station, P. O. Box 97.	(G).
	Ontario	Administration Bldg., Ontario International Airport.	Administration Bldg., Ontario International Airport.	(G).
	Palo Alto	Municipal Airport	P. O. Box 1240	(G).
	Sacramento	do	Municipal Airport	(G).
	San Diego	Administration Bldg., Lindbergh Field.	Administration Bldg., Lindbergh Field.	(G).
	do	Consolidated-Vultee Aircraft Corp., Bldg. 33, Lindbergh Field.	Care of Convair Aircraft Corp., Bldg. 33, Lindbergh Field, San Diego 12.	(M).
	Santa Monica	Douglas Aircraft Co., Inc., 3000 Ocean Park Blvd.	Care of Douglas Aircraft Co., Inc., 3000 Ocean Park Blvd.	(M).
	San Francisco	Rm. 404, Terminal Bldg., International Airport.	P. O. Box 7, Airport Branch, South San Francisco.	(C).
	Van Nuys	7550 Hayvenhurst Ave., San Fernando Valley Airport.	7550 Hayvenhurst Ave., San Fernando Valley Airport.	(G).
Colorado	Denver	CAA District Office Bldg., Stapleton Airfield.	CAA District Office Bldg., Stapleton Airfield.	(G) (C).
	Fort Collins	Care of Silvair Uranium & Aircraft Co.	P. O. Box 215	(M).
Idaho	Boise	1412 Idaho St	1412 Idaho St	(G).
Montana	Billings	208 Stapleton Bldg	P. O. Box 2078	(G).
	Helena	Municipal Airport	P. O. Box 1167	(G).
Nevada	Reno	210 West 2d St., Room 9, Savier Bldg.	P. O. Box 499	(G).
New Mexico	Albuquerque	2029 Yale Blvd. SE	2029 Yale Blvd. SE	(G).
Oregon	Medford	Municipal Airport	P. O. Box 832	(G).
	Portland	Service Office Bldg., 5410 Northeast Marine Dr.	Service Office Bldg., 5410 Northeast Marine Dr., Portland 13.	(G).
Utah	Salt Lake City	Municipal Airport No. 1	Municipal Airport No. 1, Salt Lake City 3.	(G).
Washington	Seattle	CAA Bldg., Boeing Field	P. O. Box 18, Seattle 8	(G).
	do	do	P. O. Box 17, Seattle 8	(M) (C).
	Spokane	Administration Bldg., Felts Field.	P. O. Box 247, Parkwater Station.	(G).
	Yakima	2300 West Washington Ave.	2300 West Washington Ave.	(G).
Wyoming	Cheyenne	Municipal Airport, 4101 Evans Ave.	Box 2068, Airport Station	(G).

REGION 5

Alaska	Anchorage	Communications Bldg., Merrill Field.	P. O. Box 440	(G).
	do	Anchorage International Airport Terminal Bldg., Ramp Level.	do	(C).
	Fairbanks	Wien Hangar	P. O. Box 510	(C) (G).
	Juneau	Fairbanks Airport, McKinley Bldg.	P. O. Box 2449	(C) (G).

This amendment shall become effective upon publication in the FEDERAL REGISTER.

[SEAL] WILLIAM B. DAVIS,
Acting Administrator of Civil Aeronautics.

DECEMBER 13, 1957.

[F. R. Doc. 57-10507; Filed, Dec. 23, 1957; 8:45 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 11888, 11889; FCC 57M-1276]

JEFFERSON COUNTY BROADCASTING CO. AND KERMIT F. TRACY

ORDER CONTINUING HEARING

In re applications of Louis Alford, Phillip D. Brady and Albert Mack Smith, d/b as Jefferson County Broadcasting Company, Pine Bluff, Arkansas, Docket No. 11888, File No. BP-10528; Kermit F. Tracy, Fordyce, Arkansas, Docket No. 11889, File No. BP-10691; for construction permits.

On Motion of Kermit F. Tracy, filed December 13, 1957, and without objection from any other participant in this proceeding: *It is ordered,* This 16th day of December 1957, that the date for filing direct written presentations is extended from December 16, 1957, to January 2, 1958, and date for hearing from December 20, 1957, to January 6, 1958.

Released: December 17, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-10601; Filed, Dec. 23, 1957; 8:51 a. m.]

[Docket Nos. 12229, 12230; FCC 57M-1279]

WALTER G. ALLEN AND MARSHALL COUNTY BROADCASTING CO.

ORDER CONTINUING HEARING

In re applications of Walter G. Allen, Huntsville, Alabama, Docket No. 12229, File No. BP-10871; Marshall County Broadcasting Company, Inc., Arab, Alabama, Docket No. 12230, File No. BP-11088; for construction permits.

Pursuant to pre-hearing conference on this date and with the concurrence of all counsel: *It is ordered,* This 17th day of December 1957, that an exchange of the direct case in writing of each applicant shall be made on or before January 15, 1958: *And it is further ordered,* That the hearing now scheduled for January 8, 1958, be, and the same is hereby, continued without date.

Released: December 18, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-10603; Filed, Dec. 23, 1957; 8:51 a. m.]

[Docket Nos. 12201, 12202; FCC 57M-1275]

SOUTH NORFOLK BROADCASTING CO., INC. AND DENBIGH BROADCASTING CO.

ORDER CONTINUING HEARING

In re applications of South Norfolk Broadcasting Company, Incorporated, South Norfolk, Virginia, Docket No. 12201, File No. BP-10981; Cy Blumenthal tr/as Denbigh Broadcasting Co., Denbigh, Virginia, Docket No. 12202, File No. BP-11250; for construction permits.

It appearing from facts developed at a hearing conference held on December 16, 1957, that two additional applications, Virginia Beach Broadcasting Company, Virginia Beach, Virginia, BP-11600, and WTOW, Inc., Towson, Maryland, BP-11634, are entitled to be consolidated into the above-captioned proceeding;

Accordingly, it is ordered, This 17th day of December 1957, that hearing now scheduled for December 20, 1957, is continued indefinitely so as to permit designation of the Virginia Beach and WTOW applications into this proceeding; and

It is further ordered, That a pre-hearing conference will be held on February 14, 1958.

Released: December 17, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-10602; Filed, Dec. 23, 1957; 8:51 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-1823]

STANDARD PACIFIC GAS LINE, INC.

NOTICE OF APPLICATION AND DATE OF HEARING

DECEMBER 18, 1957.

Take notice that Standard Pacific Gas Line Incorporated (Standard), a California corporation with its principal place of business at San Francisco, California, filed, on October 26, 1951, an application, which was supplemented on August 22, 1952, May 24, 1956, May 21, 1957, and August 26, 1957, for a certificate of public convenience and necessity, pursuant to section 7 (c) of the Natural Gas Act, authorizing the transportation in interstate commerce of natural gas. On December 4, 1951, temporary authorization was granted Standard to operate the facilities as proposed in its application.

Standard proposes to transport natural gas for Pacific Gas and Electric Company through its existing pipeline system in California, extending from Pacific's Kettleman Compressor Station to the northern terminus of said line west of the City of San Pablo, and through two branch pipelines extending to points near the cities of Crockett and Antioch, respectively. The natural gas proposed to be transported under this application is purchased by Pacific from the El Paso Natural Gas Company at the California-Arizona border.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 16, 1958, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application as amended: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 13, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-10588; Filed, Dec. 23, 1957; 8:49 a. m.]

[Docket No. G-11523]

TEXAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

DECEMBER 18, 1957.

Take notice that The Texas Company (Applicant), a Delaware corporation with its principal place of business in the City of Houston, Texas, filed on November 23, 1956, an application pursuant to section 7 (b) of the Natural Gas Act for authorization to abandon service to Lone Star Gas Company (Lone Star) from the J. C. Graham Lease located in the Doyle Field, Stephens County, Oklahoma, as hereinafter described, subject to the jurisdiction of the Commission, as more fully represented in the application on file with the Commission and open to public inspection.

Applicant seeks to abandon service previously authorized to be rendered to Lone Star in Docket No. G-4824. The service is under Applicant's FPC Gas Rate Schedule No. 105. Applicant states Lone Star ceased taking gas from the J. C. Graham Lease in March 1956, when, due to natural depletion, the well pressure dropped below the line pressure maintained in Lone Star's field facilities.

This matter is one that should be disposed of under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and pro-

cedure, a hearing will be held on February 4, 1958, at 9:30 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings, pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 27, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-10589; Filed, Dec. 23, 1957; 8:49 a. m.]

[Docket Nos. G-13137, 13282]

UNITED GAS PIPE LINE CO. ET AL.

NOTICE OF APPLICATIONS AND DATE OF HEARING

DECEMBER 18, 1957.

In the matters of United Gas Pipe Line Company, Docket No. G-13137; Lewis S. Rosenstiel, et al., Docket No. G-13282.

Take notice that United Gas Pipe Line Company (United), a Delaware corporation with a principal place of business in Shreveport, Louisiana, filed on August 26, 1957, an application for a certificate of public convenience and necessity in Docket No. G-13137 pursuant to section 7 of the Natural Gas Act for authorization to construct and operate approximately 1.8 miles of 6-inch lateral supply pipeline, with appurtenances, extending in a northeasterly direction from a point of connection at approximate Milepost 9.15 on its existing 20-inch Mustang Island pipeline to a purchase meter station to be installed and operated by United in the West Puerto Bay Field area, San Patricio County, Texas, subject to the jurisdiction of the Commission, and as more fully described in the application on file with the Commission and open for public inspection.

Take further notice that Lewis S. Rosenstiel, whose principal place of business is at 1820 Empire State Building, New York, New York, for himself and on behalf of Conroe Drilling Company of Houston, Texas, filed on September 16, 1957, an application for a certificate of public convenience and necessity in Docket No. G-13282 authorizing the sale of natural gas in interstate commerce to United Gas Pipe Line Company for resale, subject to the jurisdiction of the Commission, as more fully described in the application on file with the Commission and open for public inspection.

United proposes to construct and operate the above-described facilities to enable it to purchase and take natural gas produced by Lewis S. Rosenstiel and Conroe Drilling Company for transportation and resale thereof.

The estimated cost of facilities of United is stated to be $43,554, and will be defrayed from current funds.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 22, 1958 at 9:30 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 17, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-10590; Filed, Dec. 23, 1957; 8:49 a. m.]

[Docket No. G-13326]

UNITED GAS PIPE LINE CO.

NOTICE OF APPLICATION AND DATE OF HEARING

DECEMBER 18, 1957.

Take notice that, on September 27, 1957, United Gas Pipe Line Company (Applicant) filed in Docket No. G-13326 an application, pursuant to section 7 (c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of field facilities to enable Applicant to take into its certificated main pipeline system natural gas which it will purchase from producers in the general area of its existing transmission system from time to time during the calendar year 1958, at a total cost not in excess of $3,000,000, with the total cost of any single connection being limited to $400,000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting new supplies of gas in producing areas generally coextensive with its system.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held on January 28, 1958, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 14, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-10591; Filed, Dec. 23, 1957; 8:50 a. m.]

[Docket No. G-13359]

NORTHERN NATURAL GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

DECEMBER 18, 1957.

Take notice that Northern Natural Gas Company (Applicant), a Delaware corporation with its principal place of business in Omaha, Nebraska, filed an application on October 4, 1957, for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of facilities for receiving natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct the following facilities:

(1) An additional 440 horsepower compressor unit to be installed at the outlet of the Schafer plant in Carson County, Texas, to the 440 horsepower unit presently installed.

(2) Approximately 2,000 feet of 10-inch pipeline to extend from a point on Northern's existing 20-inch pipeline, southeast to its Skellytown Compressor Station, to a point of connection with the Kingsmill plant, located in Gray County, Texas, together with related measuring facilities.

Applicant states that the construction of the proposed facilities is estimated to cost $121,300 and will be used for the purpose of obtaining additional volumes of residue gas into its system from Skelly Oil Company's (Skelly) existing Schafer and Kingsmill Gasoline Plants.

Applicant states that the additional gas to be made available by Skelly, for which Northern is proposing additional facilities, will become available after December 31, 1957. Skelly now sells approximately 15,000 Mcf per day to Cabot Carbon Company (intrastate sale) in this area under a gas sales contract which expires December 31, 1957; and thereafter additional volumes of gas will be available to Northern at the Schafer plant. In addition, for the first time, gas will be made available to Northern from the Kingsmill plant. Daily deliveries from the Schafer plant will be increased by 13,000 Mcf from the present 7,000 Mcf to 20,000 Mcf. The initial daily delivery rate from the Kingsmill plant will be 2,000 Mcf.

No new markets are proposed to be served other than those previously authorized by the Commission.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 21, 1958, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 6, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-10592; Filed, Dec. 23, 1957; 8:50 a. m.]

[Docket No. G-13542]

MANUFACTURERS LIGHT AND HEAT CO.

NOTICE OF APPLICATION AND DATE OF HEARING

DECEMBER 18, 1957.

Take notice that on October 17, 1957, The Manufacturers Light and Heat Company (Applicant) filed in Docket No. G-13542 an application, pursuant to section 7 of the Natural Gas Act, for permission and approval to abandon three compressor stations and certain transmission pipelines located in Jefferson, Elk and McKean Counties, Pennsylvania, and for a certificate of public convenience and necessity authorizing the installation and operation of two portable compressor units at two of the aforesaid stations, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks to abandon the following facilities:

(1) The existing 600 horsepower Iowa No. 1 Compressor Station located in Pine Creek Township, Jefferson County, Pennsylvania;

(2) The existing 480 horsepower Munderf Compressor Station located in Polk Township, Jefferson County, Pennsylvania;

(3) The existing 1,300 horsepower McKinley Compressor Station located in Highland Township, Elk County, Pennsylvania; and

(4) Approximately 40 miles of 6 to 9⅝ inch transmission pipeline extending north from Munderf Compressor Station to a point in Lafayette Township, McKean County, Pennsylvania.

Applicant states that the areas originally served by the above facilities are largely depleted, that said facilities were constructed between 1908 and 1923, and that the present compressor facilities are no longer required to handle gas from the fields involved.

Applicant proposes to install a 225 horsepower portable compressor unit on the Iowa Compressor Station property to pump the remaining production available in that area, and a 128 horsepower portable compressor unit to replace the present McKinley Compressor Station.

The estimated cost of the new compressor units is $96,500, and the total capital cost of installing the portable compressor units and removing the facilities to be abandoned is estimated at $104,800, which will be financed from funds on hand. There will be no change in Applicant's economic position, service or gas supply as a result of the present proposal.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 30, 1958, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 17, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-10593; Filed, Dec. 23, 1957; 8:50 a. m.]

[Docket No. G-13630]

NORTHERN NATURAL GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

DECEMBER 18, 1957.

Take notice that Northern Natural Gas Company (Applicant), a Delaware corporation with its principal place of business at Omaha, Nebraska, filed an application on October 31, 1957, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act authorizing the construction and operation of natural gas facilities (measuring and regulating station) in Scott County, Minnesota, on its 16-inch mainline to Minneapolis, subject to the jurisdiction of the Commission, to render a direct interruptible service to the Webster Cooperative Dairy Association (Webster) as more fully set forth in the application filed with the Commission, and open for public inspection.

Applicant represents it proposes to sell and deliver an estimated 117,000 Mcf annually to Webster, and approximately 720 Mcf on a maximum day, on an interruptible basis for use as boiler fuel at the Webster dairy.

The estimated capital cost of the proposed facilities is $4,950 which will be defrayed from current funds.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 20, 1958, at 9:30 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission

may, after a noncontested hearing, dispose of the proceedings, pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 16, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-10594; Filed, Dec. 23, 1957; 8:50 a. m.]

[Docket No. G-13845]

MIDWEST OIL CORP. ET AL.

EFFECTIVE DATE

DECEMBER 18, 1957.

In the Order for Hearing and Suspending Proposed Change in Rates, issued December 12, 1957, and published in the FEDERAL REGISTER on December 18, 1957 (22 F. R. 10128-9), on page 1, after "Rate Schedule Designated:" delete "'"; insert "'" after "Effective Date:" and change "January 1, 1957" to read "January 1, 1958".

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-10595; Filed, Dec. 23, 1957; 8:50 a. m.]

[Docket No. G-13914]

DALPORT OIL CORP. ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

DECEMBER 18, 1957.

Dalport Oil Corporation, et al. (Dalport), on November 18, 1957, tendered for filing proposed changes in its presently effective rate schedules for sales of natural gas, subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: notices of change, dated November 15, 1957.
Purchaser: El Paso Natural Gas Company.
Rate schedule designation:
Supplement No. 4 to Dalport's FPC Gas Rate Schedule No. 1.
Supplement No. 5 to Dalport's FPC Gas Rate Schedule No. 1.
Supplement No. 3 to Dalport's FPC Gas Rate Schedule No. 4.
Supplement No. 2 to Dalport's FPC Gas Rate Schedule No. 5.
Supplement No. 2 to Dalport's FPC Gas Rate Schedule No. 6.
Supplement No. 3 to Dalport's FPC Gas Rate Schedule No. 9.
Supplement No. 1 to Dalport's FPC Gas Rate Schedule No. 10.
Effective date: January 1, 1958 (effective date is the effective date proposed by Dalport).

In support of the proposed increased rates, Dalport states that the increases are provided for in the contracts.

It appears that the proposed increases result from the operation of a favored-nation escalation provision in the contracts but no proof has been submitted as to the date on which such escalation would be effective.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause exists that Dalport submit within a reasonable time proof of the date upon which the proposed increased rates would become effective under the appropriate rate schedules.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that said supplements to Dalport's rate schedules, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Dalport shall submit proof, through agreement with the Buyer or otherwise, of the date that each of the proposed increased rates would have been effective under the appropriate rate schedule.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure (18 CFR Ch. I); a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in said supplements to Dalport's rate schedules.

(C) Pending such hearing and decision thereon, said supplements are each hereby suspended and the use thereof deferred until June 1, 1958, or until such date that is five months after the date that the proposed rates set forth in said supplements would have become effective under the terms of the appropriate rate schedule, whichever is later, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(D) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(E) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-10585; Filed, Dec. 23, 1957; 8:48 a. m.]

[Docket No. G-13915]

DALPORT OIL CORP. ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 18, 1957.

Dalport Oil Corporation (Operator), et al., (Dalport), on November 18, 1957, tendered for filing a proposed change in its presently effective rate schedule for sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 15, 1957.
Purchaser: El Paso Natural Gas Company.
Rate schedule designation: Supplement No. 1 to Dalport's FPC Gas Rate Schedule No. 8.
Effective date: January 1, 1958 (effective date is the effective date proposed by Dalport).

In support of the proposed increased rate, Dalport states that the increase is provided for in the contract.

It appears that the proposed increase results from the operation of a favored-nation escalation provision in the contract but no proof has been submitted as to the date on which such escalation would be effective.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause exists that Dalport submit within a reasonable time proof of the date upon which the proposed increased rate would become effective under the appropriate rate schedule.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that said supplement to Dalport's rate schedule described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Dalport shall submit proof, through agreement with the Buyer or otherwise, of the date that the proposed increased rate would have been effective under the rate schedule.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Dalport's rate schedule.

(C) Pending such hearing and decision thereon, said supplement is hereby suspended and the use thereof deferred until June 1, 1958, or until such date that is five months after the date that the proposed rate set forth in said supplement would have become effective under the terms of the rate schedule, whichever is later, and until such further time as

it is made effective in the manner prescribed by the Natural Gas Act.

(D) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(E) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-10586; Filed, Dec. 23, 1957; 8:48 a. m.]

[Docket No. G-13916]

AMERADA PETROLEUM CORP.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

DECEMBER 18, 1957.

Amerada Petroleum Corporation (Amerada) on November 18, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas, subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated October 3, 1957.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: Supplement No. 3 to Amerada's FPC Gas Rate Schedule No. 31.

Effective date: January 1, 1958 (effective date is the effective date proposed by Amerada).

In support of the proposed increased rate, Amerada states that the increase is provided for in the contract.

It appears that the proposed increase results from the operation of escalation provisions in the contract but no proof has been submitted as to the date on which such escalation would be effective.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause exists that Amerada submit within a reasonable time proof of the date upon which the proposed increased rate would become effective under the above-designated rate schedule.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that said supplement to Amerada's rate schedule described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Amerada shall submit proof, through agreement with the Buyer or otherwise, of the date that the proposed increased rate would have been effective under the above-designated rate schedule.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Amerada's rate schedule.

(C) Pending such hearing and decision thereon, said supplement is hereby suspended and the use thereof deferred until June 1, 1958, or until such date that is five months after the date that the proposed rate set forth in said supplement would have become effective under the terms of the above-designated rate schedule, whichever is later, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(D) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(E) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-10587; Filed, Dec. 23, 1957; 8:48 a. m.]

INTERSTATE COMMERCE COMMISSION

[Notice 196]

MOTOR CARRIER APPLICATIONS

DECEMBER 20, 1957.

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers and by brokers under Sections 206, 209, and 211 of the Interstate Commerce Act and certain other procedural matters with respect thereto (49 CFR 1.241).

All hearings will be called at 9:30 o'clock a. m., United States Standard Time, unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PRE-HEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 531 (Sub No. 87), filed August 22, 1957, YOUNGER BROTHERS, INC., 4904 Griggs Road, Houston, Tex. Applicant's attorney: Ewell H. Muse, Jr., Suite 415 Perry Brooks Building, Austin, Tex. For authority to operate as a *common carrier*, over irregular routes, transporting: *Petroleum* and *petroleum products*, in bulk, in tank vehicles, and *acids* and *chemicals*, not limited to Appendix XV of Ex Parte No. MC-45 or the definition in the Maxwell case, in bulk, in tank, multiple cylinder, hopper, vacuum and other type vehicles, between points in that part of Texas on, south and east of a line beginning at the Texas-Louisiana State line and extending along U. S. Highway 190 through Jasper, Woodville, Livingston, Huntsville and Cameron to junction with U. S. Highway 81 at Temple, Tex., thence along U. S. Highway 81 through Austin and San Antonio to Laredo, Tex., on the one hand, and, on the other, points in Louisiana, Mississippi, Arkansas, Oklahoma, and New Mexico. Applicant is authorized to transport the commodities specified in Alabama, Arkansas, Georgia, Louisiana, Mississippi, Tennessee, and Texas, and other commodities in Louisiana and Texas.

NOTE: Applicant states no duplicating authority is sought.

HEARING: January 28, 1958, at the Federal Office Building, Franklin and Fannin Streets, Houston, Tex., before Examiner C. Evans Brooks.

No. MC 7155 (Sub No. 6), filed November 4, 1957, ROY WILLIAMS, Route 3, Silverton, Oreg. Applicant's attorney: Wm. P. Ellis, 1102 Equitable Building, Portland 4, Oreg. For authority to operate as a *common carrier*, over irregular routes, transporting: *Lumber*, (1) from points in Tillamook, Washington, Clackamas, Hood River, Douglas, and Wasco Counties, Oreg., to points in Utah, and to points in Idaho except those in and north of Lewis, Nez Perce, and Idaho Counties; (2) from points in Oregon to points in Washington. *Fertilizer*, from Garfield, Utah, and points within five miles thereof, to points in Oregon. Applicant is authorized to conduct operations in Idaho, Oregon, Utah, and Washington.

HEARING: February 7, 1958, at 538 Pittock Block, Portland, Oreg., before Examiner Leo W. Cunningham.

No. MC 7746 (Sub No. 90), filed September 30, 1957, UNITED TRUCK LINES, INC., East 915 Springfield Avenue, Spokane 2, Wash. For authority to operate as a *common carrier*, over irregular routes, transporting: *Prepared foodstuffs, fruits and vegetables, poultry* (including turkeys), eviscerated or prepared, *fish, including shell fish, beverages, beverage preparations, fruit and vegetable juices and concentrates, meats, meat products, meat by-products* and *dairy products* and *all other food products requiring refrigerated equipment* in transit, between points in Washington, Oregon, and California. Applicant is authorized to conduct operations in Washington, Oregon, Idaho, and Montana.

HEARING: February 12, 1958, at 538 Pittock Block, Portland, Oreg., before Joint Board No. 5, or, if the Joint Board waives its right to participate, before Examiner Leo W. Cunningham.

No. MC 9115 (Sub No. 47), filed October 7, 1957, OREGON NEVADA CALIFORNIA FAST FREIGHT, INC., 675 Brannan Street, San Francisco, Calif. Applicant's attorneys: William B. Adams and John G. McLaughlin, Pacific Building, Portland 4, Oreg. For authority to operate as a *common carrier*, over a regular route, transporting: *General*

commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, liquid petroleum products, in bulk, in tank vehicles, and those requiring special equipment, between Lobert, Oreg., and Klamath Falls, Oreg., over U. S. Highway 97, serving all intermediate points. Applicant is authorized to conduct operations in California, Nevada, Oregon, and Washington.

NOTE: Applicant states it is presently authorized to serve the point of Lobert for delivery only and is traversing U. S. Highway 97 in connection with its present service. Duplication with present authority to be eliminated.

HEARING: February 3, 1958, at 538 Pittock Block, Portland, Oreg., before Joint Board No. 172, or, if the Joint Board waives its right to participate, before Examiner Leo W. Cunningham.

No. MC 35396 (Sub No. 24), filed October 31, 1957, (amended and corrected December 12, 1957) published in December 4, 1957 issue, page 9718, ARNOLD LIGON, doing business as ARNOLD LIGON TRUCK LINE, U. S. 41 South, Madisonville, Ky. Applicant's attorney: Robert M. Pearce, Seventh Floor, McClure Building, Frankfort, Ky. For authority to operate as a *common carrier*, over irregular routes, transporting: *Radioactive materials*, semiprocessed feed material in granular form, in hopper type containers, between the site of the Atomic Energy Commission plant at or near Fernald, Ohio, and the site of the Atomic Energy Commission plant at or near Oak Ridge, Tenn.

HEARING: Remains as assigned January 16, 1958, at the Dinkler-Andrew Jackson Hotel, Nashville, Tenn., before Joint Board No. 209, or, if the Joint Board waives its right to participate, before Examiner Alton R. Smith.

No. MC 37379 (Sub No. 14), filed December 9, 1957, BINGHAMTON WAREHOUSE & TERMINAL, INC., P. O. Box 127, Ninth and Market Streets, Lemoyne, Pa. Applicant's attorney: Martin Werner, 295 Madison Avenue, New York 17, N. Y. For authority to operate as a *common carrier*, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the International Business Machines Corporation distribution center located in Hempden Township, Cumberland County, Pa., approximately 4.4 miles west of the Borough of Camp Hill on Pennsylvania Highway 641, as an off-route point in connection with applicant's authorized regular route operations. Applicant is authorized to conduct operations in Maryland, New York, Pennsylvania, and Virginia.

HEARING: February 6, 1958, at 346 Broadway, New York, N. Y., before Examiner Donald R. Sutherland.

No. MC 41635 (Sub No. 34), filed November 27, 1957, DEALERS TRANSPORT COMPANY, a corporation, 1368 Riverside Boulevard, Memphis, Tenn. Applicant's attorney: Charles H. Hudson, Jr., 407 Broadway National Bank Building, Nashville, Tenn. For authority to operate as a *common carrier*, over irregular routes, transporting: *Automobiles, trucks*, and *buses*, as defined in *Descriptions in Motor Carrier Certificates, in Ex Parte No. MC–45*, in initial movements, in driveaway and truckaway services, and *parts and accessories* thereof, moving at the same time and with the vehicle of which they are a part and on which they are to be installed, from Memphis, Tenn., to points in Kentucky on and east of U. S. Highway 51, to points in Indiana, Ohio, Virginia, West Virginia, to points in Illinois north of U. S. Highway 50, and to those in Missouri north of U. S. Highway 40, and *damaged, rejected, or returned shipments* of the above-described commodities on return. Applicant is authorized to conduct operations throughout the United States.

HEARING: January 28, 1958, at the Peabody Hotel, Memphis, Tenn., before Examiner Alton R. Smith.

No. MC 42487 (Sub No. 347), filed September 16, 1957, CONSOLIDATED FREIGHTWAYS, INC., 2116 Northwest Savier Street, Portland, Oreg. Applicant's attorney: William B. Adams, Pacific Building, Portland 4, Oreg. For authority to operate as a *common carrier*, over irregular routes, transporting: (1) *Cherries in brine*, in bulk, in tank vehicles, from points in Oregon and Washington to Covington, Ky., (2) *brandy*, in bulk, in tank vehicles, from Hood River, Oreg., to Philadelphia, Pa., and (3) *acids* and *chemicals*, in bulk, in tank vehicles, from Charleston, W. Va., and points within 20 miles thereof, to points in Montana, Washington, Oregon, California, Nevada, Utah, New Mexico, Colorado, and Idaho.

HEARING: February 10, 1958, at 538 Pittock Block, Portland, Oreg., before Examiner Leo W. Cunningham.

No. MC 47693 (Sub No. 8), filed December 5, 1957, JOHN R. CALLAHAN, doing business as CALLAHAN TRANSPORTATION, 857 Dounton Way, Pittsburgh 33, Pa. Applicant's attorney: Joseph I. Lewis, 907 Plaza Building, Pittsburgh 19, Pa. For authority to operate as a *contract carrier* over irregular routes, transporting: *Malt beverages*, in containers, from Baltimore, Md. to points in Pennsylvania, and *empty containers or other such incidental facilities* (not specified) used in transporting malt beverages from points in Pennsylvania to Baltimore, Md. Applicant is authorized to conduct operations in Connecticut, Delaware, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, West Virginia, and the District of Columbia.

HEARING: January 30, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Allan F. Borroughs.

No. MC 55581 (Sub No. 5), filed November 12, 1957, UTAH PACIFIC LUMBER TRANSPORT CO., a Corporation, 5609 Northeast 77th Avenue, Portland, Oreg. Applicant's attorney: Earle V. White, 1401 Northwest 19th Avenue, Portland 9, Oreg. For authority to operate as a *common carrier*, over irregular routes, transporting: (1) *Lumber, logs, poles* and *piling*, from points in Oregon to points in Montana, Wyoming, Colorado and Arizona; (2) *Logs, poles* and *piling*, from points in Oregon to points in Idaho and Utah; (3) *brick* and *building tile*, from Denver, Colo., to points in Oregon and Washington; and (4) *common salt*, from points in Davis, Salt Lake and Tooele Counties, Utah, to points in Oregon and Washington. Applicant is authorized to conduct operations in Idaho, Oregon, Utah, and Washington.

HEARING: February 4, 1958, at 538 Pittock Block, Portland, Oreg., before Examiner Leo W. Cunningham.

No. MC 66900 (Sub No. 18), filed September 11, 1957, HOUFF TRANSFER, INCORPORATED, P. O. Box 61, Weyers Cave, Va. Applicant's attorney: S. Harrison Kahn, 726–34 Investment Building, Washington, D. C. For authority to operate as a *common carrier*, over irregular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between points in the Bristol, Va.-Tenn., Commercial Zone, as defined by the Commission. Applicant is authorized to conduct operations in Alabama, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia.

NOTE: Applicant states it is presently authorized to serve Bristol, Va. Duplication with present authority to be eliminated.

HEARING: January 31, 1958, at the City Court House, Bristol, Va., before Joint Board No. 279, or, if the Joint Board waives its right to participate, before Examiner Alton R. Smith.

No. MC 96355 (Sub No. 3), filed September 9, 1957, BRITT TRUCKING COMPANY, 1401 North Fourth Place, Lamesa, Tex. For authority to operate as a *common carrier*, over irregular routes, transporting: *Oil field equipment* between points in Texas. Applicant is authorized to conduct operations in Texas.

HEARING: February 7, 1958, at the Baker Hotel, Dallas, Tex., before Joint Board No. 77, or, if the Joint Board waives its right to participate, before Examiner C. Evans Brooks.

No. MC 103993 (Sub No. 104), filed November 25, 1957, MORGAN DRIVE-AWAY, INC., 509 Equity Building, Elkhart, Ind. Applicant's attorney: John E. Lesow, 3737 North Meridian Street, Indianapolis 8, Ind. For authority to operate as a *common carrier*, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from points in Oregon, except from Pendleton and McMinnville, Oreg., to points in the United States. Applicant is authorized to conduct similar operations throughout the United States.

HEARING: February 11, 1958, at 538 Pittock Block, Portland, Oreg., before Examiner Leo W. Cunningham.

No. MC 106398 (Sub No. 93), filed November 25, 1957, NATIONAL TRAILER CONVOY, INC., 1916 North Sheridan

Road, P. O. Box 896, Dawson Station, Tulsa 15, Okla. Applicant's attorney: John E. Lesow, 3737 North Meridian Street, Indianapolis 8, Ind. For authority to operate as a *common carrier*, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from points in Oregon, except Pendleton and McMinnville, to all points in the United States. Applicant is authorized to conduct operations throughout the United States.

HEARING: February 11, 1958, at 538 Pittock Block, Portland, Oreg., before Examiner Leo W. Cunningham.

No. MC 107515 (Sub No. 258), filed August 30, 1957, REFRIGERATED TRANSPORT CO., INC., 290 University Avenue SW., Atlanta 10, Ga. Applicant's attorney: Allan Watkins, Grant Building, Atlanta 3, Ga. For authority to operate as a *common carrier*, over irregular routes, transporting: *Meats, packing house products, and commodities used by packing houses*, as defined by the Commission, in Appendix 1, M. C. C. 61, from Dallas, Tex., to points in Tennessee (except Memphis). Applicant is authorized to transport similar and related commodities from and to specified points in Georgia, Tennessee, North and South Carolina, Florida, Mississippi, Louisiana, Alabama, Illinois, Indiana, Kansas, Missouri, Ohio, Kentucky, Arkansas, Oklahoma, Texas, Nebraska, Michigan, Wisconsin, Minnesota, and Iowa.

HEARING: February 4, 1958, at the Baker Hotel, Dallas, Tex., before Examiner C. Evans Brooks.

No. MC 107678 (Sub No. 21), filed September 18, 1957, HILL & HILL TRUCK LINE, INC., 13019 Sarah Lane (P. O. Box 9698), Houston 15, Tex. Applicant's attorney: Joe G. Fender, Melrose Building, Houston 2, Tex. For authority to operate as a *common carrier*, over irregular routes, transporting: (A) *Contractors' equipment and supplies;* (B) *Commodities* which by reason of size or weight require the use of special equipment; (C) *Related machinery and related materials and supplies*, when their transportation is incidental to the transportation of commodities authorized in (B) above; and (D) *Machinery equipment, materials*, and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *pipe* and *machinery, materials, equipment* and *supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, between points in Texas, Oklahoma, Kansas, New Mexico, Colorado, Montana, Nevada, Utah, and Wyoming, on the one hand, and, on the other, points in Oregon, Washington and Idaho. Applicant is authorized to conduct operations in Colorado, Kansas, Louisiana, Montana, Nevada, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming.

NOTE: Duplication with present authority to be eliminated.

HEARING: February 5, 1958, at the Baker Hotel, Dallas, Tex., before Examiner C. Evans Brooks.

No. MC 110877 (Sub No. 4), filed October 28, 1957, INDEPENDENT CARRIERS, CORP., 50 Southwest Second Street, Portland, Oreg. For authority to operate as a *common carrier*, over irregular routes, transporting: *Lumber*, from points in Oregon to points in California, Idaho, and Washington, except Vancouver, Wash., and *empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified in this application on return. Applicant is authorized to conduct operations in California, Idaho, Oregon and Washington.

NOTE: Applicant has authority to transport lumber from Mapleton, Oreg., and points within 12 miles thereof, to points in California, Idaho, and Washington, except Vancouver, Wash., and by the instant application applicant proposes to eliminate the gateway restriction to Mapleton and points within 12 miles thereof. Duplication with present authority to be eliminated.

HEARING: February 7, 1958, at 538 Pittock Block, Portland, Oreg., before Examiner Leo W. Cunningham.

No. MC 112020 (Sub No. 38), filed September 23, 1957, COMMERCIAL OIL TRANSPORT, a Corporation, 1030 Stayton Street, Fort Worth, Tex. Applicant's attorney: Leroy Hallman, First National Bank Building, Dallas 2, Tex. For authority to operate as a *common carrier*, over irregular routes, transporting: *Corn syrup*, in bulk, in tank vehicles, from Oklahoma City, Okla., to points in Texas. Applicant is authorized to transport corn syrup in Arkansas, Louisiana, Oklahoma and Texas.

HEARING: February 4, 1958, at the Baker Hotel, Dallas, Tex., before Joint Board No. 16, or, if the Joint Board waives its right to participate, before Examiner C. Evans Brooks.

No. MC 115273 (Sub No. 4), filed December 3, 1957, ACME CARRIERS, INC., 204 Franklin Street, New York 13, N. Y. Applicant's attorney: Edward M. Alfano, 36 West 44th Street, New York 36, N. Y. For authority to operate as a *common carrier*, over irregular routes, transporting: *Eggs*, frozen and unfrozen, and *egg products*, with and without preservatives, in straight and mixed shipments, from the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone to Altoona, Du Bois, Duncannon, Erie, Harrisburg, Lancaster, Marysville, Pittsburgh, Reading, Scranton, State College, and Wilkes-Barre, Pa., and Binghampton and Elmira, N. Y.; and *empty containers or other such incidental facilities* (not specified) used in transporting the above-named commodities, on return. Applicant is authorized to transport similar commodities in Iowa, Massachusetts, Nebraska, New Jersey, New York, and Pennsylvania.

HEARING: January 29, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Robert A. Joyner.

No. MC 116387 (Sub No. 7), filed December 6, 1957, ALABAMA TANK LINES, INC., P. O. Box 36, Powderly Station, Birmingham, Ala. Applicant's representative: H. R. Nunnally, Traffic Manager, 4107 Bells Lane, Louisville 11, Ky. For authority to operate as a *common carrier*, over irregular routes, transporting: *Liquid resin, pine oil, turpene, dependtine*, and *toluol*, in bulk, in tank vehicles, from Mobile, Ala., Lake City, Fla., Swainsboro, Ga., and Hattiesburg, Miss., to points in Illinois, Indiana, Kentucky, New Jersey, Ohio, and Pennsylvania. Applicant is authorized to conduct operations in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

HEARING: January 24, 1958, at the U. S. Court Rooms, Montgomery, Ala., before Examiner Michael B. Driscoll.

No. MC 116919, filed September 9, 1957, J. M. HARRIS, Box 356, San Augustine, Tex. For authority to operate as a *common carrier*, over irregular routes, transporting: *Sugar*, from points in Louisiana, to points in Texas and Oklahoma.

HEARING: January 31, 1958, at the Federal Office Building, Franklin and Fannin Streets, Houston, Tex., before Joint Board No. 211, or, if the Joint Board waives its right to participate, before Examiner C. Evans Brooks.

No. MC 116929 (Sub No. 1), filed December 3, 1957, RIDINGS' TRUCKING, INC., 140 Louis Road, Chelsea Estates, New Castle, Del. Applicant's attorney: H. James Caraway, Jr., 350 Delaware Trust Building, Wilmington, Del. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Framing lumber* and *sheathing materials, lumber, cut timbers* for framing purposes, from Wilmington, New Castle, Del., to points in Cecil, Kent, Queen Annes, Caroline, Talbot, Harford, and Baltimore Counties, including all of Baltimore city limits, Md., Salem, Gloucester, Cumberland, Atlantic, Cape May, Camden, Burlington, Ocean, Mercer, and Hunterdon Counties, and points in that portion of Warren County north to New Jersey Highway 24 and east to New Jersey Highway 69, including the city limits of Phillipsburg, N. J., Delaware, Chester, Lancaster, York, Lebanon, Berks, Montgomery, Bucks, and Lehigh Counties, and points in those portions of Cumberland County west to Pennsylvania Highway 34, Dauphin County north to Pennsylvania Highway 325, Northampton County east to Pennsylvania Highways 12 and 115, including the city limits of Easton, Pa.

HEARING: January 28, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner James C. Cheseldine.

No. MC 116961, filed September 27, 1957, KARL ARTHUR WEBER, 10080 Central Avenue, Ontario, Calif. Applicant's attorney: John M. Hickson, Yeon Building, Portland 4, Oreg. For authority to operate as a *contract carrier*, over irregular routes, transporting: (1) *Lumber, plywood, veneer*, and *box shooks*, (a) from points in Washington and Oregon to points in California and Arizona, and (b) between points in California and Arizona; (2) *Soda ash*, in bulk or in sacks, and *salt cake*, in bulk, from points in San Bernardino County, Calif., to points in Washington and Oregon, and (3) *Soda ash*, in bulk or sacks, from San

Bernardino County, Calif., to points in New Mexico.

HEARING: February 6, 1958, at 538 Pittock Block, Portland, Oreg., before Examiner Leo W. Cunningham.

No. MC 117054, filed November 25, 1957, AMOS R. JONES, doing business as CITY TRANSFER & STORAGE CO., 306 East 10th Street, Prineville, Oreg. Applicant's attorney: Earle V. White, 1401 Northwest 19th Avenue, Portland 9, Oreg. For authority to operate as a *common carrier*, over irregular routes, transporting: (1) *General commodities*, except those of unusual value, Class A and B explosives and commodities in bulk, between Prineville, Oreg., and the Crooked River Dam Site, Crook County, Oreg.; and (2) *household goods* as defined by the Commission in 17 MCC 467, between Portland, Oreg., on the one hand, and, on the other, points in Crook, Jefferson, and Wheeler Counties, Oreg.

HEARING: February 3, 1958, at 538 Pittock Block, Portland, Oreg., before Joint Board No. 172, or, if the Joint Board waives its right to participate, before Examiner Leo W. Cunningham.

No. MC 117070, filed November 12, 1957, E. F. CATON, 2811 Southeast 39th Street, Portland 2, Oreg. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Laundry* (used cloth articles), between Portland, Oreg., on the one hand, and, on the other, Longview, Raymond, Aberdeen, Hoquiam, Olympia, Port Angeles, Tacoma, Seattle, and Everett, Wash.

HEARING: February 3, 1958, at 538 Pittock Block, Portland, Oreg., before Joint Board No. 45, or, if the Joint Board waives its right to participate, before Examiner Leo W. Cunningham.

MOTOR CARRIERS OF PASSENGERS

No. MC 29957 (Sub No. 68), filed September 11, 1957, CONTINENTAL SOUTHERN LINES, INC., 425 Bolton Street, Alexandria, La. Applicant's attorney: Alfred Crager, 315 Continental Avenue, Dallas, Tex. For authority to operate as a *common carrier*, over a regular route, transporting: *Passengers and their baggage*, and *mail, express* and *newspapers* in the same vehicle with passengers, between Dayton, Tex., and Houston, Tex.: From Dayton over Texas Highway 1008 to junction Texas Highway 1960, thence over Texas Highway 1960 to junction Atascocita Trail, thence over Atascocita Trail to Junction Old Humble Road, thence over Old Humble Road to junction U. S. Highway 59, and thence over U. S. Highway 59 to Houston; also from Junction Texas Highway 1008 and Texas Highway 1960 over Texas Highway 1960 to Humble, and thence over U. S. Highway 59 to Houston, and return over the same routes, serving all intermediate points. Applicant is authorized to conduct similar operations in Kentucky, Texas, Louisiana, Arkansas, Mississippi, Tennessee, Alabama, Missouri, and Illinois.

NOTE: Applicant states the route proposed herein is to be fully coordinated with and become a part of its other operations in Texas.

HEARING: February 3, 1958, at the Federal Office Building, Franklin and Fannin Streets, Houston, Tex., before Joint Board No. 77, or, if the Joint Board waives its right to participate before Examiner C. Evans Brooks.

PETITION

No. MC 42283 *Petition for reconsideration and clarification*, Los Angeles & Interurban Transportation Co., 837 Traction Avenue, Los Angeles 13, Calif. Applicant's attorney: Phil Jacobson, 510 West Sixth Street, Suite 723, Los Angeles, Calif. Petitioner holds Certificate No. MC 42283, wherein it is authorized, in part, to transport: *Newsprint*, between points in the Los Angeles Harbor Commercial Zone, as defined by the Commission, on the one hand, and, on the other, points in the Los Angeles Commercial Zone, as defined by the Commission, and Monrovia, Calif. Petitioner requests that the authority be interpreted, and an order be entered declaring that it may properly transport telephone directory stock in rolls, crates and boxes within the territorial scope of newsprint authority authorized in said certificate.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 3083 (Sub No. 27), filed December 9, 1957, ARMORED MOTOR SERVICE CO., INC., Hickman Building, 248 Madison Avenue, Memphis, Tenn. Applicant's attorney: James W. Wrape, 2111 Sterick Building, Memphis 3, Tenn. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Coin, currency*, and *other valuables*, in armored motor vehicles, escorted by armed guards, between Memphis, Tenn., on the one hand, and, on the other, Crenshaw, Sledge, Lula, Marks, Lambert, Jonestown, Frairs Point, Tutwiler, Charleston, Carrollton, Cleveland, Ruleville, Shelby, Greenville, Drew, Sunflower, Merigold, Benoit, Pace, Beulah, Rosedale, Gunnison, Itta Bena, Moorhead, Indianaola, and Shaw, Miss. Applicant is authorized to conduct operations in Arkansas, Georgia, Kentucky, Mississippi, South Carolina, Tennessee, and West Virginia.

No. MC 112364 (Sub No. 2), filed December 10, 1957, J. W. McGINNIS, R. F. D. No. 2, Mattoon, Ill. Applicant's attorney: Grover C. Hoff, Suite 1121 Ridgely Building, Springfield, Ill. For authority to operate as a *common carrier*, over irregular routes, transporting: *Horsemeat*, fresh and canned, frozen and not frozen; *meat products* and *meat byproducts*, and *dog food*, used for animal consumption only, in vehicles equipped with mechanical temperature-control device, from the site of the Campbell & Co. plant, located approximately six (6) miles southwest of Mattoon, Ill., to points in Indiana, Iowa, Michigan, Minnesota, and Wisconsin, and *empty containers or other such incidental facilities* (not specified) used in transporting the above-specified commodities on return. Applicant is authorized to conduct operations in Illinois and Iowa.

NOTE: Applicant states he proposes to operate from the above-stated origin point to Mink Farms and Animal Food Supply Houses in the States described above.

APPLICATIONS UNDER SECTIONS 5 AND 210a (b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under section 5 (2) and 210a (b) of the Interstate Commerce Act and certain other procedural matters with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC–F 6771, published in the December 4, 1957, issue of the FEDERAL REGISTER on page 9721. Supplement filed December 16, 1957, to show joinder of JOHN H. DAYS, 730 East Beardsley Avenue, Elkhart, Ind., as the person in control of vendee.

No. MC–F 6779. Authority sought for purchase by FILM TRANSIT, INCORPORATED, 311 South Second Street, Memphis, Tenn., of the operating rights and property of HAROLD B. MUELLER, doing business as MUELLER TRUCK SERVICE, 115 Market Stret, Chester, Ill., and for acquisition by M. H. BRANDON, G. L. BRANDON, GAIL M. BRANDON, HERBERT KOHN and MRS. W. A. WATSON, II, all of Memphis, D. M. BRANDON, P. O. Box 7297, Canal & Carrollton Drive, New Orleans, La., and JOHN H. VICKERS, P. O. Box 1145, Charlotte, N. C., of control of such rights and property through the purchase. Applicants' attorney: Harold S. Shertz, 225 South 15th Street, Philadelphia 2, Pa. Operating rights sought to be transferred: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over regular routes, between Menard, Ill., and St. Louis, Mo., serving certain intermediate points: *newspapers, theatre films, magazines*, and *ice cream*, in packages not to exceed 100 pounds in weight, between St. Louis, Mo., and Chester, Ill., and between Ruma, Ill., and Prairie Du Rocher, Ill., serving no intermediate points. Vendee is authorized to operate as a *common carrier* in Tennessee, Arkansas, Missouri, Kentucky, Alabama, and Mississippi. Application has not been filed for temporary authority under section 210a (b).

No. MC–F 6780. Authority sought for control and merger by RINGSBY TRUCK LINES, INC., 3201 Ringsby Court, Denver, Colo., of the operating rights and property of FLEETLINES OF NEVADA, 1201 East Fifth Street, Los Angeles 13, Calif., and for acquisition by J. W. RINGSBY, also of Denver, of control of such rights and property through the transaction. Applicants' attorneys: John F. Mueller, Midland Savings Building, Denver, Colo., David Axelrod, 39 South LaSalle Street, Chicago 3, Ill., and Glanz & Russell, 639 South Spring Street, Los Angeles, Calif. Operating rights sought to be controlled and merged: *General commodities*, except livestock, Class A and B exposives, other than small arms ammunition and fireworks, and petroleum products in tank trucks, as a *common carrier* over regular routes, between Los Angeles, Calif., and Boulder City, Nev., and be-

tween junction U. S. Highway 6 and Lakewood Boulevard, Long Beach, Calif., and junction U. S. Highway 6 and Alameda Street, Los Angeles, Calif., serving certain intermediate and off-route points; *general commodities,* except those of unusual value, Class A and B explosives, livestock and commodities in bulk, between Long Beach, Calif., and Colton, Calif., serving all intermediate points; alternate route for operating convenience only between junction U. S. Highway 91 and unnumbered highway, near Lakeview, Calif., and junction U. S. Highways 93 and 95, near Boulder City, Nev.; *household goods,* as defined by the Commission, between Los Angeles, Calif., and Las Vegas, Nev., serving between termini and certain intermediate and off-route points; *agricultural commodities* and *groceries,* between Los Angeles, Calif., and Boulder City, serving the intermediate point of Las Vegas, Nev. RINGSBY TRUCK LINES, INC., is authorized to operate as a *common carrier* in Colorado, Wyoming, Nebraska, Illinois, Iowa, California, Utah, Missouri, and Nevada. Application has been filed for temporary authority under section 210a (b).

MC–F 6781. Authority sought for control by THOMAS E. WELBY, 8 Commonwealth Pier, Boston 10, Mass., of MERCURY TRUCK LINES, INC., Omaha, Nebr. Applicant's attorney: James M. Walsh, 44 School Street, Boston, Mass. Operating rights sought to be controlled: *Dairy products* and packing-house products, as a *common carrier* over a regular route, between Omaha, Nebr., and Chicago, Ill., serving no intermediate points. THOMAS E. WELBY holds no authority from this Commission, but is affiliated, through stock ownership, with REFRIGERATED FOOD EXPRESS, Boston, Mass., which is authorized to operate as a *common carrier* in Ohio, Massachusetts, New York, Michigan, Wisconsin, New Jersey, Pennsylvania, Virginia, Maryland, Connecticut, Rhode Island, Illinois, Indiana, Kentucky, Maine, New Hampshire, Tennessee, South Carolina, North Carolina, Minnesota, West Virginia, Missouri, Nebraska, Iowa, Colorado, Delaware, Texas, and the District of Columbia. Application has been filed for temporary authority under section 210a (b).

No. MC–F 6782. Authority sought for purchase by COLUMBUS AND CHICAGO MOTOR FREIGHT, INCORPORATED, 1053 East Fifth Avenue, Columbus, Ohio, of a portion of the operating rights of GAFFNEY MOTOR FREIGHT, INC., 501 South High Street, Lancaster, Ohio, and for acquisition by HARRY F. CARL, 3974 Wynding Drive, Columbus, Ohio, and ROY O. CARL, 4045 South Wallace Street, Chicago, Ill., of control of such rights through the purchase. Applicants' attorney: Carl S. Clark, 50 West Broad Street, Columbus 15, Ohio. Operating rights sought to be transferred: *General commodities,* except those of unusual value, and except dangerous explosives, livestock, commodities in bulk, not including salt in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier* over a regular route between Zanesville, Ohio, and Columbus, Ohio, as follows: From Zanesville over U. S. Highway 40 to Columbus, and return over this route to Zanesville. Service is authorized to and from all intermediate points. Vendee is authorized to operate as a *common carrier* in Illinois, Ohio, and Indiana. Application has not been filed for temporary authority under section 210a (b).

No. MC-F 6783. Authority sought for purchase by ROYAL TRANSIT, INC., 735 South 39th Street, Milwaukee, Wis., of a portion of the operating rights of DRUMMEY CARTAGE CO., INC., 412 East Tutt Street, South Bend, Ind. Applicants' attorney: Earl Girard, 6739 Beckwith Road, Morton Grove, Ill. Operating rights sought to be transferred: *General commodities,* with certain exceptions including household goods and commodities in bulk, as a *common carrier* over regular routes, between Chicago, Ill., and South Bend, Ind., serving all intermediate and certain off-route points. Vendee is authorized to operate as a *common carrier* in Wisconsin, Illinois and Indiana. Application has not been filed for temporary authority under section 210a (b).

No. MC-F 6784. Authority sought for purchase by ACE LINES, INC., 2420 Minnehaha Avenue, Minneapolis 4, Minn., of a portion of the operating rights of HOVE TRUCK LINE, Stanhope, Iowa, and for acquisition by F. J. NOLAN, 4178 South Halsted Street, Chicago, Ill., and ROBERT W. SAWYER, 2420 Minnehaha Avenue, Minneapolis 4, Minn., of control of such rights through the purchase. Applicants' attorney: William A. Landau, 1307 East Walnut Street, Des Moines 16, Iowa. Operating rights sought to be transferred: *Prepared roofing, roofing cement, insulating materials, wallboard,* and *asbestos building materials,* as a *common carrier* over irregular routes, from Wilmington, Ill., to points in Minnesota on and south of U. S. Highway 12, points in South Dakota on and east of South Dakota Highway 73, and all points in Nebraska. Vendee is authorized to operate as a *common carrier* in Minnesota, North Dakota, Iowa, Illinois, and South Dakota. Application has not been filed for temporary authority under section 210a (b).

No. MC–F 6785. Authority sought for purchase by CASSENS TRANSPORT COMPANY, P. O. Box 473, Edwardsville, Ill., of the operating rights and property of FRED COOK, doing business as COOK TRANSPORTS, Clarence, Mo., and for acquisition by ALBERT CASSENS, 302 Banner, Edwardsville, Ill., GEORGE CASSENS and ARNOLD CASSENS, both of Hamel, Ill., of control of such rights and property through the purchase. Applicants' attorney: Robert N. Burchmore, 2106 Field Building, Chicago 3, Ill. Operating rights sought to be transferred: *New automobiles, new trucks,* and *new truck bodies,* in truckaway service, as a *common carrier* over a regular route from Detroit, Mich., to Atchison, Kans., serving the intermediate point of St. Joseph, Mo., for delivery only; *new automobiles* and *new trucks,* in initial movements, in truckaway service, over irregular routes, from Detroit, Mich., to Macon, Brookfield, Chillicothe, Kirksville, and Maryville, Mo. Vendee is authorized to operate as a *common carrier* in Michigan, Illinois, Missouri, Indiana, Ohio, Iowa, Louisiana, Kentucky, Nebraska, and Wisconsin. Application has not been filed for temporary authority under section 210a (b).

No. MC–F 6786. Authority sought for control and merger by QUINN FREIGHT LINES, INC., 1093 North Montello Street, Brockton, Mass., of the operating rights and property of ROLAND C. AMES MOTOR TRANSPORTATION, INC., Park Square, Woodsville, N. H., and for acquisition by THOMAS J. LYONS, also of Brockton, of control of such rights and property through the transaction. Applicants' attorney: Mary E. Kelley, 84 State Street, Boston, Mass. Operating rights sought to be controlled and merged: *General commodities,* with certain exceptions including household goods and commodities in bulk, as a *common carrier* over a regular route between Boston, Mass., and Providence, R. I., serving no intermediate points; *general commodities,* with certain exceptions including household goods and commodities in bulk, over irregular routes, between points within 25 miles of Bellows Falls, Vt., including Bellows Falls, between points in Vermont within 35 miles of Rochester, Vt., including Rochester, between certain points in New Hampshire, on the one hand, and, on the other, Bethel, Maine, and points within 30 miles thereof, between points within 36 miles of Hardwick, Vt., including Hardwick, between Boston, Mass., and points within ten miles of Boston, on the one hand, and, on the other, Haverhill, N. H., and points within 15 miles of Haverhill, and between Brattleboro, Vt., and points in Vermont within ten miles of Brattleboro, on the one hand, and, on the other, Albany, N. Y.; *machinery, sawmill and logging equipment, lumber and forest products, building materials, plumbing supplies, lumber, Christmas trees, wooden boxes, shook, wooden box shooks, agricultural commodities, fuel wood, roofing, wood products, fertilizer, groceries, cream, ice cream mix,* in jugs, *processed (pasteurized, evaporated, condensed, dried or similarly processed) milk, leather, leatherboard, empty bags, livestock,* and *slate,* from, to or between points and areas, varying with the commodity transported, in New York, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island and Maine. QUINN FREIGHT LINES, INC., is authorized to operate as a *common carrier* in Maryland, New York, New Jersey, Delaware, Pennsylvania, Connecticut, Rhode Island, Massachusetts, Virginia, New Hampshire, Maine, and the District of Columbia. Application has been filed for temporary authority under section 210a (b).

No. MC–F 6787. Authority sought for purchase by HENRY JENKINS TRANSPORTATION CO., INCORPORATED, 32 Regis Road, Boston 26, Mass., of the operating rights and property of BALLY TRANSPORTATION CO., INC., 144 Benton Street, Stratford, Conn., (mail address P. O. Box 2026, Noble Station, Bridgeport, Conn.), and for acquisition

by EVERETT H. JENKINS, 60 Columbine Road, Milton, Mass., of control of such rights and property through the purchase. Applicants' representative: Everett H. Jenkins, President and Treasurer of Henry Jenkins Transportation Co., Incorporated, 32 Regis Road, Boston 26, Mass. Operating rights sought to be transferred: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over a regular route between Naugatuck, Conn., and New York, N. Y., serving certain intermediate and off-route points; *general commodities*, with certain exceptions including household goods and commodities in bulk, over irregular routes, between certain points in Connecticut, on the one hand, and on the other, Pelham, Yonkers, and White Plains, N. Y., Jersey City, Newark, Hoboken, and Edgewater, N. J. Vendee is authorized to operate as a *common carrier* in Connecticut, Massachusetts, Rhode Island, New Hampshire, New York, and Vermont. Application has been filed for temporary authority under section 210a (b).

No. MC-F-6789. Authority sought for purchase by THE ADLEY EXPRESS COMPANY, 216 Crown Street, New Haven, Conn., of the operating rights and property of ROMEO J. LAVIGNE, doing business as LAVIGNE'S RED WING EXPRESS, West Milan Road, Berlin, N. H., and for acquisition by M. L. ADLEY, D. J. ADLEY, and R. J. ADLEY, all of New Haven, Conn., of control of such rights and property through the purchase. Applicants' attorneys: Jack R. Turney, Jr., 2001 Massachusetts Avenue NW., Washington, D. C., and Richard H. Simons, 216 Crown St., New Haven, Conn. Operating rights sought to be transferred: *General commodities*, with certain exceptions including household goods and excluding commodities in bulk, as a *common carrier*, over regular routes, between Lunenberg, Vt., and Littleton, N. H., between Gray, Maine and Welchville, Maine, between Berlin, N. H., and Portland, Maine, between Berlin, N. H., and Pittsburg, N. H., and between Berlin, N. H., and Littleton, N. H., serving all intermediate points; *the above-specified commodities*, over regular and irregular routes, between Berlin, N. H., and Cambridge, Mass., serving certain intermediate points on the above-specified regular route; *general commodities*, with certain exceptions excluding household goods and including commodities in bulk (not including fireworks), over regular routes between Boston, Mass., to Berlin, N. H., between Berlin, N. H., and Colebrook, N. H., and between Gorham, N. H., and Whitefield, N. H., serving certain intermediate and off-route points; *paper and paper mill products*, over irregular routes, between Berlin, N. H., on the one hand, and, on the other, points in that part of Maine on and south of U. S. Highway 2, and on and west of U. S. Highway 201; *paper and paper products* as defined by the Commission, from Berlin, N. H., to points in Massachusetts. Vendee is authorized to operate as a *common carrier* in Massachusetts, Connecticut, New York, Rhode Island, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia. Application has been filed for temporary authority under section 210a (b).

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 57-10625; Filed, Dec. 23, 1957; 8:53 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

GEORG HELLER

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Georg Heller, Fellbach, Wuerttemberg, Birkenweg 33, Germany; $13.37 in the Treasury of the United States.

Claim No. 66508, Vesting Orders Nos. 12626 and 12627.

All right, title, interest and claim of any kind or character whatsoever of Georg Heller as an heir of Mathilde Heller, also known as Gertrud Heller, in and to the Estate of Robert Kanter, which was vested by Vesting Order No. 12627. Such property was in the process of administration by Byron R. Forster, acting under the judicial supervision of the Surrogate's Court, Bronx County, New York, and is presently in the process of administration by his successor, Marie D. Forster, acting under the judicial supervision of the Surrogate's Court, Bronx County, New York.

Executed at Washington, D. C., on December 17, 1957.

For the Attorney General.

[SEAL] PAUL V. MYRON, *Deputy Director, Office of Alien Property.*

[F. R. Doc. 57-10579; Filed, Dec. 23, 1957; 8:47 a. m.]

MARGUERITE LESTARD

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Marguerite Lestard, 35 rue Pierre Corneille, Lyon, France; $2,694.94 in the Treasury of the United States.

Claim No. 61850, Vesting Orders Nos. 17906 and 18005.

Executed at Washington, D. C., on December 17, 1957.

For the Attorney General.

[SEAL] PAUL V. MYRON, *Deputy Director, Office of Alien Property.*

[F. R. Doc. 57-10581; Filed, Dec. 23, 1957; 8:48 a. m.]

SYNDICATE JOZIJDHOFF

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Syndicate Jozijdhoff, c/o Leonardus de Jonge, Rotterdam, The Netherlands; property described in Vesting Order No. 671 (8 F. R. 5004, April 17, 1943), relating to United States Letters Patent Nos. 2,173,411 and 2,236,470.

Claim No. 42727, Vesting Order No. 671.

Executed at Washington, D. C., on December 17, 1957.

For the Attorney General.

[SEAL] PAUL V. MYRON, *Deputy Director, Office of Alien Property.*

[F. R. Doc. 57-10580; Filed, Dec. 23, 1957; 8:47 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 24D-1448]

ALBUQUERQUE EXPLORATION, INC.

ORDER TEMPORARILY SUSPENDING EXEMPTION, STATEMENT OF REASONS THEREFOR, AND NOTICE OF OPPORTUNITY FOR HEARING

DECEMBER 17, 1957.

I. The Albuquerque Exploration, Inc. (Exploration), a New Mexico corporation, 227 First National Bank Building, Albuquerque, New Mexico, filed with the Commission, on October 8, 1954, a notification on Form 1-A and offering circular, and filed various amendments thereto, relating to an offering of 138,600 shares of its $1 par value preferred stock at $2 per share, for an aggregate of $277,200 for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3

(b) thereof and Regulation A, promulgated thereunder; and

II. The Commission has reasonable cause to believe that:

A. The terms and conditions of Regulation A have not been complied with in that Exploration has failed to file reports of sales on Form 2–A as required by Rule 224; and

B. The offering circular omits to state material facts necessary in order to make the statement made, in the light of the circumstances under which they are made, not misleading, in showing Richard C. Losh as secretary-treasurer of Exploration, when in fact he had resigned, and in failing to make appropriate disclosure concerning a successor.

III. *It is ordered,* Pursuant to Rule 223 (a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given, that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing; that within 20 days after receipt of such request, the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this Order of Suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 57–10576; Filed, Dec. 23, 1957; 8:47 a. m.]

[File No. 24SF–2283]

UNIVERSAL METALS CORPORATION OF NEVADA

ORDER TEMPORARILY SUSPENDING EXEMPTION, STATEMENT OF REASONS THEREFOR, AND NOTICE OF OPPORTUNITY FOR HEARING

DECEMBER 17, 1957.

I. Universal Metals Corporation of Nevada, a Nevada corporation, filed with the Commission on May 4, 1956, a Notification and Offering Circular relative to a proposed offering of 280,000 shares of its common stock at $1.00 per share, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof and Regulation A promulgated thereunder.

II. The Commission has reasonable grounds to believe that:

A. The terms and conditions of Regulation A have not been complied with, to wit: The issuer has failed to file with the Commission copies of the definitive Offering Circular, as is required by Rule 219 of Regulation A and has ignored requests by the Commission's staff for such copies.

B. The principal underwriter of the securities offered hereunder is subject to an injunction order entered on February 13, 1957 by the U. S. District Court, Southern District of New York, enjoining it from further violations of section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A–3 thereunder.

III. *It is ordered,* Pursuant to Rule 223 (a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given, that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing; that, within twenty days after receipt of such request, the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and the notice of the time and place of said hearing will be promptly given by the Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 57–10577; Filed, Dec. 23, 1957; 8:47 a. m.]

PART II

FEDERAL REGISTER

VOLUME 22 NUMBER 248

Washington, Tuesday, December 24, 1957

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

REPUBLICATION OF REGULATIONS

Chapter I of Title 25 is republished to read as set forth below. Since its original codification, there have been numerous amendments and additions to the chapter. To facilitate the use of this material, the various amendments and additions are brought together in their entirety and the chapter has been arranged on a functional rather than alphabetical basis.

The numbers of the parts in this chapter have been adjusted to conform with its revised arrangement. The effective date of these numbers shall be the date of this republication. Existing delegations of authority, forms and other legal or administrative documents which refer to former part numbers of Chapter I are continued in effect and shall be construed to refer to the new part numbers until modified or revoked. A listing of the respective new and former part numbers is set forth below.

It is the intent of the Department in preparing this republication to make no substantive changes in the regulations and this republication is approved accordingly.

FRED A. SEATON,
Secretary of the Interior.

DECEMBER 6, 1957.

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SUBCHAPTER A—PROCEDURES; PRACTICE

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1 Rules of the Bureau of Indian Affairs. [Reserved.]
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11 Law and order on Indian reservations.

SUBCHAPTER C—PROBATE

15 Determination of heirs and approval of wills, except as to members of the Five Civilized Tribes and Osage Indians.
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SUBCHAPTER F—ENROLLMENT

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41 Membership and enrollment of Indians. [Reserved.]
42 Enrollment appeals.
43 Enrollment of Indians of the Cabazon, Augustine and Torres-Martinez Bands of Mission Indians in California.
44 Preparation of rolls for the distribution of the funds awarded certain Indian tribes or bands of Oregon.

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51 Indian organizations exclusive of the Indian Reorganization Act. [Reserved.]
52 Tribes organized under sec. 16 of the Indian Reorganization Act. [Reserved.]
53 Alaskan native groups organized under sec. 16 of the Indian Reorganization Act, and the Alaskan Act, as amended. [Reserved.]
54 Tribes organized under the Oklahoma Indian Welfare Act. [Reserved.]
71 Recognition of attorneys and agents to represent claimants.
72 Attorney contracts with Indian tribes.
73 Regulations governing the election of officers of the Osage Tribe.

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81 Indian business corporations under sec. 17 of the Indian Reorganization Act. [Reserved.]
82 Alaskan native business corporations organized under sec. 17 of the Indian Reorganization Act or the Alaska Act. [Reserved.]
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89 Commercial fishing on Red Lake Indian Reservations.
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SUBCHAPTER I—CREDIT ACTIVITIES

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92 Revolving cattle pool.
93 Klamath tribal loan fund.

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SUBCHAPTER J—FISCAL AND FINANCIAL AFFAIRS

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102 Regulations for pro rata shares of tribal funds.
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105 Deposit of Indian funds in banks.
107 Creation of trusts for restricted property of Indians, Five Civilized Tribes, Oklahoma.
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109 Judgment funds, Shoshone Tribe of the Wind River Reservation, Wyoming.
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126 Allotment of lands on the Cabazon, and Augustine Indian Reservations, Riverside County, California.
127 Osage lands.
128 Sale of irrigable lands, special water contract requirements.
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143 Sale of timber products and use of forest lands for nonforest purposes, Menominee Indian Reservation.
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161 Rights-of-way over Indian lands.
162 Roads of the Bureau of Indian Affairs.
163 Establishment of roadless and wild areas on Indian Reservations.

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173 Leasing of lands in Crow Indian Reservation, Mont., for mining.
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SUBCHAPTER W—MISCELLANEOUS ACTIVITIES

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Subchapter A—Procedures; Practice

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PART 2—APPEALS [RESERVED]

PART 3—LIST OF FORMS

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(R. S. 161; 5 U. S. C. 22)

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AUTHORITY: §§ 11.1 to 11.306 issued under R. S. 463; 25 U. S. C. 2. Interpret or apply sec. 1, 38 Stat. 586; 25 U. S. C. 200.

NOTE: The regulations is this part are applicable on Indian reservations subject to the provisions of § 11.1, and the following exceptions:

§§ 11.6, 11.7, 11.20, 11.22, 11.24, 11.26, 11.28, 11.29, 11.31, 11.32, 11.34, 11.36, 11.50, 11.63, and 11.64, not applicable to Crow Indians.

§§ 11.6C, 11.7C, 11.20C, 11.22C, 11.24C, 11.26C, 11.29C, 11.31C, 11.32C, 11.34C, 11.36C, 11.50C, 11.60C, 11.63C, 11.64C, and 11.75C, applicable only to Crow Indians.

§§ 11.76NH to 11.87NH, inclusive, applicable only to Navajo and Hopi Indians.

§§ 11.1, 11.2, 11.3, 11.5, 11.6, 11.6C, 11.7, 11.7C, 11.8, 11.9, 11.20C, 11.22, 11.22C, 11.24, 11.24C, 11.25, 11.26C, 11.28, 11.29, 11.29C, 11.30, 11.31, 11.31C, 11.32, 11.32C, 11.33, 11.34C, 11.36C, 11.37, 11.49, 11.50C, 11.52, 11.53, 11.57, 11.58, 11.60C 11.63, 11.63C, 11.64C, 11.74, 11.75C, and 11.76NH–11.87NH, inclusive, are not applicable to Coeur d'Alene Indians.

All sections which follow bearing the symbol "CA" at the end of the number are applicable only to the Coeur d'Alene Indians.

All sections in Part 11 not heretofore mentioned in this note are applicable to the Coeur d'Alene Indians.

APPLICATION; JURISDICTION

§ 11.1 *Application of regulations.* (a) The regulations in this part relative to Courts of Indian Offenses shall apply to all Indian reservations on which such courts are maintained.

(b) It is the purpose of the regulations in this part to provide adequate machinery of law enforcement for those Indian tribes in which traditional agencies for the enforcement of tribal law and custom have broken down for which no adequate substitute has been provided under Federal or State law.

(c) No court of Indian Offenses will be established on reservations where justice is effectively administered under State laws and by State law enforcement agencies.

(d) The regulations in this part shall continue to apply to tribes organized under the act of June 18, 1934 (48 Stat. 984; 25 U. S. C. 461–479), until a law and order code has been adopted by the tribe in accordance with its constitution and by-laws and has become effective; and thereafter §§ 11.3, 11.4, 11.301, 11.302, 11.303, 11.304, 11.305 and 11.306 shall continue in effect as long as the Indian judges and Indian police are paid from appropriations made by the United States or until otherwise directed.

(e) Nothing in this section shall prevent the adoption by the tribal council of ordinances applicable to the individual tribe, and after such ordinances have been approved by the Secretary of the Interior they shall be controlling, and the regulations of this part which may be inconsistent therewith shall no longer be applicable to that tribe.

§ 11.2 *Jurisdiction.* (a) A Court of Indian Offenses shall have jurisdiction over all offenses enumerated in §§ 11.38–11.87NH, when committed by any Indian, within the reservation or reservations for which the court is established, provided that such court on the Hopi Reservation shall also have jurisdiction to enfore against members of the tribe within the Hopi Reservation the ordinances passed by the Hopi tribal council which prohibit offenses against the peace and welfare of the tribe committed by such members off the reservation.

(b) With respect to any of the offenses enumerated in §§ 11.38–11.87NH, over which Federal or State courts may have lawful jurisdiction, the jurisdiction of the Court of Indian Offenses shall be concurrent and not exclusive. It shall be the duty of the said Court of Indian Offenses to order delivery to the proper authorities of the State or Federal Government or of any other tribe or reservation, for prosecution, any offender, there to be dealt with according to law or regulations authorized by law, where such authorities consent to exercise jurisdiction lawfully vested in them over the said offender.

(c) For the purpose of the enforcement of the regulations in this part, an Indian shall be deemed to be any person of Indian descent who is a member of any recognized Indian tribe now under Federal jurisdiction, and a "reservation" shall be taken to include all territory within reservation boundaries, including fee patented lands, roads, waters, bridges, and lands used for agency purposes.

(d) All Indians employed in the Indian Service shall be subject to the jurisdiction of the Court of Indian Offenses but any such employee appointed by the Secretary of the Interior shall not be subject to any sentence of such court, unless such sentence shall have been approved by the Secretary of the Interior.

COURTS OF INDIAN OFFENSES

§ 11.2CA *Jurisdiction.* (a) The Court of Indian Offenses referred to in this part will be construed to mean the Coeur d'Alene Court of Indian Offenses. A Court of Indian Offenses shall have jurisdiction over all offenses enumerated in §§ 11.38–11.76CA, when committed by any Indian, within the reservation or reservations for which the court is established.

(b) With respect to any of the offenses enumerated in §§ 11.38–11.76CA, over which Federal or States courts may have lawful jurisdiction, the jurisdiction of the Court of Indian Offenses shall be concurrent and not exclusive. It shall be the duty of the said Court of Indian Offenses to order delivery to the proper authorities of the State or Federal Government or of any other tribe or reservation, for prosecution, any offender, there to be dealt with according to law or regulations authorized by law, where such authorities consent to exercise jurisdiction lawfully vested in them over the said offender.

(c) For the purpose of the enforcement of the regulations in this part, an Indian shall be deemed to be any person of Indian descent who is a member of any recognized Indian tribe now under Federal jurisdiction, and a "reservation" shall be taken to include all territory within reservation boundaries, including fee patented lands, roads, waters, bridges, and lands used for agency purposes.

(d) All Indians employed in the Indian Service shall be subject to the jurisdiction of the court, but any such employee appointed by the Secretary of the Interior shall have the right of appeal to the Secretary from any sentence of the court and no such sentence appealed shall become effective until it shall have been approved by the Secretary.

§ 11.3 *Judges.* (a) A Court of Indian Offenses established for any reservation or group of reservations shall consist of one or more chief judges, whose duties shall be regular and permanent, and two or more associate judges, who may be called to service when occasion requires, and who shall be compensated on a per diem basis.

(b) Each judge shall be appointed by the Commissioner of Indian Affairs, subject to confirmation by a two-thirds vote of the tribal council.

(c) Each judge shall hold office for a period of 4 years, unless sooner removed for cause or by reason of the abolition of the said office, but shall be eligible for reappointment.

(d) A person shall be eligible to serve as judge of a Court of Indian Offenses only if he (1) is a member of a tribe under the jurisdiction of the said court; and (2) has never been convicted of a felony, or, within 1 year then last past, of a misdemeanor.

(e) No judge shall be qualified to act as such in any case wherein he has any direct interest or wherein any relative by marriage or blood, in the first or second degrees, is a party.

(f) On any reservation where no permanent Court of Indian Offenses has been established under this section, a provisional court may be established, with powers equal to those of a permanent court. Such court shall be established by detailing a judge from another reservation, upon request of the tribal council of the reservation desiring his services. Such detail shall be made by the superintendent of the reservation where the judge regularly presides: *Provided,* That where the judge to be detailed is paid from tribal funds the consent of the tribal council of such tribe shall be obtained for the detail. No detail shall extend beyond 1 year, but any detail may be renewed for additional periods unless such renewal is disapproved by the tribal council which requested or approved the detail.

§ 11.3CA *Judges.* (a) The Court of Indian Offenses shall consist of one chief judge, whose duties shall be regular and permanent, and two associate judges, who may be called to service when occasion requires, and who shall be compensated on a per diem basis.

(b) Each judge shall be appointed by the Commissioner of Indian Affairs, subject to confirmation by a two-thirds vote of the tribal council.

(c) Each judge shall hold office for a period of 4 years, unless sooner removed for cause or by reason of the abolition of the said office, but shall be eligible for reappointment.

(d) A person shall be eligible to serve as judge of a Court of Indian Offenses only if he (1) is a member of a tribe under the jurisdiction of the said court; and (2) has never been convicted of a felony, or, within 1 year then last past, of a misdemeanor.

(e) No judge shall be qualified to act as such in any case wherein he has any direct interest or wherein any relative by marriage or blood, in the first or second degrees, is a party.

§ 11.4 *Removal of judges.* Any judge of the Court of Indian Offenses may be suspended, dismissed or removed, by the Commissioner of Indian Affairs, for cause, upon the recommendation of the tribal council.

§ 11.5 *Court procedure.* (a) Sessions of the Court of Indian Offenses for the trial of cases shall be held by the chief judge, or, in case of his disability, by one of the associate judges selected for the occasion by all of the judges.

(b) The time and place of court sessions, and all other details of judicial procedure not prescribed by the regulations in this part, shall be laid down in rules of court approved by the tribal council and by the superintendent of the reservation.

(c) It shall be the duty of the judges of each Court of Indian Offenses to make

recommendations to the tribal council for the enactment or amendment of such rules of court in the interests of improved judicial procedure.

§ 11.5CA *Court procedure.* (a) Sessions of the Court of Indian Offenses for the trial of cases shall be held by the chief judge, or, in case of his disability, by one of the associate judges selected for the occasion by him.

(b) The time and place of court sessions, and all other details of judicial procedure not prescribed by the regulations in this part, shall be laid down in rules of court approved by the tribal council and by the superintendent of the reservation.

(c) It shall be the duty of the judges of each Court of Indian Offenses to make recommendations to the tribal council for the enactment or amendment of such rules of court in the interests of improved judicial procedure.

§ 11.6 *Appellate proceedings.* All the judges of the reservation shall sit together, at such times and at such places as they may find proper and necessary for the dispatch of business, to hear appeals from judgments made by any judge at the trial sessions. There shall be established by rule of court the limitations, if any, to be placed upon the right of appeal both as to the types of cases which may be appealed and as to the manner in which appeals may be granted according to the needs of their jurisdiction. In the absence of such rule of court any party aggrieved by a judgment may appeal to the full court upon giving notice of such appeal at the time of judgment and upon giving proper assurance to the trial judge, through the posting of a bond or in any other manner, that he will satisfy the judgment if it is affirmed. In any case where a party has perfected his right to appeal as established herein or by rule of court, the judgment of the trial judge shall not be executed until after final disposition of the case by the full court. The full court may render judgment upon the case by majority vote.

§ 11.6C *Appellate proceedings.* All the judges of the reservation, except the trial judge, shall sit together, at such times and at such places as they may find proper and necessary for the dispatch of business, to hear appeals from judgments made by any judge at the trial sessions, and such tribunal shall be known as the Crow Tribal Court of Appeals. There shall be established by rule of court the limitations, if any, to be placed upon the right of appeal both as to the types of cases which may be appealed and as to the manner in which appeals may be granted, according to the needs of their jurisdiction. In the absence of such rule of court any party aggrieved by a judgment may appeal to the full court upon giving notice of such appeal at the time of judgment and upon giving proper assurance to the trial judge, through the posting of a bond or in any other manner, that he will satisfy the judgment if it is affirmed. In any case where a party has perfected his right to appeal as established in this section or by rule of court, the judgment of the trial judge shall not be executed until after final disposition of the case by the full court. The full court may render judgment upon the case by majority vote.

§ 11.6CA *Appellate proceedings.* Two judges of the reservation other than the trial judge shall sit together, at such times and at such places as they may find proper and necessary for the dispatch of business, to hear appeals from judgments made by any judge at the trial sessions. Any party aggrieved by a judgment and paying a filing fee of $5 may appeal to the court upon giving notice of such appeal at the time of judgment and upon giving proper assurance to the trial judge, through the posting of a bond or in any other manner, that he will satisfy the judgment if it is affirmed. In any case where a party has perfected his right to appeal as established in this section or by rule of court, the judgment of the trial judge shall not be executed until after final disposition of the case by the court. The court may render judgment upon the case by unanimous vote.

§ 11.7 *Juries.* (a) In any case where, upon preliminary hearing by the court, a substantial question of fact is raised, the defendant may demand a jury trial.

(b) A list of eligible jurors shall be prepared by the tribal council each year.

(c) In any case, a jury shall consist of six residents of the vicinity in which the trial is held, selected from the list of eligible jurors by the judge. Any party to the case may challenge not more than three members of the jury panel so chosen.

(d) The judge shall instruct the jury in the law governing the case and the jury shall bring a verdict for the complainant or the defendant. The judge shall render judgment in accordance with the verdict and existing law. If the jury is unable to reach a unanimous verdict, verdict may be rendered by a majority vote.

(e) Each juror who serves upon a jury shall be entitled to a fee of fifty cents a day for each day his services are required in court.

§ 11.7C *Juries.* (a) In any case where, upon preliminary hearing by the court, a substantial question of fact is raised, the defendant may demand a jury trial.

(b) A list of eligible jurors shall be prepared by the tribal council each year.

(c) In any case, a jury shall be drawn from the list of eligible jurors by the judge. Any party to the case may challenge not more than three members of the jury panel so chosen.

(d) The judge shall instruct the jury in the law governing the case and the jury shall bring a verdict for the complainant or the defendant. The judge shall render judgment in accordance with the verdict and existing law. If the jury is unable to reach a unanimous verdict, the verdict may be rendered by a two-thirds majority vote.

(e) Each juror who serves upon a jury shall be entitled to a fee of 50 cents a day for each day his services are required in court.

§ 11.8 *Witnesses.* (a) The several judges of the Courts of Indian Offenses shall have the power to issue subpenas for the attendance of witnesses either on their own motion or on the request of the police commissioner or superintendent or any of the parties to the case, which subpena shall bear the signature of the judge issuing it. Each witness answering such subpena shall be entitled to a fee of 50 cents a day for each day his services are required in court. Failure to obey such subpena shall be deemed an offense as provided in § 11.73. Service of such subpenas shall be by a regularly acting member of the Indian police or by an Indian appointed by the court for that purpose.

(b) Witnesses who testify voluntarily shall be paid by the party calling them, if the court so directs, their actual traveling and living expenses incurred in the performance of their function.

§ 11.8CA *Witnesses.* (a) The several judges of the Courts of Indian Offenses shall have the power to issue subpenas for the attendance of witnesses either on their own motion or on the request of the police commissioner or superintendent or any of the parties to the case, which subpena shall bear the signature of the judge issuing it. Each witness answering such subpena shall be entitled to a fee of 50 cents a day for each day his services are required in court. Failure to obey such subpena shall be deemed an offense as provided in § 11.73. Service of such subpenas shall be by a regularly acting member of the Indian police or by an Indian appointed by the court for that purpose.

(b) Witnesses who testify voluntarily shall be paid by the party calling them.

§ 11.9 *Professional attorneys.* Professional attorneys shall not appear in any proceedings before the Court of Indian Offenses unless rules of court have been adopted as set forth in § 11.5 prescribing conditions governing their admission and practice before the court. Every defendant shall have the right to have some member of the tribe represent him and in the event he has no such representation, a representative may be appointed by the judge. The judge may appoint a member of the tribe as prosecutor.

§ 11.9CA *Professional attorneys.* No professional attorney shall appear in any proceedings before the Court of Indian Offenses.

§ 11.10 *Clerks.* The superintendent shall detail a clerk of court for each Court of Indian Offenses. The clerk of the Court of Indian Offenses shall render assistance to the court, to the police force of the reservation and to individual members of the tribe in the drafting of complaints, subpenas, warrants and commitments and any other documents incidental to the lawful functions of the court. It shall be the further duty of said clerk to attend and to keep a written record of all proceedings of the court, to administer oaths to witnesses, to collect all fines paid and to pay out all fees authorized by the regulations in this part, and to make an accounting thereof

to the disbursing agent of the reservation and to the tribal council.

§ 11.11 *Records.* Each Court of Indian Offenses shall be required to keep, for inspection by duly qualified officials, a record of all proceedings of the court, which record shall reflect the title of the case, the names of the parties, the substance of the complaint, the names and addresses of all witnesses, the date of the hearing or trial, by whom conducted, the findings of the court or jury, and the judgment, together with any other facts or circumstances deemed of importance to the case. A record of all proceedings shall be kept at the agency office, as required by 25 U. S. C. 200.

§ 11.12 *Copies of laws.* (a) Each Court of Indian Offenses shall be provided with copies of all Federal and State laws and regulations of the Bureau of Indian Affairs applicable to the conduct of Indians within the reservation.

(b) Whenever the court is in doubt as to the meaning of any law, treaty or regulation it may request the superintendent to furnish an opinion on the point in question.

§ 11.13 *Complaints.* No complaint filed in any Court of Indian Offenses shall be valid unless it shall bear the signature of the complainant or complaining witness, witnessed by a duly qualified judge of the Court of Indian Offenses or by the superintendent or by any other qualified employee of such reservation.

§ 11.14 *Warrants to apprehend.* Every judge of a Court of Indian Offenses shall have the authority to issue warrants to apprehend, said warrants to issue in the discretion of the court only after a written complaint shall have been filed, bearing the signature of the complaining witness. Service of such warrants shall be made by a duly qualified member of the Indian police or other police officer of the United States Indian Service. No warrant to apprehend shall be valid unless it shall bear the signature of a duly qualified judge of the Court of Indian Offenses.

§ 11.15 *Arrests.* No member of the Indian police shall arrest any person for any offense defined by §§ 11.38–11.87NH or by Federal law, except when such offense shall occur in the presence of the arresting officer or he shall have reasonable evidence that the person arrested has committed an offense or the officer shall have a warrant commanding him to apprehend such person.

§ 11.16 *Search warrants.* (a) Every judge of the Court of Indian Offenses of any Indian reservation shall have authority to issue warrants for search and seizure of the premises and property of any person under the jurisdiction of said court. However, no warrant of search and seizure shall issue except upon a duly signed and written complaint based upon reliable information or belief and charging the commission of some offense against the tribe. No warrant for search and seizure shall be valid unless it contains the name or description of the person or property to be searched and describes the articles or property to be seized and bears the signature of a duly qualified judge of the Court of Indian Offenses. Service of warrants of search and seizure shall be made only by members of the Indian police or police officers of the Bureau of Indian Affairs.

(b) No policeman shall search or seize any property without a warrant unless he shall know, or have reasonable cause to believe, that the person in possession of such property is engaged in the commission of an offense under the regulations in this part. Unlawful search or seizure will be deemed trespass and punished in accordance with § 11.52.

§ 11.17 *Commitments.* No Indian shall be detained, jailed or imprisoned under the regulations in this part for a longer period than 36 hours unless there be issued a commitment bearing the signature of a duly qualified judge of the Court of Indian Offenses. There shall be issued, for each Indian held for trial, a temporary commitment and for each Indian held after sentence a final commitment on the prescribed forms.[1]

§ 11.18 *Bail or bond.* Every Indian charged with an offense before any Court of Indian Offenses may be admitted to bail. Bail shall be by two reliable members of any Indian tribe who shall appear before a judge of the Court of Indian Offenses where complaint has been filed and there execute an agreement in compliance with the form provided therefor and made a part of the regulations in this part. In no case shall the penalty specified in the agreement exceed twice the maximum penalty set by §§ 11.38–11.87NH for violation of the offense with which the accused is charged.

§ 11.19 *Definition of signature.* The term "signature" as used in the regulations in this part shall be defined as the written signature, official seal, or the witnessed thumb print or mark of any individual.

§ 11.20 *Definition of tribal council.* The term "tribal council," as used in the regulations in this part, shall be construed to refer to the council, business committee or other organization recognized by the Department of the Interior as representing the tribe, or where no such body is recognized, to the adult members of the tribe in council assembled.

§ 11.20C *Definition of tribal council.* The term "tribal council," as used in the regulations in this part, shall be construed to refer to the Crow tribal council.

§ 11.21 *Cooperation by Federal employees.* (a) No field employee of the Indian Service shall obstruct, interfere with or control the functions of any Court of Indian Offenses, or influence such functions in any manner except as permitted by the regulations in this part or in response to a request for advice or information from the court.

(b) Employees of the Bureau of Indian Affairs, particularly those who are engaged in social service, health and educational work, shall assist the court, upon its request, in the preparation and presentation of the facts in the case and in the proper treatment of individual offenders.

[1] Forms may be obtained from the Commissioner of Indian Affairs, Washington 25, D. C.

CIVIL ACTIONS

§ 11.22 *Jurisdiction.* The Courts of Indian Offenses shall have jurisdiction of all suits wherein the defendant is a member of the tribe or tribes within their jurisdiction, and of all other suits between members and nonmembers which are brought before the courts by stipulation of both parties. No judgment shall be given on any suit unless the defendant has actually received notice of such suit and ample opportunity to appear in court in his defense. Evidence of the receipt of the notice shall be kept as part of the record in the case. In all civil suits the complainant may be required to deposit with the clerk of the court a fee or other security in a reasonable amount to over costs and disbursements in the case.

§ 11.22C *Jurisdiction.* The Courts of Indian Offenses shall have jurisdiction of all suits wherein the parties to the action are members of the tribe or tribes within their jurisdiction, and of all other suits between members and nonmembers which are brought before the courts by stipulation of both parties. No judgment shall be given on any suit unless the defendant has actually received notice of such suit and ample opportunity to appear in court in his defense. Evidence of the receipt of the notice shall be kept as part of the record in the case. In all civil suits the complainant may be required to deposit with the clerk of the court a fee or other security in a reasonable amount to cover costs and disbursements in the case.

§ 11.22CA *Jurisdiction.* The Courts of Indian Offenses shall have jurisdiction of all suits wherein the defendant is a member of the tribe or tribes within their jurisdiction, and of all other suits between members and nonmembers which are brought before the courts by stipulation of both parties wherein the amount involved does not exceed $100. No judgment shall be given on any suit unless the defendant has actually received notice of such suit and ample opportunity to appear in court in his defense. Evidence of the receipt of the notice shall be kept as part of the record in the case. In all civil suits the complainant shall be required to deposit with the clerk of the court a filing fee in the amount of $5 and may be required to deposit other security in a reasonable amount to cover costs and disbursements in the case.

§ 11.23 *Law applicable to civil actions.* (a) In all civil cases the Court of Indian Offenses shall apply any laws of the United States that may be applicable, any authorized regulations of the Interior Department, and any ordinances or customs of the tribe, not prohibited by such Federal laws.

(b) Where any doubt arises as to the customs and usages of the tribe the court may request the advice of counsellors familiar with these customs and usages.

(c) Any matters that are not covered by the traditional customs and usages

of the tribe, or by applicable Federal laws and regulations, shall be decided by the Court of Indian Offenses according to the laws of the State in which the matter in dispute may lie.

§ 11.24 *Judgments in civil actions.* (a) In all civil cases, judgment shall consist of an order of the court awarding money damages to be paid to the injured party, or directing the surrender of certain property to the injured party, or the performance of some other act for the benefit of the injured party.

(b) Where the injury inflicted was the result of carelessness of the defendant, the judgment shall fairly compensate the injured party for the loss he has suffered.

(c) Where the injury was deliberately inflicted, the judgment shall impose an additional penalty upon the defendant, which additional penalty may run either in favor of the injured party or in favor of the tribe.

(d) Where the injury was inflicted as the result of accident, or where both the complainant and the defendant were at fault, the judgment shall compensate the injured party for a reasonable part of the loss he has suffered.

§ 11.24C *Judgments in civil actions.* (a) In all civil cases, judgment shall consist of an order of the court awarding money damages to be paid to the injured party, or directing the surrender of certain property to the injured party, or the performance of some other act for the benefit of the injured party.

(b) Where the injury inflicted was the result of carelessness of the defendant, the judgment shall fairly compensate the injured party for the loss he has suffered.

(c) Where the injury was deliberately inflicted, the judgment shall impose an additional penalty upon the defendant, which additional penalty may run either in favor of the injured party or in favor of the tribe.

(d) Where the injury was inflicted as the result of accident, or where both the complainant and the defendant were at fault, the judgment may compensate the injured party for a reasonable part of the loss he has suffered.

§ 11.24CA *Judgments in civil actions.* (a) In all civil cases, judgment may consist of an order of the court awarding money damages to be paid to the injured party, or directing the surrender of certain property to the injured party, or the performance of some other act for the benefit of the injured party.

(b) Where the injury inflicted was the result of carelessness of the defendant, the judgment may fairly compensate the injured party for the loss he has suffered.

(c) Where the injury was deliberately inflicted, the judgment may impose an additional penalty upon the defendant, which additional penalty may run either in favor of the injured party or in favor of the tribe.

(d) Where the injury was inflicted as the result of accident, or where both the complainant and the defendant were at fault, the judgment may compensate the injured party for a reasonable part of the loss he has suffered.

§ 11.25 *Costs in civil actions.* The court may assess the accruing costs of the case against the party or parties against whom judgment is given. Such costs shall consist of the expenses of voluntary witnesses for which either party may be responsible under § 11.8 and the fees of jurors in those cases where a jury trial is had, and any further incidental expenses connected with the procedure before the court as the court may direct.

§ 11.25CA *Costs in civil actions.* The court may assess the accruing costs of the case against the party or parties against whom judgment is given. Such costs shall consist of the expenses of voluntary witnesses for which either party may be responsible under § 11.8CA, and any further incidental expenses connected with the procedure before the court as the court may direct.

§ 11.26 *Payment of judgments from individual Indian moneys.* (a) Whenever the Court of Indian Offenses shall have ordered payment of money damages to an injured party and the losing party refuses to make such payment within the time set for payment by the court, and when the losing party has sufficient funds to his credit at the agency office to pay all or part of such judgment, the superintendent shall certify to the Secretary of the Interior the record of the case and the amount of the available funds. If the Secretary shall so direct, the disbursing agent shall pay over to the injured party the amount of the judgment, or such lesser amount as may be specified by the Secretary, from the account of the delinquent party.

(b) A judgment shall be considered a lawful debt in all proceedings held by the Department of the Interior or by the Court of Indian Offenses to distribute decedents' estates.

CROSS REFERENCE: For individual Indian money regulations, see Part 104 of this chapter.

§ 11.26C *Payment of judgments from individual Indian moneys.* (a) Whenever the Court of Indian Offenses shall have ordered payment of money damages to an injured party and the losing party refuses to make such payment within the time set for payment by the court, and when the losing party has sufficient funds to his credit at the agency office to pay all or part of such judgment, the superintendent shall certify to the Secretary of the Interior the record of the case and the amount of the available funds. If the Secretary shall so direct, the disbursing agent shall pay over to the injured party the amount of the judgment, or such lesser amount as may be specified by the Secretary, from the account of the delinquent party.

(b) A judgment shall be considered a lawful debt in all proceedings held by the Department of the Interior or by the Court of Indian Offenses to distribute decedents' estates.

(c) No recovery may be had after 5 years from date of final judgment in any suit unless such judgment shall have been renewed before date of expiration.

CROSS REFERENCE: For individual Indian money regulations, see Part 104 of this chapter.

DOMESTIC RELATIONS

§ 11.27 *Recording of marriages and divorces.* All Indian marriages and divorces, whether consummated in accordance with the State law or in accordance with tribal custom, shall be recorded within 3 months at the agency of the jurisdiction in which either or both of the parties reside.

§ 11.28 *Tribal custom marriage and divorce.* (a) The tribal council shall have authority to determine whether Indian custom marriage and Indian custom divorce for members of the tribe shall be recognized in the future as lawful marriage and divorce upon the reservation, and if it shall be so recognized, to determine what shall constitute such marriage and divorce and whether action by the Court of Indian Offenses shall be required. When so determined in writing, one copy shall be filed with the Court of Indian Offenses, one copy with the superintendent in charge of the reservation, and one copy with the Commissioner of Indian Affairs. Thereafter, Indians who desire to become married or divorced by the custom of the tribe shall conform to the custom of the tribe as determined. Indians who assume or claim a divorce by Indian custom shall not be entitled to remarry until they have complied with the determined custom of their tribe nor until they have recorded such divorce at the agency office.

(b) Pending any determination by the tribal council on these matters, the validity of Indian custom marriage and divorce shall continue to be recognized as heretofore.

§ 11.28CA *Marriages, divorces, and adoptions.* All members of the Coeur d'Alene Indian Tribe shall hereafter be governed by State law and subject to State jurisdiction with respect to marriages, divorces, and adoptions hereinafter consummated.

§ 11.29 *Tribal custom adoption.* The tribal council shall likewise have authority to determine whether Indian custom adoption shall be permitted upon the reservation among members of the tribe, and if permitted, to determine what shall constitute such adoption and whether action by the Court of Indian Offenses shall be required. The determination of the tribal council shall be filed with the Court of Indian Offenses, with the superintendent of the reservation and with the Commissioner of Indian Affairs. Thereafter all members of the tribe desiring to adopt any person shall conform to the procedure fixed by the tribal council.

§ 11.29C *Adoption.* No future adoptions among or by the Crow Indians shall be recognized except those made in accordance with the act of March 3, 1931 (46 Stat. 1494).

§ 11.30 *Determination of paternity and support.* The Court of Indian Offenses shall have jurisdiction of all suits brought to determine the paternity of a child and to obtain a judgment for the support of the child. A judgment of the court establishing the identity of the father of the child shall be conclusive of that fact in all subsequent determina-

tions of inheritance by the Department of the Interior or by the courts of Indian offenses.

§ 11.30CA *Determination of paternity and support.* The Court of Indian Offenses shall have jurisdiction of all suits brought to determine the paternity of a child and to obtain a judgment for the support of the child. A judgment of the court establishing the identity of the father of the child shall be conclusive of that fact in all subsequent determinations of inheritance by the Department of the Interior.

§ 11.31 *Determination of heirs.* (a) When any member of the tribe dies leaving property other than an allotment or other trust property subject to the jurisdiction of the United States, any member claiming to be an heir of the decedent may bring a suit in the Court of Indian Offenses to have the court determine the heirs of the decedent and to divide among the heirs such property of the decedent. No determination of heirs shall be made unless all the possible heirs known to the court, to the superintendent, and to the claimant have been notified of the suit and given full opportunity to come before the court and defend their interests. Possible heirs who are not residents of the reservation under the jurisdiction of the court must be notified by mail and a copy of the notice must be preserved in the record of the case.

(b) In the determination of heirs the court shall apply the custom of the tribe as to inheritance if such custom is proved. Otherwise the court shall apply State law in deciding what relatives of the decedent are entitled to be his heirs.

(c) Where the estate of the decedent includes any interest in restricted allotted lands or other property held in trust by the United States, over which the examiner of inheritance would have jurisdiction, the Court of Indian Offenses may distribute only such property as does not come under the jurisdiction of the examiner of inheritance, and the determination of heirs by the court may be reviewed, on appeal, and the judgment of the court modified or set aside by the said examiner of inheritance, with the approval of the Secretary of the Interior, if law and justice so require.

CROSS REFERENCE: For regulations governing the jurisdiction of the examiner of inheritance concerning the determination of heirs, see Part 15 of this chapter.

§ 11.31C *Determination of heirs.* The superintendent of the Crow Reservation shall have authority to protect, impound or convert into cash, for the benefit of the estate, any personal property which may be left by any decedent who is an enrolled member of the Crow Tribe, pending final determination of the heirs of said decedent by the Secretary of the Interior, and in accordance with existing law and regulations.

§ 11.31CA *Determination of heirs.* The examiner of inheritance shall have authority to determine the heirs and distribute the property, both personal and real, of any member of the Coeur d'Alene Tribe of Indians, regardless of whether or not such property is in a trust status: *Provided further,* That the judge of the Court of Indian Offenses shall have authority to take into custody any property other than trust left by the death of any member of the tribe, and shall have authority, when approved by the superintendent, to sell perishable property, the proceeds of such sale to be deposited to the decedent's account with the disbursing agent of the reservation.

§ 11.32 *Approval of wills.* When any member of the tribe dies, leaving a will disposing only of property other than an allotment or other trust property subject to the jurisdiction of the United States, the Court of Indian Offenses shall, at the request of any member of the tribe named in the will or any other interested party, determine the validity of the will after giving notice and full opportunity to appear in court to all persons who might be heirs of the decedent, as under § 11.31. A will shall be deemed to be valid if the decedent had a sane mind and understood what he was doing when he made the will and was not subject to any undue influence of any kind from another person, and if the will was made in accordance with a proved tribal custom or made in writing and signed by the decedent in the presence of two witnesses who also sign the will. If the court determines the will to be validly executed, it shall order the property described in the will to be given to the persons named in the will or to their heirs; but no distribution of property shall be made in violation of a proved tribal custom which restricts the privilege of tribal members to distribute property by will.

CROSS REFERENCE: For regulations governing the jurisdiction of the Examiner of Inheritance concerning the approval of wills, heirs, see Part 15 of this chapter.

§ 11.32C *Approval of wills.* The determination of the validity of wills shall be made by the Secretary of the Interior (as provided in Part 15 of this chapter).

SENTENCES

§ 11.33 *Nature of sentences.* (a) Any Indian who has been convicted by the Court of Indian Offenses of violation of a provision of §§ 11.38–11.87NH shall be sentenced by the court to work for the benefit of the tribe for any period found by the court to be appropriate; but the period fixed shall not exceed the maximum period set for the offense in the code, and shall begin to run from the day of the sentence. During the period of sentence the convicted Indian may be confined in the agency jail if so directed by the court. The work shall be done under the supervision of the superintendent or of an authorized agent or committee of the tribal council as the court may provide.

(b) Whenever any convicted Indian shall be unable or unwilling to work, the court shall, in its discretion, sentence him to imprisonment for the period of the sentence or to pay a fine equal to $2 a day for the same period. Such fine shall be paid in cash, or in commodities or other personal property of the required value as may be directed by the court. Upon the request of the convicted Indian, the disbursing agent may approve a disbursement voucher chargeable to the Indian's account to cover payment of the fine imposed by the court.

(c) In addition to any other sentence, the court may require an offender who has inflicted injury upon the person or property of any individual to make restitution or to compensate the party injured, through the surrender of property, the payment of money damages, or the performance of any other act for the benefit of the injured party.

(d) In determining the character and duration of the sentence which shall be imposed, the court shall take into consideration the previous conduct of the defendant, the circumstances under which the offense was committed, and whether the offense was malicious or willful and whether the offender has attempted to make amends, and shall give due consideration to the extent of the defendant's resources and the needs of his dependents. The penalties listed in §§ 11.38–11.87NH are maximum penalties to be inflicted only in extreme cases.

§ 11.33CA *Nature of sentences.* (a) Any Indian who has been convicted by the Court of Indian Offenses of violation of §§ 11.38–11.76CA shall be sentenced by the court to work for the benefit of the tribe for any period found by the court to be appropriate; but the period fixed shall not exceed the maximum period set for the offense in this part, and shall begin to run from the day of the sentence. During the period of sentence the convicted Indian may be confined in the agency jail if so directed by the court. The work shall be done under the supervision of the superintendent or of an authorized agent or committee of the tribal council as the court may provide.

(b) Whenever any convicted Indian shall be unable or unwilling to work, the court shall, in its discretion, sentence him to imprisonment for the period of the sentence or pay a fine equal to $2 a day for the same period. Upon the request of the convicted Indian, the disbursing agent may approve a disbursement voucher chargeable to the Indian's account to cover payment of the fine imposed by the court.

(c) In addition to any other sentence, the court may require an offender who has inflicted injury upon the person or property of any individual to make restitution or to compensate the party injured, through the surrender of property, the payment of money damages, or the performance of any other act for the benefit of the injured party.

(d) In determining the character and duration of the sentence which shall be imposed, the court shall take into consideration the previous conduct of the defendant, the circumstances under which the offense was committed, and whether the offense was malicious or willful and whether the offender has attempted to make amends, and shall give due consideration to the extent of the defendant's resources and the needs of his dependents. The penalties listed in §§ 11.38–11.76CA are maximum penalties to be inflicted only in extreme cases.

§ 11.34 *Probation.* (a) Where sentence has been imposed upon any In-

dian who has not previously been convicted of any offense, the Court of Indian Offenses may in its discretion suspend the sentence imposed and allow the offender his freedom on probation upon his signing a pledge of good conduct during the period of the sentence upon the form provided therefor.

(b) Any Indian who shall violate his probation pledge shall be required to serve the original sentence plus an additional half of such sentence as penalty for the violation of his pledge.

§ 11.34C *Probation.* (a) Where sentence has been imposed upon any Indian, the Court of Indian Offenses may in its discretion suspend the sentence imposed and allow the offender his freedom on probation, upon his signing a pledge of good conduct during the period of the sentence.

(b) Any Indian who shall violate his probation pledge shall be required to serve the original sentence plus an additional half of such sentence as penalty for the violation of his pledge.

§ 11.35 *Parole.* (a) Any Indian committed by a Court of Indian Offenses who shall have without misconduct served one half the sentence imposed by such court shall be eligible to parole. Parole shall be granted only by a judge of the Court of Indian Offenses where the prisoner was convicted and upon the signing of the form provided therefor.

(b) Any Indian who shall violate any of the provisions of such parole shall be punished by being required to serve the whole of the original sentence.

§ 11.36 *Juvenile delinquency.* Whenever any Indian who is under the age of 18 years is accused of committing one of the offenses enumerated in §§ 11.38–11.87NH, the judge may in his discretion hear and determine the case in private and in an informal manner, and, if the accused is found to be guilty, may in lieu of sentence place such delinquent for a designated period under the superivision of a responsible person selected by him or may take such other action as he may deem advisable in the circumstances.

§ 11.36C *Juvenile delinquency.* (a) Whenever any Indian who is under the age of 18 years is accused of committing one of the offenses enumerated in §§ 11.38–11.75C, the judge may in his discretion hear and determine the case in private and in an informal manner, and, if the accused is found to be guilty, may in lieu of sentence, place such delinquent for a designated period under the supervision of a responsible person selected by him or may take such other action as he may deem advisable in the circumstances.

(b) In the absence of either parent or guardian, the court shall appoint a suitable person to represent the delinquent child.

§ 11.37 *Disposition of fines.* (a) All money fines imposed for the commission of an offense shall be in the nature of an assessment for the payment of designated court expenses. Such expenses shall include the payment of the fees provided for in the regulations in this part to jurors and to witnesses answering a subpena. The fines assessed shall be paid over by the clerk of the court to the disbursing agent of the reservation for deposit as a "special deposit, court funds" to the disbursing agent's official credit in the Treasury of the United States. The disbursing agent shall withdraw such funds, in accordance with existing regulations, upon the order of the clerk of the court signed by a judge of the court, for the payment of specified fees to specified jurors or witnesses. The disbursing agent and the clerk of the court shall keep an accounting of all such deposits and withdrawals for the inspection of any person interested. Whenever such fund shall exceed the amount necessary with a reasonable reserve for the payment of the court expenses before mentioned, the tribal council shall designate, with the approval of the superintendent, further expenses of the work of the court which shall be paid by these funds, such as the writing of records, the costs of notices or the increase of fees, whether or not any such costs were previously paid from other sources.

(b) Wherever a fine is paid in commodities, the commodities shall be turned over under the supervision of the clerk of the court to the custody of the superintendent to be sold or, if the tribal council so directs, to be disposed of in other ways for the benefit of the tribe. The proceeds of any sale of such commodities shall be deposited by the disbursing agent in the special deposit for court funds and recorded upon the accounts.

§ 11.37CA *Deposit and disposition of fines.* All money fines imposed for the commission of an offense shall be in the nature of an assessment for the payment of designated court expenses. Such expenses shall include the payment of the fees provided for in this part to jurors and to witnesses answering a subpena. The fines assessed shall be paid over by the clerk of the court to the disbursing agent of the reservation for deposit as a "special deposit, court funds" to the disbursing agent's official credit in the Treasury of the United States. The disbursing agent shall withdraw such funds, in accordance with existing regulations, upon the order of the clerk of the court signed by a judge of the court, for the payment of specified fees to specified jurors or witnesses. The disbursing agent and the clerk of the court shall keep an accounting of all such deposits and withdrawals for the inspection of any person interested. Whenever such funds shall exceed the amount necessary with a reasonable reserve for the payment of the court expenses before mentioned, the tribal council shall designate, with the approval of the superintendent, further expenses of the work of the court which shall be paid by these funds, such as the writing of records, the costs of notices or the increase of fees, whether or not any such costs were previously paid from other sources.

CODE OF INDIAN TRIBAL OFFENSES

§ 11.38 *Assault.* Any Indian who shall attempt or threaten bodily harm to another person through unlawful force or violence shall be deemed guilty of assault, and upon conviction thereof shall be sentenced to labor for a period not to exceed 5 days or shall be required to furnish a satisfactory bond to keep the peace.

§ 11.39 *Assault and battery.* Any Indian who shall willfully strike another person or otherwise inflict bodily injury, or who shall by offering violence cause another to harm himself shall be deemed guilty of assault and battery and upon conviction thereof shall be sentenced to labor for a period not to exceed 6 months.

§ 11.40 *Carrying concealed weapons.* Any Indian who shall go about in public places armed with a dangerous weapon concealed upon his person, unless he shall have a permit signed by a judge of a Court of Indian Offenses and countersigned by the superintendent of the reservation, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed 30 days; and the weapons so carried may be confiscated.

§ 11.41 *Abduction.* Any Indian who shall willfully take away or detain another person against his will or without the consent of the parent or other person having lawful care or charge of him, shall be deemed guilty of abduction and upon conviction thereof shall be sentenced to labor for a period not to exceed 6 months.

§ 11.42 *Theft.* Any Indian who shall take the property of another person, with intent to steal, shall be deemed guilty of theft and upon conviction thereof shall be sentenced to labor for a period not to exceed 6 months.

§ 11.43 *Embezzlement.* Any Indian who shall, having lawful custody of property not his own, appropriate the same to his own use with intent to deprive the owner thereof, shall be deemed guilty of embezzlement and upon conviction thereof shall be sentenced to labor for a period not to exceed 6 months.

§ 11.44 *Fraud.* Any Indian who shall by willful misrepresentation or deceit, or by false interpreting, or by the use of false weights or measures obtain any money or other property, shall be deemed guilty of fraud and upon conviction thereof shall be sentenced to labor for a period not to exceed 6 months.

§ 11.45 *Forgery.* Any Indian who shall, with intent to defraud, falsely sign, execute or alter any written instrument, shall be deemed guilty of forgery and upon conviction thereof shall be sentenced to labor for a period not to exceed 6 months.

§ 11.46 *Misbranding.* Any Indian who shall knowingly and willfully misbrand or alter any brand or mark on any livestock of another person, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed 6 months.

§ 11.47 *Receiving stolen property.* Any Indian who shall receive or conceal or aid in concealing or receiving any property, knowing the same to be stolen,

embezzled, or obtained by fraud or false pretense, robbery or burglary, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed 3 months.

§ 11.48 *Extortion.* Any Indian who shall willfully, by making false charges against another person or by any other means whatsoever, extort or attempt to extort any moneys, goods, property, or anything else of any value, shall be deemed guilty of extortion and upon conviction thereof shall be sentenced to labor for a period not to exceed 30 days.

§ 11.49 *Disorderly conduct.* Any Indian who shall engage in fighting in a public place, disturb or annoy any public or religious assembly, or appear in a public or private place in an intoxicated and disorderly condition, or who shall engage in any other act of public indecency or immorality, shall be deemed guilty of disorderly conduct and upon conviction thereof shall be sentenced to labor for a period not to exceed 30 days.

§ 11.49CA *Disorderly conduct.* Any Indian who shall engage in fighting in a public place, disturb or annoy any public or religious assembly, or appear in a public or private place in an intoxicated or disorderly condition, or who shall engage in any other act of public indecency or immorality, shall be deemed guilty of disorderly conduct and upon conviction thereof shall be sentenced to labor for a period not to exceed 30 days.

§ 11.50 *Reckless driving.* Any Indian who shall drive or operate any automobile, wagon, or any other vehicle in a manner dangerous to the public safety, shall be deemed guilty of reckless driving and upon conviction thereof shall be sentenced to labor for a period not to exceed 15 days and may be deprived of the right to operate any automobile for a period not to exceed 6 months. For the commission of such offense while under the influence of liquor, the offender may be sentenced to labor for a period not to exceed 3 months.

§ 11.50C *Reckless driving.* Any Indian who shall drive or operate any automobile, wagon, or any other vehicle in a manner dangerous to the public safety, shall be deemed guilty of reckless driving and upon conviction thereof shall be sentenced to labor for a period not to exceed 15 days and may be deprived of the right to operate any automobile for a period not to exceed 6 months. For the commission of such offense while under the influence of liquor, the offender may be sentenced for the first offense to labor for a period not to exceed 3 months and for a second or subsequent offense for a period not to exceed 6 months and may be deprived of his right to operate any motor vehicle for a period of 1 year.

§ 11.51 *Malicious mischief.* Any Indian who shall maliciously disturb, injure or destroy any livestock or other domestic animal or other property, shall be deemed guilty of malicious mischief and upon conviction thereof shall be sentenced to labor for a period not to exceed 6 months.

§ 11.52 *Trespass.* Any Indian who shall go upon or pass over any cultivated or enclosed lands of another person and shall refuse to go immediately therefrom on the request of the owner or occupant thereof or who shall willfully and knowingly allow livestock to occupy or graze on the cultivated or enclosed lands, shall be deemed guilty of an offense and upon conviction shall be punished by a fine not to exceed $5, in addition to any award of damages for the benefit of the injured party.

§ 11.52CA *Trespass.* Any Indian who shall go upon or pass over any cultivated or enclosed lands or premises of another person and who shall refuse to go immediately therefrom on the request of the owner or occupant thereof or who shall willfully and knowingly allow livestock to occupy or graze on the cultivated or enclosed lands, shall be deemed guilty of an offense and upon conviction shall be punished by a fine not to exceed $5, in addition to any award of damages for the benefit of the injured party: *Provided, however,* That no lands shall be deemed to be enclosed unless fenced by a legal fence as defined by State law.

§ 11.53 *Injury to public property.* Any Indian who shall, without proper authority, use or injure any public property of the tribe or the United States, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed 30 days.

§ 11.53CA *Injury to public property.* Any Indian who shall, without proper authority, use or injure any public property of the tribe, or the United States, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed 30 days.

§ 11.54 *Maintaining a public nuisance.* Any Indian who shall act in such a manner, or permit his property to fall into such condition as to injure or endanger the safety, health, comfort, or property of his neighbors, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed 5 days, and may be required to remove such nuisance when so ordered by the court.

§ 11.55 *Liquor violations.* Any Indian who shall possess, sell, trade, transport or manufacture any beer, ale, wine, whisky or any article whatsoever which produces alcoholic intoxication, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed 60 days.

§ 11.56 *Cruelty to animals.* Any Indian who shall torture or cruelly mistreat any animal, shall be deemed guilty of an offense and shall be sentenced to labor for a period not to exceed 30 days.

§ 11.57 *Game violations.* Any Indian who shall violate any law, rule or regulation adopted by the tribal council for the protection or conservation of the fish or game of the reservation, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed 30 days; and he shall forfeit to the court for the use of any Indian institution such game as may be found in his possession.

§ 11.58 *Gambling.* Any Indian who shall violate any law, rule or regulation adopted by the tribal council for the control or regulation of gambling on any reservation, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed 30 days.

§ 11.59 *Adultery.* Any Indian who shall have sexual intercourse with another person, either of such persons being married to a third person, shall be deemed guilty of adultery and upon conviction thereof shall be sentenced to labor for a period not to exceed 30 days.

§ 11.60C *Fornication.* Any Indian who shall have sexual intercourse with another person, neither of such persons being married, shall be deemed guilty of fornication and upon conviction thereof shall be sentenced to labor for a period of not to exceed 25 days.

§ 11.61 *Illicit cohabitation.* Any Indian who shall live or cohabit with another as man and wife not then and there being married shall be deemed guilty of illicit cohabitation and upon conviction thereof shall be sentenced to labor for a period not to exceed 30 days.

§ 11.62 *Prostitution.* Any Indian who shall practice prostitution or who shall knowingly keep, maintain, rent or lease, any house, room, tent, or other place for the purpose of prostitution shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed 6 months.

§ 11.63 *Giving venereal disease to another.* Any Indian who shall infect another person with a venereal disease shall be deemed guilty of an offense, and upon conviction thereof shall be sentenced to labor for a period not to exceed 3 months. The Court of Indian Offenses shall have authority to order and compel the medical examination and treatment of any person charged with violation of this section or found to be afflicted with any communicable disease of this nature.

§ 11.63C *Giving venereal disease to another.* Any Indian who shall infect another person with a venereal disease shall be deemed guilty of an offense, and upon conviction thereof shall be sentenced to labor for a period not to exceed 3 months. The Court of Indian Offenses shall have authority to order and compel the medical examination and treatment of any person charged with violation of this section or found to be afflicted with any communicable disease.

§ 11.63CA *Giving venereal disease to another.* Any Indian who shall infect another person with a venereal disease shall be deemed guilty of an offense, and upon conviction thereof shall be sentenced to labor for a period not to exceed 3 months. The Court of Indian Offenses shall have authority to order and compel the medical examination and treatment of any person charged with violation of this section or found to be afflicted with any communicable disease of this nature.

§ 11.64 *Failure to support dependent persons.* Any Indian who shall, because of habitual intemperance or gambling or for any other reason, refuse or neglect to furnish food, shelter, or care to those dependent upon him, including any dependent children born out of wedlock, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed 3 months, for the benefit of such dependent.

§ 11.64C *Failure to support dependent persons.* (a) Any Indian who shall, because of habitual intemperance or gambling or for any other reason, refuse or neglect to furnish food, shelter, or care to those dependent upon him, including any dependent children born out of wedlock, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed 3 months, for the benefit of such dependent.

(b) The Court of Indian Offenses shall also have authority to order and compel the payment of all alimony lawfully awarded in any divorce proceeding by any State court having jurisdiction, and nonpayment of such awards shall be accepted as conclusive evidence of failure to provide for dependent persons under this section: *Provided, however,* That an appeal may be taken to the Tribal Court of Appeals whose decision shall be final.

§ 11.65 *Failure to send children to school.* Any Indian who shall, without good cause, neglect or refuse to send his children or any children under his care, to school shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed 10 days.

CROSS REFERENCE: For regulations pertaining to the education of Indians, see Parts 31-34 of this chapter.

§ 11.66 *Contributing to the delinquency of a minor.* Any Indian who shall willfully contribute to the delinquency of any minor shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed 6 months.

§ 11.67 *Bribery.* Any Indian who shall give or offer to give any money, property or services, or anything else of value to another person with corrupt intent to influence another in the discharge of his public duties or conduct, and any Indian who shall accept, solicit or attempt to solicit any bribe, as above defined, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed 6 months; and any tribal office held by such person shall be forfeited.

§ 11.68 *Perjury.* Any Indian who shall willfully and deliberately, in any judicial proceeding in any Court of Indian Offenses, falsely swear or interpret, or shall make a sworn statement or affidavit knowing the same to be untrue, or shall induce or procure another person so to do, shall be deemed guilty of perjury and upon conviction thereof shall be sentenced to labor for a period not to exceed 6 months.

§ 11.69 *False arrest.* Any Indian who shall willfully and knowingly make, or cause to be made, the unlawful arrest, detention or imprisonment of another person, shall be deemed guilty of an offense, and upon conviction thereof shall be sentenced to labor for a period not to exceed 6 months.

§ 11.70 *Resisting lawful arrest.* Any Indian who shall willfully and knowingly, by force or violence, resist or assist another person to resist a lawful arrest shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed 30 days.

§ 11.71 *Refusing to aid officer.* Any Indian who shall neglect or refuse, when called upon by any Indian police or other police officer of the Bureau of Indian Affairs, to assist in the arrest of any person charged with or convicted of any offense or in securing such offender when apprehended, or in conveying such offender to the nearest place of confinement shall be deemed guilty of an offense, and upon conviction, shall be sentenced to labor for a period not to exceed 10 days.

§ 11.72 *Escape.* Any Indian, who, being in lawful custody, for any offense, shall escape or attempt to escape or who shall permit or assist or attempt to permit or assist another person to escape from lawful custody shall be deemed guilty of an offense, and upon conviction thereof shall be sentenced to labor for a period not to exceed 6 months.

§ 11.73 *Disobedience to lawful orders of court.* Any Indian who shall willfully disobey any order, subpena, warrant or command duly issued, made or given by the Court of Indian Offenses or any officer thereof, shall be deemed guilty of an offense and upon conviction thereof shall be fined in an amount not exceeding $180 or sentenced to labor for a period not to exceed 3 months.

§ 11.74 *Violation of an approved tribal ordinance.* Any Indian who violates an ordinance designed to preserve the peace and welfare of the tribe, which was promulgated by the tribal council and approved by the Secretary of the Interior, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced as provided in the ordinance.

§ 11.75C *Limitation on filing of complaints.* No complaint shall be filed charging the commission of an offense, as defined under §§ 11.38–11.75C, unless such offense shall have been committed within 1 year prior to the date of the complaint.

§ 11.75CA *Attempted rape.* Any Indian who shall willfully and knowingly by force or violence attempt to rape another or assist in permitting an attempted rape shall be deemed guilty of an offense, and, upon conviction thereof, shall be sentenced to labor for a period not to exceed 90 days, or a fine of $180, or both such fine and imprisonment.

§ 11.76CA *Vagrancy.* Any Indian who wanders about in idleness, living off others, who is able to work, and has no property or money sufficient for his (her) support or loafs or loiters in any city, town or village on the Coeur d'Alene Indian Reservation without any attempt to obtain regular employment shall be deemed guilty of an offense, and upon conviction thereof, shall be sentenced to labor for a period not to exceed 30 days, or to a fine not to exceed $60, or to both such imprisonment and fine, with costs.

§ 11.76NH *Failure to sell or remove from tribal range infectious or cull animals.* Any Indian who shall willfully refuse to dispose of cull or infectious animals indicated for removal in accordance with the instructions contained in § 72.8 of this chapter, shall be deemed guilty of an offense, and upon conviction thereof shall be sentenced to hard labor for a period of not to exceed 90 days, or a reduction of 10 percent in his grazing permit.

§ 11.77NH *Introduction of livestock without permit.* Any Indian who shall introduce or cause to be introduced any livestock into unallotted lands of the reservation without a permit shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to a period of not to exceed 60 days at hard labor.

CROSS REFERENCE: For Navajo grazing regulations, see Part 152 of this chapter.

§ 11.78NH *Stock trespass in form of unauthorized use of range.* Any Indian who shall willfully graze stock in excess of permitted number on tribal range, or who shall refuse to graze his livestock in accordance with range management plans which consider deferred grazing, the reservation of specific areas for seasonal use, etc., shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed 6 months, and, or, he shall be required to pay damages equal to the value of the forage consumed, salaries and expenses of employees for the time incurred in making investigation, and reports. In lieu of cash, this fine, if levied, may be collected in livestock.

CROSS REFERENCE: For Navajo grazing regulations, see Part 152 of this chapter.

§ 11.79NH *Failure to dip sheep.* Any Indian who willfully refuses to dip all of his sheep and goats according to regulations when so directed by the superintendent or his authorized representative shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed 6 months or shall be subject to a fine not to exceed $100 or both. In lieu of cash, this fine, if levied, may be collected in livestock.

§ 11.80NH *Making false reports of stock owned.* Any Indian who willfully makes a false report as to the total number of stock owned, or refuses to make a true report of stock ownership, shall be deemed guilty of an offense and upon conviction thereof, shall be fined not less than $10 nor more than $100. In lieu of cash this fine may be collected in livestock.

CROSS REFERENCE: For method of making out reports of stock owned, see § 152.7 of this chapter.

§ 11.81NH *Unauthorized fencing of tribal land.* Any Indian who shall willfully fence, for his own advantage, range land belonging to the tribe, without first having secured a permit from the superintendent shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed 6 months.

§ 11.82NH *Inter-district trespass.* Any Indian who shall allow his stock to trespass on range allocated to others under provisions of the grazing regulations, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed 3 months or shall be subject to a fine equal to the damage done the range allocated to others, or both.

CROSS REFERENCE: For Navajo grazing regulations, see Part 152 of this chapter.

§ 11.83NH *Grazing stock without permit.* Any Indian who shall allow his stock to graze on tribal land without a grazing permit shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed 3 months or shall be fined not to exceed $100 or both. In lieu of cash, this fine, if levied, may be collected in livestock.

§ 11.84NH *Refusing to brand or mark livestock.* Any Indian who shall willfully refuse to brand or mark his or her livestock where such branding or marking is required in the interest of ownership identification or for other purposes or who alters, obliterates or removes such brands or marks shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed 60 days.

§ 11.85NH *Obstructing or interfering with livestock roundups.* Any Indian who shall interfere with or obstruct authorized roundups which have for their purpose the removal of unowned horses or other livestock, or for the purpose of determining ownership or for other purposes designed to protect tribal land from destruction, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed 6 months.

§ 11.86NH *Trespass on areas reserved for demonstration purposes.* Any Indian who shall commit willful trespass on areas reserved for demonstration, administration, or agricultural purposes designed for the benefit of the tribe, shall be guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed 60 days and shall be subject to a fine not exceeding $100, or both. In lieu of cash, this fine, if levied, may be collected in livestock.

§ 11.87NH *Peyote violations.* Any Indian who shall introduce into the Navajo country, sell, use or have in his possession within said Navajo country, the bean known as peyote, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed 9 months, or a fine not to exceed $100, or both.

THE INDIAN POLICE

§ 11.301 *Superintendent in command.* The superintendent of each Indian reservation shall be recognized as commander of the Indian police force and will be held responsible for the general efficiency and conduct of the members thereof. It shall be the duty of the superintendent, or his duly qualified representative, to keep himself informed as to the efficiency of the Indian police in the discharge of their duties, to subject them to a regular inspection, to inform them as to their duties and keep a strict accounting of the equipment issued them in connection with their official duties. It shall be the duty of the superintendent to detail such Indian policemen as may be necessary to carry out the orders of the Court of Indian Offenses and to preserve order during the court sessions. The superintendent shall investigate all reports and charges of misconduct on the part of Indian policemen and shall exercise such proper disciplinary measures as may be consistent with existing regulations. No superintendent of any Indian reservation shall assign or detail any member of the Indian police force for duty as janitor or chauffeur or for any duty not connected with the administration of law and order.

§ 11.302 *Police commissioners.* The superintendent of any Indian reservation may, with the approval of the Commissioner of Indian Affairs, designate as police commissioner any qualified person. Wherever any special or deputy special officer is regularly employed in any Indian jurisdiction, he shall be police commissioner for that jurisdiction. Such police commissioner shall obey the orders of the superintendent of the reservation where employed and shall see that the orders of the Court of Indian Offenses are properly carried out. The police commissioner shall be responsible to the superintendent for the conduct and efficiency of the Indian police under his direction and shall give such instruction and advice to them as may be necessary. The police commissioner shall also report to the superintendent all violations of law or regulation and any misconduct of any member of the Indian police.

§ 11.303 *Police training.* It shall be the duty of the superintendent to maintain from time to time as circumstances require and permit classes of instruction for the Indian policemen. Such classes shall familiarize the policemen with the manner of making searches and arrests, the proper and humane handling of prisoners, the keeping of records of offenses and police activities, and with court orders and legal forms and the duties of the police in relation thereto, and other subjects of importance for efficient police duty. It shall further be the purpose of the classes to consider methods of preventing crime and of securing cooperation with Indian communities in establishing better social relations.

§ 11.304 *Indian policemen.* (a) The superintendent of any Indian reservation may, with the approval of the Commissioner of Indian Affairs, employ and appoint Indians as Indian police whose qualifications shall be as follow:

(1) A candidate must be in sound physical condition and of sufficient size and strength to perform the duties required.

(2) He must be possessed of courage, self-reliance, intelligence, and a high sense of loyalty and duty.

(3) He must never have been convicted of a felony, nor have been convicted of any misdemeanor for a period of 1 year prior to appointment.

(b) The duties of an Indian policeman shall be:

(1) To obey promptly all orders of the police commissioner or the court of Indian offenses when assigned to that duty.

(2) To lend assistance to brother officers.

(3) To report and investigate all violations of any law or regulation coming to his notice or reported for attention.

(4) To arrest all persons observed violating the laws and regulations for which he is held responsible.

(5) To inform himself as to the laws and regulations applicable to the jurisdiction where employed and as to the laws of arrest.

(6) To prevent violations of the law and regulations.

(7) To report to his superior officers all accidents, births, deaths or other events or impending events of importance.

(8) To abstain from the use of intoxicants, or narcotics and to refrain from engaging in any act which would reflect discredit upon the police department.

(9) To refrain from the use of profane, insolent or vulgar language.

(10) To use no unnecessary force or violence in making an arrest, search, or seizure.

(11) To keep all equipment furnished by the Government in reasonable repair and order.

(12) To report the loss of any and all property issued by the Government in connection with official duties.

§ 11.305 *Dismissal.* The superintendent of any Indian reservation may remove any Indian policeman for any noncompliance with the duties and requirements as set out in § 11.304 or for neglect of duty.

§ 11.306 *Return of equipment.* Upon the resignation, death or discharge of any member of the Indian police all articles or property issued him in connection with his official duties must be returned to the superintendent or his representative.

Subchapter C—Probate

PART 15—DETERMINATION OF HEIRS AND APPROVAL OF WILLS, EXCEPT AS TO MEMBERS OF THE FIVE CIVILIZED TRIBES AND OSAGE INDIANS

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AUTHORITY: §§ 15.0 to 15.34 issued under secs. 1, 2, 36 Stat. 855, as amended, 856, as amended, sec. 1, 38 Stat. 586, 42 Stat. 1185, as amended, secs. 1, 2, 56 Stat. 1021, 1022; 25 U. S. C. 372, 373, 374, 377, 373a, 373b.

CROSS REFERENCES: For regulations governing the determination of heirs and approval of wills in the Courts of Indian Offenses, see §§ 11.30–11.32C of this chapter. For regulations governing admission of attorneys to practice before the Department of the Interior and the offices and bureaus thereof, see 43 CFR Part 1.

§ 15.0 *Definitions.* (a) "Secretary" means the Secretary of the Interior; (b) "Commissioner" means the Commissioner of Indian Affairs, Department of the Interior; (c) "superintendent" means the superintendent of an Indian agency; (d) "examiner of inheritance" means any employee upon whom authority has been conferred by the Secretary or the Commissioner to conduct hearings in accordance with the regulations of this part; (e) "agency" means the Indian agency having jurisdiction over an estate; (f) "Department" means the Department of the Interior.

§ 15.1 *Administration of estates.* The heirs of Indians who die intestate possessed of trust or restricted property shall be determined by examiners of inheritance except as otherwise provided in the regulations in this part. The wills of deceased Indians disposing of trust or restricted property shall be approved or disapproved by examiners of inheritance except as otherwise provided in the regulations in this part. Claims against the estates of Indians shall be allowed or disallowed by examiners of inheritance in accordance with the regulations in this part.

§ 15.2 *Notice of hearings.* Hearings to determine the heirs of deceased Indians or to probate their wills shall be conducted only after notice of the time and place of such hearings shall have been posted for 20 days in five or more conspicuous places on the reservation of which the decedent was a resident or, if the decedent was not a resident of a reservation, in five or more conspicuous places in the vicinity of the proposed place of hearing.

§ 15.3 *Contents of notice.* The notice shall state that the examiner of inheritance, will at the time and place specified therein, take testimony to determine the heirs of the deceased Indian (naming him) and, if a will is offered for probate, testimony as to the validity of such will. The notice shall list the presumptive heirs of the decedent, and, if a will is offered for probate, the beneficiaries under such will and the attesting witnesses to the will. The notice shall cite the regulations in this part as the source of the legal authority and jurisdiction for the holding of the hearing. It shall call upon all persons interested in the estate of the deceased Indian, including all persons having claims or accounts against the deceased Indian, to be present at the hearing. It shall call upon presumptive heirs to bring with them to the hearing two disinterested persons who are acquainted with and have a direct knowledge of the family history of the deceased. The notice shall state further that the examiner of inheritance may, in his discretion continue the hearing at another time and place to be announced at the original hearing.

§ 15.4 *Service on interested parties.* A copy of the notice of hearing shall be served personally or by mail, addressed to the party at his last known place of residence, on each presumptive heir and each known claimant against the estate, and, if a will is offered for probate, on each beneficiary under and each attesting witness to the will. Such notice must be served or mailed a sufficient time in advance of the date set for the hearing to enable the interested parties to attend the hearing.

§ 15.5 *Uncontested estates.* In a case involving no contest, the parties in interest may appear before the examiner of inheritance and waive their right to the 20 days' notice. In that event, the examiner of inheritance may take their testimony immediately. At the time and place set for the hearing in the notice, the testimony and the waiver shall be read aloud in order to afford any other persons who are present an opportunity to offer objections and to establish their interest. The examiner of inheritance will then proceed with the hearing in the usual manner if objections are offered.

§ 15.6 *Minors represented at hearings.* Minors in interest must be represented at the hearing by guardians ad litem appointed by the examiner of inheritance.

§ 15.7 *Attorneys.* Interested parties may appear in person or by attorneys admitted to practice in the State where the hearing is held. Attorneys must secure powers of attorney from their clients authorizing them to appear in the proceeding. Attorneys will be required to adhere to the rules of evidence of the State in which the evidence is taken.

§ 15.8 *Oaths, authority to administer.* Examiners of inheritance are authorized to administer oaths.

§ 15.9 *Compulsory attendance of witnesses.* The examiner of inheritance may issue a subpoena under 25 U. S. C. 374 to any person whose testimony he believes to be material to the proper disposition of any estate set for hearing. Upon the failure or refusal of any person to whom a subpoena shall have been issued to appear at the hearing or to testify, the examiner of inheritance may file a petition in the appropriate United States District Court requesting that the court issue an order requiring the appearance and testimony of the witness.

§ 15.10 *Examination of witnesses.* All witnessess shall be examined under oath, and their testimony shall be reduced to writing. Any interested party may cross-examine any witness. Affidavits or depositions may be introduced in evidence if the affiants or deponents are present at the hearing and are available for cross-examination by interested parties, or if, in the case of depositions, interested parties have been given a reasonable opportunity to be present when the depositions were taken or to submit counter interrogatories to be answered by the deponents.

§ 15.11 *Limiting number of witnesses.* When the evidence seems clear and conclusive, the examiner of inheritance may, in his discretion, limit the number of witnesses to be formally examined upon any matter.

§ 15.12 *Wills, validity attested.* No action shall be taken on the will of a deceased Indian until testimony shall have been taken as to the testamentary capacity of the decedent to execute the will and as to the circumstances surrounding its execution. A reasonable effort shall be made to procure the testimony of the attesting witnesses to the will; or, if their testimony is not reasonably available, an effort shall be made to identify their signatures through other evidence.

§ 15.13 *Supplemental hearing.* When it appears that a supplemental hearing is necessary to secure material evidence, such a hearing may be conducted after notice has been given to those persons on whom notice of the original hearing was served and to such other persons as the testimony taken at the original hearing indicates may have a possible interest in the estate.

§ 15.14 *Record.* After the completion of the hearing or hearings, the examiner of inheritance shall make up the record on the estate. The record shall contain: (a) A copy of the public notice of hearing; (b) copies of notices served on interested parties; (c) proof of service of notices; (d) the evidence received at the hearing or hearings, which should include, among other things, copies of any pertinent marriage records and decrees of divorce, certificates of appraisement of restricted property, information as to whether the decedent lived on trust land and, if so, whether any portion of

the same could be termed a homestead, and, if a homestead right is involved and that right is limited in value by the law of the State governing descent, an additional certificate of appraisement showing separately the value of the land claimed as a homestead and the improvements thereon; and (e) the decision, if made by the examiner of inheritance.

§ 15.15 *Decision.* The Examiner of Inheritance shall, except as provided in § 15.21, decide the issues of fact and law involved in the proceeding and shall incorporate his findings and conclusions in a decision. Every decision determining the heirs of an Indian who died intestate shall cite the law of descent and distribution in accordance with which the decision was made. Every decision approving the will of an Indian shall state the devisees and legatees who take under the will and the particular property which each is to receive, and shall construe any ambiguous provision of the will. Every decision shall state those claims against the estate which are allowed and those claims which are disallowed. A copy of the decision shall be mailed to each person who is found by the Examiner to be entitled to share in the estate, to each person whose claim to share in the estate was considered and denied by the Examiner, and to the Superintendent.

§ 15.16 *Distribution of estate.* Distribution of an estate may be made by the superintendent after 60 days have elapsed from the date upon which notice of the decision is mailed to the interested parties unless, within that period, a petition for rehearing is filed pursuant to § 15.17 or unless otherwise directed by the Commissioner.

§ 15.17 *Rehearing.* (a) Any person aggrieved by the decision of the examiner of inheritance may, within 60 days after the date on which notice of the decision is mailed to the interested parties (or within such additional period as the Secretary, for good cause, may allow in any case), file with the superintendent a written petition for rehearing. Such a petition must be under oath and must state specifically and concisely the grounds upon which it is based. If the petition is based upon newly discovered evidence, it must state a justifiable reason for the failure to discover and present the evidence at the hearing, and the petition must be accompanied by the sworn statement of at least one disinterested person having knowledge of the facts. The superintendent, upon receiving a petition for rehearing, shall promptly forward it to the examiner of inheritance. Such a petition shall act as a supersedeas unless otherwise directed by the examiner.

(b) If the examiner believes that proper grounds are not shown, the rehearing will be denied by the examiner, who will issue his order setting forth the reasons for the denial of the petition. Copies of the order shall be furnished to the petitioner, the superintendent, and to those persons who share in the estate.

(c) If the petition appears to show merit, the examiner shall cause copies of the petition and supporting papers to be served on those persons whose interest in the estate might be adversely affected by the granting of the petition. The examiner shall allow all persons served with copies of the petition a reasonable specified time in which to submit answers or legal briefs in opposition to the petition. Thereafter, the case will be reconsidered by the examiner and appropriate action will be taken, which may consist of adhering to the former decision, or of modifying or vacating it, or of making such further or other order as the examiner deems warranted. Copies of the examiner's action shall be furnished to the petitioner, to all persons who received copies of the petition, and to the superintendent.

§ 15.18 *Reopening.* (a) Within a period of 3 years from the date of a decision by an examiner of inheritance under the regulations in this part, but not thereafter, any person claiming an interest in the estate who had no actual notice of the original proceedings and who was not on the reservation or otherwise in the vicinity at any time while the public notices of the hearing were posted may petition in writing for reopening of the case. Any such petition shall be addressed to the examiner of inheritance and shall be filed with or mailed to him at his headquarters. All grounds for the reopening must be set forth fully. If based on alleged errors of fact, all such allegations must be under oath and must be accompanied by affidavits or other supporting evidence.

(b) If he believes that proper grounds are not shown, the petition will be denied by the examiner, who will issue his order setting forth the reasons for the denial of the petition. Copies of the order shall be furnished to the petitioner, the superintendent, and to those persons who share in the estate.

(c) If the petition appears to show merit, the examiner shall cause copies of the petition and all papers filed by the petitioner to be served on those persons whose interest in the estate might be adversely affected by the granting of the petition. An opportunity to answer the petition or to file briefs shall be afforded to all persons who receive copies of the petition. The answers or briefs must be filed within such reasonable time as the examiner may specify. Thereafter, the case will be reconsidered and appropriate action will be taken, which may consist in adhering to the former decision, or in modifying or vacating it, or in making any further or other order which the examiner deems warranted. Copies of the examiner's action shall be furnished to the petitioner, to all persons who received copies of the petition, and to the superintendent.

§ 15.19 *Appeals.* (a) Any person aggrieved by the action taken by the examiner of inheritance on a petition for rehearing or on a petition for reopening may, within 60 days after the date on which notice of the examiner's action is mailed to the interested parties (or within such additional period as the Secretary, for good cause, may allow in any case), file with the superintendent a written notice of appeal to the Secretary. Such notice of appeal shall state specifically and concisely the reasons for the appeal. Copies of the notice of appeal shall be furnished by the appellant to the examiner of inheritance and to all parties who share in the estate under the decision of the examiner, and the notice of appeal shall contain a certificate stating that this has been done.

(b) The appeal and the record in the proceeding, including all papers relating to the petition for rehearing or reopening, shall be submitted to the Secretary through the Commissioner.

(c) The appellant and any other interested party may, within 60 days from the date on which a notice of appeal is filed, submit written arguments to the Secretary.

(d) No distribution of any estate shall be made during the pendency of an appeal.

(e) Copies of the decision of the Secretary on the appeal will be mailed to (1) the examiner, (2) the superintendent, (3) the Commissioner, (4) each person who shares in the estate under the decision of the Secretary, and (5) each person whose claim to share in the estate is considered and denied by the Secretary.

§ 15.20 *Presumption of death.* In accordance with the regulations in this part pertaining to other hearings, an Examiner of Inheritance may hear and determine the issue of whether an Indian, by reason of his unexplained absence, is to be presumed dead. If he concludes that the Indian is to be presumed dead, the Examiner shall proceed as in cases where the fact of death is established without such a presumption.

§ 15.21 *Escheat.* When the record in any estate indicates that an Indian has died intestate without heirs, the record shall be transmitted to the Secretary for decision.

§ 15.22 *Probate fees, by whom paid and amount.* (a) Upon a determination of the heirs to any trust or restricted Indian property of the value of $250 or more or to any allotment, or after approval of any will disposing of such trust or restricted property, the following fees shall be paid (1) by the heirs, or (2) by the beneficiaries under the will, or (3) from the estate of the decedent, or (4) from the proceeds of the sale of the allotment, or (5) from any trust funds belonging to the estate of the decedent:

On estates appraised at:

$250 and not exceeding $1,000	$20.00
Over $1,000 and less than $2,000	25.00
$2,000 and not exceeding $3,000	30.00
Over $3,000 and not exceeding $5,000	50.00
Over $5,000 and not exceeding $7,500	65.00
Over $7,500	75.00

(b) Similar fees shall be collected in all estates probated by the Department in compliance with tribal resolutions requesting that the Department provide probate service.

§ 15.23 *Creditors' claims, filing.* (a) Persons having claims against the estates of deceased Indians may file the same with the superintendent of the examiner of inheritance at any time after

the death of the decedent and up to and including the time of hearing.

(b) The claims of non-Indians must be filed in triplicate. They must be itemized in detail and sworn to before a notary public. Each such claim must be supported by an affidavit of the claimant or someone in his behalf that the amount is justly due from decedent, that no payments have been made on the account that are not credited thereon, and that there are no offsets to the knowledge of affiant.

(c) Indians may submit claims against the estate of a deceased Indian at the hearing and subject themselves to examination under oath relative thereto.

(d) Claims for care will not receive favorable consideration unless clear and convincing proof is offered showing that the care was given on a promise of compensation and that compensation was expected.

(e) No claims filed after the conclusion of the hearing shall be considered unless the claimant can present satisfactory proof that he had no actual notice of the hearing and that he was not on the reservation or otherwise in the vicinity during the period when the public notices of the hearing were posted.

(f) Any person who has filed a claim must, if so directed by the examiner of inheritance, present himself for examination thereon at the hearing or at a supplemental hearing.

§ 15.24 *Statute of limitations.* The claims of non-Indians that have existed for more than the period prescribed by the State laws applicable to limitation of actions shall not be allowed.

§ 15.25 *Priority of claims.* (a) Claims shall be allowed priority in payment in the following order: (1) Probate fee; (2) claims for expenses of last illness and funeral charges; (3) claims of indebtedness to the United States or any of its agencies; (4) claims of indebtedness to the tribe of which the decedent was a member or to any of its subsidiary organizations; (5) claims authorized in writing by the superintendent during the lifetime of the Indian; (6) claims of the State on account of social security or old-age assistance payments; and (7) claims of general creditors.

(b) No claims of general creditors shall be allowed if the value of the estate is $1,500 or less and the decedent is survived by a spouse or by one or more minor children. If the estate is valued in excess of $1,500, or if the estate is valued at $1,500 or less and the decedent is not survived by a spouse or by any minor children, the claims of general creditors may be allowed in the discretion of the examiner of inheritance. If the income of the estate is not sufficient to permit the payment of allowed claims of general creditors within 3 years from the date of allowance, the unpaid balance of such claims shall not be enforceable against the estate or any of its assets.

(c) The preference of the probate fee and of other claims may be deferred, in the discretion of the examiner, in making adjustments or compromises beneficial to the estate.

§ 15.26 *Claims for attorney fees.* Attorneys representing Indians under the regulations in this part shall be allowed compensations in reasonable amounts. In determining attorneys' fees, consideration shall be given to the fact that the property of the decedent is restricted or held in trust and that it is the duty of the Department to protect the rights of all interested parties. Such fees as may be allowed shall be charged against the interests of the attorneys' clients.

§ 15.27 *Witness and interpreter fees.* Witnesses are expected to testify and interpreters are expected to serve without compensation. When it is necessary to pay the expenses of a witness or an interpreter, they must be paid by the party calling him. The examiner of inheritance is authorized in any situation to call a witness or an interpreter upon his own initiative, and the examiner may, in his discretion, allow per diem at a rate of not to exceed $3 each for not more than two disinterested witnesses and two interpreters, and the superintendent is authorized to pay said sums from the estate immediately if funds are available. On the determination of the heirs or final action on the will, said sums shall be charged against the interest of the party in whose behalf said witnesses or interpreters were called, unless such party does not share in the estate, in which event the charge can be made against the estate.

§ 15.28 *Making, approval as to form, and revocation of wills.* (a) An Indian of the age of 21 years and of testamentary capacity, who has any right, title, or interest in trust or restricted property, may dispose of such property by a will executed in writing and attested by two disinterested adult witnesses.

(b) Where a will has been executed and filed with the superintendent during the lifetime of the testator, the will shall be forwarded by the superintendent to the examiner of inheritance, who shall pass on the form of the will and then return it to the superintendent with appropriate instructions. A will shall be held in absolute confidence, and its contents shall not be divulged prior to the death of the testator.

(c) The testator may, at any time during his lifetime, revoke his will by a subsequent will or other writing executed with the same formalities as are required in the case of the execution of a will, or by physically destroying the will with the intention of revoking it. No will that is subject to the regulations of this part shall be deemed to be revoked by operation of the law of any State.

§ 15.29 *Care of personal property pending administration.* (a) The superintendent is authorized to assume custody or control of all trust or restricted personal property of a deceased Indian, in addition to individual Indian money, and shall take such action with respect thereto as, in his judgment, may be necessary for the preservation of such property or for the most advantageous sale thereof, pending the probate of the estate; and all expense, including the expense of roundup, branding, care, and feeding of livestock shall be a proper charge against the estate and may be paid by the superintendent from the funds in the decedent's individual money account, or from the proceeds of sale of the property.

(b) If, upon the completion of the probate proceedings, the heirs as found are unable to agree upon a proper division of such personal property, it shall be sold and the proceeds distributed in accordance with the applicable law of descent or under the terms of an approved will. The superintendent shall prepare a complete inventory of such personal property, together with an appraisement thereof, and retain the same in decedent's file for the information of the examiner of inheritance.

(c) When personal property is bequeathed to an individual, such legatee may be given possession thereof upon the death of the testator if he signs an agreement to return such property or the appraised value thereof in the event the will is disapproved. The superintendent may, in his discretion, require a bond.

(d) The provisions of this section shall apply to the estate of any Indian holding a homestead allotment upon the public domain or an interest therein.

§ 15.30 *Summary distribution.* When an Indian dies intestate leaving only restricted personal property or cash of a value of less than $250, the examiner or superintendent shall assemble the apparent heirs and hold an informal hearing with a view to the proper distribution thereof. A memorandum covering the hearing shall be retained in the agency files showing the date of death of decedent, the date of hearing, the persons notified and attending, the amount on hand, and the disposition thereof. In the disposition of such funds, the examiner or superintendent shall have in mind the payment of funeral charges and expenses of last illness and any just claims for necessaries furnished decedent; and the balance, if any shall be credited to the heirs as found. This section shall not include the so-called pony claims.

§ 15.31 *Omitted property.* When, subsequent to the final decision in any estate, it is found that property belonging to the estate has not been included in the inventory of the estate, the decision relating to the estate shall be modified to include the omitted property. When the property to be included takes a different line of descent from that shown in the original decision, a supplemental hearing to determine the heirs thereto shall be had in accordance with the regulations in this part. Copies of such modifications shall be furnished to the superintendent and to all those persons who share in the estate.

§ 15.32 *Improperly included property.* When, subsequent to the final decision in any estate, it is found that property has been improperly included in the inventory of the estate, the decision shall be modified to eliminate from the estate the property improperly included therein. Copies of such modification shall be fur-

nished to the superintendent and to all those persons who share in the estate.

§ 15.33 *Excepted tribes.* The regulations in this part shall not apply to the Five Civilized Tribes or to the Osage Indians in Oklahoma; nor shall they apply to any tribe organized under section 16 of the act of June 18, 1934 (48 Stat. 987), to the extent that the constitution, bylaws, or charter of such tribe may be inconsistent with any of the regulations in this part.

§ 15.34 *Kaw funds.* (a) The regulations in this part, except to the extent stated in paragraphs (b), (c), and (d) of this section, shall apply to the determination of heirs or devisees of deceased Indians to whom funds of the Kaw Tribe of Indians are directed to be distributed by the act approved August 9, 1955 (69 Stat. 559).

(b) For the purpose of making determinations under this section, the examiner of inheritance may recognize or adopt final decrees of distribution entered by courts of competent jurisdiction.

(c) No claim, fee, or charge, other than debts due the United States, shall be recognized or allowed against any part of the Kaw funds to which an Indian beneficiary is entitled.

(d) Sections 15.18 and 15.33 shall have no application in the distribution of the Kaw funds.

PART 16—DETERMINATION OF HEIRS AND PROBATE OF THE ESTATES OF DECEASED INDIANS OF THE FIVE CIVILIZED TRIBES

Sec.

16.0 Definitions.
16.1 Inventory.
16.2 Notice of hearing.
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16.4 Personal service on interested parties.
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16.6 Full notice must be given.
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16.26 Affidavit to claims.
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16.28 Claims, when allowed.
16.29 Attorney fees.
16.30 Wills.
16.31 Rights of executors and administrators.
16.32 Probate fees.
16.33 Summary distribution.

AUTHORITY: §§ 16.0 to 16.33 issued under sec. 1, 56 Stat. 1080; 25 U. S. C. 375a. Statutory provisions interpreted or applied are cited to text in parentheses.

§ 16.0 *Definitions.* (a) "Secretary", means Secretary of the Interior.

(b) (1) "Commissioner", means Commissioner of Indian Affairs, Department of the Interior.

(2) The function of determining heirs and probating estates in conformity with the provisions of these regulations shall be performed by the Commissioner, with the right of appeal to the Secretary within 60 days from the date of notice of the Commissioner's decision.

(c) "Area director" means the officer in charge of an area office of the Bureau of Indian Affairs, or his duly authorized representative.

(d) The term "examiner" means any employee upon whom authority has been conferred by the Secretary or Commissioner to conduct hearings in accordance with these regulations.

(e) "Agency", shall refer to the Five Civilized Tribes Agency, Muskogee, Oklahoma.

(f) "Department" shall mean Department of the Interior.

§ 16.1 *Inventory.* (a) As soon as possible after the death of a restricted Indian, the area director shall cause to be prepared an inventory showing in detail the description and value of the restricted estate of such deceased Indian.

(b) When the inventory discloses that such restricted estate consists only of funds or securities under the control of the Department not to exceed an aggregate value of $2,500, the area director shall furnish a certified copy of said inventory to the examiner, together with information as to the date of death and place of residence of said decedent.

§ 16.2 *Notice of hearing.* As soon as possible after the receipt of the inventory provided for in § 16.1, the examiner shall post for 20 days in five or more conspicuous places in the vicinity of the place of hearing, notice of the time and place of the hearing when testimony will be taken to determine the heirs of the deceased Indian (naming him), and call on all persons interested to attend the hearing.

§ 16.3 *Examination of records.* Prior to the hearing the examiner shall carefully inspect the allotment records, census cards, annuity rolls and any other records on file at the agency and obtain all other information which may enable him to make a list of the apparent heirs of the deceased Indian, but only in contested cases or in cases involving material conflict between the records and the evidence shall it be necessary for the examiner to prepare and forward with his report exact copies of such records.

§ 16.4 *Personal service on interested parties.* A written notice of the proposed hearing giving full information as to the estate, names of alleged claimants, time and place of hearing shall be served either personally or by mail on each claimant or presumptive heir. Such notices must be sent at least 10 days prior to the date of the hearing.

§ 16.5 *Proof of service.* A copy of each notice to a claimant or presumptive heir endorsed by the person serving the same on the party to whom addressed that a copy of the within notice was delivered to him personally at the place named and on the day stated or an affidavit or copy of the notice endorsed by the claimant or presumptive heir that service was accepted on the day and at the place stated; or a certificate by the person mailing the notice that a copy of said notice was mailed to the interested party at his last known post office address, postage prepaid, or a registry receipt card, must be filed with the record of every case.

§ 16.6 *Full notice must be given.* Unless a full 20-day notice has been given, no hearing shall be held except by special permission of the Commissioner: *Provided, however,* That in cases involving no contest the parties in interest may appear before the examiner and waive their right to said 20-day notice, and the examiner, in that event, is authorized to proceed with the taking of testimony; the same to be withheld until the time of hearing, when it shall be read aloud to permit any interested persons present to offer any objections thereto. In case no objections are offered at the hearing the examiner will proceed to hear the case in the usual manner.

§ 16.7 *Minors represented at hearing.* Minors and persons non compos mentis in interest must be represented at the hearing by a guardian ad litem, appointed by the examiner.

§ 16.8 *Attorneys.* Parties interested in any probate case before an examiner may appear by attorney. Such attorney must meet the requirements of the Department for admission to practice.

§ 16.9 *Qualifications and procedure.* (a) Attorneys who appear before the examiner, the Commissioner or the Secretary, must submit a power of attorney from their respective clients, indicating specifically the powers delegated.

(b) In presenting their cases, attorneys appearing in probate matters will be required to adhere to the rules of evidence of the state in which the evidence is taken.

§ 16.10 *Objections must be noted.* Whenever objections shall be made by an attorney to a question or answer, the objections shall be noted on the record by the examiner.

§ 16.11 *Attorneys, arguments and briefs.* Attorneys may appear before the Commissioner or the Secretary and submit written arguments or briefs on behalf of their clients. Written arguments or briefs must be filed within 30 days following the conclusion of the hearing and copies must be served on opposing counsel or litigants. The latter will then be allowed not to exceed 30 days in which to file a reply brief. Upon proper showing an extension may be allowed.

§ 16.12 *Attendance of witnesses.* Present at the hearing must be at least two disinterested witnesses, who are acquainted with, and have direct knowledge of the family history of decedent. By personal investigation prior to the hearings the examiner should thoroughly acquaint himself with records and as far as practicable with the kind and value

of the testimony which should be taken so that only material witnesses shall be summoned.

§ 16.13 *Disinterested witnesses in minor's estate.* In case the decedent is a minor, unmarried and without issue and the heirs are members of the immediate family of the decedent, the examiner may, in his discretion, dispense with the presence of disinterested witnesses, provided the testimony of the interested witnesses is corroborated by the records of the Department and in such instance the examiner shall include in the record his certificate to such effect, together with specific reference to the records or cases furnishing such corroboration.

§ 16.14 *Hearing and testimony.* The examiner shall have full responsibility for the conduct of the hearing. The witnesses shall be examined on oath; their testimony shall be reduced to writing and signed at the end thereof. Any claimant may cross-examine a witness. If, in addition to oral testimony, affidavits or depositions are introduced, they must be read, and any opposing claimant may require the presence of the affiant, if practicable, either at that or a subsequent hearing, and opportunity shall be given for cross-examination or for having counter interrogatories answered. All statements, testimony and affidavits at the hearing must be made a part of the record.

§ 16.15 *Limit number of witnesses.* When the evidence is clear, in uncontested cases, the examiner may, in his discretion, limit the number of witnesses who are formally examined. When the case is established beyond doubt and to the satisfaction of the examiner, he may limit further testimony by securing a statement from additional witnesses present, that the testimony as given is fully understood by them and that the same is true.

§ 16.16 *Witnesses' fee.* Witnesses are expected to testify without compensation, but when necessary expenses must be paid by the party calling them. If the examiner is satisfied that material evidence from disinterested persons should be procured, any expense thereof will be paid by the area director from the funds of the party calling such witness. When interested parties are unable to obtain disinterested witnesses for lack of funds, the examiner may, in his discretion, allow the sum of $2.00 each to pay not to exceed two disinterested witnesses, and the area director is authorized to pay said sums from the instant estate, immediately, if funds are available. On determination of the heirs or final action on the will, said sums will be charged against the person or persons in whose behalf said witnesses were called, unless such persons do not participate in the estate, in which event the charge will be made against the instant estate.

§ 16.17 *Contents of record.* The record must contain: (a) copy of public notice of hearing and notice to creditor claimants; (b) copy of notice to heir or heirs; (c) proof of service of notice; (d) testimony taken at hearing; (e) affidavits and depositions produced at hearing; (f) certified copies of marriage records and decrees of divorce, if filed; (g) all papers and memoranda of the hearing; (h) names of all persons in interest at the hearing; (i) statements of reasons for absence of interested parties, if obtainable; (j) certified copy of inventory; (k) the record must also be accompanied by a proper order for the signature of the Commissioner; (l) a duplicate record of the case shall be made and kept in the agency files to which there shall be attached a copy of the approved order or finding of the Commissioner; (m) in all cases in which the heirs of a decedent are to be determined, the examiner shall include in his report, in the Summary of Report on Heirs, the citations to the sections of the laws under which the determination is made; (n) in reports on testacy cases, the original will executed by decedent, together with supporting affidavits and statements.

§ 16.18 *Supplemental hearings.* Supplemental hearings should be held on heirship cases returned by the Commissioner for further evidence on material questions of fact, upon such notice as will give parties in interest opportunity to appear; in no case shall such notice be less than 5 days. This shall also apply to supplemental hearings held by the examiner prior to the submission of the case to the Commissioner. This section does not apply to cases returned for clerical corrections or for additional data, which can be supplied from the records of the agency.

§ 16.19 *Rehearings.* (a) Any aggrieved person claiming an interest in the trust or restricted property of an Indian, who has received notice of the hearing or who was present at the hearing, may file a petition for rehearing within 60 days from the date of notice on him of the determination of heirs or action on a will. A petition so filed shall act as a supersedeas until otherwise directed by the Commissioner. Distribution of the estate may be made by the superintendent after 60 days have elapsed from the date of notice of the determination of heirs or action on the will unless a petition for rehearing is received within such period by the superintendent or unless otherwise directed by the Commissioner.

(b) Any such petition for rehearing must be under oath and must state concisely and specifically the grounds upon which it is based and must be accompanied by the sworn statements of at least two distinterested persons having knowledge of the facts. It should be addressed to the Commissioner and submitted through the area director.

(c) If proper grounds are not shown the rehearing will be denied by the Commissioner. If the petition for rehearing is found to have merit the petitioner may be required to serve a copy of his petition, together with all argument on the adverse party within 15 days. The adverse party will be allowed 30 days thereafter in which to file his answer.

(d) Thereafter the case will be again considered and appropriate action taken, which may consist either in adhering to the former decision or modifying or vacating same, or the making of any further or other order deemed warranted. Interested parties may, within 60 days after the date of notice of the Commissioner's decision under this section file an appeal from that decision with the Secretary.

§ 16.20 *Limitations on rehearing petitions.* No decision of the Commissioner will be reconsidered on the petition of any person who had notice of the hearing or who was present at such hearing and received notice of the Commissioner's decision, unless such petition is filed within the 60-day period mentioned in § 82.19.

§ 16.21 *Reopenings.* Petitions for reopening a determination of heirs or action on a will, will not be considered when 3 years or longer have elapsed since the decision of the Commissioner. Within that period, but not thereafter, any person claiming an interest in the estate who had no notice of the original proceeding may petition for reopening of the case. Any such petition must be in writing addressed to the Commissioner and submitted through the area director. All grounds for reopening must be set forth fully. If based on alleged errors of fact all such allegations must be under oath and must be accompanied by affidavits, or other supporting evidence. If proper grounds are not shown the petition may be denied by the Commissioner. If the petition appears to have merit the Commissioner shall cause service to be had on the adverse parties of all papers filed by the petitioner and an opportunity shall be afforded the adverse parties to answer the petition filed within 30 days after notice from the Commissioner. Thereafter, all papers filed shall be submitted to the Commissioner for action either denying or granting a reopening with the right of an appeal to the Secretary within 60 days after the date of notice of the Commissioner's decision.

§ 16.22 *Procedure.* After a reopening has been granted the matter will be referred by the Commissioner to the superintendent for further proceedings as in an original case.

§ 16.23 *Notice to creditors of estate.* The notice mentioned in § 16.4 shall also be directed "To all persons having claims or accounts against decedent" and when any such claims have been filed with the area director prior to the date of hearing by the examiner, and the claimant may be known, service of such notice of hearing shall be made upon such claimant by mail or otherwise in the discretion of the examiner.

§ 16.24 *Filing of claims.* Persons having claims against the estates of deceased Indians may file same with the superintendent at any time after the death of the decedent and up to the time of hearing by the examiner. Except for very cogent reasons no claim will be given consideration if filed after the date of such hearing.

§ 16.25 *Statute of limitations.* Claims against estates of deceased Indians that are barred by the State statute of limitations will not be allowed in any case.

§ 16.26 *Affidavit to claims.* All claims against the estates of deceased Indians must be filed in triplicate and must be itemized and all dates given. Such claims must be supported by affidavit of the claimant or someone in his behalf, that the amount is justly due from the decedent; that all payments credited thereon were in fact made; and that there are no offsets to the same to the knowledge of the affiant.

§ 16.27 *Appearance at hearings.* Any person who has filed a claim against the estate of a deceased Indian must present himself for examination thereon if so directed by the examiner either at the hearing or at a supplemental hearing for this purpose.

§ 16.28 *Claims, when allowed.* The following types of claims against the estates of deceased restricted Indians may be allowed: (a) those based on a debt contracted by the decedent and authorized during his lifetime by the area director; (b) those for last illness or funeral expenses in reasonable amounts, but in no event will funeral expenses be allowed in excess of $100.00 unless previously authorized by the area director; (c) those of exceptional merit which are not otherwise barred and which have been approved by the area director or other officer in charge.

§ 16.29 *Attorney fees.* Any attorney claiming a fee against an Indian or an Indian estate for services rendered as such in any probate proceedings shall be entitled to such compensation as his services are reasonably worth, the amount thereof to be fixed by the Commissioner.

§ 16.30 *Wills.* In the event of the death of a restricted Indian leaving a will disposing of his restricted estate consisting only of funds or securities under the control of the Department not exceeding an aggregate value of $2,500, a hearing shall be held after notice in accordance with applicable provisions of this part covering similar property of an Indian who died intestate. The examiner shall inquire fully into the mental competency of the Indian; the circumstances attending the execution of the will; the influences which induced its execution; and the names of those entitled to share in the estate under the applicable law of descent. When the distribution proposed by the will is contrary to the applicable laws of descent, and the estate is disposed of in whole or in part to a person or persons who would not otherwise inherit, the best available evidence should be obtained as to the reasons for such action. Should the will be approved by the Commissioner, an order will be issued to that effect to the superintendent and distribution of the estate shall be effected after the period prescribed in § 16.19 has elapsed, in accordance with the terms of the will and the Commissioner's order. Should the will be disapproved, the order of the Commissioner will so state and the heirs shall be determined and the estate distributed as in the case of other intestate property dealt with in this part. An appeal may be taken to the Secretary within 60 days from the date of notice of approval or disapproval of the will.

§ 16.31 *Rights of executors and administrators.* Executors or administrators shall not be recognized in any proceedings conducted under the regulations of this part.

§ 16.32 *Probate fees.* Prior to distribution of the estate to the individuals found entitled thereto, the area director will collect out of the funds or other property involved and pay into the Treasury of the United States a fee of $20.00 in those cases where the value of the estate is $250.00 or more but does not exceed $1,000.00; a fee of $25.00 where the value of the estate is more than $1,000.00 but less than $2,000.00; and a fee of $30.00 where the value of the estate is $2,000.00 or more.

§ 16.33 *Summary distribution.* (a) Where upon preparing an inventory under § 16.1 it is disclosed from the records of the area director that an Indian died seized of no lands or the lands have since been lawfuly alienated, and that the restricted estate of the decedent constitutes a sum of money, not exceeding $500, on deposit to the credit of the deceased Indian, such funds may be disbursed on the basis of the requirements stated in this section, and without regard to the other provisions of this part, except where made applicable specifically by the provisions of this section.

(b) Where the decedent's restricted estate consists of the sum of money as stated in paragraph (a) of this section, such funds may be disbursed on proof of death and heirship or bequest satisfactory to the Secretary of the Interior or his authorized representative.

(c) The transfer of funds disbursed under this section shall not be taxable. No claims shall be allowed against restricted estates governed by this section, except for debts owed to the United States.

(d) A copy of the order of distribution of funds shall be mailed to each party who was considered a possible claimant to any portion of the funds, as heir, legatee, or otherwise. Thirty days after the date of mailing of such copies, the order of distribution shall become final, unless within that period the officer by whom the order was signed shall have received a protest or request for reconsideration of the order. Upon receipt of a protest or request for reconsideration, the officer shall withhold distribution, issue an order either affirming or amending the previous order, and mail a copy of the affirming or amending order to each party who was considered a possible claimant. Thirty days after the date of mailing of such copies, the affirming or amending order shall become final, unless within that period the Area Director shall have received an appeal, addressed to the Secretary of the Interior. All protests, requests for reconsideration, and appeals shall state clearly and concisely the reasons upon which they are based. Distribution shall be made as soon as practicable after the order of distribution has become final.

(Sec. 1, 67 Stat. 558; 25 U. S. C. 375c)

PART 17—ACTIONS ON WILLS OF OSAGE INDIANS

Sec.

17.1 Definitions.
17.2 Attorneys.
17.3 Pleadings, notice and hearings.
17.4 Service on interested parties.
17.5 Minors represented at hearings.
17.6 Examination of witnesses.
17.7 Limiting number of witnesses.
17.8 Supplemental hearing.
17.9 Briefs.
17.10 Record.
17.11 Inspection of wills and approval as to form during testator's lifetime.
17.12 Approval.
17.13 Government employees as beneficiaries.
17.14 Appeals.

AUTHORITY: §§ 17.1 to 17.14 issued under R. S. 161; 5 U. S. C. 22.

§ 17.1 *Definitions.* When used in the regulations in this part the following words or terms shall have the meaning shown below:

(a) "Secretary" means the Secretary of the Interior.

(b) "Commisioner" means the Commissioner of Indian Affairs.

(c) "Superintendent" means the superintendent of the Osage Indian Agency.

(d) "Special attorney" means the special attorney for Osage Indians, or other legal officer designated by the Commissioner.

§ 17.2 *Attorneys.* Interested parties may apear in person or by attorneys at law. Attorneys must file written authority to appear for their clients in the proceedings.

§ 17.3 *Pleadings, notice and hearings.* (a) The petition for approval of the will of a deceased Osage Indian may be set down for hearing at a date not less than 30 days from the date the petition is filed. Hearings shall be conducted only after notice of the time and place of such hearings shall have been given by mail. The notice shall be mailed not less that 10 days preceding the date of the hearing and shall state that the special attorney will, at the time and place specified therein, take testimony to determine whether the will of the deceased Osage Indian shall be approved or disapproved. The notice shall list the presumptive heirs of the decedent and the beneficiaries under such will, and shall notify the attesting witnesses to be present and testify. It shall state that all persons interested in the estate of the decedent may be present at the hearing. The notice shall further state that the special attorney may, in his discretion, continue the hearing to another time or place to be announced at the original hearing.

(b) Any interested party desiring to contest approval of the will may, not less than 5 days before the date set for hearing, file written objections in triplicate, showing that a copy thereof was served upon attorneys for the proponent and other attorneys of record in the case. Such contestant shall clearly state the interest he takes under the will and, if a presumptive heir, the interest he would take under the Oklahoma law. The contestant shall further state specifically the ground on which his contest is based.

§ 17.4 *Service on interested parties.* A copy of the notice of hearing shall be served by mail, at his last known place of residence, on each presumptive heir; each beneficiary under the will offered for consideration; and each attesting withness thereto. Such notice must be mailed not less than 10 days preceding the date set for the hearing.

§ 17.5 *Minors represented at hearings.* Minor heirs at law, who by the terms of the will are devised a lesser interest in the estate than they would take by descent, or whose interests are challenged, shall, with approval of the special attorney, be represented at the hearing by guardians ad litem. Such minors 14 years of age or over may indicate in writing their choice of guardians ad litem. If no such choice has been indicated on the date of the hearing, the special attorney shall make the selection and appointment.

§ 17.6 *Examination of witness.* All testimony taken at the hearing shall be reduced to writing. Any interested party may cross-examine any witness. Attorneys and others will be required to adhere to the rules of evidence of the State of Oklahoma. If, in addition to oral testimony, affidavits or dispositions are introduced, they must be read, and any opposing claimant may require the presence of the affiant, if practicable, either at that or a subsequent hearing, and opportunity shall be given for cross-examination or for having counter interrogatories answered.

§ 17.7 *Limiting number of witnesses.* When the evidence seems clear and conclusive, the special attorney may, in his discretion, limit the number of witnesses to be examined formally upon any matter.

§ 17.8 *Supplemental hearing.* When it appears that a supplemental hearing is necessary to secure material evidence, such a hearing may be conducted after notice has been given to those persons on whom notice of the original hearing was served and to such other persons as the testimony taken at the original hearing indicates may have a possible interest in the estate.

§ 17.9 *Briefs.* When there are two or more parties with conflicting interests, the party upon whom the burden of proof may fall may be allowed a reasonable time, not to exceed 30 days following the conclusion of the hearing, in which to file a brief or other statement of his contentions, showing service on opposing counsel or litigant. The latter shall then be allowed not to exceed 20 days in which to file an answer brief or statement, and his opponent shall have 10 days thereafter to file a reply brief or statement. Upon proper showing the special attorney may grant extensions of time. Each brief or statement shall be filed in duplicate.

§ 17.10 *Record.* After the hearing or hearings on the will have been terminated the special attorney shall make up the record and transmit it with his recommendation to the superintendent. The record shall contain:

(a) Copy of notices mailed to the attesting witnesses and the interested parties.

(b) Proof of mailing of notices.

(c) The evidence received at the hearing or hearings.

(d) The original of the will or wills considered at the hearings.

(e) A copy of all the pleadings.

The record, except the original will, shall be a part of the permanent files of the Osage Agency.

§ 17.11 *Inspection of wills and approval as to form during testator's lifetime.* When a will has been executed and filed with the superintendent during the lifetime of the testator, the will shall be considered by the special attorney who may endorse on such will "approved as to form". A will shall be held in absolute confidence and its contents shall not be divulged prior to the death of the testator.

§ 17.12 *Approval.* After hearings have been concluded in conformity with this part the superintendent shall approve or disapprove the wills of deceased Osage Indians.

§ 17.13 *Government employees as beneficiaries.* In considering the will of a deceased Osage Indian the superintendent may disapprove any will which names as a beneficiary thereunder a government employee who is not related to the testator by blood, or otherwise the natural object of the testator's bounty.

§ 17.14 *Appeals.* Upon his final action of approval or disapproval of a will the superintendent shall immediately notify by mail all attorneys appearing in the case, together with interested parties who are not represented by attorneys. Any party desiring to appeal from the action of the superintendent, within 10 days of the date of the mailing of such notice, shall notify the superintendent in writing of his intention to appeal to the Commissioner and shall within 30 days from the mailing date of such notice by the superintendent, perfect his appeal to the Commissioner by service of the same upon the superintendent, who will promptly transmit the entire record to the Commissioner for his consideration and action. The action of the Commissioner on the appeal is subject to the right of further appeal to the Secretary. On final action by the Commissioner, or the Secretary, the will shall be returned to the superintendent for appropriate disposition. If no notice of appeal is given within 10 days, the superintendent's action will become final.

Subchapter D—Social Welfare

PART 21—ARRANGEMENT WITH STATES, TERRITORIES OR OTHER AGENCIES FOR RELIEF OF DISTRESS AND SOCIAL WELFARE OF INDIANS

Sec.

21.1 Commissioner to negotiate contracts.
21.2 Contracts; by whom executed.
21.3 State or other contracting agency furnish plan for operation.
21.4 Standards of service.
21.5 Personnel.
21.6 Financial statement.
21.7 Cooperative services.
21.8 Use of Government property and facilities.

AUTHORITY: §§ 21.1 to 21.8 issued under sec. 3, 48 Stat. 596, as amended; 25 U. S. C. 454.

§ 21.1 *Commissioner to negotiate contracts.* The Commissioner of Indian Affairs may negotiate with State, territory, county or other welfare agencies for such agencies to provide welfare services, as contemplated by the act of June 4, 1936 (49 Stat. 1458; 25 U. S. C. 452), for Indians residing within the particular State.

§ 21.2 *Contracts; by whom executed.* All contracts executed for the purposes of § 21.1 shall be signed on behalf of the § 252.1 shall be signed on behalf of the United States by the Commissioner of Indian Affairs. The proper officer of the State, territory, county or welfare agency shall execute the contract on its behalf. Evidence of the authority of such officer must accompany the contract. All contracts must be executed in quintuplicate. (They shall become effective only after approval by the Secretary of the Interior.)

§ 21.3 *State or other contracting agency furnish plan of operation.* A plan executed by the proper State or other agency entering into the contract shall accompany each instrument. This plan shall describe the services and assistance to be rendered under the terms of the contract. It shall include a budget showing the plan of expenditure of the funds to be turned over to the State or other agency. Upon the approval of the contract, no deviation from the plan shall be made unless approved in advance by the Commissioner of Indian Affairs.

§ 21.4 *Standards of service.* Standards of aid, care, and service rendered to the Indians under the contract shall not be less than those standards maintained by the State for other clients requiring similar aid, care and services.

§ 21.5 *Personnel.* The personnel employed for public welfare services to Indians under the contract shall be subject to the State merit system and to the approval of the Commissioner of Indian Affairs and the welfare authorities of the State, unless otherwise provided in the contract.

§ 21.6 *Financial statement.* Thirty days after the close of each fiscal year, the State or other agency to which funds have been furnished pursuant to the contract shall submit to the Commissioner of Indian Affairs a detailed financial statement showing all expenditures made pursuant to the contract. An explanation shall be contained of any deviation from the plan originally submitted by the agency. The records of the contractor shall be available for inspection by representatives of the Bureau of Indian Affairs.

§ 21.7 *Cooperative services.* The Bureau will maintain cooperative services through its superintendents and other personnel to further the purposes of the

contract. When mutually agreed to in the contract, the Bureau may maintain on its payroll one or more representatives whose duties shall be described in the contract and the salary and expenses of any such person or persons shall constitute part of the funds to be furnished to the State or other contracting agency.

§ 21.8 *Use of Government property and facilities.* The contract shall specify the terms upon which property, other facilities and equipment of the Government may be used by the State or other agency. All contracts which provide for the use of Government automobiles shall require that the particular State or other agency shall be responsible for the return of the equipment in as good condition as when received, excepting usual wear and tear and depreciation and such agency shall be responsible for all damage or injury done to property or persons and shall carry sufficient insurance to cover same and expressly relieve the Government of any and all liability for any such personal injury or property damages committed while such automobile is in the possession of the contracting agency.

PART 22—CARE OF INDIAN CHILDREN IN CONTRACT SCHOOLS

Sec.

22.1 Institution defined.
22.2 Application of institution.
22.3 Contracts dependent on need and desires of Indians.
22.4 Services to be rendered.
22.5 Supervisory services.
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22.8 Pupils must be blood members of tribe.
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22.18 No member of Congress, etc., to be a party.
22.19 Approval.

AUTHORITY: §§ 22.1 to 22.19 issued under R. S. 161; 5 U. S. C. 22.

§ 22.1 *Institution defined.* For convenient designation missions, associations, and other eleemosynary institutions contracting for the care of Indian children in accordance with the terms of this part will be referred to in this part simply as "the institution."

§ 22.2 *Application of institution.* All such institutions desiring to receive payment for care of Indian children under the provisions of this part shall make application in writing through their responsible heads to the Commissioner of Indian Affairs, specifying therein the number of children for whom payment is desired and the rate per pupil to be charged therefor. All such applications must be submitted to the Commissioner of Indian Affairs on or before May 1 of each year, for children to be received during the school year beginning the following September. Consideration of any later applications will depend only upon availability of funds and a sufficient number of Indian children not having been otherwise provided for.

§ 22.3 *Contracts dependent on need and desires of Indians.* Contracts will be considered only in behalf of children from localities where there are a sufficient number of Indian children requiring this kind of service, and the Commissioner of Indian Affairs reserves the right to investigate the need and take into consideration the desires of the Indian parents of such children as formally expressed by them.

§ 22.4 *Services to be rendered.* The institution shall provide, in a manner satisfactory to the Commissioner of Indian Affairs, lodging, subsistence, care, medicine, and all necessary facilities and appliances for healthful accommodation of the number of Indian children covered by any contract entered into pursuant to this part.

§ 22.5 *Supervisory services.* The Commissioner of Indian Affairs is authorized to extend to all departments of the institution those supervisory services which are given to regular Indian Service institutions.

§ 22.6 *Children entitled to benefits.* No child having less than one-fourth Indian blood, and no child who is under 6 or over 21 years of age shall be included under any contract without special permission from the Commissioner of Indian Affairs.

§ 22.7 *Health of applicant.* Before acceptance in the institution, applicants shall be certified by the Indian agency physician or other authorized physician to be in good health and sound physical condition.

CROSS REFERENCES: For Health regulations pertaining to Indians, see 42 CFR Part 36.

§ 22.8 *Pupils must be blood members of tribe.* Indian pupils for whose care payment is to be made from tribal funds shall be children of duly enrolled members of the tribe who are members of such tribe by blood and not by adoption.

§ 22.9 *Reports.* Reports concerning attendance in the institution shall be made as required on blank forms to be furnished by the Commissioner of Indian Affairs.

§ 22.10 *Eligibility of pupils.* The institution must agree to eliminate from its rolls as residents those children of Indian blood who live within a reasonable distance from any public or day school, except those children who are found to need special institutional care, and to limit its enrollment to such individual Indian children as are approved for enrollment by the agency superintendent or the superintendent of Indian education designated to approve enrollment or to handle payments under any contract entered into pursuant to this part. Indian children eliminated from Government boarding schools because of satisfactory home and school facilities nearby shall not be permitted to enroll in any school maintained by the institution or its responsible head, except at the personal expense of their parents or guardian, or at the expense of the institution.

§ 22.11 *Payments.* Payment will be made to the institution at the yearly rate agreed upon for each and every child in residence authorized to be enrolled under the provisions and restrictions of this part. Payments may be made at the end of each fiscal quarter, or monthly, as provided for by the terms of the individual contract, and shall be computed on the average attendance of children for such period. Payments to the institution for the fiscal year, or any fractional part thereof, shall not exceed a sum aggregating more than the total amount specified under the contract. Where quarterly payments are provided for, such payments shall be made at a rate equal to one-third of the annual per capita rate, and shall be paid at the end of each quarter. If monthly payments are provided for, such payments shall be made at the rate of one-ninth of the annual per capita rate. Children enrolled prior to the Christmas holidays, whether actually present or not during such holidays, shall be regarded as in attendance for the purpose of payment under such contracts.

§ 22.12 *Use of tribal funds.* Where payments are to be made in whole or in part from tribal funds, the contract will be approved subject to the condition that payment from such funds will be made only if and when such funds are available.

§ 22.13 *Vouchers.* Payments will be made at the end of each month or quarter, as specified in § 22.11, in accordance with the provisions of the contract, on vouchers in duplicate, the original of which must be certified to by the responsible head of the institution, evidencing that such institution has been maintained and managed in accordance with this part and the true intent and meaning of the contract.

§ 22.14 *Abrogation.* The Commissioner of Indian Affairs shall have the right to abrogate any contract made in accordance with this part in the manner following:

(a) After 15 days' notice, in writing, to the institution, where the institution has failed to comply with the agreements and stipulations of its contract and the requirements of this part; such 15 days' notice to be computed from and to include the day on which such notice is either served personally by a duly authorized employee of the United States on the institution or is left by such officer at the principal school building of such institution.

(b) After 60 days' notice, in writing, to the institution, for any reason deemed satisfactory to the Commissioner of Indian Affairs; such 60 days' notice to be computed from and to include the day on which such notice is either served personally on the institution or is left at the principal school building of such institution.

§ 22.15 *Inspection.* Such institution shall be subject to inspection at any time by the Commissioner of Indian Affairs or his duly authorized representative, and

the institution shall agree in any contract entered into pursuant hereto that it will dismiss from its service any employee or employees who may be found by the Commissioner of Indian Affairs not to be qualified for the respective positions which they occupy in the institution.

§ 22.16 *Modification.* By mutual consent of the parties thereto any contract made under this part may be changed, altered, modified, amended, or abrogated in whole or in part.

§ 22.17 *Transfer of contract.* The institution shall agree not to transfer any contract made pursuant to this part, or any interest therein; any violation of this provision will automatically terminate all obligations on the part of the Government thereunder.

§ 22.18 *No Member of Congress, etc., to be a party.* No Member of or Delegate to Congress, Resident Commissioner, officer, agent, or other employee of the Government shall be admitted to any share or part in any contract made under this part or derive any pecuniary benefit therefrom, but this restriction shall not be construed to extend to any such contract made with a corporation or company for its general benefit.

§ 22.19 *Approval.* All contracts made pursuant to this part amounting to $2,000 or over shall be subject to approval by the Secretary of the Interior.

Subchapter E—Education

Part 31—Federal Schools for Indians

Sec.
31.1 Enrollment in Federal boarding schools.
31.2 Use of Federal school facilities.
31.3 Non-Indian pupils in Indian schools.
31.4 Compulsory attendance.
31.5 Consent for transfer.
31.6 Coercion prohibited.

Authority: §§ 31.1 to 31.6 issued under sec. 1, 41 Stat. 410; 25 U. S. C. 282. Statutory provisions interpreted or applied are cited to text in parentheses.

§ 31.1 *Enrollment in Federal boarding schools.* Enrollment in boarding schools operated by the Bureau shall be confined to children of one-fourth or more degree of Indian blood who come from broken or unsuitable homes or whose parents reside in remote areas that are not served by other school facilities or in areas that have no adequate or suitable programs of public vocational education except as hereafter provided.

§ 31.2 *Use of Federal school facilities.* Federal Indian school facilities may be used for community activities and for adult education activities upon approval by the superintendent or officer in charge.

§ 31.3 *Non-Indian pupils in Indian schools.* Indian and non-Indian children who are not entitled to free enrollment in Federal Indian schools may be enrolled in Indian boarding and day schools upon payment of tuition. The tuition fee charged for such children in boarding schools shall not exceed the per capita cost of maintenance in the school attended. The tuition fee in day schools shall not exceed the tuition fees allowed or charged by the State or county in which such school is located for the children admitted in the public schools of such State or county.

(34 Stat. 1018, 35 Stat. 783; 25 U. S. C. 288, 289)

§ 31.4 *Compulsory attendance.* Compulsory school attendance of Indian children is provided for by law.

(60 Stat. 962; 25 U. S. C. 231)

Cross Reference: For penalties for the failure of Indians to send children to school and for contributing to the delinquency of minors, see §§ 11.65, 11.66 of this chapter.

§ 31.5 *Consent for transfer.* Consent of the parents or next of kin, given before the superintendent or other duly authorized person, must be obtained before an Indian child is sent to a school beyond the limits of the State or Territory in which the reservation is located.

(Sec. 1, 28 Stat. 906; 25 U. S. C. 286)

§ 31.6 *Coercion prohibited.* There shall be no coercion of children in the matter of transfers from one school to another, but voluntary enrollment should be effected through maintenance at Federal Indian schools of programs which suit the needs and interests of the areas in which they are located.

(Sec. 1, 29 Stat. 348; 25 U. S. C. 287)

Part 32—Administration of Educational Loans, Grants and Other Assistance for Higher Education

Sec.
32.1 Appropriations for loans and grants.
32.2 Working scholarships.
32.3 Applications.
32.4 Security.
32.5 Repayments.

Authority: §§ 32.1 to 32.5 issued under sec. 11, 48 Stat. 986; 25 U. S. C. 471.

§ 32.1 *Appropriations for loans and grants.* Funds appropriated by the Congress for education of Indians may be used for making educational loans and grants to aid students who have one-fourth or more degree of Indian blood and who are seeking higher education or special training. Funds appropriated for nonreimbursable grants may not be used to aid students attending sectarian schools (Act of March 2, 1917, 39 Stat. 988).

§ 32.2 *Working scholarships.* Working scholarships may be granted to Indians who wish to earn their board and room by part time work at Federal boarding schools that are located near a college, trade, or vocational school.

§ 32.3 *Applications.* Applications for educational loans, grants, and working scholarships shall be submitted through the superintendent or officer in charge of the agency at which the applicant is enrolled in the manner prescribed by the Commissioner.

§ 32.4 *Security.* If a borrower or cosigner has security to offer for an educational loan it must be given in an amount adequate to protect the loan.

§ 32.5 *Repayments.* Repayment schedules for educational loans may provide not to exceed two years for repayment for each year in school.

Part 33—Enrollment of Indians in Public Schools

Sec.
33.1 Definitions.
33.2 Public school enrollment.
33.3 State school laws.
33.4 Contracts with public schools.
33.5 General requirements for contracts.
33.6 Public school use of Federal school property.

Authority: §§ 33.1 to 33.6 issued under sec. 3, 48 Stat. 596, as amended; 25 U. S. C. 454. Statutory provisions interpreted or applied are cited to text in parentheses.

§ 33.1 *Definitions.* Whenever used in this part the terms defined in this section shall have the meaning herein stated:

(a) "State" means the State, Territory, or school district contracting for the education of Indian children.

(b) A "school district" is the local unit of school administration as defined by the laws of the State in which it is located.

§ 33.2 *Public school enrollment.* Enrollment of Indian children in public schools shall be encouraged where such schools are adequate and accessible.

§ 33.3 *State school laws.* All Indians as citizens of the State wherein they reside shall be amenable to the school laws of such State. Employees of any State may be permitted to enter upon Indian tribal lands, reservations, or allotments therein (a) to inspect educational conditions or (b) to enforce the penalties of state compulsory school attendance laws against Indian children, and parents, or other persons in loco parentis, except that the provisions of this section shall not apply to Indians of any tribe in which a duly constituted governing body exists until such body has adopted a resolution consenting to such application.

(60 Stat. 962; 25 U. S. C. 231)

§ 33.4 *Contracts with public schools.* (a) Contracts may be entered into under the provisions of the act of April 16, 1934 (48 Stat. 596), as amended by the act of June 4, 1936 (49 Stat. 1458, 25 U. S. C. 452–456), with the authorities of any State for the education of Indian children of one-fourth or more degree Indian blood, unless excepted by law, and to expend under such contracts monies appropriated by Congress for such purposes and to permit the use of existing Federal Indian school facilities and equipment by the local school authorities under such terms as may be agreed upon.

(b) The program will be administered to accommodate unmet financial needs of school districts related to the presence of large blocks of nontaxable Indian-owned property in the district and relatively large numbers of Indian children which create situations which local funds are inadequate to meet. This Federal assistance program shall be based on the need of the district for supplemental funds to maintain an adequate school after evidence of reasonable tax effort and receipt of all other aids to the dis-

trict without reflection on the status of Indian children.

§ 33.5 *General requirements for contracts*—(a) *State plan.* To become eligible to participate in contract funds a State shall formulate a plan for the distribution of contract funds to local school units, which shall be acceptable to the Commissioner of Indian Affairs or his authorized representative.

(b) *Budget estimates and reports.* Each State having a contract covering education in accordance with this part shall submit such budgets, estimates, and reports as may be required by the Commissioner of Indian Affairs or his authorized representative.

(c) *Equal educational opportunities.* Contracts shall specify that education for Indian children in public schools within the State shall be provided upon the same terms and under the same conditions that apply to all other citizens of the State.

(d) *Uniform application of State law.* States entering into a contract under the provisions of this part shall agree that schools receiving Indian children, including those coming from Indian reservations, shall receive all aid from the State, and other proper sources other than this contract, which other similar schools of the State are entitled to receive. In no instance shall there be discrimination by the State or subdivision thereof against Indians or in the support of schools receiving such Indians, and such schools shall receive State and other non-Indian Bureau funds or aid to which schools are entitled.

(e) *Educational standards.* The State shall provide in all schools that have Indian pupils adequate standards of educational service, such standards to be equal to those required by the State in respect to professional preparation of teachers, school equipment and supplies, text and library books, and construction and sanitation of buildings.

(f) *Federal cooperation and inspection.* Schools in which Indian children are enrolled shall be open to visits of observation and consultation by duly accredited representatives of the Federal Government.

(g) *Inspection of programs.* Each State having a contract covering education in accordance with this part shall make available to duly accredited employees of the Bureau of Indian Affairs such records and reports as may be necessary to enable them to conduct inspections of the school program related to the contracts.

§ 33.6 *Public school use of Federal school property.* The use of federally owned facilities for public school purposes may be authorized when not needed for Federal activities. Transfers of title to such facilities may be arranged under the provisions of the act of June 4, 1953 (67 Stat. 41).

(a) *Insurance covering nonexpendable property.* When nonexpendable Government property is turned over to public school authorities under a permit, the permittee shall insure such property against damage by fire, windstorm, and tornado in amounts and with companies satisfactory to the superintendent or officer in charge of the Indian agency charged with responsibility for the property. In case of damage or destruction of such property by fire, windstorm, or tornado, the insurance money collected shall be expended only for repair or replacement of such property; otherwise insurance proceeds shall be remitted to the Bureau.

(b) *Maintenance of buildings.* The State shall maintain the property in a reasonable state of repair.

PART 34—ADMINISTRATION OF A PROGRAM OF VOCATIONAL TRAINING FOR ADULT INDIANS

Sec.

34.1 Scope of the vocational training program.
34.2 Filing application.
34.3 Selection of applicants.
34.4 Satisfactory progress during training.
34.5 Approval of courses for vocational training at institutions.
34.6 Approval of apprenticeship training.
34.7 Approval of on-the-job training.
34.8 Financial assistance for trainees.
34.9 Contracts and agreements.
34.10 Waiver or exception.

AUTHORITY: §§ 34.1 to 34.10 issued under sec. 1, 70 Stat. 986; 25 U. S. C. 309.

§ 34.1 *Scope of the vocational training program.* The vocational training program provides for vocational counseling or guidance, institutional training in any vocational or trade school, as provided in § 34.5, apprenticeship and on-the-job training, for a period not exceeding 24 months.

§ 34.2 *Filing application.* Applications for adult vocational training services may be filed at agency or similar field offices of the Bureau of Indian Affairs on and after July 1, 1957.

§ 34.3 *Selection of applicants.* The vocational training program is available primarily to adult Indians who are not less than 18 and not more than 35 years of age and who reside on restricted or trust lands, or Federal lands under the jurisdiction of the Department of the Interior. An application for training services may be approved, within the limitation of available funds, when it is determined that the applicant is in need of such training in order to obtain reasonable and satisfactory employment, and that it is feasible for him to pursue such training. Reasonable and satisfactory employment is employment that provides:

(a) Sufficient income for the individual or family unit to live at an economic level considered as adequate in the community; and

(b) Opportunity for advancement on the basis of skill and experience acquired in the course of employment.

§ 34.4 *Satisfactory progress during training.* An applicant who enters training pursuant to the provisions of this part, is required to make satisfactory progress in his course of training and to conform to a reasonable standard of conduct. Failure to meet these requirements due to reasons within his control may result in termination of training or loss of further training benefits.

§ 34.5 *Approval of courses for vocational training at institutions.* A course of vocational training at any institution, public or private, offering vocational training, except sectarian schools restricted by the act of March 2, 1917 (25 U. S. C. 278), may be approved provided:

(a) The institution is accredited by a recognized national or regional accrediting association; or,

(b) The institution is approved for training by a State agency authorized to make such approvals; and,

(c) It is determined that there is reasonable certainty of employment for graduates of the institution in their respective fields of training.

§ 34.6 *Approval of apprenticeship training.* A program of apprenticeship training may be approved when such training:

(a) Is offered by a corporation or association which has furnished such training to bona fide apprentices for at least one year preceding participation in this program; and

(b) Is under the supervision of a State apprenticeship agency, a State Apprenticeship Council, or the Federal Apprenticeship Training Service; and

(c) Leads to an occupation which requires the use of skills that normally are learned through training on the job and employment in which occupation is based upon training on the job rather than upon such elements as length of service, normal turnover, personality, and other personal characteristics; and

(d) Is identified expressly as apprenticeship training by the establishment offering it.

§ 34.7 *Approval of on-the-job training.* On-the-job training may be approved when such training is offered by a corporation or association which has an existing on-the-job training program which is recognized by industry and labor as leading to skilled employment.

§ 34.8 *Financial assistance for trainees.* Individuals or family units where the head of the family is entering training under this part may be granted financial assistance to provide for transportation to the place of training and subsistence during the course of training. For purposes of this part, subsistence may be construed to provide for all or any part of the following items: medical examinations; subsistence en route; subsistence during the course of training; personal appearance; housewares; health care; payment for required books; supplies and tools for training; and payment of tuition and related cost and other required expenses, in accordance with the schedule and amounts as established by the Secretary or his authorized representative.

§ 34.9 *Contracts and agreements.* Training facilities and services required for the program of vocational training may be arranged through contracts or agreements with agencies, establishments, or organizations. These may include:

(a) Appropriate Federal, State or local government agencies, or

(b) Private schools other than sectarian, which have a recognized reputation

in vocational education as successfully obtaining employment for its graduates in the fields of training approved by the Secretary or his authorized representative, for purposes of the program, or

(c) Corporations and associations with apprenticeship or on-the-job training programs recognized by industry and labor as leading to skilled employment.

§ 34.10 *Waiver or exception.* The rules set forth in this part are prescribed as required by section 1, of the act of August 3, 1956, 70 Stat. 986. Waiver of or exception to these rules may be made where such waiver or exception is not inconsistent with any terms of said statute, upon a finding by the Secretary of the Interior that such waiver or exception is justified by circumstances not contemplated by these rules and such action is desirable to carry out the purpose of the statute.

Subchapters F–H—Tribal Government and Enterprises

Subchapter F—Enrollment

PART 41—MEMBERSHIP AND ENROLLMENT OF INDIANS [RESERVED]

PART 42—ENROLLMENT APPEALS

Sec.
42.1 Purpose and scope of regulations.
42.2 Who may appeal.
42.3 Filing of appeal.
42.4 Supporting evidence.
42.5 Tribal action.
42.6 Secretary's representative.
42.7 Superintendent's or Area Director's action.
42.8 Disposition of appeals.

AUTHORITY: §§ 42.1 to 42.8 issued under secs. 23, 18, 27, 19, 68 Stat. 723, 728, 878, 1104; 25 U. S. C. 564v, 708, 677z, 759. Interpret or apply secs. 3, 3, 8, 3, 68 Stat. 718, 724, 869, as amended, 1100; 25 U. S. C. 564b, 693, 677g, 743.

§ 42.1 *Purpose and scope of regulations.* The regulations in this part shall govern the filing and disposition of appeals by applicants or others contesting the inclusion or omission of any name on or from the tribal membership rolls prepared pursuant to any of the following acts:

August 13, 1954 (68 Stat. 718),
August 13, 1954 (68 Stat. 724),
August 27, 1954 (68 Stat. 868),
September 1, 1954 (68 Stat. 1099),
August 1, 1956 (70 Stat. 893),
August 2, 1956 (70 Stat. 937),
August 3, 1956 (70 Stat. 963).

§ 42.2 *Who may appeal.* An appeal in protest against the inclusion or omission of the name of any person on or from the roll of members of the tribe as published in the FEDERAL REGISTER pursuant to the acts of Congress cited in this part may be filed by any member of the tribe, by either parent of any child involved, by the guardian, custodian or next of kin of any such person, by the person whose enrollment or non-enrollment is in question, or by the representative of the Secretary of the Interior designated to act in such matters. The burden of proof of establishing the appeal is on the appellant.

§ 42.3 *Filing of appeal.* The appeal shall be in writing, addressed to the Secretary of the Interior, setting forth the specific grounds for such appeal, and shall be filed with the Superintendent having administrative jurisdiction of the tribe involved, or in the absence of such official, with the Area Director, within the time specified in the act of Congress authorizing the preparation of the membership roll.

§ 42.4 *Supporting evidence.* The appeal shall be accompanied and supported by a reference to, or a copy of, any official or tribal documents or records having a direct bearing on the question raised. In the absence of any such documents, there shall be furnished the written statements of two or more persons having personal knowledge of the facts at issue.[1]

§ 42.5 *Tribal action.* The Superintendent or Area Director shall notify the authorized or customary representatives of the tribe of the receipt of the appeal, advising them of the tribe's privilege to examine the appeal and all supporting documents, and affording the tribe an opportunity to present such evidence and make such showing as it may deem proper in support of the action being appealed from. The tribe shall have not to exceed 30 days in which to present in writing such statements as may be deemed pertinent, supported by any tribal records, minutes, and other documents, which bear on the case. It shall also furnish a transcript of any hearings held by it or any subordinate committee, a copy of any affidavits or documents considered, and the minutes of any meeting of the enrollment committee, governing body, or the general council which acted upon the inclusion or omission of the name of such person. There shall be furnished a copy of the provisions of the applicable tribal constitution or membership ordinance and a copy of the recommendations of the enrollment or other committee having had authority to act. If the grounds for appeal involve the question of applicant's right to or eligibility for enrollment under tribal custom, the tribe shall furnish a statement setting forth fully such custom together with evidence of its existence and applicability at the time action was taken in said case.

§ 42.6 *Secretary's representative.* It shall be the duty and responsibility of the designated representative of the Secretary of the Interior, when in the judgment of said representative such action is warranted, to file an appeal from the inclusion or omission of the name of any person on or from such roll. Said representative shall file with his appeal supporting evidence similar to that set forth in § 42.4.

§ 42.7 *Superintendent's or Area Director's action.* The Superintendent shall forward the appeal together with all accompanying papers, and a copy of any pertinent official records of which he has knowledge and which are not a part of the record, to the Secretary through the Area Director and the Commissioner of Indian Affairs.

§ 42.8 *Disposition of appeals.* The Secretary of the Interior or his authorized representative will consider the record as presented, and if deemed necessary, call upon the appellant to furnish such additional information or evidence required to arrive at a decision. The action appealed from shall be presumed to be regular. The Secretary's determination, after consideration of all the evidence, shall be final and conclusive. Through the Commissioner of Indian Affairs the appellant shall be notified of the decision. Based on the nature of the protest and decision, the name of the individual in question shall be added to, retained on, stricken from, or omitted from the roll.

PART 43—ENROLLMENT OF INDIANS OF THE CABAZON, AUGUSTINE, AND TORRES-MARTINEZ BANDS OF MISSION INDIANS IN CALIFORNIA

Sec.
43.1 Purpose.
43.2 Definitions.
43.3 Preparation of rolls.
43.4 Application for enrollment.
43.5 Persons to be enrolled.
43.6 Enrollment Committee election.
43.7 Review of applications by Enrollment Committee.
43.8 Determination of eligibility and enrollment by Director
43.9 Appeal.
43.10 Approved rolls.
43.11 Certificate.
43.12 Special instructions.

AUTHORITY: §§ 43.1 to 43.12 issued under sec. 10, 54 Stat. 64. Interpret or apply sec. 5, 64 Stat. 471.

§ 43.1 *Purpose.* The regulations in this part govern the enrollment of persons in the Cabazon, Augustine, and Torres-Martinez Bands of Mission Indians, as of June 30, 1949, in accordance with the provisions of section 5 of the act of August 25, 1950 (64 Stat. 470, Pub. Law 728, 81st Cong.).

§ 43.2 *Definitions.* As used in this part:

(a) "Secretary" means the Secretary of the Interior.

(b) "Commissioner" means the Commissioner of Indian Affairs.

(c) "Director" means the Area Director, Sacramento Area Office.

(d) "Bands" means the Cabazon, Augustine, and Torres-Martinez Bands of Mission Indians.

(e) "Enrollment Committee" means a committee of three members of each of the respective Bands to assist in enrollment.

§ 43.3 *Preparation of rolls.* The Director is hereby authorized and directed to prepare and to submit for approval by the Secretary or his duly authorized representative separate rolls of the members of the respective Bands.

§ 43.4 *Application for enrollment.* A person who believes that he or she, or a minor or mental incompetent, is entitled to enrollment with one of the

[1] Criminal penalties are provided by statute for knowingly filing false information in such statements. 18 U. S. C. 1001.

Bands may, within ninety (90) days from the date of the publication of this part in the FEDERAL REGISTER, file with the Director a written application for enrollment in such band. Application forms may be obtained from the Director or a member of an enrollment committee, and the form of the application shall be prescribed by the Director. The execution of each application shall be witnessed by two disinterested persons who are not members of the household of the applicant. An application on behalf of a minor or mental incompetent shall be executed by a parent, natural guardian, or other person responsible for his care. Each application shall contain the following information:

(a) The name and address of the applicant, and if the applicant is a minor or mental incompetent, the name, address, representative capacity, and blood relationship, if any, of the person executing the application on behalf of the minor or the mental incompetent.

(b) The date and place of birth of the applicant.

(c) The degree of Indian blood of the applicant and the name of the Indian band or tribe, if any, with which the applicant is enrolled or affiliated.

(d) Allotment number, date of trust patent, and name of the reservation where the applicant is allotted.

(e) If the applicant is unallotted, the names of all relatives who may have received allotments, their blood relationship to the applicant, and the name of the reservation where such relative may be allotted.

(f) The name and degree of Indian blood of each parent of the applicant; the name of the tribe or band with which each parent of the applicant is enrolled or affiliated; and the names and addresses of any brothers and sisters of the applicant who may have filed applications for enrollment.

(g) If the applicant has previously been enrolled on an approved roll of Indians of California or an earlier roll of the respective Bands, the number thereon of the applicant.

(h) If an applicant has been adopted into one of the Bands, the name of the band and the date and evidence of such adoption.

§ 43.5 *Persons to be enrolled.* The names of persons in any of the following categories shall be placed on the respective membership rolls of the Bands:

(a) Indians of the Bands, living on June 30, 1949, who have received allotments on the reservation of one of the Bands.

(b) Children, living on June 30, 1949, who were born of such allottees.

(c) Descendants, living on June 30, 1949, of allottees.

(d) Indians, not included in the categories set out in paragraphs (a), (b), and (c) of this section, who have one-fourth or more degree of Indian blood and can establish that they have been affiliated with one of the Bands for a period of one year or more preceding June 30, 1949. If during the said period an Indian maintained a residence on the reservation; was a reasonably active participant in the tribal affairs of one of the Bands in which he or she applies for enrollment, and was recognized as a member of one of the Bands, such person shall be deemed to be entitled to enrollment.

(e) Children, living on June 30, 1949, who were born of an Indian parent, living on June 30, 1949, if such parent would otherwise be eligible for enrollment under paragraph (d) of this section.

(f) If an Indian, who applies for enrollment under the provisions of paragraph (d) or (e) of this section, has received in his or her own right an allotment with some other band or tribe and has not relinquished such allotment prior to June 30, 1949, such person shall not be enrolled. Ownership of an allotment or an interest in an allotment acquired through inheritance shall not, however, be a bar to enrollment in accordance with this part.

§ 43.6 *Enrollment Committee election.* A person whose name now appears on a roll of one of the bands which is maintained by the Director, or, if not so maintained, on a roll which is maintained by the respective Band, shall be entitled to vote, at a time and place and in a manner to be designated by the Director, to elect three persons whose names apear on such roll as members of the Enrollment Committee. The three persons receiving the highest number of votes shall constitute the Enrollment Committee of such band.

§ 43.7 *Review of applications by Enrollment Committee.* The Director shall refer duly filed applications for enrollment to the Enrollment Committee of the band in which the applicant seeks enrollment. The Enrollment Committee shall review each such application, and may require an applicant to furnish additional information in writing or in person to assist the Enrollment Committee to make a recommendation. The Enrollment Committee shall file with the Director a separate written report and recommendation with respect to each application thirty (30) days from the date of referral to it of an application. If the recommendation of the Enrollment Committee with respect to an application is not unanimous, the members of the Enrollment Committee shall file majority and minority reports thereon.

§ 43.8 *Determination of eligibility and enrollment by Director.* The Director shall review the reports and recommendations of the respective Enrollment Committees, and shall determine the applicants who are eligible for enrollment in accordance with the provisions of § 43.5. The Director shall transmit for review to the Commissioner and for final determination by the Secretary, the reports and recommendations of the Enrollment Committee relating to applicants who may have been determined by the Director to be eligible for enrollment, against the report and recommendation of any member of the Enrollment Committee, with a statement of the reasons for his determination.

§ 43.9 *Appeal.* If the Director determines that an applicant is not eligible for enrollment in accordance with the provisions of § 43.5, he shall notify the applicant in writing of his determination and the reasons therefor. Such applicant shall then have thirty (30) days from the date of the mailing of the notice to him to file with the Director an appeal, together with such data as the applicant may present in support of his application. The Director shall forward the appeal, any such supporting data, and his recommendation thereon, and the report and recommendation of the Enrollment Committee, to the Commissioner. After review, if the Commissioner determines that an applicant is not eligible for enrollment in accordance with the provisions of § 43.5, he shall cause the applicant to be notified in writing of his determination and the reasons therefor. The applicant shall then have thirty (30) days from the date of the mailing of the notice to him to take an appeal to the Secretary. The decision of the Secretary thereon shall be final.

§ 43.10 *Approved rolls.* Thereafter the Director shall prepare, in quadruplicate, a separate roll of members, alphabetically arranged, of each of the Bands and submit such rolls to the Secretary or his duly authorized representative for approval. When approved, three copies of each approved roll shall be returned to the Director, who shall make one copy available to the governing body of each of the Bands.

§ 43.11 *Certificate.* The Director shall affix a certificate to each approved roll, certifying that the roll, to the best of his knowledge and belief, contains only the names of Indians entitled to enrollment with the respective Bands, in accordance with the provisions of the act of August 25, 1950 (64 Stat. 470, Pub. Law 728, 81st Cong.).

§ 43.12 *Special instructions.* To facilitate the work of the Director, the Commissioner may issue special instructions to him not inconsistent with the regulations in this part.

PART 44—PREPARATION OF ROLLS FOR THE DISTRIBUTION OF THE FUNDS AWARDED CERTAIN INDIAN TRIBES OR BANDS OF OREGON

Sec.
44.1 Definitions.
44.2 Purpose.
44.3 Applications.
44.4 Burden of proof.
44.5 Dual enrollment.
44.6 Dual eligibility.
44.7 Establishment of committees.
44.8 Action by the Director.
44.9 Appeals.
44.10 Action by the Secretary.
44.11 Preparation and approval of rolls.
44.12 Director's certificate.
44.13 Special instructions.

AUTHORITY: §§ 44.1 to 44.13 issued under sec. 5, 68 Stat. 980; 25 U. S. C. 775.

§ 44.1 *Definitions.* As used in this part.

(a) "Secretary" means "Secretary of the Interior."

(b) "Commissioner" means "Commissioner of Indian Affairs."

(c) "Director" means "Area Director, Portland Area Office."

(d) "Enrolling Agent" means the "Area Director, Portland Area Office" or

such other person or persons as may be designated by him to assist in the enrollment work.

(e) "Tribes" means "Molel or Molallalas Tribe of Oregon and the Confederated Bands of the Umpqua Tribe of Indians, and the Calappoias residing in the Umpqua Valley, and the Tillamook, Coquille, Tootootoney and Chetco Tribes of Oregon." (Sec. I, act of August 30, 1954 (P. L. 715).)

§ 44.2 *Purpose.* The regulations in this part are to govern the compilation of rolls of Indians of the Tribes living on August 30, 1954, and who are entitled to share in the distribution of the judgment funds.

§ 44.3 *Applications.* Each person who believes that he or she is of the blood of the Tribes may, within one year from August 30, 1954, submit to the Director an application in writing for enrollment. Application forms may be obtained from the Director or Tribal Committees and when executed shall be filed with the Director. Applications for minors or persons mentally incompetent may be filed by parents, natural guardians, next friend, or other persons responsible for their care or having custody over them. Applications for persons in the armed or civilian service of this country, stationed outside the State of Oregon, and for those who have died since August 30, 1954, may be filed by the spouse, parents, next of kin, executor or administrator of the estate. Evidence must be furnished that applicant was living on August 30, 1954. Each application shall contain, among other information:

(a) The name and address of applicant, and if application is filed on behalf of a minor, a person mentally incompetent, a person in the armed or civilian services of this country and stationed outside of the State of Oregon, or a person who has died since August 30, 1954, the name and address of the person filing the application for such person, and a statement of his or her relationship to the applicant.

(b) The names of all ancestors through whom the right to enrollment is claimed.

(c) Identification of the annuity, allotment, census or payment roll on which the name of the ancestors through whom the right to enrollment appears and his or her roll number. If the names of such ancestors do not appear on any of such rolls, or if there are no such rolls, the applicant shall establish by other appropriate means the fact that such ancestor or ancestors are or were of the blood of the Tribes. The applicant may furnish a certified copy of any record, roll, or other document which tends to establish that such ancestor or ancestors are of the blood of the Tribes.

(d) The relationship of the applicant to such ancestor or ancestors, and by what means this has been established.

(e) Present address of ancestors if living.

§ 44.4 *Burden of proof.* The burden of proof rests upon the applicant to establish that the applicant is of the blood of the Tribes as listed in his application.

§ 44.5 *Dual enrollment.* "No person shall be entitled to be enrolled on more than one roll." (Sec. I, act of August 30, 1954 (P. L. 715).)

§ 44.6 *Dual eligibility.* If applicant considers that he is of the blood of more than one of the tribes, he shall file a separate application for each such tribe. Each application shall be marked by applicant as to the order of priority in which to be considered for enrollment; that is, "First Choice," "Second Choice," etc. Each application shall be complete in itself and accompanied by supporting evidence, documents, and other material as may tend to establish eligibility.

§ 44.7 *Establishment of committees.* The Indians of each Tribe may select a committee of three persons, recognized as of the blood of the Tribe, to aid the Enrolling Agent in determining eligibility of the applicant for enrollment. Such committee shall act only in an advisory capacity. Each tribe electing such a committee shall notify the Director of such action together with the names of the members of the committee.

§ 44.8 *Action by the Director.* (a) The Director shall consider each application (except as indicated otherwise in paragraphs (b) and (c) of this section), and upon determination of the eligibility of the applicant, notify such person in writing of his decision. If such determination is favorable, the name of the applicant shall be entered upon the appropriate roll. If the determination is adverse, notice of such decision shall be sent to applicant by registered mail, return receipt requested, together with the reasons therefor, and of the applicant's right of appeal to the Secretary.

(b) If applicant has filed for enrollment in two tribes, and it is determined that he is not eligible in the tribe of his "First Choice", the Area Director shall then proceed to consider his eligibility in the tribe of his "Second Choice". If the Area Director determines the applicant is eligible in the tribe of his "Second Choice", applicant shall be so notified and at the same time of the rejection of his application in the tribe of his "First Choice" together with the reasons therefor. Such notice shall be sent by registered mail, return receipt requested, and inform applicant of his right of appeal to the Secretary. If applicant fails to appeal within the time prescribed in § 44.9, the Area Director shall thereupon enter the name of the applicant upon the roll of the tribe of his "Second Choice."

(c) If applicant has filed for enrollment in three or more tribes each application shall be considered by the Area Director in the order or priority as indicated by applicant and in the same manner as indicated in paragraph (b) of this section. At such point in the priority choices that an applicant has been declared eligible for enrollment, no application of lower priority shall be considered and the applicant so notified. Non-action on such applications shall not be subject to appeal.

(d) When two or more applications have been filed by any applicant, and it has been determined by the Area Director that eligibility has not been established in any of them, the Area Director shall notify applicant in writing, return receipt requested, in each case together with the reasons for such adverse decision, and of his right of appeal to the Secretary in any and all cases. Each appeal shall be filed separately and complete in itself, and will be considered in the order of priority which governed the consideration of the applications filed.

§ 44.9 *Appeals.* Any appeal must be filed in writing with the Director within thirty (30) days from the receipt of the notice of rejection. The applicant may submit with his appeal any supporting data, not previously furnished. When upon review of the evidence submitted by appellant, the Director is satisfied that applicant has established his right to enrollment, appellant shall be so notified, and his name entered upon the proper roll. In any case where the Director determines applicant ineligible, the Director shall forward the appeal together with the complete record and his recommendation thereon to the Commissioner for transmittal to the Secretary.

§ 44.10 *Action by the Secretary.* The decision of the Secretary on an appeal shall be final and the applicant shall be given written notice of the decision. The Director is authorized to enter on the proper roll the name of any such person whose appeal has been granted when so directed by the Secretary.

§ 44.11 *Preparation and approval of rolls.* Upon completion of action on all applications filed within one year from August 30, 1954, and upon notice from the Secretary that all appeals have been determined, the Director shall prepare a separate roll for each of the Tribes to whom a judgment has been awarded consisting of the names of those persons determined to be of the blood of such Tribes. Each roll shall contain for each person the application number, the roll number, name, sex, address, and in the remarks column the name of the ancestor and the tribe through whom enrollee has established his right to eligibility. If such ancestor's name appears on some official document or roll, such document or roll should be cited; otherwise there should be shown the basis on which eligibility was determined. Each roll shall be submitted to the Secretary for his approval or that of his designated representative.

§ 44.12 *Director's certificate.* The Director shall affix his certificate to each roll certifying that said roll to the best of his knowledge and belief contains only the names of those persons of the blood of said Tribes.

§ 44.13 *Special instructions.* To facilitate the work of the Director, the Commissioner may issue special instructions not inconsistent with the regulations in this part.

Subchapter G—Tribal Government

PART 51—INDIAN ORGANIZATIONS EXCLUSIVE OF THE INDIAN REORGANIZATION ACT [RESERVED]

PART 52—TRIBES ORGANIZED UNDER SEC. 16 OF THE INDIAN REORGANIZATION ACT [RESERVED]

PART 53—ALASKAN NATIVE GROUPS ORGANIZED UNDER SEC. 16 OF THE INDIAN REORGANIZATION ACT, AND THE ALASKAN ACT, AS AMENDED [RESERVED]

PART 54—TRIBES ORGANIZED UNDER THE OKLAHOMA INDIAN WELFARE ACT [RESERVED]

PART 71—RECOGNITION OF ATTORNEYS AND AGENTS TO REPRESENT CLAIMANTS

Sec.
71.1 Employment of attorneys.
71.2 Employment of tribes or individual claimants.

AUTHORITY: §§ 71.1 and 71.2 issued under R. S. 161; 5 U. S. C. 22.

CROSS REFERENCES: For law and order regulations on Indian reservations, see Part 11 of this chapter. For probate procedure, see Part 15 of this chapter. For regulations governing the admission of attorneys to practice before the Department of the Interior and the offices and bureaus thereof, see 43 CFR Part 1. For regulations governing the execution of attorney contracts with Indians, see Part 72 of this subchapter.

§ 71.1 *Employment of attorneys.* (a) Indian tribes organized pursuant to the Indian Reorganization Act of June 18, 1934, as amended (48 Stat. 984; 25 U. S. C. 461–479), may employ legal counsel. The choice of counsel and the fixing of fees shall be subject to the approval of the Commissioner of Indian Affairs or such other official of the Bureau as may be properly authorized to act for and in his stead as the duly authorized representative of the Secretary of the Interior.

(b) Attorneys or agents may be employed by Indian tribes not organized under the act of June 18, 1934, under contracts subject to approval of the Commissioner of Indian Affairs and the Secretary of the Interior as required by section 2103 of the Revised Statutes of the United States (25 U. S. C. 81). Practice of such attorneys before the Indian Bureau and the Department is subject to the requirements of 43 CFR 1.1–1.7.

§ 71.2 *Employment by tribes or individual claimants.* All such attorneys or agents seeking approval of their employment by Indian tribes or desiring to represent individual claimants before the Indian Bureau shall be required to comply fully with the regulations of the Department promulgated September 27, 1917, governing admission to practice, and to take the oath of allegiance and to support the Constitution of the United States, as required by section 3478 of the United States Revised Statutes (31 U. S. C. 204).

PART 72—ATTORNEY CONTRACTS WITH INDIAN TRIBES

TRIBES ORGANIZED UNDER THE INDIAN REORGANIZATION ACT

Sec.
72.1 Contracts with organized tribes.
72.2 Admission to practice.
72.3 Tentative form of contract.
72.4 Report of superintendent.
72.5 Fees and expenses.
72.6 Funds in Federal Treasury.
72.6a Appeals.

TRIBES NOT ORGANIZED UNDER THE INDIAN REORGANIZATION ACT

72.7 Statutes governing.
72.8 Selection of counsel.
72.9 Record of council proceedings.
72.10 Resolution required.
72.11 Authentication of resolution.
72.12 Negotiation by tribal business committee.
72.13 Limitation of authority.
72.14 Employment by tribal business committees.
72.15 Vote by secret ballot.
72.16 Notice from tribe.
72.17 Notice from attorneys.
72.18 Tentative form of contract.
72.19 Execution in quintuplicate.
72.20 Report of superintendent.
72.21 Copies of approved contracts.
72.22 Qualifications of attorneys.
72.24 Fees and expenses.
72.25 Invalid contracts.

CROSS REFERENCE: For recognition of attorneys and agents to represent claimants, see Part 71 of this subchapter.

TRIBES ORGANIZED UNDER THE INDIAN REORGANIZATION ACT

AUTHORITY: §§ 72.1 to 72.6a issued under R. S. 161, sec. 16, 48 Stat. 987; 5 U. S. C. 22, 25 U. S. C. 476.

§ 72.1 *Contracts with organized tribes.* (a) Negotiation and execution of tribal attorney contracts with Indian tribes organized pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U. S. C. 461–479), shall be in accordance with the provisions of the approved constitution or charter of the respective tribes.

(b) The Commissioner of Indian Affairs or such other official in the Bureau as may properly be authorized to act for and in his stead may, as the duly authorized representative of the Secretary of the Interior, approve the selection of counsel and the amount of fees and expenses to be paid under any such contract.

§ 72.2 *Admission to practice.* Attorneys employed by tribes organized under the Indian Reorganization Act shall be required to be admitted to practice before the Interior Department and the bureaus thereof, under the provisions of the act of July 4, 1884 (23 Stat. 101; 5 U. S. C. 493).

CROSS REFERENCE: For rules and regulations governing admission to practice before the Interior Department and the bureaus thereof, see 43 CFR Part 1.

§ 72.3 *Tentative form of contract.* A tribal council or representative body having authority to employ legal counsel in behalf of an organized tribe, may, if it desires, obtain a tentative form of contract from the Commissioner of Indian Affairs. Requests for forms should include a statement of the scope of the intended employment; that is, whether an attorney is desired for investigation and prosecution of tribal claims against the United States, or as general legal counsel in connection with the ordinary business of the tribe, or specific problems on which legal advice is desired, or specific matters requiring representation in court or before committees of Congress and the departments of the Government. The period for which an attorney is desired should be stated.

§ 72.4 *Report of superintendent.* Contracts executed by organized tribes should be transmitted to the Commissioner of Indian Affairs by the superintendent, with a report based upon references and independent inquiry concerning the qualifications of the attorney, his ability to perform the services required by the contract, and the superintendent's recommendation with reference to approval of the contract.

§ 72.5 *Fees and expenses.* Funds held in the treasury of an organized tribe may be used by the tribe for payment of fees and expenses of an attorney. A contract providing for payment of fees and/or expenses should be accompanied by an appropriation act passed by the governing body of the tribe in accordance with the requirements of the tribal constitution or charter, appropriating sufficient tribal funds for payment of fees and/or expenses as provided by the contract. The amount of tribal funds held in the tribal treasury, not otherwise appropriated and available for payment of fees and expenses, should be stated.

§ 72.6 *Funds in Federal Treasury.* Under rulings of the Comptroller General and section 27 of the act of May 18, 1916 (39 Stat. 158; 25 U. S. C. 123), tribal funds held in the United States Treasury may not be used for payment of attorney fees and expenses in the absence of express authorization by Congress.

§ 72.6a *Appeals.* Within sixty (60) days from the date of notice of any decision made by the Commissioner or other official under § 72.1, any interested party may file with the Commissioner a notice of appeal from the decision to the Secretary of the Interior. The notice of appeal must be in writing and must set forth fully all grounds upon which it is based. Any appeal so filed shall be transmitted promptly by the Commissioner to the Secretary of the Interior, together with the complete record in the case.

TRIBES NOT ORGANIZED UNDER THE INDIAN REORGANIZATION ACT

AUTHORITY: §§ 72.7 to 72.25 issued under R. S. 161; 5 U. S. C. 22. Interpret or apply R. S. 2103; 25 U. S. C. 81.

§ 72.7 *Statutes governing.* The negotiation and execution of tribal attorney contracts with tribes not organized under the Indian Reorganization Act must be in strict accordance with the requirements of section 2103 of the Revised Statutes of the United States (25 U. S. C. 81).

§ 72.8 *Selection of counsel.* Except as stated in §§ 72.12–72.15, a tribal attorney and tribal delegates to execute a

contract shall be selected by a general counsel or meeting of the tribe, to be called by the superintendent of the particular reservation. The superintendent, or someone representing him, shall be in attendance with a stenographer.

§ 72.9 *Record of council proceedings.* Stenographic notes should be made of the proceedings of the council, transcribed, certified to by the superintendent as correct, and a copy thereof should be sent to the Commissioner of Indian Affairs with the contract.

§ 72.10 *Resolution required.* The selection of counsel and of tribal delegates to execute a contract in behalf of the tribe shall be set forth in a resolution or resolutions which shall be attached to and made a part of the contract.

§ 72.11 *Authentication of resolution.* The resolution shall be signed by the presiding officer of the general council, attested by the secretary of the general council, and certified by the superintendent.

§ 72.12 *Negotiation by tribal business committee.* A tribal business committee, advisory board, or other similar representative body having standing authority to act for and in behalf of the tribe in matters of importance, may, when it finds that there is a substantial need and demand for retention of tribal counsel, negotiate with an attorney or attorneys.

§ 72.13 *Limitation of authority.* The tribal business committee or other representative body, when proceeding under § 72.12, should carefully investigate, with the assistance of the superintendent if desired, the qualifications of available attorneys, bearing in mind the purpose for which counsel is desired and shall carry on its negotiations with attorneys subject to the distinct understanding that final action on the selection and employment of counsel shall be had in a general council or meeting of the tribe, subject to approval by the Department as required by law.

§ 72.14 *Employment by tribal business committees.* In case the tribal business committee or board has specific authority from the tribe to employ tribal attorneys and to execute a contract for that purpose, the tribal business committee or board may negotiate with attorneys and enter into a contract subject to departmental approval as provided by law.

§ 72.15 *Vote by secret ballot.* Those tribes accustomed to act on important tribal matters by secret ballot, or by vote in district meetings, or in some other manner, may apply through their proper officers to the Commissioner of Indian Affairs for permission to consider and act upon employment of tribal counsel in the manner preferred by the tribe rather than by a general council or meeting.

§ 72.16 *Notice from tribe.* Notice of intention to negotiate with attorneys should be sent to the superintendent by the proper tribal officers, accompanied by a full statement concerning the need for retaining counsel, showing in detail the purposes for which an attorney is needed, the scope of his intended employment, and a reference to the tribal funds, if any, which the tribe believes should be made available for payment of counsel fees and expenses. The notice and statement should be transmitted to the Commissioner of Indian Affairs by the superintendent with the latter's report and recommendations.

§ 72.17 *Notice from attorneys.* Attorneys desiring to execute contracts with Indian tribes shall be required to notify the Commissioner of Indian Affairs in advance of all negotiations.

§ 72.18 *Tentative form of contract.* A tentative form of contract may be obtained from the Commissioner of Indian Affairs. When the attorneys or tribe proposing to execute a contract desire to make substantial changes in the tentative form, the proposed changes should be submitted to the Commissioner of Indian Affairs for approval as to form prior to execution of a contract.

§ 72.19 *Execution in quintuplicate.* The contract should be executed in quintuplicate, and all copies should be transmitted by the superintendent to the Commissioner of Indian Affairs.

§ 72.20 *Report of superintendent.* The superintendent should submit a report when transmitting the contract, setting forth the qualifications and general reputation of the attorney selected, based upon references and independent inquiry by the superintendent, and the superintendent's recommendation concerning approval of the contract.

§ 72.21 *Copies of approved contracts.* Upon approval of a contract, one copy will be transmitted to the attorneys, one to the superintendent of the agency for the information of the Indians in interest, and the other three copies will be filed in the proper offices in Washington, D. C.

§ 72.22 *Qualifications of attorneys.* The person selected as attorney should be a reputable member of the bar, and fully competent to carry the case through the Court of Claims, and to the Supreme Court of the United States, if necessary.

§ 72.24 *Fees and expenses.* Under rulings of the Comptroller General and section 27 of the act of May 18, 1916 (39 Stat. 158; 25 U. S. C. 123), tribal funds held in the United States Treasury may not be used for payment of attorney fees and expenses, in the absence of express authorization by Congress. Unless congressional authority has been obtained for the use of tribal funds, the payment of attorney fees and expenses shall be contingent upon a recovery by the Indians in the matters or claims covered in the contract. In case congressional authority has been obtained for the use of tribal funds for attorney fees and expenses, the provisions of the contract concerning the payment of such fees and expenses should strictly conform to the provisions of the act authorizing the use of the funds.

§ 72.25 *Invalid contracts.* It may be pointed out that R. S. 2103; 25 U. S. C. 81 provides further that all contracts made in violation of that section shall be null and void; section 2, 17 Stat. 136; 25 U. S. C. 84 provides that no assignment of any such contract shall be valid without the consent of the Commissioner of Indian Affairs and the Secretary of the Interior; and section 18, 38 Stat. 97; 25 U. S. C. 85 declares that no contract with any individual Indian relating to tribal property shall have any validity unless the consent of the United States has previously been given thereto.

PART 73—REGULATIONS GOVERNING THE ELECTION OF OFFICERS OF THE OSAGE TRIBE

Sec.

73.1 Officers, quadrennial elections.
73.2 Election proclamation.
73.3 Compensation of election board members.
73.4 Qualifications of electors.
73.5 Applications for absentee ballots.
73.6 Execution of instrument authorizing elector to cast ballot for absentee.
73.7 Affidavit by absent elector.
73.8 Preparation of absentee's ballot; form of instrument.
73.9 Casting of absentee ballot.
73.10 Oath of person casting absentee's ballot.
73.11 Printing of proclamation, ballots, forms, envelopes, affidavits, etc.
73.12 Nominations to be by conventions and petitions.
73.13 Voting place.
73.14 Duties of board.
73.15 Ballot.
73.16 Ballot box to be locked.
73.17 Challenge of right to vote.
73.18 Electioneering or congregating near polls.
73.19 Manner of counting following the close of polls.
73.20 Sworn statement of count to be made by election board.
73.21 Notification of election of tribal officers.
73.22 Failure of any member of election board to serve.
73.23 Manner of contesting election.
73.24 Deposit for expenses.
73.25 Notice of contest.

AUTHORITY: §§ 73.1 to 73.25 issued under sec. 7, 45 Stat. 1481.

§ 73.1 *Officers, quadrennial elections.* Section 7 of the act of March 2, 1929 (45 Stat. 1478) provides in part as follows:

That there shall be a quadrennial election of officers of the Osage Tribe as follows: A principal chief, an assistant principal chief, and eight members of the Osage tribal council, to succeed the officers elected in the year 1928, said officers to be elected at a general election to be held in the town of Pawhuska, Oklahoma, on the first Monday in June, 1930, and on the first Monday in June each four years thereafter, in the manner to be prescribed by the Commissioner of Indian Affairs, and said officers shall be elected for a period of four years commencing on the 1st day of July following said elections. • • •

Pursuant to the above provisions of law, a general election of officers of the Osage Tribe will be held in the town of Pawhuska, Okla., on the first Monday in June, 1946, and on the first Monday in June each 4 years thereafter, in the manner prescribed in this part.

§ 73.2 *Election proclamation.* The Principal Chief, or in his absence the Assistant Principal Chief, shall issue a proclamation not more than 75 days nor less than 65 days preceding the day appointed by law for the holding of a

quadrennial election of officers of the Osage Tribe, and shall name an election board consisting of a supervisor, assistant supervisor, five judges, four clerks, and two interpreters, whose duties shall be to conduct the election as provided in § 73.14 The proclamation shall meet all the requirements of section 7 of the act of March 2, 1929 (45 Stat. 1478); the place, date, and time for holding the election; qualifications of electors; method of nominating candidates and closing date for same; method of determining the location of the name of each nominee on the ballot; and the names of all members of the election board. A copy of the proclamation, after approval by the superintendent of Osage Agency, shall be mailed to each qualified elector at his last known address.

§ 73.3 *Compensation of election board members.* Members of the election board, other than employees of Osage Agency, when duly appointed as provided in this part, may be compensated for conducting each quadrennial election at the following rates: supervisor, $10; assistant supervisor, $8; judges, clerks and interpreters, $6 each.

§ 73.4 *Qualifications of electors.* Only members of the Osage Tribe, 21 years of age or over, whose names appear on the quarterly annuity roll at the Osage Agency as of the last quarterly payment immediately preceding date of election will be entitled to hold office or vote for any tribal officer. No person shall be permitted to cast more than one vote on his own account: *Provided,* That whenever any qualified elector shall be absent from Osage County for any reason on the date appointed by law for the holding of a quadrennial tribal election, or cannot appear at the polls because of sickness or physical disability on that date, such elector shall be entitled at such election to exercise the right of suffrage in the manner and form prescribed in this part.

§ 73.5 *Applications for absentee ballots.* All applications for absentee ballots shall be made in writing by the absentee elector to the superintendent of Osage Agency. It shall be the duty of the superintendent, upon receipt of said application, to forward all supplies, affidavits, and ballots, as required by this part, to said absentee elector, not more than 30 days before any election provided for in this part, except that supplies, affidavits, and ballots may be mailed to absentee electors residing outside the continental limits of the United States at any time after the issuance of the election proclamation. The superintendent shall maintain a file of all applications received together with a record of the names and addresses of all persons to whom absentee ballots are mailed, including date of mailing, and shall write across the margin of each such ballot the words "Absentee Ballot," with the date of issuance marked thereunder.

§ 73.6 *Execution of instrument authorizing elector to cast ballot for absentee.* Any qualified absent elector who desires to exercise the right of suffrage shall, by an instrument in writing, executed by him at any time after the issuance of the election proclamation and prior to the date of any quadrennial tribal election, authorize any elector of the tribe to cast for him his vote, or ballot, in the manner prescribed in this part, for all officers for whom he would have a right to vote if he were present at such election; said instrument shall be signed by such absent elector, and sworn to before the clerk of a court of record or notary public, or other officer or person authorized to administer oaths.

§ 73.7 *Affidavit by absent elector.* The said absent elector shall make and subscribe an affidavit in the form or of the effect following:

I, A. B., do solemnly swear (or affirm) that I am a member of the Osage Tribe of Indians; that I will be twenty-one years of age or over at the election date; that I am now a resident of _____; and that I will be unavoidably absent from Osage County, Oklahoma, because of _____ (that I am incapacitated by illness or physical disability), and will be unable to appear at the polls in Pawhuska, Oklahoma, on election day.

_____

Subscribed and sworn to before me this _____ day of _____, 19__.

Provided, however, That any elector incapacitated because of illness or physical disability and seeking an absentee ballot shall obtain from an attending physician a certificate stating that the elector is physically incapacitated and cannot appear at the polls. Such certificate shall accompany the absentee ballot as prescribed in this section.

§ 73.8 *Preparation of absentee's ballot; form of instrument.* (a) The said absent elector shall prepare and fold the ballot he intends to cast at such election, and enclose the same, together with the said affidavit mentioned in § 73.7, in an envelope. This envelope shall have either written or printed on the outside thereof the affidavit set out in this section, which shall also be duly subscribed and sworn to by the absentee voter. The said envelope shall be duly sealed and enclosed by him in another envelope, marked "Absentee's Vote," and directed to the elector authorized by said absent elector, to cast the ballot, and said absent elector shall then transmit or deliver the same to the person to whom it is directed.

The aforesaid instrument shall be in words or of the effect following, viz:

I, A. B., a qualified elector of the Osage Tribe, will be absent from Osage County, Oklahoma, and therefore unable to appear at the polls in Pawhuska on election day, and do hereby authorize and direct _____ _____ (name of agent), a qualified elector of the Osage Tribe, to cast for me the ballot herewith enclosed at the quadrennial tribal election to be held at Pawhuska, Oklahoma, on the _____ day of _____, 19____, in the manner prescribed by the Commissioner of Indian Affairs.

§ 73.9 *Casting of absentee ballot.* (a) The elector to whom such letter shall be directed may open the outer envelope thereof, but he shall not open the inner envelope, on the day of such election, and between the opening and closing of the polls thereof, he shall deliver such inner envelope to the supervisor of the election board at the polls, and if the person whose name shall be signed to the affidavit on the outside of the envelope shall be determined by the said supervisor to be duly qualified voter of the Osage Tribe, said envelope shall be by the judges of said election publicly opened and the ballot therein contained shall be duly deposited in the box prepared to receive the ballot of voter, and the name of such absent elector shall be entered upon the poll list, together with the name of the person delivering the ballot at the polls. The ballot, contained in any such envelope which shall have been opened or unsealed before the same shall have been delivered to the supervisor of the election board, shall not be deposited in the ballot box but shall be rejected.

(b) The affidavits and instruments described above in this part, and all envelopes marked "Absentee's Vote", not opened at the election shall be kept and filed by the supervisor in the same manner and place as poll lists of such elections are required by this part to be filed and kept.

§ 73.10 *Oath of person casting absentee's ballot.* The person to whom an absentee's ballot shall be sent as provided in this part shall, at the time of delivering the same to the supervisor to be deposited in the ballot box, also make his statement or affirmation, in writing, setting forth that the ballot or ballots therewith presented have been received by him to deliver to said supervisor, and that he has not in any manner changed, altered, or opened the said ballot, or the inner envelope thereof, and that he believes that same have not been changed, altered or opened by any other person.

§ 73.11 *Printing of proclamation, ballots, forms, envelopes, affidavits, etc.* The superintendent of Osage Agency is authorized and directed to prepare and have printed at the cost of the Osage Tribe, the election proclamation, ballots, necessary blank forms and envelopes required to carry out the provisions of this part, relative to voting of qualified electors of the Osage Tribe; and shall have the affidavits required by this part relative to absentee voting to be printed in blank upon the proper envelopes, and shall send one copy of each blank form, envelope, and of the sections of this part relative to absentee voting to each person making application for absentee ballots.

§ 73.12 *Nominations to be by conventions and petitions.* Conventions shall be held in Osage County, Okla., on or before the first Monday in April of the year in which a quadrennial election is held, and written reports of such conventions, duly certified by the secretary or presiding officer, showing total number of qualified electors in attendance, together with the names of candidates nominated for the various offices: *Provided,* That at least 25 qualified electors shall have been in attendance at any such convention; also, names of any independent candidates nominated by petition of not less than 25 qualified electors, each signature to be witnessed by 2 persons, shall be filed with

the superintendent of the Osage Agency not later than 5:00 p. m. on the first Monday in April of the year in which a quadrennial election is held in order that such names may be placed on the official ballot.

§ 73.13 *Voting place.* The superintendent of the Osage Agency shall designate a room in the office building or Osage Auditorium where the election board shall assemble and make necessary preparations for receiving prospective voters and see to it that voting booths are arranged to afford privacy. The election board shall also hold the place of voting open and deliver and receive ballots between the hours of 8:00 a. m. to 8:00 p. m. without intermission on date of election.

§ 73.14 *Duties of board.* The supervisor or, in his absence, the assistant supervisor, shall be chairman of the election board and shall see that the rules prescribed for conducting the election are faithfully carried out. The ballots shall be handed out by a judge to the electors as they present themselves to vote, after being identified by .. clerk, who shall be supplied with a copy of the Osage roll, or an extract thereof showing the names and allotment numbers of those qualified to vote, and written list of names of voters to whom ballots are delivered shall be kept by a clerk of the board. In the event of mutilation of a ballot and application of the elector for another, the supervisor shall, upon surrender of the mutilated ballot, have another issued in lieu thereof and such mutilated ballot shall be retained with other records pertaining to said election. A judge shall receive the ballot after the elector has indicated his choice thereon by placing an "X" mark with a stencil opposite the name of each candidate for whom he desires his vote counted and shall deposit same in the ballot box. The duties of the remaining judge, in conjunction with the supervisor and interpreters, will be to read the names on the ballot when requested so as to identify the candidates or furnish such other information as may be desired in that connection; also, assist prospective electors unable through illiteracy or physical incapacity to cast votes for candidates of their choice.

§ 73.15 *Ballot.* A ballot showing names and offices for which each candidate has been nominated shall be printed and space shall be provided therein for inserting names of any members of the tribe qualified to hold office, whose name does not appear on the ballot. Should elector so desire to cast his vote for such individual, he shall write his name in such space and indicate his preference in the same manner as others whose names are printed in the ballot for whom he votes. While any faction or group has the right to nominate any candidate it chooses in accordance with the regulations prescribed in this part, the names of such candidates shall be printed on the ballot in the manner and order set forth, viz:

Under the heading, Principal Chief, with notation to vote for one, shall appear names of all candidates for that office. Similarly for Assistant Chief. Under the heading, Members of Council, with notation to vote for eight, shall appear names of all candidates for Council. Names of candidates for office shall appear only once on ballot, regardless of the fact that they may have been nominated on more than one ticket. The order in which names of qualified candidates for office will be placed on the ballot shall be by lot method of drawing, in a manner to be determined by the Tribal Council, and to be free from or regardless of party or factional affiliations. All ballots shall be numbered numerically and record kept of any that may be mutilated, canceled, or used as samples.

§ 73.16 *Ballot box to be locked.* When all else is in readiness for the opening of the polls the supervisor shall open the ballot box in view of the other election officers, shall turn same top down to show that no ballots are contained therein, and shall then lock the box and retain the key in his possession until after the polls are closed and the count of the ballots is started.

§ 73.17 *Challenge of right to vote.* Any member of the tribe may have the right to challenge any elector's qualifications to vote and it shall be the duty of the supervisor and the judge of the board to make such investigation then and there as they deem essential, and decide the question of such person's qualifications as an elector and his right to cast or not cast the ballot.

§ 73.18 *Electioneering or congregating near polls.* No person shall be allowed to electioneer within the building where and when the election is in progress and it will be the duty of the supervisor to request the detail of a police officer to assist him in maintaining order about the building during the progress of the election.

§ 73.19 *Manner of counting following the close of polls.* Promptly at one minute past 8:00 o'clock p. m. the Supervisor in the presence of the election board shall open the ballot box and move slide on inside of box closing the opening in which ballots are inserted and thereafter shall immediately and in the presence of said board close and lock the ballot box until the count of the ballot is to be started. The Supervisor shall then in the presence of the election board unlock and open ballot box, after which the count shall be started. The Supervisor and not less than two of the Judges shall remain continuously in the room until the ballots are finally counted. Two Judges shall act as official counters and the Clerks shall each record the vote upon a sheet opposite the name of the respective candidate for which the vote is cast, and shall continue this manner of recording until all votes have been counted. The duties of the remaining officials of the election board will be to assist in the counting and recording of each vote cast correctly and after the ballot has been counted it shall be pierced by a needle and string and after all ballots have been so treated both ends of the string shall be tied and the ballots deposited with the list of names of voters kept by the Clerk during the election in the ballot box which shall then again be locked and the keys retained by the Supervisor. After the ballot box is securely locked the Supervisor shall not again open it, but shall deliver said box in that condition to the Superintendent of the Osage Agency, and the box shall be retained in a safe place by said Superintendent, until opened by order of the Supervisor or the election board in the event a contest is filed. In no event shall the ballots be destroyed for a period of at least 180 days after the election is held.

§ 73.20 *Sworn statement of count to be made by election board.* A statement pertaining to the conduct of the election; correctness of vote tallied opposite each candidate, in which shall be incorporated the names of each candidate declared to have been elected, with designation of office and total number of votes credited each, shall be prepared and duly acknowledged before an officer qualified to administer oaths, which instrument shall, with the keys to the ballot box, be delivered by the supervisor to the superintendent of the Osage Agency for appropriate disposition.

§ 73.21 *Notification of election of tribal officers.* The superintendent of the Osage Indian Agency shall in due time give written notice to candidates of their election to the various tribal offices and as soon thereafter as practicable such tribal officers shall appear and subscribe to oath of office before an officer qualified to administer oaths and such oaths shall be delivered to the superintendent and by him transmitted to the Commissioner of Indian Affairs.

§ 73.22 *Failure of any member of election board to serve.* If a member of the election board desires to be relieved from duty for any cause he shall notify the superintendent in writing to that effect and the Principal Chief shall be called upon by him to designate someone else and with the approval of the superintendent such substitute shall serve in the capacity of this designation as a member of the election board.

§ 73.23 *Manner of contesting election.* Any candidate for the office of Principal Chief, Assistant Principal Chief or the Osage Tribal Council may, at any time before noon on Monday next following the Tribal election, file with the Supervisor, or in his absence, the Assistant Supervisor, a challenge of the correctness of the announced results of said Tribal election and request a recount of the ballots and shall accompany his application with the sum of not less than $60.00. It shall then be the duty of the election board or the Supervisor to order said recount and proceed with the same as provided in this part.

§ 73.24 *Deposit for expenses.* Said deposits shall be used by the said board to defray the actual expenses of said recount and any balance not so used shall be returned to said contestant.

§ 73.25 *Notice of contest.* It shall be the duty of the Supervisor, or in his absence, the Assistant Supervisor, to serve upon the contestee, or contestees, directly affected by such challenge or contest, a true copy of said written application, the original of which is required to be filed with the Supervisor. Said

service shall be made in person, where possible, within twenty-four hours after the filing of said original challenge or contest, and where personal service is impossible within such time, on account of the absence of contestee, or contestees, from Osage County, or for any other reason, it is hereby made the duty of the Supervisor to serve said true copy upon the Superintendent of the Osage Indian Agency, provided that for the purpose of such constructive service, the Superintendent of the Osage Indian Agency is hereby made and constituted the service agent of each and every candidate in all Tribal elections, and by filing petition as a candidate, such candidate shall thereby be presumed conclusively to have accepted the terms and provisions hereof and specifically the constructive service as aforesaid.

Subchapter H—Economic Enterprises

PART 81—INDIAN BUSINESS CORPORATIONS UNDER SEC. 17 OF THE INDIAN REORGANIZATION ACT [RESERVED]

PART 82—ALASKAN NATIVE BUSINESS CORPORATIONS ORGANIZED UNDER SEC. 17 OF THE INDIAN REORGANIZATION ACT OR THE ALASKA ACT [RESERVED]

PART 83—INDIAN BUSINESS CORPORATIONS UNDER THE OKLAHOMA INDIAN WELFARE ACT [RESERVED]

PART 89—COMMERCIAL FISHING ON RED LAKE INDIAN RESERVATION

Sec.

89.1 Authority for association to engage in commercial fishing.
89.2 Indians' right to fish limited.
89.3 Indians eligible for association membership.
89.4 Superintendent may suspend fishing operations.
89.5 Leasing of State fishing plant.
89.6 Application for association membership.
89.7 Membership limitation.
89.8 Association bylaws.
89.9 Limitations on commercial fishing by members and nonmembers of association.
89.10 Employment of manager.
89.11 Manager's duties.
89.12 Bond.
89.13 Records.
89.14 Annual audit required.
89.15 Payment for fish purchased.
89.16 Trust funds.
89.17 Association funds.
89.18 Disposition of fish.
89.19 Limitation on season's catch.
89.20 Limitation on fishing equipment.

AUTHORITY: §§ 89.1 to 89.20 issued under R. S. 161; 5 U. S. C. 22.

§ 89.1 *Authority for association to engage in commercial fishing.* It appearing that commercial fishing profitably may be done in the waters of the Red Lakes, on the Red Lake Indian Reservation, in the State of Minnesota, and certain Indians of said reservation having heretofore organized and incorporated the Red Lake Fisheries Association under the laws of the State of Minnesota for the purpose of engaging in the business of producing and marketing fish, and the Red Lake Reservation being an unceded, unallotted Indian reservation under the exclusive jurisdiction and control of the United States, authority is hereby granted said association to do commercial fishing in the waters of the Red Lakes on said reservation and to engage in said business only in accordance with the rules and regulations of this part: *Provided,* That said association is recognized only as an instrumentality of the United States for the purpose of doing said fishing and conducting said business in the interest of said Indians: *And provided further,* That the United States does not surrender, relinquish, or modify its exclusive jurisdiction and control over the Red Lake Reservation, the Red Lake Indians or their property, or concede or acknowledge any right, power, or authority of the State of Minnesota, its courts or officials, or said association or any other agency, to in any way supervise, control, or administer the affairs of said reservation or said Indians or their property: *And provided further,* That the authority hereby granted to engage in said business may at any time be cancelled and withdrawn, and the rules and regulations contained in this part likewise may be modified or amended.

§ 89.2 *Indians' right to fish limited.* Fish may be taken from the waters of upper and lower Red Lakes, on the Red Lake Indian Reservation, in Minnesota, during the period from May 15 to November 15 in any year only by the Indians duly enrolled and belonging on said reservation.

§ 89.3 *Indians elegible for association membership.* The Indians may become members of, and market their fish through, the Red Lake Fisheries Association.

§ 89.4 *Superintendent may suspend fishing operations.* All fishing operations for commercial purposes may be suspended at any time by order of the superintendent of said reservation.

§ 89.5 *Leasing of State fishing plant.* The association is hereby authorized to take from the State of Minnesota a lease on the fisheries plant and hatchery at Redby, Minnesota, or either of them; but the terms and conditions of such lease shall be subject to the approval of the Commissioner of Indian Affairs.

§ 89.6 *Application for association membership.* Application for membership in the association must be submitted to, and approved by, the board of directors. A certificate of membership shall be issued to members; but no membership fee, license, or charge shall be required of applicants.

§ 89.7 *Membership limitation.* Each Indian family shall be limited to one membership in the association, but single male Indians over 21 years of age shall be entitled to a membership.

§ 89.8 *Association bylaws.* The bylaws of the association shall conform to the rules and regulations in this part, and such changes or amendments as hereafter may be made. Any member who shall fail to comply with the rules and regulations in this part may be expelled from membership by the superintendent of the reservation, and any member who shall fail to comply with the bylaws of the association may be expelled by a majority vote of the members present and voting.

§ 89.9 *Limitations on commercial fishing by members and nonmembers of association.* (a) Fish may be taken for commercial purposes only by members of the association: *Provided, however,* That any Indian duly enrolled and belonging on said reservation may take fish at any time for his own use, and may sell fish taken by him (1) to other Indians of the reservation, (2) to licensed traders on the reservation for the purpose of resale to Indians, and (3) to white citizens during the open season, in such quantities, of the size and varieties as may be taken with hook and line, transported and possessed by white citizens as provided by the laws of the State of Minnesota.

(b) No Indian shall sell fish in any quantity outside the reservation, except in accordance with the laws of the State of Minnesota.

(c) No Indian shall take a variety of fish during its spawning season, except for propagation purposes.

(d) Any Indian violating the provisions of this section shall forfeit his membership in the association and his right to take fish for any purpose for a period of 3 months.

§ 89.10 *Employment of manager.* The board of directors of the association shall employ a manager, selected by the Commissioner of Game and Fish of the State of Minnesota, and such other help as may be necessary; and they shall have the power to fix the compensation of persons thus employed.

§ 89.11 *Manager's duties.* The manager shall have the general supervision of the business of the association. He shall direct the production, sorting, packing, transportation and sale of fish and other products handled by the association, the time of fishing, the quantity, kind and size of fish to be taken and the method of taking same; subject, however, to the superior supervision and control of the Commissioner of Indian Affairs.

§ 89.12 *Bond.* The manager and any other employee or officer of the association who has custody or control of the receipts and disbursements of the association shall be required to give a surety bond in the sum of not less than $10,000.

§ 89.13 *Records.* Books and records of the business of the association shall be kept showing all receipts and disbursements, the names and addresses of all persons from whom fish are purchased and to whom fish are sold, and all other transactions of the association; and such books and records shall at all times be open to inspection by the superintendent of the Red Lake Reservation or his duly authorized agent.

§ 89.14 *Annual audit required.* The board of directors shall examine all accounts at their regular monthly meetings and shall have the books of the association audited at least once a year, such audit to take place during the 30 days preceding the annual meeting and a full and complete report of such audit

shall be made to the superintendent of the reservation on or before the date of the annual meeting.

§ 89.15 *Payment for fish purchased.* Members shall be paid bi-weekly for the fish purchased from them by the association, the price to be determined by the manager and to be such as to insure the payment of (a) and (b) of this section. The proceeds of the business shall constitute a fund which shall be distributed as follows:

(a) Current operating and maintenance expenses shall be paid.

(b) Five percent of the gross receipts from the fish purchased by the association from its members shall be paid into the Treasury of the United States, to be credited to the tribal funds of the Red Lake Indians.

(c) A certain percentage to be determined by the board of directors of the association shall be set aside for an operating capital.

(d) After making the above deductions the remaining amount shall be paid at least annually to the members on a patronage basis, to be determined by the board of directors from the quantity and kind of fish purchased by the association from its respective members.

§ 89.16 *Trust funds.* All receipts from the sale of fish taken from waters on the Red Lake Reservation shall be trust funds, subject to the control of the Commissioner of Indian Affairs, and shall be distributed as provided in § 89.15 till otherwise directed by a modification or amendment of the rules and regulations in this part.

§ 89.17 *Association funds.* The funds of the association shall be kept in a depository selected by the board of directors, and withdrawn only on vouchers signed by the secretary-treasurer and countersigned by the manager.

§ 89.18 *Disposition of fish.* All marketable fish must be delivered in good condition to the association at its place of business at Redby, Minnesota. All unmarketable live fish must be returned to the waters, and all unmarketable dead fish must be buried by the person taking same.

§ 89.19 *Limitation on season's catch.* A total of not to exceed 650,000 pounds of fish may be taken in any one season, exclusive of rough fish and fish taken for propagation purposes.

§ 89.20 *Limitation on fishing equipment.* (a) Any variety of fish may be taken by Indians from any of the waters on the Red Lake Reservation by hook and line; and from Upper and Lower Red Lakes by gill nets, pound nets, or trap nets.

(b) Each member of the association shall be limited to five gill nets of 300 feet in length and 6 feet in depths.

(c) Gill nets for taking pike shall have a mesh of not less than 3¾ inches extension measure.

(d) Gill nets for taking whitefish shall have a mesh of not less than 5½ inches extension measure.

(e) Pound nets may be used for taking fish for propagation purposes.

(f) Tap nets in accordance with the specifications and directions of the manager may be used for taking fish of any variety.

PART 90—REINDEER IN ALASKA

DECLARATIONS OF OWNERSHIP

Sec.
90.1 Agent.
90.2 Filing of form.
90.3 Receipt of form.

AUTHORITY: §§ 90.1 to 90.3 issued under sec. 12, 50 Stat. 902; 48 U. S. C. 250k. Interpret or apply sec. 3, 50 Stat. 900; 48 U. S. C. 250b.

§ 90.1 *Agent.* The General Reindeer Supervisor at Nome, Alaska, is hereby designated as the duly authorized agent of the Secretary of the Interior, with whom all declarations of reindeer ownership required by the act of September 1, 1937 (50 Stat. 900; 48 U. S. C. 250–250p), must be filed within the time limits specified in the act.

§ 90.2 *Filing of form.* Pursuant to the provisions of section 3 of the act, declarations of ownership of reindeer in Alaska should be made by claimants upon the prescribed form. This form should be executed in quadruplicate. All four copies should be submitted in person or by mail to the General Reindeer Supervisor, Nome, Alaska, who has been designated as the duly authorized agent of the Secretary of the Interior pursuant to section 3 of the aforementioned act. Envelopes containing declarations of ownership of reindeer which are mailed to said agent must bear postmarks not later than midnight of September 1, 1938, in order to meet the requirements of the law. All declarations submitted in person by the owner, or his representative, must be filed with said agent at his office at Nome, Alaska, on or before 5 o'clock p. m., September 1, 1938.

NOTE: Copies of the form mentioned may be obtained from the General Reindeer Supervisor, Nome, Alaska.

§ 90.3 *Receipt of form.* Upon receipt of each person's declaration of ownership of reindeer in Alaska, the General Reindeer Supervisor shall sign the receipt thereof in the proper place in the form, and shall submit two copies of the declaration to the Commissioner of Indian Affairs, retain one copy in his record, and return one copy to the claimant. All declarations of ownership of reindeer in Alaska which are included in the records of the office of the General Reindeer Supervisor shall be kept open to public inspection in Alaska in accordance with section 3 of said act.

Subchapter I—Credit Activities

Subchapter I—Credit Activities

PART 91—GENERAL CREDIT TO INDIANS

Sec.
91.1 Purpose.
91.2 Eligible borrowers.
91.3 Application.
91.4 Purpose of loans.
91.5 Approval of loans.
91.6 Interest.
91.7 Records and reports.
91.8 Maturity.
91.9 Security.
91.10 Penalties on default.
91.11 Assignment.
91.12 Tribal funds.
91.13 Relending by borrower.
91.14 Repayments.
91.15 Charters.
91.16 Educational loans.
91.17 Amendments to articles of association and bylaws.
91.18 Loans to Navajo and Hopi Indians.
91.19 Loans to encourage industry.

AUTHORITY: §§ 91.1 to 91.19 issued under sec. 10, 48 Stat. 986; 25 U. S. C. 470. Statutory provisions interpreted or applied are cited to text in parentheses.

§ 91.1 *Purpose.* The purpose of this part is to prescribe the terms and conditions of loans to Indian chartered corporations, unincorporated tribes and bands, credit and cooperative associations, and individual Indians from the United States, in order to promote the economic development of the borrower.

§ 91.2 *Eligible borrowers.* Loans may be made from revolving credit funds to Indian chartered corporations; recognized tribes and bands; credit associations organized pursuant to the Oklahoma Indian Welfare Act or whose form of organization has been approved by the Commissioner of Indian Affairs; other cooperative associations whose members are not eligible to borrow from incorporated or unincorporated tribes or bands; and members of Indian tribes or their descendants of at least one-quarter degree of Indian blood. Unless otherwise authorized by the Commissioner of Indian Affairs, individual Indians shall not be eligible for loans if they are members of a corporation, tribe, or band which is conducting credit operations, or if they are eligible for loans from a credit association.

(Sec. 13, 48 Stat. 986; 25 U. S. C. 473)

§ 91.3 *Application.* An applicant for a loan will submit an application on a form approved by the Secretary or his authorized representative. Such application will indicate the purposes for which the loan is to be used, the period of the loan, the interset to be paid, the security to be offered, and the procedures to be followed in handling and repaying the loan.

§ 91.4 *Purpose of loans.* Borrowers from the United States, except individual Indians, may use funds borrowed to make loans to individual members, cooperative associations, and subordinate bands, for any purpose which will promote the economic development of the group or individual, and to finance corporate or tribal enterprises. Eligible individual Indians may receive loans from the United States to promote their economic development.

§ 91.5 *Approval of loans.* Loan agreements must be executed on a form approved by the Secretary or his authorized representative. The borrower will furnish security, if available, up to an amount adequate to protect the loan. The Secretary or his authorized representative will approve the loan by issuing a commitment order covering the terms and conditions for making the loan. Any modification of the terms of the contract must be agreed to in writing by the

borrower and the Secretary or his authorized representative.

§ 91.6 *Interest.* (a) On loans by the United States, borrowers shall pay interest at the rate specified in the loan agreement, which shall be as follows: (1) Two percent per annum on loans made to Indian chartered corporations and unincorporated tribes and bands, where the loan is for the purpose of enabling the borrower to make loans to individual members, cooperative associations, and subordinate bands; (2) two percent per annum on loans made to credit associations; (3) not less than four percent per annum nor more than five percent per annum on loans made to finance corporate or tribal enterprises, except that two percent per annum shall be charged on loans to enterprises financed from the loan fund authorized by the act of April 19, 1950 (64 Stat. 45); and (4) not less than four percent per annum nor more than six percent per annum on loans made to individuals for other than educational purposes, and on loans made to cooperative associations, other than credit associations.

(b) On loans by Indian organizations, borrowers shall pay interest at the rates specified in their loan agreements with such organizations, but the rates shall be not less than those charged the organizations by the United States.

(c) On all of the foregoing loans, interest shall be calculated on the basis of 360 days per annum.

(d) Nothing contained in this section shall be deemed to affect the rate of interest on loan agreements in effect April 13, 1953, or on the unpaid balance of such loan agreements which is made payable under another loan agreement entered into or modified after April 13, 1953. The date of maturity of any indebtedness under any loan agreement entered into prior to April 13, 1953, shall not be extended.

§ 91.7 *Records and reports.*[2] Borrowers shall keep separate records and accounts of their credit activities and make signed reports as directed by the Commissioner.

§ 91.8 *Maturity.* The period of maturity of the loan should be determined according to the circumstances, except that 30 years shall be the maximum.

§ 91.9 *Security.* Loans shall be secured by such securities as the Secretary or his authorized representative may require. Unless otherwise provided in the loan agreement, title to all property purchased by a borrower with a loan from the United States shall be taken in the name of the borrower. All securing documents shall be filed or recorded in accordance with State or Territorial law.

§ 91.10 *Penalties on default.* Unless otherwise provided in the loan agreement, failure on the part of a borrower to conform to the terms of the loan agreement will be deemed grounds for any one or all of the following steps to be taken by the Commissioner:

(a) Discontinue any further advances of funds contemplated by the loan agreement.

(b) Take possession of any or all collateral given as security, and in the case of individuals and cooperative associations, the property purchased with borrowed funds.

(c) Prosecute legal action against the borrower, or against officers of corporations, unincorporated tribes or bands, and credit and other cooperative associations.

(d) Declare the entire amount advanced immediately due and payable.

(e) Prevent further disbursement of credit funds under the control of the borrower.

(f) Withdraw any unobligated funds from the borrower.

(g) In the case of corporations, unincorporated tribes and bands, and credit associations, require that all repayments on loans be applied to liquidate the indebtedness to the United States.

(h) In the case of credit associations, take possession of the assets of the borrower and exercise or arrange for the exercise of its powers until the Commissioner has received acceptable assurance of its repayment and of compliance with the loan agreement.

(i) In the case of corporate and tribal enterprises and cooperative associations, to liquidate or operate, or arrange for the operation of the enterprise or association, until its indebtedness is paid or until the Commissioner has received acceptable assurance of its repayment and of compliance with the loan agreement.

§ 91.11 *Assignment.* A borrower may not assign his loan agreement or any interest therein to a third party without the consent of the Secretary or his authorized representative.

§ 91.12 *Tribal funds.* (a) Tribal funds may be advanced to corporations and unincorporated tribes and bands, when authorized by Congress, upon request of the governing body and approval by the Commissioner, for the establishment of enterprises and for relending in accordance with paragraphs (b) and (c) of this section and § 91.13. No interest shall be paid to the United States on such funds.

(b) Support loans may be made to old, indigent, or disabled members, and loans may be made for burial expenses of members, when there is reasonable assurance that the loans will be repaid. Interest may be waived on such loans.

(c) Individuals need not be of at least one-quarter degree of Indian blood in order to receive loans of tribal funds, but must be members of the corporation, tribe, or band to which the funds belong.

(d) Failure of a corporation or unincorporated tribe or band to use tribal funds advanced under authority of paragraph (a) of this section in accordance with the regulations and the purposes for which requested, shall be grounds for any one or all of the following steps to be taken by the Commissioner:

(1) Discontinue further advance of funds requested.

(2) Require that the entire amount advanced be returned to the Treasury.

(3) Prevent further disbursement of tribal funds under the control of the corporation, tribe, or band.

(4) Withdraw any unobligated funds from the corporation, tribe, or band and deposit the same in the Treasury.

(5) Require that all repayments on loans made by the corporation, tribe, or band, be used to replace funds advanced to the corporation, tribe, or band from the Treasury.

(6) In the case of enterprises operated with tribal funds, to liquidate or operate or arrange for the operation of the enterprise, until all tribal funds advanced to the corporation, tribe, or band have been replaced in the Treasury, or until the Commissioner has received acceptable assurance that the funds will be replaced, or that the enterprise will be operated in a manner satisfactory to him.

§ 91.13 *Relending by borrower.* (a) Funds loaned by the United States to a corporation, tribe, band, or credit association, may be reloaned by it, with the approval of the Commissioner or his authorized representative, but the Commissioner may authorize such lenders to approve applications for particular types of loans up to a specified amount.

(b) Such loans shall be secured by such securities as the lender and the approving officer may require. Individually owned trust or restricted land may be mortgaged for such loans in accordance with § 121.52 of this chapter. All securing documents shall be filed or recorded in accordance with State or Territorial law.

(c) Unless otherwise authorized by the Commissioner in the case of particular loans, title to property purchased with such loans received from such relending organizations shall be taken in the name of the borrower.

§ 91.14 *Repayments.* Repayments on loans by the United States shall be made to the Bureau of Indian Affairs designated collection officer who shall issue an official receipt therefor.

(Secs. 1, 6, 49 Stat. 1250, 1968, 62 Stat. 211, sec. 4, 64 Stat. 45; 25 U. S. C. 473a, 506, 482, 634)

§ 91.15 *Charters.* The Commissioner of Indian Affairs may issue charters to credit and other cooperative associations of ten or more members in Oklahoma whose articles of association and bylaws have been approved by him.

(Sec. 4. 49 Stat. 1967; 25 U. S. C. 504)

§ 91.16 *Educational loans.* Loans for educational purposes may be made under the regulations in this part. The interest rate on loans by the United States shall be three percent per annum. The rate on loans by Indian organizations shall be not less than two percent per annum, and may not exceed the rate charged borrowers on loans for other purposes.

§ 91.17 *Amendments to articles of association and bylaws.* The Commissioner of Indian Affairs may approve amendments to articles of association and bylaws of credit and cooperative associations originally approved by the Secretary.

[2] These sections refer to borrowers other than individual borrowers from the United States.

§ 91.18 *Loans to Navajo and Hopi Indians.* Loans to the Navajo and Hopi Tribes, or any member or association of members thereof, from the loan fund authorized by the act of April 19, 1950 (64 Stat. 45) shall be subject to the regulations of this part, except that the interest rate on any loans made to refinance loans received from the revolving fund authorized by the acts of June 18, 1934 (48 Stat. 986) and June 26, 1936 (49 Stat. 1967), as amended and supplemented, shall be at the rate of interest specified in the original loan agreement.

(Sec. 4, 64 Stat. 45; 25 U. S. C. 634)

§ 91.19 *Loans to encourage industry.* Loans may be made to any organization of Indians for use in attracting industries to operate in localities where such use will promote the economic development of Indians. Such loans may be made only to groups of Indians having a form of organization acceptable to the Secretary and at interest rates and under terms and conditions found by the Secretary in the particular case to be in the public interest and conducive to the accomplishment of the purpose intended. No such loans shall be effective until approved by the Secretary.

(Secs. 1, 6, 49 Stat. 1250, 1968, 62 Stat. 211, sec. 4, 64 Stat. 45; 25 U. S. C. 473a, 506, 482, 634)

PART 92—REVOLVING CATTLE POOL

Sec.
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AUTHORITY: §§ 92.1 to 92.20 issued under R. S. 161; 5 U. S. C. 22. Interpret or apply secs. 1, 2, 64 Stat. 190; 25 U. S. C. 442, 443.

§ 92.1 *Definitions.* Wherever used in the regulations in this part, the terms defined in this section shall have the meaning stated.

(a) "Secretary" means Secretary of the Interior.

(b) "Commissioner" means Commissioner of Indian Affairs.

(c) "Corporation" means an Indian corporation chartered under section 17 of the act of June 18, 1934 (48 Stat. 988; 25 U. S. C. 477).

(d) "Tribe" means an unincorporated Indian tribe or band. A tribe shall be deemed to include any band, pueblo, or group of Indians residing on one reservation having a form of organization recognized by the Commissioner.

(e) "Loans" mean both loans of cattle repayable in kind and assignments of cattle under agreements requiring maintenance of the number and other operating conditions.

(f) "Corporate enterprise" means a business operated by a corporation.

(g) "Tribal enterprise" means a business operated by a tribe.

(h) "Area Director" means the officer in charge of the area office of the Indian Service, or his successor in office, under which the borrower is placed for administrative purposes. The authority of the Area Director under the regulations in this part may be delegated by him in writing to his subordinates in the area office.

(i) "Superintendent" means the Superintendent of the Indian Agency under which the borrower is operating.

§ 92.2 *Purpose of part.* The purpose of the regulations in this part is to prescribe the terms and conditions of loans of cattle by the United States to corporations and tribes, and loans of cattle by a corporation or tribe to its members. All loans shall be for the purpose of promoting the economic development of the borrower. Sections 92.3 to 92.19, inclusive, shall govern loans of cattle by the United States. Loans of cattle by corporations and tribes originating in loans of cattle to such organizations by the United States, or purchased with cash loans or advances of tribal industrial assistance funds under the regulations in Part 91 of this chapter, shall be governed by the provisions of § 92.20.

§ 92.3 *Eligible borrowers.* Loans of cattle may be made only to corporations and tribes.

§ 92.4 *Application.* The application shall be submitted on a form approved by the Commissioner, and shall indicate the period of the loan, the interest, if any, to be paid, the security offered, and the procedures to be followed in handling and repaying the loan.

§ 92.5 *Purpose of loans.* Cattle loaned to corporations and tribes may be used in the operation of corporate or tribal enterprises and to make loans to individual members, in order to promote the economic development of the group or individual.

§ 92.6 *Approval of loans.* All loans of cattle shall require the approval of the Commissioner. Loan agreements must be executed on a form approved by the Commissioner. Applications may be approved either as submitted, or by issuance of commitment orders covering the terms and conditions of making the loans. Commitment orders shall be unconditionally accepted by borrowers.

§ 92.7 *Modifications.* Modifications of loan agreements shall be handled through the same channels as the original agreements.

§ 92.8 *Interest.* Interest may be charged on loans of cattle by the United States at a rate as nearly equivalent as possible to one head for each ten head loaned for a period not exceeding twenty-five years.

§ 92.9 *Records and reports.* Corporations and tribes shall keep separate records and accounts of their cattle loans, and make reports as directed by the Commissioner.

§ 92.10 *Maturity.* The period of maturity of loans of cattle shall be determined according to the circumstances, except that twenty-five years shall be the maximum.

§ 92.11 *Security.* Corporations and tribes shall furnish security, if available, up to an amount adequate to protect the loan. Loans may be secured by the assignment of notes, chattel mortgages, income, liens (except on trust or restricted land), and such other securities as the Commissioner may require.

§ 92.12 *Title.* Title to all cattle loaned to corporations and tribes, the increase therefrom, cattle received in repayment of loans made by the corporations and tribes, and any "lieu" cattle to replace animals loaned, shall be in the United States in trust for the corporation or tribe until the cattle are loaned to individual members under the provisions of § 92.20.

§ 92.13 *Branding.* All cattle loaned by the United States for use in corporate or tribal enterprises shall be branded or marked "ID" and with the brand or mark of the enterprise. All cattle loaned by the United States for relending under the provisions of § 92.20 shall not be branded or marked "ID".

§ 92.14 *Penalties on default.* Unless otherwise provided in the loan agreement, failure of a corporation or tribe to conform to the terms of its loan agreement will be deemed grounds for any one or all of the following steps to be taken by the Commissioner:

(a) Take possession of any or all collateral given as security.

(b) Prosecute legal action against the corporation or tribe or against officers of the corporation or tribe.

(c) Declare the loan immediately due and payable.

(d) Prevent further loans of cattle under the control of the corporation or tribe, repossess any cattle which have not been reloaned, and require that repayments on loans made by the corporation or tribe be applied to liquidate its indebtedness to the United States.

(e) In the case of corporate and tribal enterprises, liquidate or operate, or arrange for the operation of the enterprise until its indebtedness is paid, or until the Commissioner has received acceptable assurance of its repayment and of compliance with the loan agreement.

§ 92.15 *Assignment.* A corporation or tribe may not assign its loan agreement or any interest therein to a third party without the written consent of the Commissioner.

§ 92.16 *Sales and exchanges.* Superintendents may grant corporations and tribes permission to sell or exchange cattle for which repayment has not been made, provided the interest of the United States in the loan will not be jeopardized.

§ 92.17 *Repayments.* Repayments of cattle to the United States shall be made to a bonded Government disbursing agent or his authorized representative, who shall issue receipts for all such pay-

ments. With the prior approval of the Commissioner, cattle repaid to the United States may be sold under applicable authority governing the sale of Government-owned property.

§ 92.18 *Cash settlements.* When authorized by the Commissioner, corporations, tribes, cooperative associations, and individual Indians indebted to the United States for loans of cattle, may settle obligations in cash in lieu of cattle, and any obligation payable in cattle which is not yet due may be converted to a cash obligation. The value of the livestock for the purpose of any such cash settlement or conversion shall be based on prevailing market prices in the area and shall be ascertained by a committee composed of three members, one of whom shall be selected by the superintendent, one of whom shall be selected by the chairman of the tribal council, and one of whom shall be selected by the other two members.

§ 92.19 *Deposit of funds.* The proceeds of the sales of cattle repaid to the United States, and of cash accepted in lieu of cattle, shall be deposited in the United States Treasury to the credit of the revolving fund established pursuant to the acts of June 18, 1934 (48 Stat. 986), and June 26, 1936 (49 Stat. 1967), as amended and supplemented, in accordance with instructions of the Commissioner.

§ 92.20 *Relending by corporations and tribes.* Corporations and tribes receiving either loans of cattle from the United States, or cash loans from the revolving credit fund and advances of tribal industrial assistance funds under the regulations in Part 91 of this chapter, for the purchase of cattle for relending to members, may make loans of cattle as follows:

(a) *Purpose.* All loans shall be to promote the economic development of the borrower.

(b) *Eligibility.* Loans may be made to individual members of the corporation or tribe of one-quarter or more degree of Indian blood, except that individuals need not be of at least one-quarter degree of Indian blood in order to receive loans of cattle purchased with tribal industrial assistance funds.

(c) *Application.* The application shall be on a form approved by the Commissioner.

(d) *Approval.* All loans shall require approval of the Area Director, unless the Commissioner authorizes the Superintendent, the corporation, or the tribe to approve loans up to a specified number of cattle. Loan agreements must be executed on a form approved by the Commissioner. Applications shall be approved as submitted, or by the issuance of a commitment order covering the terms and conditions of making the loan. Commitment orders shall be unconditionally accepted by borrowers.

(e) *Modifications.* Modifications of loan agreements shall be handled through the same channels as the original loan agreement.

(f) *Interest.* Interest may be charged at a rate as nearly equivalent as possible to one head for each ten head loaned for a period not exceeding eight years.

(g) *Maturity.* Ten years shall be the maximum on loans of cattle.

(h) *Security.* Borrowers shall mortgage all cattle borrowed from a corporation or tribe to the lender as security for any unpaid indebtedness, unless the Area Director determines that the repayment of such indebtedness is otherwise reasonably assured. Mortgages shall be filed in accordance with State law. Borrowers shall furnish other security, if available, up to an amount adequate to protect the loan. Liens on trust or restricted land may be taken as security.

(i) *Title.* Title to all cattle loaned shall be in the name of the borrower.

(j) *Branding.* All cattle loaned, the increase therefrom, and any "lieu" cattle replacing animals loaned shall be branded or marked with the brand or mark of the borrower.

(k) *Penalties on default.* Unless the loan agreement otherwise provides, failure on the part of a borrower to conform to the terms of the loan agreement will be deemed grounds for any one or all of the following steps to be taken at the option of the lender: (1) Take possession of any or all collateral given as security, and, in accordance with State law, the cattle loaned, increase therefrom and any "lieu" cattle replacing animals loaned.

(2) Prosecute legal action against the borrower.

(3) Declare the loan immediately due and payable.

(l) *Assignment.* A borrower may not assign a loan agreement or any interest therein to a third party without the consent of the lender.

(m) *Sales and exchanges.* The lender, with the approval of Superintendent, may grant borrowers permission to sell or exchange cattle for which repayment has not been made, provided the interests of the lender in the loan will not be jeopardized. Partial releases in connection with such transactions shall be filed in accordance with State law.

(n) *Repayments.* Repayments shall be made to an authorized representative of the lender, who shall issue receipts for all repayments. With the approval of the Superintendent, lenders may accept from borrowers, their heirs, successors, or assigns, cash in lieu of cattle. Cash repayments shall be used for the purchase of suitable replacements by the corporation or tribe, unless otherwise authorized by the Area Director.

(o) *Number loaned.* Indian boys and girls enrolled in 4–H Club work may receive loans of from one to ten head of cattle for use in connection with their club projects. Other borrowers may receive loans of not less than ten head nor more than fifty head of beef cattle. Dairy cattle may be loaned in units of less than ten head.

(p) *Preference.* Unless otherwise specifically authorized and justified in writing by the Area Director, preference shall be given to applicants in the following order:

(1) *Beef cattle.* First preference shall be given to applicants who have less than fifty head of cattle of breeding age, and who are equipped to handle up to fifty head. Second preference shall be given to applicants without cattle who have not previously participated in the program, but who are equipped to handle a cattle enterprise. Third preference shall be given to applicants who have fifty head or more cattle of breeding age, but less than one hundred head, but this group shall not receive loans until all applicants having less than fifty head of cattle of breeding age and who are equipped to handle this size unit, have received loans.

(2) *Dairy cattle.* Applicants for cattle to supply milk for home consumption shall receive preference over applicants for cattle to undertake commercial dairy operations.

(q) *Restrictions.* Loans to applicants owning one hundred or more head of beef cattle of breeding age shall not be approved without the consent of the Commissioner. Not more than fifteen head of dairy cattle of breeding age may be loaned to any one individual without the consent of the Commissioner.

PART 93—KLAMATH TRIBAL LOAN FUND

Sec.

93.1 Definitions.
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93.8 Interest, service fees, and penalties.
93.9 Records and reports.
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93.11 Security.
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93.13 Insurance.
93.14 Penalties on default.
93.15 Assignments.
93.16 Repayments.
93.17 Deceased borrowers.
93.18 Responsibility of superintendent.
93.20 Authority of general council.

AUTHORITY: §§ 93.1 to 93.20 issued under sec. 23, 68 Stat. 723; 25 U. S. C. 564v. Interpret or apply sec. 16, 68 Stat. 722; 25 U. S. C. 564o.

§ 93.1 *Definitions.* Wherever used in the regulations in this part the terms defined in this section shall have the meaning stated in this part.

(a) "Commissioner" means the Commissioner of Indian Affairs.

(b) "Superintendent" means the superintendent of the Klamath Indian Agency.

(c) "Area director" means the officer in charge of the area office of the Indian Service, or his successor in office, under which the Klamath Indian Agency is placed for administrative purposes. The authority of the area director under the regulations in this part may be delegated by him in writing to his subordinates in the area office.

(d) "Klamath Tribes" means the Klamath and Modoc Tribes and Yahooskin Band of Snake Indians of the Klamath Reservation in Oregon.

(e) "Business committee" means the Business Committee of the Klamath Tribes elected in accordance with the constitution and bylaws approved by the Commissioner.

(f) "Board" means the Klamath loan board elected in accordance with the regulations in this part.

(g) "Fund" means the reimbursable loan fund authorized by the acts of August 28, 1937, and August 7, 1939 (50 Stat. 872, 53 Stat. 1253; 25 U. S. C. 530–535, 542 (a)).

(h) "Loan agreement" means the approved application, supporting papers, commitment order, and note or notes.

(i) "Klamath General Council" means all enrolled members of the Klamath Tribes. The functions of the Klamath General Council as set forth in the regulations in this part may be exercised only at meetings of the council at which a quorum of at least 100 voting members is present. If the Klamath Tribes adopt a constitution and bylaws approved by the Secretary of the Interior or his authorized representative subsequent to promulgation of this regulation, the functions of the general council may be exercised at meetings held in accordance with such constitution and bylaws.

§ 93.2 *Purpose of regulations.* The purpose of the regulations in this part is to prescribe the terms and conditions of loans from the fund.

§ 93.3 *Loan board.* The fund shall be administered by a board of three adult enrolled members of the Klamath Tribes.

(a) *Election.* Board members shall be elected by the Klamath General Council. The Commissioner may prescribe detailed election procedures which are not inconsistent with the provisions of this section. Only adult enrolled members, or minor enrolled members who are heads of families shall be entitled to vote. Voting shall be by secret ballot at a duly called general council meeting. The members of the present board shall remain in office until their terms expire, unless suspended under the regulations in this part. In any election hereafter one new member shall be elected each year for a term of 3 years, or until his successor is elected. The candidate receiving the highest number of votes shall be deemed to have been elected. If a vacancy occurs, a successor shall be elected at the next regular or special meeting of the Klamath General Council at which the same procedure shall be followed as in the case of a regular election. The person so elected shall serve only for the unexpired term of the member whom he replaces.

(b) *Officers.* Each year, within 30 days after the election of a new member, the board shall meet and elect from among its members, a chairman and a vice chairman. The board shall select and employ a secretary from within or without the membership of the board, provided that no member of the board shall hold office simultaneously as chairman or vice chairman and secretary.

(c) *Duties of officers.* The chairman shall preside at meetings of the board, perform acts and other duties usually performed by a presiding officer, and sign papers as authorized or directed by the board. The vice chairman shall perform the duties of chairman during his absence, or as authorized by the board. The secretary shall keep a complete record of all meetings of the board, make reports, and perform such other duties as may be required by the board.

(d) *Meetings.* The board shall establish definite times at which it will meet to consider applications or other business requiring action by the board, notices of which shall be posted at the loan board office, the Klamath Indian Agency office, and such other public places on the reservation as the board may deem advisable, or which may be designated by the business committee.

(e) *Quorum.* Two members shall constitute a quorum.

(f) *Suspension.* (1) The business committee may suspend a member of the board at any time for cause. Notice of such suspension, including a clear and concise statement of the charges resulting in suspension shall be forwarded to the suspended member by registered mail. The suspended member shall have 15 days from the date of receipt of the notice of suspension to request, by registered mail, a hearing before the general council. Upon receipt of such a request for hearing before the general council, it shall be granted as a matter of right. The hearing shall be held at the next regular or special meeting of the general council. The hearing shall consist of an oral or written statement of the charges against the member by a representative of the business committee, and an oral or written defense by the suspended member. A majority vote of the members present may uphold or reverse the action of the business committee. In the event the action of the business committee is upheld, the suspension shall operate as a removal of the suspended member from the board for the balance of his term. No member shall have authority to act for or on the board after receipt of a notice of suspension, and shall not be entitled to compensation for such period, unless the general council reverses the action of the business committee, in which case the general council may direct that compensation be paid in such amount as it deems equitable, but not to exceed the amount which the member would have received had he not been suspended.

(2) The Commissioner may suspend all powers of the board if he finds that the board is not administering the fund in the best interests of the tribe. In case more than one member has been suspended by the business committee at a particular time, or if there are less than two members on the board, or if the Commissioner has suspended all powers of the board, the superintendent may exercise such functions of the board as may be necessary to protect the funds loaned, but new loans may not be made during such period.

(g) *Expenses.* The board may hire clerical and other assistance necessary to administer the fund. Salaries of board members for attendance at meetings and for other duties in connection with administration of the fund, and other costs in connection with the business of the board, may be paid as administrative expenses. Necessary travel by members of the board, and by officers and employees of the board by common carrier, shall be on Government transportation requests in accordance with existing Government travel regulations. Transportation requests shall be issued by the superintendent. All claims for services rendered shall be submitted to the superintendent on a form provided by him for that purpose. All claims of whatever nature shall be subject to audit and approval by the superintendent.

(h) *Budget.* (1) The board shall, prior to the beginning of each fiscal year, submit to the business committee for approval, a written budget of estimated income from interest and service fees and estimated expenses for the ensuing fiscal year. Such budgets shall show the names, title, compensation, hours of work, and annual, sick, and without-pay leave privileges of all board members and employees; the amount outstanding in loans; the amount delinquent; and potential losses. The rate of compensation of board members and employees shall be on an annual or monthly basis. Board members and employees shall be placed on leave without pay from the board when they are on other tribal pay rolls. Budgets for the fiscal year 1949 which have been acted upon by the business committee prior to promulgation of this paragraph need not be acted upon again because of the provisions of this section. The business committee, in its discretion, may make annual and sick leave privileges for the fiscal year 1949 retroactive to July 1, 1948.

(2) Budgets shall be acted upon by the business committee, and may be modified by it upon request of the board. In the event the business committee fails to approve any budget submitted by the board, or modifications thereof, or if the board fails to agree to changes suggested by the business committee, the differences shall be placed before the general council at the next regular or special meeting after it is apparent that there can be no agreement between the board and the business committee. The differences shall then be resolved by a majority vote of the members present. Budgets as approved by the business committee or the general council, and modifications thereof, shall constitute the superintendent's authority to make disbursements thereunder as expenses are incurred, provided that no disbursements shall be made in excess of the amount of income received from interest and service fees, or in violation of any of the regulations in this part.

§ 93.4 *Eligibility.* Loans may be made to enrolled members of the Klamath Tribes, and to cooperative associations of members: *Provided*, That the articles of association and bylaws of cooperative associations must be approved by the area director.

§ 93.5 *Applications.* Applications shall be submitted to the board on a form approved by the Commissioner. Each application shall indicate the purposes for which the loan is to be used, the period of the loan, the rate of interest and amount of service fees to be paid, the security to be given, if any, and the procedures to be followed in handling and repaying the loan.

§ 93.6 *Purpose of loans.* Loans may be made for any purpose authorized by section 2 of the act of August 28, 1937 (50 Stat. 872; 25 U. S. C. 531).

§ 93.7 *Approval of loans.* Loan agreements must be executed on a form approved by the Commissioner.

(a) *Action by board.* Applications shall be acted upon only in meetings of the board. Any action on applications by the board shall require a uniform vote of at least two members of the board. All applications shall be acted upon, and applicants advised in writing that their applications have been acted upon favorably or unfavorably by the board, within 30 days of the date of receipt of their applications by the board. All notices of unfavorable action shall state the reasons therefor. In order to receive final approval, applications must be acted upon favorably by the board.

(b) *Approval by board.* Except as otherwise indicated in the regulations in this part, the board shall have authority to approve loans where the applicant's total indebtedness to the fund will not exceed $3,000.

(c) *Approval by superintendent.* Except as otherwise indicated in the regulations in this part, loans acted upon favorably by the board, where the applicant's indebtedness to the fund will exceed $3,000 but not exceed $4,000, shall be approved by the superintendent.

(d) *Approval by area director.* Except as otherwise indicated in the regulations in this part, loans acted upon favorably by the board, where the applicant's indebtedness to the fund will exceed $4,000 but not exceed $10,000, shall be approved by the area director. Loans to cooperatives; loans for the purchase of livestock, equipment, or machinery with maturities exceeding six years; loans to members under 21 years of age; loans with maturities exceeding ten years; loans for the purchase of land; educational loans; and loans to individuals who are Government employees shall require approval of the area director regardless of amount. Burial loans in excess of $500; emergency loans in excess of $700 to applicants who do not have security adequate to protect the loans; and loans for the maintenance and support of aged, infirm, incapacitated members in excess of $700 shall also require approval of the area director.

(e) *Approval by Commissioner.* All loans in excess of $10,000 shall require approval by the Commissioner.

(f) *Restrictions on approval.* Loans shall not be approved for less than $25. Any loans to borrowers who are delinquent in payment of previous indebtedness to the fund shall require the approval of the business committee in addition to the approval set forth in other sections of the regulations in this part. Unless an exception is approved by the area director, not more than two loan agreements may be in effect with the same borrower at the same time, and only joint loans may be made to a husband and wife who are both eligible for loans, and any existing loan to either spouse shall be consolidated with such loans.

(g) *Amount of loans.* The amounts set forth in the regulations in this part refer to the total amounts of loans, regardless of whether they are joint or partnership loans.

(h) *Modifications.* The board may approve one modification of any loan agreement extending the terms of repayment up to 90 days beyond the maturity date scheduled in the original loan agreement when the original loan agreement has been approved by the board in accordance with pargaraph (b) of this section. Unless otherwise authorized by the Commissioner, all other modifications of loans approved by other than the Commissioner shall require approval by the area director. The area director may approve modifications of loan agreements approved by the Commissioner in accordance with paragraph (e) of this section, in cases where the amounts of the loans are not increased.

(i) *Advances.* Advances on all approved loans shall be made within 30 days of the date of final approval of the applications, unless otherwise requested by the borrowers and so provided in their loan agreements.

§ 93.8 *Interest, service fees, and penalties.* Borrowers shall pay five percent interest annually on the basis of 360 days per annum, from the date funds are advanced on the loan until they are repaid, except on loans for educational purposes, on which the Board may specify the rate to be charged, provided that such rate may not be less than one percent per annum nor more than the rate charged other borrowers. Borrowers also shall pay a penalty of one-third of one percent per month, or fraction thereof, on all amounts which are not paid on the due dates set forth in their loan agreements as originally approved, or as subsequently modified. Except on loans for educational purposes, and loans for the maintenance and support of aged, infirm, and incapacitated members, service fees may be charged as set forth in the following table, or a schedule of fees may be established by the Board, provided that fees shall not be charged on amounts included in loans for payment of fees and such schedule shall not exceed the amounts set forth in the following table:

Loans of $500 or less: 3 percent of the amount of the loan.

Loans over $500 but not over $2,000: $15 plus 2 percent of the amount over $500.

Loans over $2,000: $45 plus 1 percent of the amount over $2,000.

§ 93.9 *Records and reports.* The board shall keep records and accounts and make signed reports as directed by the Commissioner or the board may be required to furnish such information as the duly authorized representative of the Commissioner or the board may deem necessary to provide proper information regarding the status of loans.

§ 93.10 *Maturity.* The period of maturity of loans shall be determined according to the circumstances. Crop loans, and loans for the purchase of nonrecoverable items, shall not be made with maturities exceeding 1 year, except when the loans are for enterprises from which insufficient income will be received the first year to repay the loan in full.

§ 93.11 *Security.* Borrowers shall furnish security, if available, up to an amount adequate to protect the loan. Security papers shall be filed in accordance with State laws, except that liens on trust property other than crops, and assignments of income from trust property may be filed in the Klamath Agency office. If authorized by the board, filing costs may be paid as an administrative expense of the board.

§ 93.12 *Title to property.* Unless otherwise provided in the borrower's loan agreement, title to all property purchased with loans shall be taken in the name of the United States in trust for the Klamath Tribes.

§ 93.13 *Insurance.* Buildings with a total value of $500 or more purchased with or constructed with the proceeds of loans, or pledged as security for loans, shall be insured against loss by fire. Borrowers may be required to insure other property given as security, or purchased with borrowed funds, against loss by fire or other cause.

§ 93.14 *Penalties on default.* (a) Unless the loan agreement otherwise provides, failure on the part of any borrower to conform to the terms of the loan agreement, or to make every honest effort to continue operations successfully, will be deemed grounds for any one or all of the following steps to be taken at the option of the board: (1) Discontinue any further advances of funds contemplated by the loan agreement; (2) take possession of any or all collateral given as security and the property purchased with borrowed funds; (3) prosecute legal action against the borrower, or against officers of cooperative associations; (4) declare the entire amount advanced immediately due and payable; (5) prevent further disbursements of borrowed funds under the control of the borrower; (6) in the case of cooperative associations, liquidate or operate, or arrange for the operation of the association until its indebtedness is paid, or until the board has received acceptable assurance of its repayment and of compliance with the loan agreement.

(b) In the event the board fails to take action which the Superintendent deems necessary to protect a loan, the superintendent shall advise the business committee in writing of the failure of the board to act, and state whatever action he deems necessary. The business committee may then take any of the steps set forth in this section which the board could have taken.

§ 93.15 *Assignments.* The board may not assign any loan agreement or any interest therein to a third party, discount paper, or borrow money without the approval of the Commissioner.

§ 93.16 *Repayments.* Repayments on loans shall be made to the bonded Government disbursing agent or his authorized representative, who shall issue an official receipt therefor.

§ 93.17 *Deceased borrowers.* The board shall take all steps necessary to safeguard property purchased with or given as security for loans by deceased borrowers, until the loans are paid in full.

or until the indebtedness is assumed by heirs or other parties in accordance with instructions of the Commissioner.

§ 93.18 *Responsibility of superintendent.* The superintendent shall not make disbursements on any loans which are in violation of the regulations in this part. The superintendent shall also take the following action with reference to board matters:

(a) Return to the board any application acted upon favorably by the board in accordance with § 93.7 (a) which are in violation of the regulations in this part, and advise the board in writing of the section violated.

(b) Advise the board in writing of any application approved by the board in accordance with § 93.7 (b) which, although not in violation of the regulations in this part, does not indicate, in his opinion, reasonable assurance of repayment to the fund. He shall state the reasons for his opinion. Disbursements on such loans may be withheld pending reconsideration by the board. If, after reconsideration, the board again approves such loan, and the superintendent is still of the opinion that it does not indicate reasonable assurance of repayment to the fund, he shall advise the business committee in writing of his opinion and the facts in the case. Disbursements on such loan may be withheld until it also receives the approval of the business committee.

(c) Advise the board in writing of the action which should be taken on any loan delinquent for a period longer than 30 days, in payment of either principal or interest, and prescribe a time limit within which such action shall be taken. If the board fails to take such action within the period prescribed, the case shall be reported to the business committee. The business committee may direct the board in writing to take the action which it deems necessary to protect the loan. In the event the board fails to take such action within 10 days after receipt of the business committee's directive, the business committee may take any action which the board could have taken.

§ 93.20 *Authority of general council.* (a) The functions of the business committee as set forth in the regulations in this part may be exercised in whole or in part by the Klamath General Council. The Klamath General Council may, by resolution, authorize a special committee composed of not less than seven adult enrolled members of the tribe to exercise the functions of the business committee as set forth in the regulations in this part. If the Klamath Tribes adopt a constitution and bylaws approved by the Secretary of the Interior or his authorized representative, the general council may, by resolution, authorize the governing body of the Klamath Tribes to exercise the functions of the business committee as set forth in the regulations in this part.

(b) The general council may countermand any instructions given or taken by the business committee, a special committee, or the governing body of the Klamath Tribes, under the regulations in this part, provided that any action taken by either the board or the superintendent acting under authority from the business committee, a special committee, or the governing body of the Klamath Tribes prior to such authority having been overruled or countermanded by the general council, shall have full force and effect.

Subchapter J—Fiscal and Financial Affairs

Subchapter J—Fiscal and Financial Affairs

Part 101—Annuity and Other Per Capita Payments

Sec.
101.1 Persons to share payments.
101.2 Enrolling non-full-blood children.
101.3 Payments by check.
101.4 Election of shareholders.
101.5 Future payments.

Authority: §§ 101.1 to 101.5 issued under R. S. 161; 5 U. S. C. 22.

§ 101.1 *Persons to share payments.* In making all annuity and other per capita payments, the funds shall be equally divided among the Indians entitled thereto share and share alike. The roll for such payments should be prepared on Form 5–322,[1] in strict alphabetical order by families of husband, wife, and unmarried dependent minor children. Unless otherwise instructed, (a) Indians of both sexes may be considered adults at the age of 18 years; (b) deceased enrollees may be carried on the rolls for one payment after death; (c) where final rolls have been prepared constituting the legal membership of the tribe, only Indians whose names appear thereon are entitled to share in future payments, after-born children being excluded and the shares of deceased enrollees paid to the heirs if determined or if not determined credited to the estate pending determination; and (d) the shares of competent Indians will be paid to them directly and the shares of incompetents and minors deposited for expenditure under the individual Indian money regulations.

Cross References: For regulations pertaining to the determination of heirs and approval of wills, see Part 15 and §§ 11.30–11.32C of this chapter. For individual Indian money regulations, see Part 104 of this chapter.

§ 101.2 *Enrolling non-full-blood children.* Where an Indian woman was married to a white man prior to June 7, 1897, and was at the time of her marriage a recognized member of the tribe even though she left it after marriage and lived away from the reservation, the children of such a marriage should be enrolled—and, also in the case of an Indian woman married to a white man subsequent to the above date but who still maintains her affiliation with the tribe and she and her children are recognized members thereof; however, where an Indian woman by marriage with a white man after June 7, 1897, has, in effect, withdrawn from the tribe and is no longer identified with it, her children should not be enrolled. In case of doubt all the facts should be submitted to the Bureau of Indian Affairs, Washington, D. C., for a decision.

§ 101.3 *Payments by check.* All payments should be made by check. In making payments to competent Indians, each check should be drawn to the order of the enrollee and given or sent directly to him. Powers of attorney and orders given by an Indian to another person for his share in a payment will not be recognized. Superintendents will note in the "Remarks" column on the roll the date of birth of each new enrollee and the date of death of deceased annuitants.

§ 101.4 *Election of shareholders.* An Indian holding equal rights in two or more tribes can share in payments to only one of them and will be required to elect with which tribe he wishes to be enrolled and to relinquish in writing his claims to payments to the other. In the case of a minor the election will be made by the parent or guardian.

§ 101.5 *Future payments.* Indians who have received or applied for their pro-rata shares of an interest-bearing tribal fund under the act of March 2, 1907 (34 Stat. 1221; 25 U. S. C. 119, 121), as amended by the act of May 18, 1916 (39 Stat. 128), will not be permitted to participate in future payments made from the accumulated interest.

Part 102—Regulations for Pro-Rata Shares of Tribal Funds

Sec.
102.1 Fee-simple patentees.
102.2 Applicants who have received neither fee-simple patents nor certificates of competency.
102.3 Applicants who are mentally or physically incapable of managing their affairs.
102.4 Interests in pro-rata shares not vested rights unless application approved.
102.5 Basis of distribution; pro-rata shares.
102.6 Disposition of pro-rata share in event of applicant's death.
102.7 Pro-rata shares of minors.

Authority: §§ 102.1 to 102.7 issued under sec. 2, 34 Stat. 1221, as amended; 25 U. S. C. 121.

Cross Reference: For regulations pertaining to the determination of heirs and approval of wills, see Part 15 and §§ 11.30–11.32C of this chapter.

§ 102.1 *Fee-simple patentees.* When the applicant has been granted a patent in fee or certificate of competency, that fact will be accepted as prima facie evidence of his competency, but in forwarding applications of this class the agent will give the date on which the patent was issued, report whether in his judgment the patentee has made proper use of his privileges and would make good use of his share of the tribal funds if paid to him, and make a specific recommendation for approval or disapproval of the application.

§ 102.2 *Applicants who have received neither fee-simple patents nor certificates of competency.* In the case of an applicant who has received neither a fee-simple patent nor a certificate of competency, the application must be accompanied by evidence which will establish the fact that he is capable of managing his own affairs. In forwarding applica-

[1] Forms may be obtained from the Commissioner of Indian Affairs, Washington 25, D. C.

tions of this class the superintendent will report fully, as follows:

(a) Is the applicant living on this allotment? If so, is he making reasonable efforts to cultivate his land and to support himself and family? If he is not living on his allotment, what is his occupation?

(b) Is any part of his allotment leased? If so, to what extent does he depend upon the rent therefrom to support himself and family?

(c) Has the applicant been given the privilege of leasing his own lands; and if so, with what result?

(d) Has he an interest in any inherited land? If he has sold or leased any inherited land, how has he managed the proceeds?

(e) Is the applicant of good moral character?

(f) Is he addicted to the use of intoxicants? And if so, does this habit, in the judgment of the agent, unfit him to make proper use of his share of the tribal funds?

(g) What is his physical condition?

(h) Is the applicant in debt? If so, to what extent and for what purpose was the debt incurred?

(i) Has the applicant the necessary business qualifications to enable him to manage his own affairs?

(j) Give such other information concerning the applicant as will aid the office in determining whether or not to approve his application.

(k) Make a specific recommendation for the approval or disapproval of the application.

§ 102.3 *Applicants who are mentally or physically incapable of managing their affairs.* Applications of this class must be accompanied by evidence that will establish the advisability of withdrawing the share. If the application is approved, the funds will be deposited to the credit of the Indian and handled as individual Indian money.

In forwarding applications the agent will report fully as follows:

(a) Sex and exact date of birth.

(b) Identify the applicant by allotment and last annuity-roll numbers.

(c) What is the actual physical condition of the applicant. If suffering from disease, submit certificate of physician if necessary to establish disability.

(d) What is the actual mental condition of the applicant? Answer fully.

(e) What are the material resources of the applicant?

(f) What advantages will accrue to applicant by withdrawal of his or her share at this time?

(g) Has it been explained to the applicant and does he understand that if the application is approved the funds will be deposited to his credit as individual Indian money to be expended under the supervision of the superintendent?

(h) Make a specific recommendation for the approval or disapproval of the application.

CROSS REFERENCES: For individual Indian money regulations, see Part 104 of this chapter. For deposits of Indian funds in banks, see Part 105 of this chapter.

§ 102.4 *Interest in pro-rata shares not vested rights unless application approved.* On November 6, 1908, the Secretary of the Interior decided, in effect, that the interest of an Indian in a pro-rata share of a tribal fund does not vest in the Indian an inheritable property until after his application has been approved by the Secretary and an order signed by him segregating it from the tribal fund. Applications for shares of funds under this act may be made at any time, but in view of the Secretary's decision such applications should be forwarded to the Bureau by the superintendent as soon as they are completed and filed with him. Applications from those who are blind, decrepit, etc., must be made special and forwarded to the Bureau of Indian Affairs, Washington, D. C., as soon as possible.

§ 102.5 *Basis of distribution; pro-rata shares.* In estimating the pro-rata share of an individual, the last annuity payroll prior to July 1 or January 1 of each year will be taken as a basis of distribution. Where no payment has been made within 1 year the last census, if taken within the year, will be the basis. If no census has been taken or payment made within a year, the last available record—either census or annuity roll will be used.

§ 102.6 *Disposition of pro-rata share in event of applicant's death.* In the event of the death of an applicant prior to the approval of his application by the Secretary of the Interior, the share to which he would have been entitled, if living, will revert to the tribe. In case of the death of an applicant after approval of his application and the signing by the Secretary of the Interior of an order for the segregation of his share, but before payment is made, his share will descend to his legal heirs and should be deposited to the credit of the estate pending formal determination thereof.

CROSS REFERENCE: For regulations pertaining to the determinations of heirs and aprpoval of wills, see Part 15 and §§ 11.30–11.32C of this chapter.

§ 102.7 *Pro-rata shares of minors.* The shares of minors will not be withdrawn except when necessary for their own benefit. The application should be signed by the parent or guardian and transmitted to the Bureau by the superintendent with his recommendation as in other cases and a full explanation of the circumstances which justify the withdrawal. Such shares will be deposited to the credit of the minors subject to expenditure under the individual Indian money regulations. The term "minor," as used in this section, shall be interpreted in conformity with the State law.

CROSS REFERENCE: For individual Indian money regulations, see Part 104 of this chapter.

PART 104—INDIAN MONEY ACCOUNTS

Sec.

104.1 Definitions.
104.2 Osage Agency.
104.3 Individual accounts.
104.4 Minors.
104.5 Adults under legal disability.
104.6 Voluntary deposits.
104.7 Payments by other Federal agencies.
104.8 Purchase orders.
104.9 Restrictions.
104.10 Funds of deceased Indians.
104.11 Funds of deceased Indians of the Five Civilized Tribes.
104.12 Supervision; appeal.

AUTHORITY: §§ 104.1 to 104.12 issued under R. S. 161; 5 U. S. C. 22.

§ 104.1 *Definitions.* Whenever used in this part the terms defined in this section shall have the meaning stated:

(a) "Commissioner" means the Commissioner of Indian Affairs.

(b) "Area Director" means the officer in charge of an area office for the Bureau of Indian Affairs.

(c) "Superintendent" means the superintendent or other officer in charge of an Indian reservation, agency or establishment.

(d) "Minor" means an individual who has not reached his majority as defined by the laws of the state of his domicile.

(e) "Indian Money Accounts" are those accounts under the control of superintendents or disbursing agents containing funds, regardless of derivation, belonging to individuals.

§ 104.2 *Osage Agency.* The provisions of this part do not apply to funds the deposit or expenditure of which is subject to the provisions of Part 222 of this subchapter.

§ 104.3 *Individual accounts.* Individuals shall have the right to withdraw funds in their Indian money accounts and upon their request the superintendent shall disburse the funds to them at such convenient times and places as the superintendent may designate, except as otherwise provided in this part.

§ 104.4 *Minors.* Funds of a minor may be disbursed for the minor's support, health, education, or welfare to parents, state-appointed guardians, fiduciaries, or to persons having the control and custody of the minor under plans approved by the superintendent, or directly to the minor upon such conditions as the superintendent may prescribe, in such amounts as he may deem necessary in the best interests of the minor. Superintendents are authorized to require modification of an approved plan whenever deemed in the best interest of the minor.

§ 104.5 *Adults under legal disability.* The funds of an adult who is non compos mentis or under other legal disability may be disbursed for his benefit for such purposes deemed to be for his best interest and welfare in the discretion of the superintendent, or the funds may be disbursed to a state-appointed guardian or curator under such conditions as the superintendent may prescribe.

§ 104.6 *Voluntary deposits.* Voluntary deposits shall not be accepted, but Indians who require banking service shall be encouraged to utilize commercial facilities. If in any case it is the judgment of the superintendent that an exception to this prohibition should be made to avoid a substantial hardship, he

shall submit the facts in the case to the Area Director who is authorized to allow or deny an exception.

§ 104.7 *Payments by other Federal agencies.* Superintendents are authorized to accept and administer moneys that may be received from the Veterans Administration or other government agency pursuant to the act of February 25, 1933 (47 Stat. 907; 25 U. S. C. 14), for the benefit of adult Indians under legal disability or minors for whom no legal guardian or fiduciary has been appointed.

§ 104.8 *Purchase orders.* Purchase orders shall not be issued except upon the request of the individual and only to meet emergencies.

§ 104.9 *Restrictions.* Funds obligated under assignments made pursuant to a delegation of authority shall be disbursed only in accordance with the terms thereof. Funds derived from the sale of capital assets which by agreement approved prior to such sale by the Commissioner or his authorized representative are to be expended for specific purposes, and funds obligated under contractual arrangements approved in advance by the superintendent or subject to deductions specifically authorized or directed by acts of Congress, shall be disbursed only in accordance with the agreements (including any subsequently approved modifications thereof) or acts of Congress.

§ 104.10 *Funds of deceased Indians.* Funds of a deceased Indian may be disbursed (a) for support of dependent members of the families of decedent in such amounts deemed necessary to avoid hardship and consistent with the value of the estate and the interest of probable heirs; (b) for the payment of obligations previously authorized; (c) for the last illness and funeral expenses of the decedent; and (d) for probate fees and claims allowed pursuant to Parts 15 and 16 of this chapter.

§ 104.11 *Funds of deceased Indians of the Five Civilized Tribes.* Funds of a deceased Indian of the Five Civilized Tribes may be disbursed to pay ad valorem and personal property taxes, Federal and State estate and income taxes, obligations approved by the superintendent prior to death of decedent, expenses of last sickness and burial and claims found to be just and reasonable which are not barred by the statute of limitations, and costs of determining heirs to restricted property by the state courts.

§ 104.12 *Supervision; appeal.* Exercise of authority by superintendents under this part shall be subject to the supervision and control of the Commissioner and his designated representatives. Appeal from an action taken by the superintendent may be taken within 30 days to the Area Director and thence to the Commissioner within a like period.

PART 105—DEPOSIT OF INDIAN FUNDS IN BANKS

Sec.
105.1 Authority for deposit.
105.2 Banks defined.
105.3 Application.
105.4 Qualification.
105.5 Security.
105.6 Corporate sureties.
105.7 Individual sureties.
105.8 Collateral security.
105.9 Deposits.
105.10 Payment of interest.
105.11 Reports; statement of disbursing account (Form 5–308).
105.12 Statement of deposits (Form 5–302).
105.13 Report of condition.
105.14 Checks.
105.15 Service charges prohibited.
105.16 Statements required.
105.17 Disqualification.

AUTHORITY: §§ 105.1 to 105.17 issued under R. S. 161; 5 U. S. C. 22. Interpret or apply sec. 1, 36 Stat. 855, as amended; 25 U. S. C. 372.

§ 105.1 *Authority for deposit.* Indian moneys, individual or tribal, may be deposited in banks under authority of the acts of June 25, 1910, as amended (48 Stat. 648; 25 U. S. C. 372); May 25, 1918 (40 Stat. 591; 25 U. S. C. 162); and February 27, 1925 (43 Stat. 1009).

§ 105.2 *Banks defined.* For the purpose of the regulations in this part, the word "banks" shall include State and national banks, and savings banks and trust companies doing a banking business.

§ 105.3 *Application.* Any bank desiring to qualify for deposits of Indian funds shall transmit to the Commissioner of Indian Affairs (or to the proper superintendent if a call for bids has been issued) an application accompanied by a report in the form prescribed by the Comptroller of the Currency (or the State Banking Department) showing fully the condition of the bank on a day not more than one month prior to the date of such application. In making application, banks must state the maximum amount desired and the minimum that will be accepted, the rate of interest that will be paid, and the type of security that will be furnished. The following statement must be incorporated in the letter of application: This bank agrees that if designated a depositary, it will comply with the regulations of the Department of the Interior governing the deposit of Indian funds in banks and with such instructions as may from time to time be issued by the Commissioner of Indian Affairs.

§ 105.4 *Qualification.* (a) In the selection of a bank to serve as a depositary, the following points will be given consideration:

(1) Location with respect to the nearest agency.

(2) Financial condition.

(3) Rate of interest and security offered.

(b) No bank will be considered for designation unless it has been in successful operation for 1 year and has accumulated a surplus equal to 10 percent of the capital stock. This will not apply to banks offering United States bonds or notes as security.

§ 105.5 *Security.* Under acts of Congress, deposits of Indian funds are required to be secured by surety bonds (corporate or individual) or by bonds or notes of the United States. The following securities are classed as United States obligations: Panama Canal loan bonds, Treasury bonds, and Treasury notes. Bonds on which surety companies or individuals appear as sureties must be executed in triplicate on forms [1] prescribed for the purpose, and each copy must be accompanied by a transcript of a resolution by the board of directors of the bank, authorizing the proper officers to execute the instrument. The bonds must be executed for a stipulated term of not less than 180 days. Such bonds, however, are continuing in nature and will remain in force beyond the stipulated period until canceled in accordance with the provisions contained therein. Whenever a bank receives notice from any source that its surety bond is to be canceled, it shall immediately arrange to submit substitute security which must reach the Bureau of Indian Affairs and be approved 10 days before the effective date of the cancellation notice. Any bank failing to furnish other security in accordance with the foregoing shall relinquish its deposit with accrued interest not later than the date of the tenth day preceding the effective date of the cancellation notice.

§ 105.6 *Corporate sureties.* Only those companies holding certificates of authority from the Secretary of the Treasury to write bonds on which the United States is obligee are acceptable as sureties.

§ 105.7 *Individual sureties.* Each person appearing as surety on a personal surety bond must qualify in an amount equal to twice the penalty of the bond. At least four individuals must act as sureties on each bond. Officers and directors of a bank furnishing a personal surety bond will not be accepted as sureties, nor will any person who is a bonded officer of the United States or a married woman.

§ 105.8 *Collateral security.* Banks pledging United States bonds or notes as security shall execute a deposit agreement on forms prescribed by the Commissioner of Indian Affairs and shall furnish a resolution of authority by the board of directors, authorizing the sale, assignment, or transfer of the collateral. The bonds or notes shall be either deposited with the Commissioner of Indian Affairs who will place them with the Treasurer of the United States for safekeeping, or sent direct to the Division of Securities, Office of the United States Treasurer, Treasury Department, to be held subject to the order of the Commissioner of Indian Affairs. In either case, receipt for the collateral will issue from the Bureau of Indian Affairs. Registered bonds must be assigned in blank before shipment, and a resolution by board of directors, authorizing the assignment, must be filed with the Division of Loans and Currency, Treasury Department, on Treasury Department Form PD 1009 or Form PD 1010. All correspondence relating to the deposit, withdrawal, substitution, or exchange of securities shall be addressed to the Commissioner of Indian Affairs.

[1] Forms may be obtained from the Commissioner of Indian Affairs, Washington 25, D. C.

§ 105.9 *Deposits.* Each bank that has been designated as a depositary and has filed proper bond will be given a deposit in an amount equal to 95 percent of the penalty of the bond, unless it has been selected to carry an active checking account in which case the deposit will be limited to 90 percent of the security. Upon receipt of the deposit from the disbursing agent, the bank shall immediately credit it to an account which must be opened under his name and official title. The deposit shall be subject to withdrawal in accordance with the terms of the depositary's surety bond or its deposit agreement. Time certificates of deposit, running for definite periods during which deposits are not subject to check, are not acceptable. The terms of any such instruments issued contrary to the regulation in this part will be considered void and of no effect.

§ 105.10 *Payment of interest.* Except as to depositaries for funds of the Osage and Five Civilized Tribes Agencies, each bank carrying a deposit shall credit interest thereon at the agreed rate to the account of the disbursing agent at the close of June 30, and December 31 of each year. Banks carrying deposits in the names of the disbursing agents of the Five Civilized Tribes and Osage Agencies shall credit interest to their accounts at the close of April 30 and October 31 of each year. Within 5 days after the close of the interest period, the amount credited to the account of a disbursing agent shall be remitted to him by draft unless he has previously arranged to withdraw it by check. Any bank delinquent in the payment of interest shall be liable for interest on the overdue amount. In the event that a deposit or any part thereof is withdrawn during an interest period by reason of the cancellation of a bond, interest which has accrued on the amount so withdrawn shall immediately be credited and promptly remitted to the disbursing agent by draft unless included in his check or covered by separate check.

§ 105.11 *Reports; statement of disbursing account (Form 5–308).* Each depositary for Indian funds shall furnish monthly statements of receipts and paid checks on Form 5–308 (and Form 5–308a if extra space is needed). Paid checks will be listed thereon in numerical order showing for each check its date, number, and amount. These statements will be prepared in triplicate for each disbursing officer having funds to his official credit. A duplicate copy will be forwarded to the disbursing officer in charge of the unit for reconciliation within 10 days after the close of the month. The disbursing officer will make a prompt comparison with his records, and after adjusting any errors found with the bank, the latter will immediately forward the original statement and paid checks directly to the General Accounting Office, Audit Division, Washington, D. C. The triplicate copy of the statement will be retained in the bank's files. In no case will the depositary send the paid checks to the disbursing officer nor should the statement and checks be sent to or routed through the Bureau. Statements will be required of both time and checking depositaries so long as any balance of Indian moneys remains on deposit and must be furnished for fractional parts of a month whenever a change of disbursing officers takes place or a new bond (disbursing agent's) becomes effective before the end of a month. Depositaries should apply to disbursing officers for a supply of the necessary forms.

§ 105.12 *Statement of deposits (Form 5–302).* Each bank having a deposit not actively checked against shall submit semiannually, within 5 days after the close of June 30, and December 31, of each year, to the officer in whose name the deposit is carried, a statement in duplicate on Form 5–302. After comparing the statement with his records, the officer will forward the original to the Bureau of Indian Affairs if it is found correct. Banks carrying active checking accounts shall submit the statements within 5 days after the close of each month. Depositaries should apply to the Bureau for Forms 5–302.

§ 105.13 *Report of condition.* When called for by the Commissioner of Indian Affairs, a report of financial condition shall be submitted by each depositary. A copy of the report made to the Comptroller of the Currency (or the State Banking Department) will suffice if not more than 1 month has elapsed since such report. If a longer period has elapsed, current figures shall be given, but in the same form. No printed forms are provided by the Department for the submission of the reports.

§ 105.14 *Checks.* Each bank designated as a depositary shall furnish the disbursing agent, without charge, an adequate supply of blank checks. Checks to be supplied by banks carrying active checking accounts must be printed in accordance with instructions from disbursing agents.

§ 105.15 *Service charges prohibited.* No bank in which Indian funds are deposited shall charge or receive any exchange or other fees or compensation on account of the cashing or collection of any checks or drafts or the performance of any other service for disbursing agents.

§ 105.16 *Statements required.* Depositaries shall render such statements and give such information as properly accredited inspecting and administrative officers may request.

§ 105.17 *Disqualification.* Any bank which shall fail to comply with the regulations in this part shall be liable to be disqualified.

PART 107—CREATION OF TRUSTS FOR RESTRICTED PROPERTY OF INDIANS, FIVE CIVILIZED TRIBES, OKLAHOMA

Sec.

107.1 Application for trust.
107.2 Obligations of trust company.
107.3 Secretarial approval discretionary.
107.4 Contents trust agreement.
107.5 Eligibility of appraisers.
107.6 Aiding Indians in formulating trust agreements.
107.7 Trust duration.
107.8 Trustee's security.
107.9 Trustee's compensation.
107.10 Necessary forms.
107.11 Limit restricted property in trust.
107.12 Amendments.

AUTHORITY: §§ 107.1 to 107.12 issued under sec. 7, 47 Stat. 778.

§ 107.1 *Application for trust.* Indians desiring to establish trust estates under the provisions of the said act must make written application therefor to the Secretary of the Interior through the superintendent or other official in charge of the Five Civilized Tribes Agency, Muskogee, Oklahoma. The application shall designate the trustee, the beneficiary or beneficiaries and the manner in which it is desired the corpus of the estate shall be distributed upon the termination of the trust. A form of application will, upon request, be furnished by the said superintendent and should be filled out and executed in the presence of the field clerk or, in the office of the superintendent and duly attested by the field clerk or some other Government employee. The information required by the form of application and such other information as may be requested concerning the Indian and his affairs shall be carefully considered by the superintendent who will affix his recommendation to the application and forward it to the Secretary of the Interior with his report, which report shall contain full advice with respect to the education and business qualifications of the applicant, his ability to read, write and understand the English language, his reputation for industry and thrift and what experience, if any, he has had in a business way.

§ 107.2 *Obligations of trust company.* The form of proposed trust agreement shall be executed by the trust company or banking institution selected as trustee, and shall be signed by and submitted with the application of the Indian, together with a statement in writing by said trust company or banking institution similar in form to that prescribed by the Comptroller of the Currency (or by the State banking department), showing fully the conditions of said trust company or banking institutions on a day not more than 1 month prior to the date of the application for the creation of the trust. The agreement must also be accompanied by a written certificate duly executed by the trustee to the effect that it has not paid or promised to pay any person other than an officer or employee on its regular payroll any fee, charge, commission or remuneration for any service or influence in securing or attempting to secure for it the trusteeship in that or in other trusts to which the regulations in this part apply.

§ 107.3 *Secretarial approval discretionary.* No such trust agreement will be favorably considered unless in the judgment of the Secretary of the Interior the trustee therein named is deemed by him to be on a sound financial basis and otherwise sufficiently qualified to justify approval of such trust.

§ 107.4 *Contents trust agreement.* In addition to the subject matter of the trust, its objects and beneficiaries, duties of trustee, etc., the form of trust agreement shall contain provisions to the following general effect:

(a) That such of the current income from the corpus of the estate as may be payable to the Indians of the Five Civilized Tribes of one-half or more Indian blood shall be remitted by the trustee to the Secretary of the Interior or such other official as he may designate for appropriate disposition.

(b) That the trusts declared and each of them shall be irrevocable except with the approval of the Secretary of the Interior, but, subject to his approval, the beneficiaries named in any approved trust may be redesignated by the maker without in any manner otherwise impairing or altering any of the provisions thereof, particularly the duration of the trust or the compensation to be paid to the trustee.

(c) That neither the corpus of the trust estate nor the income derived therefrom is, during the restriction period provided by law, subject to alienation or incumbrance, or to the satisfaction of any debt or other liability of any beneficiary of such trust during the said restricted period.

(d) That if the trust be annulled, cancelled or set aside by order of any court or otherwise, the principal of the trust with all accrued and unpaid interest shall be returned to the Secretary of the Interior as restricted individual property.

(e) That the trustee shall render an annual accounting to the Secretary of the Interior and to the beneficiary or beneficiaries to whom the income from any such trust for the preceding year or any part thereof was due and payable, such annual accounting to be submitted within 30 days following the ending of each annual period of the trust, and the trustee shall render accounting to the Secretary of the Interior at any other time on written request by the Secretary of the Interior, within 30 days from such request.

(f) That except as to United States Government bonds and other securities fully guaranteed by the Federal Government in which such funds in the hands of the trustee may be invested without limitations, the following limitations are prescribed on the right of the trustee to invest or reinvest any part of the corpus or income from the trust: (1) Not more than 30 percent of the estate may be invested in securities exclusive of all other limitations contained in this part, which appear on the current list of legal investments for savings banks prepared by the superintendent of banks of the State of New York, except that this authorization shall not include the purchase of public utility securities or railroad securities which do not represent obligations of operating companies, or the purchase of stocks: *Provided, however,* That in the purchase of such securities not more than 20 percent may be invested in general obligations issued by States or by any political subdivisions thereof, and not more than 10 percent may be invested in public utilities and in railroad securities, or in either of them; (2) not more than 15 percent of the trust estate may be invested in Federal land bank bonds issued under the provisions of the act of July 17, 1916 (39 Stat. 360) as amended; (3) not more than 40 percent of the trust estate may be invested in total loans secured on first deeds of trust or first mortgages on improved city or farm real estate situated in the States designated in the trust agreements, but no such loans shall exceed 50 percent of the value of the real estate and improvements appraised not more than 30 days prior to such investments by one or more appraisers selected with the approval of the Secretary of the Interior; (4) no part of the trust fund shall be invested in the purchase of real estate or stocks for the trust except to protect the trust estate in foreclosure or other proceedings; (5) no part of the trust estate shall be invested in any kind of foreign securities, loans, or other properties, private or public.

§ 107.5 *Eligibility of appraisers.* Hereafter no person who is interested directly or indirectly, whether through intimate personal, financial or business connections, in any trust company or banking institution designated as trustee under an approved trust agreement involving restricted Indian property, or who is an officer, director, or employee of such trust company or banking institution, shall act as an appraiser of real estate in connection with the making of loans from the trust estate to be secured by first deeds of trust or first mortgages. Nor shall any person having an interest in obtaining such a loan, either personally or as an officer, director or employee of any company, association or partnership seeking such a loan, act as an appraiser. An investigation into the qualifications of all persons selected as appraisers will be made for the purpose of determining that the persons selected are both competent and disinterested.

§ 107.6 *Aiding Indians in formulating trust agreements.* In the formulation of the trust agreement and the provisions thereof the superintendent for the Five Civilized Tribes Agency and the other employees under his supervision will upon request assist the Indian to the fullest possible extent to the end that he may understand fully the meaning and the intent of the agreement and make the most satisfactory provision for the formation and consummation of the trust agreement.

§ 107.7 *Trust duration.* Under the terms of the statute no trust shall be established to continue for a period of more than 21 years after the death of the last surviving beneficiary named in the trust agreement.

§ 107.8 *Trustee's security.* To secure the faithful performance of the duties imposed by the trust agreement the trustee shall, as required by section 7 of the act (47 Stat. 778), deposit securities of the United States or furnish an acceptable corporate surety bond in an amount equal to the value of the trust as fixed and determined by the Secretary of the Interior. Appraisers will be appointed by the Secretary for the purpose of fixing the value of the trust and of revising such value from time to time as the judgment of the Secretary may dictate. Additional or substitute security may be required at any time when deemed necessary for the protection of the trust estate and the interest of the Indians. Trustees pledging United States bonds or notes as security shall execute on forms [1] prescribed by the Secretary an appropriate resolution and power-of-attorney authorizing the sale, assignment or transfer of the collateral. Only those Corporate sureties who hold certificates of authority from the Secretary of the Treasury to write bonds on which the United States is obligee are acceptable as sureties. The cost to the trustee, if any, of furnishing the required bond, will be regarded as a necessary part of the cost of administering the trust and as such deductible from the gross income accruing therefrom.

§ 107.9 *Trustee's compensation.* As compensation for administering the trust the trustee will be permitted to receive annually not to exceed 5 percent of the gross annual income from such trust estate, and as further compensation will also be permitted to receive not to exceed an amount equal to 1 percent of the corpus of the trust estate, to be paid out of the income first accruing therefrom, and not to exceed an amount equal to 2 percent of the corpus of the estate at the time of final distribution based upon the last valuation made by the Secretary of the Interior prior to such distribution. By final distribution is meant any distribution to a beneficiary of any part of the corpus of the trust estate at any time under the terms of the trust. All fees are to be based on the size of the trust and the nature of the duties to be performed thereunder. The foregoing percentage of fees are maximum and alternative, that is, within such maximum limitations any one or more of said fees may or may not be allowed within the discretion of the Secretary of the Interior.

§ 107.10 *Necessary forms.* In addition to the form of application by the Indians under the act of January 27, 1933 (47 Stat. 777), there are skeleton forms of trust agreement and bond, which forms are subject to such changes as may be necessary to meet the requirements of each particular case.

§ 107.11 *Limit restricted property in trust.* Not more than three million dollars aggregate value of restricted Indian property shall be placed in trust pursuant to the regulations in this part with any one trustee, trust company or other banking institution authorized by law to act as a fiduciary.

§ 107.12 *Amendments.* The regulations in this part may be changed, amended, added to, and any part thereof eliminated at any time by the Secretary of the Interior.

[1] Forms may be obtained from the superintendent of the Five Civilized Tribes Agency, Muskogee, Oklahoma.

PART 108—DEPOSIT AND EXPENDITURE OF INDIVIDUAL FUNDS OF MEMBERS OF THE OSAGE TRIBE OF INDIANS WHO DO NOT HAVE CERTIFICATES OF COMPETENCY

Sec.

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108.34 Financial status of Indians confidential.
108.35 Appeals.

AUTHORITY: §§ 108.1 to 108.35 issued under R. S. 161; 5 U. S. C. 22.

§ 108.1 *Definitions.* When used in the regulations in this part the following words or terms shall have the meaning shown below:

(a) "Secretary" means the Secretary of the Interior or his authorized representative.

(b) "Commissioner" means the Commissioner of Indian Affairs or his authorized representative.

(c) "Superintendent" means the superintendent of the Osage Agency.

(d) "Quarterly payment" means the payment of not to exceed $1,000 which is made each fiscal quarter to or on behalf of an adult Indian, from the following sources:

(1) The pro rata distribution of tribal mineral income and other tribal revenues.

(2) The interest on segregated trust funds.

(3) Surplus funds in addition to the income from the foregoing sources in the amount necessary to aggregate $1,000 when the income from those sources is less than $1,000 and the Indian has a balance of accumulated surplus funds in excess of $10,000.

(e) "Surplus funds" means all those moneys and securities readily convertible into cash, except allowance funds and segregated trust funds, which are held to the credit of an Indian at the Osage Agency and which may be disbursed, expended or invested only upon authorization by the Secretary. The term includes:

(1) That portion of the quarterly distribution of tribal income and interest on segregated trust funds, in excess of $1,000, belonging to an adult Indian.

(2) The proceeds, including appreciation, of the sale or conversion of restricted real or personal property (other than partition sales).

(3) Payments made by insurance companies or others for loss or damage to restricted real or personal property.

(4) All moneys and securities, other than segregated trust funds, to the credit of an Indian who is less than 21 years of age (except the income from restricted lands payable as provided by § 108.3).

(5) Funds and securities placed to the credit of an Indian upon the distribution of an Osage estate.

(f) "Allowance funds" means that income payable to or on behalf of a living adult Indian, the expenditure and disbursement of which is not subject to supervision unless authorized pursuant to the procedure contained in § 108.5. The term includes:

(1) The quarterly payment in an amount not to exceed $1,000.

(2) The rentals and income from restricted lands owned by the Indian.

(3) The rentals and income from restricted lands owned by the minor children of the Indian, as provided in § 108.3.

(4) Income from investments.

(5) Interest on deposits to the credit of the Indian.

(g) "Segregated trust funds" means those moneys held in the United States Treasury at interest to the credit of an Indian which represent pro rata shares of the segregation of tribal trust funds and the proceeds of the partition of restricted lands.

§ 108.2 *Payment of taxes of adult Indians.* The superintendent may cause to be paid out of any money heretofore accrued or hereafter accruing to the credit of any adult Indian all taxes of every kind and character for which such Indian is or may be liable before paying to or for such person any funds as required by law. All checks in payment of taxes shall be made payable to the proper collector. For the purpose of establishing a fund with which to meet the payment of such taxes when due, the Superintendent may cause the funds of adult Indians to be hypothecated in the following manner:

(a) For the payment of ad valorem taxes, one-fourth of the estimated amount of ad valorem taxes from each quarterly payment unless this procedure would cause the obligation of more than 25 percent of such quarterly payments, in which event the necessary additional funds shall be retained from other allowance funds payable to such person under the law. If there be no other allowance funds available, or if the funds from these sources are insufficient, one-fourth of the estimated amount of such ad valorem taxes may be obligated from each quarterly payment. If an Indian who is liable for ad valorem taxes has no allowance funds, or such funds are insufficient for the payment thereof, surplus funds may be used for such payment.

(b) (1) For the payment of income taxes, one-half of the estimated amount of income taxes from each semi-annual payment of interest on deposits, but if such interest payments are insufficient to meet this obligation, additional funds shall be retained from interest on investments, rentals, or other allowance funds.

(2) Whenever funds are withheld for the purpose of establishing a fund to meet the payment of taxes, the Indian shall be notified of the action taken.

§ 108.3 *Payment of taxes of Indians under 21 years of age.* All taxes assessed against the restricted lands of Indians less than 21 years of age shall be paid by the superintendent direct to the collector from the rents and income derived from such lands, and the balance, if any, of such rents and income shall be paid to the living parents or parent. If the parents are separated, the balance shall be paid to the parent having custody of the Indian under 21 years of age. All other taxes for which an Indian under 21 years of age may be liable shall be paid from his surplus funds.

§ 108.4 *Disbursement of allowance funds.* Except as provided in § 108.5, all allowance funds shall be disbursed to the Indian owner unless the Indian owner directs otherwise in writing. At the request of the Indian owner, such funds may be retained by the superintendent as voluntary deposits subject to withdrawal or other disposition upon demand or direction of the Indian owner. The superintendent may recognize a power of attorney executed by the Indian and may disburse the allowance funds of the Indian in conformity therewith so long as the power of attorney remains in force and effect.

§ 108.5 *Procedure for hearings to assume supervision of expenditure of allowance funds.* (a) Whenever the superintendent has reason to believe that an adult Indian is wasting or squandering his allowance funds the superintendent may cause an investigation and written report of the facts to be made. If the report indicates that the Indian is wasting or squandering his allowance funds the following notice shall be served upon the Indian, in person or by registered mail, and a copy thereof shall likewise be served upon his guardian if the Indian is under guardianship:

Section 1 of the act of February 27, 1925 (43 Stat. 1008) provides in part as follows:

"All payments to adults not having certificates of competency, including amounts paid for each minor, shall, in case the Secretary of the Interior finds that such adults are wasting or squandering said income, be subject to the supervision of the Superintendent of the Osage Agency: . . ."

Enclosed is a copy of a report which has been made to me concerning your handling and management of the income paid to you through the Osage Agency. This report in-

dicates that you have been wasting and squandering your payments.

You are hereby notified that a hearing will be held in the Osage Indian Agency, Pawhuska, Oklahoma, at ____ m., on the _____ day of _____, 19____, before the Superintendent, for the purpose of taking testimony and evidence to be submitted to the Commissioner of Indian Affairs for his consideration in determining whether your payments shall be subject to the supervision of the Superintendent.

You are requested to be present at the hearing at the time and place designated above. You may introduce at the hearing such testimony and evidence as you deem appropriate to show that you are not wasting or squandering your payments and that your payments should continue to be made to you without supervision for your unrestricted use.

You are entitled to employ an attorney to assist you in this matter. Upon your request the employees of the Osage Agency will furnish you with any information you desire concerning your accounts at the Osage Agency or any of your transactions handled through the Osage Agency.

Date _____

_____

Superintendent.

(b) A hearing shall be held pursuant to the notice, the date of which shall be not less than 30 days after the date of the notice. For good cause shown to exist the superintendent may continue the hearing to a later date.

(c) A record of the proceedings, consisting of the superintendent's preliminary report, the notice and proof of service, all testimony and evidence introduced at the hearing, and all briefs and letters filed by the Indian or his attorney shall be submitted to the Commissioner, together with a recommendation from the superintendent.

(d) Upon a finding by the Commissioner that the Indian is wasting or squandering his income, his allowance funds shall thereafter be subject to the supervision of the superintendent. Notice of the decision of the Commissioner shall be furnished all interested parties.

§ 108.6 *Allowance for minors.* The superintendent may disburse from the surplus funds of an Indian under 21 years of age not to exceed $300 quarterly for the support and maintenance of the minor. Disbursement may be made to the parent, guardian, or other person, school or institution having actual custody of the minor, or, when the minor is 18 years of age or over, disbursement may be made direct to the minor.

§ 108.7 *Disbursement or expenditure of surplus funds.* Except as provided in the regulations in this part, no disbursement or expenditure of surplus funds of Indians shall be made without the consent of the Indian owner and until authorization has been obtained from the Commissioner. Application by an Indian or his legal guardian, or if he is a minor, by his parent or legal guardian, for the expenditure of surplus funds shall be presented to the Commissioner, fully justified with the appropriate attachments such as court orders, decrees or other papers. Such application shall contain full information regarding the individual including his cash balance, the sum invested, the number of shares in the Osage mineral estate, total income from all sources including that paid on behalf of minors, the family status and the occupation or industry of the applicant. When request is made for payment to the individual without supervision, the record of said individual and his ability to handle such funds shall be shown.

§ 108.8 *Purchase of land.* Upon written application of an adult Indian, the superintendent may disburse not to exceed $10,000 from the surplus funds of such Indian for the purchase of land, the title to which has been examined and accepted by the special attorney for the Osage Indians or other legal officer designated by the Commissioner. In all cases title must be taken by deed containing a clause restricting alienation or encumbrance without the consent of the Secretary of the Interior or his authorized representative.

§ 108.9 *Construction and repairs.* Upon written application by an adult Indian, the superintendent may disburse not to exceed $1,000 during any one fiscal year from the surplus funds of such Indian to make repairs and improvements to restricted real property and in addition not to exceed $300 for new construction. When such expenditures are being made on property producing an income, reimbursement shall be required from such income unless otherwise directed by the Commissioner. When an Indian refuses to make application for funds to defray the cost of repairs necessary to preserve restricted property, the superintendent may, when authorized by the Commissioner, expend the surplus funds of the Indian for such repairs.

§ 108.10 *Purchase of automotive equipment.* The superintendent may disburse from the surplus funds of an adult Indian not to exceed $2,000 for the purchase of automotive equipment when the Indian agrees in writing to carry property and liability insurance on the automotive equipment and to reimburse his surplus funds account from allowance funds within 24 months. No disbursement of surplus funds for the purchase of automotive equipment shall be made if the fulfillment of the reimbursable agreement will endanger the payment of taxes, insurance or other obligations, or result in the inability of the Indian to meet his current living expenses from allowance funds.

§ 108.11 *Insurance.* The superintendent may obtain policies of insurance covering the restricted property, real or personal, of minor Indians and pay the premiums thereon from the funds of the minors. Upon application by an adult Indian the superintendent may procure insurance on any restricted property, real or personal, owned by the applicant and pay the necessary premiums from his surplus or allowance funds. When authorized by the Commissioner, the superintendent may also procure insurance on restricted property, real or personal, of any adult Indian who neglects or refuses to take out such insurance.

§ 108.12 *Costs of recording and conveyancing.* The superintendent may expend the surplus funds of an Indian to make direct payment of recording fees and costs of conveyancing, including abstracting costs, which are properly payable by the Indian.

§ 108.13 *Telephone and telegraph messages.* The superintendent may expend the surplus funds of an Indian to make direct payment for telephone and telegraph messages sent by the agency or received at the agency at the instance of the Indian or his guardian or attorney.

§ 108.14 *Miscellaneous expenditure of surplus funds.* Upon application by an adult Indian the superintendent may disburse the surplus funds of such Indian for the following purposes:

(a) Medical, dental, and hospital expenses for the applicant or a member of his family, not to exceed one thousand dollars ($1,000) during any one fiscal year.

(b) Funeral expenses, including the funeral feast, of a deceased member of his family, in an amount not to exceed one thousand dollars ($1,000).

(c) A tombstone or monument to mark the grave of a deceased member of his family in an amount not to exceed five hundred dollars ($500).

(d) Court costs in any judicial proceeding to which the applicant is a party.

(e) Bond premiums, except bail and supersedeas bonds.

(f) For miscellaneous purposes, not to exceed five hundred dollars ($500) during any one fiscal year.

§ 108.15 *Collections from insurance companies.* Moneys collected from insurance companies for loss or damage to restricted real or personal property shall be deposited to the credit of the Indian owner as surplus funds. Moneys so deposited to the credit of an adult Indian may, upon the written application of the Indian, be disbursed by the superintendent for the purpose of repairing or replacing the property. Moneys collected from insurance companies for loss or damage to unrestricted real or personal property shall be paid to the Indian for his unrestricted use.

§ 108.16 *Reimbursement to surplus fund.* When expenditures have been made from surplus funds upon the condition, and with the written agreement of the Indian, that reimbursement or repayment shall be made from future allowance funds, the superintendent is authorized to withhold from succeeding quarterly payments or other allowance funds such amounts as may be necessary to effect reimbursement within a period not exceeding 24 months from date of the first expenditure under the given authority.

§ 108.17 *Inactive surplus funds accounts.* When the balance of surplus funds to the credit of an adult Indian is less than $300 and when there is no likelihood of its increase within 90 days, the superintendent may disburse the entire balance to the Indian owner for his unrestricted use.

§ 108.18 *Withdrawal and payment of segregated trust funds.* The withdrawal and payment of segregated trust funds

will be made only upon application and satisfactory evidence that the withdrawal and payment of such funds would be to the best interest of the Indian in view of all the circumstances shown to exist. The segregated trust funds of an Indian under guardianship or an Indian under 21 years of age shall not be released and paid except to a guardian appointed by a proper court and after the filing of a bond approved by the court conditioned upon the faithful handling of the funds. Applications for the withdrawal and payment of segregated trust funds must be made upon the forms prescribed by the Secretary for that purpose.

§ 108.19 *Debts of Indians.* No indebtedness of Indians will be paid from their funds under the control or supervision of the Secretary unless authorized in writing and obligated against their accounts by the superintendent or some other designated employee except in cases of emergency involving the protection or preservation of life or property, which emergency must be clearly shown. With this exception, no authorization or obligation against the account of any Indian for indebtedness incurred by him shall be made by the superintendent unless specifically authorized by the regulations in this part.

§ 108.20 *Purchase orders.* Purchase orders may be issued by the superintendent for expenditures authorized by the regulations in this part or for expenditures specifically authorized by the Commissioner. When necessary to prevent hardship or suffering, purchase orders may be issued by the superintendent against the future income of an Indian in an amount not to exceed 80 percent of the anticipated quarterly payment. The payment of purchase orders issued against future income shall be contingent upon the availability of funds.

§ 108.21 *Fees and expenses of attorneys.* When payment of an attorney fee for services to an Indian is to be made from his surplus funds, the employment of the attorney by the Indian must be approved in advance. All fees will be determined on a quantum meruit basis and paid upon completion of the services. The superintendent may approve the employment of an attorney, determine the fee, and disburse the surplus funds of the Indian in payment thereof when the fee does not exceed $500. Upon application by the Indian and upon the presentation of properly authenticated vouchers, the superintendent may disburse the surplus funds of the Indian in an amount not to exceed $200 in payment of necessary expenses incurred by the attorney.

§ 108.22 *Disbursements to legal guardians.* Any disbursement authorized to be made to an Indian by the regulations of this part may, when the Indian is under guardianship, be made by the superintendent to the guardian. All expenditures by a guardian of the funds of his ward must be approved in writing by the court and the superintendent.

§ 108.23 *Transactions between guardian and ward.* Business dealings between the guardian and his ward involving the sale or purchase of any property, real or personal, by the guardian to or from the ward, or to or from any store, company or organization in which the guardian has a direct interest or concern or contrary to the policy of the Department and shall not be approved by the superintendent without specific authority from the Commissioner.

§ 108.24 *Compensation for guardians and their attorneys.* (a) The superintendent may approve compensation for services rendered by the guardian of an Indian on an annual basis, the amount of the compensation to be determined by application of the following schedule to the moneys collected by the guardian:

First $1,000 or portion thereof, not to exceed 10 percent.
Second $1,000 or portion thereof, not to exceed 9 percent.
Third $1,000 or portion thereof, not to exceed 8 percent.
Fourth $1,000 or portion thereof, not to exceed 7 percent.
Fifth $1,000 or portion thereof, not to exceed 6 percent.
Sixth $1,000 or portion thereof, not to exceed 5 percent.
Seventh $1,000 or portion thereof, not to exceed 4 percent.
Eighth $1,000 or portion thereof, not to exceed 3 percent.
Ninth $1,000 or portion thereof, not to exceed 2 percent.
All above $9,000 not to exceed 1 percent.

(b) Balance carried forward from previous reports and moneys received by a guardian or his attorney as compensation shall be excluded in determining the compensation of the guardian or his attorney.

(c) The attorney for a guardian shall be allowed compensation in an amount equal to one-half of the amount allowed the guardian under the foregoing schedule except when such attorney is himself the guardian and acting as his own attorney, in which event he shall be allowed a fee of not to exceed one-fourth of the amount allowed the guardian under the foregoing schedule in addition to the fee as guardian.

(d) The superintendent may in his discretion permit the guardian to collect rentals from restricted city or town properties belonging to his ward.

§ 108.25 *Charges for services to Indians.* The superintendent shall make the following charges for services to Indians: Five per cent of all interest and non-liquidating dividends received from all types of securities, including stocks, bonds, and mortgages held in trust for individual Indians and interest on group investments. Such fees shall be deposited in the Treasury of the United States to the credit of the fund "Proceeds of Oil and Gas Leases, Royalties, etc., Osage Reservation, Oklahoma".

§ 108.26 *Expenses incurred pending qualification of an executor or administrator.* Pending the qualification of the executor or administrator of the estate of a deceased Indian of one-half or more Indian blood who did not have a certificate of competency at the time of his death, the superintendent may authorize the extension of credit for the following purposes, subject to allowance of claims by the executor or administrator and approval thereof by the court:

(a) Funeral expenses, including the cost of a funeral feast, in an amount not to exceed $1,000.

(b) Necessary expenses in hearings before the Osage Agency involving the approval or disapproval of last wills and testaments.

(c) Expenses necessary to preserve restricted property.

§ 108.27 *Custody of funds pending administration of estates*—(a) *Estates of Indians of less than one-half Indian blood and estates of Indians who had certificates of competency.* Upon the death of an Indian of less than one-half Indian blood or an Indian who had a certificate of competency, the superintendent shall pay to the executor or administrator of the estate all moneys and securities, other than segregated trust funds to the credit of the Indian and all funds which accrue pending administration of the estate.

(b) *Estates of Indians of one-half or more Indian blood who did not have certificates of competency.* Upon the death of an Indian of one-half or more Indian blood who did not have a certificate of competency at the time of his death, the following classes of funds, less any amount hypothecated for the payment of taxes as provided in § 108.2, shall be paid by the superintendent to the executor or administrator of the estate:

(1) Allowance funds to the credit of the Indian.

(2) Any quarterly payment authorized prior to the death of the Indian.

(3) Interest on segregated trust funds and deposits computed to the date of death.

(4) Rentals and income from restricted lands collected after the death of the Indian which were due and payable to the Indian prior to his death.

Except as provided in § 108.28, the superintendent shall not pay to the executor or administrator any surplus funds to the credit of the Indian or any funds, other than those listed in subparagraphs (1) (2) (3) and (4) of this paragraph which accrue pending administration of the estate.

§ 108.28 *Payment of claims against estates.* The superintendent may disburse to the executor or administrator of the estate of a deceased Indian of one-half or more Indian blood who did not have a certificate of competency at the time of his death sufficient funds out of the estate to pay the following classes of claims approved by the court:

(a) Debts authorized by the superintendent during the lifetime of the Indian.

(b) Expenses incurred pending the qualifications of an executor or administrator under authority contained in § 108.26.

(c) Expenses of administration, including court costs, premium on bond of executor or administrator, transcript fees and appraiser fees.

(d) Living expenses incurred within 90 days immediately preceding the date of death of the Indian.

(e) Allowance of not to exceed $100 per month for 12 months to a widow who is entitled to participate in the distribution of the estate and who does not have sufficient funds of her own.

(f) Allowance of not to exceed $35 per month for 12 months for each child of the decedent under 21 years of age who is entitled to participate in the distribution of the estate and who is in need of such support.

(g) Insurance premiums and license fees on restricted property.

(h) Not to exceed $1,000 for the preservation and upkeep of restricted property, including the services of a caretaker when necessary.

(i) Debts incurred during the lifetime of the Indian but not authorized by the superintendent, if found by the Commissioner to be just and payable.

The superintendent shall disburse no funds to an executor or administrator for the payment of the foregoing classes of claims unless the executor or administrator has no other funds in his hands available for the payment of such claims.

§ 108.29 *Sale of improvements.* The superintendent may approve the sale of improvements on restricted Indian lands when such improvements are appraised at not more than $500 and when the owner has submitted a written request that the sale be made and a statement that the improvements can no longer be used by him. The proceeds of all such sales shall be deposited to the credit of the Indian as surplus funds. Improvements consisting of buildings, etc., located on property within the Osage villages of Pawhuska, Hominy, and Grayhorse may, upon approval of the superintendent, be disposed of to other Osage Indians. The superintendent may disburse the surplus funds of the purchaser to consummate the transaction. Sale of such improvements to non-Indian or non-Osage Indians must be approved by the Commissioner.

§ 108.30 *Sale of personal property.* The superintendent may approve the sale of restricted personal property other than livestock. The superintendent may also approve the sale of livestock when authorized so to do by special or general instructions from the Commissioner. The proceeds from the sale of personal property other than livestock shall be deposited to the credit of the Indian as surplus funds unless the surplus funds from which said property was purchased have been reimbursed from allowance funds, in which case the proceeds from such sale shall be disbursed as allowance funds. If partial reimbursement only has been made, such portion of the proceeds of sale as may be necessary to complete the reimbursable agreement shall be deposited to the credit of the Indian as surplus funds and the balance, if any, shall be disbursed as allowance funds. The proceeds from the sale of livestock shall be deposited in conformity with general or specific instructions from the Commissioner.

§ 108.31 *Removal of restrictions from personal property.* The superintendent may relinquish title to personal property (other than livestock) held by the United States in trust for the Indian when to do so will enable the Indian to use the property as part payment in the purchase of other personal property and when the remainder of the purchase price is to be made from other than surplus funds of the Indian.

§ 108.32 *Funds of Indians of other tribes.* The funds of restricted non-Osage Indians, both adults and minors, residing within the jurisdiction of the Osage Agency, derived from sources within the Osage Nation and collected through the Osage Agency, may be disbursed by the superintendent, subject to the condition that all payments to third persons, including taxes and insurance premiums, shall be made upon the written authorization of the individual whose funds are involved, if an adult, and upon the written authorization of the parent or guardian, if a minor. The funds of restricted non-Osage Indians who do not reside within the jurisdiction of the Osage Agency shall be transferred to the superintendent of the jurisdiction within which the Indian resides, to be disbursed under regulations of the receiving agency.

§ 108.33 *Signature of illiterates.* An Indian who cannot write shall be required to endorse checks payable to his order and sign receipts or other documents by making an imprint of the ball of the right thumb (or the left, if he has lost his right) after his name. This imprint shall be clear and distinct, showing the central whorl and striations and witnessed by two reputable persons whose addresses shall be given opposite or following their names. An Indian may sign by marking "X" before two witnesses where he is unable to attach his thumb mark for physical reasons.

§ 108.34 *Financial status of Indians confidential.* The financial status of Indians shall be regarded as confidential and shall not be disclosed except to the owner of the account or his authorized agent, unless authorized in advance by the Commissioner.

§ 108.35 *Appeals.* Any decision by the superintendent may be appealed to the area director, any decision by the area director may be appealed to the Commissioner, and any decision by the Commissioner may be appealed to the Secretary.

PART 109—JUDGMENT AND PAYMENTS IN LIEU OF ALLOTMENT FUNDS

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109.18 Fee patent Indians.
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109.20 Definition of "adult" and "minor."

AUTHORITY: §§ 109.1 to 109.20 issued under sec. 2, 53 Stat. 1128; 25 U. S. C. 572.

NOTE: For declaration of policy in disbursement of the judgment fund of the Shoshone Tribe of the Wind River Reservation, Wyo., see 4 F. R. 4797, Dec. 8, 1939.

§ 109.1 *Program required; purposes for which expenditures may be made.* Pro-rata shares of the Shoshone Judgment Fund shall be expended in accordance with an approved program and for: Purchase of land; improvement of land to be acquired or already held by the Indian; erection and improvement of suitable homes; education; purchase of building material, farming equipment, livestock, feed, food, seed, grain, tools, machinery, implements, household goods, bedding, clothing, and any other equipment, supplies, or training necessary to enable the Indian to fit himself for or to engage in farming, livestock raising, industry, or such other pursuits or vocations as will enable him to become self-supporting.

§ 109.2 *Family programs.* The funds of a husband and wife, and of any other adults in a family group, may be used in the execution of a family program: *Provided,* The written consent of each individual is filed with the superintendent of the Wind River Indian Agency, Wyoming, hereafter in this subpart referred to as the superintendent. The available funds of a minor may be used in the execution of such family program, only on condition that (a) the funds of such minor are used solely in the development, repair or maintenance of real or personal property owned by said minor or held in trust for him, or in the creation, development, or completion of a project or undertaking or in the production of a gain or profit which will inure directly to the benefit of such minor, (b) title to any real property or fixtures, purchased wholly or in part with his money shall, except with the approval of the Commissioner of Indian Affairs, be held in trust for him, or (c) the adults convey to the United States in trust for such minor sufficient real or personal property to assure, insofar as is possible, that the minor upon attaining majority will have, in lieu of the money, property of a value equal to that of his funds used in the execution of the program. The superintendent shall not approve a family program which involves the transfer to a minor, in exchange for his funds, of assets of a nature which will not be useful to him. The written consent of a minor who is 16 years of age or over, duly witnessed by at least two disinterested persons, shall accompany any family program which involves the use of said minor's funds.

§ 109.3 *Scope of programs.* Programs shall contemplate the eventual use of the entire pro-rata share or defi-

nitely provide for the conservation of a portion of such share, but in no case, except as hereinafter provided in this part, shall a program provide for the expenditure in the first year, after its approval, of more than $1,350 for each adult or more than $500 for each minor contributing to the program, and the program shall recognize that future use and expenditures for such program after the first year shall depend upon the proper use of the funds initially authorized to be expended: *Provided*, That the program of an adult may, with the approval of the Commissioner of Indian Affairs, provide for the expenditure in the first year after its approval of more than $1,350 when required for its most effective development. Expenditures of a minor's funds under this subpart shall not exceed a total sum of $500 and the remaining $1,850 of each minor's share shall be held intact until his majority, as required in section 2 of the act of July 27, 1939 (53 Stat. 1128).

§ 109.4 *Authority to withhold funds.* The superintendent may stop disbursement of funds in the execution of an approved program upon evidence that the Indian is not complying with the program or that the continuation of the program or expenditures thereunder will not result in benefit to the Indian, and he may require either further justification for carrying out the program theretofore approved or the submission of a new program.

§ 109.5 *Approval of programs.* The superintendent, subject to the limitations described in this subpart, shall approve or disapprove all programs submitted by Indians for the use and disbursement of pro rata shares of the Shoshone Judgment Fund. The Shoshone business council may act, or designate a committee of Indians to act, in an advisory capacity in the preparation and consideration of programs. Programs shall be prepared upon an approved form,[1] which shall be filled out in duplicate, one copy to be filed at the Wind River Indian Agency and one copy to be retained in the possession of the Indian.

§ 109.6 *Right of appeal.* Indians shall have the right of appeal, through the superintendent, to the Area Director, Billings Area Office, Bureau of Indian Affairs (referred to in this part as the Area Director) (a) from an action of the superintendent in withholding funds under § 109.4 and (b) from an action of the superintendent in disapproving a program under § 109.5. Appeals must be filed within 60 days with the superintendent who shall promptly forward the appeal, together with a statement of the facts in the case and of his reasons for the action taken by him, to the Area Director. An appeal will lie within a like period from the action of the Area Director to the Commissioner of Indian Affairs.

§ 109.7 *Individual land purchases.* Before approving a program which includes an individual land purchase, the superintendent shall determine that such purchase will not conflict with the tribal land program of land purchase, consolidations and use authorized by the act of July 27, 1939 (53 Stat. 1128). No purchase of land by individuals using restricted funds shall be made within the ceded or opened portion of the Wind River Reservation.

§ 109.8 *Issuance of purchase orders.* In the discretion of the superintendent, expenditures from pro rata share accounts, other than for the purchase of real property, may be made either by purchase order or by cash disbursement to the individual for the execution of an approved program.

§ 109.9 *Purchase of real property.* Except as otherwise provided in § 109.18 payment for the purchase of real property shall be made by the superintendent, and such payment shall be made only after the title has been found satisfactory by the Area Director.

§ 109.10 *Trust status of property.* Title to all real property to be acquired with restricted funds, when such property is situated within the diminished portion of the Wind River Reservation, shall be taken in trust for the individual. Title to personal property acquired pursuant to a purchase order shall be taken in trust. Livestock purchased and the offspring thereof shall be marked or branded with the individual brand of the owner. The provisions of this section are subject to the provisions of § 109.18.

§ 109.11 *Allowances for support.* The superintendent may, upon proper showing, approve expenditures for the maintenance and support of the aged, infirm, decrepit, and incapacitated, whether adults or minors, and expenditures from that part of an adult's pro rata share which exceeds $1,450 for the support of an individual who has proved to be incapable of conducting a productive enterprise. The manner of disbursement and the amount of funds to be used for such purposes shall be determined by the superintendent, subject to the expenditure limitations set forth in § 109.3.

§ 109.12 *Medical treatment.* The superintendent may approve the expenditure from that part of an adult's pro rata share which exceeds $1,450 to cover medical, dental, surgical, or hospital treatment, including nursing services. No part of a minor's pro rata share shall be expended for such purposes.

§ 109.13 *Education.* The superintendent may authorize the expenditure of funds from any minors account for clothing because of school needs, and in addition, from the account of any minor who is in the ninth grade or higher for his tuition and other necessary expense in a government, private, public, or mission school.

§ 109.14 *Transfer of funds.* When an Indian who is entitled to a pro-rata share of the Shoshone judgment fund is a resident within the jurisdiction of another Indian agency, the superintendent may transfer to the superintendent of such other agency, to the credit of such Indian, the share of the Shoshone judgment fund to which such Indian is entitled. All funds so transferred shall be expended in accordance with this subpart.

§ 109.15 *Repayment of loans.* Before approving a program, the superintendent shall make certain that provision has been made therein for the repayment of any amounts due on any loan, evidenced by a written agreement, from the United States or from the Shoshone Tribe.

§ 109.16 *Funds not available for payment of certain debts.* Debts, except those to the United States and the Shoshone Tribe, incurred by Indians prior to July 27, 1939, shall not be paid from any funds made available from the Shoshone Judgment Fund. Debts of Indians will not be paid from the funds to be disbursed under this subpart unless previously authorized by the superintendent, except in emergency cases necessitating medical treatment or in the payment of last illness or funeral expenses,[2] as authorized in this subpart, and any other exceptional cases where specific authority is granted by the Commissioner of Indian Affairs.

§ 109.17 *Disposition of funds in event of death.* Prior to the determination of heirs, the superintendent may disburse whatever amount he deems necessary and proper for the support of the widow of the decedent and for each minor child of the decedent. Before making the disbursement, the superintendent shall be reasonably satisfied that actual need for assistance exists and that the value of the estate is sufficient to justify such payments considering all proper claims. A complete record of all disbursements shall be reported by the superintendent to the examiner of inheritance and by the latter considered and included in his report of probate proceedings. After payment of all proper claims against the funds, including reimbursable or other debts due the United States or the Shoshone Tribe and excluding any claims arising out of debts incurred prior to July 27, 1939, the balance shall be transferred to the individual accounts of the heirs of the decedent in accordance with the approved heirship findings. Expenditures from inherited funds shall be made for purposes authorized in this part.

§ 109.18 *Fee patent Indians.* For the purposes of this part, a "fee patent Indian" shall be an adult Indian who has received a patent in fee to his allotment. Fee patent Indians shall be required to submit a program, the approval of which shall be in conformity with §§ 109.1 through 109.6. Fee patent Indians shall not be required to make purchases through purchase orders, but shall have funds disbursed to them direct by the superintendent for such purchases. Funds of minor children of fee patent Indians may be included in an approved family program, but their expenditure shall be subject to the same provisions as cover the expenditure of the funds of minor children of Indians other than fee patent Indians. Fee patent Indians shall

[1] Forms shall be made available at the Wind River Indian Agency.

[2] Comptroller General Ruling A-62264, dated July 25, 1935.

be required to conform to the provisions of § 109.9 only when the purchase of real property involves property situated within the diminished portion of the Wind River Reservation. Payments by fee patent Indians for real property outside the diminished portion of the Wind River Reservation may be made by them with funds disbursed to them by the superintendent. Except as otherwise provided in this section, fee patent Indians shall conform to all the provisions of this part.

§ 109.19 *Non-resident Indians.* The provisions of § 109.18 pertaining to fee patent Indians shall also apply to Indians other than fee patent Indians who habitually reside away from the Wind River Reservation and have, to all intents and purposes, severed their affiliation with the tribe, and who shall furnish to the superintendent in writing a statement that they intend to continue to reside away from the reservation and evidence, satisfactory to the superintendent, of their competency and ability to support themselves and manage their own affairs.

§ 109.20 *Definition of "adult" and "minor."* The term "adult" shall include all members of the tribe 18 years of age or over, and the term "minor" shall include all members of the tribe less than 18 years of age.

PART 111—SERVICE CHARGES AGAINST INDIANS. [RESERVED]

Subchapters K–O—Lands; Surface Estates and Resources

Subchapter K—Patents, Allotments and Sales

PART 121—ISSUANCE OF PATENTS IN FEE, CERTIFICATES OF COMPETENCY, SALE OF CERTAIN INDIAN LANDS, AND REINVESTMENT OF PROCEEDS

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121.52 Approval of mortgages and deeds of trust.

AUTHORITY: §§ 121.1 to 121.52 issued under R. S. 161; 5 U. S. C. 22. Interpret or apply sec. 7, 32 Stat. 275, 34 Stat. 1018, sec. 1, 35 Stat. 444, sec. 1, 2, 36 Stat. 855, as amended, 856, as amended, sec. 17, 40 Stat. 579, 62 Stat. 236; 25 U. S. C. 379, 405, 404, 372, 373, 483. Other statutory provisions interpreted or applied are cited to text in parentheses.

CROSS REFERENCES: For further regulations pertaining to the sale of irrigable lands, see Parts 129, 128 and § 211.4 of this chapter. For Indian money regulations, see Parts 104, 101, 107, 105, and 102 of this chapter. For regulations pertaining to the determination of heirs and approval of wills, see Part 15 and §§ 11.30–11.32C of this chapter.

PATENTS IN FEE

§ 121.1 *Application for patent in fee.* Any Indian 21 years of age or over may apply for a patent in fee for land, the title to which is held in trust for said Indian by the United States. The application shall be made on a form approved by the Commissioner of Indain Affairs and shall be completed and filed with the Superintendent or other officer in charge of the Indian agency or other local facility having administrative jurisdiction over the land.

§ 121.2 *Issuance of patents in fee.* (a) The Secretary of the Interior may, in his discretion, and pursuant to the acts of February 8, 1887, as amended (24 Stat. 388, as amended; 25 U. S. C. 349); June 25, 1910, as amended (36 Stat. 855, as amended; 25 U. S. C. 372); and May 14, 1948 (62 Stat. 236; 25 U. S. C. 483), and pursuant to other authorizing acts, issue patents in fee to Indians applying therefor in accordance with § 121.1. A patent in fee will not be issued pursuant to this paragraph unless it appears that the applicant is competent and capable of managing his or her own affairs. Prior to the issuance of a patent in fee pursuant to this paragraph the land shall be appraised at its fair market value. If an application is denied, the applicant shall be so notified in writing.

(b) The Secretary will, pursuant to the act of March 1, 1907 (34 Stat. 1015, 1034), issue a patent in fee to any adult mixed-blood Indian owning land within the White Earth Reservation in the State of Minnesota upon application being made by such Indian, and without regard to the applicant's competency and ability to manage his or her own affairs.

(c) Whenever the Secretary determines that land, or any interest therein, held in trust for an Indian by the United States, has been acquired through inheritance or devise by (1) a non-Indian or (2) an alien Indian or an Indian who has become an alien subsequent to the time of such acquisition, the Secretary may issue a patent in fee for the land or interest therein to such non-Indian or alien Indian, without regard to such person's competency and ability to manage his or her own affairs, and regardless of whether such person has applied for a patent in fee.

CERTIFICATES OF COMPETENCY

§ 121.3 *Applications for certificates of competency.* Applications on Form 5–105, modified for certificates of competency authorized by section 1 of the act of June 25, 1910 (36 Stat. 855, 48 Stat. 647; 25 U. S. C. 372), shall be filed with the Indian superintendent having jurisdiction over the land from which the allottee or heirs seek to have all restrictions removed. When the land is not located within the territorial limits of an Indian reservation the allottee or heirs may petition the most convenient superintendent or other officer in charge of an Indian agency or Indian tribe or such other public officer of the United States as may be designated by the Secretary of the Interior, who shall take like action as if the lands were within the territorial limits of an Indian reservation.

§ 121.4 *Superintendent's report on certificates of competency.* Reports on application for certificates of competency should be on Form 5–110f and should be accompanied by the recommendation of the tribal council. The issuance of a certificate of competency is discretionary with the Secretary of the Interior. Such a certificate will not be issued unless it can be affirmatively shown that its issuance will not affect unfavorably the consolidation and use by the Indians of restricted Indian lands. The provisions of the act of June 25, 1910, apply only to Indians or their heirs to whom a patent in fee containing restrictions on alienation has been issued.

§ 121.5 *Certificates of competency to certain Osage adults.* Applications for certificates of competency by adult members of the Osage Tribe of one-half or

more Indian blood shall be on the form[2] prescribed by the Secretary of the Interior. Upon the finding by the Secretary or by his duly authorized representative that an applicant who has filed an application on the prescribed form with the superintendent of the Osage Agency is capable of managing his or her own affairs and transacting his or her own business, a certificate of competency may be granted removing the restrictions against alienation of all restricted property, except Osage headright interests, of the applicant.

CROSS REFERENCE: For regulations pertaining to the issuance of certificates of competency to adult Osage Indians of less than one-half Indian blood, see Part 123 of this chapter.

§ 121.6 *Applications for certificates of competency to Kaw or Kansas adults.* Applications for the issuance of certificates of competency to adult members of the Kaw or Kansas Tribe of Indians shall be upon form prescribed by the Secretary of the Interior and furnished by the superintendent in charge of Kaw or Kansas allottees, Pawnee, Oklahoma.

§ 121.7 *Issuance of certificates of competency.* When the Secretary of the Interior finds that the applicant is capable of transacting his or her own affairs and transacting his or her own business, the restrictions may be removed and a certificate of competency issued, to be effective 30 days from the date of its issuance. The issuance of a certificate of competency is discretionary with the Secretary of the Interior. Such a certificate will not be issued unless it be affirmatively shown that its issuance will not affect unfavorably the consolidation and use by the Indians of restricted Indian lands.

PARTITIONS OF INHERITED ALLOTMENTS

§ 121.8 *Applications for partitions.* In case the trust land of a deceased allottee is susceptible of partition among the heirs, the Secretary of the Interior may make such partition and issue new patents to the several heirs for the portions selected by them. If the allotment is held under a restricted fee title (as distinguished from a trust title) partition may be made by approved deeds among the heirs. Petitions for partition should be made upon Form 5–110*l*.

(Sec. 1, 39 Stat. 127; 25 U. S. C. 378)

CROSS REFERENCE: For regulations pertaining to the determination of heirs and approval of wills, see Part 15 and §§ 11.30–11.32C of this chapter.

SALES AND EXCHANGES OF INDIVIDUALLY OWNED TRUST OR RESTRICTED LAND, EXCLUSIVE OF FIVE CIVILIZED TRIBES LAND

§ 121.9 *Sales and exchanges by Indians.* Pursuant to the acts of May 27, 1902 (32 Stat. 275; 25 U. S. C. 379); March 1, 1907 (34 Stat. 1018; 25 U. S. C. 405); May 29, 1908 (35 Stat. 444; 25 U. S. C. 404); and May 14, 1948 (62 Stat. 236; 25 U. S. C. 483) and pursuant to other authorizing acts, the following classes of land may be sold or exchanged with the approval of the Secretary of the Interior:

(a) Allotted land, and devised and inherited interests therein;

(b) Land acquired by purchase, exchange or gift, and devised and inherited interests therein, held under an instrument of conveyance which recites either that title is in the United States in trust for the Indian or that the land shall not be sold or alienated without the consent or approval of the Superintendent, the Commissioner of Indian Affairs, or the Secretary of the Interior.

§ 121.10 *Sales by the Secretary.* The Secretary of the Interior may, pursuant to the act of June 25, 1910, as amended (36 Stat. 855, as amended; 25 U. S. C. 372), and the act of February 14, 1913 (37 Stat. 678; 25 U. S. C. 373), sell interests in trust allotments acquired by Indians through inheritance or devise.

§ 121.13 *Preference right to purchase lands in Oklahoma.* (a) In the case of any sale of restricted Indian land at public auction or by sealed bids in Oklahoma, except in the case of the Osage Reservation, the act of June 26, 1936 (49 Stat. 1967; 25 U. S. C. 501–509), provides in part that whenever any restricted Indian land or interests in land other than sales or leases of oil, gas, or other minerals therein, are offered for sale, pursuant to the terms of this or any other act of Congress, the Secretary of the Interior shall have a preference right, in his discretion, to purchase the same for or in behalf of any other Indian or Indians of the same or any other tribe, at a fair valuation to be fixed by the appraisement satisfactory to the Indian owner or owners, or if offered for sale at auction said Secretary shall have a preference right, in his discretion, to purchase the same for or in behalf of any other Indian or Indians by meeting the highest bid otherwise offered therefor.

(b) In order to expeditiously carry out these requirements superintendents or other officers in charge of the several Indian agencies and reservations in the State of Oklahoma, except Osage, are required to keep close watch for notice of the sale of restricted Indian land at public auction or through sealed bids. In all cases of this class full cooperation of State and county authorities is desired, and in order to avoid unnecessary delay in exercising the preferential right and in waiving it in cases where the lands are not wanted for Indian purposes, and to avoid undue hardship either to the Indian or to others in the exercise of such preferential right, such cases shall receive prompt consideration by the several agencies and officers in the field and forwarded to the Bureau of Indian Affairs and the Department to the end that this right to purchase shall be either exercised or waived as promptly as circumstances will permit. Such preference right to purchase is placed in the Secretary of the Interior under the act and is recognized as remaining in full force and effect until released by said Secretary through endorsement on deeds of conveyance or in an appropriate order the form of which is "Preference right of purchase resting in the Secretary of the Interior under section 2 of the act of June 26, 1936 (49 Stat. 1967; 25 U. S. C., Sup. 502, is hereby waived as to the lands herein described."

(Sec. 9, 49 Stat. 1968; 25 U. S. C. 509)

§ 121.14 *Selection of lands under preference right.* Preference right of purchase is not to be construed as indiscriminate land purchasing. Land acquired under this act must be agricultural or grazing of good character and quality. The purchase of town lots or homesites is not authorized. The superintendent is to exercise this right to purchase in areas where there are Indian settlements and schools available for education of the children, or at other points where desirable lands can be obtained in comparatively consolidated areas for Indian benefit. All lands being considered for purchase must be carefully examined and appraised. The superintendent whenever feasible shall utilize the services of the special land purchasing force and in all instances the land field agent's office must be notified of each such proposed purchase to the end that his record of land acquisition in Oklahoma may be kept current. Where superintendents conduct all the land purchase activities within their jurisdiction all papers are to be transmitted direct to the Commissioner for consideration and appropriate action. In all cases copies of such papers are to be sent to the land field agent. In those cases where the purchase work has been handled by or with the assistance of the land field agent's force, all purchase papers should be routed through the land field agent for preparation of report to the Commissioner.

(Sec. 9, 48 Stat. 1968; 25 U. S. C. 509)

§ 121.15 *Waiver of preference right.* Where restricted lands are offered for sale which are not within an area wanted for rehabilitation or other Indian purposes and the superintendents in charge are fully satisfied that the tract or tracts offered will not be needed in connection with the land program. Superintendents are hereby authorized to waive such preferential purchase right for and on behalf of the Secretary of the Interior.

(Sec. 9, 49 Stat. 1968; 25 U. S. C. 509)

§ 121.16 *Reinvestment of proceeds in restricted nontaxable land.* Funds derived from the sale of restricted lands may be used to acquire other lands as provided for by the act of March 2, 1931, as amended by the act of June 30, 1932 (47 Stat. 474). The lands so acquired shall be restricted and nontaxable as provided in said act.

(46 Stat. 1471, as amended; 25 U. S. C. 409a)

METHOD OF SALES

§ 121.17 *Petitions for the sale of land.* Petitions for the sale of trust or restricted land shall be filed, on forms approved by the Commissioner of Indian Affairs, with the Superintendent or other officer in charge of the Indian Agency or other local facility having administrative jurisdiction over the land.

§ 121.21 *Costs of conveyances; payment.* Purchasers shall pay all costs of

[2] Copies of the form may be obtained from the Superintendent of the Osage Indian Agency, Pawhuska, Okla.

conveyancing and in addition the following sums, to wit: If the purchase price is $1,000 or less, $1.50. If it be more than $1,000 and not more than $2,000, $2. If the purchase price is more than $2,000, $2.50. Such fees should not be included in checks covering payment for the land, but collected separately, taken into accounts as "Sundry receipts" and deposited to the credit of the United States.

(Sec. 1, 41 Stat. 415, as amended; 25 U. S. C. 413)

§ 121.22 *Additional sale fee required.* In all cases the sale of restricted allotted Indian lands, either on a cash basis or on deferred payments, the purchasers will be required to deposit with the superintendent, in addition to the consideration for the land and fee provided for in § 121.21, the sum of $20, such amount to be paid when the purchaser is notified that he is the successful bidder. This fee is collected for the purpose of paying for the work incident to the sale as required by the act of February 14, 1920, as amended by the act of March 1, 1933 (47 Stat. 1417; 25 U. S. C. 413). The fee may be reduced to a lesser amount than $20 or to a nominal amount if the circumstances justify such reduction in the discretion of the Secretary of the Interior. The sales fee if conditions warrant may be deducted from the proceeds of sale.

(Sec. 1, 41 Stat. 415, as amended; 25 U. S. C. 413)

§ 121.23 *Irrigation fees; payment.* In sales involving irrigable land, the purchaser will be required to pay the proportionate per acre construction cost of the particular project to be assessed against the land. Payments made by the Indian owner prior to July 1, 1932 shall be taken into consideration in fixing the appraisements of the land. All appraisements covering irrigable land will be submitted to the supervising or project engineer of the district in which such land is situated for his approval. Purchasers will be required to pay in addition to the per acre construction cost the annual operation and maintenance charges assessed against the land which will be based on the annual cost of the operation of the system. All such charges, remaining unpaid as of the date of the acceptance of the bid, must be paid by the purchaser. In all cases purchasers will be required to enter into an agreement for the payment of all such charges. A lien clause covering the cost of all irrigation charges, past and future, will be inserted in the patent or other instrument issued to the purchaser.

CROSS REFERENCES: For regulations pertaining to construction costs, see Parts 211, 214, 215 of this chapter. For additional regulations pertaining to the payment of fees and charges in connection with the sale of irrigable lands, see Parts 129, 128, and § 211.4 of this chapter.

§ 121.24 *Appraisal, advertisement, consideration.* (a) Prior to making or approving a sale, exchange or gift of trust or restricted land, an appraisal shall be made indicating the fair market value of such land.

(b) Except as provided in paragraph (c) of this section, proposed sales of land shall be advertised for at least 30 days prior to the proposed date for opening bids on such land, unless a shorter period is otherwise authorized by the Secretary of the Interior. At the request of the owner, the advertisement may afford to the tribe occupying the reservation where the land is located, to members of such tribe, or to any reasonably defined class of Indians, a right to meet the high bid.

(c) The following types of conveyances need not be advertised and may be negotiated: (1) A sale to another Indian, an Indian tribe, the United States or an agency thereof, or a state or local government or agency thereof; (2) a conveyance to a member of the Indian's immediate family pursuant to the provisions of paragraph (d) of this section; (3) a sale to a non-Indian, when the Secretary determines that it is impractical to advertise; (4) an exchange; (5) temporary easements for rights of way not to exceed fifty years. Except as provided in paragraph (d) of this section, the consideration for a negotiated sale shall be not less than the appraised value of the land. The consideration for an exchange shall be either land, or a combination of land and money or other thing of value, the fair market value of which is not less than the appraised value of the trust or restricted land. Sales between Indians, either of whom is an employee of the United States Government, are governed by the provisions of § 251.5 of this chapter.

(d) An Indian owner of trust or restricted land may, with the approval of the Secretary, convey land to a member of his or her immediate family for a consideration less than that prescribed in paragraph (c) of this section or for no consideration. For purposes of this section, "immediate family" is defined as the Indian's spouse, brothers and sisters, lineal ancestors of Indian blood, and lineal descendants.

§ 121.25 *Bids; how made.* Each bid on Indian lands offered for sale must be accompanied by a duly certified check payable to the order of the superintendent or other officer in charge for the use of the vendor, for not less than 10 percent of the offer made, as a guaranty of the bidder's faithful performance of his proposition. If the bid is accepted and the successful bidder shall within 30 days after due notice fail to comply with the terms of his bid, his defeat shall be forfeited to the use of the owner of the land. All bids should be enclosed in a sealed envelope which must be marked by the bidder "Bid for Indian Land" and show the date of opening, but the description of the land shall not be noted on the envelope.

§ 121.26 *Number of bids.* No bidder will be permitted to include more than one item in any single bid. If a bidder desires to bid on more than one item, he must bid a separate amount for each item.

§ 121.27 *Bidding not open to employees.* Except as authorized by the provisions of § 251.5 of this chapter, no employee of the Bureau of Indian Affairs shall directly or indirectly bid, or make or prepare any bid, or assist any bidder in preparing his bid.

§ 121.28 *Bids; right to reject.* The right to reject any and all bids is reserved to the Commissioner of Indian Affairs.

§ 121.29 *Bidders, right to be present when bids are opened.* Bidders, owners and other interested persons may be present when bids are opened and when so opened the bids shall be recorded in a book or on cards kept for that purpose so as to show the name of the bidder, description of the land, amount offered, and action taken thereon. The award shall be made to the highest bidder and the checks of the unsuccessful bidders shall be returned immediately to them, receipts therefor being taken and filed at the agency.

§ 121.30 *Exchange submitted with bids; disposal.* The exchange submitted with the bid of the successful bidder shall be immediately deposited by the superintendent or other officer in charge to his official credit in a designated depositary for individual Indian money. As soon as practicable the superintendent or other officer in charge shall require the successful bidder to furnish additional exchange for the remaining 90 percent of the amount bid, which shall be deposited forthwith to the official credit of the disbursing officer in the same depositary to await the action of the Department on the sale.

§ 121.31 *Deferred payment sales.* When the Indian owner and purchaser desire, a sale may be made or approved on the deferred payment plan. If the purchaser, whether Indian or non-Indian, is to take title in a nontrust and unrestricted status, the purchaser shall pay not less than 25 percent of the purchase price in advance, and shall execute notes for the balance payable in three equal payments on or before 1, 2, and 3 years after date, on Form 5–110g. If the purchaser is an individual Indian or Indian tribe, and if the purchaser is to take title in a trust or restricted status, the purchaser shall pay not less than 10 percent of the purchase price in advance; terms for the payment of remaining installments are within the discretion of the Secretary of the Interior. If the purchaser on any deferred payment plan makes default in the first or subsequent payments, all payments, including interest, previously made will be forfeited to the Indian owner.

REMOVAL OF RESTRICTIONS AND SALE OF LANDS, FIVE CIVILIZED TRIBES AND REINVESTMENT OF FUNDS IN NONTAXABLE LANDS

§ 121.34 *Removal of restrictions, application.* Application for the removal of restrictions and for approval of sales of lands must be made in triplicate on approved form Five Civilized Tribes, 5–484, and submitted to the superintendent for the Five Civilized Tribes or any field clerk. These forms will be furnished free of charge by the superintendent or field clerk.

§ 121.35 *Removal of restriction, unconditionally.* Upon proper showing to the Secretary of the Interior that an

applicant for the removal of restrictions should have the unrestricted control of his allotment or a part thereof, he may remove the restrictions therefrom.

§ 121.36 *Removal of restrictions, conditionally.* When the Secretary of the Interior finds it to be for the best interest of any applicant that all or part of his restricted lands should be sold with conditions concerning terms of sale and disposal of the proceeds, he may remove the restrictions, to become effective only and simultaneously with the execution of a deed by said applicant and issue an order specifically providing the terms under which the land may be sold and providing for the disposal of the proceeds.

§ 121.37 *Advertising lands for sale.* The superintendent for the Five Civilized Tribes will advertise for sale at public auction for not less than 30 days the land included in conditional removal of restrictions orders by posting notices at his office; at the offices of the several field clerks, and at the county court houses of the Five Civilized Tribes area. Such notices shall contain information as to time and place of sale, legal description of the land, information as to character of land, minimum price at which the land may be sold, and terms of sale, with reservation of right to reject any bid submitted. The determination of the minimum price at which lands may be sold will be made by the superintendent after an inspection and appraisement of the land by a representative of his office. No bid for an amount less than the minimum price will be considered. All cost of conveyance and recording shall be at the expense of the purchaser.

§ 121.38 *Bids; how made and accepted.* Bids may be made in writing on any of the lands to be offered for sale. Any written bid submitted to be given consideration must be received at the place of sale prior to the hour of sale by the officer named in the notice offering the land for sale and accompanied by a deposit of 10 percent of the amount bid. Deposits accompanying unsuccessful bids will be returned promptly. Each successful oral bid must be accompanied by a deposit of 10 percent of the amount bid as guaranty of faithful compliance of the bidder with the terms of sale.

§ 121.39 *Fees and consideration for sale; acceptance and deposit.* (a) A remittance of $20 will be required from the successful bidder as a land sale fee on each tract sold. This fee is collected for the purpose of paying for the work incident to the sale as required by the act of February 14, 1920, as amended by the act of March 1, 1933 (47 Stat. 1417; 25 U. S. C. 413). Where the circumstances justify a reduction in the sales fee the Secretary of the Interior may reduce the amount. The sales fee if conditions warrant and the advertisement so provides may be deducted from the proceeds of the sale.

(b) If a bid is accepted and the successful bidder shall fail within 10 days from the receipt of notice of the acceptance of his bid, to comply with the terms thereof, such deposit will be subject to forfeiture by the superintendent for the Five Civilized Tribes for the use of the owner of the land.

(c) The proceeds of all such sales shall be held by said superintendent for the Five Civilized Tribes in his official capacity, and be disbursed for the benefit of the respective Indians.

(Sec. 1, 41 Stat. 415, as amended; 25 U. S. C. 413)

§ 121.40 *Deferred payment sales; how made.* Upon the approval by the Secretary of the Interior of a conditional order for the removal of restrictions the land covered thereby to be sold under the supervision of the superintendent for the Five Civilized Tribes, the said superintendent is hereby authorized, in such cases as he considers to be for the best interests of the respective allottees so to do, to advertise and sell said land at public auction for not less than the appraised value for cash or upon deferred payments, any such deferred payment sales to be made under the following terms:

(a) Where the consideration is $500 or less, at least one-half to be paid in cash at the time of the sale and the remainder to be evidenced by purchasers' notes due and payable in not more than 18 months after the date of purchase and secured by first mortgage on the premises conveyed.

(b) Where the consideration exceeds $500 and is not more than $1,500, at least one-third to be paid in cash at the time of sale and the remainder in two equal payments evidenced by the purchaser's note or notes to fall due not more than 2½ years from date of purchase, and secured by first mortgage on the premises conveyed.

(c) Where the consideration exceeds $1,500 at least one-fourth to be paid in cash at the time of sale and the remainder in three equal payments evidenced by purchaser's note or notes to fall due not more than 3½ years from the date of purchase and secured by first mortgage on the premises conveyed.

§ 121.41 *Cash payments; how accounted.* All cash payments at the time of sale to be paid into the hands of the cashier and special disbursing agent for the Five Civilized Tribes, Muskogee, Oklahoma, or his successor in authority, and all notes and mortgages securing same to contain the express condition that no payment purporting to discharge, satisfy, or release the indebtedness evidenced thereby shall operate as a release, satisfaction, discharge, or payment thereof unless such payments and interest accruing thereon are made to the said cashier or his successor, for the benefit of the proper allottees, or if such note or notes are properly negotiated with the approval of the Secretary of the Interior, to the owner or owners of such notes, and such notes shall be nonnegotiable except with the approval of the said Secretary. The note or notes shall be held by the said cashier or his successor for collection when due. Said notes shall draw interest from date of execution until paid at the rate of 6 percent per annum.

§ 121.42 *Deferred payments; how accounted.* All moneys received by the cashier or his successor as consideration for land, including moneys received on account of deferred payments and accrued interest thereon, shall be deposited or held to the credit of the proper allottee in individual Indian accounts and be subject to the rules, regulations and orders of this Department governing the holding of moneys so deposited and the disbursement thereof.

CROSS REFERENCES: For individual Indian money regulations, see Part 104 of this chapter. For deposit of Indian funds in banks, see Part 105 of this chapter.

§ 121.43 *Consummation of sale.* Upon the consummation of a sale in compliance with the regulations in this part the superintendent, or other officer in charge of the office of the Five Civilized Tribes, will make appropriate endorsements upon the order for the removal of restrictions from the land sold and on the deed of conveyance as prescribed by Forms Five Civilized Tribes 5–540 and 5–183c.[1] The order for the removal of restrictions and the deed thus endorsed shall, after proper record thereof has been made at the office of the said superintendent, be delivered to the grantee.

§ 121.44 *Reinvestment of funds in restricted nontaxable land.* In any case where lands are purchased for the use and benefit of any citizen of the Five Civilized Tribes of the restricted class, payment for which is made from proceeds arising from the sale of restricted nontaxible land, the said superintendent shall cause conveyance of such lands to be made on form of conveyance containing an habendum clause against alienation, taxation, or encumbrances, as follows:

TO HAVE AND TO HOLD said described premises, unto said grantee _____ heirs and assigns, forever, free, clear, and discharged of all former grants, charges, taxes, judgments, mortgages, and other liens and encumbrances of whatsoever nature, subject to the condition that no lease deed, mortgage, power of attorney, contract to sell, or other instrument affecting the land herein described or the title thereto shall be of any force and effect, unless approved by the Secretary of the Interior or the restrictions from said land are otherwise removed by operation of law.

§ 121.45 *Superintendent's certificate on deed.* Before delivery and recording of such deed of conveyance the said superintendent will attach a certificate of notice in the following form:

I hereby certify that the land described in the above deed was purchased for a home for the said _____ with funds HELD IN TRUST by the United States for H_____ derived from the sale of restricted lands as authorized by the terms of the act of March 2, 1931 (46 Stat. 1471) as amended June 30, 1932 (47 Stat. 474), and is nontaxable as therein provided.

_____
Superintendent for the Five Civilized Tribes.

§ 121.46 *Purchase of restricted, nontaxable personal property with restricted funds.* In all cases where purchases of automobiles, horses, wagons, buggies, cattle, agricultural implements, or other

[1] For further information regarding forms, see § 121.34.

personal property are made for individual Indians, payments for which are made from moneys received from the sale of restricted allotted lands, or from other moneys held under the control of the Department of the Interior, the superintendent for the Five Civilized Tribes will, when in his judgment it is to the Indian's best interest, cause a bill of sale to be executed by the vendor or vendors conveying the property purchased to the United States, to be held in trust for the use and benefit of the respective allottees or their heirs who are of the restricted class.

§ 121.47 *Identification USIS.* (a) The superintendent for the Five Civilized Tribes may cause all such property to be branded on some prominent place, "USIS" to indicate that the property was purchased by the United States through the Indian service.

(b) The law of the State of Oklahoma shall be followed in taking bills of sale. The bill of sale should be filed at the office of the county clerk for the county in which the property is located and duplicate thereof retained in the office of the superintendent for the Five Civilized Tribes.

(c) Before filing the bill of sale, certificate of notice shall be indorsed thereon by the said superintendent or such other officer of the Department as he may designate for the purpose, evidencing the official character of the transaction and the nature of the funds affected.

§ 121.48 *Alienation of property covered by bill of sale; invalid unless previously authorized.* No sale, mortgage, or other disposition of the property covered by a bill of sale, as provided in the regulations in this part, shall be of any force or validity except with the written consent previously obtained and the approval subsequently given of the superintendent for the Five Civilized Tribes, or such other officer as he may designate for the purpose; and in the event the Indian attempts to sell, mortgage, or otherwise dispose of such property the said superintendent shall promptly notify the Department to that effect, forwarding the original bill of sale, in order that proper proceedings may be instituted for the recovery of the property.

REMOVAL OF RESTRICTIONS AGAINST ALIENATION, EXCLUSIVE OF FIVE CIVILIZED TRIBES LAND

§ 121.49 *Procedure for removing restrictions.* An Indian may apply for the removal of restrictions from land acquired by purchase, exchange or gift, and devised and inherited interests therein, held under an instrument of conveyance which recites that the land shall not be sold or alienated without the consent or approval of the Superintendent, the Commissioner of Indian Affairs, or the Secretary of the Interior. An application for the removal of restrictions from such land shall be filed with the superintendent or other officer in charge of the Indian agency or other local facility having administrative jurisdiction over the land. The application shall set forth the experience the applicant has had in the transaction of his business affairs and the reasons why a removal of restrictions is desired. If it appears that the applicant is competent and capable of managing his affairs or that the removal of restrictions is otherwise in the best interests of the applicant, an order removing restrictions against alienation of the land may be issued. Prior to the issuance of such an order the land shall be appraised at its fair market value.

MORTGAGES AND DEEDS OF TRUST TO SECURE LOANS TO INDIANS

§ 121.52 *Approval of mortgages and deeds of trust.* The Commissioner of Indian Affairs or his authorized representative may approve mortgages or deeds of trust on any individually owned trust or restricted land whenever such lands under any law or treaty may be sold with the approval of the Secretary of the Interior or his duly authorized representative. The approval of such a mortgage or deed of trust terminates the trust or restricted status of the land only with respect to such mortgage or deed of trust and only for the purpose of permitting foreclosure or sale pursuant to the terms of the mortgage or deed of trust in accordance with the laws of the State or Territory in which the land is situated.

PART 122—DETERMINATION OF COMPETENCY; CROW INDIANS

Sec.
122.1 Purpose of regulations.
122.2 Application and examination.
122.3 Application form.
122.4 Factors determining competency.
122.5 Children of competent Indians.
122.6 Appeals.

AUTHORITY: §§ 122.1 to 122.6 issued under sec. 12, 41 Stat. 755, 46 Stat. 1495, as amended.

§ 122.1 *Purpose of regulations.* The regulations in this part govern the procedures in determining the competency of Crow Indians under Public Law 303, 81st Congress, approved September 8, 1949.

§ 122.2 *Application and examination.* The Commissioner of Indian Affairs or his duly authorized representative, upon the application of any unenrolled adult member of the Crow Tribe, shall classify him by placing his name to the competent or incompetent rolls established pursuant to the act of June 4, 1920 (41 Stat. 751), and upon application shall determine whether those persons whose names now or hereafter appear on the incompetent roll shall be reclassified as competent and their names placed on the competent roll.

§ 122.3 *Application form.* The application form shall include, among other things: (a) The name of the applicant; (b) his age, residence, degree of Indian blood, and education; (c) his experience in farming, cattle raising, business, or other occupation (including home-making); (d) his present occupation, if any; (e) a statement concerning the applicant's financial status, including his average earned and unearned income for the last two years from restricted leases and from other sources, and his outstanding indebtedness to the United States, to the tribe, or to others; (f) a description of his property and its value, including his allotted and inherited lands; and (g) the name of the applicant's spouse, if any, and the names of his minor children, if any, and their ages, together with a statement regarding the land, allotted and inherited, held by each.

§ 122.4 *Factors determining competency.* Among the matters to be considered by the Commissioner of Indian Affairs in determining competency are the amount of the applicant's indebtedness to the tribe, to the United States Government, and to others; whether he is a public charge or a charge on friends and relatives, or will become such a charge, by reason of being classed as competent; and whether the applicant has demonstrated that he possesses the ability to take care of himself and his property, to protect the interests of himself and his family, to lease his land and collect the rentals therefrom, to lease the land of his minor children, to prescribe in lease agreements those provisions which will protect the land from deterioration through over-grazing and other improper practices, and to assume full responsibilty for obtaining compliance with the terms of any lease.

§ 122.5 *Children of competent Indians.* Children of competent Indians who have attained or upon attaining their majority shall automatically become competent except any such Indian who is declared incompetent by a court of competent jurisdiction or who is incompetent under the laws of the State within which he resides.

§ 122.6 *Appeals.* An appeal to the Secretary of the Interior may be made within 30 days from the date of notice to the applicant of the decision of the Commissioner of Indian Affairs.

PART 123—OSAGE ROLL, CERTIFICATE OF COMPETENCY

Sec.
123.1 Definitions.
123.2 Preparation of competency roll.
123.3 Determination of age and quantum of Indian blood.
123.4 Notification; disagreement and decision.
123.5 Issuance of certificate of competency.
123.6 Costs of recording certificates of competency.
123.7 Delivery of cash and securities.

AUTHORITY: §§ 123.1 to 123.7 issued under 62 Stat. 18; 25 U. S. C. 331 note.

§ 123.1 *Definitions.* When used in the regulations in this part the following words or terms shall have the meaning shown below:

(a) "Secretary" means the Secretary of the Interior.

(b) "Commissioner" means the Commissioner of Indian Affairs.

(c) "Superintendent" means the superintendent of the Osage Agency.

(d) "Person" means an unallotted member of the Osage Tribe of less than one-half Indian blood who has not received a certificate of competency.

§ 123.2 *Preparation of competency roll.* The superintendent shall cause a roll to be compiled of all persons who

have attained the age of 21 years, and shall add thereto the names of minors as they attain the age of 21 years. The roll shall include the names, last known address, date of birth, and the total quantum of Osage blood and non-Osage Indian blood of each person listed thereon.

§ 123.3 *Determination of age and quantum of Indian blood.* (a) The date of birth as shown by the census records of the Osage Agency shall be accepted as prima facie evidence in determining the age of a person.

(b) The total quantum of Indian blood of a person shall be computed and determined as follows:

(1) When the parents of a person are enrolled members, or when one parent is an enrolled member and the other parent is a descendant of an enrolled member, or when both parents are descendants of enrolled members, or when one parent is an enrolled member of descendant of an enrolled member of the Osage Tribe, and the other parent is of non-Indian blood, the Osage Agency register of Indian families for the year ending December 31, 1901, shall be accepted as prima facie evidence of the quantum of Indian blood.

(2) When one parent of a person is an enrolled member, or the descendant of an enrolled member of the Osage Tribe, and the other parent is of non-Osage blood, the Osage Agency register of Indian families for the year ending December 31, 1901 shall be accepted as prima facie evidence in determining the quantum of Osage Indian blood.

(3) When one parent of a person is of non-Osage Indian blood, the certification of the superintendent or other officer in charge of the Indian Agency having jurisdiction over the affairs of the tribe of which the non-Osage Indian parent is a member or descendant of a member, as to such parent's quantum of Indian blood, shall be accepted as prima facie evidence in determining the quantum of non-Osage Indian blood.

(4) When the non-Osage parent of a person is alleged to be of Indian blood, and the superintendent or other officer in charge of the Indian agency having jurisdiction over the affairs of the tribe of which such parent is an alleged member or descendant of a member thereof, is unable to certify as to the quantum of Indian blood of such parent, affidavits as to such parent's quantum of Indian blood, when properly executed by two qualified individuals, may be accepted.

§ 123.4 *Notification; disagreement and decision.* When the superintendent shall have determined that a person, 21 years or over, is of less than one-half Indian blood, he shall notify such person of his finding and inform him that if objection is not received within 20 days from the date of notification, a certificate of competency will be issued. If the person claims to be of one-half or more Indian blood and that a certificate of competency should not be issued, he should submit to the superintendent two affidavits or other evidence in support of his claim. The claim, affidavits or other evidence of the person as to his quantum of blood shall be submitted to the Commissioner of Indian Affairs for a ruling before the certificate of competency is issued.

§ 123.5 *Issuance of certificate of competency.* A certificate of competency shall be issued by the superintendent on Form 5–182 [1] to each person heretofore or hereafter attaining the age of 21 years and who has been determined to be of less than one-half Indian blood. Such certificate shall be recorded with the county clerk of Osage County, Oklahoma, before delivering the same to the person entitled thereto.

§ 123.6 *Costs of recording certificates of competency.* The superintendent may expend the surplus funds of a person to make direct payment of the cost of recording a certificate of competency. If the person to whom a certificate of competency is issued has no surplus funds, the cost of recording the same shall be paid from Osage tribal funds.

§ 123.7 *Delivery of cash and securities.* After issuance and recordation of a certificate of competency as authorized by the regulations in this part, the superintendent shall deliver to the individual named therein, or the legal guardian thereof, the original copy of the certificate of competency, together with all cash, stocks and bonds credited to the account of such individual upon the books of the Osage Agency, and obtain a receipt therefor.

PART 125—REALLOTMENT OF LANDS TO UNALLOTTED INDIAN CHILDREN [2]

Sec.

125.1 Relinquishment of original patent.
125.2 Relinquishment when original patent has been lost or destroyed.

AUTHORITY: §§ 125.1 and 125.2 issued under sec. 3, 36 Stat. 856; 25 U. S. C. 408.

CROSS REFERENCES: For Bureau of Land Management regulations pertaining to allotments to Indians and Eskimos, see 43 CFR Part 67. For Bureau of Land Management regulations pertaining to Indian allotments and possessions, see 43 CFR Part 176. For Bureau of Land Management regulations pertaining to restored and ceded Indian lands, see 43 CFR Part 177.

§ 125.1 *Relinquishment of original patent.* To effect a reallotment under section 3 of the act of June 25, 1910 (36 Stat. 856; 25 U. S. C. 408), the Indian owner shall endorse on the original patent a relinquishment of all lands described therein and explain the purpose of the relinquishment. The relinquishment shall name the child or children to be reallotted and follow with descriptions by legal subdivisions of the land. If a part of the allotment is being retained by the Indian owner, the relinquishment and application for reallotment may describe only the tract to be reallotted. The relinquishment must be signed by the original allottee or owner of the land involved and be acknowledged before a superintendent of an Indian agency or an officer authorized to administer oaths. The signatures of those who cannot write must be by thumb mark and be witnessed.

§ 125.2 *Relinquishment when original patent has been lost or destroyed.* When the original patent has been lost or destroyed, the relinquishment and application for reallotment may be submitted in the form of a letter, which must be accompanied by an affidavit showing the loss or destruction of the original patent. If no patent has been issued, that fact should be set out in the letter.

PART 126—ALLOTMENT OF LANDS ON THE CABAZON, AND AUGUSTINE INDIAN RESERVATIONS, RIVERSIDE COUNTY, CALIFORNIA

Sec.

126.1 Purpose.
126.2 Scope.
126.3 Size of allotments.
126.4 Description of allotments.
126.5 Method of selection.
126.6 Notice of allotment.
126.7 Priority of filing allotment selections on improved lands.
126.8 Priority of selecting remaining lands available for allotment.
126.9 Disposition of improvements.
126.10 Submittal of allotment schedule.
126.11 Special instructions.

AUTHORITY: §§ 126.1 to 126.11 issued under sec. 10, 64 Stat. 472.

§ 126.1 *Purpose.* These procedures and requirements will govern the preparation of allotment schedules containing the names and allotment selections of the unalloted members, called members in this part, the Cabazon and Augustine Bands of Mission Indians of the Cabazon and Augustine Indian Reservations, respectively.

§ 126.2 *Scope.* These procedures and requirements shall apply to those Indians whose names appear on the official enrollment records of the Cabazon or Augustine Bands of Mission Indians as of June 30, 1949, approved by the Secretary of the Interior, who have not heretofore received allotments.

§ 126.3 *Size of allotments.* Each member shall be entitled to an allotment not to exceed 40 acres of land classed as irrigable or potentially irrigable by the Secretary of the Interior.

§ 126.4 *Description of allotments.* Each allotment selection must be described as a legal subdivision of a section based upon public land surveys made by the Department of the Interior and wherever possible must consist of a contiguous tract of land.

§ 126.5 *Method of selection.* The Area Director, Sacramento Area Office, or his representative, shall be available during the periods hereinafter specified at an office of the Bureau of Indian Affairs located in the proximity of the Cabazon and Augustine Reservations to assist the Indians in making allotment selections. A map of each reservation on which is shown the irrigable and potentially irrigable land, which may be alloted, is avail-

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[1] Filed with the original document. Copies may be obtained upon request at the Bureau of Indian Affairs, Department of the Interior, Washington 25, D. C.

[2] The reallotment provisions herein dealt with are not applicable on reservations subject to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984, as amended; 25 U. S. C. 461–479

able in such office during regular business hours for use in making the allotment selections. Each eligible member shall select for his allotment land shown on the map. Priority of selection shall be by families in the order of their appearance at the designated office. If two or more applicants appear at the designated office simultaneously, the order of their priority shall be determined by drawing lots. Selections for minors shall be made by one of the parents, or by a legally appointed guardian. Eligible adult members who have been adjudged non compos mentis may have selections made for them by a legally appointed guardian. Members who are not able to appear personally and sign the required forms for their selection may in writing appoint a representative to make the allotment selection, provided the appointment is duly acknowledged before a notary public or other officer authorized to take acknowledgments. Failure of any eligible Indian to make an allotment selection within the period of 60 days from the date of "Notice of Allotment", as prescribed in § 126.6, shall constitute authority for the Area Director to make a selection for such member. Appropriate forms for making selections shall be furnished by the Area Director.

§ 126.6 *Notice of allotment.* The Area Director shall mail a copy of the regulations in this part, together with a letter entitled "Notice of Allotment" bearing the date of the day it is posted, by registered mail to each member eligible for an allotment to the member's last known address. The letter shall inform each eligible member of the place where and the period of time when allotment selections will be accepted. In addition copies of the regulations in this part, together with copies of the Area Director's letter, shall be posted at several conspicuous places on and in the vicinity of the respective reservations.

§ 126.7 *Priority of filing allotment selections on improved lands.* The land classified as "improved" will be so designated on the map used for allotting purposes. A priority in selecting this class of land for allotment is given to the members who own the improvements on the lands, provided such improvements were placed thereon prior to July 1, 1954. The owner of the improvements on the land shall file on such land for allotment selection within 15 days from the date of the "Notice of Allotment."

§ 126.8 *Priority of selecting remaining lands available for allotment.* Upon the expiration of the 15-day period prescribed in § 126.7 all members, except those who filed allotment selections under § 126.7, shall file their selections on the remaining improved and unimproved irrigable or potentially irrigable land available for allotment. Filings thus made will be honored in the order of their receipt at the alloting office. A period of 45 days will be allowed for the filing of these selections. Upon the expiration of this 45-day period, selections shall be made by the Area Director, as prescribed in § 126.5, for those members who have not filed their allotment selections.

§ 126.9 *Disposition of improvements.* Any member owning improvements on land selected properly by another member may remove, or otherwise dispose of the improvements, within a 60-day period from date of notification by the Area Director to such member, so to dispose of such improvements. If in any case the whereabouts of the owner of the improvements is not known, an additional reasonable period of time may be allowed by the Area Director in which the owner, or his duly appointed representative, may remove or dispose of such improvements.

§ 126.10 *Submittal of allotment schedule.* Upon the completion of the allotment selections, a certified allotment schedule for each reservation, containing the names and the legal descriptions of the selections of the members and other pertinent information, shall be prepared by the Area Director. Each allotment schedule shall be submitted for approval to the Secretary of the Interior, through the Commissioner of Indian Affairs, before the issuance of trust patents for each of the allotment selections described therein.

§ 126.11 *Special instructions.* To facilitate the work of the Area Director, the Commissioner may issue special instructions consistent with these procedures and requirements.

PART 127—OSAGE LANDS

127.51 Definitions.
127.52 Application for change in designation of homestead.
127.53 Order to change designation of homestead.
127.54 Exchanges of restricted lands.
127.55 Institution of partition proceedings.
127.56 Partition records.
127.57 Approval of deeds or other instruments vesting title on partition and payment of costs.
127.58 Disposition of proceeds of partition sales.

AUTHORITY: §§ 127.51 to 127.58 issued under R. S. 161; 5 U. S. C. 22. Interpret or apply 62 Stat. 18; 25 U. S. C. 331 note.

§ 127.51 *Definitions.* When used in this part:

(a) "Homestead" means the restricted nontaxable lands, not exceeding 160 acres, allotted to an enrolled member of the Osage Tribe pursuant to the act of June 28, 1906 (34 Stat. 539), or the restricted surplus lands designated in lieu thereof pursuant to the act of May 25, 1918 (40 Stat. 578).

(b) "Surplus land" means those restricted lands, other than the homestead, allotted to an enrolled member of the Osage Tribe pursuant to the act of June 28, 1906 (34 Stat. 539).

§ 127.52 *Application for change in designation of homestead.* Any Osage allottee or the legal guardian thereof may make application to change his homestead for an equal area of his surplus land. The application shall give in detail the reasons why such change is desired and shall be submitted to the Osage Indian Agency on the form "Application to Change Designation of Homestead."

§ 127.53 *Order to change designation of homestead.* The application of an Osage allottee, or his legal guardian, may be approved by the Secretary of the Interior, or his authorized representative, and an order issued to change designation of homestead, if it is found that the applicant owns an equal area of surplus land. The expense of recording the order shall be borne by the applicant. The order to change designation shall be made on the form "Order to Change Designation of Homestead."

§ 127.54 *Exchanges of restrictive lands.* Upon written application of the Indians involved, the exchange of restricted lands between adult Indians, and between adult Indians and non-Indians, may be approved by the Secretary of the Interior, or his authorized representative. Title to all lands acquired under this part by an Indian who does not have a certificate of competency shall be taken by deed containing a clause restricting alienation or encumbrance without the consent of the Secretary, or his authorized representative. In case of differences in the appraised value of lands under consideration for exchange, the application of an Indian for funds to equalize such differences may be approved to the extent authorized by § 108.8 of this chapter.

§ 127.55 *Institution of partition proceedings.* (a) Prior authorization should be obtained from the Secretary, or his authorized representative, before the institution of proceedings to partition the lands of deceased Osage allottees in which any interest is held by an Osage Indian not having a certificate of competency. Requests for authority to institute such partition proceedings shall contain a description of the lands involved, the names of the several owners and their respective interests and the reasons for such court action. Authorization may be given for the institution of partition proceedings in a court of competent jurisdiction when it appears to the best interest of the Indians involved to do so and the execution of voluntary exchange deeds is impracticable.

(b) When it appears to the best interest of the Indians to do so, the Secretary's, or his authorized representative's, authorization to institute partition proceedings may require that title to the lands be quieted in the partition action in order that the deeds issued pursuant to the proceedings shall convey good and merchantable title to the grantee therein. (See section 6, 37 Stat. 87.)

§ 127.56 *Partition records.* Upon completion of an action in partition, a copy of the judgment roll showing schedule of costs and owelty moneys having accrued to or from the several parties, together with deeds, or other instruments vesting title on partition, in triplicate, shall be furnished to the Osage Agency. The original allotment number shall follow the legal description on all instruments vesting title. When a grantee is a member of the Osage Tribe who has not received a certificate of competency, deeds or other instruments vesting title shall contain the following clause against alienation:

Subject to the condition that while title to the above-described lands shall remain in

the grantee or his Osage Indian heirs or devisees who do not have certificates of competency, the same shall not be alienated or encumbered without approval of the Secretary of the Interior or his authorized representative.

§ 127.57 *Approval of deeds or other instruments vesting title on partition and payment of costs.* Upon completion of the partition proceedings in accordance with the law and in conformity with the regulations in this part, the Secretary, or his authorized representative, may approve the deeds, or other instruments vesting title on partition, and may disburse from the restricted (accounts) funds of the Indians concerned, such amounts as may be necessary for payment of their share of court costs, attorney fees, and owelty moneys.

§ 127.58 *Disposition of proceeds of partition sales.* Owelty moneys due members of the Osage Tribe who do not have certificates of competency shall be paid into the Treasury of the United States and placed to the credit of the Indians upon the same conditions as attach to segregated shares of the Osage national fund.

PART 128—SALE OF IRRIGABLE LANDS, SPECIAL WATER CONTRACT REQUIREMENTS

CROSS REFERENCES: For additional regulations pertaining to the payment of fees and charges in connection with the sale of irrigable lands, see Part 129 and §§ 211.4 and 121.23 of this chapter. For general regulations pertaining to the issuance of patents in fee, see Part 121 of this chapter.

§ 128.1 *Conditions of contract.* (a) The form of contract (Form 5–462b)[1] for sale of irrigable lands specifically provides that the purchaser will obligate and pay on a per acre basis all irrigation charges assessed or to be assessed against the land purchased including accrued assessment, which accrued assessment shall be paid prior to the approval of the sale, and for the payment of the construction and operation and maintenance assessments on the due dates of each year. The agreement is to be acknowledged and recorded in the county records in which county the land is situated. The charges incidental to the recording of the instrument shall be paid by the purchaser at the time of executing the agreement.

(b) A strict compliance with the terms of paragraph (a) of this section is absolutely necessary and required.

(Secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U. S. C. 385. Interprets or applies sec. 1, 41 Stat. 409; 25 U. S. C. 386)

NOTE: On May 12, 1921, Circular No. 1677, re sale of irrigable lands, was addressed to all superintendents. It was pointed out therein that the collection of irrigation construction charges was required by the terms of an act approved February 14, 1920 (41 Stat. 409; 25 U. S. C. 386), and that in addition to the construction charge there was an operation and maintenance charge assessable annually that must be paid by the landowners benefited; furthermore, that the purpose of this circular was to point out to the superintendents the necessity of advising prospective purchasers that irrigation charges must be paid and that a so-called paid-up water right was not conveyed with the land. A form of agreement to be executed by the prospective purchaser accompanied this circular.

It has been brought to the attention of the Bureau that irrigation construction charges and operation and maintenance charges have accrued against irrigable allotments prior to the time of their being advertised for sale and that the superintendents have failed to provide for payment of the accrued irrigation charges, with the result that no means are apparent for their collection.

With a view of preventing any future misunderstanding the form of contract accompanying Circular No. 1677 has been redrafted and Form 5–462b assigned to it. The circular has been designated "No. 1677a."

[1] Forms may be obtained from the Commissioner of Indian affairs, Washington 25, D. C.

PART 129—INCLUSION OF LIENS IN ALL PATENTS AND INSTRUMENTS EXECUTED

Sec.
129.1 Liens.
129.2 Instructions.
129.3 Leases to include description of lands.
129.4 Prompt payment of irrigation charges by lessees.

AUTHORITY: §§ 129.1 to 129.4 issued under secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U. S. C. 385.

§ 129.1 *Liens.* The act of March 7, 1928 (45 Stat. 210; 25 U. S. C. 387) creates a first lien against irrigable lands under all Indian irrigation projects where the construction, operation and maintenance costs of such projects remain unpaid and are reimbursable, and directs that such lien shall be recited in any patent or instrument issued for such lands to cover such unpaid charges. Prior to the enactment of this legislation similar liens had been created by legislative authority against irrigable lands of the projects on the Fort Yuma, Colorado River, and Gila River Reservations, in Arizona; Blackfeet, Fort Peck, Flathead, Fort Belknap, and Crow Reservations, Mont.; Wapato project, Yakima Reservation, Wash.; the irrigable lands on the Colville Reservation within the West Okanogan irrigation district, Washington, and the Fort Hall Reservation, Idaho. This legislation, therefore, extends protection similar to that existing in the legislation applicable to the projects on the reservations above mentioned.

CROSS REFERENCES: For operation and maintenance charges and construction costs, see Parts 221, 211, 214, and 215 of this chapter.

§ 129.2 *Instructions.* All superintendents and other officers are directed to familiarize themselves with this provision of law, and in all cases involving the issuance of patents or deeds direct to the Indian or purchaser of Indian allotments embracing irrigable lands, they will recite in the papers forwarded to the Department for action the fact that the lands involved are within an irrigation project (giving the name) and accordingly are subject to the provisions of this law. This requirement will be in addition to the existing regulations requiring the superintendents in case of sales of irrigable lands to obtain from the project engineer a written statement relative to the irrigability of the lands to be sold, and whether or not there are any unpaid irrigation charges, together with the estimated per acre construction cost assessable against the land involved in the sale. Each sale will also be accompanied by contract executed in accordance with regulations obligating the purchaser to pay the accrued charges, namely, construction, operation, and maintenance, prior to the approval of the sale and to assume and pay the unassessed irrigation charges in accordance with regulations promulgated by the Secretary of the Interior.

CROSS REFERENCES: For additional regulations pertaining to the payment of fees and charges in connection with the sale of irrigable lands, see Part 128 and §§ 211.4 and 121.23 of this chapter.

§ 129.3 *Leases to include description of lands.* It is important, also, for superintendents in leasing irrigable lands to present to the project engineer lists containing descriptions of the lands involved for his approval of the irrigable acreage and for checking as to whether or not such lands are in fact irrigable under existing works. Strict compliance with this section is required for the purpose of avoiding error.

§ 129.4 *Prompt payment of irrigation charges by lessees.* Superintendents will also see that irrigation charges are promptly paid by lessees, and where such charges are not so paid take appropriate and prompt action for their collection. Such unpaid charges are a lien against the land, and accordingly any failure on the part of the superintendents to collect same increases the obligation against the land.

Subchapter L—Leasing and Permitting

PART 131—LEASING AND PERMITTING

Sec.
131.1 Definitions.
131.2 Purpose of regulations.
131.3 Applicability of regulations.
131.4 Authority for leases or permits.
131.5 Ownership of improvements.
131.6 Duration of leases and permits of restricted lands.
131.7 Power of superintendent to grant leases or permits for restricted lands of individual Indians.
131.8 Negotiation of individual leases and permits.
131.9 Negotiation of tribal leases and permits.
131.10 Grants of permits for the use of other lands.
131.11 Irrigable lands, drainage districts, payment of charges.
131.12 Farm and farm-pasture units.
131.13 Grazing units excepted.
131.14 Minor's land, use by parents.
131.15 Bonds.
131.16 Subleases; assignments.
131.17 Special mandatory provisions.
131.18 Advance execution of leases.
131.19 Payment of rentals.
131.20 Description of leased property.
131.21 Conservation and land use requirements.
131.22 Violation of lease or permit.
131.23 Business leases or permits.
131.24 Crow Reservation.
131.25 Fort Belknap Reservation.
131.26 Colorado River Reservation.
131.27 Appeals.
131.28 Fees.
131.29 Palm Springs, California.

AUTHORITY: §§ 131.1 to 131.29 issued under R. S. 161; 5 U. S. C. 22. Interpret or apply sec. 3, 26 Stat. 795, sec. 1, 28 Stat. 305, secs.

1, 2, 31 Stat. 229, 246, secs. 7, 12, 34 Stat. 545, 34 Stat. 1015, 1034, 35 Stat. 70, 95, 97, sec. 4, 36 Stat. 856, sec. 1, 39 Stat. 128, 41 Stat. 415, as amended, 751, 1232, sec. 17, 43 Stat. 636, 641, 44 Stat. 658, as amended, 894, 1365, as amended, 47 Stat. 1417, sec. 17, 48 Stat. 984, 988, 49 Stat. 115, 1135, sec. 55, 49 Stat. 781, sec. 3, 49 Stat. 1967, 54 Stat. 745, 1057, 60 Stat. 308, secs. 1, 2, 60 Stat. 962, sec. 5, 64 Stat. 46, secs. 1, 2, 4, 5, 6, 69 Stat. 539, 540, 69 Stat. 725; 25 U. S. C. 380, 393, 393a, 394, 395, 397, 402, 402a, 403, 403a, 403b, 403c, 413, 415, 415a, 415b, 415c, 415d, 477, 635.

§ 131.1 *Definitions.* As used in this part:

(a) "Secretary" means Secretary of the Interior.

(b) "Commissioner" means Commissioner of Indian Affairs.

(c) "Area Director" means the official in charge of an area office of the Bureau of Indian Affairs, or such other employee of the Bureau as he may properly designate in writing as acting director.

(d) "Superintendent" means the superintendent or other officer in charge of an Indian agency or unit under which the administration of restricted lands as described in this part has been placed.

(e) "Tribe" means a tribe, band, pueblo, rancheria, or other group of Indians.

(f) "Tribal Council" means the council, business committee, governor, or other body or individual authorized to represent the tribe.

(g) "Restricted lands" means lands or interests in lands held by Indian tribes in fee or by Indian title or held in trust by the United States for the benefit of Indian tribes; and lands or interests in lands held by the United States in trust for individual Indians or held by individual Indians subject to restrictions against alienation without the consent of the Secretary of the Interior or his duly authorized representative.

(h) "Permit" means a permit revocable in the discretion of the issuing or approving officer.

(i) "Farm-pasture" lease means a lease authorizing the grazing of livestock on areas of land used in connection with farming operations or which for any reason are not included in range units, pursuant to Part 151 of this chapter.

(j) "Specialized crops" means those crops requiring a deferred period of years for investment return.

§ 131.2 *Purpose of regulations.* The regulations in this part prescribe the terms and conditions under which restricted lands that are not in use by the Indian owners or the United States may be leased or permitted for farm, farm-pasture, business and other purposes authorized by statute. No leases shall be approved under the regulations of this part that contain any provision that will prevent or delay a termination of Federal trust responsibilities with respect to the land during the term of the lease.

§ 131.3 *Applicability of regulations.* This part is generally applicable but is subject to the special exceptions provided in §§ 131.24 to 131.26, inclusive.

§ 131.4 *Authority for leases or permits.* Either leases or permits may be granted for tribally or individually-owned restricted lands, except that, where no specific statutory authority to lease has been provided, permits only may be issued.

§ 131.5 *Ownership of improvements.* Leases granted under the regulations in this part shall be made for such terms and shall be limited in duration to a period that will permit amortization of the investment by the lessee in permanent improvements. All improvements made under the terms of the lease shall remain on the land as the property of the lessor unless specifically excepted therefrom under the terms of the lease. At the termination of the lease, the lessor shall have the option to purchase the improvements specifically excepted, which option shall be exercised in writing by the lessor by notice to the lessee at least sixty days prior to the expiration of the lease. The lessee shall have sixty days from the date of the expiration of his lease in which to remove the improvements.

§ 131.6 *Duration of leases and permits of restricted lands.* (a) Indian lands, whether tribally or individually owned, may be leased for public, religious, educational, recreational, residential, or business purposes for a period of not to exceed twenty-five years. With the consent of both parties, such leases may include provisions authorizing their renewal for one additional term of not to exceed twenty-five years.

(b) Farming, and agricultural development leases which require the making of a substantial investment for the production of specialized crops, and such farm leases which require the development or utilization of the soil and water resources in connection with their operation as determined by the Secretary or his authorized representative may be executed for a term of not to exceed twenty-five years.

(c) Farming leases not requiring such investment or development may be executed for a term of not to exceed five years for dry-farming lands or ten years for irrigable lands.

(d) Grazing leases may be executed for a term of not to exceed ten years when such leases require substantial development or improvement.

(e) Unless otherwise provided by the Commissioner or his authorized representative, the rental on leases granted for more than five years shall be subject to adjustment at not more than five year intervals.

(f) Leases granted by the superintendent on lands of deceased Indians whose heirs have not been determined shall be limited to terms not exceeding one year, except as otherwise provided in § 131.7.

(g) With the exception set forth in paragraph (a) of this section there shall be no provision for renewal in the leases.

§ 131.7 *Power of superintendent to grant leases or permits for restricted lands of individual Indians.* (a) The superintendent may grant leases or permits for individual restricted lands on behalf of: (1) Indians non compos mentis and orphaned minors for whom no legal guardians have been appointed; (2) nonresidents whose whereabouts are unknown to him.

(b) The superintendent may grant leases or permits embracing inherited or devised restricted individual lands: (1) When the heirs or devisees of the decedents have not been determined, (2) when the heirs or devisees of the decedents have been determined and the lands are not in use by any of the heirs or devisees and the heirs or devisees have not been able during the three months period immediately following the date on which a lease may be renewed to agree upon a lease by reason of the number of heirs, their absence from the reservation or for any other cause.

(c) Where the majority interest in land being leased is owned by Indians authorized to negotiate their leases as provided for in § 131.8 and such Indians have agreed to and executed a lease on terms satisfactory to the superintendent, the superintendent is authorized to execute the lease in behalf of undetermined presumptive heirs owning the minority interest in such lands and in behalf of such Indians whose lands he is authorized to lease under paragraphs (a) and (b) of this section, without advertising such minority interest and without the limitation as to term as provided for in § 131.6 (f).

(d) Except as provided in paragraph (c) of this section, the superintendent, prior to the granting by him of a lease or permit in accordance with the provisions set forth in the regulations of this part or in accordance with a power to issue a lease or permit granted by the owners, shall advertise the lands for lease, unless prior authority to waive advertising has been granted by the Commissioner or his duly authorized representative, and assure that the present fair market value is obtained for the owners. After exposure to the open competitive market, through advertisement for sealed bids, if the highest bid received is less than the appraised value, such bid may be accepted by the superintendent when the bid price is not substantially less than the appraised value with the consent of the owner. Leases granted by the superintendent may, in his discretion, provide for the payment of the rentals due thereunder to the person having custody of the owner of the lands.

§ 131.8 *Negotiation of individual leases and permits.* Adult Indians (other than those non compos mentis) may negotiate for themselves and for their minor children on forms approved by the Secretary or his duly authorized representative, leases or permits for the use of individual restricted lands, subject to the regulations of this part and the written approval of the superintendent. Unless such leases or permits provide otherwise, rentals shall be paid directly by the lessees or permittees to the adult Indian lessors or permitters for their lands. Rentals on minors' lands shall be paid to the superintendent except where under applicable statutes it is mandatory that such rentals be paid to the parents. Negotiated leases shall not be approved at less than the appraised fair rental value.

§ 131.9 *Negotiation of tribal leases and permits.* (a) Tribes, acting through

their tribal councils or their authorized representatives, may negotiate on forms approved by the Secretary or his duly authorized representative and subject to the approval of the Secretary or his authorized representative, leases or permits with respect to tribal lands, at not less than the appraised value. A lease or permit may provide for the payment of rentals direct to the lessor when a tribe is organized and has facilities for handling its own funds, including an acceptable bonded officer to receipt for funds. Otherwise, the lease or permit shall provide for the payment of rentals to the superintendent for deposit to the credit of the tribe in the United States Treasury.

(b) The constitutions, bylaws, charters, ordinances, and resolutions, adopted by tribes organized pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984, 25 U. S. C. 461–479), as amended June 15, 1935 (49 Stat. 378), and May 1, 1936 (49 Stat. 1250), and the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967, 25 U. S. C. 501–509), shall govern where inconsistent with the regulations in this part.

§ 131.10 *Grants of permits for the use of other lands.* In order to conserve and protect them from deterioration, lands acquired by the United States for Indian school or other Indian administrative purposes or transferred to or placed under the administration of the Bureau of Indian Affairs and which are not immediately needed for the purpose for which they were acquired or transferred, may be made available by the superintendent, subject to the approval of the Commissioner or his authorized representative, for farm, farm-pasture, business, or other purposes under permits for minimum periods conducive to proper use.

§ 131.11 *Irrigable lands, drainage districts, payment of charges.* Any lease or permit for restricted lands within an irrigation project shall require the lessee or permittee to pay on the due date annually in advance during the term of the instrument, and in the amounts determined by orders of the Secretary or his duly authorized representative, charges assessed against such lands. Such charges shall be in addition to the rental payments prescribed in the lease or permit. All payments of such charges and penalties shall be made to the superintendent or other officer designated by the Commissioner.

§ 131.12 *Farm and farm-pasture units.* (a) When areas of restricted land, consisting of parts or all of a number of allotments of individual lands or separate tracts of tribal lands, can be developed and effectively utilized under proper soil conservation and land use practices as single operational units, a suitable division shall be made by the superintendent of such lands into units: *Provided, however,* That the establishment of units containing in excess of 640 acres of irrigable land or in excess of 2,560 acres of dry farming or farm-pasture land shall be subject to the approval of the Commissioner or his authorized representative.

(b) A lease or permit may be issued by the superintendent on restricted land in a unit if such authority has been granted to the superintendent by the owners of the areas in the unit or if the superintendent is authorized in accordance with the provisions of this part to issue leases or permits covering such lands without the consent of the owners.

§ 131.13 *Grazing units excepted.* Restricted grazing lands within range units established pursuant to Part 151 of this chapter, general grazing regulations, shall not be leased and permits respecting such lands shall not be issued under this part.

§ 131.14 *Minor's land, use by parents.* Any Indian who supports his dependent minor children may use their restricted lands during the period of their minority without charge for the use of their lands if such use will enable him to engage in a farming or business enterprise which will also be beneficial to his minor children; and any such Indian may also pledge the income from such lands for the period of his children's minority as security for a loan from the United States, an Indian chartered corporation, an unincorporated tribe, or an Indian credit association.

§ 131.15 *Bonds.* Unless otherwise provided by the Commissioner or his authorized representative, full performance of the conditions of each lease or permit issued under this part shall be guaranteed by a satisfactory corporate surety bond or individual surety bond in a penal sum of not less than one year's rental and other provided charges, plus the estimated value of any improvements to be constructed by the lessee or permittee for the benefit of the lessor or permitter. In lieu of furnishing a surety bond, a lessee or permittee may deposit with the superintendent cash or negotiable United States Treasury Bonds or other negotiable Treasury obligations in the appropriate amount, together with a power of attorney appointing and empowering the Commissioner or his authorized representative in the event of any breach of the lease or permit to pay over any such cash, or to dispose of any such bonds and pay over the proceeds derived therefrom, as liquidated damages to or for the benefit of the lessor or permitter.

§ 131.16 *Subleases; assignments.* A sublease or assignment of any lease or permit issued under this part may be made only with the written consent of all parties thereto, including the surety or sureties, and the Government officer or employee who had authority to approve the original lease or permit.

§ 131.17 *Special mandatory provisions.* All leases or permits issued under this part shall contain provisions as follows:

(a) Nothing contained in this lease shall operate to delay or prevent a termination of Federal trust responsibilities with respect to the land during the term of this lease; however, such termination shall not serve to abrogate this lease. In the event of such termination, all powers, duties, or other functions of the Secretary of the Interior or his authorized representative shall terminate, and the responsibility for enforcing compliance with the covenants of this lease shall be assumed by the lessor, his heirs, devises, executors, administrators, or assigns.

(b) In the event of termination of Federal supervision, the lessor and lessee, or their successors in interest, shall have a period of 30 days from the anniversary date provided for in the lease for adjustment of the rental within which to agree upon the rental adjustment or to agree upon a commercial appraiser to determine the fair annual rental value. If no agreement can be reached at the end of 30 days, the lessor and lessee, or their successors, shall each appoint an appraiser and the two appraisers shall select a third appraiser. The three appraisers so selected shall constitute the appraisal board to reevaluate the fair annual rental.

(c) The lessee (permittee) further agrees that he will not use or permit to be used any part of said premises for any unlawful conduct or purpose whatsoever; that he will not use or permit to be used any part of said premises for the manufacture, sale, gift, transportation, drinking or storage of intoxicating liquors or beverages in violation of existing laws relating thereto, and that any violation of this clause by the lessee (permittee) or with his knowledge, shall render this lease voidable at the option of the superintendent.

§ 131.18 *Advance execution of leases.* Except with the approval of the Commissioner or his authorized representative, no lease or permit shall be negotiated more than 12 months prior to the date when it is to become effective.

§ 131.19 *Payment of rentals.* No rent or other consideration for the use of land leased pursuant to the regulations of this part shall be paid or collected more than one year in advance, unless so provided in the lease. Any lease containing a provision for payment or collection of rental for more than one year in advance shall not be approved by the superintendent. Authority to approve such leases may be granted by the Area Director in his discretion.

§ 131.20 *Description of leased property.* When a lease covers only part of an allotment, a definite description by subdivision or by metes and bounds must be incorporated therein, accompanied by a plat of the part intended to be leased when the metes and bounds do not conform to the public survey.

§ 131.21 *Conservation and land use requirements.* All farming and grazing operations conducted under leases executed pursuant to the regulations of this part shall be in accordance with the lease terms and land use stipulations or a plan of conservation operations prepared by the superintendent in accordance with approved methods. Such stipulation or plan shall be annexed to and made a part of the lease.

§ 131.22 *Violation of lease or permit.* The superintendent is responsible for and shall enforce compliance with the

requirements of leases or permits issued under this part and the applicable regulations. If he has reason to believe that a lessee or permittee has violated the lease or permit or the regulations, he shall serve written notice upon the lessee or permittee setting forth in detail the nature of the alleged violation and give the violator 10 days from the date of notice in which to show cause why the lease or permit should not be canceled. The surety or sureties on the lease or permit shall be notified of the alleged violation by promptly mailing to each surety a copy of each notice sent to the lessee or permittee. Where the breach of contract is satisfied by the payment of damages, the superintendent may approve the damage settlement. The failure of a lessee or permittee within the prescribed time to furnish satisfactory reasons why the lease or permit should not be canceled shall result in the cancellation of the instrument. The superintendent shall immediately notify the lessee or permittee in writing of the cancellation of the instrument, demand payment of all obligations due, and direct the premises be vacated promptly. This notice shall also inform the lessee or permittee that his failure to abide by the notice will necessitate the presentation of the case to the United States Attorney for appropriate action.

§ 131.23 *Business leases or permits.* Business leases or permits executed in accordance with § 131.6 may be approved by the superintendent where the annual rental does not exceed $5,000. All other business leases or permits shall be subject to the approval of the Commissioner or his authorized representative.

§ 131.24 *Crow Reservation.* (a) Notwithstanding § 131.6 (b), no lease or permit of any irrigable allotment on the Crow Reservation shall be made for a period longer than five years, except that irrigable lands in Indian ownership within the Big Horn unit of the Crow Indian irrigation project may be leased or permits may be issued for farming purposes for periods not to exceed 10 years.

(b) A lease or permit respecting restricted land on this reservation may be negotiated for farming purposes not to exceed 18 months before it is to become effective.

(c) The approval of the superintendent of the Crow Agency shall not be required under § 131.8 with respect to leases or permits which are issued by Indian allottees whose names appear as competent on the rolls completed in accordance with the provisions of section 3 of the act of June 4, 1920 (41 Stat. 751), as supplemented by the acts of May 19, 1926 (44 Stat. 566), May 2, 1928 (45 Stat. 482), March 15, 1948 (62 Stat. 80), and September 8, 1949 (63 Stat. 695), and which cover their own allotments or the allotments of their minor children for farming or grazing purposes except that leases other than farming and grazing made pursuant to the provisions of the act of August 9, 1955 (69 Stat. 539), all leases made by adult Crow Indians not classified as competent, and leases on heirship lands of Crow Indians having more than five competent devisees or heirs require the approval of the superintendent. Leases or permits requiring the approval of the superintendent shall provide that all rentals are to be paid by the lessee or permittee to the superintendent for the benefit of the Indian owners. Copies of all leases and permits that do not require the approval of the superintendent shall be filed promptly with the superintendent of the Crow Agency. Such filing shall impart constructive notice to all persons of its contents. No such lease which has not been so filed shall be recognized by the superintendent or by the Bureau as against lessees, purchasers, or encumbrancers of the same land in good faith for value and without notice. Any Crow Indian classified as competent shall have the full responsibility of obtaining compliance with the terms of any lease made by him pursuant to this section.

§ 131.25 *Fort Belknap Reservation.* Not to exceed 20,000 acres of allotted and tribal lands (nonirrigable as well as irrigable) on the Fort Belknap Reservation in Montana may be leased or permits respecting such lands may be granted for the culture of sugar beets and other crops in rotation for terms not exceeding 10 years.

§ 131.26 *Colorado River Reservation.* (a) For a period of two years from August 14, 1955, the Secretary of the Interior or his authorized representative may lease the unassigned lands on the Colorado River Reservation. Such lands may be leased for the purposes and terms provided for in § 131.6.

(b) Income from leases on land in the southern reserve, as defined in ordinance numbered 5 of the Colorado River Indian Tribes, dated February 3, 1945, shall be segregated from income from leases on land in the northern reserve, as defined by such ordinance, and from leases on land on the California side of the Colorado River. All income received prior to August 14, 1957, and prior to determination of the beneficial ownership of the lands, from leases on land in the northern reserve and land on the California side of the Colorado River may be expended by the Secretary or his authorized representative for the benefit of the Colorado River Indian Tribes and their members. All income received prior to August 14, 1957, and prior to determination of the beneficial ownership of the lands, from leases on land in the southern reserve may be expended by the Secretary or his authorized representative for the development or improvement of any land in the southern reserve. All income received after August 14, 1957, shall be held in a special account until the beneficial ownership of the land on the reservation has been determined. All income received after beneficial ownership has been determined shall be held in trust for the beneficial owners of the land from which the income was derived and shall be expended as otherwise authorized by law.

§ 131.27 *Appeals.* (a) Any heir or devisee who feels aggrieved by the action taken by the superintendent on leasing the restricted lands of deceased Indians may, within 10 days after the date of execution of the lease, file with the superintendent a notice of appeal to the Secretary. The notice of appeal shall be in writing and shall set forth the reasons for the appeal. Copies of the notice shall be furnished by the appellant to the superintendent, the lessee, and to all parties who share in the estate.

(b) The appeal, the lease or a true copy thereof, and all papers relating to the lease shall be submitted to the Secretary through the Commissioner.

(c) The appellant and any other interested party may, within 30 days from the date on which a notice of appeal is filed, submit written arguments to the Secretary.

(d) Copies of the decision of the Secretary on the appeal will be mailed to (1) the appellant, (2) all other heirs or devisees of the estate affected by the appeal, (3) the superintendent, (4) the Commissioner, (5) and the lessee.

§ 131.28 *Fees.* When lands are leased or permits are issued in accordance with the provisions of this part, or when they are subleased or assigned (including renewals or extensions), fees shall be fixed as follows:

(a) *To be paid by lessee, permittees, sublessee, or assignee.*

Rental:	Fee
Not to exceed $100	$1.00
$100.01–$250	2.50
$250.01–$500	5.00
For each additional $500 or fraction thereof	1.00

When, under the terms of the instrument, the occupant is to pay taxes accruing during the period of its operation, an amount equal to the estimated total amount of the taxes shall be included in the amount to be used in determining the fee to be charged. In the case of a sublease or assignment, the fee shall be based on the total rental which will accrue under the instrument from the effective date of the transaction. When the lease or permit period is extended with the mutual consent of the parties concerned, the fee shall be computed from the effective date on the same basis as the original instrument. The fee to be collected in case of crop-share or other noncash rental leases or permits shall be based on (1) an estimate of the cash rental value of the acreage, including all improvements to be placed on the land by the lessee or permittee for the benefit of the lessor or permitter, or (2) the estimated value of the lessor's share of the crops.

(b) *Fees, tribal employees.* When the clerical and ministerial work in connection with the grants of leases or permits is performed by tribal employees, fees may be fixed, subject to approval by the Commissioner or his authorized representative, by the respective tribes concerned in lieu of the fees prescribed in paragraph (a) of this section.

(c) *Disposition of fees.* Fees collected pursuant to paragraph (a) of this section shall be covered into the Treasury as miscellaneous receipts, except that when the clerical and ministerial work in the issuance of permits or leases of lands under this part is performed by Bureau employees paid from appropri-

ated tribal funds, the fees shall be credited to such funds.

§ 131.29 *Palm Springs, California.* In addition to the authority for the negotiation of leases contained in § 171.8, leases or permits for the use of individual trust or restricted lands belonging to members of the Agua Caliente or Palm Springs band of Mission Indians may be negotiated by guardians duly qualified as to authority and bond under the laws of California, to enter into transactions on behalf of the owner of the property. Such leases shall be made on forms approved by the Secretary, subject to the regulations of this part and the written approval of the Secretary. Leases so negotiated shall provide that rentals due may, in the discretion of the Secretary, be paid to such guardians, providing, however, that at any time during the term of the lease, the Secretary may, at his discretion and upon thirty days' notice to the lessee, require the remaining rentals to be paid to the Secretary.

PART 132—PRESERVATION OF ANTIQUITIES

Sec.
132.1 Penalty.
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CROSS REFERENCE: For uniform regulations issued by the Secretaries of the Interior, Agriculture, and War pertaining to the preservation of antiquities, see Public Lands: Interior, 43 CFR Part 3.

AUTHORITY: §§ 132.1 to 132.9 issued under secs. 3, 4, 34 Stat. 225, as amended; 16 U. S. C. 432.

§ 132.1 *Penalty.* The appropriation, excavation, injury, or destruction of any historic or prehistoric ruin or monument, or any object of antiquity situated on lands owned or controlled by the Government of the United States, by any person or persons, without the permission of the Secretary of the department having jurisdiction over the lands on which said antiquities are situated, shall, upon conviction, subject such person or persons to be fined not to exceed $500 or imprisoned for not to exceed 90 days, or both.

§ 132.2 *Permits.* Permits for the excavation of ruins and archaeological sites and the gathering of objects of antiquity on Indian reservations will be granted by the Secretary of the Interior to reputable museums, universities, colleges, or other recognized scientific or educational institutions, or their duly authorized agents, on proper application. Superintendents should not permit any excavations or explorations except as to those persons holding such permits.

§ 132.3 *Supervision.* Superintendents may at all times examine the permit of any person or institution claiming the privileges referred to, and may fully examine all work done under such permit.

§ 132.4 *Lapse of permits.* Failure to begin work under a permit within 6 months after it is granted, or failure to diligently prosecute such work after it has been begun, shall make the permit void, and superintendents are instructed to report to the office all such failures to begin within the stated time or the failure to diligently pursue the excavation or explorations.

§ 132.5 *Restoration of land after work completed.* Permittees are required to restore the lands on which they have worked to their customary condition, to the satisfaction of the superintendent. Failure to do this should be brought to the attention of the office.

§ 132.6 *Superintendents authorized to confiscate antiquities illegally obtained or possessed.* Superintendents or others in administrative charge of reservations are hereby directed and authorized to confiscate any antiquities that may have been illegally obtained or that may now be illegally in the possession of licensed Indian traders or others and to submit a report and description of the articles confiscated and request instructions as to their disposition.

NOTE: This section prescribed to carry out provisions of 43 CFR 3.16.

§ 132.7 *Notice to public.* Copies of the act of June 8, 1906 (34 Stat. 225), and the interdepartmental regulations of December 28, 1906 (43 CFR Part 3), shall be posted conspicuously at all agency offices where the need is justified, and warning notices posted on the reservations and at or near the ruins or other articles to be protected. All licensed traders shall be notified immediately that failure to cease traffic in antiquities will result in a revocation of their license.

NOTE: This section prescribed to carry out provisions of 43 CFR 3.16.

§ 132.8 *Report of violations.* Any and all violations of the regulations in this part should be reported to the Bureau of Indian Affairs immediately.

NOTE: This section prescribed to carry out provisions of 43 CFR 3.16.

§ 132.9 *Report on objects of antiquity.* Superintendents shall from time to time inquire and report as to the existence, on or near their reservations, of ruins, and archaeological sites, historic or prehistoric ruins, or monument, historic landmarks and prehistoric structures, and other objects of antiquity.

Subchapter M—Forestry

PART 141—GENERAL FOREST REGULATIONS

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AUTHORITY: §§ 141.1 to 141.30 issued under secs. 7, 8, 36 Stat. 857; 25 U. S. C. 406, 407. Statutory provisions interpreted or applied are cited to text in parentheses.

CROSS REFERENCES: For rights-of-way for logging roads, see Part 161 of this chapter. For sale of forest products, Red Lake Indian reservation, Minnesota, see Part 144 of this chapter. For sale of timber products, Menominee Indian reservation, see Part 143 of this chapter.

§ 141.1 *Objectives.* The following objectives are to be sought in the management of Indian forests:

(a) The preservation of Indian forest lands in a perpetually productive state by providing effective protection, preventing clear cutting of large contiguous areas, and making adequate provision for new forest growth when the mature timber is removed.

(b) The regulation of the cut in a manner which will insure method and order in the harvesting of the tree capital, so as to make possible continuous production and a perpetual forest business.

(c) The development of Indian forests by the Indian people for the purpose of promoting self-sustaining Indian communities, to the end that the Indians may receive from their own property not only stumpage, but also the benefit of whatever profit it is capable of yielding and whatever labor the Indians are qualified to perform.

(d) The sale of Indian timber in open competitive markets on reservations where the volume produced by the forest annually is in excess of that which is practicable of development by the Indians, or where fire damage, insect infestation, disease, overmaturity, or other causes require extensive and rapid harvesting of the timber in order to prevent loss.

(e) The preservation of the forest for scenic purposes along public highways, in the vicinity of Indian or white communities, and wherever the recreational or aesthetic value of the forest seems to exceed its value for the production of forest products.

(f) The management of the forest in such a manner as to retain its beneficial effect in regulating runoff and minimizing erosion.

(Sec. 6, 48 Stat. 986; 25 U. S. C. 466)

§ 141.2 *Development restricted.* Proceeding in accordance with this general

policy, the development of reservation timber will not be authorized until practical methods of cutting are prescribed which will assure the perpetuation of the forest, prevent unnecessary waste, and make possible effective protection against destructive agencies. Cutting will be given priority in those stands of timber which are deteriorating as the result of fire damage, disease, insect infestation, overmaturity, or other causes. Whenever practicable, from 25 to 60 percent of the merchantable timber volume will be left standing in order to protect the site, provide seed for a new stand, and make possible a second cut before the reproduction matures.

(Sec. 6, 48 Stat. 986; 25 U. S. C. 466)

§ 141.3 *Cutting restrictions.* Clear cutting of large contiguous areas will not be permitted, except on lands which will be used for agricultural development. It is the policy of the Bureau to promote the use of logging methods which will insure a reasonable degree of protection for reserve stands and to limit the use of donkey engines and other high power machinery to areas upon which the use of animal or tractor logging is not feasible. Wherever circumstances necessitate the use of high power machinery which results in destructive logging, cuttings will be so broken up by stands of green timber as to secure adequate protection against fire and ample provision for reseeding the cut-over area.

(Sec. 6, 48 Stat. 986; 25 U. S. C. 466)

§ 141.4 *Inferior species reserved.* Inferior species of low commercial values should generally be withheld from cutting until a reasonable consumer demand develops. Species of this character are ordinarily most valuable when left standing in the forest because they protect the ground, provide seed, and do not lower the general value of the stumpage to be harvested. Accordingly such species should generally be reserved for utilization at a later date, when they will have a positive value, and only those trees marked for cutting which if left standing would be injurious to the future development of the forest. Areas containing large volumes of inferior species should be excluded from sales wherever possible.

(Sec. 6, 48 Stat. 986; 25 U. S. C. 466)

§ 141.5 *Objectives to be expressed.* The Bureau is definitely committed to a policy of sustained yield forest management. This policy will be given practical expression through the medium of forest working plans for all reservations of major importance from an industrial forestry standpoint. Such working plans should contain a statement of how the policies of the Bureau are to be applied on a given Indian forest, with a definite program of action for a specified period in the future. These plans will express objectives to be attained in timber management, thus giving the necessary basis for consistent action over the long period necessary to grow a timber crop.

(Sec. 6, 48 Stat. 986; 25 U. S. C. 466)

§ 141.6 *Effective date.* The regulations in this part are hereby made effective as of May 18, 1936, for all Indian lands under the jurisdiction of the Bureau of Indian Affairs, except as this part may be superseded by special instructions to particular reservations or by provisions of special laws, tribal constitutions, bylaws or charters, heretofore or hereafter ratified, or any tribal action authorized thereunder.

(Sec. 6, 48 Stat. 986; 25 U. S. C. 466)

§ 141.7 *Trespass procedure.* All forest officers or other employees shall report promptly in writing any violation of the trespass law. Superintendents shall seize all timber unlawfully cut from Indian land, mark the same, forbid its removal, and promptly report to the Commissioner of Indian Affairs the name and post office address of the trespasser, the names and post office addresses of all witnesses of such depredations, and if possible furnish affidavits by such witnesses as to their knowledge of the facts, so that if necessary the case may be reported to the Department of Justice for the institution of a civil action for the recovery of damages, a criminal prosecution under the provisions of section 50 of the act of March 9, 1909, as amended by section 6 of the act of June 25, 1910 (36 Stat. 857; 18 U. S. C. 104), or the commencement of both civil and criminal actions. If a civil trespass action involves timber with a stumpage value of $500 or less, the superintendent should ascertain what terms of settlement may be made; and if he deems it desirable to the welfare of the Indians he may settle the case without going into court.

§ 141.8 *Trespass reports.* Violations of section 6 of the act of June 25, 1910 (36 Stat. 857; 18 U. S. C. 104), should be promptly investigated, affidavits and other information obtained, and a suitable report made to the Commissioner of Indian Affairs so that if necessary the case may be submitted to the Department of Justice for action.

§ 141.9 *Fire protective measures.* Forest officers must make every possible effort to extinguish immediately any fire of which they have knowledge. Every superintendent is authorized to hire temporary men, purchase tools and supplies, and pay for their transportation from place to place to extinguish a fire. No expense for fighting a fire outside a reservation must be incurred unless the fire threatens the reservation, and special authority must be obtained for any expenditure in excess of $1,000. Fire fighters should be paid by the hour, actual working time, at the current local rates. The time consumed in going to and from the fire will ordinarily be included. When subsistence is furnished, the rate of pay should be reduced accordingly. A report on Form 5–493[1] should be made immediately after the extinguishment of any fire and filed in the agency office.

(42 Stat. 208, 857; 25 U. S. C. 13, 16 U. S. C. 594)

§ 141.10 *Slash disposal.* Measures designed to reduce the fire danger from slash created by the cutting of timber are a necessary insurance against the loss of those trees left standing and the new trees which may germinate. An effective method of slash disposal is therefore an essential feature of any timber sale contract or timber cutting permit. On areas where selective logging or partial cutting is employed, the standard brush disposal method is by lopping, piling, and burning the brush. It is of major importance that the piles should be so located that they may be burned without injury to the reproduction or the reserved trees. Broadcast burning may only be employed on the restricted clear cut areas and should always be controlled by fire lines or other effective barriers.

§ 141.11 *Sustained yield management.* No Indian timber may be developed either by Indians or by non-Indians, unless it is operated on a sustained yield basis.

(Sec. 6, 48 Stat. 986; 25 U. S. C. 466)

§ 141.12 *Indian operations.* It is the policy of the Bureau to encourage the development of Indian timber by the Indian people for the purpose of promoting self-sustaining Indian communities, and in conformity thereto the conducting of Indian logging operations and Indian sawmill operations is hereby authorized. Such operations may be organized and initiated, subject to the consent of the Indians in general council, whenever general appropriations for industrial development, special appropriations for sawmill development, reimbursable loan funds or Indian tribal funds may be made available.

§ 141.13 *Timber sales from unallotted and allotted lands.* On reservations where the volume produced by the forest annually is in excess of that which is practicable of development by the Indians, or where the stand is rapidly deteriorating as a result of fire damage, insect infestation, disease, over-maturity, or other causes, the sale of Indian timber in open competitive markets will be authorized, provided consent is given by the Indians in general council or by their duly authorized representatives for tribal, and by the allottees for allotted timber. Sales from unallotted lands, allotted lands or a combination of these two ownerships, having a stumpage value of over $100, will not be authorized until an examination of the timber to be sold has been made by a qualified forest officer and a complete report setting forth all pertinent information has been submitted to the officer or officers authorized to approve the contract as provided in § 141.20.

§ 141.14 *Advertisement of sales.* (a) (1) Sales of timber shall be made only after advertisement except as provided for in §§ 141.17 and 141.27, and paragraph (b) of this section. The advertisement shall be approved by the officer who will approve the contract. Advertised sales shall be made under sealed bids, or at public auction, or under a combination thereof. If the estimated stumpage value of the timber offered does not exceed $1,000 the advertisement may be made by posters and circular letters. If

[1] Forms mentioned in this part may be obtained from the Commissioner of Indian Affairs, Washington 25, D. C.

the estimated stumpage value exceeds $1,000, the advertisement shall also be made in at least one newspaper of general circulation in the locality where the timber is situated. If the estimated stumpage value does not exceed $10,000, the advertisement shall be for not less than 15 days; if the estimated stumpage value exceeds $10,000 but not $100,000, for not less than 30 days; and if the estimated stumpage value exceeds $100,000, for not less than 60 days.

(2) The officer approving the advertisement may reduce the advertising period because of emergencies such as fire, beetle attack, blowdown, limitation of time, or when there would be no practical advantage to advertise for the specified periods.

(3) If no contract is executed after such advertisement, the officer approving the advertisement may, within one year from the last day on which bids were to be received as defined in the advertisement, sell such timber in the open market upon the terms and conditions in the advertisement and at not less than the advertised value or the appraisal value at the time of sale, whichever is greater.

(b) Timber sales up to $2,000 in value may be negotiated with the approval of the Commissioner of Indian Affairs when the serious condition of the timber or other exigency or emergency requires the immediate sale and removal of the timber or it is impractical to secure competition by formal advertising procedures, or when otherwise specifically authorized by statutes or regulations. In the case of such negotiated transaction it shall be the responsibility of the negotiating officer to establish the documented record of the transaction. He shall prepare a written determination and finding that the transaction is of a type or class allowing the negotiation procedures or warranting departure from the procedures provided in paragraph (a) of this section, a record of the extent of solicitation and competition or a statement of the facts upon which a finding of impracticability of securing competition is based, and a statement of the factors on which the award was based and including a determination as to the reasonability of the price accepted.

§ 141.15 *Deposits with bids.* A cash deposit shall be submitted with each proposal for the purchase of Indian timber, either allotted or unallotted. Such deposit shall be at least 20 percent of any estimated stumpage value which is less than $1,000; at least 10 percent of any estimated stumpage value between $1,000 and $10,000; at least 5 percent of any estimated stumpage value between $10,000 and $100,000; and at least 3 percent on any estimated stumpage value exceeding $100,000. Every deposit in excess of $500 must be in the form of a duly certified check on a solvent national bank, drawn payable to the order of the superintendent having jurisdiction over the timber. Smaller deposits may be in cash, or by a duly certified check. All of these deposits are required as a guaranty of good faith, and when a bond is not executed the deposit of the successful bidder will be retained until the contract is completed. In the final settlement the deposit will be credited as a portion of the whole amount due for the timber purchased and any balance returned, provided the purchaser has faithfully performed the terms of the contract. If a bond is furnished and accepted, the deposit will be credited as a first installment in payment for the timber. The cash or certified check deposited will be returned to depositors whose proposals are not accepted.

§ 141.16 *Acceptance and rejection of bids.* In ordinary circumstances the high bid received in connection with any advertisement issued under authority of this part shall be accepted. However, the officer authorized to approve the contract shall have the right to reject the high bid and readvertise if he considers the high bidder to be unqualified to fulfill the contractual requirements of the advertisements. The right is also reserved by the approving officer to waive minor technical defects in advertisements and proposals.

§ 141.17 *Sales to Indians without advertisement.* Open-market sales to Indians without advertising may be made for stumpage not exceeding $5,000 in value: *Provided,* That in the case of stumpage on tribal lands the Indians in general council or their representatives to whom they specifically delegate this authority shall consent, and the allottees shall consent in the case of stumpage on Indian allotments. The stumpage prices in connection with such open-market sales shall be established by the approving officer after due apraisal procedure; provided, that the timber contract forms executed under authority hereof shall be those stipulated for the sale of timber under § 141.18, and carry the bond requirements stipulated under § 141.21.

§ 141.18 *Contracts required.* For sales of timber of a stumpage value greater than $100 the regular contract forms must be used unless a special form for a particular sale is approved by the Commissioner of Indian Affairs or the Secretary of the Interior. The regular forms provide for a certain flexibility to meet variable conditions, but no essential departure from the fundamental requirements of such contracts may be authorized by a superintendent or other field officer. When stumpage is purchased from unallotted lands by Indians or others, Form 5–487 should be used, and when stumpage is purchased from allotted lands, Form 5–489 should be used. Form 5–481 should be used where logging operations are conducted by an Indian, either on his own allotment or on tribal lands, and the products sold in the form of logs, bolts or cordwood either on the land after severance or delivered to some other point in such form. When timber is cut from unallotted land or from an allotment held under a trust patent or other patent containing restrictions on alienation the contract should require that the proceeds be paid into the hands of the superintendent and an accounting be made therefor.

§ 141.19 *Execution of contracts.* All contracts should be executed in sextuplet by the duly authorized representatives of the tribe or by the individual allottees concerned and by the purchaser. If a contract is approved by the superintendent, or by the superintendent and concurred in by the regional forester, the original copy should be forwarded to the General Accounting Office, and one copy each mailed promptly to the Bureau and to the regional forester. If the contract requires the approval of the Commissioner of Indian Affairs or the Secretary of the Interior, all copies must be forwarded promptly to the Bureau. Copies for agency and regional forestry files, for purchaser, and for allottee will be returned if the contract is approved.

§ 141.20 *Approval of contracts.* Contracts covering sales of timber having a stumpage value not exceeding $500 may be approved by the superintendent. Contracts covering sales of timber having a stumpage value between $500 and $10,000 should be approved by the superintendent and concurred in by the regional forester. In case of nonconcurrence, final decision shall be made by the Commissioner of Indian Affairs. Contracts covering sales of timber having a stumpage value between $10,000 and $100,000 should be approved by the Commissioner of Indian Affairs. Contracts covering sales in which the stumpage value exceeds $100,000 shall be made only with the express approval of the Secretary of the Interior. Contracts covering individual allotments executed under authority of an approved general contract will be approved by the superintendent on Form 5–489 with such provisions incorporated therein as the approving officer or officers of the general contract shall stipulate.

§ 141.21 *Bonds.* In sales in which the stumpage value of the timber does not exceed $5,000 no bond will ordinarily be required, but the initial deposit will be held until the contract is completed; in sales in which the stumpage value exceeds $5,000 but is not over $10,000 a bond of approximately 20 percent of the value of the timber will be required; in sales in which the stumpage value exceeds $10,000 but is not over $100 000 a bond in an amount of approximately 10 percent of the estimated value of the timber will be required; and in sales in which the stumpage value exceeds $100,000 a bond will be required in an amount to be fixed by the Secretary of the Interior.

§ 141.22 *Payments for timber.* Payments for timber will be required in advance of cutting, either as a single payment or in the form of installments. In sales of a stumpage value not greater than $1,000, the number of installments shall not exceed five; in sales of a stumpage value greater than $1,000 but not over $10,000, the number of installments shall not exceed 10; and in sales of a stumpage value greater than $10,000 but not over $100,000, the number of installments shall not exceed 20. In sales in which the stumpage value is greater than $100,000, the number of the installments shall be determined at the time such sales are authorized: *Provided,* That the

amount of installments so fixed shall not be less than $5,000 each.

§ 141.23 *Installment payments.* The advance installments or deposits above stipulated are required for the purpose of providing a flexible working balance against which scale reports covering both unallotted and allotted timber may be credited as the timber is cut. No further cash advances are required in connection with the sale of unallotted timber. However, allotment contracts should provide for advance payments to each allottee, and the advances so received should be taken into the superintendent's accounts as "individual Indian money." In allotment sales of 3 years' duration or less an advance payment of 10 percent of the estimated value of the timber, in addition to the regular advance deposits, should be stipulated. In sales extending for a period in excess of 3 years, further advance payments should be required. In the absence of specific instructions to the contrary from the Commissioner of Indian Affairs, such allotment contracts should provide for the payment of 10 percent of the estimated value of the timber within 30 days of approval, an additional 15 percent within three years thereafter, and a further additional 25 percent within 6 years of the date of approval. The advance payments so made will be credited against the allotted timber as such timber is cut and scaled.

§ 141.24 *Time for cutting and removal of timber.* The maximum periods which shall be allowed after the date of the contract for the cutting and removal of the timber purchased shall be as follows: For sales of $1,000 stumpage value or less, 1 year; for sales of over $1,000 but not exceeding $10,000, the 3 years; for sales over $10,000 but not exceeding $100,000, 8 years; and for sales exceeding $100,000, the number of years shall be fixed in the advertisement. However, the cutting and removal of any amount shall not be so distributed over the allowed period as to render the cost of supervision unreasonably high.

§ 141.25 *Deduction for administrative purposes.* In all sales of timber from either allotted or unallotted land a sufficient deduction will be made from the gross proceeds to cover the cost of examining, supervising, advertising, collecting, disbursing, accounting, marketing, scaling, caring for the slash, and protecting from fire the timber and young growth left standing on the land being logged or upon adjacent land. Unless special instructions have been given by the Commissioner of Indian Affairs as to the amount of the deduction or the manner in which it is to be made, 10 percent of the gross amount received for the timber sold under regular supervision from allotted or from unallotted land will be deducted by the Superintendent to cover administrative expenses as required by the act of February 14, 1920 (41 Stat. 415; 25 U. S. C. 413), as amended. When timber on either allotted or unallotted land is sold for a lump sum on an estimate in such a manner that no administration by the Indian Service subsequent to the sale is required, a deduction of 5 percent of the sale price will be made to cover the cost of estimating the timber and effecting the sale.

(Sec. 1, 41 Stat. 415, as amended; 25 U. S. C. 413)

§ 141.26 *Distribution of payments.* When the ownership of funds is definitely known, official receipts issued for the proceeds of timber sales shall show separately the amount to be credited to the tribal fund, the amount to be credited to individual Indians, and the amount deducted to reimburse the United States for administrative expenses. When the ownership of funds is not definitely known the official receipt should show the funds placed in "special deposits." Subsequently, when it is determined by receipt of timber-scale reports how these funds should be distributed, a journal voucher will be prepared transferring such funds to the proper account. The entire proceeds from unallotted timber will be deposited in the treasury as "sundry receipts." The amounts deducted to cover administrative expenses will be credited to the United States as "miscellaneous receipts." The net proceeds from unallotted timber, after this deduction has been made, will take the title of "Indian moneys, proceeds of labor," or some other title required by special legislation applicable to the particular reservation from which the timber was removed. The proceeds from allotted timber, after deducting the administrative expenses, will be taken up on the superintendent's account as "individual Indian money." The amounts deducted to cover administrative expenses will be taken into the superintendent's accounts as "sundry receipts," will be deposited into the Treasury of the United States under that title, and will thereupon be credited to the United States as "miscellaneous receipts." For detailed explanation of this accounting, reference should be made to General Instructions for the Preparation of Timber Records, approved July 1, 1924.[2]

(Sec. 1, 41 Stat. 415, as amended; 25 U. S. C. 413)

§ 141.27 *Permits.* Superintendents will insist that all timber cutting, except cutting of allotted timber for the personal use of the allottee, not done under a formal contract as provided in § 141.18, shall be done under the regular permit Form 5–924. The permit form was devised as a convenience in meeting the requirements of Indians and other persons for limited quantities of timber for domestic, agricultural, and grazing purposes. It must not be used as a substitute for the regular timber contracts. The maximum value of the stumpage which may be cut under permit in 1 year by any individual shall not exceed $100. Permits for cutting on unallotted lands to individual Indian operators who need either dead or living timber for personal use may be made without stumpage charge, but all timber cut in this manner should be done under permit and the trees to be cut should be designated by a forest officer or other agency employee. All permits for unallotted timber must be approved by the duly authorized representatives of the tribe and all permits for allotted timber must be approved by the allottee or his legal representative.

§ 141.28 *Soil conservation.* (a) Soil erosion constitutes a serious menace on many of the Indian forest lands. Its prevention should receive primary consideration in the management of Indian forests. Heavy cuttings should generally not be permitted on areas especially susceptible to erosion, and such cuttings as may be conducted should be governed by a maximum degree of care in the protection of the forest and ground cover. Where gulleys have started they should be plugged with brush. In certain cases where the danger from erosion is especially severe, the brush should be scattered in such manner as to form a protection cover instead of disposing of it by the usual piling and burning.

(b) Logging roads, truck trails, chutes, landing grounds, and other improvements incident to the development of the timber should be located so as to cause the minimum concentration of run-off. Steep grades should be avoided in all country with an appreciable erosion hazard. Rights-of-way should be slashed no wider than necessary, deep side cuts should be held to a minimum consistent with good location, and long tangents requiring a large amount of cutting and filling should be avoided. If, in spite of these precautions, serious erosion does threaten, then more elaborate steps to spread water and to check silting will have to be undertaken. Conditions surrounding the erosion problem vary so widely on the different forested reservations that even generalities with respect to prevention and control are difficult of formulation. Accordingly, the local officials on each reservation where erosion has developed should get such expert advice as may be available to help formulate plans for the protection of the soil from serious depletion.

CROSS REFERENCES: For regulations pertaining to rights-of-way for logging roads, see Part 161 of this chapter.

§ 141.29 *Recreation.* In the making of timber sales careful consideration should be given as to whether it will be more beneficial for the Indians to have a specific area logged or reserved for recreational and scenic purposes. Cutting of timber along stocked streams should be carried out conservatively so as to disturb the environment of the fish as little as possible. A strip of timber should be reserved for at least 250 feet on the side of all highways in the ponderosa pine timber type and in the Lake States forests. In the large West Coast timber the reserved strip should be at least a quarter of a mile wide on either side of the road. In these strips no trees other than those which are dead or dying should be cut. Timber operations should never be permitted to interfere with Indian ceremonial sites.

[2] General Instructions for the Preparation of Timber Records, approved July 1, 1924, may be obtained from the Commissioner of Indian Affairs, Washington, D. C.

§ 141.30 *Purchase of products of Indian industry in the administration of Indian affairs.* The purchase of products of Indian industry required in the administration of Indian affairs may be made in open market provided such products reasonably meet specifications and the price thereof does not exceed local prevailing prices for similar products by more than 10 percent.

(Sec. 23, 36 Stat. 861; 25 U. S. C. 47)

PART 142—SALE OF LUMBER AND OTHER FOREST PRODUCTS PRODUCED BY INDIAN ENTERPRISES FROM THE FORESTS ON INDIAN RESERVATIONS

Sec.
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AUTHORITY: §§ 142.1 to 142.15 issued under R. S. 161, 54 Stat. 504, as amended; 5 U. S. C. 22, 41 U. S. C. 6b.

§ 142.1 *Definitions.* As used in this part:

(a) "Secretary" means Secretary of the Interior.

(b) "Commissioner" means Commissioner of Indian Affairs.

(c) "Superintendent" means superintendent or other officer in charge of an Indian agency or unit under which the administration of an Indian reservation forest may be placed.

(d) "District Director" means the official in charge of an office of the Bureau of Indian Affairs, or such other employee of the Bureau as he may properly designate in writing as acting director.

§ 142.2 *Purpose of regulations.* The regulations in this part prescribe the terms and conditions under which lumber and other forest products produced by Indian enterprises from the forests of Indian reservations may be sold without compliance with section 3709 of the Revised Statutes.

§ 142.3 *Applicability of the regulations.* The regulations in this part are intended to be generally applicable except that they shall not apply to the Menominee Indian Reservation in Wisconsin, or the Red Lake Indian Reservation in Minnesota.

§ 142.4 *Sale in open market.* The lumber, lath, shingles, crating, ties, poles, bolts, logs, bark, pulpwood, and other marketable materials obtained from the forests on Indian reservations by Indian enterprises may be sold in the open market at such prices as may be realized through the methods provided in this part.

§ 142.5 *Advertisement in trade journals and newspapers.* The Commissioner is hereby authorized to advertise for sale the forest products, obtained from Indian reservation forests by Indian enterprises, in lumber trade journals of general circulation among persons, companies, or corporations interested in the buying and selling of lumber and other forest products, and in newspapers in cities that may afford a favorable market for such products.

§ 142.6 *Advertising, general.* Advertisement of products may also be made by circular letters and through personal interviews with the trade; *Provided,* That the travel expense incident thereto shall not be incurred without specific authority from the Commissioner.

§ 142.7 *Proposals for purchase.* Proposals for the purchase of products may be made to the Commissioner, and he is authorized to quote prices and consummate sales at such times and on such terms as are consistent with the regulations of this part.

§ 142.8 *Proposals to Government departments.* Proposals to sell may be made to municipalities, countries, states, of the United States and prices may be quoted to such agencies. Terms and payment in connection with such sales may be formulated in accordance with the general practice of such agencies.

§ 142.9 *Cash sales.* All products of Indian forest enterprises shall be sold for cash f. o. b. mill or other point of delivery, except as provided in §§ 142.8 and 142.10. Adjustments and allowances on shipments of forest products after delivery to the buyer are authorized in accordance with generally accepted trade practices when, in the judgment of the Commissioner or his duly authorized representative, such adjustments are essential by reason of off-grade shipments or errors in volume.

§ 142.10 *Payments, discounts, and credit sales.* Shipments of forest products on open account shall be made only to persons or companies of substantial net worth and first-class credit rating. Credit on shipments of forest products sold on open account must not be extended beyond 60 days from date of receipt by the buyer. A cash discount of 2 percent of mill value may be allowed when the shipment is paid for within 10 days of receipt by the consignee as evidenced by the original paid freight bill or other evidence acceptable to the Commissioner or his duly authorized representative.

§ 142.11 *Commission sales agents.* Sales may be made through commission sales agents, for which they may be paid a commission on f. o. b. mill value of the shipment at rates approved by the Commissioner. Sales may be made to wholesalers on which a discount at rates approved by the Commissioner may be allowed.

§ 142.12 *Deposits.* On all agreements to purchase for future delivery a deposit may be required in the discretion of the Commissioner, to be forfeited if the purchaser does not comply with the terms of sale; and no agreement for sale and future delivery shall be made for a longer period than 60 days, except with the approval of the Commissioner.

§ 142.13 *Statements.* On or before the fifteenth of each month a report must be mailed to the Commissioner or his duly authorized representative giving a summary statement of all products sold during the preceding month and the average price received for each species or class of products.

§ 142.14 *Menominee and Red Lake Indian Reservations excepted.* The regulations prescribed in this part shall not apply to the Menominee Indian Reservation, Wis., or to the Red Lake Indian Reservation, Minn.

§ 142.15 *Subdelegation.* Any or all of the authority conferred upon the Commissioner by this part may be delegated by him to the assistant commissioners of Indian Affairs or his designated representatives, to district directors, or to superintendents. Any delegation of authority pursuant to this section shall provide for appeals to the Commissioner, and thereafter to the Secretary, from actions taken by district directors and superintendents.

PART 143—SALE OF TIMBER PRODUCTS AND USE OF FOREST LANDS FOR NONFOREST PURPOSES, MENOMINEE INDIAN RESERVATION

Subpart A—Sale of Timber Products

Sec.
143.1 Sale in open market.
143.2 Advertisement in trade journals.
143.3 Contracts for advertising.
143.4 Advertising, general.
143.5 Proposals for purchase.
143.6 Proposals for special products.
143.7 Proposals to Government departments.
143.8 Cash sales.
143.9 Payments, discounts, and credit sales.
143.10 Traveling salesmen.
143.11 Commission sales agents.
143.12 Deposits.
143.13 Statements.

Subpart B—Clearing and Use of Forest Land for Nonforest Purposes

143.50 Menominee Indian Forest.
143.51 Exclusion of land for nonforest use.
143.52 Clearing excluded areas.

AUTHORITY: §§ 143.1 to 143.52 issued under sec. 3, 35 Stat. 51, as amended.

CROSS REFERENCE: For general forest regulations, see Part 141 of this subchapter.

SUBPART A—SALE OF TIMBER PRODUCTS

§ 143.1 *Sale in open market.* The lumber, lath, shingles, crating, ties, piles, poles, posts, bolts, logs, bark, pulpwood, and other marketable materials obtained from the forests on the Menominee Indian Reservation may be sold in the open market at such prices as may be realized through the methods provided in this part.

§ 143.2 *Advertisement in trade journals.* The manager and special disbursing agent of the Menominee Indian Mills, Neopit, Wisconsin, is authorized to keep constantly advertised for sale, the products of the timber operations on the

Menominee Indian Reservation in one or more lumber trade journals of general circulation among persons, companies, or corporations interested in the buying and selling of lumber and other timber products.

§ 143.3 *Contracts for advertising.* The contracts for advertising may be made at the discretion of the manager. Said contracts not to be made for more than 1 year's time, copy to be furnished the publications by the Menominee Indian Mills.

§ 143.4 *Advertising, general.* Advertisement of products may also be made by circular letters mailed or otherwise delivered to individuals, companies, or corporations engaged in buying or selling timber products for their own use, and by the visit of salesmen to such individuals, companies, or corporations and other users of, and dealers in, timber products.

§ 143.5 *Proposals for purchase.* Proposals for the purchase of products may be made to the Menominee Indian Mills, or the mills may quote prices to dealers in timber products and sales may be made at such times and on such terms as may seem to the sales manager and manager to be advantageous to the Menominee Indians, subject to the limitations stated below. All sales shall be subject to review and approval or disapproval by the manager.

§ 143.6 *Proposals for special products.* Proposals may be received and accepted providing for the manufacture of lumber or timber into special dimensions or for the manufacture or sale of any special product, including logs, on which more can be realized, in the judgment of the manager, by sale in the log than by any other process of manufacture; but no plan or policy for the sale of any product not subjected to manufacture at the mill at Neopit, or any other mill on the reservation, shall be adopted without the written approval of the manager. Agreements for the sale of unmanufactured products, or of specially manufactured stock, involving a value of more than $5,000 and sales of any character involving any stock having a value of more than $25,000, will become effective only when approved and signed by both the sales manager and the manager.

§ 143.7 *Proposals to Government departments.* Proposals to sell may be made by the mills to any State or United States department, and prices quoted to any of the these departments in the market for any of the products of the reservation, and payment may be received therefor in accordance with the usual practice of such department.

§ 143.8 *Cash sales.* All products of the Menominee Indian Mills shall be sold for cash f. o. b. car, or at the point of delivery, freight prepaid by the Menominee Indian Mills, except as provided in § 143.9. Adjustment as to quantity or quality of products sold will be made after shipment only after a clear demonstration that an error has been made, and after filing of written data or reports supporting such conclusions.

§ 143.9 *Payments, discounts, and credit sales.* Payments in full for all material sold must be made before shipment, except that on all cash payments a discount of 2 percent of the selling price may be allowed in the discretion of the manager and the sales manager; and those purchasers whose names shall be placed on an approved credit list, to be established by the manager and special disbursing agent, may have shipments go forward without payment in advance on condition that payment for the material included in such shipments must be made within 10 days from the date of arrival of shipment, unless specific arrangement for a longer time has been made. Such credit shipments must be made with the understanding that the purchase price is due and payable when the shipment is made and that the material sold is forwarded at the risk of the purchaser. Credit of this nature may be extended for 30 days from date of shipment, and in special cases, when advantageous to the Menominee Indian Mills through the elimination of rehandling charges or for other satisfactory reasons, may be extended for 60 days from date of shipment. The 2 percent discount may be allowed when purchasers on the approved credit list pay within 10 days from the date of arrival of shipment, but no discount shall be allowed on payments made after the expiration of the said 10 days. Shipments in advance of full payment may be sent forward consigned to the order of the Menominee Indian Mills, and the invoice and a draft for the value of the material shipped may be sent through reliable banks for collection, with collection fees payable by the purchaser. In the event that such a draft is not promptly paid, the Menominee Indian Mills may cancel the sale and sell the materials shipped in the open market, the original purchaser being responsible and held liable for any loss that results from his default. All payments for products of the operation must be made direct to the Menominee Indian Mills.

§ 143.10 *Traveling salesmen.* Traveling salesmen may be employed only with the approval of the Commissioner of Indian Affairs. The traveling expenses of such salesmen shall be paid from the fund applicable to the conducting of timber operations under the acts of Congress authorizing the Menominee project. No agreement of sale by such a salesman shall be effective until a memorandum of such sale, signed by the salesman and the purchaser, shall have been transmitted to the Menominee Indian Mills and accepted by the sales manager or manager.

§ 143.11 *Commission sales agents.* Sales may be made through commission sales agent, and a reasonable and usual commission of not to exceed 5 percent of the f. o. b. mill value, or when 5 percent does not equal 75 per thousand feet board measure, a maximum of 75 per thousand feet board measure may be allowed, on the receipt of payment by the mills for the product sold. In case an offer from a commission sales agent is considered in competition with other offers, the net price after deducting the commission shall be regarded as the amount of the offer made through such commission sales agents. Sales may be made to wholesalers on which a discount of not more than 8 percent of the f. o. b. mill value may be allowed.

§ 143.12 *Deposits.* On all agreements to purchase for future delivery a deposit of not less than 10 percent of the estimated amount of the purchase may be exacted in the discretion of the manager or the sales manager, to be forfeited if for any reason the purchaser does not comply with the terms of the sale, and no agreement for sale and future delivery shall be made for a longer period than 60 days, except with the written approval of the manager.

§ 143.13 *Statements.* On or before the fifteenth of each month a report must be mailed to the Commissioner of Indian Affairs giving a summary statement of all products sold during the preceding month and the average price received for each species or class of products.

SUBPART B—CLEARING AND USE OF FOREST LAND FOR NONFOREST PURPOSES

§ 143.50 *Menominee Indian Forest.* (a) The entire area of the Menominee Indian Reservation, except the areas designated in this section is declared to be the Menominee Indian Forest. Excluded from the Forest are (1) areas used for the agency, Menominee Mills, and other administrative purposes; (2) areas now occupied and used individually by members of the Menominee Tribe; and (3) areas designated pursuant to § 143.51 for agricultural or other nonforest purposes. The Superintendent shall keep current records of all areas excluded from the Forest.

(b) Areas excluded from the Forest by reason of present occupancy and use by members of the Menominee Tribe that are not fully occupied and used by such members, and all other areas excluded from the Forest that are not used for nonforest purposes for at least three consecutive years, may, pursuant to resolution of the Menominee Advisory Council and approval of the Commissioner of Indian Affairs or his designated representative, be in whole or in part restored to the Forest or, subject to the requirements of § 143.51, assigned or reassigned to eligible Indians.

§ 143.51 *Exclusion of land for nonforest use.* Areas within the Menominee Indian Forest may be excluded therefrom for use for agricultural or other nonforest purposes. Exclusion shall be effective upon issuance by the Superintendent of the Reservation of a certificate, which shall clearly define the area and describe the purposes for which it is to be used. The certificate shall not be issued without endorsement as provided in this section. Upon receipt of a request for exclusion under this section, the Superintendent shall refer the proposed certificate to the Forest Officer. It shall be the duty of the Forest Officer to cause to be made a survey of each area dealt with in the certificate and thereafter to endorse the certificate if, in his opinion, the area is not more valuable as

a part of the Menominee Indian Forest or the use of the area for other than forestry will not be detrimental to the Forest. Should the Forest Officer find the area to be more valuable as a part of the Menominee Indian Forest, or that its use for other than forestry purposes will be detrimental to the Forest, he shall notify the Superintendent in writing to that effect. Such land shall not be excluded from the Forest unless after review by the Commissioner of Indian Affairs the Forest Officer's findings are reversed by the Commissioner and the certificate is endorsed pursuant thereto. The decision of the Commissioner shall be final.

§ 143.52 *Clearing excluded areas.* Forest land described in a certificate issued pursuant to § 143.51 shall be cleared under the supervision of the Forest Officer. All merchantable forest products removed from such land shall be disposed of as provided for in § 143.1. The funds derived therefrom shall be deposited to the credit of the "Menominee Four Per Cent Fund."

PART 144—SALE OF FOREST PRODUCTS, RED LAKE INDIAN RESERVATION, MINN.

Sec.

144.1 Sale in open market.
144.2 Advertisement in trade journals.
144.3 Advertising contracts.
144.4 Advertisement, general.
144.5 Purchase proposals.
144.6 Proposals to Government departments.
144.7 Cash sales.
144.8 Credit sales.
144.9 Traveling salesmen.
144.10 Commission sales agents.
144.11 Deposits.
144.12 Statements.

AUTHORITY: §§ 144.1 to 144.12 issued under sec. 9, 39 Stat. 137.

CROSS REFERENCE: For general forest regulations, see Part 141 of this subchapter.

§ 144.1 *Sale in open market.* The lumber, lath, shingles, crating, ties, piles, poles, posts, bolts, logs, bark, pulpwood, and other marketable products obtained from the forests of the Red Lake Indian Reservation, Minn., may be sold in open competitive markets at such prices as may be realized through the procedure provided in this part.

§ 144.2 *Advertisement in trade journals.* The superintendent of the Red Lake Agency is hereby authorized to keep constantly advertised for sale the products of the timber operations on the Red Lake Indian Reservation in one or more lumber trade journals of general circulation among persons, companies, or corporations interested in the buying and selling of lumber and other forest products, and in newspapers in cities that may afford a favorable market for such forest products.

§ 144.3 *Advertising contracts.* Contracts for advertising may be made in the discretion of the superintendent of the Red Lake Indian Agency, provided that such contracts shall not be executed for a period of over one year.

§ 144.4 *Advertisement, general.* Advertisement of products may also be made by circular letters and through personal contacts with the trade: *Provided,* That the travel expense incident thereto shall not be incurred without specific authority from the superintendent of the Red Lake Indian Agency.

§ 144.5 *Purchase proposals.* Proposals for the purchase of products may be made to the manager of the Red Lake Indian Sawmill, and that official is authorized to quote prices and consummate sales at such times and on such terms as are consistent with the regulations in this part: *Provided,* That sales in excess of $10,000 shall not be effected except with the approval of the superintendent.

§ 144.6 *Proposals to Government departments.* Proposals to sell may be made to municipalities, counties, States, or the United States and prices quoted to such agencies. Terms and payment in connection with such sales may be formulated in accordance with the general practice of such agencies.

§ 144.7 *Cash sales.* All products of the Red Lake Indian Sawmill may be sold for cash f. o. b. mill or at the point of delivery, freight prepaid by the Red Lake Indian Sawmill, except as provided in §§ 144.6 and 144.8. Adjustments and allowances on shipments of forest products after delivery to buyer are authorized in accordance with generally accepted trade practices, when in the judgment of the superintendent of the Red Lake Indian Agency and the manager of the Red Lake Indian Sawmill such adjustments are essential by reason of off-grade shipments or errors in volume: *Provided,* That a written report setting forth the details of each case shall be filed by the manager and approved by the superintendent before such adjustments are authorized.

§ 144.8 *Credit sales.* Shipments of forest products on open account shall be made only to persons or companies of substantial net worth and first-class credit rating. Credit on shipments of forest products sold on open account must not be extended beyond 60 days from date of receipt of car by buyer. A cash discount of 2 percent of mill value may be allowed when the shipment is paid for within 10 days of receipt of car by consignee as evidenced by the original paid freight bill.

§ 144.9 *Traveling salesmen.* Traveling salesmen other than the mill manager may be employed only with prior approval by the Commissioner of Indian Affairs.

§ 144.10 *Commission sales agents.* Sales may be made through commission sales agents for which they may be paid a 5 percent commission on the f. o. b. mill value of the shipment; or when 5 percent does not equal 75 cents per thousand feet board measure a maximum commission of 75 cents per thousand board feet may be allowed the salesman. All such commissions shall be paid only after the mill has been paid in full for the products sold. Sales may be made to wholesalers on which a discount of not more than 8 percent of the f. o. b. mill value may be allowed.

§ 144.11 *Deposits.* On all agreements to purchase for future delivery a deposit of not less than 10 percent of the estimated amount of the purchase may be required in the discretion of the manager, to be forfeited if the purchaser does not comply with the terms of sale; and no agreement for sale and future delivery shall be made for a longer period than 60 days, except with the approval of the superintendent.

§ 144.12 *Statements.* A monthly statement will be mailed to the Commissioner of Indian Affairs giving a summary statement of all products sold during the preceding month and the average price received for each main class of material.

Subchapter N—Grazing

PART 151—GENERAL GRAZING REGULATIONS

Sec.

151.1 General authority.
151.2 Act of June 18, 1934.
151.3 Objectives.
151.4 Regulations; scope; exceptions.
151.5 Grazing capacity of reservation.
151.6 Establishment of range units.
151.9 Free grazing privileges.
151.10 Authority to sell grazing privileges on tribal and allotted land.
151.11 Indian grazing privileges; allocations and competitive bidding.
151.12 Appraisal of grazing privileges.
151.13 Advertisement of grazing privileges; authority therefor.
151.14 Advertisement of grazing privileges.
151.15 Grazing privileges; award thereof.
151.16 Grazing privileges; by whom issued.
151.17 Bond requirements.
151.18 Grazing permits; assignments and modifications.
151.19 Farm-pasture leases.
151.20 On-and-off grazing permits.
151.21 Trespass.
151.22 Control of livestock diseases.
151.23 Fees for preparation of grazing permits.
151.26 Definitions.
151.27 Administration of Government lands.

AUTHORITY: §§ 151.1 to 151.27 issued under R. S. 161, sec. 6, 48 Stat. 986; 5 U. S. C. 22, 25 U. S. C. 466. Statutory provisions interpreted or applied are cited to text in parentheses.

CROSS REFERENCES: For Navajo grazing, reservations, see Part 152 of this chapter. For leasing and permitting, of restricted Indian lands for farming, farm pasture, and business, see Part 131 of this chapter.

§ 151.1 *General authority.* It is within the authority of the Secretary of the Interior to protect Indian tribal lands against waste. Overgrazing, which threatens destruction of the soil, is properly considered waste. Subject to regulations authorized by law, the right exists for Indian tribes and individual Indians to lease or grant permits upon their own tribal land or individual allotments.

§ 151.2 *Act of June 18, 1934.* With respect to reservations upon which the act of June 18, 1934, is applicable, the action of the Secretary must follow the directions laid down in section 6 of that act.

§ 151.3 *Objectives.* It is the purpose of the regulations in this part to aid the Indians in the achievement of the following objectives:

(a) The preservation through proper grazing practice of the forest, forage, land, and water resources on the Indian reservations, and the building up of these resources where they have deteriorated.

(b) The utilization of these resources for the purpose of giving the Indians an opportunity to earn a living through the grazing of their own livestock.

(c) The granting of grazing privileges in a manner which will yield the highest return consistent with undiminished future use.

§ 151.4 *Regulations; scope; exceptions.* The grazing regulations of this part are hereby made effective as of the date of approval hereof for Indian lands under the jurisdiction of the Bureau of Indian Affairs, except as superseded by special written instructions from the Commissioner of Indian Affairs in particular instances, or by provisions of any tribal constitution, bylaws, or charter, heretofore or hereafter duly ratified, or by any tribal action authorized thereunder. All forms necessary to carry out the purpose of the regulations of this part shall be approved by the Commissioner of Indian Affairs.

§ 151.5 *Grazing capacity of reservation.* The Commissioner of Indian Affairs shall prescribe for each reservation the maximum number of livestock which may be grazed on Indian range lands. The number of livestock authorized will be based upon the most reliable estimate of the total grazing capacity of the reservation.

§ 151.6 *Establishment of range units.* The conservation and effective utilization of grazing resources require a suitable division of the range area into range units. Such division shall be effected under the direction of the superintendent and the area director, after consultation with the Indians, in accordance with the requirements of range management, land status, and Indian needs.

§ 151.9 *Free grazing privileges.* On reservations where sufficient tribal land is available, free grazing privileges may be granted to Indians pursuant to § 151.13. The number of livestock which may be grazed free of charge by any individual shall not exceed the number obtained by dividing the estimated grazing capacity of the tribal range by the total enrollment on the reservation: *Provided,* That the Commissioner of Indian Affairs may, in his discretion, and with the consent of the tribal authorities, authorize the granting of free grazing privileges to Indian families for not to exceed 50 horses, 100 cattle, or 500 sheep, or a combined equivalent thereof in these proportions. A family or livestock association may be granted a permit for the combined free privileges accruing to each member thereof. The total free grazing privileges granted for a range unit shall not exceed the grazing capacity of the tribal lands therein.

§ 151.10 *Authority to sell grazing privileges on tribal and allotted land.* Grazing privileges may be sold on Indian land in range units in the following manner:

(a) Authority to sell grazing privileges on tribal lands shall be granted pursuant to § 151.13.

(b) Authority to sell grazing privileges on allotted land may be granted by the owners thereof, except those classes described in paragraphs (c) and (d) of this section on an approved form authorizing the superintendent to issue grazing permits at not less than the minimum fees stipulated in such instrument.

(c) Authority to grant grazing privileges on the allotments of minors, other than orphans, shall be given by the head of the family.

(d) The superintendent may grant grazing privileges and stipulate the minimum fees to be charged on the restricted lands owned by Indian orphan minors, Indian non compos mentis and on restricted inherited or devised allotments when the heirs or devisees of such deceased allottees have not been determined. The superintendent may also grant grazing privileges when the heirs or devisees of such deceased allottees have been determined and the lands are not in use by any of the heirs or devisees and the heirs of devisees have not been able for a 3-month period to agree upon the granting of grazing privileges by reason of the number of heirs or devisees, their absence from the reservation, or for other cause: *Provided,* That the superintendent or his authorized representatives shall notify absentee heirs and devisees by mailing to their last known address notice that the heirs have a 3-month period from the date of the notice to reach an agreement with respect to the granting of grazing privileges on their inherited or devised restricted allotments.

§ 151.11 *Indian grazing privileges; allocations and competitive bidding.* (a) Indian families, as defined in § 151.26, who own livestock in numbers not exceeding 250 head of cattle or 1,250 head of sheep, or a combined equivalent thereof in these proportions, may obtain grazing permits without competitive bidding, pursuant to §§ 151.12 and 151.13. Such permits shall be issued to the head of the family.

(b) Indian families who own livestock in numbers exceeding those stipulated in paragraph (a) of this section will be required to enter the open competitive market for their entire holdings, except for those for which they may receive free grazing privileges pursuant to § 151.9: *Provided,* That on reservations where only Indian livestock are grazed, competitive bidding will not be required, but first consideration in the allocation of grazing privileges shall be given to those Indian families owning less than the numbers stipulated in paragraph (a) of this section: *Provided further,* That no family shall be denied a pro rata share of the grazing capacity of the reservation.

§ 151.12 *Appraisal of grazing privileges.* The total appraised rates for an entire unit, whether charged to Indian families receiving allocations pursuant to § 151.11, or incorporated as a minimum in advertisements for competitive bidding pursuant to § 151.14, shall not be less than the minimum rates authorized pursuant to § 151.10.

§ 151.13 *Advertisement of grazing privileges; authority therefor.* Prior to the advertisement of grazing privileges for competitive bidding, pursuant to § 151.14, the Indians in General Council or their duly authorized representatives shall authorize for tribal lands, and may recommend for allotted lands, the following:

(a) The allocation of range units to Indian permittees eligible therefor pursuant to § 151.11;

(b) The kind or kinds of livestock which will be allowed to graze on each range unit;

(c) The rate per head to be charged for allocations authorized under paragraph (a) of this section and to be incorporated as the minimum in the advertisement, subject to the requirements of §§ 151.10 and 151.12;

(d) The number of years for which grazing privileges are to be authorized under both allocation and advertisement, subject to the maximum number of years prescribed by law and subject further to the limitation that all permits shall expire within the permit period established for the reservation;

(e) The number of livestock which may be grazed free of charge on range units comprised of Tribal lands or on the tribal lands in range units comprised of tribal and other lands operated by Indian families, subject to the limitations of § 151.9;

(f) Whether the existing permittee of a unit, whose occupancy has been satisfactory, shall be given the privilege of meeting the high bid thereon.

The matters thus determined will be entered in the official minutes of the meeting, and the action taken shall be final for the period concerned unless authority to modify such action is granted in writing by the Commissioner of Indian Affairs.

§ 151.14 *Advertisement of grazing privileges.* The sale of grazing privileges shall be advertised for competitive bidding for a period of 30 days on an approved form and proposals shall be received under sealed bids, unless otherwise authorized by the Commissioner of Indian Affairs. The minimum appraised rates to be incorporated in the advertisement shall not be less than determined pursuant to § 151.12. Proposals must be accompanied by a cashier's check, certified check, or draft, drawn upon a solvent bank, or money order, payable to the order of the Bureau of Indian Affairs, for not less than 10 percent of the amount of the grazing fees due for the first year at the rate bid. The advertisement shall be approved by the Area Director prior to issuance thereof by the Superintendent or other authorized person or persons.

§ 151.15 *Grazing privileges; award thereof.* The Area Director or other authorized person or persons shall award grazing privileges to the highest satisfactory bidder, and notification thereof shall be given promptly to the superintendent. When pursuant to § 151.13, the privilege has been extended to the exist-

ing permittee to meet the high bid, such existing permittee shall be given ten days' written notice by the superintendent in which to meet the high bid. Thereafter, if the existing permittee does not so notify the superintendent that he will meet the high bid, the superintendent shall then notify the highest satisfactory bidder that his bid has been accepted.

§ 151.16 *Grazing permits; by whom issued.* Grazing privileges on range units shall be on an approved revokable permit form, issued by the superintendent, or other person or persons authorized to sell grazing privileges pursuant to § 151.10. The superintendent shall approve permits issued by any other authorized person. All permits shall accord to the schedule of grazing privileges approved by the Area Director which includes allocations to Indian families pursuant to § 151.11 and awards made under competitive bids. All permits shall be subject to revocation by the Commissioner of Indian Affairs, in his discretion, after 30 days' written notice to the permittee.

§ 151.17 *Bond requirements.* Permits must provide for the payment of grazing fees annually in advance.

(a) Full performance of all permits for periods exceeding one year shall be guaranteed by corporate surety bond of a company holding a certificate of authority from the Secretary of the Treasury or a satisfactory personal surety bond of not less than four solvent sureties in a penal sum of not less than the annual grazing fees. Each personal surety must own unencumbered real estate of a value equal to twice the amount of the bond and must furnish satisfactory evidence of ownership of such unencumbered real estate. If married, the spouse of the surety must also sign the bond and each signature must be witnessed by at least two individuals and their post office addresses must appear in the instrument. Attorneys-in-fact for corporate surety bonds must furnish satisfactory evidence of authority to execute bonds for and on behalf of the surety company.

(b) In lieu of furnishing a surety bond, a permittee may deposit at the time of the first payment of the grazing fees a sum equal to one-half of the annual grazing fees. This sum shall be held by the Area Director as a cash penal bond and may be applied to the grazing fees due for the last six months of the permit: *Provided,* That no breach of the permit has taken place. In all cases where a cash deposit is made in lieu of a surety bond, the permittee shall execute a proper power of attorney authorizing the Area Director to apply the cash deposit as liquidated damages in the event of any breach of the permit.

(c) Negotiable United States Treasury bonds or other negotiable Treasury obligations may be pledged in lieu of a cash penal or surety bond under the same conditions and stipulations for cash penal bonds. Such Government securities shall be forwarded to the Area Director for safekeeping deposit and must be accompanied with a proper power of attorney authorizing disposal thereof by the Area Director as liquidated damages in the event of any breach of the permit.

§ 151.18 *Grazing permits; assignments and modifications.* Grazing permits shall not be assigned, sublet or transferred without the consent of the contracting parties, the surety and the issuing officer: *Provided,* That any part of the unit covered by a permit may be withdrawn by the Commissioner of Indian Affairs in his discretion after 30 days' written notice to the interested parties.

§ 151.19 *Farm-pasture leases.* Farm-pasture lands not suitable for inclusion in range units may be leased in accordance with the provisions of Part 131 of this chapter.

§ 151.20 *On-and-off grazing permits.* On-and-off grazing permits will be granted to persons owning livestock which will graze on a range unit where only a part of such unit is Indian land. This permit will be granted for the total number of livestock to be grazed on the entire unit but the permittee will be required to pay grazing fees only for the estimated carrying capacity of the Indian lands involved.

§ 151.21 *Trespass.* The owner of any livestock grazing in trespass on restricted Indian lands is liable to a penalty of $1 per head for each animal thereof together with the reasonable value of the forage consumed and damages to property injured or destroyed.

The following acts are prohibited:

(a) The grazing upon or driving across any restricted Indian lands of any livestock without an approved grazing or crossing permit, except such Indian livestock as may be exempt from permit.

(b) Allowing livestock not exempt from permit to drift and graze on restricted Indian lands without an approved permit.

(c) The grazing of livestock upon restricted Indian lands within an area closed to grazing of that class of livestock.

(d) The grazing of livestock by a permittee upon an area of restricted Indian lands withdrawn from use for grazing purposes to protect it from damage by reason of the improper handling of the livestock, after the receipt of notice from the superintendent of such withdrawal, or refusal to remove livestock upon instructions from the superintendent when an injury is being done to the Indian lands by reason of improper handling of livestock.

§ 151.22 *Control of livestock diseases.* Whenever livestock on Indian lands become infected with contagious or infectious diseases, or have been exposed thereto, it must be treated and the movement thereof restricted in accordance with applicable Federal and State laws.

§ 151.23 *Fees for preparation of grazing permits.* (a) Permittees shall be charged annually in advance to cover clerical and ministerial work performed in the preparation of grazing permits three percent of the minimum annual rental established pursuant to § 151.12.

(b) When permits contain provision for adjustment of rentals after expiration of the first year of the permit period the adjusted minimum annual rental shall be the basis for computing the three percent annual charge.

(c) When permits are assigned or sublet an additional fee of $10 shall be charged for each assignment or subletting.

(d) When permits are extended with the mutual consent of the parties thereto the fees charged shall be computed on the same basis as for the original permit.

(e) Permits granted prior to June 30, 1957, are not subject to the provisions of this section.

(Sec. 1, 41 Stat. 415, as amended; 25 U. S. C. 413)

§ 151.26 *Definitions.* As used in this part:

(a) "Area director" means the officer in charge of an area office of the Bureau of Indian Affairs, or his duly authorized representative.

(b) "Superintendent" means the officer in charge of an Indian agency or his duly authorized representative.

(c) "Organized tribe" means a tribe organized under the provisions of the Indian Reorganization Act (48 Stat. 984; 25 U. S. C. 461–479), and "unorganized tribe" means a tribe not so organized.

(d) "Family" comprises all persons occupying a single habitation, or living in a single domestic group, whatever the age or relationship of the persons may be: *Provided,* That the Indians in general council or their duly authorized representatives may determine, in cases of doubt who are members of a given family: *Provided further,* That an appeal may be taken from such a determination by any aggrieved Indian to the Commissioner of Indian Affairs: *Provided further,* That the Indians in general council or their duly authorized representatives, subject to the approval of the Commissioner of Indian Affairs, may establish a different definition of a family which must be generally applicable to all Indians of a reservation.

§ 151.27 *Administration of Government lands.* Insofar as applicable the regulations of this part are hereby adopted for the administration of the lands the jurisdiction over which was transferred to the Secretary of the Interior by Executive Orders Nos. 7792 and 7868 of January 18, 1938 and April 15, 1938, respectively (3 F. R. 161, 903) and by such supplemental orders that have been or may be issued subsequent thereto. Until otherwise provided grazing permits may be issued on these lands by the superintendent pursuant to the regulations of this part.

PART 152—NAVAJO GRAZING REGULATIONS

Sec.

152.1 Authority.
152.2 General regulations.
152.3 Objectives.
152.4 Regulations; scope; exceptions.
152.5 Land management districts.
152.6 Carrying capacities.
152.7 Records.
152.8 Grazing rights.
152.9 Grazing permits.

Sec.
152.10 Special grazing permits.
152.11 Tenure of grazing permits.
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152.13 Trespass.
152.14 Movement of livestock.
152.15 Control of livestock disease and introduction of livestock.
152.16 Fences.
152.17 Construction near permanent livestock water developments.

AUTHORITY: §§ 152.1 to 152.17 issued under R. S. 465, 2117, as amended, sec. 3, 26 Stat. 795, sec. 1, 28 Stat. 305, as amended; 25 U.S.C. 9, 179, 397, 345, 402.

§ 152.1 *Authority.* It is within the authority of the Secretary of the Interior to protect Indian tribal lands against waste. Subject to regulations of this part, the right exists for Indian tribes to authorize the granting of permits upon their tribal lands and to prescribe by appropriate tribal action the conditions under which their lands may be used.

§ 152.2 *General regulations.* Part 151 of this subchapter authorizes the Commissioner of Indian Affairs to regulate the grazing of livestock on Indian lands under conditions set forth therein. In accordance with this authority and that of the Navajo Tribal Council, the Central Grazing Committee and the District Grazing Committees, the grazing of livestock on the Navajo Reservation shall be governed by the regulations in this part.

§ 152.3 *Objectives.* It is the purpose of the regulations in this part to aid the Navajo Indians in achievement of the following objectives:

(a) The preservation of the forage, the land, and the water resources on the Navajo Reservation, and the building up of those resources where they have deteriorated.

(b) The protection of the interests of the Navajo Indians from the encroachment of unduly aggressive and anti-social individuals who may or may not be members of the Navajo Tribe.

(c) The adjustment of livestock numbers to the carrying capacity of the range in such a manner that the livestock economy of the Navajo Tribe will be preserved.

(d) To secure increasing responsibility and participation of the Navajo people, including tribal participation in all basic policy decisions, in the sound management of one of the Tribe's greatest assets, its grazing lands, and to foster a better relationship and a clearer understanding between the Navajo people and the Federal Government in carrying out the grazing regulations.

(e) The improvement of livestock through proper breeding practices and the maintenance of a sound culling policy. Buck and bull pastures may be established and maintained either on or off the reservation through District Grazing Committee and Central Grazing Committee action.

§ 152.4 *Regulations; scope; exceptions.* The grazing regulations in this part are hereby made effective as of the date of approval hereof, for the Navajo Reservation, the area described in Executive Order of December 16, 1882, except Land Management District No. 6, all lands within the boundaries of the Navajo Reservation held in trust by the United States for the Navajo Tribe and all the trust lands hereafter added to the Navajo Reservation. The regulations in this part do not apply in individually owned allotted lands within the reservation nor to Tribal purchases, allotted or privately owned Navajo Indian lands outside the exterior boundaries of the Navajo Reservation.

§ 152.5 *Land management districts.* The Commissioner of Indian Affairs has established and will retain the present land management districts within the Navajo Indian Reservation, based on the social and economic requirements of the Navajo Indians and the necessity of rehabilitating the grazing lands. District boundary changes may be made when deemed necessary and advisable by the District Grazing Committees, Central Grazing Committee and Tribal Council, with approval by the Superintendent, Area Director, and the Commissioner of Indian Affairs.

§ 152.6 *Carrying capacities.* (a) The Commissioner of Indian Affairs on June 26, 1943, promulgated the authorized carrying capacity for each land management district of the Navajo Reservation.

(b) Recommended adjustments in carrying capacities shall be referred by the Superintendent to District Grazing Committee, Central Grazing Committee, and the Navajo Tribal Council for review and recommendations prior to presentation to the Area Director and the Commissioner of Indian Affairs for approval.

(c) Upon the request of the District Grazing Committee, Central Grazing Committee and Navajo Tribal Council to the Superintendent; recommendations for future adjustments to the established carrying capacities shall be made by Range Technicians based on the best information available through annual utilization studies and range condition studies analyzed along with numbers of livestock and precipitation data. The recommendations of the Range Technicians shall be submitted to the Superintendent, the Area Director and the Commissioner of Indian Affairs.

(d) Carrying capacities shall be stated in terms of sheep units yearlong, in the ratio of horses, mules, and burros 1 to 5; cattle 1 to 4; goats 1 to 1. The latter figure in each case denotes sheep units. Sheep, goats, cattle, horses, mules, and burros one year of age or older shall be counted against the carrying capacity.

§ 152.7 *Records.* The District Grazing Committee, the Superintendent, and his authorized representatives shall keep accurate records of all grazing permits and ownership of all livestock. Master files shall be maintained by the Superintendent or his authorized representatives.

(a) The District Grazing Committee shall be responsible for and assist in organizing the sheep and goat dipping and horse and cattle branding program and obtaining the annual livestock count.

(b) In order to obtain true records of ownership the permittee shall personally appear at the dipping vat or tallying point designated by the Grazing Committee with his or her sheep and goats and at branding and tallying points for cattle and horses. Should the permittee be unable to appear personally he or she shall designate a representative to act for and in his or her behalf. The sheep and goats will be dipped and the cattle and horses will be branded and recorded in the name of the permittee.

(c) The Superintendent shall prepare and keep current a register containing the names of all permittees using the range, the number of each class of stock by age classes grazed annually and the periods during which grazing shall be permitted in each part thereof. An annual stock census will be taken to insure that the carrying capacity is not exceeded. All classes of livestock twelve months of age or over will be counted against range use and permitted number, except that yearling colts will not be counted against permitted numbers on all permits with less than six horses. (Cross Reference § 152.9.)

§ 152.8 *Grazing rights.* (a) The Superintendent shall determine grazing rights of bona fide livestock owners based on recommendations of District Grazing Committees. Grazing rights shall be recognized for those permittees having ownership records as established in accordance with § 152.7 or who have acquired grazing rights by marriage, inheritance, purchase or division of permits. Whenever the permitted number of sheep units within a district is less than the carrying capacity, new permits to the carrying capacity limit may be granted as provided in § 152.9.

(b) All enrolled members of the Navajo Tribe over 18 years of age are eligible to acquire and hold grazing permits. Minors under 18 years of age can get possession of grazing permits only through inheritance or gift, and in each case Trustees must be appointed by the Tribal Courts to manage the permits and livestock of such minors until they become 18 years of age and can hold grazing permits in their own right.

(c) No person can hold a grazing permit in more than one district on the Navajo Reservation.

(d) Determination of rights to grazing permits involved in cases of divorce, separation, threatened family disruption, and permits of deceased permittees shall be the responsibility of the Navajo Court of Indian Offenses under existing laws, rules, and regulations.

§ 152.9 *Grazing permits.* (a) All livestock grazed on the Navajo Reservation must be covered by an authorized grazing permit issued by the Superintendent based upon the recommendations of the District Grazing Committee. All such grazing permits will be automatically renewed annually until terminated. District Grazing Committees shall act on all grazing permit changes resulting from negotiability within their respective Districts. The number of livestock that may be grazed under each permit shall be the number originally permitted plus or minus any changes as indicated by Transfer Agreements and Court Judgment Orders.

(b) Any permittee who has five or more horses on his current permit will

be required to apply any acquired sheep units in classes of stock other than horses. If the purchaser wishes more than his present number of horses, he must have his needs evaluated by the District Grazing Committee. Yearling colts will be counted against permitted number on all permits with six or more horses. Yearling colts will not be counted against permitted number on all permits with less than six horses. In hardship cases the District Grazing Committee may reissue horses removed from grazing permits through negotiability to permit holders who are without sufficient horses on their present permits to meet minimum needs.

(c) No permittee shall be authorized to graze more than ten head of horses or to accumulate a total of over 350 sheep units.

(d) Upon recommendation of the District Grazing Committee and with the approval of the Superintendent, grazing permits may be transferred from one permittee to another in accordance with instructions provided by the Advisory Committee of the Navajo Tribal Council, or may be inherited; provided that the permitted holdings of any individual permittee shall not exceed 350 sheep units or the equivalent thereof. Should inheritance or other acquisition of permits increase the holdings of any permittee to more than 350 sheep units, said permittee shall dispose of all livestock in excess of 350 sheep units not later than November 15 following date of inheritance or other acquisition, and that portion of his or her permit in excess of 350 sheep units within one year from date of inheritance.

(e) By request of a permittee to sublet all or a part of his or her regular grazing permit to a member of his family or to any person who would receive such permit by inheritance, such subletting of permits may be authorized by the District Grazing Committee and the Superintendent or his authorized representative.

§ 152.10 *Special grazing permits.* The problem of special grazing permits shall be settled by the Bureau of Indian Affairs working in cooperation with the Tribal Council, or any Committee designated by it, with a view to terminating these permits at a suitable date and with the least hardship to the Indians concerned.

§ 152.11 *Tenure of grazing permits.* (a) All active regular grazing permits shall be for one year and shall be automatically renewed annually until terminated. Any Navajo eligible to hold a grazing permit as defined in § 152.8 may become a livestock operator by obtaining an active grazing permit through negotiability or inheritance or both.

(b) In many Districts, and portions of all districts, unused grazing permits or portions of grazing permits are beneficial in aiding range recovery. Each District Grazing Committee will handle each matter of unused grazing permit or portions of grazing permits on individual merits. Where ample forage is available operators will be encouraged to fill their permits with livestock or dispose of their unused permits through negotiability. In those areas where forage is in need of rehabilitation permittees will not be encouraged to stock to their permitted numbers until the range has sufficiently recovered to justify the grazing of additional livestock.

§ 152.12 *Grazing fees.* Grazing fees shall not be charged at this time.[1]

§ 152.13 *Trespass.* The owner of any livestock grazing in trespass in Navajo Tribal ranges shall be subject to action by the Navajo Court of Indian Offenses as provided in Part 11 of this chapter; however, upon recommendations of the District Grazing Committee, first offenses may be referred to the Central Grazing Committee and the Superintendent or his authorized representative for proper settlement out of court. The following acts are considered as trespass:

(a) Any person who sells an entire permit must dispose of all his livestock or be in trespass. Any person selling a portion of his permit must not run more stock than covered by his remaining permit, or be subject to immediate trespass.

(b) All persons running livestock in excess of their permitted number must by April 25, 1958, either obtain permits to cover their total livestock numbers or reduce to their permitted number; or be in trespass. Additional time may be granted in unusual individual cases as determined and approved by the District Grazing Committee, Central Grazing Committee, and the Superintendent or his authorized representative.

(c) Failure to comply with the provisions in § 152.9, shall be considered as trespass.

(d) Any person who willfully allows his livestock to drift from one district to another shall be subject to trespass action. The grazing of livestock in customary use areas extending over District Boundary lines, when such customary use areas are defined and agreed upon by the District Grazing Committees involved, shall not be considered as willful trespass.

(e) The owner of any livestock who violates the customary or established use units of other permittees shall be subject to trespass action.

§ 152.14 *Movement of livestock.* Annually prior to the normal lamb buying season, the Central Grazing Committee after consultation with District Grazing Committees shall issue regulations covering the buying period and the procedures and methods to be used in moving livestock to market. All movements of livestock other than trucking from buying areas to loading or shipping points must be authorized by Trailing Permits issued by the District Grazing Committees on the approved forms. Failure to comply with this section and with annual lamb buying regulations will be considered as trespass.

§ 152.15 *Control of livestock disease and introduction of livestock.* (a) The District Grazing Committees with the approval of the Superintendent shall require livestock to be dipped, vaccinated, inspected and be restricted in movement when necessary to prevent the introduction and spread of contagious or infectious disease in the economic interest of the Navajo stock owners. Upon the recommendation of the District Grazing Committee livestock shall be dipped annually when such dipping is necessary to prevent the spread of contagious diseases. These annual dippings shall be completed on or before September 1st each year. Livestock, however, may be dipped at other times when necessary. The Superintendent or his authorized representative and the District Grazing Committee may also require the rounding up of cattle, horses, mules, etc., in each District for the purpose of inspection for disease, vaccinating, branding and other related operations.

(b) No livestock shall be brought onto the Reservation without a permit issued by the Superintendent or his authorized representative following inspection, in order to safeguard Indian livestock from infections and contagious disease and to insure the introduction of good quality sires and breeding stock.

(c) Any unusual disease conditions beyond the control measures provided herein shall be immediately reported by the District Grazing Committee to the Chairman of the Navajo Tribal Council and the Superintendent who shall attempt to obtain specialists and provide emergency funds to control and suppress the disease.

§ 152.16 *Fences.* Favorable recommendation from the District Grazing Committee and a written authorization from the Superintendent or his authorized representative must be secured before any fences may be constructed in non-agricultural areas. The District Grazing Committee shall recommend to the Superintendent the removal of unauthorized existing fences, or fences enclosing Demonstration Areas no longer used as such, if it is determined that such fences interfere with proper range management or an equitable distribution of range privileges. All enclosures fenced for the purpose of protecting agricultural land shall be kept to a size commensurate with the needs for protection of agricultural land and must be enclosed by legal four strand barbed wire fence or the equivalent.

§ 152.17 *Construction near permanent livestock water developments.* (a) The District Grazing Committee shall regulate the construction of all dwellings, corrals and other structures within one-half mile of Government or Navajo

[1] Grazing Committees were organized in May 1953. These committees have not had ample time to fully acquaint themselves or the stockmen in their respective districts with all of the various items of range administration and range management. Also the drought of several years has not broken. The Navajo Tribe therefore requests that the matter of establishing regulations regarding the adoption of grazing fees be deferred until such a time as a full understanding of the advantages of fees can be had by the majority of the stockmen in all Districts. The assessment of grazing fees will not aid materially in obtaining proper range use. At this time it is more important that other sections of these grazing regulations be adopted and enforced. Resolution of Navajo Tribal Council No. CJ-22-54 of June 9, 1954.

Tribal developed permanent livestock waters such as springs, wells, and charcos or deep reservoirs.

(b) A written authorization from the District Grazing Committee must be secured before any dwellings, corrals, or other structures may be constructed within one-half mile of Government or Navajo Tribal developed springs, wells and charcos or deep reservoirs.

(c) No sewage disposal system shall be authorized to be built which will drain into springs or stream channels in such a manner that it would cause contamination of waters being used for livestock or human consumption.

PART 153—GRAZING, PINE RIDGE AERIAL GUNNERY RANGE

Sec.
153.1 Objectives.
153.2 Administration.
153.3 Grazing permits.
153.4 Preference in awarding permits.
153.5 Permit requirements.
153.6 Grazing fees.

AUTHORITY: §§ 153.1 to 153.6 issued under R.S. 161; 5 U.S.C. 22.

§ 153.1 *Objectives.* It is the purpose of the regulations in this part to achieve the preservation and rehabilitation through proper grazing practices of the forage, forest, land, and water resources of the area known as the Pine Ridge Aerial Gunnery Range, referred to in this part as the Gunnery Range and to provide for the use of the area under proper permits.

§ 153.2 *Administration.* So far as applicable §§ 151.5, 151.6, 151.22, 151.23 (a), and 151.26 of this chapter, together with any subsequent amendments, shall govern the administration of the Gunnery Range. All forms necessary to carry out the purpose of the regulations in this part shall be approved by the Commissioner of Indian Affairs.

§ 153.3 *Grazing permits.* Grazing privileges shall be granted through the medium of permits by the Superintendent of the Pine Ridge Indian Agency, Pine Ridge, South Dakota. Range units on which permits are not renewed, pursuant to § 153.5, shall be advertised for competitive bidding for a 30-day period, unless the Superintendent determines that a shorter period of advertisement is warranted, and proposals shall be received by sealed bids. Proposals shall be accompanied by cashier's check, certified check or draft drawn on a solvent bank, or money order, payable to the Treasurer of the United States, for not less than 10 percent of the annual grazing fees due at the rate bid. The Superintendent shall post such advertisements at public places and the award of grazing privileges shall be made to the highest satisfactory bidder but any bidder entitled to preference, in accordance with § 153.4, may exercise such preference and meet the high bid. Such preference may be exercised by filing with the Superintendent a written notice within 10 days after the high bid has been announced. Such notice shall be accompanied by a cashier's check, certified check, or draft drawn on a solvent bank, or money order, payable to the Treasurer of the United States in an additional sum sufficient to meet the terms of the advertisement. Permits may provide for the cutting of hay by the permittee without additional charge, provided that the hay cut is fed on the unit to the livestock grazed under the permit. The Superintendent may prescribe such other rules as may be necessary to govern the cutting of hay so as to obtain proper utilization of the range. No permit shall be issued for farming purposes.

§ 153.4 *Preference in awarding permits.* In awarding grazing privileges, preference in meeting the high bid shall be given in the following order to:

(a) Former fee title holders, former Indian trust owners, and livestock operators, who owned established ranch headquarters within or adjacent to the Gunnery Range and who were using a portion of the Gunnery Range for grazing purposes at the time of its acquisition by the Department of the Army. This preference shall be given only to the extent of the use of the Gunnery Range by such persons prior to its acquisition by the Department of the Army.

(b) Indian allottees whose former allotments were within the Gunnery Range but whose ranch headquarters were not within the Gunnery Range.

§ 153.5 *Permit requirements.* Permits shall be limited to 1-year periods on an annual renewal basis subject to the following provisions:

(a) The Secretary of the Army may terminate any or all permits when the use of the area for grazing interferes with the purpose of the Gunnery Range.

(b) Permittees shall be responsible for the reasonable protection of all improvements within the permitted areas. Permittees shall be allowed to use for improvement purposes within the Gunnery Range such salvage materials as may be located on any lands within their permitted areas. Title to such materials shall, however, remain in the United States.

(c) Permittees shall maintain at their own expense all existing water facilities. They may, however, also develop and maintain such additional water facilities as they may elect, and shall have the privilege of removing, at the termination of their permits, such personal property as they may have installed on the premises.

(d) Permittees assume all risks of personal damage or of injury or loss to personal property incident to the use of the Gunnery Range, and agree to waive all claims which they may now have for damages or compensation for loss of personal property incident to the acquisition by the United States of any or all lands within the Gunnery Range.

(e) Permittees are prohibited from cutting timber.

(f) Permits do not establish any permanent rights of possession or use by permittees to the areas covered by their permits and the privileges granted are temporary only.

§ 153.6 *Grazing fees.* The minimum grazing fees charged for a permit renewed pursuant to § 153.5, or the minimum fee established for the issuance of a permit pursuant to § 153.3, shall be on a level with existing rates within the Pine Ridge Indian Reservation, less 20 percent to offset the risk assumed by the permittee in occupying the Gunnery Range subject to use for military purposes. All grazing fees shall be paid in advance to the Superintendent of the Pine Ridge Indian Agency.

Subchapter O—Rights-of-Way—Roads

PART 161—RIGHTS-OF-WAY OVER INDIAN LANDS

Sec.
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161.2 Purpose and scope of regulations.
161.3 Consent of landowners.
161.4 Permission to survey.
161.5 Permission to commence construction.
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161.24 Railroads in Oklahoma.
161.25 Oil or gas pipelines.
161.26 Telephone and telegraph lines; radio, television, and other communications facilities.
161.27 Power projects.
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161.30 Withdrawal and restoration of Superintendent's authority.
161.31 Appeals.

AUTHORITY: §§ 161.1 to 161.31 issued under R. S. 161, sec. 1, 30 Stat. 941, sec. 1, 32 Stat. 266, sec. 1, 33 Stat. 359, sec. 4, 37 Stat. 194, sec. 6, 62 Stat. 18; 5 U. S. C. 22, 25 U. S. C. 328. Statutory provisions interpreted or applied are cited to text in parentheses.

§ 161.1 *Definitions.* As used in this part:

(a) "Secretary" means Secretary of the Interior or his duly authorized representative.

(b) "Commissioner" means Commissioner of Indian Affairs or his duly authorized representative.

(c) "Area Director" means the officer in charge of an Area Office of the Bureau of Indian Affairs or his duly authorized representative.

(d) "Superintendent" means the superintendent or other officer in charge of an Indian Agency, School, Hospital, or other field unit of the Bureau of Indian Affairs.

(e) "Indians" include (1) Indians, (2) Eskimos, or (3) Aleuts.

(f) "Tribe" means a nation, tribe, band, pueblo, community, or other group of Indians residing on a reservation, rancheria, or other reserve within the continental United States or Alaska.

(g) "Tribal Council" means the official council, business committee, or other body, or the governor or other individual, authorized to represent a tribe in consenting to the granting of the rights-of-way provided for in this part.

(h) "Restricted lands" means (1) lands or interests in lands held by the United States in trust for a tribe; (2) lands or interests in lands held by a tribe in restricted fee or Indian title, including Pueblo lands; (3) lands or interests in lands held by the United States in trust for individual Indians; (4) lands or interests in lands held by individual Indians subject to restrictions against alienation; or (5) other lands acquired or set aside by the United States for the use and benefit of Indians.

(i) "Damages" include the compensation, if any, due the landowner for a right-of-way.

§ 161.2 *Purpose and scope of regulations.* (a) Except as indicated in paragraph (b) of this section, the regulations in this part prescribe the procedures, terms, and conditions under which rights-of-way over and across restricted lands may be granted.

NOTE: For irrigation rights-of-way, see sec. 18, 26 Stat. 1101, as amended, 34 Stat. 375; 43 U. S. C. 946.

(b) The regulations in this part do not cover the granting of rights-of-way for primary hydroelectric transmission lines over and across tribal lands. Applications for such rights-of-way must be filed with the Federal Power Commission.

§ 161.3 *Consent of landowners.* (a) No right-of-way shall be granted over and across any restricted lands belonging to a tribe, nor shall any permission to survey or to commence construction be issued with respect to any such lands, without the prior written consent of the tribal council.

(b) Except as provided in paragraph (c) of this section, no right-of-way shall be granted over and across any individually owned restricted lands, nor shall any permission to survey or to commence construction be issued with respect to any such lands, without the prior written consent of the owner or owners of such lands and the approval of the Superintendent.

(c) The Superintendent may issue permission to survey or to commence construction with respect to, and he may grant rights-of-way over and across, restricted lands of individual Indians without the consent of the individual Indian owners when (1) the individual owner of the land or of an interest therein is a minor or a person non compos mentis, and the Superintendent finds that such grant will cause no substantial injury to the land or the owner, which cannot be adequately compensated for by monetary damages; (2) the land is owned by more than one person, and the owners or owner of a majority of the interests therein consent to the grant; (3) the whereabouts of the owner of the land or an interest therein are unknown, and the owners or owner of any interests therein whose whereabouts are known, or a majority thereof, consent to the grant;[1] (4) the heirs or devisees of a deceased owner of the land or an interest therein have not been determined, and the Superintendent finds that the grant will cause no substantial injury to the land or any owner thereof; (5) the owners of interests in the land are so numerous that the Superintendent finds it would be impracticable to obtain their consent, and also finds that the grant will cause no substantial injury to the land or any owner thereof.

§ 161.4 *Permission to survey.* Anyone desiring to obtain permission to survey a right-of-way upon and across restricted lands must file a written application therefor with the Superintendent. The application shall adequately describe the proposed project, and it shall be accompanied by the written consent of the landowners as required by § 161.3, by satisfactory evidence of the good faith and financial responsibility of the applicant, and by a check or money order of sufficient amount to cover double the estimated damages which may be sustained as a result of the survey. An application filed by a corporation must be accompanied by proof of corporate existence and of compliance with State laws entitling the applicant to operate in the State in which the restricted land is situated. An application filed by an unincorporated partnership or association must be accompanied by a certified copy of the articles of partnership or association, or, if there be none, this fact must be stated over the signature of each member of the partnership or association. If the applicant has previously filed with the Department an application accompanied by the evidence required in this section, a reference to the date and place of such filing, accompanied by proof of current financial responsibility and good faith, will be sufficient. Upon receipt of an application made in compliance with the regulations of this part, the Superintendent may grant the applicant written permission to survey.

§ 161.5 *Permission to commence construction.* Subject to the provisions of § 161.3, permission to proceed with construction work on a right-of-way may be granted by the Superintendent at the same time or after permit to survey is issued and before full compliance is made with the regulations in this part, provided the applicant deposits with the Superintendent in advance such amount, in addition to that deposited in accordance with § 161.4, as will be sufficient to equal twice the estimated damages which may result from the survey and construction, and agrees in writing to comply promptly with the regulations in this part. The amount of the deposit, if the applicant is an agency of the Federal or of a State Government, will be a sum to cover only the estimated damages whenever it be shown to the satisfaction of the Superintendent that the funds of the applicant are not available for the deposit of the greater amount. Each deposit shall be held in a "special deposit" account until the actual damages have been determined and the application for the right-of-way has been approved.

§ 161.6 *Disposition of deposit.* Except as provided in this section, all that part of the deposit required by § 161.5 which is not required for the payment of damages due the landowners shall be refunded to the applicant upon satisfactory completion of the project and compliance with the requirements of § 161.5. Whenever by reason of unnecessary delay or otherwise the applicant fails to show good faith or to exercise due diligence in complying with the regulations of this part, the Superintendent shall, after giving the applicant fifteen days' written notice to show cause why the construction permit should not be rescinded and the application for right-of-way rejected, submit a full report on the matter to the Area Director. If it appears to the satisfaction of the Area Director that the applicant has failed to show good faith or to exercise due diligence in complying with the law and the regulations of this part, the Area Director may rescind the construction permit and reject the application, and notify the applicant of such action and that the entire amount of the applicant's deposit will be paid to the interested Indians as liquidated damages after 30 days from the receipt of such notice unless the applicant files a written notice of appeal from such action pursuant to § 161.31, in which event the deposit shall be held pending the final determination of the appeal.

§ 161.7 *Application for right-of-way.* After a survey has been authorized and completed, formal application, in duplicate, for the right-of-way, if desired, shall be filed promptly with the Superintendent. The application shall cite the statute or statutes under which it is filed and the width and length of the desired right-of-way, and shall be accompanied by a duly executed stipulation expressly agreeing to the following:

(a) To construct and maintain the right-of-way in a workmanlike manner.

(b) To pay promptly all damages, in addition to the deposit made pursuant to § 161.5, determined by the Superintendent to be due the landowners on account of the construction and maintenance of the right-of-way.

(c) To indemnify the landowners against any liability for damages to life or property arising from the occupancy or use of the lands by the applicant.

(d) To restore the lands as nearly as may be possible to their original condition upon the completion of construction.

(e) That the applicant will not interfere with the use of the lands by or under authority of the landowners for any purpose not inconsistent with the primary purpose for which the right-of-way was granted.

§ 161.8 *Maps.* (a) Each application for a right-of-way must be accompanied by a map of definite location on linen tracing in duplicate, and four blue-print copies thereof. Three linen tracings

[1] The language of this subparagraph is taken from 25 U. S. C. 324.

shall be filed if the applicant desires the return of a linen tracing showing the approved right-of-way. The field notes shall accompany the application, as provided for in § 161.9. The width of the right-of-way shall be clearly shown on the linen tracing.

(b) A separate map shall be filed for each section of 20 miles of right-of-way, but the map of the last section may include any excess of 10 miles or less.

(c) The scale of maps showing the line of route normally should be 2,000 feet to an inch. The maps may, however, be drawn to a larger scale when necessary and when an increase in scale cannot be avoided through the use of separate field notes, but the scale must not be increased to such extent as to make the maps too cumbersome for convenient handling and filing.

(d) The map shall show the name of the allottee and the allotment number of each tract of allotted land, and shall clearly designate each tract of tribal land affected, together with the sections, townships, and ranges in which the lands crossed by the right-of-way are situated.

§ 161.9 *Field notes.* Field notes of the survey shall appear along the line indicating the right-of-way on the map, unless the map would be too crowded thereby to be easily legible, in which event the field notes may be filed separately on linen tracing in such form that they may be folded readily for filing. Where field notes are placed on separate linen tracing, it will be necessary to place on the map only a sufficient number of station numbers so as to make it convenient to follow the field notes. The field notes shall be typewritten. Whether endorsed on the map or filed separately, the field notes shall be sufficiently complete so as to permit the line indicating the right-of-way to be readily retraced on the ground from the notes. They shall show whether the line was run on true or magnetic bearings, and, in the latter case, the variation of the needle and date of determination must be stated. One or more bearings (or angular connections with public survey lines) must be given. The 10-mile sections must be indicated and numbered on all lines of road submitted.

§ 161.10 *Public survey.* (a) The termini of the line of route shall be fixed by reference of course and distance to the nearest existing corner of the public survey. The map, as well as the engineer's affidavit and the certificate, shall show these connections.

(b) When either terminal of the line of route is upon unsurveyed land, it must be connected by traverse with an established corner of the public survey, if not more than 6 miles distant from it, and the single bearing and distance from the terminal point to the corner computed and noted on the map, in the engineer's affidavit, and in the certificate. The notes and all data for the computation of the traverse must be given.

§ 161.11 *Connection with natural objects.* When the distance to an established corner of the public survey is more than 6 miles, this connection will be made with a natural object or a permanent monument which can be readily found and recognized, and which will fix and perpetuate the position of the terminal point. The map must show the position of such mark, and course and distance to the terminus. There must be given an accurate description of the mark and full data concerning the traverse, and the engineer's affidavit and the certificate on the map must state the connections.

§ 161.12 *Township and section lines.* Whenever the line of survey crosses a township or section line of the public survey, the distance to the nearest existing corner shall be noted. The map shall show these distances and the station numbers at the points of intersection. The field notes shall show these distances and station numbers.

§ 161.13 *Affidavit and certificate.* (a) There shall be subscribed on the map of definite location an affidavit executed by the engineer who made the survey and a certificate executed by the applicant, both certifying to the accuracy of the survey and map and both designating by termini and length, in miles and decimals, the line of route for which the right of way application is made.

(b) Maps covering roads built by the Bureau of Indian Affairs which are to be transferred to a county or state government shall contain an affidavit as to the accuracy of the survey, executed by the Bureau highway engineer in charge of road construction, and a certificate by the state or county engineer or other authorized state or county officer accepting the right of way and stating that he is satisfied as to the accuracy of the survey and map.

§ 161.14 *Appraisal and schedule of damages.* As soon as practicable after a right-of-way application has been filed as provided for in this part, or after the issuance of permission to survey or commence construction, the Superintendent shall cause an appraisal to be made of the damages due the landowners. Upon the basis of the appraisals thus made, the Superintendent shall prepare separate schedules for the individual lands and for the tribal lands traversed by the right-of-way described in the application. The individual land schedule shall identify thereon the allotment number and the name of the allottee of each forty-acre tract or part of each legal subdivision thereof, and shall set forth in separate columns the acreage taken from each subdivision, the value per acre, the damages to improvements or adjoining land or other property, and the total amount of damages due each land owner. Except for the allotment numbers and the names of the allottees whose lands are involved, the schedule for tribal lands shall contain like information. The Superintendent shall furnish the applicant a copy of the schedules, together with the latest known addresses of the owners.

§ 161.15 *Deposit of damages.* Upon receipt of the schedule of damages, the applicant must deposit with the Superintendent the total amount of damages as shown on the schedules, less any deposit previously made under §§ 161.4 and 161.5. The amount so deposited shall be held in a "special deposit" account for distribution, upon the approval of the application, to or for the account of the owners.

§ 161.16 *Action on application.* Upon satisfactory compliance with the regulations in this part, the Superintendent is authorized to approve the application by endorsing his approval on the map of definite location. Upon approval of the application, the Superintendent shall promptly notify the applicant, and thereafter the applicant may proceed with the construction work, if such permission has not been obtained under § 161.5. One copy of the approved linen tracing of the right-of-way map bearing the written signature of the Superintendent shall be transmitted to the Commissioner. One linen tracing and one blueprint copy of the map of definite location shall be filed with the Bureau of Land Management, except in the case of rights-of-way across lands in Oklahoma. One linen tracing of the map of definite location of the right-of-way across lands in Oklahoma shall be forwarded to the Bureau of Land Management, except that in the case of a right-of-way traversing lands in the Osage or the Five Civilized Tribes Reservations no copy of the map of definite location shall be furnished to the Bureau of Land Management. One copy of the linen tracing shall be forwarded to the applicant if, and only if, three linen tracings were filed as provided in § 161.8.

§ 161.17 *Affidavit of completion.* Upon the completion of the construction of any right-of-way, the applicant shall promptly file with the Superintendent an affidavit of completion, in duplicate, executed by the engineer and certified by the applicant. The Superintendent shall transmit one copy of the affidavit to the Commissioner for filing.

§ 161.18 *Change of location.* If any change from the location shown upon the approved maps is found to be necessary on account of engineering difficulties or otherwise, amended maps and field notes of the new location shall be filed, and a right-of-way for such new route or location shall be subject to approval, the ascertainment of damages, and the payment thereof, in all respects as in the case of the original location, before construction work may proceed upon such new right-of-way, unless permission has been obtained in accordance with § 161.5.

§ 161.19 *Tenure of approved right-of-way grants.* All rights-of-way granted under the regulations in this part shall be in the nature of easements or permits for the periods stated therein. They are terminable upon abandonment or discontinuance of the use for which granted. Rights-of-way for railroads, telephone lines, telegraph lines, and public highways shall be without limitation as to term of years. Rights-of-way for oil or gas pipe lines, and for telephone, telegraph, and water lines incident to the operation of oil and gas pipe lines, shall be limited to 20 years and shall be subject to renewal for a like term upon compliance with the applicable regulations. Rights-of-way for

all other purposes shall be for a period of not to exceed 50 years, as fixed by the Superintendent and stated in the grant, and shall be subject to renewal for a like term upon compliance with the applicable regulations.

§ 161.20 *Renewal of right-of-way grants.* On or before the termination date of any right-of-way heretofore or hereafter granted for a limited term of years, an application may be submitted for a renewal of the grant. If the renewal involves no change in the location or status of the original right-of-way grant, the applicant may file with his application a certificate under oath setting out this fact, and the Superintendent, with the consent of the Indians, may thereupon extend the grant for a like term of years, upon the payment of compensation in the amount fixed and determined by the Superintendent. If any change in the size, type, or location of the right-of-way is involved, the application for renewal shall be treated and handled as in the case of an original application for a right-of-way.

§ 161.21 *Service lines.* (a) An agreement shall be executed by and between the landowner or a legally authorized occupant or user of the land and the applicant before any work by the applicant may be undertaken to construct a service line across such land. Such a service line shall be limited in the case of power lines to a voltage of 7.5 kv or less except lines to serve irrigation pumps which shall be limited to a voltage not to exceed 14.5 kv. Service lines shall be for the sole purpose of supplying the individual owners or authorized occupants or users of land including schools and churches with telephone, water, electric power, gas, or other utilities for domestic and agricultural uses by such owners, occupants or users of the land.

(b) A similar agreement to that required in paragraph (a) of this section shall be executed by the tribe or legally authorized occupant or user of tribal land and the applicant before any work by the applicant may be undertaken on the land for the construction of a service line across such tribal land. Such a service line shall be for the sole purpose of supplying such occupants or users of such tribal land with any of the services dealt with in paragraph (a) of this section. No agreement under this paragraph shall be valid unless its execution shall have been duly authorized in advance of construction by the governing body of the Indian tribe whose land is affected.

(c) In order to encourage the use of telephone, water, electric power, gas or other utilities and facilitate the extension of these modern conveniences to sparsely-settled Indian areas without undue costs the agreement referred to in paragraph (a) of this section shall only be required to include or have appended thereto, a plat or diagram showing with particularity the location, size, and extent of the line. When the plat or diagram is placed on a separate sheet it shall bear the signature of the parties. In case of tribal land, the agreement shall be accompanied by a certified copy of the tribal authorization.

(d) An executed copy of the agreement, together with a plat or diagram, and in the case of tribal land, an authenticated copy of the tribal authorization shall be filed with the superintendent of the reservation on which the service line is to be built within 30 days after the date of its execution. Failure to meet this requirement may result in the removal of any such improvements placed on the land at the expense of the party responsible for the placing of such improvements thereon and subject such party to the payment of damages caused by his unauthorized act.

§ 161.22 *Condemnation suits involving individually owned restricted lands.* The facts relating to any condemnation action to obtain a right-of-way upon individually owned restricted land shall be reported immediately by the Superintendent to the Area Director and the Commissioner, in order that appropriate action may be taken to safeguard the interests of the Indians.

§ 161.23 *Railroads.* (a) Rights-of-way for railroads shall not exceed 50 feet in width on each side of the center line of the road, except where there are heavy cuts and fills, when they shall not exceed 100 feet in width on each side of the road. The right-of-way may include grounds adjacent to the line for station buildings, depots, machine shops, side tracks, turnouts, and water stations, not to exceed 200 feet in width by a length of 3,000 feet, with no more than one station to be located within any one continuous length of 10 miles of road.

(b) Short spurs and branch lines may be shown on the map of the main line, separately described by termini and length. Longer spurs and branch lines shall be shown on separate maps. Grounds desired for station purposes may be indicated on the map of definite location but separate plats must be filed for such grounds. The maps shall show any other line crossed, or with which connection is made. The station number shall be shown on the survey thereof at the point of intersection. All intersecting roads must be represented in ink of a different color from that used for the line for which application is made.

(c) Plats of railroad station grounds shall be drawn on a scale of 400 feet to an inch, and must be filed separately from the line of route. Such plats shall show enough of the line of route to indicate the position of the tract with reference thereto. Each station ground tract must be located with respect to the public survey as provided in § 161.10, and all buildings or other structures shall be platted on a scale sufficiently large to show clearly their dimensions and relative positions.

(d) If any proposed railroad is parallel to, and within 10 miles of, a railroad already built or in course of construction, it must be shown wherein the public interest will be promoted by the proposed road. Where the Interstate Commerce Commission has passed on this point, a certified copy of its findings must be filed with the application.

(e) The applicant must certify that the road is to be operated as a common carrier of passengers and freight.

(f) The applicant shall execute and file, in duplicate, a stipulation obligating the company to use all precautions possible to prevent forest fires and to suppress such fires when they occur, to construct and maintain passenger and freight stations for each Government townsite, and to permit the crossing, in a manner satisfactory to the Government official in charge, of the right-of-way by canals, ditches, and other projects.

(g) A railroad company may apply for sufficient land for ballast or material pits, reservoirs, or tree planting to aid in the construction or maintenance of the road. The authority to use any land for such purposes shall terminate upon abandonment or upon failure to use the land for such purposes for a continuous period of two years.

(Sec. 1, 18 Stat. 482, secs. 1, 2, 30 Stat. 990, as amended, 35 Stat. 781, as amended, secs. 1–5, 62 Stat. 17, 18; 43 U. S. C. 934, 25 U. S. C. 312, 313, 320, 323–327)

§ 161.24 *Railroads in Oklahoma.* (a) Railroad rights-of-way over and across restricted lands in Oklahoma may be acquired in accordance with the provisions of the act of February 28, 1902 (32 Stat. 43).

(b) One copy each on linen tracing of the map of definite location showing the line of route and all lands included within the right-of-way must be filed with the Commissioner and the Superintendent. When tribal lands are involved, a copy of the map must also be filed with the tribal council.

(c) Before any railroad may be constructed or any lands taken or condemned for any of the purposes set forth in section 13 of the act of February 28, 1902 (32 Stat. 43), full damages shall be paid to the Indian owners.

(d) After the maps have been filed, the matter of damages shall be negotiated by the company directly with the Indian owners. If an amicable settlement cannot be reached, the amount to be paid as compensation and damages shall be fixed and determined as provided in the statute. If court proceedings are instituted, the facts shall be reported immediately by the Superintendent to the Area Director and the Commissioner, so that appropriate action may be taken to safeguard the interests of the Indians.

(32 Stat. 43)

§ 161.25 *Oil or gas pipelines.* (a) All oil or gas pipelines, including connecting lines, shall be buried a sufficient depth below the surface of the land so as not to interfere with cultivation. Whenever the line is laid under a road or highway, the right-of-way for which has been granted under an approved application pursuant to an act of Congress, its construction shall be in compliance with the applicable Federal and State laws; during the period of construction, at least one-half the width of the road shall be kept open to travel; and, upon completion, the road or highway shall be restored to its original condition and all excavations shall be refilled. Whenever the line crosses a ravine, canyon, or waterway, it shall be laid below the bed

thereof or upon such superstructure as will not interfere with the use of the surface.

(b) The size of the proposed pipeline must be shown in the application, on the map, and in the engineer's affidavit and applicant's certificate. The application and map shall specify whether the pipe is welded, screw-joint, dresser, or other type of coupling. Should the applicant of an approved right-of-way desire at any time to lay additional line or lines of pipe in the same trench, or to replace the original line with larger or smaller pipe, written permission must first be obtained from the Superintendent and all damages to be sustained by the owners must be paid in advance in the amount fixed and determined by the Superintendent.

(c) Applicants for oil or gas pipeline rights-of-way may apply for additional land for pumping stations or tank sites. The maps shall show clearly the location of all such structures and the location of all lines connecting with the main line. Applicants for lands for pumping stations or tank sites shall execute and file a stipulation agreeing as follows:

(1) Upon abandonment of the right-of-way to level all dikes, fire-guards, and excavations and to remove all concrete masonry foundations, bases, and structural works and to restore the land as nearly as may be possible to its original condition.

(2) That a grant for pumping station or tank site purposes shall be subservient to the owner's right to remove or authorize the removal of oil, gas, and other mineral deposits; and that the structures for pumping station or tank site will be removed or relocated if necessary to avoid interference with the exploration for or recovery of oil, gas, or other minerals.

(d) Purely lateral lines connecting with oil or gas wells on restricted lands may be constructed upon filing with the Superintendent a copy of the written consent of the Indian owners and a blueprint copy of a map showing the location of the lateral. Such lateral lines may be of any diameter or length, but must be limited to those used solely for the transportation of oil or gas from a single tract of restricted land to another lateral or to a branch of the main line.

(e) The applicant, by accepting a pipeline right-of-way, thereby agrees that the books and records of the applicant shall be open to inspection by the Secretary or his duly authorized representative at all reasonable times, in order to obtain information pertaining in any way to oil or gas produced from restricted lands or other lands under the jurisdiction of the Secretary.

(Secs. 1, 2, 33 Stat. 65, as amended, secs. 1–5, 62 Stat. 17, 18; 25 U. S. C. 321, 323–327)

§ 161.26 *Telephone and telegraph lines; radio, television, and other communications facilities.* (a) The application and maps shall specify the width of the right-of-way desired. No right-of-way shall be granted for a width in excess of 50 feet on each side of the center line, unless special requirements are clearly set forth in the application which fully justify a width in excess of 50 feet on each side of the center line.

(b) Applicants engaged in the general telephone and telegraph business may apply for additional land for office sites. The maps showing the location of proposed office sites shall be filed separately from those showing the line of route, and shall be drawn to a scale of 50 feet to an inch. Such maps shall show enough of the line of route to indicate the position of the tract with reference thereto. The tract shall be located with respect to the public survey as provided in § 256.10, and all buildings or other structures shall be platted on a scale sufficiently large to show clearly their dimensions and relative positions.

(c) Rights of way for poles and lines for communication purposes, and for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities, shall be limited to 200 feet on each side of the centerline of such lines and poles; radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities shall be limited to an area not to exceed 400 feet by 400 feet.

(Secs. 1, 2, 30 Stat. 990, as amended, sec. 3, 31 Stat. 1083, secs. 1–5, 62 Stat. 17, 18, 66 Stat. 95; 25 U. S. C. 312, 313, 319, 323–327)

§ 161.27 *Power projects.* (a) All applications for authority to survey, locate, or commence construction work on any project for the generation of electric power, or the transmission or distribution of electric power of 33 kv or higher involving lands other than tribal lands dealt with in the exception contained in § 161.2 shall be referred by the superintendent through the area director to the Commissioner who will secure the approval of the Office of the Assistant Secretary of the Interior for Water and Power Development or such other agency as may be designated for the area involved, for consideration of the relationship of the proposed project to the power development program of the United States. Where the proposed project will not conflict with the program of the United States, the area director, upon notification to that effect, will so notify the superintendent, who may then proceeed to act upon the application. In the case of necessary changes respecting the proposed location, construction, or utilization of the project in order to eliminate conflicts with the power development program of the United States, the superintendent shall obtain from the applicant written consent to or compliance with such requirements before taking further action on the application.

(b) The application and maps shall specify the width of the right-of-way desired. Rights-of-way for power lines will be limited to 50 feet on each side of the center line unless sufficient justification is furnished for a greater width.

(c) The applicant shall make provision, or bear the reasonable cost (as may be determined by the Secretary) of making provision, for avoiding inductive interference between any project transmission line or other project works constructed, operated, or maintained by it on the right-of-way authorized under the grant and any radio installation, telephone line, or other communication facilities now or hereafter constructed and operated by the United States or any agency thereof. This provision shall not relieve the applicant from any responsibility or requirement which may be imposed by other lawful authority for avoiding or eliminating inductive interference.

(d) An applicant for a right-of-way for a transmission line having a voltage of 33 kv. or more must, in addition to the stipulation required by § 161.7, execute and file with its application a stipulation agreeing to accept the right-of-way grant subject to the following conditions:

(1) The applicant agrees that, in the event it becomes necessary for the United States to acquire the applicant's transmission line or facilities constructed on or across such right-of-way, the United States reserves the right to acquire such line or facilities at a sum to be determined upon by a representative of the applicant, a representative of the Secretary of the Interior, and a third representative to be selected by the other two for the purpose of determining the value of such property thus to be acquired by the United States. No value, however, shall be allowed at any such determination for the right-of-way granted to the applicant under authority of the regulations of this part.

(2) To allow the Department of the Interior to utilize for the transmission of electrical power any surplus capacity of the line in excess of the capacity needed by the holder of the grant for the transmission of electrical power in connection with the applicant's operations, or to increase the capacity of the line at the Department's expense and to utilize the increased capacity for the transmission of electrical power. Utilization by the Department of surplus or increased capacity shall be subject to the following terms and conditions:

(i) When the Department desires to utilize surplus capacity thought to exist in a line, notification will be given to the applicant and the applicant shall furnish to the Department within 30 days a certificate stating whether the line has any surplus capacity not needed by the applicant for the transmission of electrical power in connection with the applicant's operations, and, if so, the extent of such surplus capacity.

(ii) In order to utilize any surplus capacity certified by the applicant to be available, or any increased capacity provided by the Department at its own expense, the Department may interconnect its transmission facilities with the applicant's line in a manner conformable to approved standards of practice for the interconnection of transmission circuits.

(iii) The expense of interconnection will be borne by the Department, and the Department will at all times provide and maintain adequate switching, relaying, and protective equipment so as to insure that the normal and efficient operation of the applicant's line will not be impaired.

(iv) After any interconnection is completed, the applicant shall operate and maintain its line in good condition; and, except in emergencies, shall maintain in a closed position all connections under the applicant's control between the ap-

plicant's line and the interconnecting facilities provided by the Department.

(v) The interconnected power systems of the Department and the applicant will be operated in parallel.

(vi) The transmission of electrical power by the Department over the applicant's line will be effected in such manner and quantity as will not interfere unreasonably with the applicant's use and operation of the line in accordance with the applicant's normal operating standards, except that the Department shall have the exclusive right to utilize any increased capacity of the line which has been provided at the Department's expense.

(vii) The applicant will not be obligated to allow the transmission over its line by the Department of electrical power to any person receiving service from the applicant on the date of the filing of the application for a grant, other than persons entitled to statutory preference in connection with the distribution and sale of electrical power by the Department.

(viii) The Department will pay to the applicant an equitable share of the total monthly cost of maintaining and operating the part of the applicant's line utilized by the Department for the transmission of electrical power, the payment to be an amount in dollars representing the same proportion of the total monthly operation and maintenance cost of such part of the line as the maximum amount in kilowatts of the power transmitted on a scheduled basis by the Department over the applicant's line during the month bears to the total capacity in kilowatts of that part of the line. The total monthly cost may include interest and amortization, in accordance with the system of accounts prescribed by the Federal Power Commission, on the applicant's net total investment (exclusive of any investment by the Department) in the part of the line utilized by the Department.

(ix) If, at any time subsequent to a certification by the applicant that surplus capacity is available for utilization by the Department, the applicant needs for the transmission of electrical power in connection with its operations the whole or any part of the capacity of the line theretofore certified as being surplus to its needs, the applicant may modify or revoke the previous certification by giving the Secretary of the Interior 30 months' notice, in advance, of the applicant's intention in this respect. After the revocation of a certificate, the Department's utilization of the particular line will be limited to the increased capacity, if any, provided by the Department at its expense.

(x) If, during the existence of the grant, the applicant desires reciprocal accommodations for the transmission of electrical power over the interconnecting system of the Department to its line, such reciprocal accommodations will be accorded under terms and conditions similar to those prescribed in this paragraph with respect to the transmission by the Department of electrical power over the applicant's line.

(xi) The terms and conditions prescribed in this paragraph may be modified at any time by means of a supplemental agreement negotiated between the applicant and the Secretary of the Interior or his designee.

(e) Applicants may apply for additional lands for generating plants and appurtenant structures. The lands desired for such purposes may be indicated on the map showing the definite location of the right-of-way, but separate maps must be filed therefor. Such maps shall show enough of the line of route to indicate the position of the tract with respect to said line. The tract shall be located with respect to the public survey as provided in § 161.10, and all buildings or other structures shall be platted on a scale sufficiently large to show clearly their dimensions and relative positions.

(f) Applicants, in lieu of furnishing maps based on surveys, including field notes, as required by §§ 161.8 to 161.13, inclusive, may obtain rights of way for distribution lines of less than 33 kv and telephone lines by filing two linen tracings and four print copies of a drawing showing the size and the location of the line in relation to the boundaries of each tract of land involved. The drawings shall show thereon whether the land to be crossed by the right of way is tribal or allotted. If allotted land, there shall appear on the drawing in addition to the section, township, and range number the name of each allottee and the respective allotment number. Each drawing shall contain a certificate executed by the engineer or the person who prepared the drawing, and the president, or other proper official of the applicant, certifying that the line is located as shown on the drawing.

(31 Stat. 790, as amended, 36 Stat. 1253, as amended, secs. 1–5, 62 Stat. 17, 18; 43 U. S. C. 959, 961, 25 U. S. C. 323–327)

§ 161.28 *Public highways.* (a) The appropriate State or local authorities may apply under the regulations in this part for authority to open public highways across restricted lands in accordance with State laws.

(b) In lieu of making application under the regulations in this part, the appropriate State or local authorities in Nebraska or Montana may, upon compliance with the requirements of the act of March 4, 1915 (38 Stat. 1188), lay out and open public highways in accordance with the respective laws of those States. Under the provisions of that act, the applicant must serve the Superintendent with notice of intention to open the proposed road and must submit a linen tracing of a map of definite location showing the width of the proposed road for the approval of the Superintendent prior to the laying out and opening of the road.

(c) Applications for public highway rights-of-way over and across roadless and wild areas shall be considered in accordance with the regulations contained in Part 163 of this chapter.

(Sec. 4, 31 Stat. 1084, 38 Stat. 1188, secs. 1–5, 62 Stat. 17, 18; 25 U. S. C. 311, 323–327)

§ 161.29 *Drainage projects in Oklahoma.* (a) Applications for rights-of-way for drainage purposes and applications for the approval of drainage assessments against individually owned restricted lands in Oklahoma may be filed under the regulations in this part by the County Commissioners of the county or counties in which a drainage district is located. The application shall show that the State laws governing the drainage of lands have been complied with, and the application must be accompanied by a certified copy of the viewer's report, including the viewer's schedule of assessments and damages.

(b) The Superintendent may approve drainage assessments against restricted lands whenever it appears to his satisfaction that the lands are being properly drained and are being assessed justly, in comparison with the assessments made against other lands in the drainage district.

(c) Neither the United States nor the land owner shall be obligated to pay any approved assessment, but the Superintendent may, upon the written request of the land owner, pay the approved assessment out of any funds held under the custody or control of the Department and belonging to the land owner. Unpaid assessments shall not constitute a lien against the restricted lands involved, and none of the laws of Oklahoma relating to the collection of unpaid assessments shall have any application to restricted lands.

(Sec. 4, 37 Stat. 194, 38 Stat. 310, as amended, 41 Stat. 1204)

§ 161.30 *Withdrawal and restoration of Superintendent's authority.* The Commissioner, or the Area Director with the approval of the Commissioner, may, upon written notice to a particular Superintendent, withdraw from such Superintendent the authority granted to Superintendents in the regulations of this part, and thereafter such authority withdrawn from such Superintendent shall be exercised by the Area Director or such other official as may be designated by the Area Director with the approval of the Commissioner. Any such authority withdrawn from a Superintendent may be restored to him by the Area Director with the approval of the Commissioner.

§ 161.31 *Appeals.* Action taken by a Superintendent shall be subject to the right of appeal to the Area Director. Action taken by an Area Director, including action taken on an appeal from a Superintendent, shall be subject to the right of appeal to the Commissioner. Action taken by the Commissioner shall be subject to appeal to the Secretary. An appeal must be filed in writing with the officer from whom the appeal is being taken, and must be filed within 30 days after the receipt of notice respecting the action to which objection is taken. An appeal filed with the Superintendent shall be promptly transmitted by him, with the record in the case, to the Area Director. An appeal filed with the Area Director shall be transmitted promptly by him, with the record in the case, to the Commissioner. An appeal filed with the Commissioner shall be transmitted promptly by the Commissioner, with the record, to the Secretary.

PART 162—ROADS OF THE BUREAU OF INDIAN AFFAIRS

Sec.
162.1 Purpose.
162.2 Definitions.
162.3 Construction, maintenance, repair, and improvement.
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162.9 Cooperation with States or Indian tribes.

AUTHORITY: §§ 162.1 to 162.9 issued under 45 Stat. 750; 25 U. S. C. 318a. Interpret or apply sec. 6, 49 Stat. 1521, as amended; 25 U.S.C. 318b.

§ 162.1 *Purpose.* The regulations in this part govern the survey, construction, maintenance, repair, and improvement of roads serving Indian lands that are not subject to taxation by a State; the transfer of jurisdiction with respect to the maintenance of such roads to a State; and cooperation in the construction, maintenance, repair, and improvement of roads serving both Indian lands that are not subject to taxation by a State and other lands in such State.

§ 162.2 *Definitions.* As used in this part:

(a) "Secretary" means the Secretary of the Interior or his authorized representative.

(b) "Roads" means roads, trails, and bridges serving Indian lands for which, under the act of May 26, 1928 (45 Stat. 750, 25 U. S. C. 318a), financial aid is available only from specific appropriation of Federal funds therefor, or from contributions of State funds and tribal Indian funds, and which have been designated as roads of the Bureau of Indian Affairs. The term does not include roads or bridges on Indian reservations for which financial aid to a State is available under the Federal-Aid Road Act of 1916 (39 Stat. 355), as amended and supplemented (23 U. S. C. 1, et seq.) and the regulations in 23 CFR Part 1, or other State roads.

(c) "State" means a State or Territory or political subdivision thereof.

§ 162.3 *Construction, maintenance, repair, and improvement.* Subject to the availability of appropriations therefor and of any contribution of State funds and tribal Indian funds, the Secretary shall survey and construct new roads to provide an adequate system of road facilities on Indian reservations, shall maintain and repair existing roads subject to the regulations in this part, and shall improve them to adequate standards. Before accepting a contribution of tribal funds, the Secretary shall determine that such contribution can be made without undue impairment of necessary tribal functions performed with tribal funds.

§ 162.4 *Approval of road plans and designations as roads of the Bureau of Indian Affairs.* Pursuant to section 6 of the act of June 16, 1936 (49 Stat. 1519, 1521), as amended and supplemented (25 U. S. C. 318b), the engineering plans for all roads constructed under the regulations in this part shall be approved by the Commissioner of Public Roads of the United States Department of Commerce, or his authorized representative, before any expenditures are made for the construction of such roads. The Secretary shall obtain the concurrence of the Commissioner of Public Roads in the designation of roads as roads of the Bureau of Indian Affairs. All construction thereof shall be under the general supervision of the Commissioner of Public Roads or his authorized representative.

§ 162.5 *Consent of Indian landowners.* Before any work is undertaken for the construction of roads hereunder, the Secretary shall obtain the written consent of the Indian landowners. Where an Indian has an interest in tribal land by virtue of a land use assignment, such consent shall be obtained from both the Indian holder of the assignment and the Indian tribe. If it appears that the road might be transferred to a State within 10 years, then, before such construction is undertaken, there shall be obtained from the Indian landowners right-of-way easements for a road and highway in favor of the United States, its successors and assigns, with the right to construct, maintain, and repair improvements, thereon and thereover, for such purposes and with the further right in the United States, its successors and assigns, to transfer the right-of-way easements by assignment, grant, or otherwise. The right-of-way easements are to be on a form approved by the Secretary.

§ 162.6 *Use of roads.* Roads subject to the regulations in this part shall be open for free public use. When required for public safety, fire prevention or suppression, or fish or game protection, or to prevent damage to unstable roadbed, the Secretary may close them to public use.

§ 162.7 *Roadless and wild areas.* Roads passable to motor transportation shall not be constructed under the regulations in this part within the boundaries of the roadless and wild areas established in Part 163 of this chapter.

§ 162.8 *Transfer of jurisdiction for maintenance to a State.* As the maintenance of roads and bridges by a State is normally financed from revenues collected by it from motor vehicle license fees and gasoline taxes to which Indians are subject, the Secretary may enter into an agreement with a State for the transfer to the State of jurisdiction with respect to the maintenance of roads constructed or improved to adequate standards under the regulations in this part.

§ 162.9 *Cooperation with States or Indian tribes.* If roads subject to the regulations in this part provide road facilities for both Indian lands that are not subject to taxation by a State and for other lands in such State, the Secretary may enter into an agreement with such State for cooperation in construction, maintenance, repair, and improvement of such roads by the Secretary. He may also enter into such agreements with an Indian tribe for a contribution from its tribal funds of such costs, if he determines that such Indian tribe can make such contribution without undue impairment to necessary tribal functions performed with such funds.

PART 163—ESTABLISHMENT OF ROADLESS AND WILD AREAS ON INDIAN RESERVATIONS

Sec.
163.1 Definition of roadless areas.
163.2 Definition of wild areas.
163.3 Roads prohibited.

AUTHORITY: §§ 163.1 to 163.3 issued under R. S. 161; 5 U. S. C. 22.

CROSS REFERENCE: For general regulations pertaining to the construction of roads, see Part 162 of this chapter.

§ 163.1 *Definition of roadless areas.* The National Resources Board defines a roadless area as one which contains no provision for the passage of motorized transportation and which is at least 100,000 acres in forested country and at least 500,000 acres in non-forested country. Under this definition the Secretary of the Interior ordered that the following be established as roadless areas on Indian reservations:

Name of area	Reservation	Approximate acreage
Rainbow Bridge	Navajo	1,590,000
Black Mesa	Navajo	820,000
Grand Canyon	Hualpai	530,000
Painted Desert	Navajo	525,000
Black River	San Carlos-Ft. Apache	325,000
Wind River Mountains.	Shoshone	220,000
Columbia-San Poil Divide.	Colville	155,000
Mt. Thomas	Ft. Apache	130,000
Mission Range	Flathead	125,000
Mesa Verde	Consolidated Ute	115,000
Goat Rocks	Yakima	105,000
Mt. Jefferson	Warm Springs	105,000

The boundaries of these areas are indicated in the appendix to this part.[1]

§ 163.2 *Definition of wild areas.* There are certain areas, not large enough to be designated by the term roadless, from which it is nevertheless desirable to exclude provision for the passage of motorized transportation. Such tracts have been designated as wild areas. The Secretary of the Interior ordered that the following be established as wild areas on Indian reservations:

Name of area	Reservation	Approximate acreage
Mount Adams	Yakima	48,000
Fort Charlotte	Grand Portage	19,000
Grand Portage	Grand Portage	11,000

The boundaries of these areas are indicated in the appendix to this order.[1]

§ 163.3 *Roads prohibited.* (a) Within the boundaries of these officially designated roadless and wild areas it will be the policy of the Interior Department to refuse consent to the construction or establishment of any routes passable to

[1] The appendix to this part is not codified. It appears, however, at 3 F. R. 709–711, Mar. 22, 1938.

motor transportation, including in this restriction highways, roads, truck trails, work roads, and all other types of way constructed to make possible the passage of motor vehicles either for transportation of people or for the hauling of supplies and equipment, unless the requirements of fire protection, commercial use for the Indians' benefit or actual needs of the Indians clearly demand otherwise.

(b) Foot trails and horse trails are not barred. Superintendents of reservations on which roadless and wild areas have been established will be held strictly accountable for seeing that these areas are maintained in a roadless condition. Elimination of any areas or parts of areas from the restriction of this order will be made only upon a written showing of an actual and controlling need.

CROSS REFERENCE: For rights-of-way for highways over Indian lands, see Part 161 of this chapter.

Subchapters P–Q—Lands; Subsurface Estates and Resources

Subchapter P—Mining

PART 171—LEASING OF TRIBAL LANDS FOR MINING

Sec.

171.1 Definitions.

HOW TO ACQUIRE LEASES

171.2 Leases to be made by tribes.
171.3 Sale of oil and gas leases.
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171.5 Corporations and corporate information.
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RENTS AND ROYALTIES

171.12 Manner of payments.
171.13 Rates of rentals and royalties under oil and gas leases.
171.14 Annual rentals and expenditures for development on leases other than oil and gas.
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171.16 Time of making royalty payments.
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171.18 Inspection of premises, books and accounts.
171.19 Diligence and prevention of waste.
171.20 Permission to start operations.
171.21 Restrictions on operations.
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171.23 Mines to be timbered properly.
171.24 Surrender of leased premises in good condition.
171.25 Fees.
171.26 Assignments.
171.27 Cancellation.
171.27a Prospecting permits.
171.28 Effective date of regulations.
171.29 Exemption of leases made by organized tribes.
171.30 Forms.

AUTHORITY: §§ 171.1 to 171.30 issued under secs. 16, 17, 48 Stat. 987, 988, sec. 9, 49 Stat. 1968, sec. 4, 52 Stat. 348; 25 U. S. C. 396d, 476, 477, 509. Interpret or apply secs. 1, 2, 49 Stat. 1250; 48 U. S. C. 358a, 362. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 171.1 *Definitions.* (a) The term "superintendent" in this part refers to the superintendent or other officer of the Bureau of Indian Affairs or of the Government who may have jurisdiction over the lands involved.

(b) The term "supervisor" in this part refers to a representative of the Secretary of the Interior, under direction of the United States Geological Survey, authorized and empowered to supervise and direct operations under oil and gas or other mining leases, to furnish scientific and technical information and advice, to ascertain and record the amount and value of production, and to determine and record rentals and royalties due and paid.

CROSS REFERENCE: For rules and regulations of the Geological Survey, see 30 CFR Chapter II.

HOW TO ACQUIRE LEASES

§ 171.2 *Leases to be made by tribes.* Indian tribes, bands or groups may, with the approval of the Secretary of the Interior or his authorized representative, lease their land for mining purposes. No oil and gas lease shall be approved unless it has first been offered at an advertised sale in accordance with § 171.3. Leases for minerals other than oil and gas may be negotiated and approved without advertising.

§ 171.3 *Sale of oil and gas leases.* (a) At such times as the Secretary of the Interior may direct, after being authorized by the tribal council, the superintendent shall publish notices at least thirty days prior to the sale, unless a shorter period is authorized by the Commissioner of Indian Affairs, that oil and gas leases on specific tracts, each of which shall be in a reasonably compact body, will be offered to the highest responsible bidder for a bonus consideration, in addition to stipulated rentals and royalties. Each bid must be accompanied by a cashier's check, certified check, or postal money order, payable to the payee designated in the invitation to bid, in an amount not less than 25 percent of the bonus bid. Within 30 days after notification of being the successful bidder, said bidder must remit the balance of the bonus, the first year's rental, and his share of the advertising costs, and shall file with the superintendent the lease in completed form. The superintendent may, for good and sufficient reasons, extend the time for the completion and submission of the lease form, but no extension shall be granted for remitting the balance of monies due. If the successful bidder fails to pay the full consideration within said period, or fails to file the completed lease within said period or extension thereof, or if the lease is disapproved through no fault of the lessor or the Department of the Interior, 25 percent of the bonus bid will be forfeited for the use and benefit of the Indian lessor.

(b) All notices or advertisements of sales of oil and gas leases shall reserve to the Secretary of the Interior the right to reject all bids when in his judgment the interests of the Indians will be best served by so doing, and that if no satisfactory bid is received, or if the accepted bidder fails to complete the lease, or if the Secretary of the Interior shall determine that it is unwise in the interests of the Indians to accept the highest bid, the Secretary may readvertise such lease for sale, or if deemed advisable, with the consent of the tribal council or other governing tribal authorities, a lease may be made by private negotiations. The successful bidder or bidders will be required to pay his or their share of the advertising costs. Amounts received from unsuccessful bidders will be returned; but when no bid is accepted on a tract, the costs of advertising will be assessed against the applicant who requested that said tract be advertised.

§ 171.4 *Government employees cannot acquire leases.* No lease, assignment thereof, or interest therein will be approved to any employee or employees of the United States Government whether connected with the Bureau of Indian Affairs or otherwise, and no employee of the Interior Department shall be permitted to acquire any interest in any mineral lease covering restricted Indian lands by ownership of stock in corporations having such leases or in any other manner.

(R. S. 2078; 25 U. S. C. 68)

§ 171.5 *Corporations and corporate information.* If the applicant for a lease is a corporation, it shall file evidence of authority of its officers to execute papers; and with its first application it shall also file a certified copy of its articles of incorporation, and, if foreign to the State in which the lands are located, evidence showing compliance with the corporation laws thereof. Statements of changes in officers and stockholders shall be furnished by a corporation lessee to the superintendent January 1 of each year, and at such other times as may be requested. Whenever deemed advisable in any case the superintendent may require a corporation applicant or lessee to file:

(a) Lists of officers, principal stockholders, and directors, with post-office addresses and number of shares held by each.

(b) A sworn statement of the proper officer showing:

(1) The total number of shares of the capital stock actually issued and the amount of cash paid into the treasury on each share sold; or, if paid in property, the kind, quantity, and value of the same paid per share.

(2) Of the stock sold, how much remains unpaid and subject to assessment.

(3) The amount of cash the company has in its treasury and elsewhere.

(4) The property, exclusive of cash, owned by the company and its value.

(5) The total indebtedness of the company and the nature of its obligations.

(6) Whether the applicant or any person controlling, controlled by or under common control with the applicant has filed any registration statement, application for registration, prospectus or offering sheet with the Securities and Exchange Commission pursuant to the Securities Act of 1933 or the Securities

Exchange Act of 1934 or said Commission's rules and regulations under said acts; if so, under what provisions of said acts or rules and regulations; and what disposition of any such statement, application, prospectus or offering sheet has been made.

(c) Affidavits of individual stockholders, setting forth in what corporations or with what persons, firms, or associations such individual stockholders are interested in mining leases on restricted lands within the State, and whether they hold such interests for themselves or in trust.

CROSS REFERENCE: For rules and regulations of the Securities and Exchange Commission, see 17 CFR Chapter II.

§ 171.6 *Bonds.* (a) Lessee shall furnish with each lease a bond (Form 5–154b), and an assignee of a lease shall furnish with each assignment a bond (Form 5–154m), with an acceptable company authorized to act as sole surety, or with two or more personal sureties and a deposit as collateral security of any public-debt obligations of the United States guaranteed as to principal and interest by the United States, equal to the full amount of such bonds, or other collateral satisfactory to the Secretary of the Interior, or show ownership of unencumbered real estate of the value equal to twice the amount of the bonds. Lessee may file a bond on Form 5–154a without sureties and a deposit as collateral security of Government bonds equal in value to the full amount of the bond. Lease bonds shall be in the following amounts:

For less than 80 acres	$1,000
For 80 acres and less than 120 acres	1,500
For 120 acres and not more than 160 acres	2,000
For each additional 40 acres, or part thereof above 160 acres	500

Provided, That a lessee may file one bond (Form 5–154f), in the sum of $15,000 for all leases of minerals in any one State and which may also include leases on that part of an Indian reservation extending into States contiguous thereto, to which the lessee may become a party: *Provided further,* That the total acreage covered by the bond shall not exceed 10,240 acres.

(b) In lieu of the bonds required under paragraph (a) of this section, a lessee may furnish a bond (Form 5–156) in the sum of $75,000 for full nationwide coverage with an acceptable company authorized to act as sole surety to cover all oil and gas leases and oil and gas prospecting permits without geographic or acreage limitation to which the lessee or permittee is or may become a party.

(c) The right is specifically reserved to increase the amount of bonds and the collateral security prescribed in paragraph (a) of this section in any particular case when the officer in charge deems it proper to do so. The nationwide bond may be increased at any time in the discretion of the Secretary of the Interior.

§ 171.7 *Lessees to furnish additional information.* The superintendent may, either before or after approval of a lease, call for any additional information desired to carry out the regulations in this part. If a lessee shall fail to furnish the papers necessary to put his lease and bond in proper form for consideration, the superintendent shall forward such lease for disapproval.

§ 171.8 *Lands to be in compact body.* The area covered by a lease shall be in a reasonably compact body and shall conform to the system of public-land surveys, except that leases covering lode ground may consist of one or more adjoining parallelograms 1,500 feet in length by 600 feet in width, as provided by the United States mining laws. No lease under the regulations in this part shall convey any extralateral rights, and no coal lease shall have a length exceeding 1 mile along the outcrop.

§ 171.9 *Acreage limitation.* A lessee may acquire more than one lease but no single lease shall be granted for mining purposes on Indian tribal or restricted Indian lands, exclusive of Osage and Quapaw lands, in excess of the following acreage except where the rule of approximation applies:

(a) For oil and gas and all other minerals, except coal, 2,560 acres.

(b) (1) For coal, a lease shall ordinarily be limited to 2,560 acres. The Commissioner may, however, upon application, approve the combining of leases held by one or more lessees, or approve the issuance of a single lease for more than 2,560 acres in a reasonably compact form, if he shall find that the approval of such larger acreage is in the interest of the lessor and is necessary to permit the establishment or construction of thermal electric power plants or other industrial facilities on or near the reservation. He may prescribe provisions in such larger leases to require relinquishment of acreage in the event of failure to construct facilities, or may require advance rental or minimum royalty payments on a part of the acreage as a condition for combining leases or issuance of a single lease in excess of 2,560 acres.

(2) The Commissioner, with the consent of the lessor, may alter, change, or modify the development and producing requirements of the several leases and provide that operations and production on one lease shall be deemed to satisfy the development and producing requirements as to each lease combined.

§ 171.10 *Term of leases.* Mining leases may be made for a specified term not to exceed ten years from the date of approval by the Secretary of the Interior, or his authorized representative, and as much longer as the substances specified in the lease are produced in paying quantities.

§ 171.11 *Government reserves right to buy minerals produced.* In time of war or other public emergency all of the executive departments of the United States Government shall have the option to purchase at the posted market price on the date of sale all or any part of the substance or substances produced under any lease.

RENTS AND ROYALTIES

§ 171.12 *Manner of payments.* (a) Except where otherwise provided by the terms of leases where the tribes are organized under the act of June 18, 1934 (48 Stat. 984; 25 U. S. C. 461–479), all rents and other payments due under leases which have been or may be approved by the Secretary of the Interior shall be paid to the superintendent or to such other person as may be designated by the Secretary of the Interior, for the benefit of the lessors. Except advance payments for the first year which shall be sent direct to the superintendent at the time of filing leases, payments of rental and royalty under leases shall be transmitted through the supervisor, shall be accompanied by a statement by the lessee, in triplicate, showing the specific items of rental or royalty that the remittance is intended to cover, and shall be made at such time or times as the lease provides.

(b) In the event of the discovery of minerals in paying quantities all advance payments shall be allowed as credit on stipulated royalties for the year for which such advance payments have been made. No refund will be made under oil, gas, or other mining leases, in the event that royalty from production is not sufficient to equal the advance payment, nor will any part of the moneys so paid be refunded to the lessee because of any subsequent surrender or cancellation of the lease, nor shall the lessee be relieved from the obligation to pay said advance rental annually when it becomes due, by reason of any subsequent surrender or cancellation of the lease.

§ 171.13 *Rates of rentals and royalties under oil and gas leases.* (a) The lessee shall pay, beginning with the date of approval of oil and gas leases by the Secretary of the Interior, a rental of $1.25 per acre per annum in advance during the continuance thereof, together with a royalty of 12½ percent of the value or amount of all oil, gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and saved from the land leased, save and except oil, and/or gas used by the lessee for development and operation purposes on the lease, which oil or gas shall be royalty free. A higher rate of royalty may be fixed by the Secretary of the Interior or his authorized representative, prior to the advertisement of land for oil and gas leases. During the period of supervision, "value" for the purposes of the lease may, in the discretion of the Secretary of the Interior, be calculated on the basis of the highest price paid or offered (whether calculated on the basis of short or actual volume) at the time of production for the major portion of the oil of the same gravity, and gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and sold from the field where the leased lands are situated, and the actual volume of the marketable product less the content of foreign substances as determined by the supervisor. The actual amount realized by the lessee from the sale of said products may, in the discretion of the Secretary of the Interior, be deemed mere evidence of or conclusive evidence of such value. When paid in value, such royalties shall be due and payable monthly on the last day of the calendar month following the calendar month in

which produced; when royalty on oil produced is paid in kind, such royalty oil shall be delivered in tanks provided by the lessee on the premises where produced without cost to the lessor unless otherwise agreed to by the parties thereto, at such time as may be required by the lessor. The lessee shall not be required to hold such royalty oil in storage longer than 30 days after the end of the calendar month in which said oil is produced. The lessee shall be in no manner responsible or held liable for loss or destruction of such oil in storage by causes beyond the lessee's control. In determining the value for royalty purposes of products, such as natural gasoline, that are derived from treatment of gas, a reasonable allowance for the cost of manufacture shall be made, such allowance to be two-thirds of the value of the marketable product unless otherwise determined by the Secretary of the Interior on application of the lessee or on his own initiative, and that royalty will be computed on the value of gas or casing-head gas, or on the products thereof (such as residue gas, natural gasoline, propane, butane, etc.), whichever is the greater.

(b) If the leased premises produce gas in excess of the lessee's requirements for the development and operation of said premises, then the lessor may use sufficient gas, free of charge, for any desired school or other buildings belonging to the tribe, by making his own connections to a regulator installed, connected to the well and maintained by the lessee, and the lessee shall not be required to pay royalty on gas so used. The use of such gas shall be at the lessor's risk at all times.

§ 171.14 *Annual rentals and expenditures for development on leases other than oil and gas.* (a) Unless otherwise authorized by the Secretary or his authorized representative (1) a lease for minerals other than oil and gas shall provide for a yearly development expenditure of not less than $10 per acre and (2) all such leases shall provide for a rental payment of not less than $1 for each acre or fraction of an acre payable on or before the first day of each lease year.

(b) Within 20 days after the lease year, an itemized statement, in duplicate, of the expenditure for development under a lease for minerals other than oil and gas shall be filed with the Superintendent. The lessee must certify the statement under oath.

§ 171.15 *Royalty rates for minerals other than oil and gas.* Unless otherwise authorized by the Commissioner of Indian Affairs, the minimum rates for minerals other than oil and gas shall be as follows:

(a) For substances other than gold, silver, copper, lead, zinc, tungsten, coal, asphaltum and allied substances, oil, and gas, the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 percent of the value, at the nearest shipping point, of all ores, metals, or minerals marketed.

(b) For gold and silver the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 percent to be computed on the value of bullion as shown by mint returns after deducting forwarding charges to the point of sale; and for copper, lead, zinc, and tungsten, a royalty of not less than 10 percent to be computed on the value of ores and concentrates as shown by reduction returns after deducting freight charges to the point of sale. Duplicate returns shall be filed by the lessee with the Superintendent within 10 days after the ending of the quarter or other period specified in the lease within which such returns are made; *Provided, however,* That the lessee shall pay a royalty of not less than 10 percent of the value of the ore or concentrates sold at the mine unless otherwise provided in the lease.

(c) For coal the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 cents per ton of 2,000 pounds of mine run, or coal as taken from the mine, including what is commonly called "slack."

(d) For asphaltum and allied substances the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 cents per ton of 2,000 pounds on crude material or not less than 60 cents per ton on refined substances.

§ 171.16 *Time of making royalty payments.* Royalty payments under producing oil and gas leases shall be made monthly on or before the last day of the calendar month following the calendar month for which such payment is to be made.

§ 171.17 *Division orders.* (a) Lessees may make arrangements with the purchasers of oil for the payment of the royalties to the superintendent by such purchasers, but such arrangement, if made, shall not operate to relieve a lessee from responsibility should the purchaser fail or refuse to pay royalties when due. Where lessees avail themselves of this privilege, division orders permitting the pipe line companies or other purchasers of the oil to withhold the royalty interest shall be executed and forwarded to the supervisor for approval, as pipe line companies are not permitted to accept or run oil from leased Indian lands until after the approval of a division order showing that the lessee has a lease regularly approved and in effect. When the lessee company runs its own oil, it shall execute an intra-company division order and forward it to the supervisor for his consideration. The right is reserved for the supervisor to cancel a division order at any time or require the pipe line company to discontinue to run the oil of any lessee who fails to operate the lease properly or otherwise violates the provisions of the lease, of the regulations in this part, or of the operating regulations.

(b) When oil is taken by authority of a division order, the lessee or his representative shall be actually present when the oil is gauged and records are made of the temperature, gravity, and impurities. The lessee will be held responsible for the correctness and the correct recording and reporting of all of the foregoing measurements; which, except lowest gauge, shall be made at the time the oil is turned into the pipe line. Failure of the lessee to perform properly these duties will subject the division order to revocation.

CROSS REFERENCE: For oil and gas operating regulations of the Geological Survey, see 30 CFR Part 221.

§ 171.18 *Inspection of premises, books and accounts.* Lessees shall agree to allow the lessors and their agents or any authorized representative of the Interior Department to enter, from time to time, upon and into all parts of the leased premises for the purpose of inspection, and shall further agree to keep a full and correct account of all operations and make reports thereof, as required by the regulations of the Department governing operations on public and restricted Indian lands; and their books and records, showing manner of operations and persons interested, shall be open at all times for examination of such officers of the Department as shall be instructed in writing by the Secretary of the Interior or authorized by regulations to make such examination.

§ 171.19 *Diligence and prevention of waste.* The lessee shall exercise diligence in drilling and operating wells for oil and gas on the leased lands while such products can be secured in paying quantities; carry on all operations in a good and workmanlike manner in accordance with approved methods and practice, having due regard for the prevention of waste of oil or gas developed on the land, or the entrance of water through wells drilled by the lessee to the productive sands or oil or gas-bearing strata to the destruction or injury of the oil or gas deposits, the preservation and conservation of the property for future productive operations, and to the health and safety of workmen and employees; plug securely all wells before abandoning the same and to shut off effectually all water from the oil or gas-bearing strata; not drill any well within 200 feet of any house or barn on the premises without the lessor's written consent approved by the superintendent; carry out at his expense all reasonable orders and requirements of the supervisor relative to prevention of waste, and preservation of the property and the health and safety of workmen; bury all pipelines crossing tillable lands below plow depth unless other arrangements therefor are made with the superintendent; pay the lessor all damages to crops, buildings, and other improvements of the lessor occasioned by the lessee's operations: *Provided,* That the lessee shall not be held responsible for delays or casualties occasioned by causes beyond the lessee's control.

§ 171.20 *Permission to start operations.* (a) No operations will be permitted on any lease before it is approved by the Secretary of the Interior.

(b) Written permission must be secured from the supervisor before any operations are started on the leased premises. After such permission is secured the operations must be in accordance with the operating regulations promulgated by the Secretary of the Interior. Copies of the regulations in this part may be secured from either the

supervisor or the superintendent and no operations shall be attempted without a study of the operating regulations.

§ 171.21 *Restrictions on operations.* (a) Oil and gas leases issued under the provisions of the regulations in this part shall be subject to imposition by the Secretary of the Interior of such restrictions as to time or times for the drilling of wells and as to the production from any well or wells as in his judgment may be necessary or proper for the protection of the natural resources of the leased land and in the interest of the lessor. In the exercise of his judgment the Secretary of the Interior may take into consideration, among other things, the Federal laws, State laws, regulations by competent Federal or State authorities, lawful agreements among operators regulating either drilling or production, or both, and any regulatory action desired by tribal authorities.

(b) All such leases shall be subject to any cooperative or unit development plan affecting the leased lands that may be required by the Secretary of the Interior, but no lease shall be included in any cooperative or unit plan without prior approval of the Secretary of the Interior and consent of the Indian tribe affected.

§ 171.22 *Penalties.* Failure of the lessee to comply with any provisions of the lease, of the operating regulations, of the regulations in this part, order of the superintendent or his representative, or of the orders of the supervisor or his representative, shall subject the lease to cancellation by the Secretary of the Interior or the lessee to a penalty of not more than $500 per day for each and every day the terms of the lease, the regulations, or such orders are violated; or to both such penalty and cancellation: *Provided,* That the lessee shall be entitled to notice and hearing, within 30 days after such notice, with respect to the terms of the lease, regulations, or orders violated, which hearing shall be held by the supervisor, whose findings shall be conclusive unless an appeal be taken to the Secretary of the Interior within 30 days after notice of the supervisor's decision, and the decision of the Secretary of the Interior upon appeal shall be conclusive.

§ 171.23 *Mines to be timbered properly.* In mining operations the lessee shall keep the mine well and sufficiently timbered at all points where necessary, in accordance with good mining practice, and in such manner as may be necessary to the proper preservation of the leased property and safety of the workmen.

§ 171.24 *Surrender of leased premises in good condition.* On expiration of the term of a lease, or when a lease is surrendered, the lessee shall deliver to the Government the leased ground with the mine workings in good order and condition, and bondsmen will be held for such delivery in good order and condition, unless relieved by the Secretary of the Interior for cause. It shall, however, be stipulated that the machinery necessary to operate the mine is the property of the lessee, but that it may be removed by him only after the condition of the property has been ascertained by inspection by the Secretary of the Interior or his authorized agents, to be in satisfactory condition.

§ 171.25 *Fees.* All leases and assignments shall be executed in sextuplet and when filed with the superintendent shall be accompanied by a filing fee of $5 which is hereby required pursuant to provisions contained in the act of February 14, 1920, as amended by the act of March 1, 1933 (47 Stat. 1417; 25 U. S. C. 413). This fee will be refunded in case the instrument is disapproved.

(Sec. 1, 41 Stat. 415, as amended; 25 U. S. C. 413)

§ 171.26 *Assignments.* (a) Approved leases or any interest therein may be assigned or transferred only with the approval of the Secretary of the Interior, and to procure such approval the assignee must be qualified to hold such lease under existing rules and regulations and shall furnish a satisfactory bond conditioned for the faithful performance of the covenants and conditions thereof: *Provided,* That in order for such assignment to receive favorable consideration the lessee shall assign either his whole interest or an undivided interest in the whole lease.

(b) No lease or interest therein or the use of such lease shall be assigned, sublet, or transferred, directly or indirectly by working or drilling contract, or otherwise, without the consent of the Secretary of the Interior.

(c) Assignments of leases, and stipulations modifying the terms of existing leases, which stipulations are also subject to the approval of the Secretary of the Interior, shall be filed with the superintendent within 30 days after the date of execution.

§ 171.27 *Cancellation.* (a) When, in the opinion of the Secretary of the Interior, the lessee has violated any of the terms and conditions of a lease or of the applicable regulations, the Secretary of the Interior shall have the right at any time after 30 days' notice to the lessee specifying the terms and conditions violated, and after a hearing, if the lessee shall so request within 30 days after issuance of the notice, to declare such lease null and void, and the lessor shall then be entitled and authorized to take immediate possession of the land.

(b) On the following conditions, the lessee may, on approval of the Secretary of the Interior, surrender a lease or any part of it:

(1) That he make application for cancellation to the superintendent having jurisdiction over the land.

(2) That he pay a surrender fee of $1 at the time the application is made.

(3) That he pay all royalties and rentals due to the date of such application.

(4) That he make a satisfactory showing that full provision has been made for conservation and protection of the property and that all wells, drilled on the portion of the lease surrendered, have been properly abandoned.

(5) If the lease has been recorded, that he file, with his application, a recorded release of the acreage covered by the application.

(6) If the application is for the cancellation of the entire lease or the entire undivided portion, that he surrender the lease: *Provided,* That where the application is made by an assignee to whom no copy of the lease was delivered, he will be required to surrender only his copy of the assignment.

(7) If the lease (or portion being surrendered or canceled) is owned in undivided interests by more than one party, then all parties shall join in the application for cancellation.

(8) That all required fees and papers must be in the mail or received on or before the date upon which rents and royalties become due, in order for the lessee and his surety to be relieved from liability for the payment of such royalties and rentals.

(9) If there has been a contest respecting a lease or leases, the approved, the disapproved, or the canceled parts thereof will be held in the office of the superintendent for 5 days after the Department's decision has been promulgated, by mail or delivery, and will not be delivered, if within that period a motion for review and reconsideration be filed, until such motion is passed upon by the Department.

(10) In the event oil or gas is being drained from the leased premises by wells not covered by a lease; the lease, or any part of it, may be surrendered, only on such terms and conditions as the Secretary of the Interior may determine to be reasonable and equitable.

(c) No part of any advance rental shall be refunded to the lessee nor shall he be relieved, by reason of any subsequent surrender or cancellation of the lease, from the obligation to pay said advance rental when it becomes due.

§ 171.27a *Prospecting permits.* With the consent of the tribal authorities the superintendent may issue permits to prospect for minerals other than oil and gas upon tribal lands. Such permits must describe the area to be prospected and definitely state the period of time within which such work is permitted. No ores shall be removed from the reservation under such permits, except samples for assay and experimental purposes. A prospecting permit will not give the permittee any preference right to a lease, unless specifically so stated in the permit, and all permits granting a preference right to a lease must comply with all the laws and regulations applicable to mineral leases on tribal Indian lands.

§ 171.28 *Effective date of regulations.* The regulations in this part shall become effective and in full force from and after the date of approval, and shall be subject to change or alteration at any time by the Secretary of the Interior: *Provided,* That no regulations made after the approval of any lease shall operate to affect the term of the lease, rate of royalty, rental, or acreage unless agreed to by both parties to the lease. All former regulations governing the leasing of tribal lands for mining purposes are superseded by the regulations in this part.

§ 171.29 *Exemption of leases made by organized tribes.* The regulations in this part may be superseded by the provisions of any tribal constitution, bylaw or charter issued pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U. S. C. 461–479), the Alaska Act of May 1, 1936 (49 Stat. 1250; 48 U. S. C. 362, 358a), or the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967; 25 U. S. C., and Sup., 501–509), or by ordinance, resolution or other action authorized under such constitution, bylaw or charter. The regulations in this part, in so far as they are not so superseded, shall apply to leases made by organized tribes if the validity of the lease depends upon the approval of the Secretary of the Interior.

§ 171.30 *Forms.* Applications, leases, and other papers must be upon forms prescribed by the Secretary of the Interior, and the superintendent will furnish prospective lessees with such forms at a cost of ten cents each or $1 per set.

Form 5–154a.	Lessee's bond supported by Government securities.
Form 5–157.	Oil and gas mining lease—(tribal Indian lands).
Form 5–157b.	Mining lease—tribal Indian lands (minerals other than oil and gas).
Form 5–157c.	Bond for separate leases.
Form 5–154d.	Evidence of authority of officers to execute papers.
Form 5–157e.	Assignment.
Form 5–157f.	Collective bond.
Form 5–157g.	Stipulation.

Moneys received from the sale of forms should be deposited as miscellaneous receipts to the credit of receipt account 145060 "Sale of Forms" unless the expense of printing the forms was paid from tribal moneys, in which event, the receipts from the sale of the forms should be deposited to the credit of the tribe.

PART 172—LEASING ALLOTTED LANDS FOR MINING

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AUTHORITY: §§ 172.1 to 172.33 issued under 35 Stat. 783, as amended; 25 U. S. C. 396. Statutory provisions interpreted or applied are cited to text in parentheses.

§ 172.1 *Definitions.* (a) The term "superintendent" in this part refers to the superintendent or other officer of the Bureau of Indian Affairs or of the Government who may have jurisdiction over the allotments involved.

(b) The term "supervisor" in this part refers to a representative of the Secretary of the Interior, under direction of the Director of the United States Geological Survey, authorized and empowered to supervise and direct operations under oil and gas or other mining leases, to furnish scientific and technical information and advice, to ascertain and record the amount and value of production, and to determine and record rentals and royalties due and paid.

CROSS REFERENCE: For rules and regulations of the Geological Survey, see 30 CFR Chapter II.

§ 172.2 *Applications.* Applications for leases should be made to the superintendent having jurisdiction over the lands.

§ 172.3 *No leases made to Government employees.* No lease, assignment thereof, or interest therein will be approved to any employee or employees of the United States Government whether connected with the Bureau or otherwise, and no employee of the Interior Department shall be permitted to acquire any interest in such leases by ownership of stock in corporations having leases or in any other manner.

(R. S. 2078; 25 U. S. C. 68)

§ 172.4 *Sale of oil and gas leases.* (a) At such times and in such manner as he may deem appropriate, the superintendent shall publish notices at least thirty days prior to the sale, unless a shorter period is authorized by the Commissioner of Indian Affairs, that oil and gas leases on specific tracts, each of which shall be in a reasonably compact body, will be offered to the highest responsible bidder for a bonus consideration, in addition to stipulated rentals and royalties. Each bid must be accompanied by a cashier's check, certified check, or postal money order, payable to the payee designated in the invitation to bid, in an amount not less than 25 percent of the bonus bid. Within 30 days after notification of being the successful bidder, said bidder must remit the balance of the bonus, the first year's rental, and his share of the advertising costs, and shall file with the superintendent the lease in completed form. The superintendent may, for good and sufficient reasons, extend the time for the completion and submission of the lease form, but no extension shall be granted for remitting balance of monies due. If the successful bidder fails to pay the full consideration within said period, or fails to file the completed lease within said period or extension thereof, or if the lease is disapproved through no fault of the lessor or the Department of the Interior, 25 percent of the bonus bid will be forfeited for the use and benefit of the Indian lessor.

(b) All notices or advertisements of sales of oil and gas leases shall reserve to the Secretary of the Interior the right to reject all bids when in his judgment the interests of the Indians will be best served by so doing, and that if no satisfactory bid is received, or if the accepted bidder fails to complete the lease, or if the Secretary of the Interior shall determine that it is unwise in the interests of the Indians to accept the highest bid, the Secretary may readvertise such lease for sale, or if deemed advisable, with the consent of the Indian owners, a lease may be made by private negotiations. The successful bidder or bidders will be required to pay his or their share of the advertising costs. Amounts received from unsuccessful bidders will be returned; but when no bid is accepted on a tract, the costs of advertising will be assessed against the applicant who requested that said tract be advertised.

§ 172.5 *Execution of leases for incompetents.* The superintendent shall execute leases on behalf of allottees who are incompetent by reason of mental incapacity, and of minor allottees, except such persons for whom guardians have been appointed, in accordance with tribal constitutions which provide for the appointment of guardians.

§ 172.6 *Leases for minerals other than oil and gas.* Leases for minerals other than oil and gas shall be advertised for bids as prescribed in § 172.4 unless the Commissioner grants to the Indian owners written permission to negotiate for a lease. Negotiated leases, accompanied by proper bond and other supporting papers, shall be filed with the Superintendent of the appropriate Indian Agency within 30 days after such permission shall have been granted by the Commissioner to negotiate the lease. The appropriate Area Director is authorized in proper cases to grant a reasonable extension of this period prior to its expiration. The right is reserved to the Secretary of the Interior to direct that negotiated leases be rejected and that they be advertised for bids. All leases shall be approved by the Secretary of the Interior or his duly authorized representative (35 Stat. 783; 25 U. S. C. 396).

§ 172.7 *Requirements of corporate lessees.* If the applicant for lease is a corporation it shall file evidence of authority of its officers to execute papers, and with its first application it shall also file:

(a) A certified copy of its articles of incorporation, and, if foreign to the State in which the lands are located, evidence showing compliance with the corporation laws thereof.

(b) Lists of officers, principal stockholders, and directors, with post-office addresses and number of shares held by each.

(c) A sworn statement of the proper officer showing:

(1) The total number of shares of the capital stock actually issued and the amount of cash paid into the treasury on each share sold; or, if paid in property, the kind, quantity, and value of the same paid per share.

(2) Of the stock sold, how much remains unpaid and subject to assessment.

(3) The amount of cash the company has in its treasury and elsewhere.

(4) The property, exclusive of cash, owned by the company and its value.

(5) The total indebtedness of the company and the nature of its obligations.

§ 172.8 *Information; corporate lessees and stockholders.* Statements of changes in officers and stockholders shall be furnished by a corporation lessee to the superintendent on January 1 of each year, and at such other times as may be requested. Affidavits may also be required of individual stockholders at any time, setting forth in what corporations or with what persons, firms, or associations such individual stockholders are interested in mining leases of restricted Indian lands within the State, and whether they hold such interests for themselves or in trust.

§ 172.9 *Leases of undivided inherited lands.* (a) If the allottee is deceased and the heirs to or devisees of any interest in the allotment have not been determined, or, if determined, some or all of them cannot be located, mining leases of such interests may be executed by the Superintendent, provided that such leases have been offered for sale to the highest responsible qualified bidder, at public auction, or on sealed bids, after at least 30 days notice and advertisement unless a shorter period is authorized by the Commissioner of Indian Affairs.

(b) If the heirs include a life tenant, the lease must be accompanied by an agreement between such life tenant and the remaindermen, providing for the division of the rents and royalties subject to approval of the Commissioner of Indian Affairs or his authorized representative.

CROSS REFERENCE: For regulations relating to the establishment of heirship, see Part 15 of this chapter.

§ 172.10 *Bonds.* The provisions of § 172.6 of this subchapter, or as hereafter amended, are applicable to leases under this part.

§ 172.11 *Additional information.* The superintendent may, either before or after approval of a lease, call for any additional information desired to carry out the regulations in this part. If a lessee shall fail to furnish the papers necessary to put his lease and bond in proper form for consideration, the superintendent shall forward such lease for disapproval.

§ 172.12 *Term of leases.* The provisions of § 171.10 of this subchapter, as amended, are applicable to leases under this part.

§ 172.13 *Acreage limitation.* The provisions of § 171.9, of this subchapter, as amended, are applicable to leases under this part.

§ 172.14 *Payment of rentals and royalties.* (a) Except as provided in paragraphs (b), (d) and (f) of this section, all rents, royalties and other payments due under leases which have been or may be approved in accordance with this part shall be paid by check or bank draft to the order of the Treasurer of the United States and transmitted through the supervisor to the Superintendent for deposit to the credit of the various lessors. When lessees and purchasers are instructed, in writing, by the Superintendent, which instructions shall be complete as to lessors for each lease, separate remittances for each payment due each lessor shall be made to the Superintendent. Any payments under this paragraph, covering lands or interests therein from which supervision by the Secretary of the Interior has been relinquished may continue to be made in the manner provided by this paragraph until ten days after notice of such relinquishment of supervision has been mailed to the lessee.

(b) The Superintendent may, in his discretion, whenever it appears to be in the best interest of any lessor, authorize and direct the lessee to pay directly to the lessor, the legal guardian of any lessor under guardianship, or to the parent of any minor, the rents, royalties and other payments due under leases which have been or may be approved in accordance with the regulations in this part. Any such authority for direct payment shall be in writing, addressed to the owner or owners of the lease, and shall expressly provide for its revocation or modification at any time, in writing, by the Superintendent, and shall either name a bank to receive deposit of such payments, or shall give the mailing address of each lessor. Written authorization for direct payment and written revocations or modifications thereof shall become a part of the lease and shall be distributed as in the case of original leases. All such revocations or modifications shall have a 5-day grace period after date of receipt. Rents, royalties, and other payments paid in accordance therewith shall constitute full compliance with the requirements of the lease pertaining to such payments.

(c) Rents and royalties paid pursuant to paragraphs (a) and (b) of this section on producing leases shall be supported by statements acceptable to the Secretary or his duly authorized representative, to be transmitted to the Supervisor, in duplicate, covering each lease, identified by contract number and lease number. Such statements shall show the specific items of rents or royalties for which remittances are made, shall identify each remittance by the remittance number, date, amount, and name of each payee, shall show the total amount of royalties or rental paid, and shall be supported by a copy of the purchaser's settlement or pipeline statement for each lease under which royalties are paid.

(d) Rents paid on nonproducing leases pursuant to paragraphs (a) and (b) of this section shall be supported by a statement, acceptable to the Superintendent, to be transmitted to the Superintendent covering each lease, identified by contract number and lease number. Each remittance shall be identified by the remittance number, date, amount, name of each payee, and dates of mailing of remittances. Date of mailing, or, if remittance is sent by registered mail, the date of registration receipts covering remittances mailed, shall be considered as date of payment.

(e) In the event of the discovery of minerals in paying quantities all advance payments shall be allowed as credit on stipulated royalties for the year for which the payment is made. No refund will be made under oil, gas, or other mining leases, in the event the royalty on production for any year is not sufficient to equal the advance payment for that year, nor will any part of the moneys so paid be refunded to the lessee because of any subsequent surrender or cancellation of the lease, nor shall the lessee be relieved from the obligations to pay said advance rental annually when it becomes due by reason of any subsequent surrender or cancellation of the lease.

(f) For leases other than oil and gas, all advance rental for the first year shall be paid to the Superintendent at the time of filing the lease, and the amounts so paid shall be and become the property of the lessor if the lease be disapproved because of the lessee's failure to meet the requirements of the law or the regulations in this part, or because of any other fault or defect chargeable to the lessee.

§ 172.15 *Annual rentals and expenditures for development on leases other than oil and gas.* The provisions of § 171.14 of this subchapter, as amended, are applicable to leases other than oil and gas under this part.

(Secs. 16, 17, 48 Stat. 987, 988, sec. 9, 49 Stat. 1968, sec. 4, 52 Stat. 348; 25 U. S. C. 396d, 476, 477, 509)

§ 172.16 *Rentals and royalties for oil and gas leases.* The lessee shall pay, beginning with the date of approval of oil and gas leases by the Secretary of the Interior, a rental of $1.25 per acre per annum in advance during the continuance thereof, the rental so paid for any one year to be credited on the royalty for that year, together with a royalty of 12½ percent of the value or amount of all oil, gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and saved from the land leased save and except oil, and/or gas used by the lessee for development and operation purposes on the lease, which oil or gas shall be royalty free. A higher rate of royalty may be fixed by the Secretary of the Interior or his authorized representative, prior to the advertisement of land for oil and gas leases. During the period of supervision, "value" for the purposes of the lease may, in the discretion of the Secretary, be calculated on the basis of the highest price paid or offered (whether calculated on the basis of short or actual volume) at the time of

production for the major portion of the oil of the same gravity, and gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and sold from the field where the leased lands are situated, and the actual volume of the marketable product less the content of foreign substances as determined by the oil and gas supervisor. The actual amount realized by the lessee from the sale of said products may, in the discretion of the Secretary of the Interior, be deemed mere evidence of or conclusive evidence of such value. When paid in value, such royalties shall be due and payable monthly on the last day of the calendar month following the calendar month in which produced; when royalty on oil produced is paid in kind, such royalty oil shall be delivered in tanks provided by the lessee on the premises where produced without cost to the lessor unless otherwise agreed to by the parties thereto, at such time as may be required by the lessor. The lessee shall not be required to hold such royalty oil in storage longer than 30 days after the end of the calendar month in which said oil is produced. The lessee shall be in no manner responsible or held liable for loss or destruction or such oil in storage caused by acts of God. All rental and royalty payments, except as provided in sections 4 (c) and 8 (a) of the lease (Form 5–154h, revised April 24, 1935), shall be made by check or draft drawn on a solvent bank, open for the transaction of business on the day the check or draft is issued, to the order of the Superintendent. Except the advance rental for the first year, which, as provided in § 172.14 shall be paid to the superintendent when the lease is filed, payments shall be transmitted through the oil and gas supervisor, shall be accompanied by a statement by the lessee, in triplicate, showing the specific items of rental or royalty that the remittance is intended to cover, and shall be made at such times as the lease provides. In determining the value for royalty purposes of products, such as natural gasoline, that are derived from treatment of gas, a reasonable allowance for the cost of manufacture shall be made, such allowance to be two-thirds of the value of the marketable product unless otherwise determined by the Secretary of the Interior on application of the lessee or on his own initiative, and that royalty will be computed on the value of gas or casing-head gas, or on the products thereof (such as residue gas, natural gasoline, propane, butane, etc.), whichever is the greater.

§ 172.17 *Preference of Government to purchase oil.* In time of war or other public emergency any of the executive departments of the United States Government shall have the option to purchase at the highest posted market price on the date of sale all or any part of the oil produced under any lease.

§ 172.18 *Royalty rates for minerals other than oil and gas.* Unless otherwise authorized by the Commissioner of Indian Affairs, the minimum rates for minerals other than oil and gas shall be as follows:

(a) For substances other than gold, silver, copper, lead, zinc, tungsten, coal, asphaltum and allied substances, oil, and gas, the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 percent of the value, at the nearest shipping point, of all ores, metals, or minerals marketed.

(b) For gold and silver the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 percent to be computed on the value of bullion as shown by mint returns after deducting forwarding charges to the point of sale; and for copper, lead, zinc, and tungsten, a royalty of not less than 10 percent to be computed on the value of ores and concentrates as shown by reduction returns after deducting freight charges to the point of sale. Duplicate returns shall be filed by the lessee with the Superintendent within 10 days after the ending of the quarter or other period specified in the lease within which such returns are made: *Provided, however,* That the lessee shall pay a royalty of not less than 10 percent of the value of the ore or concentrates sold at the mine unless otherwise provided in the lease.

(c) For coal the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 cents per ton of 2,000 pounds of mine run, or coal as taken from the mine, including what is commonly called "slack."

(d) For asphaltum and allied substances the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 cents per ton of 2,000 pounds on crude material or not less than 60 cents per ton on refined substances.

§ 172.19 *Payment of royalties by purchasers of oil; division orders.* (a) Lessees may make arrangement with the purchasers of oil for the payment of the royalties to the superintendent of such purchasers, but such arrangement, if made, shall not operate to relieve a lessee from responsibility should the purchaser fail or refuse to pay royalties when due. Where lessees avail themselves of this privilege, division orders permitting the pipe line companies or other purchasers of the oil to withhold the royalty interest shall be executed and forwarded to the oil and gas supervisor for approval, as pipe line companies are not permitted to accept or run oil from leased Indian lands until after the approval of a division order showing that the lessee has a lease regularly approved and in effect. The right is reserved for the oil and gas supervisor to cancel a division order at any time or require the pipe line company to discontinue to run the oil of any lessee who fails to operate the lease properly or otherwise violates the provisions of the lease, of the regulations in this part, or of the operating regulations.

(b) Lessee or his representative shall actually be present when oil taken under division orders is run by pipe line companies and lessee shall be responsible for the correct measurement and report of oil so run; otherwise the approval of division order may be revoked.

CROSS REFERENCE: For oil and gas operating regulations of the Geological Survey, see 30 CFR Part 221.

§ 172.20 *Time of royalty payments.* Royalty payments on all leases shall be made monthly, on or before the last day of the calendar month following the calendar month for which such payment is to be made.

§ 172.21 *Stipulations.* The lessee under any lease heretofore approved may, by stipulation (Form 5–154i), with the consent of the lessor and the approval of the Secretary of the Interior make such approved lease subject to all the terms, conditions, and provisions contained in the regulations in this part and in the lease form currently in use.

§ 172.22 *Assignments.* (a) Leases hereafter approved, or any interest therein, may be assigned or transferred only with the approval of the Secretary of the Interior, and to procure such approval the assignee must be qualified to hold such lease under existing rules and regulations, and shall furnish a satisfactory bond for the faithful performance of the covenants and conditions thereof.

(b) No lease or any interest therein or the use of such lease shall be assigned, sublet, or transferred, directly or indirectly, by working or drilling contract, or otherwise, without the consent of the Secretary of the Interior.

(c) Assignments of leases and stipulations modifying the terms of existing leases shall be filed with the superintendent within 30 days after the date of execution.

§ 172.23 *Cancellations.* (a) A lease will be cancelled by the Secretary of the Interior for good cause upon application of the lessor or lessee, or if at any time the Secretary is satisfied that the provisions of the lease or of any regulations heretofore or hereafter prescribed have been violated. When the lessee applies for cancellation he must, before the same will be considered, pay a surrender fee of $1 and all royalties and rents due to the date of completion of such application, surrender all parts of the lease actually delivered to him, and furnish a duly recorded release of the acreage covered by the application if the lease thereon has been recorded: *Provided,* That where the application is made by an assignee to whom no copy of the lease was delivered he will be required to surrender only his copy of the assignment.

(b) If the lease is owned in undivided interests by more than one person, firm, or corporation all shall join in the application for cancellation.

(c) All required fees and papers must be at least in the mail on or before the date upon which rents and royalties become due in order for the lessee and his surety to be relieved from liability for the payment thereof.

(d) If there has been a contest respecting a lease or leases, the approved, disapproved or cancelled parts thereof will be held in the office of the superintendent for 5 days after promulgation by him, by mailing or delivery of the department's decision, and will not be delivered if within that period a motion for review or reconsideration be filed until such motion is passed upon by the department.

(e) No part of any advance rentals shall be refunded to the lessee, nor shall

he be relieved from his obligation to pay rentals annually when due by reason of any subsequent surrender or cancellation of the lease. Upon cancellation of a lease the lessor shall be entitled to take immediate possession of the land.

§ 172.24 *Operation and development regulations.* (a) Lessees will be required to carry out and observe the operating regulations now or hereafter in force governing oil and gas operations on restricted Indian lands. Operations will not be permitted under any lease requiring approval of the Secretary of the Interior until the approved lease has been delivered.

(b) All leases issued under the provisions of the regulations in this part shall be subject to imposition by the Secretary of such restrictions as to time or times for the drilling of wells and as to the production from any well or wells as in his judgment may be necessary or proper for the protection of the natural resources of the leased land and in the interests of the Indian lessor. In the exercise of his judgment the Secretary may take into consideration among other things the Federal laws, State laws or regulations by competent Federal or State authorities or lawful agreements among operators regulating either drilling or production or both, and also any regulatory action desired by tribal authorities.

(c) All leases issued pursuant to the regulations in this part shall be subject to a co-operative or unit development plan affecting the leased lands if and when required by the Secretary of the Interior.

§ 172.25 *Inspection of books and accounts.* Lessees shall agree to allow the lessors and their agents or any authorized representative of the Interior Department to enter, from time to time, upon and into all parts of the leased premises for the purposes of inspection, and shall further agree to keep a full and correct account of all operations and make reports thereof, as required by the regulations of the Department governing operations on public and restricted Indian lands; and their books and records showing manner of operations and persons interested shall be open at all times for examination of such officers of the department as shall be instructed in writing by the Secretary of the Interior or authorized by regulations to make such examinations.

§ 172.26 *Leases on unrestricted lands.* All leases of any description whatever executed by an allottee on land from all of which the restrictions against alienation had been removed before such execution may be executed without any provision for reference to or supervision by the Secretary of the Interior or any official of the Department of the Interior; and the superintendent shall refuse to accept for consideration any lease covering land from all of which restrictions had been removed before such execution.

§ 172.27 *Leases executed before removal of restrictions.* All leases executed before the removal of restrictions against alienation on land from all of which restrictions against alienation shall be removed after such execution, if such leases contain specific provision or approval by the Secretary of the Interior, whether now filed with the Department of the Interior or presented for consideration hereafter, will be considered and acted upon by the Department as heretofore.

§ 172.28 *Removal of restrictions.* (a) Oil and gas leases heretofore or hereafter approved and leases for other minerals now or hereafter in force on land from all of which restrictions against alienation have been or shall be removed, even if such leases contain provisions authorizing supervision by the Department, shall, after such removal of restrictions against alienation, be operated entirely free from such supervision, and the authority and power delegated to the Secretary of the Interior in said leases shall cease, and all payments required to be made to the superintendent shall thereafter be made to lessor or the then owner of said land; and changes in regulations thereafter made by the Secretary of the Interior applicable to oil and gas leases shall not apply to such leased land from which said restrictions are removed.

(b) In the event restrictions are removed from a part of the land included in any lease to which this section applies the entire lease shall continue subject to the supervision of the Secretary of the Interior, and all royalties thereunder shall be paid to the superintendent until such time as the lessor and lessee shall furnish the Secretary of the Interior satisfactory information that adequate arrangements have been made to account for the oil, gas, or mineral upon the restricted land separately from that upon the unrestricted. Thereafter the restricted land only shall be subject to the supervision of the Secretary of the Interior: *Provided,* That the unrestricted portion shall be relieved from such supervision as in the lease or regulations provided.

§ 172.29 *Terms applying after relinquishment.* Sections 8 and 9 of the approved oil and gas lease (Form 5–154h, as revised Apr. 24, 1935) relative to relinquishment of supervision and terms operative after such relinquishment, read as follows:

8. Relinquishment of supervision by the Secretary of the Interior. Should the Secretary of the Interior, at any time during the life of this instrument, relinquish supervision as to all or part of the acreage covered hereby, such relinquishment shall not bind lessee until said Secretary shall have given 30 days' written notice. Until said requirements are fulfilled, lessee shall continue to make all payments due hereunder as heretofore in section 3 (c). After notice of relinquishment has been received by lessee, as herein provided, this lease shall be subject to the following further conditions:

(a) All rentals and royalties thereafter accruing shall be paid in the following manner: Rentals and royalties shall be paid to lessor or his successors in title, or to a trustee appointed under the provisions of section 9 hereof. Rentals and royalties shall be paid directly to lessor or his successors in title, or to said trustee as the case may be.

(b) If, at the time supervision is relinquished by the Secretary of the Interior, lessee shall have made all payments then due hereunder, and shall have fully performed all obligations on its part to be performed up to the time of such relinquishment, then the bond given to secure the performance hereof, on file in the Indian Office, shall be of no further force or effect.

(c) Should such relinquishment affect only part of the acreage, then lessee may continue to drill and operate the land covered hereby as an entirety: *Provided,* That lessee shall pay in the manner prescribed by section 3 (c), for the benefit of lessor such proportion of all rentals and royalties due hereunder as the acreage retained under the supervision of the Secretary of the Interior bears to the entire acreage of the lease, the remainder of such rentals and royalties to be paid directly to lessor or his successors in title or said trustee as the case may be, as provided in subdivision (a) of this section.

9. Division of fee. It is covenanted and agreed that should the fee of said land be divided into separate parcels, held by different owners, or should the rental or royalty interests hereunder be so divided in ownership, after the execution of this lease and after the Secretary of the Interior relinquishes supervision hereof, the obligations of lessee hereunder shall not be added to or changed in any manner whatsoever save as specifically provided by the terms of this lease. Notwithstanding such separate ownership, lessee may continue to drill and operate said premises as an entirety: *Provided,* That each separate owner shall receive such proportion of all rentals and royalties accruing after the vesting of his title as the acreage of the fee, or rental or royalty interest, bears to the entire acreage covered by the lease; or to the entire rental and royalty interest as the case may be: *Provided further,* That if, at any time after departmental supervision hereof is relinquished, in whole or in part, there shall be four or more parties entitled to rentals or royalties hereunder, whether said parties are so entitled by virtue of undivided interests or by virtue of ownership of separate parcels of the land covered hereby, lessee at his election may withhold the payment of further rentals or royalties (except as to the portion due the Indian lessor while under restriction), until all of said parties shall agree upon and designate in writing and in a recordable instrument a trustee to receive all payments due hereunder on behalf of said parties and their respective successors in title. Payments to said trustee shall constitute lawful payments hereunder, and the sole risk of an improper or unlawful distribution of said funds by said trustee shall rest upon the parties naming said trustee and their respective successors in title.

These, or similar provisions, will be contained in all leases.

§ 172.30 *Removal of restrictions upon part of acreage.* Should the removal of restrictions affect only part of the acreage covered by an oil and gas lease containing provisions to the effect that the royalties accruing under the lease, where the fee is divided into separate parcels, shall be paid to each owner in the proportion which his acreage bears to the entire acreage covered by the lease, the lessee or assignee of such unrestricted portion will be required to make the reports required by the regulations in this part and the operating regulations with respect to the beginning of drilling operations, completion of wells, and production, the same as if the restrictions had not been removed. In the event the unrestricted portion of the leased premises is producing, the owners of the lease thereon will be required to pay the portion of the royalties due the Indian lessor at the time and in the manner specified by the regulations in this part.

§ 172.31 *Fees.* A fee of $5 is required upon approval of each lease, sublease, or assignment. This fee shall be paid at the time of filing the lease, sublease, or assignment, and will be refunded in case the instrument is disapproved.

(Sec. 1, 41 Stat. 415, as amended; 25 U. S. C. 413)

§ 172.32 *Forms.* The forms prescribed for use in connection with the regulations in this part are designated as follows, and may be obtained from the superintendent at a cost of 10 cents each:

5–154. Lease for minerals, other than oil and gas.
5–154a. Lessee's personal bond supported by Government securities.
5–154b. Bond for separate leases.
5–154d. Authority of officers to execute papers.
5–154e. Assignment.
5–154f. $15,000 collective bond.
5–154g. Affidavit of personal surety to accompany bonds.
5–154h. (Revised Apr. 24, 1935.) Oil and gas lease.

§ 172.33 *Individual tribal assignments excluded.* The reference in this part to "allottees" and "allotments" does not include assignments of tribal lands made pursuant to tribal constitutions for the use of individual Indians and assignees of such lands; but such tribal assignments may be leased by Indians to whom mineral rights have been so assigned, subject to the terms of the tribal constitution and subject to the approval of the Secretary of the Interior for such periods of time as are authorized by existing law. In the leasing of such lands preference will be given to Indian cooperative associations and to individual Indians.

(Secs. 16, 17, 48 Stat. 987, 988; 25 U. S. C. 476, 477)

PART 173—LEASING OF LANDS IN CROW INDIAN RESERVATION, MONT., FOR MINING

Sec.
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AUTHORITY: §§ 173.1 to 173.29 issued under sec. 6, 41 Stat. 753, sec. 6, 44 Stat. 659. Statutory provisions interpreted or applied are cited to text in parentheses.

CROSS REFERENCE: For regulations governing mining leases on tribal lands, Spokane Reservation, see Part 171 of this chapter.

§ 173.1 *Definitions.* (a) The term "superintendent" in this part refers to the superintendent or other officer of the Bureau of Indian Affairs or of the Government who may have jurisdiction over the Crow Reservation.

(b) The term "supervisor" in this part refers to a representative of the Secretary of the Interior, under direction of the Director of the United States Geological Survey, authorized and empowered to supervise and direct operations under oil and gas or other mining leases, to furnish scientific and technical information and advice, to ascertain and record the amount and value of production, and to determine and record rentals and royalties due and paid.

CROSS REFERENCE: For rules and regulations of the Geological Survey, see 30 CFR Chapter II.

§ 173.2 *Employee restrictions.* No lease, assignment thereof, or interest therein will be approved to any employee or employees of the United States Government whether connected with the Bureau or otherwise, and no employee of the Interior Department shall be permitted to acquire any interest in such leases by ownership of stock in corporations having leases or in any other manner.

(R. S. 2078; 25 U. S. C. 68)

§ 173.3 *Requests for sales.* No oil and gas lease on the Crow Reservation will be offered until the Crow tribal council shall have passed a resolution requesting the Secretary of the Interior to lease the land for mining purposes. Should any person, firm, or corporation desire to have any particular tract of land offered for lease, written request to that effect should be submitted to the superintendent in order that such tract may, if deemed advisable, upon the request of the Crow tribal council, be included in the next advertisement of leases.

§ 173.4 *Lease sales.* (a) At such times and in such manner as he may deem appropriate, the superintendent shall publish notices at least thirty days prior to the sale, unless a shorter period is authorized by the Commissioner of Indian Affairs, that mineral leases on specific tracts, each of which shall be in a reasonably compact body, will be offered to the highest responsible bidder for a bonus consideration, in addition to stipulated rentals and royalties. Each bid must be accompanied by a cashier's check, certified check, or postal money order, payable to the payee designated in the invitation to bid, in an amount not less than 25 percent of the bonus bid. Within 30 days after notification of being the successful bidder, said bidder must remit the balance of the bonus, the first year's rental, and his share of the advertising costs, and shall file with the superintendent the lease in completed form. The superintendent may, for good and sufficient reasons, extend the time for the completion and submission of the lease form, but no extension shall be granted for remitting the balance of monies due. If the successful bidder fails to pay the full consideration within said period, or fails to file the completed lease within said period or extension thereof, or if the lease is disapproved through no fault of the lessor or the Department of the Interior, 25 percent of the bonus bid will be forfeited for the use and benefit of the Indian lessor.

(b) All notices or advertisements of sales of mineral leases shall reserve to the Secretary of the Interior the right to reject all bids when in his judgment the interests of the Indians will be best served by so doing, and that if no satisfactory bid is received, or if the accepted bidder fails to complete the lease, or if the Secretary of the Interior shall determine that it is unwise in the interests of the Indians to accept the highest bid, the Secretary may readvertise such lease for sale, or if deemed advisable, with the consent of the tribal council or other governing tribal authorities, a lease may be made by private negotiations. The successful bidder or bidders will be required to pay his or their share of the advertising costs. Amounts received from unsuccessful bidders will be returned; but when no bid is accepted on a tract, the costs of advertising will be assessed against the applicant who requested that said tract be advertised.

§ 173.5 *Requirements of corporations.* If the applicant for a lease is a corporation, it shall file evidence of authority of its officers to execute papers; and with its first application it shall also file a certified copy of its articles of incorporation, and, if foreign to the State in which the lands are located, evidence showing compliance with the corporation laws thereof.

The superintendent may at his discretion require a corporation applicant or lessee to file:

(a) Lists of officers, principal stockholders, and directors, with post-office addresses and number of shares held by each.

(b) A sworn statement of the proper officer showing:

(1) The total number of shares of the capital stock actually issued and the amount of cash paid into the treasury on each share sold; or, if paid in property, the kind, quantity, and value of the same paid per share.

(2) Of the stock sold, how much remains unpaid and subject to assessment.

(3) The amount of cash the company has in its treasury and elsewhere.

(4) The property, exclusive of cash, owned by the company and its value.

(5) The total indebtedness of the company and the nature of its obligations.

(6) Whether the applicant or any person controlling, controlled by or un-

der common control with the applicant has filed any registration statement, application for registration, prospectus or offering sheet with the Securities and Exchange Commission pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934 or said Commission's rules and regulations under said acts; if so, under what provision of said acts or rules and regulations; and what disposition of any such statement, application, prospectus or offering sheet has been made.

(c) Statements of changes in officers and stockholders.

(d) Affidavits of individual stockholders, setting forth in what corporations or with what persons, firms, or associations such individual stockholders are interested in mining leases on restricted lands within the State, and whether they hold such interests for themselves or in trust.

CROSS REFERENCE: For rules and regulations of the Securities and Exchange Commission, see 17 CFR Chapter II.

§ 173.6 *Requirements of unincorporated applicants.* Unincorporated applicants shall file such information relative to financial standing and ability to proceed with the development of a lease as the Department of the Interior, through the superintendent of the Crow Indian Agency, may require.

§ 173.7 *Bonds.* The provisions of § 171.6 of this subchapter, or as hereafter amended, are applicable to leases under this part.

§ 173.8 *Additional information.* The superintendent may, either before or after approval of a lease, call for any information necessary to carry out the regulations in this part; failure of the lessee to furnish such information or to furnish the papers to put his lease and bond in proper form, will be deemed sufficient reason for disapproval or cancellation, whichever is appropriate, of the lease.

§ 173.9 *Renewals.* Leases shall be made for a period not longer than ten years, but lessees may have the right of renewal thereof for a further period of 10 years upon such terms and conditions as the Secretary of the Interior may prescribe and agreed to by the tribal council. Applications for renewals of leases shall be made not later than 60 days prior to the date of expiration of the original lease.

§ 173.10 *Lease acreage.* The provisions of § 171.9 of this subchapter, or as hereafter amended, are applicable to leases under this part.

§ 173.11 *Wells.* The lessee shall agree (a) to drill and produce all wells necessary to offset or protect the leased land from drainage by wells on adjoining lands not the property of the lessor, or in lieu thereof, compensate the lessor in full each month for the estimated loss of royalty through drainage: *Provided,* That during the period of supervision by the Secretary of the Interior, the necessity for offset wells shall be determined by the oil and gas supervisor and payment in lieu of drilling and producing shall be with the consent of, and in an amount determined by the Secretary of the Interior; (b) at the election of the lessee to drill and produce other wells: *Provided,* That the right to drill and produce such other wells shall be subject to any system of well spacing or production allotments authorized and approved under applicable law or regulations, approved by the Secretary of the Interior and affecting the field or area in which the leased lands are situated; and (c) if the lessee elects not to drill and produce such other wells for any period the Secretary of the Interior may, within 10 days after due notice in writing, either require the drilling and production of such wells to the number necessary, in his opinion, to insure reasonable diligence in the development and operations of the property, or may in lieu of such additional diligent drilling and production require the payment on and after the first anniversary date of this lease of not to exceed $1 per acre per annum, which sum shall be in addition to any rental or royalty hereinafter specified: *Provided,* That in the event oil or gas is discovered on the leased premises, the lessee shall proceed with all reasonable diligence to develop said premises and extract the oil or gas therefrom and bring same into the market as speedily as possible, unless the extraction and sale thereof be withheld with the consent of the Crow Indian tribal council.

CROSS REFERENCE: For oil and gas operating regulations of the Geological Survey, see 30 CFR Part 221.

§ 173.12 *Diligence and prevention of waste.* The lessee shall exercise reasonable diligence in drilling and operating wells for oil and gas on the lands covered hereby, while such products can be secured in paying quantities; carry on all operations hereunder in a good and workmanlike manner in accordance with approved methods and practice, having due regard for the prevention of waste of oil or gas developed on the land, or the entrance of water through wells drilled by the lessee to the productive sands or oil or gas-bearing strata to the destruction or injury of the oil or gas deposits, the preservation and conservation of the property for future productive operations, and to the health and safety of workmen and employees; plug securely all wells before abandoning the same and to shut off effectually all water from the oil or gas-bearing strata; not drill any well within 200 feet of any house or barn on the premises without the lessor's written consent approved by the superintendent; carry out at his expense all reasonable orders and requirements of the oil and gas supervisor relative to prevention of waste, and preservation of the property and the health and safety of workmen; bury all pipe lines crossing tillable lands below plow depth unless other arrangements therefor are made with the superintendent; pay the lessor all damages to crops, buildings, and other improvements of the lessor occasioned by the lessee's operations: *Provided,* That the lessee shall not be held responsible for delays or casualties occasioned by causes beyond the lessee's control.

§ 173.13 *Payments.* (a) All payments due the lessor shall be made to the superintendent, for the benefit of the lessors, and no credit will be given any lessee for payments made otherwise. Payments of rentals and royalties under oil and gas leases, except the first year's rental which shall be paid to the superintendent as prescribed in § 195.4, shall be transmitted to the superintendent through the oil and gas supervisor. All such payments shall be accompanied by a statement, in triplicate, by the lessee, showing the specific items of royalty or rental that the remittance is intended to cover, and shall be made at such time or times as the lease provides.

(b) In the event of the discovery of minerals in paying quantities, all advance rental and royalty payments will be allowed as credit on stipulated royalties for the year for which the payment is made. In the event the royalty on production for any year is not sufficient to equal the advance rental and royalties for that year, no refund will be made; nor will any part of the moneys so paid be refunded because of any subsequent surrender or cancellation of the lease, nor shall the lessee be relieved, by reason of any subsequent surrender or cancellation of the lease, from the obligation to pay said advance rental and royalty.

§ 173.14 *Royalty rates; oil and gas leases.* The lessee shall pay, beginning with the date of approval of oil and gas leases by the Secretary of the Interior, a rental of $1.25 per acre per annum in advance during the continuance thereof, together with a royalty of 12½ percent of the value or amount of all oil, gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and saved from the land leased, save and except oil, and/or gas used by the lessee for development and operation purposes on the lease, which oil and/or gas shall be royalty free. A higher rate of royalty may be fixed by the Secretary of the Interior or his authorized representative, prior to the advertisement of land for oil and gas leases.

§ 173.15 *Gas for use of lessor.* If the leased premises produce gas in excess of the lessee's requirements for the development and operation of said premises the lessor may use sufficient gas, free of charge, for any desired school or other building belonging to the tribe, by making his own connections to a regulator installed, connected to the well and maintained by the lessee, and the lessee shall not be required to pay royalty on gas so used. The use of such gas shall be as the lessor's risk at all times.

§ 173.16 *Annual payments, statements, and development expenditures on leases other than oil and gas.* (a) Lessees other than oil and gas lessees shall pay on all leases annually in advance for the first calendar year or fraction thereof a rent of 25 cents per acre; for the second and the third years, 50 cents per acre; and for the fourth and each succeeding calendar year, $1 per acre. All sums paid as rental for any one calendar year shall be credited on the first royalties to become due during that year.

(b) On all leases referred to in § 173.10 (a) there shall be expended annually in actual mining operations, development, or improvements upon the land leased, or for the benefit thereof, a sum which, with the annual rental, shall make an amount not less than $5 per acre.

(c) On all leases referred to in § 173.10 (b) there shall be expended annually in actual mining operations, development, or improvements upon the land leased, or for the benefit thereof, a sum which, with the annual rental, shall make an amount not less than $100 for each 160 acres or fraction thereof included in the lease.

(d) On all leases referred to in § 173.10 (c) there shall be expended annually in actual mining operations, development, or improvements upon the land leased, or for the benefit thereof, a sum which, with the annual rental, shall make an amount not less than $10 per acre.

(e) Each lessee shall file with the superintendent an itemized statement in duplicate within 20 days after the close of each calendar year of the amount and character of said expenditure during such year, the statement to be certified under oath by the lessee or his agent having personal knowledge of the facts contained therein.

§ 173.17 *Royalty rates for minerals other than oil and gas.* Unless otherwise authorized by the Commissioner of Indian Affairs, the minimum rates for minerals other than oil and gas shall be as follows:

(a) For substances other than gold, silver, copper, lead, zinc, tungsten, coal, asphaltum and allied substances, oil, and gas, the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 percent of the value, at the nearest shipping point, of all ores, metals, or minerals marketed.

(b) For gold and silver the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 percent to be computed on the value of bullion as shown by mint returns after deducting forwarding charges to the point of sale; and for copper, lead, zinc, and tungsten, a royalty of not less than 10 percent to be computed on the value of ores and concentrates as shown by reduction returns after deducting freight charges to the point of sale. Duplicate returns shall be filed by the lessee with the Superintendent within 10 days after the ending of the quarter or other period specified in the lease within which such returns are made: *Provided, however,* That the lessee shall pay a royalty of not less than 10 percent of the value of the ore or concentrates sold at the mine unless otherwise provided in the lease.

(c) For coal the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 cents per ton of 2,000 pounds of mine run, or coal as taken from the mine, including what is commonly called "slack."

(d) For asphaltum and allied substances the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 cents per ton of 2,000 pounds on crude material or not less than 60 cents per ton on refined substances.

§ 173.18 *Books of sales and receipts open to inspection.* The lessee shall keep books of account showing the amount of ore shipped or oil or other mineral substance sold or treated, and showing also the amount of money received from the sale of ores, oil, etc. The books of the lessee shall be open to inspection, examination, and verification by any officer of the Interior Department assigned to such duty by the Secretary of the Interior, and it is distinctly understood that the duly authorized agents of the Government shall be permitted freely to make transcripts of all the accounts and other books of lessee.

§ 173.19 *Manner of paying royalties.* All royalties or payments due under leases under the regulations in this part shall be made by check or draft drawn on a solvent bank, open for the transaction of business on the day the check or draft is issued, or by other form of suitable exchange, to the order of the superintendent. All such payments except advance rentals for the first year, which, as provided in the regulations in this part, are to be paid to the superintendent at the time the leases are filed, shall be transmitted through the oil and gas supervisor, shall be accompanied by a statement by the lessee, in triplicate, showing the specific terms of rentals or royalty that the remittance is intended to cover and shall be made at such times as the lease provides.

§ 173.20 *Division orders.* (a) Lessees may make arrangements with the purchasers of oil for the payment of the royalties to the superintendent by such purchasers, but such arrangement, if made, shall not operate to relieve a lessee from responsibility should the purchaser fail or refuse to pay royalties when due. Where lessees avail themselves of this privilege, division orders permitting the pipe line companies or other purchasers of the oil to withhold the royalty interest shall be executed and forwarded to the oil and gas supervisor for approval, as pipe line companies are not permitted to accept or run oil from leased Indian lands until after the approval of a division order showing that the lessee has a lease regularly approved and in effect. When the lessee company runs its own oil, it shall execute an intra-company division order and forward it to the oil and gas supervisor for his consideration. The right is reserved for the oil and gas supervisor to cancel a division order at any time or require the pipe line company to discontinue to run the oil of any lessee who fails to operate the lease properly or otherwise violates the provisions of the lease, of the regulations in this part, or of the operating regulations.

(b) When oil is taken by authority of a division order, the lessee or his representative shall be actually present when the oil is gauged and records are made of the temperature, gravity, and impurities. The lessee will be held responsible for the correctness and the correct recording and reporting of all of the foregoing measurements; which, except lowest gauge, shall be made at the time the oil is turned into the pipe line. Failure of the lessee to perform properly these duties will subject the division order to revocation.

CROSS REFERENCE: For oil and gas operating regulations of the Geological Survey, see 30 CFR Part 221.

§ 173.21 *Assignments.* (a) Leases hereafter approved, or any interest therein, may be assigned or transferred only with the approval of the Secretary of the Interior, and to procure such approval the assignee must be qualified to hold such lease under existing rules and regulations, and shall furnish a satisfactory bond for the faithful performance of the covenants and conditions thereof.

(b) No lease or any interest therein or the use of such lease shall be sublet or transferred, directly or indirectly, by working or drilling contract or otherwise, without the consent of the Secretary of the Interior.

(c) Assignments of leases and stipulations modifying the terms of existing leases, which stipulations also require the approval of the Secretary of the Interior, shall be filed with the superintendent within 30 days after the date of execution.

§ 173.22 *Cancellation.* When, before restrictions are removed, in the opinion of the Secretary of the Interior, the lessee has violated any of the terms and conditions of a lease or of the applicable regulations, the Secretary of the Interior shall have the right at any time after 30 days' notice to the lessee specifying the terms and conditions violated, and after a hearing, if the lessee shall so request within 30 days after issuance of the notice, to declare such lease null and void, and the lessor shall then be entitled and authorized to take immediate possession of the land: *Provided,* That after restrictions are removed the lessor shall have and be entitled to any available remedy in law or equity for breach of the contract by the lessee.

On the following conditions, the lessee may, on approval of the Secretary of the Interior, surrender a lease or any part of it:

(a) That he make application for cancellation to the superintendent having jurisdiction over the land.

(b) That he pay a surrender fee of $1 at the time the application is made.

(c) That he pay all royalties and rentals due to the date of such application.

(d) That he make a satisfactory showing that full provision has been made for conservation and protection of the property and that all wells, drilled on the portion of the lease surrendered, have been property abandoned.

(e) If the lease has been recorded, that he file, with his application, a recorded release of the acreage covered by the application.

(f) If the application is for the cancellation of the entire lease or the entire undivided portion, that he surrender the lease: *Provided,* That where the application is made by an assignee to whom no copy of the lease was delivered, he will be required to surrender only his copy of the assignment.

(g) If the lease (or portion being surrendered or canceled) is owned in undi-

vided interests by more than one party, then all parties shall join in the application for cancellation.

(h) That all required fees and papers must be in the mail or received on or before the date upon which rents and royalties become due, in order for the lessee and his surety to be relieved from liability for the payment of such royalties and rentals.

(i) If there has been a contest respecting a lease or leases, the approved, the disapproved, or the canceled parts thereof will be held in the office of the superintendent for 5 days after the Department's decision has been promulgated, by mail or delivery, and will not be delivered, if within that period a motion for review or reconsideration be filed, until such motion is passed upon by the Department.

(j) In the event oil or gas is being drained from the leased premises by wells not covered by a lease, the lease, or any part of it, may be surrendered, only on such terms and conditions as the Secretary of the Interior may determine to be reasonable and equitable.

No part of any advance rental shall be refunded to the lessee nor shall he be relieved, by reason of any subsequent surrender or cancellation of the lease, from the obligation to pay said advance rental when it becomes due.

§ 173.23 *Mines to be timbered properly.* In mining operations the lessee shall keep the mine well and sufficiently timbered at all points where necessary, in accordance with good mining practice and in such manner as may be necessary to the proper preservation of the property leased and safety of the workmen.

§ 173.24 *Lessee and surety held responsible for return of premises in good condition.* On expiration of the term of a lease, or when a lease is surrendered, the lessee shall deliver to the Government the leased ground with the mine workings in good order and condition, and bondsmen will be held for such delivery in good order and condition, unless relieved by the Secretary of the Interior with the consent of the tribal council. It shall, however, be stipulated that the machinery necessary to operate the mine is the property of the lessee, but that it may be removed by him only after the condition of the property has been ascertained, by inspection by the Secretary of the Interior or his authorized agents, to be in satisfactory condition.

§ 173.25 *Wasteful operations not permitted.* The Secretary of the Interior may, in his discretion, cancel any lease if the mining operations are conducted wastefully and without regard to good mining practice.

§ 173.26 *Permission to start operations.* (a) No operations will be permitted on any lease before it is approved by the Secretary of the Interior.

(b) Written permission must be secured from the supervisor before any operations are started on the leased premises. After such permission is secured the operations must be in accordance with the operating regulations promulgated by the Secretary of the Interior. Copies of operating regulations may be secured from either the supervisor or the Superintendent and no operations should be attempted without a study of the operating regulations.

§ 173.27 *Penalties.* Failure of the lessee to comply with any provision of the lease, of the operating regulations, of the regulations in this part, order of the superintendent or his representative, or of the orders of the supervisor or his representative, shall subject the lease to cancellation by the Secretary of the Interior or the lessee to a penalty of not more than $500 per day for each and every day the terms of the lease, the regulations, or such orders are violated; or to both such penalty and cancellation: *Provided,* That the lessee shall be entitled to notice and hearing, within 30 days after such notice, with respect to the terms of the lease, regulations, or orders violated, which hearing shall be held by the supervisor, whose findings shall be conclusive unless an appeal be taken to the Secretary of the Interior within 30 days after notice of the supervisor's decision and the decision of the Secretary of the Interior upon appeal shall be conclusive.

§ 173.28 *Fees.* All leases and assignments shall be executed in sextuplicate and when filed with the superintendent shall be accompanied by a filing fee of $5 which is hereby required pursuant to provisions contained in the act of February 14, 1920, as amended by the act of March 1, 1933 (47 Stat. 1417; 25 U. S. C. 413). This fee will be refunded in case the instrument is disapproved.

(Sec. 1, 41 Stat. 415, as amended; 25 U. S. C. 413)

§ 173.29 *Forms.* (a) Applications, leases, and other papers must be upon forms prescribed by the Secretary of the Interior, and the superintendent will furnish prospective lessees with such forms at a cost of $1 per set.

Form 5–154a. Lessee's bond supported by Government securities.
Form 5–157c. Individual bond.
Form 5–154d. Evidence of authority of officers to execute papers.
Form 5–157e. Assignment.
Form 5–157f. Collective bond.
Form 5–157g. Stipulation modifying terms of oil and gas lease.
Form 5–157h. Crow oil and gas mining lease.
Form 5–157i. Crow mining lease other than oil and gas.

(b) The moneys received from the sale of forms should be deposited as miscellaneous receipts to the credit of the appropriate receipt account.

PART 174—LEASING OF RESTRICTED LANDS OF MEMBERS OF FIVE CIVILIZED TRIBES, OKLAHOMA, FOR MINING

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AUTHORITY: §§ 174.1 to 174.49 issued under sec. 2, 35 Stat. 312, sec. 18, 41 Stat. 426, sec. 1, 45 Stat. 495, sec. 1, 47 Stat. 777; 25 U. S. C. 356. Interpret or apply secs. 3, 11, 35 Stat. 313, 316, sec. 8, 47 Stat. 779. Other statutory provisions interpreted or applied are cited to text in parentheses.

CROSS REFERENCE: For oil and gas operating regulations of the Geological Survey, see 30 CFR Part 221.

§ 174.1 *Definitions.* The term "Area Director" in this part refers to the officer in charge of the Five Civilized Tribes Indian Agency.

The term "supervisor" in this part refers to a representative of the Secretary of the Interior under direction of the Director of the United States Geological Survey, authorized and empowered to

supervise and direct operations under oil and gas or other mining leases, to furnish scientific and technical information and advice, to ascertain and record the amount and value of production, and to determine and record rentals and royalties due and paid.

HOW TO ACQUIRE LEASES

§ 174.2 *Applications for leases.* Applications for leases should be made to the Area Director.

§ 174.3 *No Government employee shall acquire leases.* No lease, assignment thereof, or interest therein will be approved to any employee or employees of the United States Government, whether connected with the Bureau of Indian Affairs or otherwise, and no employee of the Department of the Interior shall be permitted to acquire any interest in such leases covering restricted Indian lands by ownership of stock in corporations having leases or in any other manner.

(R. S. 2078; 25 U. S. C. 68)

§ 174.4 *Sale of oil and gas leases.* (a) At such times and in such manner as he may deem appropriate, the Area Director shall publish notices at least thirty days prior to the sale, unless a shorter period is authorized by the Commissioner of Indian Affairs, that oil and gas leases on specific tracts, each of which shall be in a reasonably compact body, will be offered to the highest responsible bidder for a bonus consideration, in addition to stipulated rentals and royalties. Each bid must be accompanied by a cashier's check, certified check, or postal money order, payable to the payee designated in the invitation to bid, in an amount not less than 25 percent of the bonus bid.

Within 30 days after notification of being the successful bidder, said bidder must remit the balance of the bonus, the first year's rental, and his share of the advertising costs, and shall file with the Area Director the lease in completed form. The Area Director may, for good and sufficient reasons, extend the time for the completion and submission of the lease form, but no extension shall be granted for remitting the balance of monies due. If the successful bidder fails to pay the full consideration within said period, or fails to file the completed lease within said period or extension thereof, or if the lease is disapproved through no fault of the lessor or the Department of the Interior, 25 percent of the bonus bid will be forfeited for the use and benefit of the Indian lessor.

(b) In cases where any part of the bonus bid for a lease is paid directly to the Indian lessor, upon his signing the lease, the lessee must procure and file with the lease an affidavit of the lessor, sworn to before a United States Commissioner, Postmaster, Area Director, local representative of the Area Director, county or district judge, Federal judge or clerk of a Federal court, showing the amount of bonus so paid, and the balance thereof must be paid into the office of the Area Director upon filing the lease. Where possible lessees are requested to take the lessor to the nearest United States field clerk who will render all proper assistance in the execution of leases, and before whom the bonus affidavit may be executed in cases where any part of bonus consideration is paid directly to the lessor. Where leases are executed by guardians, under order of court, the affidavit of lessor may be executed before a notary public.

(c) All notices or advertisements of sales of oil and gas leases shall reserve to the Secretary of the Interior the right to reject all bids when in his judgment the interests of the Indians will be best served by so doing, and that if no satisfactory bid is received, or if the accepted bidder fails to complete the lease, or if the Secretary of the Interior shall determine that it is unwise in the interests of the Indians to accept the highest bid, the Secretary may readvertise such lease for sale, or if deemed advisable, with the consent of the Indian owners, a lease may be made by private negotiations. The successful bidder or bidders will be required to pay his or their share of the advertising costs. Amounts received from unsuccessful bidders will be returned; but when no bid is accepted on a tract, the costs of advertising will be assessed against the applicant who requested that said tract be advertised.

(Secs. 16, 17, 48 Stat. 987, 988, sec. 9, 49 Stat. 1968, sec. 4, 52 Stat. 348; 25 U. S. C. 396d, 476, 477, 509)

§ 174.5 *Term of oil and gas leases.* Oil and gas mining leases which require the approval of the Secretary of the Interior may be made for periods of 10 years from the date of approval of lease by the Secretary of the Interior and as much longer thereafter as oil and/or gas is produced in paying quantities.

§ 174.6 *Leases for minerals other than oil and gas.* Uncontested mining leases for minerals other than oil and gas shall be made on forms [1] prescribed by the Department, for a period of 15 years with the right of renewal on such terms as the superintendent may prescribe, and shall be subject only to approval by the Area Director. See provisions of the act of February 14, 1920 (41 Stat. 408). Any persons aggrieved by any decision or order of the Area Director approving, rejecting, or disapproving any such lease may appeal from the same to the Secretary of the Interior within 30 days from the date of such decision or order.

§ 174.7 *Approval fee.* A fee of $5 is required upon approval of each lease, sublease, or assignment, pursuant to the provisions of the act of February 14, 1920, as amended by the act of March 1, 1933 (47 Stat. 1417; 25 U. S. 413). This fee shall be paid at the time of filing the lease, sublease, or assignment, and will be refunded in case the instrument is disapproved.

(Sec. 1, 41 Stat. 415, as amended; 25 U. S. C. 413)

§ 174.8 *Filing of lease deemed constructive notice.* The filing of any lease in the office of the Area Director shall be deemed constructive notice of the existence of such lease. See act of March 1, 1907.

(34 Stat. 1026)

§ 174.9 *Noncontiguous tracts.* No lease will be approved covering two or more noncontiguous tracts of land, but in such case a lease must be executed on each separate tract.

§ 174.10 *Lessor's signature.* Any Indian who cannot write his name will be required to sign all official papers by making a distinct thumbprint which shall be designated as "right" or "left" thumbmark. Such signatures must be witnessed by two persons, one of whom must be a United States Government employee (such as field clerk, postmaster, United States Commissioner, etc.).

§ 174.11 *Minor lessors.* Where the lessor is a minor, certified copies of letters of guardianship and court orders approving leases must be filed.

§ 174.12 *Leases executed by guardians of minors.* Leases executed by guardians of minors under order of court for a period extending beyond the minority of the minor will be approved unless it appears that such action would be prejudicial to the interests of the minor: *Provided,* That in the event the minor becomes of age within 1 year from date of execution of lease the consent of the minor to the execution of the lease should be obtained and submitted with the lease for consideration.

§ 174.13 *Inherited lands.* Except to prevent loss or waste, leases on undivided inherited lands will not be approved until the heirship determination has been approved. If the heirs to undivided inherited lands are undetermined or cannot be located, or if the heirs owning less than one-half interest in the lands refuse to sign a lease and it appears necessary to lease the lands to prevent loss or waste, the Area Director will report the facts to the Commissioner of Indian Affairs and ask for instructions. Minor heirs can lease or join adult heirs in leasing only through guardians under order of court. Proof of heirship shall be given upon Form F prescribed. If probate or other court proceedings have established the heirship in any case, or the land has been partitioned, certified copy of final order, judgment, or decree of the court will be accepted in lieu of Form F.

§ 174.14 *Corporations and corporate information.* If the applicant for a lease is a corporation, it shall file evidence of authority of its officers to execute papers; and with its first application it shall also file a certified copy of its articles of incorporation, and, if foreign to the State in which the lands are located, evidence showing compliance with the corporation laws thereof. Statements of changes in officers and stockholders shall be furnished by a corporation lessee to the Area Director January 1 of each year, and at such other times as may be requested.

Whenever deemed advisable in any case the Area Director may require a corporation applicant or lessee to file:

(a) List of officers, principal stockholders, and directors, with post-office

[1] For further information regarding forms, see § 174.47.

addresses and numbers of shares held by each.

(b) A sworn statement of the proper officer showing:

(1) The total number of shares of the capital stock actually issued and the amount of cash paid into the treasury on each share sold; or, if paid in property, the kind, quantity, and value of the same paid per share.

(2) Of the stock sold, how much remains unpaid and subject to assessment.

(3) The amount of cash the company has in its treasury and elsewhere.

(4) The property, exclusive of cash, owned by the company and its value.

(5) The total indebtedness of the company and the nature of its obligations.

(6) Whether the applicant or any person controlling, controlled by or under common control with the applicant has filed any registration statement, application for registration, prospectus or offering sheet with the Securities and Exchange Commission pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934 or said Commission's rules and regulations under said acts; if so, under what provision of said acts or rules and regulations; and what disposition of any such statement, application, prospectus or offering sheet has been made.

(c) Affidavits of individual stockholders, setting forth in what corporations, or with what persons, firms, or associations such individual stockholders are interested in mining leases on restricted lands within the State, and whether they hold such interest for themselves or in trust.

CROSS REFERENCE: For regulations of the Securities and Exchange Commission, see 17 CFR Chapter II.

§ 174.15 *Bonds.* (a) Lessee shall furnish with each mining lease a bond (Form 5–154b), and an assignee of a lease shall furnish with each assignment a bond (Form 5–154m), with an acceptable company authorized to act as sole surety, or with two or more personal sureties and a deposit as collateral security of any public-debt obligations of the United States guaranteed as to principal and interest by the United States, equal to the full amount of such bonds, or other collateral satisfactory to the Secretary of the Interior, or show ownership of unencumbered real estate of the value equal to twice the amount of the bonds. Lessee may file a bond on Form 5–154a without sureties and a deposit as collateral security of Government bonds equal in value to the full amount of the bond. Lease bonds except as provided in paragraph (c) of this section shall be in the following amounts:

For less than 80 acres	$1,000
For 80 acres and less than 120 acres	1,500
For 120 acres and not more than 160 acres	2,000
For each additional 40 acres, or part thereof above 160 acres	500

Provided, That a lessee may file a bond (Form 5–154f), in the sum of $15,000 for all leases of minerals up to 10,240 acres under the jurisdiction of the officer in charge of the Five Civilized Tribes Agency.

(b) In lieu of the bonds required under paragraph (a) of this section, a lessee may furnish a bond (Form 5–156) in the sum of $75,000 for full nation-wide coverage with an acceptable company authorized to act as sole surety to cover all oil and gas leases and oil and gas prospecting permits without geographic or acreage limitation to which the lessee or permittee is or may become a party.

(c) The right is specifically reserved to increase the amount of bonds and the collateral security prescribed in paragraph (a) of this section in any particular case when the officer in charge deems it proper to do so. The nation-wide bond may be increased at any time in the discretion of the Secretary of the Interior.

§ 174.16 *Additional information may be requested by Area Director.* The Area Director, or other Government officer having the matter in charge or under investigation, may, at any time, either before or after approval of a lease, call for any additional information desired to carry out the purpose of the regulations in this part, and such information shall be furnished within the time specified in the request therefor. If the lessee fails to furnish the information requested, the lease will be subject to disapproval or cancellation, whichever is appropriate.

§ 174.17 *Government reserves right to purchase minerals produced.* In time of war or other public emergency any of the executive departments of the United States Government shall have the option to purchase at the prevailing market price on the date of sale all or any part of the minerals produced under any lease.

RENTS AND ROYALTIES

§ 174.18 *Manner of payment of rents and royalties.* (a) Except as provided in paragraph (b) of this section, all rents, royalties and other payments due under leases which have been or may be approved in accordance with this part shall be paid by check or bank draft to the order of the Treasurer of the United States and mailed to the Area Director for deposit to the credit of the various lessors. When lessees and purchasers are instructed, in writing, by the Area Director, which instructions shall be complete as to lessors for each lease, separate remittances for each payment due each lessor shall be mailed to the Area Director. Any payments under this paragraph, covering lands or interests therein from which restrictions have been removed by death or otherwise, may continue to be made in the manner provided by this paragraph until ten days after notice of relinquishment of supervision has been mailed to the lessee.

(b) The Area Director may, in his discretion, whenever it appears to be in the best interest of any lessor, authorize and direct the lessee to pay directly to the lessor, or to the legal guardian of any lessor under guardianship, the rents, royalties and other payments (other than bonuses and advance payments for the first year) due under leases which have been or may be approved in accordance with the regulations in this part. Any such authority for direct payment shall be in writing, addressed to the owner or owners of the lease, and shall expressly provide for its revocation or modification at any time, in writing, by the Area Director. Written authorization for direct payment and written revocations or modifications thereof shall become a part of the lease and shall be distributed as in the case of original leases. All such revocations or modifications shall have a 5-day grace period after date of receipt. Rents, royalties, and other payments paid in accordance therewith shall constitute full compliance with the requirements of the lease pertaining to such payments.

(c) Rents and royalties paid pursuant to paragraphs (a) and (b) of this section on producing leases shall be supported by statements, acceptable to the Secretary or his duly authorized representative, to be transmitted to the Supervisor, in duplicate, covering each lease, identified by contract number and lease number. Such statements shall show the specific items of rents or royalties for which remittances are made, and shall identify each remittance by the remittance number, date, amount, and name of each payee.

(d) Rents paid on nonproducing leases pursuant to paragraphs (a) and (b) of this section shall be supported by a statement, acceptable to the Area Director, to be transmitted to the Area Director covering each lease, identified by contract number and lease number. Each remittance shall be identified by the remittance number, date, amount, name of each payee, and dates of mailing of remittances. Date of mailing, or, if remittance is sent by registered mail, the date of registration receipts covering remittances mailed, shall be considered as date of payment.

(e) For leases other than oil and gas, all advance rentals and royalties for the first year shall be paid to the Area Director at the time of filing the lease, and the advance royalty and 20 percent of the first year's rental so paid shall be and become the property of the lessor, if the lease be disapproved because of the lessee's failure to meet the requirements of the law or of the regulations in this part or because of any other fault or defect chargeable to the lessee.

§ 174.19 *Crediting advance annual payments.* In the event of discovery of minerals, all advance rents and advance royalties shall be allowed as credit on stipulated royalties for the year for which such advance payments have been made. No refund of such advance payments made under any lease will be allowed in the event the royalty on production is not sufficient to equal such advance payment; nor will any part of the moneys so paid be refunded to the lessee because of any subsequent surrender or cancellation of the lease.

§ 174.21 *Rate of rents on leases other than oil and gas.* On all mineral leases of allotted lands other than oil and gas leases, rental shall be paid annually in advance from the date of approval of the lease, as follows: Fifty cents per acre for the first year, 75 cents per acre for the second year, and $1 per acre for the third

and each succeeding year of the term of the lease.

§ 174.22 *Expenditures under leases other than oil and gas.* (a) On all leases for deposits of minerals other than oil and gas, there shall be expended for each calendar year the lease is in force, and for each fraction of a calendar year greater than 6 months, in actual mining operations, development, or improvements upon the lands leased, or for the benefit thereof, a sum which, with the annual rental, shall amount to not less than $5 per acre.

(b) The expenditures for development required by this section upon application may be waived in writing by the Area Director or other officer in charge of the Five Civilized Tribes Agency either before or after the approval of a lease, such waiver to be subject to termination at any time upon 10 days' written notice to the holder of the lease by the said Area Director or other officer in charge.

(c) Each lessee, except oil and gas lessees, shall file with the Area Director an itemized statement in duplicate, within 20 days after the close of each calendar year, of the amount and character of said expenditures during such year; the statement to be certified under oath by the lessee or his agent having personal knowledge of the facts contained therein.

§ 174.23 *Royalty rates for minerals other than oil and gas.* Unless otherwise authorized by the Commissioner of Indian Affairs, the minimum rates for minerals other than oil and gas shall be as follows:

(a) For substances other than gold, silver, copper, lead, zinc, tungsten, coal, asphaltum and allied substances, oil, and gas, the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 percent of the value, at the nearest shipping point, of all ores, metals, or minerals marketed.

(b) For gold and silver the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 percent to be computed on the value of bullion as shown by mint returns after deducting forwarding charges to the point of sale; and for copper, lead, zinc, and tungsten, a royalty of not less than 10 percent to be computed on the value of ores and concentrates as shown by reduction returns after deducting freight charges to the point of sale. Duplicate returns shall be filed by the lessee with the Area Director within 10 days after the ending of the quarter or other period specified in the lease within which such returns are made: *Provided however,* That the lessee shall pay a royalty of not less than 10 percent of the value of the ore or concentrates sold at the mine unless otherwise provided in the lease.

(c) For coal the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 cents per ton of 2,000 pounds of mine run, or coal as taken from the mine, including what is commonly called "slack."

(d) For asphaltum and allied substances the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 cents per ton of 2,000 pounds on crude material or not less than 60 cents per ton on refined substances.

§ 174.24 *Rate of rents and royalties on oil and gas leases.* The lessee shall pay, beginning with the date of approval of oil and gas leases by the Secretary of the Interior, a rental of $1.25 per acre per annum in advance during the continuance thereof, together with a royalty of 12½ percent of the value or amount of all oil, gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and saved from the land leased, save and except oil and/or gas used by the lessee for development and operation purposes on the lease, which oil or gas shall be royalty free. A higher rate of royalty may be fixed by the Secretary of the Interior or his authorized representative, prior to the advertisement of land for oil and gas leases. During the period of supervision, "value" for the purposes of the lease may, in the discretion of the Secretary of the Interior be calculated on the basis of the highest price paid or offered (whether calculated on the basis of short or actual volume) at the time of production for the major portion of the oil of the same gravity, and gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and sold from the field where the leased lands are situated, and the actual volume of the marketable product less the content of foreign substances as determined by the supervisor. The actual amount realized by the lessee from the sale of said products may, in the discretion of the Secretary of the Interior, be deemed mere evidence of or conclusive evidence of such value. When paid in value, such royalties shall be due and payable monthly at such time as the lease provides; when royalty on oil produced is paid in kind, such royalty oil shall be delivered in tanks provided by the lessee on the premises where produced without cost to the lessor unless otherwise agreed to by the parties thereto, at such time as may be required by the lessor. The lessee shall not be required to hold such royalty oil in storage longer than 30 days after the end of the calendar month in which said oil is produced. The lessee shall be in no manner responsible or held liable for loss or destruction of such oil in storage by causes beyond his control.

§ 174.25 *Free use of gas by lessor.* If the leased premises produce gas in excess of the lessee's requirements for the development and operation of said premises, then the lessor may use sufficient gas, free of charge, for all stoves and inside lights in the principal dwelling house on said premises, by making his own connections to a regulator, connected to the well and maintained by the lessee, and the lessee shall not be required to pay royalty on gas so used. The use of such gas shall be at the lessor's risk at all times.

§ 174.26 *Rate of royalty on casing-head gas.* (a) On casing-head gas used or sold for the manufacture of casing-head gasoline the minimum rate of royalty shall be 12½ percent of the value of the casing-head gas, which value shall be determined and computed on the basis and in the manner provided in the applicable operating regulations of the Department.

(b) In cases where gas produced and sold has a value for drip gasoline, casing-head gasoline content, and as dry gas from which the casing-head gasoline has been extracted, then the royalties above provided shall be paid on all such values.

§ 174.27 *Rate of rental for nonutilized gas wells.* If the gas from a gas producing well is not marketed or utilized, other than for operation of the lease, then for each such well the lessee shall pay such rental as may be determined by the supervisor and approved by the Secretary of the Interior, calculated from the date of the completion of the well. Payment of annual gas rentals shall be made within 30 days from the date such payment becomes due.

§ 174.28 *Royalty payments and production reports.* (a) Royalty payments on all oil and gas or other producing leases shall be made at the rates, and at such time, and in the manner prescribed by the terms of the lease.

(b) Quarterly reports shall be made by each lessee on nonproducing leases other than oil and gas within 25 days after December 31, March 31, June 30, and September 30, of each year, upon forms provided, showing manner of operations and total production during such quarter. A lessee may include within one sworn statement all leases upon which there is no production or upon which dry holes have been drilled. Reports of oil and gas leases where royalty accounting is done in the field office of the supervisor will be made as required in the operating regulations.

§ 174.29 *Division orders.* (a) Lessees may make arrangements with the purchasers of oil and gas for the payment of the royalties as provided for in the lease and the regulations but such arrangement, if made, shall not operate to relieve a lessee from responsibility should the purchaser fail or refuse to pay royalties when due. Where lessees avail themselves of this privilege, division orders should be executed by the lessee and forwarded to the supervisor for approval. Purchasers may be authorized by the supervisor to reimburse lessees out of royalties for advance rents and advance royalties. Copies of written instructions, notices, modifications, revocations, and authorizations, as provided for in § 174.18 (a) and (b), shall be furnished to purchasers. The right is reserved for the supervisor to cancel a division order at any time or require the purchaser to discontinue to run the oil of any lessee who fails to operate the lease properly or otherwise violates the provisions of the lease, of the regulations in this part, or of the operating regulations.

(b) When oil is taken by authority of a division order, the lessee or his representatives shall be actually present when the oil is gauged and records are made of the temperature, gravity, and impurities. The lessee will be held responsible for the correctness and the correct recording and reporting of all the foregoing

measurements, which, except lowest gauge, shall be made at the time the oil is turned into the pipe line. Failure of the lessee to perform properly these duties will subject the division order to revocation.

OPERATIONS

§ 174.30 *Permission to start operations.* No operations will be permitted on any lease before it is approved. Written permission must be secured from the supervisor before any operations are started under any oil and gas lease. Operations must be in accordance with the operating regulations promulgated by the Secretary of the Interior. Copies of these regulations may be secured from either the supervisor or the Area Director and no operations should be attempted without a study of the operating regulations.

§ 174.31 *Restrictions on operations.* (a) Oil and gas leases issued under the provisions of this part shall be subject to imposition by the Secretary of the Interior of such restrictions as to time or times for the drilling of wells and as to the production from any well or wells as in his judgment may be necessary or proper for the protection of the natural resources of the leased land and in the interest of the lessor. In the exercise of his judgment the Secretary of the Interior may take into consideration, among other things, the Federal laws, State laws, regulations by competent Federal or State authorities, lawful agreements among operators regulating either drilling or production, or both.

(b) All such leases shall be subject to any cooperative or unit plan of development affecting the leased lands that may be required by the Secretary of the Interior, but no lease shall be included in any cooperative or unit plan without prior approval of the Secretary of the Interior. If said plan effects a change in the lease terms, the consent of the lessor or lessors must be obtained before the plan is effective.

§ 174.32 *Wells.* The lessee shall agree (a) to drill and produce all wells necessary to offset or protect the leased land from drainage by wells on adjoining lands not the property of the lessor, or in lieu thereof, compensate the lessor in full each month for the estimated loss of royalty through drainage: *Provided,* That during the period of supervision by the Secretary of the Interior, the necessity for offset wells shall be determined by the supervisor and payment in lieu of drilling and producing shall be with the consent of, and in an amount determined by the Secretary of the Interior; (b) at the election of the lessee to drill and produce other wells: *Provided,* That the right to drill and produce such other wells shall be subject to any system of well spacing or production allotments authorized and approved under applicable law or regulations, approved by the Secretary of the Interior and affecting the field or area in which the leased lands are situated; and (c) if the lessee elects not to drill and produce such other wells for any period the Secretary of the Interior may, within 10 days after due notice in writing, either require the drilling and production of such wells to the number necessary, in his opinion, to insure reasonable diligence in the development and operation of the property, or may in lieu of such additional diligent drilling and production require the payment on and after the first anniversary date of the lease of not to exceed $1 per acre per annum, which sum shall be in addition to any rental or royalty herein specified.

§ 174.33 *Diligence and prevention of waste.* The lessee shall exercise diligence in drilling and operating wells for oil and gas on the leased lands while such products can be secured in paying quantities; carry on all operations in a good and workmanlike manner in accordance with approved methods and practice, having due regard for the prevention of waste of oil or gas developed on the land, or the entrance of water through wells drilled by the lessee to the productive sands or oil or gas-bearing strata to the destruction or injury of the oil or gas deposits, the preservation and conservation of the property for future productive operations, and to the health and safety of workmen and employees; plug securely all wells before abandoning the same and to shut off effectually all water from the oil or gas-bearing strata; not drill any well within 200 feet of any house or barn on the premises without the lessor's written consent approved by the Area Director; carry out at his expense all reasonable orders and requirements of the supervisor relative to prevention of waste, and preservation of the property and the health and safety of workmen; bury all pipe lines crossing tillable lands below plow depth unless other arrangements therefor are made with the Area Director; pay the lessor all damages to crops, buildings, and other improvements of the lessor occasioned by the lessee's operations: *Provided,* That the lessee shall not be held responsible for delays or casualties occasioned by causes beyond his control.

§ 174.34 *Inspection of premises; books and accounts.* Lessees shall agree to allow the lessors and their agents or any authorized representative of the Interior Department to enter, from time to time, upon and into all parts of the leased premises for the purpose of inspection, and shall further agree to keep a full and correct account of all operations and make reports thereof, as required by the applicable regulations of the Department; and their books and records, showing manner of operations and persons interested, shall be open at all times for examination by such officers of the Department as shall be instructed in writing by the Secretary of the Interior or authorized by regulations to make such examination.

§ 174.35 *Mines to be timbered properly.* In mining operations the lessee shall keep the mine well and sufficiently timbered at all points where necessary, in accordance with good mining practice, and in such manner as may be necessary to the proper preservation of the property leased and safety of workmen.

§ 174.36 *Surrender of leased premises in good condition.* On expiration of the term of a lease, or when a lease is surrendered, the lessee shall deliver to the Government the leased ground, with the mine workings in case of leases other than oil and gas, in good order and condition, and the bondsmen will be held for such delivery in good order and condition, unless relieved by the Secretary of the Interior for cause. It shall, however, be stipulated that the machinery necessary to operate any mine is the property of the lessee, but that it may be removed by him only after the condition of the property has been ascertained by inspection by the Secretary of the Interior or his authorized agents, to be in satisfactory condition.

§ 174.37 *Penalties.* Failure of the lessee to comply with any provisions of the lease, of the operating regulations, of the regulations in this part, orders of the Area Director or his representative, or of the orders of the supervisor or his representative, shall subject the lease to cancellation by the Secretary of the Interior or the lessee to a penalty of not more than $500 per day for each day the terms of the lease, the regulations, or such orders are violated, or to both such penalty and cancellation: *Provided,* That the lessee shall be entitled to notice and hearing, within 30 days after such notice, with respect to the terms of the lease, regulations, or orders violated, which hearing shall be held by the supervisor, whose findings shall be conclusive unless an appeal be taken to the Secretary of the Interior within 30 days after notice of the supervisor's decision, and the decision of the Secretary of the Interior upon appeal shall be conclusive.

§ 174.38 *Assignments.* Leases or any interest therein, may be assigned or transferred only with the approval of the Secretary of the Interior, and to procure such approval the assignee must be qualified to hold such lease under existing rules and regulations, and shall furnish a satisfactory bond for the faithful performance of the covenants and conditions thereof. No lease or any interest therein, or the use of such lease, shall be assigned, sublet, or transferred, directly or indirectly, by working or drilling contract, or otherwise, without the consent of the Secretary of the Interior. Assignments of leases shall be filed with the Area Director within 20 days after the date of execution.

§ 174.39 *Stipulations.* The lessee under any lease heretofore approved may by stipulation (Form 5–154i) with the consent of the lessor and the approval of the Secretary of the Interior, make such approved lease subject to all the terms, conditions, and provisions contained in the lease form and regulations currently in use. Stipulations shall be filed with the Area Director within 20 days after the date of execution.

§ 174.40 *Cancellations.* (a) When, in the opinion of the Secretary of the Interior, the lessee has violated any of the terms and conditions of a lease or of the applicable regulations, or if mining operations are conducted wastefully and without regard to good mining practice, the Secretary of the Interior shall have the right at any time after 30 days' notice

to the lessee specifying the terms and conditions violated, and after a hearing, if the lessee shall so request within 30 days after issuance of the notice, to declare such lease null and void, and the lessor shall then be entitled and authorized to take immediate possession of the land.

(b) On the following conditions, the lessee may, on approval of the Secretary of the Interior, surrender a lease or any part of it:

(1) That he make application for cancellation to the Area Director having jurisdiction over the land.

(2) That he pay a surrender fee of $1 at the time the application is made.

(3) That he pay all royalties and rentals due to the date of such application.

(4) That he make a satisfactory showing that full provision has been made for conservation and protection of the property and that all wells, drilled on the portion of the lease surrendered, have been properly abandoned.

(5) If the lease has been recorded, that he file, with his application, a recorded release of the acreage covered by the application.

(6) If the application is for the cancellation of the entire lease or the entire undivided portion, that he surrender the lease: *Provided*, That where the application is made by an assignee to whom no copy of the lease was delivered, he will be required to surrender only his copy of the assignment.

(7) If the lease (or portion being surrendered or cancelled) is owned in undivided interests by more than one party, then all parties shall join in the application for cancellation.

(8) That all required fees and papers must be in the mail or received on or before the date upon which rents and royalties become due, in order for the lessee and his surety to be relieved from liability for the payment of such royalties and rentals.

(9) If there has been a contest respecting a lease or leases, the approved, the disapproved, or the cancelled parts thereof will be held in the office of the Area Director for 5 days after the Department's decision has been promulgated, by mail or delivery, and will not be delivered, if within that period a motion for review and reconsideration be filed, until such motion is passed upon by the Department.

(10) In the event oil or gas is being drained from the leased premises by wells not covered by a lease; the lease, or any part of it, may be surrendered, only on such terms and conditions as the Secretary of the Interior may determine to be reasonable and equitable.

(c) No part of any advance rental shall be refunded to the lessee nor shall he be relieved, by reason of any subsequent surrender or cancellation of the lease, from the obligation to pay said advance rental when it becomes due.

(d) For proper method of terminating departmental leases covering lands from which restrictions have been removed see section 3 of the act of May 27, 1908 (35 Stat. 312).

REMOVAL OF RESTRICTIONS

§ 174.41 *Leases executed but not approved before restrictions removed from land.* Leases executed before the removal of restrictions against alienation on land from all of which restrictions against alienation shall be removed after such execution, if such leases contain specific provision for approval by the Secretary of the Interior, whether now filed with the Department or presented for consideration hereafter, will be considered and acted upon by this Department as heretofore but only for the purpose of approving or disapproving the instrument.

§ 174.42 *Operations after removal of restrictions from leased lands.* (a) Oil and gas leases heretofore approved and leases for other minerals now or hereafter in force on land from all of which restrictions against alienation have been or shall be removed, even if such leases contain provisions authorizing supervision by this Department, shall, after such removal of restrictions against alienation, be operated entirely free from such supervision, and the authority and power delegated to the Secretary of the Interior in said leases shall cease and all payments required to be made to the Area Director shall thereafter be made to the lessor or the then owner of the land, and changes in regulations thereafter made by the Secretary of the Interior shall not apply to such leased land from which said restrictions are removed.

(b) In the event restrictions are removed from a part of the land included in any lease to which this section applies the entire lease shall continue subject to the supervision of the Secretary of the Interior, and all royalties thereunder shall be paid to the Area Director until such time as the lessor and lessee shall furnish the Secretary of the Interior satisfactory information that adequate arrangements have been made to account for the oil, gas, or mineral upon the restricted land separately from that upon the unrestricted. Thereafter the restricted land only shall be subject to the supervision of the Secretary of the Interior: *Provided*, That the unrestricted portion shall be relieved from such supervision, as in the lease or regulations provided.

§ 174.43 *Relinquishment of Government supervision.* All oil and gas leases hereafter executed shall contain the following relinquishment of supervision clause and terms operative after such relinquishment, or other provisions similar in substance:

Relinquishment of supervision by the Secretary of the Interior.—Should the Secretary of the Interior, at any time during the life of this instrument, relinquish supervision as to all or part of the acreage covered hereby, such relinquishment shall not bind lessee until said Secretary shall have given 30 days' written notice. Until said requirements are fulfilled, lessee shall continue to make all payments due hereunder as heretofore in section 3 (c). After notice of relinquishment has been received by lessee, as herein provided, this lease shall be subject to the following further conditions:

(a) All rentals and royalties thereafter accruing shall be paid in the following manner: Rentals and royalties shall be paid to lessor or his successors in title, or to a trustee appointed under the provision of section 9 hereof. Rentals and royalties shall be paid directly to lessor, his successors in title, or to said trustee as the case may be.

(b) If, at the time supervision is relinquished by the Secretary of the Interior, lessee shall have made all payments then due hereunder, and shall have fully performed all obligations on its part to be performed up to the time of such relinquishment, then the bond given to secure the performance hereof, on file in the Indian Office, shall be of no further force or effect.

(c) Should such relinquishment affect only part of the acreage, then lessee may continue to drill and operate the land covered hereby as an entirety: *Provided*, That lessee shall pay in the manner prescribed by section 3 (c), for the benefit of lessor such proportion of all rentals and royalties due hereunder as the acreage retained under the supervision of the Secretary of the Interior bears to the entire acreage of the lease, the remainder of such rentals and royalties to be paid directly to lessor or his successors in title or said trustee as the case may be, as provided in subdivision (a) of this section.

Division of fee. It is covenanted and agreed that should the fee of said land be divided into separate parcels, held by different owners, or should the rental or royalty interests hereunder be so divided in ownership, after the execution of this lease and after the Secretary of the Interior relinquishes supervision hereof, the obligations of lessee hereunder shall not be added to or changed in any manner whatsoever save as specifically provided by the terms of this lease. Notwithstanding such separate ownership, lessee may continue to drill and operate said premises as an entirety: *Provided*, That each separate owner shall receive such proportion of all rentals and royalties accruing after the vesting of his title as the acreage of the fee, or rental or royalty interest, bears to the entire acreage covered by the lease; or to the entire rental and royalty interest as the case may be: *Provided further*, That, if, at any time after departmental supervision hereof is relinquished, in whole or in part, there shall be four or more parties entitled to rentals or royalties hereunder, whether said parties are so entitled by virtue of undivided interests or by virtue of ownership of separate parcels of the land covered hereby, lessee at his election may withhold the payment of further rentals or royalties (except as to the portion due the Indian lessor while under restriction), until all of said parties shall agree upon and designate in writing and in a recordable instrument a trustee to receive all payments due hereunder on behalf of said parties and their respective successors in title. Payments to said trustee shall constitute lawful payments hereunder, and the sole risk of an improper or unlawful distribution of said funds by said trustee shall rest upon the parties naming said trustee and their respective successors in title. (The above provisions are copied from oil and gas mining lease Form 5–154h,[1] revised April 24, 1935.)

§ 174.44 *Division of royalty to separate fee owners.* Should the removal of restrictions affect only part of the acreage covered by a lease containing provisions to the effect that the royalties accruing under the lease, where the fee is divided into separate parcels, shall be paid to each owner in the proportion which his acreage bears to the entire acreage covered by the lease, the lessee or assignee of such unrestricted portion

[1] For information relative to obtaining Form 5–154h, see § 174.47.

will be required to make the reports required by the regulations in this part and the operating regulations with respect to the beginning of drilling operations, completion of wells, and production the same as if the restrictions had not been removed. In the event the unrestricted portion of the leased premises is producing, the owner of the lease thereon will be required to pay the portion of the royalties due the Indian lessor at the time and in the manner specified by the regulations in this part.

§ 174.45 *Restrictions especially continued as to certain lands.* Restricted lands allotted as either homestead or surplus allotments, designated as tax exempt under section 4 of the act of May 10, 1928, as amended May 24, 1928 (45 Stat. 495, 733), the entire interest in which was acquired by inheritance, gift, devise, or purchase with restricted funds, by persons of one-half or more Indian blood, after the passage of the act of January 27, 1933 (47 Stat. 777), continue to be restricted under the provisions of the last mentioned act and oil and gas leases thereof are subject to the regulations in this part and all such leases to be valid must be approved by the Secretary of the Interior. Lands inherited by or devised to full blood Indians prior to the act of January 27, 1933 are not affected as to restrictions by the provisions of said act and may continue to be leased with the approval of the county court having jurisdiction of the estate of the deceased allottee and without approval of the Secretary of the Interior (54 L. D. 382; 10 F. (2d), 487). Lands acquired prior to the passage of the act of January 27, 1933 by Indians of less than full blood, whether such lands were restricted and tax exempt or restricted and taxable, passed to such persons free of all restrictions. Inherited homesteads restricted prior to April 26, 1931, by section 9,[1] of the act of May 27, 1908 (35 Stat. 312), for the benefit of heirs of one-half or more Indian blood but less than full bloods, born after March 4, 1906, became unrestricted April 26, 1931, or upon the death prior thereto of the heir born subsequent to March 4, 1906, and oil and gas leases thereof are not subject to the regulations in this part nor under the jurisdiction of the Secretary of the Interior.

§ 174.46 *Field clerks.* Local representatives known officially as "field clerks" are located in the various districts comprising that part of the State of Oklahoma occupied by the Five Civilized Tribes. Such field clerks shall report to and act under the direction of the Area Director. Any and all counsel and advice desired by allottees concerning deeds, leases, or other instruments or matters relating to lands allotted to them shall be furnished by such field clerks free of charge. Field clerks shall not, during their term of employment, have any personal interest, directly or indirectly, in any transaction concerning leases covering lands of allottees or in the purchase or sale of any such lands regardless of whether the restrictions have or have not been removed. This prohibition, however, shall not apply to lands which such field clerks have legally acquired before their employment in the Bureau of Indian Affairs. Field clerks shall report to the Area Director at the end of each month the work performed during such period and special reports shall be made immediately of any apparently illegal transaction involving the estates or allotments of allottees.

§ 174.47 *Forms.* Leases, assignments, and other papers must be upon forms prepared by the department, and upon application the Area Director of the Five Civilized Tribes Agency at Muskogee, Oklahoma, will furnish prospective lessees with such forms at a cost of $1 per set.

Form 5–154. Lease for minerals other than oil and gas.
Form 5–154a. Lessee's personal bond supported by Government securities.
Form 5–154b. Bond for separate leases.
Form 5–154c. Affidavit of Indian lessor, proof of bonus, etc.
Form 5–154d. Authority of officer to execute papers.
Form 5–154g. Affidavit of personal surety to accompany bond.
Form 5–154h. Oil and gas mining lease.
Form 5–154i. Stipulation modifying terms of oil and gas lease.
Form 5–154m. Bond covering assignment.
Form 5–154u. $15,000 collective bond.
Form F. Proof of heirship.
Form G. Assignment.
Form I. Coal and asphalt lease.

§ 174.48 *Effective date.* The regulations in this part shall become effective and in full force from and after the date of approval (Apr. 27, 1938), and shall be subject to change or alteration at any time by the Secretary of the Interior: *Provided,* That no regulations made after the approval of any lease shall operate to affect the term of the lease, rate of royalty, rental, or acreage unless agreed to by both parties to the lease. All former regulations governing the leasing of individually owned lands of the Five Civilized Tribes for mining purposes are superseded by the regulations in this part.

§ 174.49 *Scope of regulations.* The regulations in this part shall apply in so far as practicable to land purchased for Indians under the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967; 25 U. S. C. 501–509), as well as to other lands of individual Indians of the Five Civilized Tribes.

PART 175—LEASING OF OSAGE RESERVATION LANDS, OKLAHOMA, FOR MINING, EXCEPT OIL AND GAS

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AUTHORITY: §§ 175.1 to 175.30 issued under sec. 3, 34 Stat. 543.

§ 175.1 *Definition.* The term "officer in charge" shall refer to the superintendent of the Osage Indian Agency and school or other representative of the Government who may, for the time, be in charge of the Osage Agency and school, or any person who may be detailed by the Secretary of the Interior or the Commissioner of Indian Affairs to take charge of leasing or mining operations under the regulations in this part.

§ 175.2 *Sale of leases.* Leases of minerals other than oil and gas may be negotiated with the tribal council after permission to do so has been obtained from the officer in charge. Leases, with all papers required, shall be filed with the officer in charge within 30 days from the date of execution by the lessee and the principal chief of the Osage Tribe. The lease will be forwarded to the Commissioner of Indian Affairs for consideration by him and the Secretary of the Interior and will become effective only after approval by the Secretary of the Interior. If any lease should be disapproved through no fault of the lessee, all amounts deposited by him will be promptly refunded.

§ 175.3 *Corporate information.* A corporation shall file with its first lease a certified copy of articles of incorporation, and, if a foreign corporation, evidence showing compliance with local corporation laws in duplicate; a list of all stockholders, with their postoffice addresses, and showing the number of shares of capital stock held by each; together with a sworn statement of its proper officer showing:

(a) The total number of shares of the capital stock actually issued, the number of shares actually sold and the amount of cash paid into the treasury out of the stock sold, or, if paid in property, kind, quantity, and value of the same.

(b) Of the stock sold, how much per share remains unpaid and subject to assessment.

(c) How much cash the company has in its treasury and elsewhere, and from what source it was received.

(d) What property, exclusive of cash, is owned by the company, and its value.

[1] Repealed restrictions on inherited homesteads, by sec. 2 of the act of May 10, 1928 (45 Stat. 495).

(e) What the total indebtedness of the company is, and the nature of its obligations.

(f) Names of officers and directors.

§ 175.4 *Bonds.* Lessee shall furnish with each lease at the time it is filed with the officer in charge an acceptable bond, which shall be in amount as follows: For less than 80 acres, $1,000; for 80 acres and less than 120 acres, $1,500; for 120 acres and not more than 160 acres, $2,000: *Provided, however,* That the lessee shall be allowed to file bond, Form S [1] covering all leases to which he or they are or may become parties instead of a separate bond in each case, such bond to be in the penal sum of $15,000. The right is reserved to change the amount of the bond in any particular case, or to require a new bond in the discretion of the Secretary of the Interior.

§ 175.5 *Additional information.* The officer in charge may, at any time, either before or after approval of a lease, call for any additional information necessary to carry out the purpose and intent of the regulations in this part, and such information shall be furnished within the time specified in the request therefor.

§ 175.6 *Failure of lessee to complete lease.* Should a lessee fail to furnish, within the time specified after his bid is accepted, the papers necessary to put his lease and bond in proper form for consideration, the officer in charge shall recommend that the sale be disapproved and money paid forfeited to the Osage Tribe.

§ 175.7 *Operation not permitted until lease approved; 160 acres maximum for single lease.* No mining or work of any nature will be permitted upon any tract of land until a lease covering such tract shall have been approved by the Secretary of the Interior and delivered to the lessee. All leases shall be made for such period as the title to the minerals remain in the Osage Tribe, which time will expire April 8, 1931, unless otherwise provided by Congress and shall be subject to cancellation or termination as specified in this part. Leases made by corporations shall be accompanied by an affidavit by the Secretary or president of the company showing the authority of its officers to execute leases, bonds, and other papers. No lease shall be made covering more than 160 acres.

§ 175.8 *Acreage limitation.* No person, firm, or corporation shall hold under lease at any one time without special permission from the Secretary of the Interior in excess of the following areas:

(a) For deposits of the nature of lodes, or veins containing ores of gold, silver, copper, or other useful metals, 640 acres.

(b) For beds of placer gold, gypsum, asphaltum, phosphate, iron ores, and other useful minerals, other than coal, lead, and zinc, 960 acres.

(c) For coal, 4,800 acres.

(d) For lead and zinc, 1,280 acres.

§ 175.9 *Advance rental.* (a) Lessees shall pay, in addition to other considerations, annual advance rentals as follows: 15 cents per acre for the first year; 30 cents per acre for the second year; 50 cents per acre for the third year; and $1 per acre per annum for the fourth and each succeeding year during the life of any lease: *Provided,* That all such payments of advance rentals shall be credits on royalties on production during the year for which payment of advance rental is made.

(b) The payment of annual advance rental shall not release the lessee from the obligation to conduct mining operations, as required by the terms of the lease.

§ 175.10 *Royalty rates.* Royalties will be required as follows, subject to the approval of the President, in accordance with the act of June 28, 1906 (34 Stat. 543):

(a) For gold, silver, or copper lessee shall pay quarterly a royalty of 10 percent to be computed on the gross value of the ores as shown by reduction returns after deducting freight and treatment charges. Duplicate reduction returns shall be filed by the lessee with the officer in charge within 20 days after the reduction of the ores.

(b) For coal the lessee shall pay a royalty of 10 cents per ton of 2,000 pounds on mine run or coal as taken from the mines, including what is commonly called "slack."

(c) For asphaltum and allied substances, the lessee shall pay quarterly a royalty of 10 cents per ton of 2,000 pounds on crude material, and 60 cents per ton on refined substances.

(d) For substances other than gold, silver, copper, lead, zinc, coal, and asphaltum the lessee shall pay quarterly a royalty of 10 percent of the value at the nearest shipping point of all ores, metals, or minerals marketed.

(e) The royalties to be paid for lead and zinc shall be computed for each mineral at the same rate that the amount of the concentrates of such mineral bears to the total amount of dirt or rock actually mined, except as stipulated in this section. The royalty so determined shall be increased by adding 1 percent for each increase of $10 in the selling price per ton thereof over and above the following, which shall be the agreed base or standard:

For zinc	$50
For lead	65

but in no case shall the rate of royalty be less than 5 percent or more than 20 percent. The percentage of recovery shall be computed as nearly as practicable upon the ore included in each sale, but where it is impracticable so to do the officer in charge and the lessee shall agree upon some other method of computation which will produce substantially the same result: *Provided,* That in case of their disagreement the Commissioner of Indian Affairs shall prescribe a rule of computation to be followed in such cases:

NOTE: The royalty would always be determined under this rule by ascertaining the percentage of recovery were it not for two things: (1) the flat rates which are fixed as the minimum and the maximum rates of royalty and (2) variations in the selling price of the ores. Concrete examples coming under the rule are set forth in the following table:

ZINC

[Where the base or standard is $50 per ton]

Percentage of recovery	Selling price	Royalty
Percent	*Percent*	*Percent*
7	$48	7
14	49	14
12	50	12
15	60	16
30	60	20
9	70	11

A similar table might be constructed for royalties on lead, but in so doing it would be necessary to bear in mind that the base or standard selling price for the lead is to be $65 instead of $50.

§ 175.11 *Payment of rents and royalties.* All rentals, royalties, damages, or other amounts which may become due under leases approved in accordance with the regulations in this part shall be paid to the disbursing agent at Pawhuska, Okla. The remittances shall be in St. Louis exchange, except that where such exchanges cannot be procured postoffice or express money orders will be accepted. All royalties or other payments or claims of the Osage Tribe arising under such leases shall be a lien upon the mining plant machinery, and all minerals mined on the property leased or in which the lessee still retains any right, claim, or interest.

§ 175.12 *Time of payment of royalties.* Royalties on all minerals produced in any quarter (January–March, April–June, July–September, October–December) shall be paid on or before the 25th day of the month next succeeding, and the remittance shall be accompanied by sworn reports covering all operations, whether there has been production or not. Annual advance rentals shall be paid within 10 days after the beginning of the lease year.

§ 175.13 *Diligence; annual expenditures; mining records.* (a) Lessees shall exercise diligence in the conduct of prospecting and mining operations, and on all leases referred to in § 175.8 (a) shall expend annually in development work a sum which with the annual rental shall make an amount of not less than $5 per acre. On all leases referred to in § 175.8 (b) and (c) there shall be expended annually in development work a sum which inclusive of the annual rental shall make an amount of not less than $1 for each acre or fraction thereof included in the lease. The lands covered by each lease referred to in § 175.8 (d) shall be prospected for lead and zinc ores by drilling within 1 year test holes aggregating 2,000 feet unless a sufficient ore body is discovered to justify the sinking of a shaft to the ore body and the erecting of a mill when such tract may be released from further prospecting by the written consent of the superintendent: *Provided,* That within 90 days after an ore body of sufficient quantity is discovered, as shown by the logs or records of the drill holes, to justify the expenditure, the sinking of a shaft to the ore body, and the erection of a mill shall be commenced and continued to completion without

[1] For further information concerning form, see § 175.24.

cessation of work thereon, barring unavoidable accidents or causes beyond the control of the lessee.

(b) Lessee shall keep upon the leased premises accurate records of the drilling, redrilling, or deepening of all holes showing the formations, and upon the completion of such holes, copies of such records shall be transmitted to the superintendent by the lessee after the first completion and of any further drilling thereafter, and a failure to so furnish report within the time prescribed shall be considered a violation of the regulations. Lessee shall, before commencing operations, file with the superintendent a plat and preliminary statement of how the openings are to be made and the property developed.

§ 175.14 *Use of surface lands.* (a) Lessees may use so much of the surface of the leased land as shall be reasonably necessary for the prospecting and mining operations and buildings required by the lease, and shall also have the right-of-way over and across such land to any point of prospecting or mining operations, but such use of the surface shall be permissible only under condition of least injury and inconvenience to the allottee or owner of the land. Lessees before commencing and during such operations shall pay all reasonable damages for the use of the surface land and to any growing crops thereon, or to improvements on said land, or any damage that during the life of the lease may be occasioned in any manner whatsoever by the use of the surface, to the allottee or his successor in interest or assignee, or to a lessee of the surface of said land or to an oil and gas lessee, damages to be apportioned among the parties interested in the surface, whether as owner, lessee, or otherwise, as the parties in interest may mutually agree or as their interests may appear. If the parties are unable to agree concerning damages the same shall be determined by arbitration.

(b) All agreements (or authenticated copies thereof) providing for the settlement of damages shall be filed in the Osage Agency if the surface owner is a restricted Indian, and all such amounts which may be due and payable to any such Indian shall be paid to the superintendent and by him immediately remitted to the Indian entitled thereto. All sums due as royalty or damages shall be a lien on all equipment on leased premises.

§ 175.15 *Homesteads.* Lessees and those acting under them shall not conduct prospecting or mining operations within or upon any homestead selection without written consent of the Secretary of the Interior.

§ 175.16 *Settlement of damages.* Any person, other than a lessee or an allottee or the heirs of a deceased allottee, claiming an interest in any leased tract or in damages thereto must furnish to the officer in charge a statement in writing showing his interest, and failure to furnish such statement shall constitute a waiver of notice and estop said person from claiming any part of such damages after the same shall have been disbursed.

§ 175.17 *Use of timber from restricted lands.* Lessees will not be permitted to use any timber from any Osage lands not relieved of restrictions upon alienation except under written agreement with the owner approved by the officer in charge.

§ 175.18 *Assignments.* Approved leases or any interest therein may be transferred or assigned with the consent and approval of the Secretary of the Interior and not otherwise. Transfers or assignments, when so approved, shall be subject to the terms and conditions of the original leases and regulations under which such leases were approved as well as to such additional requirements as the Secretary of the Interior may prescribe. The transferee or assignee shall furnish with his transfer or assignment a satisfactory bond as prescribed in § 175.4 in connection with leases. Any attempt to transfer or assign an approved lease or any interest therein without the consent and approval of the Secretary of the Interior shall be absolutely void and shall subject the original lease to cancellation in the discretion of the secretary.

§ 175.19 *Cancellation.* When a lessee makes application for the cancellation of a lease in whole or in part, all royalties or rentals due up to and including the date of the application for cancellation must be paid, and that part of the lease delivered to the lessee shall be surrendered before such application will be considered. In the event a lease is surrendered for cancellation in whole or in part, after a new lease year has been entered upon, the lessee and his surety shall be liable for the advance rentals required to be paid under the lease for that year, and no part of such rentals which may have been paid shall be refunded.

§ 175.20 *Annual reports by corporate lessees.* Lessees and assignees must submit to the officer in charge on January 1, of each year and at such other times as may be required by the Secretary of the Interior, a statement containing the information called for in § 175.3 (a) and (f) and also showing any changes in officers or changes in or additions to stockholders. At any time individual stockholders may be required to show to the satisfaction of the Secretary of the Interior in what companies or with what persons or firms they are interested in mining leases on the Osage Reservation and whether they hold such stock or interest for themselves or in trust.

§ 175.21 *Inspection of lessees' books and records.* Lessees shall allow the agents and representatives of the lessor, or any authorized representative of the Interior Department, to enter, from time to time, upon and into all parts of the leased premises for the purpose of inspection, and their books and records showing manner of operations and persons interested, shall be open at all times for the examination of such officers of the department as shall be instructed by the Secretary of the Interior to make such examinations.

§ 175.22 *Serving of notices.* Wherever notice is provided for in this part it shall be sufficient if notice has been mailed to the last known place of address of the party, and time shall begin to run with the day next ensuing after the mailing or from the date of delivery of personal notice; but where the party is outside the State of Oklahoma the officer in charge may, in his discretion, increase the time allowed.

§ 175.23 *Plat of mine location.* Lessees are required, when so requested, to file a plat of their leases showing exact locations of all mines, proposed locations, power houses, etc.

§ 175.24 *Forms.* Applications, leases, and other papers must be upon forms prepared by the department, and the superintendent of the Osage Indian school, Pawhuska, Okla., will furnish prospective lessees with such forms at a cost of $1 per set.

Form M. Application for mining lease, including financial showing.
Form N. Lease (except lead and zinc).
Form O. Bond.
Form P. Authority of officers to execute papers.
Form Q. Assignment.
Form R. Lease for lead and zinc.
Form S. Collective bond.

§ 175.25 *Forfeiture of lease.* On the failure of any lessee or assignee to comply with any regulation or any obligation in the lease or assignment, the Secretary of the Interior may cancel and annul such lease without resorting to the courts and without any further proceeding: *Provided,* That the party or parties charged with such violation shall be first given not less than 30 days' notice to show cause why such lease should not be canceled and annulled or other order made with reference thereto.

§ 175.26 *Fine; notice and hearing.* Violation of any of the terms or conditions of any lease or of the regulations pertaining thereto shall subject the lease to cancellation by the Secretary of the Interior, or the lessee to a fine of not exceeding $500 per day for each and every day the terms of the lease or of the regulations are violated, or the orders of the superintendent in reference thereto are not complied with, or to both such fine and cancellation in the discretion of the Secretary of the Interior: *Provided,* That the lessee shall be entitled to notice and hearing with respect to the terms of the lease or of the regulations violated, which hearing shall be held by the superintendent, whose findings shall be conclusive unless an appeal be taken to the Secretary of the Interior within 30 days after notice of the superintendent's decision, and the decision of the Secretary of the Interior upon appeal shall be conclusive.

§ 175.27 *Changes in regulations.* The regulations in this part are subject to change or alteration at any time by the Secretary of the Interior.

§ 175.28 *Location of sites for mines and buildings.* In event of disagreement between two or more mineral lessees regarding sites for the location of wells, mines, buildings, plants, etc., the same shall be determined by the superintendent after investigation and after due consideration of prior right of any lessee by reason of date of approval of lease.

§ 175.29 *Prospecting; abandonment of mines.* All prospecting or mining operations or the abandonment of a well or mine shall be subject to the approval of the superintendent, and any disagreement between lessees of mineral leases regarding operations likely to result in injury to either lessee shall be determined by the superintendent, whose decision shall be final, unless an appeal is filed with the Secretary of the Interior within 30 days after notice of such decision.

§ 175.30 *Lessees must appoint local representative.* Before actual drilling or development operations are commenced on leased lands, the lessee or assignee shall appoint a local or resident representative within the State, on whom the superintendent or other authorized representative of the department may serve notice or otherwise communicate with in securing compliance with the regulations in this part and shall notify the superintendent of the name and post office address of the representative so appointed.

PART 176—LEAD AND ZINC MINING OPERATIONS AND LEASES, QUAPAW AGENCY

Sec.

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AUTHORITY: §§ 176.0 to 176.25 issued under sec. 26, 41 Stat. 1248, 50 Stat. 68.

§ 176.0 *Definitions.* The following expressions, wherever used in the regulations in this part or leases thereunder, shall have the meaning designated in this section:

(a) *Superintendent.* The term "superintendent" shall mean any person in charge of the Quapaw Indian Agency, or having supervision under the direction of the Secretary of the Interior of the Indian restricted and trust allotted lands thereunder.

(b) *Allottee.* The term "allottee" shall mean any Indian to whom land has been allotted, or any Indian owner of land or interest therein as an heir or devisee.

(c) *Incompetent Indian.* The term "incompetent Indian" or "incompetent" shall mean any Indian who has been declared by the Secretary of the Interior to be incompetent to improve or manage his restricted or trust lands properly or with benefit to himself. The term shall also include any Indian who is a minor and any Indian who is a legal incompetent under the laws of the State. The term shall also apply to any Indian who is in fact incompetent, and the question of whether an Indian is competent or incompetent at the time of making a lease of his restricted or trust Indian lands is one for the Secretary of the Interior to determine.

(d) *Lessee.* The term "lessee," except where otherwise modified or limited in the regulations in this part, shall mean any person, firm, or corporation, their legal representatives, heirs, or assigns, to whom a lead and zinc mining lease has been made by or on behalf of Indians under the provisions of the regulations in this part.

(e) *Lessor.* The term "lessor," except where otherwise modified or limited in the regulations in this part, shall mean any Indian owning or having any interest in restricted or trust allotted and inherited lands under the supervision of the Quapaw Indian Agency, by or for whom a lease has been executed pursuant to the regulations in this part.

(f) *Leased lands.* The terms "leased lands," "leased premises," or "leased tract" shall mean any leased restricted or trust lands within and under jurisdiction of the Quapaw Indian Agency allotted to or inherited by an Indian.

(g) *Mining operations.* The term "mining operation" or "operations," except where otherwise modified or limited in the regulations in this part or in leases thereunder shall mean actual drilling, mining, or construction on the leased lands.

§ 176.1 *No operations until lease approved.* No operations under any lease executed under the regulations in this part shall be permitted upon any restricted or trust lands allotted to or inherited by an Indian until such lease covering such tract shall be approved by the Secretary of the Interior.

§ 176.2 *Local representative of lessee.* Before actual drilling or development operations are commenced on the leased lands the lessee shall appoint a local or resident representative within Ottawa County, Oklahoma, on whom the superintendent may serve notice or otherwise communicate with in securing compliance with the regulations, and shall notify the superintendent of the name and post-office address of the representative so appointed. In the event of the incapacity or absence from the county of Ottawa of such designated local or resident representative, the lessee shall appoint some person to serve in his stead, and in the absence of such representative or of notice of the appointment of a substitute any employee of the lessee upon the leased premises, or the contractor, or other person in charge of mining operations thereon shall be considered the representative of the lessee for the purpose of service of orders or notices as provided in this part, and service upon any employee, contractor, or other person shall be deemed service on the lessee. Wherever a notice is provided for in the regulations in this part or in the lease form it shall be deemed sufficient if notice has been mailed to the last known address of the lessee or his local or resident representatives, and time shall begin to run with the day next ensuing after the mailing, or form date of delivery of personal notice.

§ 176.3 *Manner and time of royalty payments.* All royalties belonging to the lessor shall be paid to the superintendent of the Quapaw Agency at Miami, Okla., or such other official as the Secretary of the Interior may designate, for the benefit of the lessor, not later than 15 days from the 1st of each month for ore and concentrates sold during the preceding month.

§ 176.4 *Leases to be sold at public auction.* Except as otherwise provided in the regulations in this part, no lead and zinc mining lease under this part of restricted or trust allotted and inherited Indian lands within and under the Quapaw Indian Agency shall be made except to the highest responsible bidder at public auction.

§ 176.5 *Royalty rates.* (a) In leases offered for sale at public auction under the regulations in this part the royalty to be paid by the lessee shall be stipulated at a fixed percent of the gross proceeds of all lead and zinc ores and concentrates extracted from the leased premises, the royalty to be computed and based upon each sale of ore or concentrates separately, the rate of royalty to be determined and fixed by the Secretary of the Interior in the case of each lease prior to the offering of such lease for sale. Subject to the right of the Secretary of the Interior to reject any and all bids, leases offered for sale at public auction shall be awarded in each case to the responsible bidder submitting the highest bonus offer.

(b) In leases not offered for sale at public auction but otherwise made and entered into under the provisions of the regulations in this part the royalty stipulated and fixed therein shall be such as may be determined by the Secretary of the Interior or as may be agreed upon in each case, subject to the approval of the Secretary of the Interior.

(c) It shall be further provided, however, that said sale-price basis for the determination of the rates and amount of royalty shall not be less than the highest and best obtainable market price of the lead and zinc ores and concentrates at the usual and customary place of disposing of such ores and concentrates at the time of sale: *Provided, however,* That the right is reserved to the Secretary of the Interior to determine and declare such market price if it is deemed necessary for him to do so for the protection of the interests of the Indian lessor: *And provided further,* That the right is reserved to the Secretary of the Interior on behalf of the Indian lessors to reserve at any time it shall be deemed to be to the best interests of the Indian lessors and

upon due notice to the lessee, the royalty share of the gross production of the ore and concentrates and upon such notice that the royalty share of such production shall be stored and not sold, the lessee shall be required to store, free of charge to the Indian lessors in the ore bins of said lessee, said royalty shares of the gross production of ore and concentrates, provided that the lessee may not be required to store ore on concentrates for the lessor in amounts greater than one-third of his bin capacity or for a period longer than 6 months.

§ 176.6 *Applications for leases; consent of Indian owners.* (a) Applications or requests by the Indian owners of restricted or trust land, or by others, that such land be leased or offered for lease for lead and zinc mining purposes should be addressed to the Secretary of the Interior and submitted through the superintendent of the Quapaw Indian Agency. Upon receipt of such applications or requests, the superintendent shall give consideration thereto and forward the same to the Commissioner of Indian Affairs with his report and recommendation.

(b) In no instance will a new lease be executed and delivered (or advertised for sale to the highest bidder) unless the Indian owner thereof, if an adult who has not been specifically found by the Secretary of the Interior to be personally incompetent to transact ordinary business affairs, has agreed to the terms of said lease or the terms under which said lease is advertised for lease, except in cases where the land is owned by several co-tenants, and, in such cases, no such lease shall be given or advertised for sale unless the co-owners or a majority in interest, if adults, and not specifically declared incompetent, have first consented thereto: *Provided,* That in the event the majority in interest is owned by minors, or adults specifically found to be incompetent, then and in that event, the Secretary of the Interior reserves the right to lease the entire tract if, in his opinion, such leasing will inure to the best interests of the restricted Indian owners.

§ 176.7 *Advertisement of sale of leases.* Upon authority being granted by the Secretary of the Interior to the superintendent to offer for sale at public auction a lead and zinc mining lease of any tract or tracts of restricted or trust allotted and inherited Indian lands, the superintendent shall cause a notice to be published once a week for at least 4 weeks in some designated newspaper of general circulation in the county in which the land is located, setting forth that upon a certain day, which shall be not less than 30 days from the first publication of such notice and at a place to be named in the notice, the superintendent or other duly authorized representatives of the Secretary of the Interior will offer for sale at public auction a lead and zinc mining lease of such lands to the highest and best bidder, subject to the rules and regulations prescribed by the Secretary of the Interior, notice to be in such form as may be prescribed by the Secretary of the Interior.

§ 176.8 *Submission of bids.* At the time of public auction bidders may submit their bids in person or by authorized agents, but in the latter case the bids must be accompanied by power of attorney duly executed by the real party or person in interest. Sealed bids may be submitted by mail or otherwise to the superintendent at his office at Miami, Okla., or delivered to him at the place set for the sale at any time prior to the hour fixed for offering the lease for sale. At the time and place of the public auction and before receiving the public bids the officer in charge shall announce the amounts and terms of all sealed bids received by him and the names of the bidders. The persons present, including those, if any, who may have theretofore submitted sealed bids, shall then be allowed to offer public bids. Bids must contain the offer of the stipulated and fixed royalty (see § 176.5 as to royalty) and, in addition thereto, the offer of a bonus payable as follows: 25 percent at time of sale and the balance before or at time of execution of the lease contract. Bidders shall be required to submit with their bids a draft or certified check payable to the order of the superintendent covering the advance rental for the first year on the proposed leasehold and 25 percent of the amount of the bonus offered. The superintendent shall, in each case, determine the highest and best bid, said determination, however, to be subject to the approval of the Secretary of the Interior. Upon approval by the Secretary of the Interior of the award, the successful bidder shall, within 30 days from notice thereof, enter into and execute the lease contract in accordance with said bid and the regulations in this part. The lease so executed shall be subject to the approval of the Secretay of the Interior and may be accepted or rejected by him when submitted for his approval. The right is reserved to the Secretary of the Interior, in the event of the rejection of such lease, to authorize and instruct the superintendent to accept the offer of some competitive bidder or to readvertise the land for lease. The report of the superintendent to the Commissioner of Indian Affairs relative to the auction sale shall contain full information as to all bids received for the lease rights on the land. If any person or party fails or refuses to execute a lease after being declared the highest bidder or after being awarded such lease, the amount tendered with his bid shall be forfeited to the superintendent for the benefit of the owner of the land.

§ 176.9 *Execution of leases.* Whenever a lease award to a proposed lessee has been approved by the Secretary of the Interior, as provided in §§ 176.7 and 176.8, the lease contract shall be executed by the Indian owner of the land, if he be an adult and not incompetent as defined in § 176.0 (c). Before any lease is entered into by the Indian owners or is approved by the Secretary of the Interior, all the adult and competent owners or co-owners of the tract of land which it is proposed to lease, shall be furnished by the Bureau such geological reports as may be available or that can be secured from the representative of the Geological Survey showing the estimated mineral reserves on said property, the estimated reasonable value of such property for mining purposes, and such other data as might reasonably be necessary to fully advise the owners of said property of the then present status and mining value of their lands. If the Quapaw or other Indian owner of the land is a minor, or is otherwise an incompetent as defined in the regulations in this part, the lease contract shall be executed by the superintendent for and on behalf of such minor or such incompetent. The leases executed, either by the Indian owner of the land or by the superintendent in his behalf, shall be subject to the approval of the Secretary of the Interior and shall be effective only upon such approval.

§ 176.10 *Renewal of leases on developed lands.* (a) In cases where the lands have heretofore been leased, and lead and zinc ores have been discovered hereon, and it shall appear to the Secretary of the Interior to be advisable and to the best interests of the Indian owners of the lands that the terms of the existing lease or leases be extended, or that a new lease or leases for an additional period of time, or that a new lease or leases to take effect upon the expiration of present valid leases, should, upon application therefor, be granted to either the present lessees or to parties holding under assignments, subleases, or mining contracts, from such present lessees, or to parties who have expended capital in lead and zinc mining operation and development of the land under such leases, assignments, subleases, or mining contracts, a new lease or leases or contract of extension or existing lease or leases as may be authorized by the Secretary of the Interior may be entered into with the proper party or parties as may be determined by said Secretary of the Interior, and such new lease or leases or contract of extension of existing lease or leases shall be executed subject to the regulations in this part by and between the Indian owner of the land, if an adult and not incompetent as defined in § 176.0 (c), and said proper party or parties. If the Quapaw or other Indian owner of the land is a minor or an otherwise incompetent as defined in § 176.0 (c), the superintendent shall execute the new lease or leases or contract of extension of existing lease or leases for and on behalf of said Indian minor or incompetent. Said new leases or contracts of extension of old leases, whether executed by the Indian owner of the land or by the superintendent for and in his behalf, shall be subject to the approval of the Secretary of the Interior and shall become effective only upon such approval. No offering for sale at public auction or advertisement of sale will be necessary in reference to contracts of extension of leases, or to leases entered into under this section, as above provided, but such lease or contract shall be upon such terms as to bonus and royalty as may be determined and fixed in each case by the Secretary of the Interior under the provisions of § 176.5. The approval by the Secretary of the Interior of new leases

or of the contracts of extension of old leases shall be conclusive as to the validity of said leases, or contracts of extension of leases, the manner and method of negotiating the same, and the execution thereof. If, however, in any case where lands have heretofore been leased and lead and zinc ores have been discovered thereon, it shall appear to the Secretary of the Interior that the extension of the existing lease or leases or the granting of new leases to the present lessees, or to the persons or parties holding under said lessees by assignment, sublease, or mining contract, would not be to the best interests of the Indian owners of the land, the Secretary of the Interior may, at the expiration, cancellation, or forfeiture of the existing lease, cause the mining lease rights on said land to be offered for sale at public auction to the highest bidder. If the lead and zinc mining lease on said land be offered for sale at public auction, the same procedure shall be followed as provided in §§ 176.7–176.9.

(b) Applications under the provision of this section for a lease or extension of lease or for the approval of such lease or extension of lease will not be received or considered prior to the period of 1 year next preceding the date of the expiration of such valid existing lease or leases as may be on the land covered by such application.

(c) Applications under the provisions of this section for a lease or extension of lease or for the approval of such lease or extension of lease shall be filed with the superintendent of the Quapaw Agency at any time within the period of 1 year next preceding the date of the expiration of such valid existing lease or leases as may be on the land covered by such application, and if the records of or papers in the office of said superintendent or the records of the county court of Ottawa County, Okla., indicate that there are any prior existing leases, subleases, assignments of leases, or mining contracts covering any of the land applied for, the superintendent shall notify all persons having or claiming any rights or interest in or under said prior existing leases, subleases, assignments of leases, or mining contract concerning said application for lease or extension of lease, and that they will be allowed 10 days in which to file with the superintendent any objection they may have to the allowance of the application or to the approval of the new lease or extension of existing lease. If objection or protest is made by any owner of the land or by any person claiming rights or interests in or under existing lease, sublease, assignment of lease, or mining contract, a reasonable time, not exceeding 20 days, shall be allowed them in which to file their statement or brief in support of their protest or objection, and a reasonable further time not exceeding 10 days shall be allowed the applicant for new lease or for extension of existing lease to reply in support of the application. In case of contest, hearings may be had if deemed necessary by the Secretary of the Interior or his representatives. The application and papers in each case shall be forwarded by the superintendent of the Quapaw Indian Agency to the Commissioner of Indian Affairs with his report and recommendation in regard thereto.

§ 176.11 *New leases where prior leases have been forfeited or abandoned.* In cases where the lands have heretofore been leased and lead and zinc ores have been discovered but the mines and mining operations have been abandoned and the leases have been canceled or forfeited or have expired, special arrangements in the matter of the leasing and mining of said lands may be made provided the consent thereto of the Secretary of the Interior be first obtained. Applications containing special offers as to the terms and conditions may be considered by the Secretary of the Interior and the leasing of said lands may be made upon such special terms and conditions as the Secretary of the Interior may in each case deem to be for the best interests of the Indian owners of the land. If, however, in any case, it shall appear to the Secretary of the Interior that the granting of such lease would not be to the best interest of the Indian owners of the land, the Secretary of the Interior may cause the mining lease rights on said land to be offered for sale at public auction to the highest bidder. If the lead and zinc mining lease on said land be offered for sale at public auction, the same procedure shall be followed as provided in §§ 176.7–176.9.

§ 176.12 *Advertising costs.* All advertising costs, publication fees, expenses incurred for abstracts of lease title, and other expenses incurred in connection with the advertising and sale of leases and in connection with the execution of lease contracts shall be borne by the lessee. In the event a lease of the land is offered to the highest bidder and he fails or refuses to execute such lease when duly notified and as required by or under the regulations in this part, and no other bid is accepted, such costs, fees, and expenses shall be paid from such money as he may have paid with his bid. If no bid is tendered after a tract is advertised, or if all bids are refused, said items of expenses shall be charged to the Indian owner of the land and be paid by him or be paid by the superintendent from any funds held by such superintendent to the credit of such Indian owner of the land.

§ 176.13 *Bond.* Every mineral lease made and entered into under the regulations in this part, by an Indian or by the superintendent as his representative or in his behalf, must be accompanied by a surety bond, executed by the lessee and by a responsible surety company or two or more satisfactory sureties, guaranteeing the payment of all deferred installments of bonus and the payment of all specified royalties and rentals and the performance of all covenants and agreements undertaken by the lessee. Such bonds shall be in amount as follows: For leases covering less than 80 acres, $2,500; for those covering 80 acres and less than 120 acres, $3,500; for those covering 120 acres or more, $5,000: *Provided, however,* That the lessee may, in lieu of such surety bond and upon execution of a proper penal bond to the United States in the sum prescribed and a proper power of attorney to the Secretary of the Interior, submit therewith United States bonds or notes in the aggregate sum prescribed as security for the carrying out of the terms, conditions, and provisions of the lease: *Provided further,* That a lessee may file in lieu of such individual lease bonds, one bond in a sum to be fixed by the Secretary of the Interior covering all leases to which he is or may become a party. The right is specifically reserved to the Secretary of the Interior to require an increase of the amount of any bond above the sum named in any particular case where he deems it necessary to require such increased bond.

§ 176.14 *Payments to be made to superintendent.* No bonus, rents, royalties, nor other payments accruing under any mineral lease executed in accordance with or subject to the regulations in this part and approved by the Secretary of the Interior shall be paid direct to the Indian lessor; but all such bonus, rents, royalties, and other payments accruing under any such lease shall be paid to the superintendent for the benefit of the Indian lessors, to be deposited by that officer to the credit of the superintendent in some bank designated for the deposit of individual Indian moneys.

§ 176.15 *Leases to be accompanied by Form D.* Lead and zinc leases should be accompanied, when filed, with application for approval (Form D) [1] made under oath, and said application shall set forth the information therein required.

§ 176.16 *Requirements of corporate lessees.* (a) When the lessee is a corporation, its first application must be accompanied by a sworn statement of its proper officers showing:

(1) The total number of shares of the capital stock actually issued and, specifically, the amount of cash paid into the treasury on each share sold; or, if paid in property, state kind, quantity, and value of the same paid per share.

(2) Of the stock sold how much per share remains unpaid and subject to assessment.

(3) How much cash the company has in its treasury and elsewhere and from what source it was received.

(4) What property, exclusive of cash, is owned by the company and its value.

(5) What the total indebtedness of the company is, and, specifically, the nature of its obligations.

(b) Subsequent applications of the corporation should show briefly the aggregate amounts of assets and liabilities.

§ 176.17 *Additional information required.* Corporations, with their first application, must file one certified copy of articles of incorporation and, if a foreign corporation, evidence showing compliance with local corporation laws; also a list showing officers and stockholders, with post-office addresses and number of shares held by each. Statements of any changes of officers or any changes or additions of stockholders must be furnished to the Indian superintendent on January 1 of each year and at any time when requested. The right is reserved

[1] For further information concerning forms, see §176.19.

to the Secretary of the Interior to require of individual stockholders affidavits setting forth in what companies or with what persons or firms they are interested in lead and zinc mining leases, or land under the jurisdiction of the Quapaw Indian Agency, and whether they hold such stock for themselves or in trust. Evidence must also be given in a single affidavit (Form I) by the Secretary of the company or by the president of said company, showing authority of the officers of the company to execute the lease, bond, and other papers.

§ 176.18 *Term of leases.* The term of lead and zinc mining leases executed pursuant to acts of Congress and under the regulations in this part shall be for such period of time as may be determined in each case by the Secretary of the Interior, but in no case shall a lease be made to extend beyond the restriction or trust period on the lands covered by such lease.

§ 176.19 *Forms.*[1] Application, leases, and other papers must be upon forms prescribed by the Secretary of the Interior. Except as may be otherwise provided and required by the Secretary of the Interior, the leases and other papers required under the regulations in this part shall be in conformity with the forms designated, respectively, as follows:

Form A. Lease of Quapaw Indian land.
Form B. For lease of Indian land other than Quapaw.
Form C. Application by Indian.
Form D. Application for approval of lease.
Form E. Affidavit of lessor (or of superintendent acting for him) and affidavit of lessee.
Form F. Surety bond.
Form G. Affidavit of surety on personal bond.
Form H. Certificate as to sufficiency of surety on personal bond.
Form I. Affidavit as to authority of officers of corporation to execute lease and other papers.
Form J. Penal bond (in lieu of surety bond), and accompanying power of attorney.
Form K. Assignment of lead and zinc lease.

§ 176.20 *Assignment.* Leases granted or approved under the regulations in this part may be assigned and the leased premises may be subleased or sublet, but only with the consent and authority of the Secretary of the Interior and subject to his approval as to the terms and conditions of such assignments, sublease, and subletting contracts and not otherwise, and provided also that the proposed assignee, sublessee, or sublettee shall be qualified to hold such lease under the regulations in this part and shall furnish such bond as may be required by the Secretary of the Interior, such bond to be with responsible surety to the satisfaction of the Secretary of the Interior and conditioned for the faithful performance of the covenants and conditions of the lease. Upon the filing with the Indian agent of such assignment, financial statement, and bond, the said agent shall at once give notice in writing to all restricted Indian owners of said land, advising them of said proposed assignment, and that if they have any bona fide objections to same, such objections must be filed in writing within 10 days from the date of said notice.

§ 176.21 *Payment of gross production tax on lead and zinc.* The superintendent of the Quapaw Indian Agency is hereby authorized and directed to pay at the appropriate times, from the respective individual Indian funds held under his supervision, such gross production tax due the State on production of lead and zinc from restricted lands under his jurisdiction as may be properly assessed under provisions of law against the royalty interests of the respective Indian owners in the mineral produced from their lands.

§ 176.22 *Operations.* (a) All shafts shall be securely cribbed to a point at least 8 inches above the immediate surrounding surface and cribbing shall be maintained in good condition during the life of the mining lease: *Provided, however,* That at any time shafts may be permanently sealed by a reinforced concrete slab after first obtaining the written approval of the duly authorized representative of the Department of the Interior. The slab shall be so placed as to prevent caving of the ground around the shaft collar.

(b) All shafts, prior to the expiration, surrender, or upon cancellation of the mining lease or abandonment of the property, shall be permanently sealed so as to prevent the caving of the ground around the shaft collar: *Provided, however,* That this requirement may be waived after first obtaining the written consent of the duly authorized representative of the Department of the Interior.

(c) All shaft entrances not permanently sealed shall be so fenced, boxed, or covered as to prevent persons or animals from falling into the mine when the shaft is not in actual use, and such fencing, boxing, or covering shall be maintained in good condition during the life of the mining lease.

(d) All shafts where hoisting is done shall be boxed or fenced on three sides and the fourth side equipped with a gate which shall be kept closed when access to the shaft is not necessary.

(e) All churn drill holes shall be securely plugged to the surface unless used for ventilation or other mining purposes, in which case they shall be cased or otherwise prevented from caving or becoming a hazard to persons or animals. If cased, the casing shall extend 4 feet above the collar of the hole.

§ 176.23 *Cooperation between superintendent and district mining supervisor.* (a) The district mining supervisor of the Miami field office, Geological Survey, directly or through his assistants, shall receive from lessees for the superintendent, all notices, reports, drill logs, maps, and records, and all other information relating to mining operations required by said regulations to be submitted by lessees, and shall maintain a file thereof for the superintendent.

(b) The files of the Geological Survey supervisor relating to lead and zinc leases of Quapaw Indian lands shall be at all times available for inspection and use by authorized employees of the Bureau of Indian Affairs, and the employees of the Geological Survey assigned to work relating to Indian lands shall furnish to authorized employees of the Bureau of Indian Affairs such information and technical advice as may be necessary or appropriate to the most efficient cooperation in the conduct of the work assigned to the two bureaus. Likewise, similar facilities and service shall be provided for the benefit of the authorized employees of the Geological Survey by the Bureau of Indian Affairs.

(c) No orders of any kind will be issued by Geological Survey representatives to any Indian, but such representatives shall have full authority to issue and amend orders to operators relative to production and operations: i. e., the supervision of all operations, including safety and efficiency, health and sanitation, and prevention of material or economic waste, such orders to be prepared with the advice of the local representative of the Bureau of Indian Affairs.

CROSS REFERENCE: For regulations of the Geological Survey, see 30 CFR Chapter II.

§ 176.24 *Books and accounts.* (a) The lessee shall maintain books in which shall be kept a correct account of all ore and rock mined on the tract, of all ore put through the mill, of all lead and zinc concentrates produced, and of all ore and concentrates sold and to whom sold, the weight, assay value, moisture content, base price, dates penalties, and price received, and the percentage of lead and zinc recovered. A correct statement of the same for each month shall be furnished the office of the district mining supervisor pursuant to § 176.23 not later than 15 days after the first of each month for the preceding month, together with a certificate from the smelter showing the unit price paid for the mineral purchased and the amount of ore and concentrates purchased during the month from said land.

(b) An audit of the lessee's accounts and books shall be made semiannually, or at such other times as may be directed by the Secretary of the Interior, by certified public accountants, approved by the Secretary, and at the expense of the lessee. The lessee shall furnish free of cost a copy of such semiannual or other audit, through the office of the district mining supervisor pursuant to § 176.23, within 30 days after the completion of each auditing.

§ 176.25 *Prior regulations superseded.* All former regulations governing the leasing for lead and zinc mining purposes of restricted or trust lands of Indians under the supervision of the Quapaw Indian Agency are superseded by this part.

Subchapter Q—Oil and Gas

PART 181—OIL AND GAS LEASES AND OPERATIONS ON TRIBAL LANDS [RESERVED]

PART 182—OIL AND GAS LEASES AND OPERATIONS ON ALLOTTED LANDS [RESERVED]

[1] Forms may be obtained from the Commissioner of Indian Affairs, Washington 25, D. C.

PART 183—LEASING OF OSAGE RESERVATION LANDS FOR OIL AND GAS MINING

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AUTHORITY: §§ 183.1 to 183.95 issued under sec. 3, 34 Stat. 543. Interpret or apply secs. 1, 2, 45 Stat. 1478, 1479. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 183.1 *Definitions.* The following words or terms when used in the lease and regulations in this part shall have the meaning shown in this section:

(a) *Superintendent.* The Superintendent of the Osage Agency, Pawhuska, Oklahoma, in charge of the Osage Agency and Reservation, or any other person who may be in charge of such agency and reservation, and it shall be his duty to enforce compliance with the regulations in this part.

(b) *Inspector.* Any person appointed as Inspector of oil and gas wells, or who may be designated by the Secretary of the Interior or the Commissioner of Indian Affairs to supervise oil or gas operations on Osage lands under the direction of the Superintendent.

(c) *Oil lessee.* Any person, firm, or corporation to whom an oil mining lease is made under the regulations in this part.

(d) *Gas lessee.* Any person, firm, or corporation to whom a gas lease is made under the regulations in this part.

OIL MINING LEASES

§ 183.2 *Royalty payments*—(a) *Royalty on oil produced by primary or gas injection methods.* The lessee shall pay or cause to be paid to the Superintendent, for the lessor as a royalty, the sum of 16⅔ percent of the gross proceeds from sales after deducting the oil used for fuel in operating the lease, unless the Osage Tribal Council, with the approval of the Commissioner of Indian Affairs, shall elect to take the royalty in oil; payment to be made at time of sale or removal of the oil, except where payments are made on division orders; and settlement shall be based on the actual selling price, but at not less than the highest posted market price in the Mid-Continent oil field on the day of sale or removal: *Provided,* That when the quantity of oil taken from all the producing wells on any quarter-section according to the public survey, or fractional quarter-section if the land covered by the lease does not include the full quarter-section, during any calendar month, is sufficient to average one hundred or more barrels per well per day, the royalty on such oil shall be 20 percent.

(b) *Royalty on oil produced by the water flood process.* When the estimated reserves of oil recoverable by primary and/or gas injection methods from a specified sand or sands have been depleted or partially depleted, the lessee and the Tribal Council may agree upon a new royalty rate to be approved by the Superintendent, the sum to be not less than 12½ percent of the gross proceeds from sales of oil produced by the water flood process after deducting the oil used for fuel in operating the lease, unless the Osage Tribal Council, with the approval of the Commissioner of Indian Affairs, shall elect to take the royalty in oil; payment to be made at time of sale or re-

moval of the oil, except where payments are made on division orders, and settlement shall be based on the actual selling price, but at not less than the highest posted market price in the Mid-Continent oil field on the day of sale or removal.

(c) *Royalty in kind.* Should the lessor, with the approval of the Commissioner of Indian Affairs, elect to take the royalty in oil, the lessee shall furnish free storage for the royalty oil for not exceeding 30 days.

§ 183.3 *Government reserves right to purchase oil.* Any of the executive departments of the United States Government shall have the option to purchase at the highest posted market price on the day of sale all or any part of the oil produced under any lease. The Commissioner of Indian Affairs may impose restrictions as to time or times for drilling of wells and as to the production from any well or wells when in his judgment or the judgment of his representative, such action may be necessary or proper for the protection of the natural resources of the leased land and the interests of the Osage Tribe of Indians, and in taking action, the Commissioner may take into consideration, among other things, Federal laws, State laws, or regulations by competent Federal or State authorities or lawful agreements among operators regulating either drilling or production, or both.

§ 183.4 *Drilling obligations.* (a) Lessees shall drill at least one well to the Mississippi line, unless oil or gas is found in commercial quantities at a lesser depth, on the land embraced in their leases, within 12 months from date of approval of leases, or the leases may be held for the full 5-year fixed term without drilling, upon payment of rentals to the Superintendent for the lessor at the rate of $1 per acre per annum, or a proportionate part thereof for each 3 months' period a lease is held and a well is not drilled, such rental beginning twelve months from date of approval of lease: *Provided,* That the time within which a well shall be drilled or rental paid in lieu of drilling shall not begin to run on any restricted homestead selection until the consent of the Superintendent to drilling on such homestead shall have been given: *Provided,* That the Superintendent in his discretion may direct the drilling of any undrilled lease, if in his opinion the interests of the Osage Tribe warrant. Should the lessee elect to surrender his lease before the end of any such yearly period without drilling a well thereon, he shall pay the rental of $1 per acre for the fractional part of the year the land is held and a well is not drilled, and failure of the lessee to pay such rental within 25 days from the expiration of any yearly period during which such well is not drilled shall be cause for cancellation of the lease by the Superintendent, but such cancellation shall not release the lessee and his sureties from the obligation to pay such rental: *Provided, further,* That whenever the Commissioner of Indian Affairs shall consider the marketing facilities inadequate to take care of the production he may direct the suspension of drilling operations on any lease.

(b) Prior to the expiration of a term of a lease, the Osage Tribal Council may, with the approval of the Superintendent, and a finding by him that such action is in the best interest of the Osage Tribe, grant an extension of the term of the lease for a period of not to exceed six months for the purpose of enabling the lessee to drill a well to the Mississippi Line unless oil or gas is found in paying quantities at a lesser depth.

§ 183.5 *Use of surface lands; settlement of damages to lands and crops.* (a) Lessee shall have the right to use so much of the surface of the land as may be necessary for operations, including the right to lay and maintain pipe lines, telephone and telegraph lines, pull rods and other appliances necessary for the operation of the wells; also the right of ingress and egress and the right of way to any point of operations under condition of least injury and inconvenience to the owner and occupant of the surface. Lessee may use water from streams and natural water courses for lease operations as set out in § 183.57. Before commencing operations for the drilling of any well the lessee shall pay to the surface owner the sum of $200 for each well located on cultivated land (tilled or cultivated within the immediately preceding three years, and including hay-meadow land), $150 for open pasture land, and $100 for such location on brush or wooded lands, and other lands not suitable for cultivation. Upon payment of such location site money, lessee shall be entitled to possession. Location sites shall be held to the minimum area essential for operations, and in no event shall exceed one and one-half acres in area. Lessee shall also pay tank site fees at the rate of $20 per tank of not exceeding 1,000 barrels capacity: *Provided, however,* That no tank site fee shall be paid for a tank temporarily set on a well location site for testing purposes during the completion of the well. Tank sites shall be held to the minimum area essential to efficient operations, and in no event shall exceed an area of 50 feet square per tank. The sum to be paid for an oil tank site of larger capacity and occupying a greater area shall be as agreed upon between the surface owner and the lessee, and on failure to agree, the same shall be fixed by arbitration.

(b) All claims for damages for use of the surface other than that included in the location and tank sites, all claims for damages to growing crops or improvements on the lands and all other claims for damages to the surface owners or their lessees arising from operations of the oil or gas lessees shall be settled by arbitration whenever the parties are unable to agree concerning the same. But nothing contained in this section shall be construed to deny to either party to the controversy the right to appeal to the courts in the event he is dissatisfied with the award to or against him.

(c) All agreements (or authenticated copies thereof) providing for the settlement of damages shall be filed in the Osage Agency, if the surface owner is a restricted Indian, and all such amounts which may be due and payable to any such Indian shall be paid to the superintendent and by him immediately remitted to the Indian entitled thereto. All sums due as royalty or damages shall be a lien on all equipment and unsold oil on leased premises.

CROSS REFERENCES: For additional regulations pertaining to rights-of-way, see Part 161 of this chapter.

§ 183.6 *Prohibition of waste; intoxicating liquors not permitted; books and accounts.* The lessee shall carry on operations in a workmanlike manner, commit no waste and suffer none to be committed upon the land, nor permit any nuisance to be maintained on the premises under his control, nor allow any intoxicating liquors to be introduced, brought upon, sold, or given away for any purposes on such premises; also keep an accurate account of all operations, receipts, and disbursements, furnishing sworn reports of such when and as required by the regulations or by an authorized representative of the Secretary of the Interior.

§ 183.7 *Improvements on the land.* All buildings and permanent improvements, including casings of all producing wells drilled 3 years or more prior to the expiration of the lease, shall remain a part of said land and become the property of the surface owner at expiration of the lease, excepting tools, tanks, boiler houses, pipelines, pumping and drilling outfits, derricks, engines, machinery, and the casings of all dry or nonpaying wells. The casings of wells drilled less than 3 years prior to and producing oil on the expiration of the lease remain the property of the oil lessee: *Provided,* That such casings shall not be removed from the wells but shall be purchased from the lessee by the owner of the oil rights at such price as may be mutually agreed upon, and on failure to agree the price shall be fixed by arbitration.

§ 183.8 *Lands may be leased separately for gas.* The lessee shall accept a lease with the understanding that the lands covered thereby may be leased to some other party who shall have the exclusive right to all gas except as otherwise provided.

§ 183.9 *Gas wells to be turned over to gas lessee.* If the oil lessee shall drill a gas well he shall, without removing from the well any of the casing or other equipment, immediately shut the well in and notify the gas lessee and the superintendent. In the event the gas lessee does not within 30 days after receiving notice elect to take over such well and reimburse the oil lessee the cost of drilling the same, including all damages paid, in addition to the cost in place of casing, tubing, and other equipment, the oil lessee shall immediately confine the gas to the original stratum, and the disposition of such well shall be subject to the approval of the superintendent.

§ 183.10 *Oil wells to be turned over to oil lessee.* If the gas lessee shall drill an oil well upon the leased lands, he shall

immediately, without removing from the well any of the casing or other equipment, notify the oil lessee and the superintendent. In the event the oil lessee does not within 30 days after receipt of notice elect to take over such well he shall immediately so notify the gas lessee, and the disposition of such well shall be subject to the approval of the superintendent. Should the oil lessee elect to take over the well, he shall pay the gas lessee the cost of drilling the same, including all damages paid in addition to the cost in place of casing and other equipment.

§ 183.11 *Wells producing both oil and gas.* If the oil lessee shall drill a well which produces both oil and gas in commercial quantities from the same sand he shall immediately notify the gas lessee and together they shall arrange for the separation and utilization of the oil and gas, and the cost pertaining to said well.

§ 183.12 *Drilling through gas sand.* Whenever oil and gas are found in separate sands, and the oil lessee desires to drill through the gas sand for the oil, he may do so provided the method of protecting the gas sand shall be approved by the inspector.

§ 183.13 *Deepening wells.* If at any time any oil or gas well becomes unprofitable and the oil or gas lessee desires to deepen the same, such action as may be mutually agreed upon may be taken not in conflict with the regulations. Upon failure to agree the disposition of such well shall be subject to the approval of the superintendent.

§ 183.14 *Casing-head gas.* All casing-head gas shall belong to the oil lessee and when used for the manufacture of gasoline shall be metered and be subject to a royalty of 16⅔ percent based on the market value of the gasoline contents, and all such gas not utilized by the oil lessee on his leased premises or for operating other adjoining leases within the Osage Reservation, shall belong to the gas lessee, subject to the prescribed royalty of 16⅔ percent.

§ 183.15 *Gas for operating purposes.* The gas lessee shall furnish the oil lessee sufficient gas for drilling and operating purposes at a rate to be agreed upon, or on failure to agree the rate shall be fixed by arbitration: *Provided,* That the oil lessee shall make necessary connections between the well and the meter whenever possible.

§ 183.16 *Surrender of lease.* The oil lessee may at any time, by paying to the superintendent all amounts then due, including rentals in lieu of development, and the further sum of $1, surrender all or any quarter-section or fractional part of quarter-section where the lease does not cover the full quarter-section, and have the lease cancelled as to the lands surrendered and be relieved from all further obligations and liabilities thereunder as to the part surrendered: *Provided,* That if this lease has been recorded lessee shall execute a release and record the same in the proper office.

§ 183.17 *Form of payment.* All amounts due and payable under a lease shall be paid to the Superintendent by check or bank draft on a solvent bank.

§ 183.18 *Leases subject to current regulations.* Leases shall be subject to current regulations prescribed by the Secretary of the Interior, relative to such leases, all of which are made a part of such leases: *Provided,* That no regulations made after the approval of any lease shall operate to affect the term of lease, rate of royalty, rental or acreage, unless agreed to by both parties.

§ 183.19 *Penalty for violation of lease terms.* Violation of any of the terms or conditions of any lease or of the regulations in this part shall subject the lease to cancellation by the Superintendent, or the lessee to a fine of not exceeding $500 per day for each and every day the terms of the lease or of the regulations are violated, or the orders of the Superintendent in reference thereto are not complied with, or to both such fine and cancellation in the discretion of the Superintendent: *Provided,* That prior to cancellation of a lease or the imposition of a fine as provided for in this section, the lessee shall be entitled to notice and hearing with respect to the terms of the lease or of the regulations violated, which hearing shall be held by the Superintendent.

§ 183.20 *Bonds.* (a) Lessees shall furnish with each oil lease and each gas lease, to be filed at the time the lease is presented, a bond upon Form D, with a surety company duly authorized to execute bonds. Such bonds shall be in the sum of $1,000 for each quarter-section or fractional quarter-section unit covered by the lease: *Provided, however,* That the lessee may file one bond, Form G, covering all leases to which he or they are or may become parties instead of a separate bond in each case, such bond to be in the penal sum of $15,000.

(b) In lieu of the bonds required under paragraph (a) of this section; a lessee may furnish a bond (Form 5–156) in the sum of $75,000 for full nation-wide coverage with an acceptable company authorized to act as sole surety to cover all oil and gas leases without geographic or acreage limitation to which the lessee is or may become a party.

(c) The right is specifically reserved to increase the amount of bonds prescribed in paragraph (a) of this section in any particular case when the Superintendent deems it proper to do so. The nationwide bond may be increased at any time in the discretion of the Secretary of the Interior.

(d) Form H should be used in the preparation of a bond covering a lease acquired through assignment where the assignee does not have a collective bond, or the surety does not execute its consent to remain bound under the original bond given to secure the faithful performance of the terms and conditions of the lease.

§ 183.21 *Provisions of forms made a part of regulations.* The provisions of the lease, assignment, and supporting papers, designated as Forms A, B, D, E, F, G, and H are hereby made a part of the regulations in this part, and lessees will be required to adhere strictly to the conditions thereof.

GAS MINING LEASES

§ 183.22 *Certain provisions of oil mining lease identical with gas mining lease.* The terms of the several gas mining leases in effect, covering practically the entire acreage of the Osage Reservation, vary somewhat as to development requirements, but provisions relative to use of surface, payment of damages by reasons of well locations, etc., and duties of lessee are practicaly identical with that of oil lessee. The regulations in this part will govern operations under all gas leases in the Osage Reservation so far as applicable.

§ 183.23 *Contracts for the sale of gas for industrial purposes.* (a) All contracts for the sale of gas for industrial purposes and sworn statements showing the terms, conditions, and schedules of prices contained in contracts with domestic consumers shall be filed with the Superintendent, and shall be subject to the approval of the Commissioner of Indian Affairs whenever, in his opinion, the interests of the Osage Tribe or the public require such action.

(b) In the sale and disposition of gas, preference shall at all times be given to domestic consumers, unless provided otherwise in the lease, and all contracts for the industrial use of gas shall contain a clause to the effect that when it is shown to the satisfaction of the Commissioner that such gas is needed for domestic consumers within an area fixed by the Commissioner, such contract shall terminate upon the expiration of 30 days' notice from the Commissioner, and that the Commissioner shall have authority immediately to suspend the furnishing of gas to industrial consumers when he is of the opinion that such gas is needed for domestic consumers. All gas furnished to industrial and domestic consumers shall be metered and sold at meter rates: *Provided,* That gas furnished to an oil lessee may be sold as provided in the gas lessee's contract.

(c) All contracts with domestic consumers shall be subject to the inspection of the Superintendent.

UTILIZATION OF CASING-HEAD GAS WHEN USED FOR THE MANUFACTURE OF GASOLINE

§ 183.24 *Royalty on casing-head or natural gasoline, butane, propane, or other liquid hydrocarbon substances extracted from gas, drip gasoline, or other natural condensate.* (a) A royalty of 16⅔ percent of the gross proceeds of sales shall be paid on the value of one-third (or the lessee's portion if greater than one-third) of all casing-head or natural gasoline, butane, propane, or other liquid hydrocarbon substances extracted from the gas produced from the leasehold. The value of the remainder is an allowance for the cost of manufacture, and no royalty thereon is required. The royalty shall be computed on the sale price received by the manufacturers of such products, or such higher price the lessee may receive the same to be reported under oath and remitted to the Superintendent not later than the 25th of the succeeding month for all such

products sold during the previous month. If the manufacturer of any product extracted from casing-head gas produced from an Osage leasehold should sell his product at an arbitrary price below that obtained by other manufacturers selling such product in the open market during a particular month, the Superintendent shall notify said manufacturer of such discrepancy and require settlement for royalty upon the average price obtained by manufacturers selling such product in the open market during the same period. The place of sale of liquid hydrocarbons extracted from gas shall be at the plant where manufactured or when loaded into tank cars at or near the plant. Should any manufacturer sell such product by delivery to pipelines at distant points he may be allowed the average loss by waste, evaporation or otherwise sustained by other manufacturers in the Osage, of such product from the plant to tank cars as shown by sworn statements which shall be furnished when required by the Superintendent.

(b) The royalty on all drip gasoline, or other natural condensate recovered from gas produced from the leased lands without resort to manufacturing process shall be 16⅔ percent of the gross proceeds from sales, except that such substance, if processed in a casing-head gasoline plant shall be treated for royalty purposes as though it were gasoline.

§ 183.25 *Casing-head gas contracts and division orders.* Contracts and division orders shall be entered into between a lessee and any other person or corporation for the sale of casing-head gas, which shall provide for a minimum royalty interest for the lessor of 16⅔ percent of 33⅓ percent of the value of the gasoline extracted, unless it is sold on a higher basis, in which event it shall be computed on such basis.

§ 183.26 *Effective date of casing-head gas contracts.* Contracts for the sale of casing-head gas entered into between lessees and others shall be filed with the superintendent within 30 days after date of execution, and shall be effective only from date of approval by the superintendent.

§ 183.27 *Casing-head gas contracts subject to regulations of Interior Department.* All contracts for the sale of casing-head gas shall be made subject to the rules and regulations of the Department now existing or hereafter to be promulgated, and shall provide that § 183.24 in regard to the basis of determining the royalty, may be revised by the Secretary of the Interior upon notice to all parties concerned, and an opportunity being given them to be heard: *Provided,* That such revision shall not apply to contracts approved under the regulations in this part prior to any such revision or change which will in any way alter the terms of the contract, rate of royalty, method of computing royalty, or basis of such computation, without the written consent of the parties thereto filed with the superintendent. Contracts hereafter executed shall also provide that they may be cancelled by the superintendent for violation of the terms thereof or the regulations, after 30 days' notice to the parties concerned and an opportunity to be heard has been afforded them, subject to appeal to the Secretary of the Interior within 30 days from notice of decision of the superintendent.

§ 183.28 *Royalty on casing-head gasoline manufactured from casing-head gas by oil lessees.* When oil lessees manufacture casing-head gasoline from casing-head gas produced from their own leases, payment for the royalty interest of the lessor shall be at the rate of 16⅔ percent (or the royalty specified in the lease) to be computed on 33⅓ percent of the gasoline extracted as provided in § 183.24, and which shall be subject to change as provided in § 183.27.

§ 183.29 *Determining gasoline content of casing-head gas for royalty purposes.* The gasoline content of all casing-head gas per 1,000 cubic feet for royalty purposes shall be determined by dividing the total amount of gasoline extracted, marketed, or utilized during any month, after deducting all naphtha or other products used for blending purposes, by the amount of casing-head gas used in such plant, as shown by meters. In cases where one gasoline plant purchases casing-head gas from more than one oil lessee and it is impossible to determine from the plant operations the gasoline content of casing-head gas from any particular lease, they may use any physical field test desired to determine the productivity for the purpose of prorating the 33⅓ percent of the value of all gasoline extracted from the different leases, but in all cases the minimum royalty shall be 16⅔ percent of 33⅓ percent of the gross amount of gasoline extracted whether paid by the oil lessee or by the operator of the gasoline plant when a division order has been executed and approved by the superintendent.

§ 183.30 *Measurement of gas.* Gas of all kinds (except gas used for purposes of production on the leasehold or unavoidably lost) is subject to royalty, and all gas shall be measured by meter (preferably of the orifice-meter type) unless otherwise agreed to by the Superintendent. All gas meters must be approved by the Superintendent and installed at the expense of the lessee at such places as may be agreed to by the Superintendent. For computing the volume of all gas produced, sold, or subject to royalty, the standard of pressure shall be 10 ounces above an atmospheric pressure of 14.4 pounds to the square inch, regardless of the atmospheric pressure at the point of measurement, and the standard of temperature shall be 60° F. All measurements of gas shall be adjusted by computation to these standards, regardless of the pressure and temperature at which the gas was actually measured, unless otherwise authorized in writing by the Superintendent.

§ 183.31 *Reports of sales of casing-head gas.* Sworn statements shall be made to the superintendent by lessees, and owners or persons in charge of the gasoline plants to whom casing-head gas is sold, showing: (a) volume of casing-head gas purchased from each lessee, (b) the total amount of gasoline extracted in any plant and where casing-head gas is purchased from more than one oil lessee method used to determine the productivity of the casing-head gas purchased from the different lessees, (c) the price at which the merchantable or blended gasoline is sold and dates of sale, (d) the amount paid to each lessee. The statements shall be made not later than the 25th day of each month and shall cover the preceding month, and at the same time payment shall be made of royalty interest to the superintendent by the oil lessee, or by the purchaser where division orders, have been executed and approved by the superintendent. The books of both lessee and purchaser shall be open to inspection on order of the superintendent so far as to test the accuracy of the sworn statements referred to above, and to determine whether the royalty interests are fully protected.

§ 183.32 *Oil lessees may be allowed to manufacture casing-head gasoline from casing-head gas.* Oil lessees shall secure the consent of the superintendent to manufacture gasoline from casing-head gas produced on their approved leases. The productivity of the casing-head gas shall be determined as prescribed in § 183.29, and sworn statements, as indicated in § 183.31, accompanied by remittance of the royalty interest shall be mailed to the superintendent not later than the 25th day of each month for casing-head gas utilized for the manufacture of casing-head gasoline during the preceding month, the computation to be made on the basis indicated in § 183.24.

§ 183.33 *Lessees not relieved by division orders from paying royalties if purchaser fails to pay.* When division orders or contracts are executed and approved for the payment of the royalty interest, same shall not relieve the lessees from responsibility for payment should the purchaser fail, neglect, or refuse to pay the royalty when it becomes due.

§ 183.34 *Residue gas to be delivered to gas lessee.* The residue or dry gas remaining after extracting the gasoline, not used for development purposes on the leases where it was produced or adjoining leases owned by the same lessee in Osage County, shall be delivered to the gas lessee as provided in § 183.72, and all contracts for the sale of casing-head gas shall contain a provision to such effect.

§ 183.35 *Casing-head gas sold to plants outside of Osage County.* Where any casing-head gas is sold to gasoline plants located outside of Osage County, tests shall be made under Government supervision to determine the gasoline content, and when deemed advisable tests shall be made of all casing-head gas used in any such plant in order to determine whether the physical field test of gas from Osage County shows as large a gasoline content as is extracted in actual plant operations, and after such tests have been made the superintendent shall determine the productivity of the gas from Osage County.

§ 183.36 *Burners for oil or gas used for operating purposes.* Where nonroyalty oil or gas is used for operating purposes by lessee, the superintendent may require to be installed and used an efficient burner of a type to be approved by him.

§ 183.37 *Measurement of gas used by oil or gas lessees.* All gas utilized by oil or gas lessees shall be metered with the exception of casing-head gas coming from wells so located in the opinion of the oil and gas inspector that it would be impracticable to gather and utilize same for royalty purposes, and as provided in § 183.72. Gas not metered but utilized for lease operations shall be estimated as to quantity and report thereof made monthly on forms which will be furnished by the superintendent upon application, such report to be prepared so as to reach the superintendent's office not later than the 25th day of the succeeding month for which the report is made.

ACREAGE

§ 183.38 *Limitation.* There is no limitation to the number of acres any lessee may acquire, by lease or assignment, for oil mining purposes on the Osage Indian Reservation.

HOW TO ACQUIRE LEASES OF TRIBAL LANDS

§ 183.39 *Sales of oil leases and gas leases; leases to be sold at public auction.* (a) Written application for tracts to be offered for lease may be filed with the Superintendent.

(b) The Superintendent, with the consent of the Osage Tribal Council, may at such times and in such manner as shall be deemed appropriate, publish and distribute notices that oil leases and/or gas leases on specific tracts of unleased tribal lands, each of which shall be in a compact body, will be offered at public auction to the highest responsible bidder: *Provided,* That not less than 25,000 acres of the unleased portion of the Osage mineral reserve shall be offered for lease during any one year. Successful bidders must deposit with the Superintendent on day of sale, a check, or bank draft on a solvent bank in the amount equal to 25 percent of the bonus as a guaranty of good faith. The Superintendent may require any bidder to submit satisfactory evidence of good faith, that he has the cash in hand or at his command, and to furnish whenever called upon by the Superintendent during the progress of the sale, authenticated statement of a solvent bank to the effect the bidder has the means to purchase the lease. The balance of the bonus, together with a $5.00 filing fee for each lease, shall be paid, and the lease in completed form with necessary accompanying papers shall be filed with the Superintendent within 20 days after the lease is forwarded, by the Superintendent, to the lessee for execution, unless such period has been extended by the Superintendent for good and sufficient reason. If the successful bidder fails to complete the lease or to pay the full consideration within 20 days or an authorized extension thereof, or if the lease is disapproved through no fault of the lessor or the Department of the Interior, the amount deposited as a guaranty of good faith shall be forfeited for the use and benefit of the lessor. Any and all bids shall be subject to acceptance by the Osage Tribal Council. The Superintendent may disapprove a lease made on an accepted bid, upon evidence satisfactory to him of collusion, fraud or other irregularity in connection with the sale of the lease.

(c) No lease, assignment thereof, or interest therein will be approved to any employee or employees of the Government, and no such employee shall be permitted to acquire any interest in leases covering Osage Tribal lands, by ownership of stock in corporations having leases or in any other manner.

§ 183.40 *Corporations and corporate showing.* (a) Upon being notified of the acceptance of its bid, a corporation shall file a certified copy of articles of incorporation, and evidence showing compliance with local corporation laws if a foreign corporation: *Provided,* That if any such papers have already been filed a statement to that effect may be submitted.

(b) A corporation must also file with its first lease, and at such other times as the Superintendent may direct, a list in duplicate of all officers, directors, and of such stockholders, as may be required with their post-office addresses, and showing the number of shares of capital stock held by each and whether held for themselves or in trust, together with a sworn statement of its proper officer, showing:

(1) The total number of shares of the capital stock actually issued, the number of shares actually sold and specifically the amount of cash paid into the treasury on the stock sold, or, if paid in property, state kind, quantity, and value of same paid.

(2) Of the stock sold, how much per share remains unpaid and subject to assessment.

(3) How much cash the company has in its treasury and elsewhere, and from what sources it was received.

(4) What property, exclusive of cash, is owned by the company and its value.

(5) What the total indebtedness of the company is and specificially the nature of its obligations.

(c) Leases made by corporations shall be accompanied by an affidavit (Form E) showing the authority of its officers to execute leases, bonds and other papers.

§ 183.41 *How to acquire permission to begin operations on homestead allotments.* (a) Lessees may conduct operations within or upon homestead selections with the written consent of the Superintendent and not otherwise.

(b) If the allottee is unwilling to permit operations on his homestead, the Superintendent will direct the Inspector to make an examination of the premises with the allottee and the lessee, or his representative, and should the Inspector be of the opinion that the interests of the Osage Tribe require that the particular tract be developed he will endeavor to have the parties agree upon the terms under which operations on the homestead may be conducted.

(c) In the event the allottee and the lessee cannot, with the assistance of the Inspector, agree on the matter, the allottee shall be permitted to go before the Osage Tribal Council, and the Council, after hearing the allottee, the lessee, and the Inspector, shall make such recommendation as it deems proper. Guardians, legal or natural, may represent their Indian wards, and where no one is authorized or where no person is deemed by the Superintendent to be a proper party to speak for a minor or person of unsound mind or of feeble understanding, the Principal Chief of the Osage Tribe shall represent him.

(d) Where the allottee does not appear before the Council, either in person or by representative, when notified by the Superintendent, or the Council fails to act in the matter within 10 days after being referred to it, the Superintendent may authorize the lessee to proceed with operations in conformity with the provisions of his lease and the regulations in this part. If the Council by appropriate resolution should recommend that a lessee be not permitted to conduct drilling operations on a homestead selection, the Superintendent shall submit the question to the Area Director.

§ 183.42 *Rental period after consent of Superintendent to begin operations on homesteads.* Rental in lieu of development shall not begin to run on any homestead selection until one year after the consent of the Superintendent or Area Director to operations on such homestead shall have been given.

§ 183.43 *Lessees' process agents.* (a) Each and every lessee and assignee shall, from the date of approval of lease or assignment, maintain an office at Pawhuska, Okla., with an agent upon whom service of process may be held in conformity with the laws of the State of Oklahoma, and who shall have authority to represent and speak for the lessee or assignee in controversies affecting any individual member of the Osage Tribe.

(b) Where several parties own a lease jointly, only one representative or agent need be designated whose duties shall be to act for all parties concerned. Designation of such representative should be made by the party in charge of operations.

(c) In the event of the incapacity or absence from the county of such designated local or resident representative, the lessee shall appoint some person to serve in his stead, and in the absence of such representative or of notice of the appointment of a substitute any employee of the lessee upon the leased premises, or the contractor or other person in charge of drilling or related operations thereon, shall be considered the representative of the lessee for the purpose of service of orders or notices as herein provided, and service upon any such employee, contractor, or other person shall be deemed service upon the lease.

§ 183.44 *Lessees subject to superintendent's orders; books and records open to inspection.* Lessee shall comply with all orders on instructions issued by the superintendent or inspector within the

time specified, and shall allow the lessor and his agents, or any authorized representative of the Secretary of the Interior, to enter, from time to time, upon and into all parts of the leased premises for the purpose of inspection; and shall further agree to keep a full and correct account of all operations, receipts, and disbursements and make reports thereof, as herein required, and their books and records, showing manner of operations and persons interested, shall be open at all times for the examination of any authorized representative of the superintendent or of the Secretary of the Interior.

§ 183.45 *Reports and time of royalty payments.* Royalties on all oil and gas, included casing-head gas or on gasoline manufactured therefrom, produced in any month, shall be paid on or before the 25th of the month next succeeding by either purchaser or lessee. Failure to so remit will subject the lessee to fines as hereinafter indicated and also subject division order to cancellation. Lessees shall also furnish monthly sworn reports covering all operations whether there has been production or not, indicating therein the total amount of oil, gas, or gasoline sold and not merely their working interest, and also the dates of discovery and beginning of utilization of gas from gas wells. The lessee may include in one sworn statement all leases upon which dry holes have been drilled or the wells have ceased to produce.

ASSIGNMENTS

§ 183.46 *Approval of lease instruments*—(a) *Oil and gas leases.* The Superintendent may approve the schedule of bids accepted by the Osage Tribal Council following a sale of oil leases and gas leases conducted in conformity with the provisions of § 183.39. The Superintendent may also approve oil leases and gas leases made by the Osage Tribal Council in conformity with the regulations in this part, bonds and other instruments required for leases or assignments thereof, and the acceptance of the voluntary surrender of leases.

(b) *Unitization of oil leases.* As a consideration for their further development by the water flood process, two or more oil leases may be unitized and merged in a single blanket lease with the approval of the Superintendent. The instrument of unitization (blanket lease) shall include all the requirements and provisions of sections numbered 1, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19 and 20 of Osage oil lease Form B: *Provided,* That the preamble of Form B and the provisions of section numbered 2 in respect to royalty rates; section numbered 3 in respect to payment of rental; section numbered 4 in respect to payment of well site and tank location fees; and section numbered 14 in respect to the surrender of the lease, may be modified and/or supplemented by the parties, with the approval of the Superintendent, to the extent deemed appropriate for the equitable and efficient conduct of unitized operations, and not otherwise in conflict with the regulations in this part. Lessee(s) shall, before commencing water flood operations, and on or before December 31st of each year thereafter, submit to the Superintendent an acceptable plan of development and operation for the unit area for the ensuing year. Upon a finding by him that such action would be in the best interest of the Osage Tribe, the Superintendent may also approve an agreement between the lessor and the lessee(s) rescinding a unit (blanket lease) and restoring to their original status the Form B leases theretofore merged in the unit lease: *Provided,* That if oil is being produced in paying quantities on a particular quarter section tract on the date of approval of such agreement, the lessee shall be entitled to hold such tract under the terms of the original Form B lease so long as oil is produced on said tract in paying quantities.

(c) *Assignments.* Approved leases or any interest therein may be assigned with the approval of the Superintendent, and not otherwise. Assignments, when so approved, shall be subject to the terms and conditions of the original leases, and the regulations under which such leases were approved. The assignee shall furnish with his assignment a satisfactory bond as provided in § 183.20 (c). Any attempt to assign an approved lease or any interest therein without the consent and approval of the Superintendent shall be absolutely void and shall subject the original lease to cancellation in the discretion of the Superintendent.

§ 183.47 *Filing of assignments and drilling contracts.* (a) Assignments of any lease or any interest therein by drilling contract or otherwise shall be filed with the Superintendent within 30 days from the date of such assignment by the assignor, except in instances where the necessary papers cannot be executed within such time, in which event, however, formal notice shall be filed within the 30 days stipulated and where necessary the Superintendent may grant 15 days additional.

(b) In case of contracts made by oil lessees for drilling wells, which contracts provide that in consideration of drilling a well on the leased premises a subsequent assignment of an interest in such lease will be made subject to the approval of the Department, the Superintendent is hereby authorized to approve such drilling contracts with a stipulation that such approval does not in any way bind the Department to approve formal assignments that may thereafter be submitted and that such approval merely authorizes the drilling contractor to enter into possession of the lease for the purpose of development work.

§ 183.48 *Notices.* Wherever notice is provided for in the regulations in this part, unless otherwise specifically stated, it shall be sufficient if notice has been mailed to the last known place of address of the party, and time shall begin to run from the day next ensuing after the mailing or from the date of delivery of personal notice; but where the party is outside the State of Oklahoma, the superintendent may, in his discretion, increase the time allowed.

OPERATIONS

§ 183.49 *Commencement of operations.* No operations shall be permitted upon any tract of land until a lease covering such tract shall have been approved by the Superintendent or such operations specifically authorized by him.

§ 183.50 *Settlement of damages claimed by persons other than lessee or owner of lands.* (a) Approved oil and gas leases provide in part:

> During operations the lessee shall pay all damages for the use of the surface, other than that included in the location and tank site, all damages to any growing crops, or any improvements on the lands and all other damages as may be occasioned by reason of operations. Such damages shall be apportioned among the parties interested in the surface, whether as owner, lessee, or otherwise, as the parties may mutually agree or as their interests may appear. If the parties are unable to agree concerning damages, the same shall be determined by arbitration, but nothing herein contained shall be construed to deny to the surface owner or lessee the right to appeal to the courts without the consent of the Secretary of the Interior, in the event he is dissatisfied with the amount of damages awarded him.

(b) Any person, other than a lessee or an allottee or the heirs of a deceased allottee, claiming an interest in any leased tract, or in damages thereto, must furnish to the superintendent a statement in writing showing his interest, and failure to furnish such statement shall constitute a waiver of notice and estop said person from claiming any part of such damages after the same shall have been disbursed.

§ 183.51 *Well location fees.* (a) Before commencing operations on lands embraced in any approved oil or gas mining lease the mineral lessee shall pay, tender or deposit the proper well location fee as provided in the lease and the regulations in this part, after which such lessee shall be entitled to enter upon the lands covered by the lease for mining purposes. Before commencing operations on any subsequent well on such quarter-section the mining lessee shall pay, tender or deposit the proper location fee therefor.

(b) Where the surface owner is a restricted Indian, adult or minor, well location fee shall be paid to the Superintendent of the Osage Agency for such Indian. All other surface owners, whether Indians or whites, shall be paid or tendered such fees direct, and where such surface owners are not residents of Osage County nor have a representative located therein, such payments shall be made or tendered by check, postage prepaid, to last known address of said surface owner at least 5 days before commencing drilling operations on any well: *Provided,* That should the lessee be unable to reach the owner of the surface of the land for the purpose of tendering the location fee, or if owner of the surface of the land upon being tendered the location fee by the lessee, shall refuse to accept the same, the lessee may tender the location fee to the Superintendent of the Osage Agency, and if the lessee and the Superintendent shall agree upon

the amount of the location fee, the lessee shall deposit such amount with the Superintendent for payment to the owner of the surface of the land upon demand, and the Superintendent shall thereupon advise the owner of the surface of the land by mail at his last known address, that the location fee is being held for payment to him upon his request.

§ 183.52 *Information to be given surface owners before commencement of drilling.* Prior to beginning operations of any kind or moving any rig material, pipe or other drilling equipment on lands embraced in any approved oil or gas lease, the mineral lessee shall meet with the surface owner of such tract if a resident of Osage County, Oklahoma, and at such meeting the mining lessee shall comply with the following requirements:

(a) Indicate the location of the first well to be drilled by him on said quarter-section.

(b) Indicate the location of any additional wells which he at the time may contemplate drilling.

(c) Impart to said surface owner the name and address of his foreman or superintendent upon whom the surface owner shall serve any claim for damages which he may sustain by reason of the development and operation of said lands by the mineral lessee, and in the event such foreman or superintendent shall leave the employ of the mineral lessee or be removed to another district then the mineral lessee shall notify the surface owner of the name and address of his successor, to the end that any claim for damages sustained by the surface owner may be promptly served upon the mineral lessee.

(d) Advise the surface owner that should he or his tenant or lessee sustain damages by reason of the development and operation of said land by the mining lessee and in the event the parties are unable to agree upon the mining lessee's liability therefor and upon the amount of damages resulting therefrom, the mining lessee shall submit the matter to arbitration as provided in the regulations in this part: *Provided,* That within 10 days from the date of such meeting the mining lessee shall file with the superintendent of the Osage Agency a written report of such meeting showing the date thereof and the name of the surface owner taking part therein. Failure to so notify the superintendent shall subject the mineral lessee to a fine of $5 per day for each day's delay within the discretion of the superintendent: *Provided further,* That where the surface owner is a restricted Indian the mineral lessee in the manner provided above shall meet with the superintendent of the Osage Agency. Where the surface owner is not a restricted Indian and not a resident of Osage County, Oklahoma, then the superintendent of Osage Agency shall be so advised whereupon the mineral lessee shall have the right to proceed with operations: *Provided, however,* That in the event the superintendent should so arrange with the surface owner or his tenant, the mineral lessee or his representative within 5 days after receipt of notice from the superintendent shall meet with the surface owner or his tenant on the leased premises and arrange for procedure as indicated in this paragraph.

§ 183.53 *Procedure for settlement of damages claimed.* Where the surface owner or his lessee suffers damages on account of the operations of any oil or gas lessee, procedure for recovery shall be as follows:

(a) The party or parties aggrieved shall within 10 days after the discovery of any such damages, or within such extended time as the superintendent of the Osage Indian Agency may grant, serve the oil or gas lessee, or the foreman or superintendent named by him under § 183.52, with written notice setting forth the nature of alleged damages, the date when the same were sustained, as nearly as possible, together with the names of the party or parties causing the same, if obtainable, and the amount of damages resulting therefrom. It is not intended by this requirement to limit the time within which action may be brought in the courts to less than the 90-day period allowed by section 2 of the act of March 2, 1929 (45 Stat. 1479), but it is intended to provide for an early examination of the property damaged by all parties interested to the end that the best possible evidence, much of which due to the nature of the damages or the property damaged, will be gradually obliterated and completely lost with the passage of time, be preserved for the board of arbitration or the court in event of failure of the parties to settle the claim by arbitration.

(b) In cases where such alleged damages are not amicably adjusted at the time of such notice, the oil or gas lessee or his representative shall within 20 days from receipt of such notice seek an amicable adjustment of the claim with the party or parties aggrieved. If the claimant is a restricted Indian, and should a settlement result, a copy of such settlement agreement shall be filed in the Osage Agency and the damages agreed upon when approved by the superintendent shall be paid to the superintendent of the Osage Agency, for the benefit of said restricted Indian.

(c) Should the parties fail to adjust the claim within the 20 days specified, then within 10 days thereafter each of the interested parties shall appoint an arbitrator who immediately upon their appointment shall agree upon a third arbitrator; and in the event the two arbitrators shall fail to agree upon a third arbitrator within 10 days, they shall immediately notify the parties in interest of such fact that if said parties in interest cannot agree upon a third arbitrator within 5 days after receipt of such notice, the condition precedent as provided by the act of March 2, 1929, shall be considered as having been complied with and either party shall have the right to resort to a court of competent jurisdiction.

(d) As soon as the third arbitrator is appointed the arbitrators shall meet, hear the evidence and arguments of the parties, examine the lands, crops, improvements, or other property alleged to have been injured, and within 10 days from the date of the final submission of the controversy they shall render their award. The arbitrators shall be disinterested persons and the fees and expenses of the third arbitrator shall be borne equally by the claimant and the mining lessee; the mining lessee to pay the fees and expenses of the arbitrator appointed by him and the claimant to pay the fee and expenses of the arbitrator appointed by him.

(e) When an act of an oil or gas lessee or any of his employees results in injury to both the surface owner and his lessee, the parties aggrieved shall join in the appointment of an arbitrator, and where the injury complained of is chargeable to one or more oil or gas lessees, such lessees shall join in the appointment of an arbitrator.

(f) Any two of the arbitrators may make an award, which shall be in writing, and forthwith shall be served upon the parties in interest. Each party shall have 90 days from the date of such service in which to file an action in a court of competent jurisdiction to enlarge, modify or set aside said award. If no such action is filed within said time, and if the award be against the oil or gas lessee, he shall pay the same together with interest at the rate of 6 percent per annum from date of award, within 10 days after the expiration of said period for appeal, and in case of his failure to do so, in the discretion of the superintendent, shall be subject to a penalty of $10 per day for each day thereafter that he remains in default.

§ 183.54 *Slush pits; fine for failure to provide.* On receipt of complaint from any surface owner or his lessee, the superintendent of Osage Agency after investigation and where action is deemed advisable, shall require any oil or gas lessee within 10 days from receipt of such notice, to enclose slush pits, earthen tanks or reservoirs for salt water or B. S. with a substantial four-wire fence and shall maintain same during the time such pits or reservoirs are in use, and this requirement shall apply to slush pits, earthen tanks or reservoirs now in use, as well as to those which may be constructed in the future provided this requirement shall not apply where the mineral lessee owns the surface of the land covered by his lease or has an agricultural or grazing lease covering the same. Failure to comply with the requirements of this section will subject the lessee to a fine of $5 for each day's delay.

§ 183.55 *Notice to lessees in damage cases.* Surface owners shall notify their lessees or tenants of the regulations in this part and of the procedure necessary in all cases of alleged damages.

§ 183.56 *Lessees or tenants may represent surface owners.* Where surface lessees or tenants represent the surface owner they shall be so authorized in writing.

§ 183.57 *Lessee's use of water.* Oil and gas lessees may with the approval of the superintendent use water from streams and natural water courses to the extent that same does not diminish the supply below the requirements of the surface owner from whose land the water

is taken. When such water supply is located off the lease upon which the water is to be used, the oil or gas lessee may lay necessary lines across intervening lands to obtain such water. Any damage resulting from laying such water lines shall be settled by arbitration as provided in § 183.53.

§ 183.58 *Settlement of damage claims to surface lands covered by Federal farm loan.* Hereafter in all cases where the owners of surface title to lands within the Osage Indian reservation in Oklahoma have obtained Federal farm loans from any lending agency under the supervision of the Farm Credit Administration and have agreed in writing that any and all damages accruing to them from mineral operations under the act of March 2, 1929 (45 Stat. 1478), or amendment thereof, shall be remitted to the mortgagee through the superintendent of the Osage Indian Agency, Pawhuska, Oklahoma, to be credited on the loan; the mineral lessee of any such lands shall make payment of all such damages, including well location fees, in accordance with said agreement. It shall be the duty of each mineral lessee, before making payment of any well location fee or other damage caused by mineral operations to ascertain the facts with respect to the existence or nonexistence of any such Federal farm loan and agreement. The remittances provided for in this section may be made in cash, or by certified check or other suitable form of exchange.

CROSS REFERENCE: For regulations of lending agencies under supervision of the Farm Credit Administration, see 6 CFR Chapter I.

POWERS AND DUTIES OF INSPECTORS

§ 183.59 *Duties of inspectors.* It shall be the duty of the inspector—

(a) To visit from time to time leased lands where oil and gas mining operations are being conducted, and to inspect and supervise such operations with a view to preventing waste of oil and gas, damage to oil, gas, or water bearing formations, or injury to property or life, in accordance with the provisions of the regulations in this part.

(b) To make reports to the Superintendent as to the general conditions of the leases, property, and the manner in which operations are being conducted and his orders complied with.

(c) To consult and advise with the Superintendent as to the conditions of the leased lands, and to submit information and recommendations from time to time for safeguarding and protecting the property of the lessor and securing compliance with the provisions of the regulations in this part.

(d) To give such orders or notices as may be necessary to secure compliance with the regulations and to issue all necessary instructions or orders to lessees to stop or modify such methods or practices as he may consider contrary to the provisions of such regulations.

(e) To modify or prohibit the use or continuance of any operation or method which, in his opinion, is causing or is likely to cause any surface or underground waste of oil or gas, or injury to any oil, gas, water, coal, or other mineral formation, or which is dangerous to life or property, or in violation of the provisions of the regulations in this part.

(f) To prescribe, subject to the approval of the Superintendent, the manner and form in which all records or reports called for by the regulations in this part shall be made by the lessee.

(g) To prohibit the drilling of any well into any producing sand when in his opinion and with the approval of the Superintendent the marketing facilities are inadequate, or insufficient provision has been made for controlling the flow of oil or gas reasonably to be expected therefrom until such time as suitable provision can be made.

(h) To prescribe or approve the methods of drilling wells through coal measures or other mineral deposits.

(i) To determine when and under what conditions a producing well may be drilled deeper, and under what conditions a producing well, or sand, may be abandoned.

(j) To require that tests shall be made to detect waste of oil or gas or the presence of water in a well and to prescribe or approve the methods of conducting such tests.

(k) To require that any condition existing subsequent to the completion of a well which is causing, or is likely to cause, damage to an oil, gas, or water bearing formation, or to coal measures or other mineral deposits, or which is dangerous to life or property, be corrected as he may prescribe or approve.

(l) To approve the type or size of separators used to separate the oil, gas, or water coming from a well.

§ 183.60 *Limit percentage of well flow.* The inspector may limit the percentage of the open-flow capacity of any well which may be utilized when, in his opinion, such action is necessary to properly protect the gas-producing formation.

§ 183.60a *Unit operating area.* That for the purpose of preventing waste and to permit production of oil and gas in such manner as to promote the greatest ultimate recovery of oil from a source of common supply (single field or pool), a cooperative development or unit operating area shall be established by the oil inspector and delineated on a map. All lands lying within such defined area shall be subject to such specific requirements and regulations with reference to development and production as the oil inspector shall prescribe from time to time. All residue gas having its origin in such defined area and returned to the oil lessee after extraction of gasoline and other liquid products (except that necessary for operating purposes as elsewhere provided in the regulations in this part) must be injected into the sand or horizon from which it was originally withdrawn for the purpose of increasing the recovery of oil. Only with the consent of the oil inspector first had in writing shall less than the full volume of such residue gas available be so injected. The oil inspector shall consent to the injection of less than said full volume only after a study of the area and a determination of the amount of gas necessary to be injected to effect the maximum ultimate recovery of oil and gas as required by the act of March 2, 1929, (45 Stat. 1478). The foregoing is the reissuance of regulations approved, effectuated and given publication as of March 26, 1938.

§ 183.61 *Judge whether orders complied with.* The inspector shall be the sole judge of whether his orders have been fuly complied with and carried out.

REQUIREMENTS OF LESSEES

§ 183.62 *Notice of location of proposed well.* Five days prior to the commencement of drilling operations lessee shall submit, on forms to be furnished by the superintendent, a report in duplicate showing the location of the proposed wells.

§ 183.63 *Drilling records.* Lessee shall keep upon the leased premises accurate records of the drilling, redrilling, or deepening of all wells showing all the formations drilled through and casing used during the drilling of such wells, and upon the completion of such wells, copies of such records shall be transmitted to the superintendent by the lessee within 10 days after the first completion of any well, and of any further drilling thereafter, and a failure to so furnish report within the time prescribed shall be considered a violation of the regulations. The lessee or any employee on the leased premises shall immediately furnish such information to the inspector upon his request. In connection therewith, it will be held that such completion report is to be filed within 10 days after any well is shot, or is producing natural, or being pumped, and if not then finally completed with tubing, etc., a subsequent report to be filed thereafter.

§ 183.64 *Plats showing location of wells.* Lessee shall furnish as required, a plat, in manner and form as prescribed by the Superintendent, showing all wells, active or abandoned, on the leased lands, and other related information. Blank plats will be furnished upon application.

§ 183.65 *Rigs to be marked.* Lessee shall clearly and permanently mark all rigs or wells in a conspicuous place with the name of the lessee and the number or designation of the well, and shall take all necessary precautions for the preservation of these markings.

§ 183.66 *Line drilling.* Lessee shall not drill within 300 feet of boundary line of leased lands, except with the consent of the superintendent. Lessee shall not locate any well or tank within 200 feet of any public highway or any building used as a dwelling, granary, barn, or established watering place, except with the written permission of the superintendent.

§ 183.67 *Notice prior to removal of casing.* Lessee shall obtain permission from the Superintendent before removing any casing from any well.

§ 183.68 *Two slush pits required.* Lessee shall provide two properly prepared slush pits, into one of which he must deposit sand pumpings and other materials extracted from the well during the process of drilling, but such material as is suitable for the mudding of a well

shall be run into the other pit. The construction of such pits shall be subject to the approval of the inspector. Sand pumpings and such material shall not be allowed to run over the surface of the land.

§ 183.69 *Water control.* Lessee shall effectually shut out and exclude all water from any oil or gas bearing stratum and take all proper precautions and measures to prevent the contamination or pollution of any fresh-water supply encountered in any well drilled for oil or gas.

§ 183.70 *Productive formations to be protected.* Lessee shall protect to the satisfaction of the inspector each productive oil or gas bearing formation drilled through for the purpose of producing oil or gas from a lower formation.

§ 183.71 *Control devices.* In drilling operations in "wildcat" territory, or in a gas or oil field where high pressures are known to exist, the lessee shall have on such leased premises an approved gate valve or other approved controlling device in proper condition for use until the well is completed.

§ 183.72 *Waste of gas to be prevented.* When natural gas is encountered in commercial quantities in any well, the oil or gas lessee shall confine such gas to its natural stratum until such time as the same can be produced and utilized without waste, it being understood that a commercial quantity of gas produced by a well is any unrestricted flow of natural gas of 2,000,000 cubic feet or more per 24 hours: *Provided,* That if in the opinion of the superintendent, gas of a lesser quantity shall be of commercial value, the superintendent shall have authority to require the conservation of said gas: *Provided further,* That under § 183.11 a well producing oil in paying quantities and gas from the same shall be held to when and so long as it produces gas with an open flow capacity of 2,000,000 cubic feet or more per day of 24 hours, and gas produced from any such well of less than 2,000,000 cubic feet per day may be considered and termed gas in commercial quantities in the discretion of the superintendent, except when gas from such well contains gasoline in commercial quantities, in which event, it shall be termed "casing-head gas" but only when, and only while actually used for the manufacture of gasoline, as provided for under § 183.14. Any casing-head gas coming direct from the wells and not utilized by the oil lessee as above provided for, or for operations as provided for in § 183.14 shall be delivered to the gas lessee at a central point on the oil lessee's gathering or carrying lines, at the same schedule of prices as fixed for delivery of residue gas at gasoline plants into the line or lines provided by the gas lessee; also all gas after extraction of gasoline, and not used for operations under the terms of § 183.14, shall be delivered to gas lessee at points where the gasoline is extracted at as high a pressure as the efficient operation of such plant will permit, and where same is delivered at a pressure not above 50 pounds the oil lessee shall receive 1 cent per 1,000 cubic feet and an additional one-half cent increase for each additional 50 pounds pressure, not exceeding 3 cents per 1,000 cubic feet. Settlement for same to be made on or before the 20th day of each month for all gas delivered during the preceding month and to be computed on the usual basis of 10 ounces above atmospheric pressure, provided that royalty on such gas shall be computed the same as though it were gas produced and utilized by the gas lessees under the terms of their leases from their wells proper: *And provided further,* That the rights conferred in this section are optional and in no event shall the gas lessees be obligated to utilize, or pay the oil lessee, or pay royalty to the tribe, if not utilized, for any such gas as is described; and if the gas lessee does not accept such gas and utilize the same after tender thereof by the oil lessee, then such gas may be otherwise disposed of by the oil lessee upon the same basis of royalty as fixed in case of utilization by the gas lessee. In case of combination wells where the gas lessee has no market for and does not utilize such gas for any purpose, the oil lessee shall be permitted to utilize and sell the same to adjoining lessees for operating purposes until such time only as the gas lessee is in a position to and does utilize such gas. Water shall not be introduced into any well where such introduction will operate to kill or restrict the open flow of gas therein.

§ 183.73 *Determining cost of well.* The term "cost price of a well," as applied where one lessee takes over a well drilled by another, shall include all reasonable, usual, necessary and proper expenditures including the following expenditures made by the lessee drilling the well.

(a) All location, right of way, or other surface damages occasioned by the drilling of such well.

(b) All expenses of laying, taking up, repairing, operating and maintaining gas and water lines where such lines including amount paid for water privilege or constructing dam, are used for the exclusive purpose of drilling the particular well.

(c) Customary charge for furnishing water where purchased shall be the price prevailing in the particular locality: *Provided,* Where the parties cannot agree upon the charge made under this paragraph such charge shall be determined by the superintendent.

(d) Amounts expended in spudding or drilling a water well: *Provided,* That where any or all of the facilities referred to in this paragraph and in paragraphs (b) and (c) are not employed exclusively in connection with the drilling of the well to be taken over, or are also used in connection with the drilling or operation of other wells by the lessee drilling the well to be taken over by the other lessee, then a fair proportion of the charges covered by this paragraph and (b) and (c) shall be assessed against each well, including the well to be taken over, and in the event of a disagreement between the parties as to the charges assessed against the well that is to be taken over, such charge shall be fixed by the superintendent.

(e) All expenses of hauling and erecting standard rig, with an additional charge for use of said rig which shall be 20 cents per foot for wells not exceeding 2,200 feet in depth and the charge for rigs for wells exceeding a depth of 2,200 feet shall be at a price agreed upon, or on failure to agree, to be determined by the superintendent.

(f) All amounts paid for drilling and reaming, except where reaming is done for the sole benefit of party drilling the well. If price charged for drilling is above the average drilling price in the field, the price to be paid shall be determined by the superintendent: *Provided,* That where the well to be taken over is drilled below the stratum in which the lessee taking over the well is interested, that is, the gas stratum in the case of a well taken over by a gas lessee, and the oil stratum in a well taken over by the oil lessee, then the lessee doing such further drilling shall sustain the cost of drilling and reaming where such drilling and reaming are done below such stratum.

(g) All expenses of mudding, except where mudding is done for the sole benefit of the lessee drilling the well.

(h) Settlement for casing or other pipe left in the well to be made at the prevailing market price for the character and kind of casing when placed in the well.

(i) All expenses of placing and removing all casing or other pipe used in drilling said well.

(j) A sum of not exceeding $100 to cover supervision and overhead expenses.

(k) Any additional charges which cannot be mutually agreed upon shall be submitted to and determined by the superintendent. An approximate list of expenses mentioned in this section shall be presented to proposed purchasing lessee within 10 days after the completion of the well.

§ 183.74 *Oil and gas to be separated.* Lessee shall separate the oil from the gas when both are produced in commercial quantities from the same formation, or under such conditions as might result in waste of oil or gas in commercial quantities.

§ 183.75 *Use of gas for lifting oil.* Lessee shall not use natural gas from a distinct or separate stratum for the purpose of flowing or lifting the oil.

§ 183.76 *Prevent wastage of oil and gas.* Lessee shall prevent oil or gas, or both, from escaping from any well into the open air, and not permit any oil or gas well to go wild or to burn wastefully.

§ 183.77 *Approval of inspector for use of gas for operations.* Lessee shall not use natural gas in place of steam to operate engines or pumps under direct pressure, except with the special permission of the inspector.

§ 183.78 *Flambeau lights.* Lessee shall not use natural gas in flambeau lights, save as authorized or approved by the inspector.

§ 183.79 *Most approved methods to be followed in drilling and producing operations.* Lessee shall use every possible precaution, in accordance with the most

approved methods, to stop and prevent the waste of oil and gas, or both, in all drilling and producing operations and from connecting lines, and he shall not wastefully utilize oil or gas.

§ 183.80 *Superintendent to be notified of intended operations.* Lessee shall notify the superintendent a reasonable time in advance of starting work of intention to redrill, deepen, plug, or abandon a well; and whenever the superintendent or inspector has given notice that extra precautions are necessary in the plugging of wells in a particular territory lessee shall give at least 3 days' advance notice of such intended plugging.

§ 183.81 *Abandonment of wells.* Lessee shall not abandon any well for the purpose of drilling deeper for oil or gas unless the producing stratum is properly protected, and shall not abandon any well producing oil or gas except with the approval of the superintendent or where it can be demonstrated that the further operation of such well is commercially unprofitable.

§ 183.82 *Well plugging.* (a) Lessee shall plug and fill all dry or abandoned wells on the leased lands in the manner required, and where any such well penetrates an oil or gas bearing formation it shall be thoroughly cleaned to the bottom of the hole before being plugged or filled, and shall then be filled with mud-laden fluid of a consistency approved by the inspector, from the bottom to the top thereof, before any casing is removed from the well, or, in lieu of the use of such mud fluid, each oil and gas bearing formation shall be adequately protected by cement or approved plugs or by both such plugs and cement, and the well filled in above and below such cement or plugs with material approved by the inspector.

(b) Where both fresh water and salt water are encountered in any dry or abandoned well which is not being filled with mud-laden fluid as hereinbefore provided, the fresh water shall be efficiently protected against contamination by cement or approved plugs, or by both such cement and plugs, to be placed at such points in the well as the inspector shall approve for the protection of the fresh water.

§ 183.83 *Variation in plugging methods in certain cases.* If such abandoned or dry well be in a coal bed or other mineral vein deposit, or be in such condition as to warrant taking extraordinary precautions, the inspector may require such variations in the above prescribed methods of plugging and filling as may be necessary in his judgment to protect such seam or deposit against infiltration of gas or water to protect all other strata encountered in the well.

§ 183.84 *Plugging to be approved by inspector.* (a) The manner in which mud-laden fluid, cement or plugs shall be introduced into any well being plugged and the type of plugs so used shall be subject to the approval of the Inspector, and the lessee shall within 10 days file with the Superintendent a complete report of the plugging of such well.

(b) In the event the lessee or operator shall fail to plug properly any dry or abandoned well in accordance with the regulations in this part the Superintendent may, after 5 days' notice to the parties in interest, plug such well at the expense of the lessee or his surety.

§ 183.85 *Disposal of B. S. and salt water.* (a) All B. S. and salt water from tanks or well shall be drawn off into proper receptacles to hold and retain same without permitting it to run over the surface of the land or into the creeks and ravines and where earthern tanks or sump-holes are used, they shall not be located in any draw or ravine, but must be located in places and be so constructed that water from rains will not flow into them and wash out the B. S. or destroy the dams, and in cases where the B. S. is not run through some treating process, same shall when in sufficient quantities be burned at least once every week and at more frequent intervals when possible.

(b) Where it is impossible to burn the B. S., or where it is necessary to pump salt water in such quantities at would damage the surface of the leased land or adjoining property, or pollute any fresh water, the lessee shall notify the superintendent, who shall give instructions in each instance as to the disposition of such B. S. or salt water. Such instructions shall be issued in writing and a copy thereof shall be immediately delivered to the oil or gas lessee.

§ 183.86 *Accidents to be reported.* Lessee shall make a full and complete report to the superintendent of all accidents or fires occurring on the leased premises.

§ 183.87 *Tankage for crude oil.* Lessee shall provide approved tankage of suitable shape for accurate measurement, into which all production of crude oil shall be run from the wells, and shall furnish the superintendent copies of accurate tank tables and all run tickets, as and when requested.

§ 183.88 *Division orders.* (a) The Superintendent may make arrangements with the purchasers of oil for the payment of the royalty, but such arrangements, if made, shall not relieve the lessee from responsibility for the payment of the royalty, should such purchaser fail, neglect, or refuse to pay the royalty when it becomes due. No oil shall be run to any purchaser or delivered to the pipe line or other carrier for shipment, or otherwise conveyed or removed from the leased premises, until a division order is executed, filed, and approved, by the Superintendent, showing that the lessee has a regularly approved leased in effect, and the conditions under which the oil may be run: *Provided*, That the Superintendent may grant temporary permission to run oil from a lease pending the execution, filing, and approval by him of a division order. Lessees shall be required to pay for all oil or gas used off the leased premises for operating purposes; affidavit shall be made as to the production used for such purposes and royalty paid in the usual manner. The lessee or his representative shall be present when oil is taken from the leased premises under any division order and will be responsible for the correct measurement thereof and shall report all oil so run.

(b) The lessee shall also authorize the pipe-line company or the purchaser of oil to furnish the superintendent with a monthly statement, not later than the 10th day of the following calendar month, of the gross barrels run as common-carrier shipment or purchased from his lease or leases.

§ 183.89 *Use of timber from leased lands.* Lessee will not be permitted to use any timber from Osage lands except under written agreement with the owner.

§ 183.90 *Gas wells drilled by oil lessees and vice versa.* When an oil lessee in drilling a well encounters gas in excess of one million cubic feet per 24 hours, or the gas lessee in drilling a well encounters oil, he shall immediately suspend drilling, and notify the oil or gas lessee, as the case may be, and the superintendent, in order that such lessee and the inspector may be present while the sand is being drilled through, such further drilling, however, shall not be resumed until authorized by the inspector, except as otherwise permitted in advance in writing by the inspector.

PENALTIES FOR VIOLATION OF REGULATIONS

§ 183.91 *Amount of penalties.* Fines may be imposed by the Superintendent without right of appeal for violations of certain sections of the regulations in this part, as follows:

(a) Fines for noncompliance with terms of lease or regulations.

(1) For failure to file preliminary report required by § 183.62, $5 a day for the first violation and $10 a day for each violation thereafter.

(2) For failure to file a completion report, as required by § 183.63, $5 a day for the first violation and $10 a day for each violation thereafter.

(3) For failure to mark rigs or wells, as required by § 183.65, $50 for each well.

(4) For failure to construct slush pits, as required by § 183.68, $10 for each day after drilling is commenced on any well.

(5) For failure to comply with § 183.71, regarding gate valve and other approved controlling devices, $100.

(6) For failure to comply with § 183.77, in regard to using gas in place of steam to operate engines or pumps, $10 per day for the first violation and $20 a day for each violation thereafter.

(7) For failure to comply with § 183.78, which prohibits the burning of gas in flambeau lights, $50 per day.

(8) For failure to notify Superintendent and secure authority before redrilling, deepening, plugging or abandoning any well, $200, as required by §§ 183.80 and 183.90.

(9) For failure to construct sump-holes, or burning holes, to properly care for and dispose of B. S. and salt water as provided in § 183.85, $10 a day for the first violation, and in event of the failure properly to construct or repair sump-

holes, or burning holes, within 5 days after notification by Superintendent or his authorized representative, $25 to $50 a day.

(10) For failure to file plugging reports as required by § 183.84 and for failure to file reports, and remit royalties required by § 183.45, $5 a day for the first violation and $10 a day for each violation thereafter.

(b) All moneys received from fines collected under this section shall be deposited as provided in § 183.93.

EFFECTIVE DATE OF REGULATIONS

§ 183.92 *Regulations to be effective from date of approval.* The regulations in this part shall become effective and in full force from and after the date of approval, and shall be subject to change or alteration at any time by the Secretary of the Interior: *Provided,* That no regulations made after the approval of any lease shall operate to affect the term of lease, rate of royalty, rental, or acreage, unless agreed to by both parties to the lease.

FORMS

§ 183.93 *Forms.* (a) Leases, and other papers must be upon forms prescribed by the Secretary of the Interior, and the Superintendent will furnish prospective lessees with such forms for preparation of original leases without charge, but shall make a charge of 50 cents per set for forms used in preparing assignments.

Form A—Gas mining lease.
Form B—Oil mining lease.
Form D—Bond.
Form E—Authority of officers to execute papers.
Form F—Assignment.
Form G—Collective bond.
Form H—Assignment bond.

(b) All sums received from sale of forms and fines shall be placed in a special fund, and may be expended under the direction of the Commissioner of Indian Affairs for the expenses necessary to carry out the regulations in this part.

APPROVAL FEE

§ 183.94 *Amount of fee.* A fee of $5 will be charged for each lease, each sublease, each drilling contract affecting oil and gas mining leases, and each assignment of lease, such amount to be paid by the lessee, sublessee or assignee upon notice of approval of the contract, as provided by the act of February 14, 1920.

(Sec. 1, 41 Stat. 415, as amended; 25 U. S. C. 413)

HEARINGS AND APPEALS

§ 183.95 *Hearings and appeals.* (a) Any person, firm or corporation aggrieved by any decision or order issued by or under authority of the Superintendent pursuant to the regulations in this part, may file with the Superintendent at anytime an application for modification or revocation of such decision or order. The Superintendent shall give notice of the time and place and conduct a hearing upon the application within ten days after its receipt by him. If the applicant is not satisfied with the decision of the Superintendent, an appeal may be taken as hereinafter set forth except as provided in paragraph (b) of this section.

(b) An appeal to the Commissioner of Indian Affairs may be taken from any decision or order issued by or under authority of the Superintendent except decisions or orders issued under authority of §§ 183.54, 183.59, and 183.91, by filing such appeal with the Superintendent within 30 days after service of the decision or order. The appeal shall incorporate or be accompanied by such written showing and argument on the facts and law as the appellant may deem adequate to justify reversal or modification of the order. All statements of facts must be made under oath. The Superintendent shall transmit the appeal and accompanying papers with a full report and recommendations, through official channels, to the Commissioner of Indian Affairs.

(c) An appeal from any decision of the Commissioner of Indian Affairs may be taken to the Secretary of the Interior within 30 days after service of the Commissioner's decision. The appeal shall be accompanied by such written showing and argument on the facts and law as appellant may deem adequate to justify reversal or modification of the decision. Any statement of facts not submitted to the Commissioner must be made under oath.

(d) Compliance with any decision or order issued by or under authority of the Superintendent shall not be suspended by reason of an appeal having been taken unless such suspension is authorized in writing by the Commissioner of Indian Affairs, and then only on a determination that such suspension will not be detrimental to the lessor or upon submission and acceptance of a bond deemed adequate to indemnify the lessor from loss or damage.

PART 184—LEASING OF CERTAIN LANDS IN WIND RIVER INDIAN RESERVATION, WYO., FOR OIL AND GAS MINING

Sec.

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AUTHORITY: §§ 184.1 to 184.30 issued under sec. 1, 39 Stat. 519. Statutory provisions interpreted or applied are cited to text in parentheses.

§ 184.1 *Definitions.* (a) The term "superintendent" in this part refers to the superintendent or other officers of the Bureau of Indian Affairs or of the Government who may have jurisdiction over the Shoshone or Wind River Reservation.

(b) The term "supervisor" in this part refers to a representative of the Secretary of the Interior, under direction of the Director of the United State Geological Survey, authorized and empowered to supervise and direct operations under oil and gas mining leases, to furnish scientific and technical information and advice, to ascertain and record the amount and value of production, and to determine and record rentals and royalties due and paid.

CROSS REFERENCE: For rules and regulations of the Geological Survey, see 30 CFR Chapter II.

HOW TO ACQUIRE LEASES

§ 184.2 *Applications for leases.* Applications for leases should be made to the superintendent.

§ 184.3 *Leases to citizens of the United States except Government employees.* Leases will be made only to persons who are citizens of the United States or have declared their intention to become so, or corporations which are organized under the laws of the United States or one of the States or Territories: *Provided,* That no lease, assignment thereof, or interest therein will be approved to any employee or employees of the United States Government, whether connected with the Bureau or otherwise, and no employee of the Interior Department shall be permitted to acquire any interest in such leases by ownership of stock in corporations having leases or in any other manner.

(R. S. 2078; 25 U. S. C. 68)

§ 184.4 *Lease sales.* (a) At such times and in such manner as he may deem appropriate, the superintendent shall publish notices at least thirty days prior to the sale, unless a shorter period is authorized by the Commissioner of Indian Affairs, that oil and gas leases on specific tracts, each of which shall be in a reasonably compact body, will be offered to the highest responsible bidder for a bonus consideration, in addition to stipulated rentals and royalties. Each bid must be accompanied by a cashier's check, certified check, or postal money order, payable to the payee designated in the invitation to bid, in an amount not less than 25 percent of the bonus bid.

Within 30 days after notification of being the successful bidder, said bidder must remit the balance of the bonus, the first year's rental, and his share of the advertising costs, and shall file with the superintendent the lease in completed form. The superintendent may, for good and sufficient reasons, extend the time for completion and submission of the lease form, but no extension shall be granted for remitting the balance of monies due. If the successful bidder fails to pay the full consideration within said period, or fails to file the completed lease within said period or extension thereof, or if the lease is disapproved through no fault of the lessor or the Department of the Interior, 25 percent of the bonus bid will be forfeited for the use and benefit of the Indian lessor.

(b) All notices or advertisements of sales of oil and gas leases shall reserve to the Secretary of the Interior the right to reject all bids when in his judgment the interests of the Indians will be best served by so doing, and that if no satisfactory bid is received, or if the accepted bidder fails to complete the lease, or if the Secretary of the Interior shall determine that it is unwise in the interests of the Indians to accept the highest bid, the Secretary may readvertise such lease for sale, or if deemed advisable, with the consent of the tribal council or other governing tribal authorities, a lease may be made by private negotiations. The successful bidder or bidders will be required to pay his or their share of the advertising costs. Amounts received from unsuccessful bidders will be returned; but when no bid is accepted on a tract, the costs of advertising will be assessed against the applicant who requested that said tract be advertised.

§ 184.5 *Term of leases.* Leases shall be for a period of 20 years, with the preferential right in the lessee to renew the same for successive periods of 10 years each upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior unless otherwise provided by law at the expiration of any such period.

§ 184.6 *Corporations and corporate information.* (a) If the applicant for a lease is a corporation, it shall file evidence of authority of its officers to execute papers; and with its first application it shall also file a certified copy of its articles of incorporation, and, if foreign to the State in which the lands are located, evidence showing compliance with the corporation laws thereof. Statements of changes in officers and stockholders shall be furnished by a corporation lessee to the superintendent January 1 of each year, and at such other times as may be requested.

(b) Whenever deemed advisable in any case the superintendent may require a corporation applicant or lessee to file:

(1) List of officers, principal stockholders, and directors, with post-office addresses and number of shares held by each.

(2) A sworn statement of the proper officer showing:

(i) The total number of shares of the capital stock actually issued and the amount of cash paid into the treasury on each share sold; or, if paid in property, the kind, quantity, and value of the same paid per share.

(ii) Of the stock sold, how much remains unpaid and subject to assessment.

(iii) The amount of cash the company has in its treasury and elsewhere.

(iv) The property, exclusive of cash, owned by the company and its value.

(v) The total indebtedness of the company and the nature of its obligations.

(vi) Whether the applicant or any person controlling, controlled by or under common control with the applicant has filed any registration statement, application for registration, prospectus or offering sheet with the Securities and Exchange Commission pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934 or said Commission's rules and regulations under said acts; if so, under what provision of said acts or rules and regulations; and what disposition of any such statement, application, prospectus or offering sheet has been made.

(c) Affidavits of individual stockholders, setting forth in what corporations, or with what persons, firms, or associations such individual stockholders are interested in mining leases on restricted lands within the State, and whether they hold such interest for themselves or in trust.

CROSS REFERENCE: For rules and regulations of the Securities and Exchange Commission, see 17 CFR Chapter II.

§ 184.7 *Additional information from applicant.* The superintendent may, either before or after approval of a lease, call for any additional information desired to carry out the regulations in this part. If a lessee shall fail to furnish the papers necessary to put his lease and bond in proper form for consideration, the superintendent shall forward such lease for disapproval.

§ 184.8 *Bonds.* The provisions of § 171.6 of this chapter, or as hereafter amended, are applicable to leases under this part.

§ 184.9 *Acreage limitation; leases on noncontiguous tracts.* No person, firm, or corporation will be allowed to lease for oil and gas more than 10,240 acres in the aggregate. The land contained in the lease shall be described by legal subdivisions, and leases may be executed to cover only adjoining or contiguous subdivisions. In case a lessee is a successful bidder for two or more tracts of land which are not contiguous, separate leases shall be executed.

§ 184.10 *Minerals other than oil and gas.* Unreserved, unwithdrawn, and unallotted lands which have not been leased for oil and gas under the act of August 21, 1916 (39 Stat. 519) and which are not chiefly valuable therefor, are subject to mineral application or mineral entry, for minerals other than oil and gas, under the supervision of the Bureau of Land Management.

CROSS REFERENCE: For additional information concerning mineral entries for other than oil and gas, see note 43 CFR Part 177.

§ 184.11 *Bureau of Land Management to be furnished copy of lease.* The Bureau of Land Management shall be furnished with a copy of each lease signed by the Secretary of the Interior.

§ 184.12 *Mineral reserves in nonmineral entries.* Where lands have been leased under authority of said act of August 21, 1916 (39 Stat. 519), and nonmineral entry is subsequently lawfully made for such lands with a view to obtaining a restricted patent therefor, all such subsequently allowed nonmineral entries shall be with the mineral reservation prescribed by the act of July 17, 1914 (38 Stat. 509).

§ 184.13 *Vested rights to be respected.* All drilling and other oil and natural gas developments and mining operations, work, and improvements, and all other acts and things necessary to be done, in connection with the exploration for mining and production of oil and natural gas from the leased premises, under the terms and conditions of a lease shall be performed with due regard to the rights, statutory and otherwise, of others, if any, who may have or who may acquire a lawful claim or estate to the leased premises, separate and distinct from the oil and gas or other mineral therein contained. See act of July 17, 1914 (38 Stat. 509).

§ 184.14 *Government reserves right to purchase oil and gas.* In time of war or other public emergency any of the executive departments of the United States Government shall have the option to purchase at the posted market price on the date of sale all or any part of the minerals produced under any lease.

RENTS AND ROYALTIES

§ 184.15 *Manner of payment.* All payments due the lessor shall be made to the superintendent for the benefit of the Shoshone Indian Tribe, in accordance with the act of August 21, 1916 (39 Stat. 519), and no credit will be given any lessee for payments made otherwise. Payments of rentals and royalties except the first year's rental, which shall be paid to the superintendent as prescribed in § 184.4 shall be transmitted to the superintendent through the supervisor. All such payments shall be accompanied by a statement, in triplicate, by the lessee, showing the specific items of royalty or rental that the remittance is intended to cover, and payment of royalties on production shall be made not later than the last day of the calendar month following the production for which such payment is to be made.

§ 184.16 *Crediting advance annual payments.* In the event of discovery of minerals in paying quantities all advance rents and advance royalties shall be allowed as credit on stipulated royalties as they accrue for the year for which such advance payments have been made. No refund of any such advance payment made under any lease will be allowed in the event the royalty on production for the year is not sufficient to equal such advance payment; nor will any part of the moneys so paid be refunded to the lessee because of any subsequent surrender or cancellation of the lease.

§ 184.17 *Rates of rents and royalties.* (a) The lessee shall pay, beginning with the date of execution of leases by the Secretary of the Interior, a rental of $1.25 per acre per annum in advance during the continuance thereof, together with a royalty of 12½ percent of the value or amount of all oil, gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and saved from the land leased, save and except oil and/or gas used by the lessee for development and operation purposes on the lease, which oil or gas shall be royalty free. A higher rate of royalty may be fixed by the Secretary of the Interior or his authorized representative, prior to the advertisement of land for oil and gas leases. During the period of supervision, "value" for the purposes of the lease may, in the discretion of the Secretary of the Interior, be calculated on the basis of the highest price paid or offered (whether calculated on the basis of short or actual volume) at the time of production for the major portion of the oil of the same gravity, and gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and sold from the field where the leased lands are situated, and the actual volume of the marketable product less the content of foreign substances as determined by the supervisor. The actual amount realized by the lessee from the sale of said products may, in the discretion of the Secretary of the Interior, be deemed mere evidence of or conclusive evidence of such value. When paid in value, such royalties shall be due and payable monthly at such time as the lease provides; when royalty on oil produced is paid in kind, such royalty oil shall be delivered in tanks provided by the lessee on the premises where produced without cost to the lessor unless otherwise agreed to by the parties thereto, at such time as may be required by the lessor. The lessee shall not be required to hold such royalty oil in storage longer than 30 days after the end of the calendar month in which said oil is produced. The lessee shall be in no manner responsible or held liable for loss or destruction of such oil by causes beyond his control.

(b) The proceeds from all leases shall be taken up in the accounts of the superintendent for appropriate deposit for the benefit of the Indians.

§ 184.18 *Free use of gas by lessor.* If the leased premises produce gas in excess of the lessee's requirements for the development and operation of said premises, then the lessor may use sufficient gas, free of charge, for any desired school or other buildings belonging to the tribe, by making his own connections to a regulator installed, connected to the well and maintained by the lessee, and the lessee shall not be required to pay royalty on gas so used. The use of such gas shall be at the lessor's risk at all times.

§ 184.19 *Division orders.* (a) Lessees may make arrangements with the purchasers of oil for the payment of the royalties on production to the superintendent by such purchasers, but such arrangements, if made, shall not operate to relieve a lessee from responsibility should the purchaser fail or refuse to pay such royalties when due. Where lessees avail themselves of this privilege, division orders permitting the pipeline companies or other purchasers of the oil to withhold the royalty interest shall be executed and forwarded to the supervisor for approval, as pipeline companies are not permitted to accept or run oil from leased Indian lands until after the approval of a division order showing that the lessee has a lease regularly approved and in effect. When the lessee company runs its own oil, it shall execute an intracompany division order and forward it to the supervisor for his consideration. The right is reserved for the supervisor to cancel a division order at any time or require the pipeline company to discontinue to run the oil of any lessee who fails to operate the lease properly or otherwise violates the provisions of the lease, of the regulations in this part, or of the operating regulations.

(b) When oil is taken by authority of a division order, the lessee or his representatives shall be actually present when the oil is gauged and records are made of the temperature, gravity and impurities. The lessee will be held responsible for the correctness and the correct recording and reporting of all the foregoing measurements, which except lowest gauge, shall be made at the time the oil is turned into the pipeline. Failure of the lessee to perform properly these duties will subject the division order to revocation.

CROSS REFERENCE: For oil and gas operating regulations of the Geological Survey, see 30 CFR Part 221.

OPERATIONS

§ 184.20 *Permission to start operations.* (a) No operations will be permitted on any lease before it is executed by the Secretary of the Interior.

(b) Written permission must be secured from the supervisor or his representative before any operations are started on the leased premises. After such permission is secured the operations must be in accordance with the operating regulations promulgated by the Secretary of the Interior. Copies of the regulations in this part may be secured from either the supervisor or the superintendent, and no operations should be attempted without a study of the operating regulations.

§ 184.21 *Restrictions on operations.* (a) All leases issued under the provisions of the regulations in this part shall be subject to imposition by the Secretary of the Interior of such restrictions as to time or times for the drilling of wells and as to the production from any well or wells as in his judgment may be necessary or proper for the protection of the natural resources of the leased land and in the interest of the lessor. In the exercise of his judgment the Secretary of the Interior may take into consideration, among other things, the Federal laws, State laws, regulations by competent Federal or State authorities, lawful agreements among operators regulating either drilling or production, or both, and any regulatory action desired by tribal authorities.

(b) All leases issued pursuant to the regulations in this part shall be subject to a co-operative or unit development plan affecting the leased lands if and when required by the Secretary of the Interior, but no lease shall participate in any cooperative or unit plan without prior approval of the Secretary of the Interior.

§ 184.22 *Diligence and prevention of waste.* The lessee shall exercise diligence in drilling and operating wells for oil and gas on the leased lands while such products can be secured in paying quantities; carry on all operations in a good and workmanlike manner in accordance with approved methods and practice, having due regard for the prevention of waste of oil or gas developed on the land, or the entrance of water through wells drilled by the lessee to the productive sands or oil or gas-bearing strata to the destruction or injury of the oil or gas deposits, the preservation and conservation of the property for future productive operations, and to the health and safety of workmen and employees; plug securely all wells before abandoning the same and to shut off effectually all water from the oil or gas-bearing strata; not drill any well within 200 feet of any house or barn on the premises without the lessor's written consent; carry out at his expense all reasonable orders and requirements of the supervisor relative to prevention of waste, and preservation of the property and the health and safety of workmen; bury all pipelines crossing tillable lands below plow depth unless other arrangements therefor are made with the superintendent; pay all damages to crops, buildings, and other improvements on the premises occasioned by the lessee's operations: *Provided,* That the lessee shall not be held responsible for delays or casualties occasioned by causes beyond his control.

§ 184.23 *Wells.* The lessee shall agree (a) to drill and produce all wells necessary to offset or protect the leased land from drainage by wells on adjoining lands not the property of the lessor, or in lieu thereof, compensate the lessor in full each month for the estimated loss of royalty through drainage: *Provided,* That during the period of supervision by the Secretary of the Interior, the necessity for offset wells shall be determined by the supervisor and payment in lieu of drilling and producing shall be with the consent of, and in an amount determined by the Secretary of the Interior; (b) at the election of the lessee to drill and produce other wells: *Provided,* That the right to drill and produce such other wells shall be subject to any system of well spacing or production allotments authorized and approved under applicable law or regulations, approved by the Secretary of the Interior and affecting the field or area in which the leased lands are situated; and (c) if the lessee elects not to drill and produce such other wells for any period the Secretary of the Interior may, within 10 days after due notice in writing, either require the drilling and production of such wells to the number necessary, in his opinion, to insure reasonable diligence in the development and operation

of the property, or may in lieu of such additional diligent drilling and production require the payment on and after the first anniversary date of the lease of not to exceed $1 per acre per annum, which sum shall be in addition to any rental or royalty herein specified.

§ 184.24 *Penalties.* Failure of the lessee to comply with any provisions of the lease, of the operating regulations, of the regulations in this part, orders of the superintendent or his representative, or of the orders of the supervisor or his representative, shall subject the lessee to a penalty of not more than $500 per day for each day the terms of the lease, the regulations, or such orders are violated: *Provided,* That the lessee shall be entitled to notice, and hearing within 30 days after such notice, with respect to the terms of the lease, regulations, or orders violated, which hearing shall be held by the supervisor, whose findings shall be conclusive unless an appeal be taken to the Secretary of the Interior within 30 days after notice of the supervisor's decision, and the decision of the Secretary of the Interior upon appeal shall be conclusive.

§ 184.25 *Inspection of premises, books and accounts.* Lessee shall agree to allow the lessor and his agents or any authorized representative of the Interior Department to enter, from time to time, upon and into all parts of the leased premises for the purpose of inspection, and shall further agree to keep a full and correct account of all operations and make reports thereof, as required by the applicable regulations of the Department; and their books and records, showing manner of operations and persons interested, shall be open at all times for examination of such officers of the Department as shall be instructed in writing by the Secretary of the Interior or authorized by regulations, to make such examination.

§ 184.26 *Assignments.* Leases, or any interest therein, may be assigned or transferred only with the approval of the Secretary of the Interior, and to procure such approval the assignee must be qualified to hold such lease under existing rules and regulations, and shall furnish a satisfactory bond for the faithful performance of the covenants and conditions thereof. No lease or any interest therein, or the use of such lease, shall be assigned, sublet, or transferred directly or indirectly, by working or drilling contract, or otherwise, without the consent of the Secretary of the Interior. Assignments of leases shall be filed with the superintendent within 20 days after the date of execution.

§ 184.27 *Stipulations.* The lessee under any lease heretofore executed may by stipulation (Form 5–154i), with the consent of the lessor, make such lease subject to all the terms, conditions, and provisions contained in the lease form currently in use • Stipulations shall be filed with the superintendent within 20 days after the date of execution.

§ 184.28 *Cancellations.* Leases shall be irrevocable except for breach of the terms and conditions of the same and may be forfeited and cancelled by an appropriate proceeding in the United States District Court for the District of Wyoming whenever the lessee fails to comply with their terms and conditions; the lessee may, on approval of the Secretary of the Interior, surrender a lease or any part of it:

(a) That he make application for cancellation to the superintendent having jurisdiction over the land.

(b) That he pay a surrender fee of $1 at the time the application is made.

(c) That he pay all royalties and rentals due to the date of such application.

(d) That he make a satisfactory showing that full provision has been made for conservation and protection of the property and that all wells, drilled on the portion of the lease surrendered, have been properly abandoned.

(e) If the lease has been recorded, that he file, with his application, a recorded release of the acreage covered by the application.

(f) If the application is for the cancellation of the entire lease or the entire undivided portion, that he surrender the lease: *Provided,* That where the application is made by an assignee to whom no copy of the lease was delivered, he will be required to surrender only his copy of the assignment.

(g) If the lease (or portion being surrendered or cancelled) is owned in undivided interests by more than one party, then all parties shall join in the application for cancellation.

(h) That all required fees and papers must be in the mail or received on or before the date upon which rents and royalties become due, in order for the lessee and his surety to be relieved from liability for the payment of such royalties and rentals.

(i) In the event oil or gas is being drained from the leased premises by wells not covered by the lease; the lease, or any part of it, may be surrendered, only on such terms and conditions as the Secretary of the Interior may determine to be reasonable and equitable.

§ 184.29 *Fees.* Each lease, sublease or assignment shall be accompanied at the time of filing by a fee of $5 in accordance with the act of February 14, 1920, as amended March 1, 1933 (47 Stat. 1417), such fee to be refunded if the lease, sublease or assignment is disapproved.

(Sec. 1, 41 Stat. 415, as amended; 25 U. S. C. 413)

§ 184.30 *Forms.* (a) All necessary forms, including leases, bonds, and assignments, may be obtained from the superintendent at a cost of ten cents each.

(b) Moneys received from the sale of forms should be deposited as miscellaneous receipts to the credit of receipt account 145060 "Sale of Forms" unless the expense of printing the forms was paid from tribal moneys, in which event the receipts from the sale of the forms should be deposited to the credit of the tribe.

Subchapters R–U—Water and Power Resources

Subchapter R—Irrigation Projects

PART 191—BLACKFEET IRRIGATION PROJECT, MONTANA

Sec.

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AUTHORITY: §§ 191.1 to 191.21 issued under secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U. S. C. 385.

§ 191.1 *Organization.* Indian irrigation projects are in charge of a project engineer or other appointed employee of the Bureau of Indian Affairs who is fully authorized to administer, carry out and enforce the rules and regulations in this part, either directly or through project employees delegated by him, such as watermasters, ditchriders, foremen or other assistants. The project engineer or his representative is fully authorized to refuse or discontinue delivery of water to any person who disregards the rules and regulations in this part.

§ 191.2 *Irrigation season.* The irrigation season for the Blackfeet irrigation project covers the period from May 1 to September 30. In the event of unusual conditions in the spring, owing to construction or maintenance work on canals or laterals or when the designated opening date appears detrimental to crop production, the proper officers of the United States are authorized to advance or delay, for a period of 15 days, the beginning of the season's operation, and a corresponding change may be made for the date of closing the season, if it is to the best interests of the project or the farmers to do so. In no event, however, shall the canals be operated, during any one season for a period in excess of 6 months.

§ 191.3 *Domestic and stock use.* Irrigation projects are primarily built and maintained for serving land with water for the irrigation of crops during the growing season and not for supplying domestic and stock water during the winter months or nonirrigation season.

§ 191.4 *Farm units.* For the purpose of the rules and regulations in this part and the delivery of water, a farm unit is defined as a tract in single contiguous ownership or allotment containing not less than one 40-acre subdivision of the public survey. In the case of leases a farm unit will be considered a tract in

a single lease comprising one or more contiguous tracts.

§ 191.5 *Delivery point.* The general rule of the project shall be one delivery point at the upper boundary of the farm unit or allotment, and the project shall maintain the lateral system to that extent. In special cases where from a cost or topographic standpoint it is impracticable for the landowner or lessee to irrigate the entire irrigable area of his tract from one delivery point, the project engineer is authorized to establish additional delivery point but in no instance shall more than one delivery point be established and maintained when the landowner or lessee can at a reasonable expense provide for delivery by the construction of suitable head ditches.

§ 191.6 *Record of deliveries.* Water users who are entitled to the delivery of water shall file with the ditchrider, or other proper operation employee, 48 hours in advance of the time delivery is desired, a properly signed water request card on which is indicated the time delivery is desired, the description of the subdivision area to be irrigated, and the turnouts to be used. Printed water request cards will be supplied by the project. Request cards are required for each irrigation, and upon completion of a delivery the water user shall acknowledge same by signing the water request card. Ditchriders are specifically prohibited from making water delivery to any water user until he (the ditchrider) receives notice from the project office that all charges have been paid and proper water request cards have been filed by the water user. Water request cards for all completed deliveries must be filed in the project office at the end of each month during the irrigation season, and he must also file a statement of all uncompleted deliveries with the estimated acreage irrigated under such requests to the end of the month.

§ 191.7 *Duty of water.* Water will be delivered, subject to the provisions of the regulations in this part, on demand basis so long as a sufficient quantity is available for project use. In case of a shortage of water, the project engineer is authorized to adopt a rotation system, either for the entire project or for individual units thereof, when, in his opinion, such action is for the best interests of the project in the apportionment to each water user of his just proportionate share of the available water supply.

§ 191.8 *Users responsible for delivered water.* It is the duty of the Indian Irrigation Service to furnish water for beneficial irrigation use only, and it is the duty of the water user to assist in the prevention of waste, and also prevent damage to adjacent lands. Water users are responsible for water after it is delivered to their land, and they are required to have their field ditches in suitable condition and of such capacity as to permit the use of economical heads.

§ 191.9 *Waste water.* Water users will be required to construct and maintain in good order and repair upon their lands, such ditches as may be necessary to catch and conduct to some waste canal, ditch or natural drainage channel, all waste water flowing upon or from their lands. No waste water shall be allowed to flow upon a road or highway right of way, and no waste water will be allowed to collect within 20 feet of any canal or lateral belonging to the United States, nor shall any waste water ditches be constructed within 10 feet of any canal or lateral, except at points of intersection or crossing, and such crossings shall be located and constructed only by order and under the direction of the proper employee of the United States. Water delivery will be refused any water user during such time as he fails or refuses to comply with the provisions of this section.

§ 191.10 *Structures.* (a) All necessary headgates checks, drops, turnouts, flumes and measuring devices will be installed and maintained by the project. Any person or corporation desiring to build a bridge or other structures over, under, in or across a project canal, lateral or drainage ditch, shall first obtain from the project engineer a written permit to build such structures, which permit shall stipulate that it is granted and accepted by the permittee on the condition that the repair and maintenance of the structures shall be the duty of the permittee, or his successors, without cost to the project. The permit shall further provide that if any such structure be not regularly used for a period of one year or more the project engineer may notify the person responsible for its maintenance to remove it within a period of 90 days; and that if the structure is not removed within the time allowed, it may thereafter be removed by the project engineer, the cost of such removal to be paid by the party responsible for the maintenance of the structure.

(b) Where a new irrigation project is installed, or an existing project is extended to an area without existing roads, and the construction of roads, bridges, or culverts becomes necessary, the project engineer shall investigate the possibility of liquidating all or part of the cost of such construction by securing funds from any governmental agency providing funds for such purposes, and he is authorized to negotiate, subject to the approval of the Commissioner of Indian Affairs, any necessary agreement with such governmental agency.

(c) All persons or corporations are warned against the violation of this section.

§ 191.11 *Head or service ditches.* The head or service ditches are those ditches to which delivery of water is made by the ditchrider or watermaster from canals or laterals operated and maintained by the project. Such ditches which have been or may be placed upon the project right-of-way are considered an encroachment, and are subject to regulation contained in § 191.12. The watermaster and ditchriders are authorized to refuse delivery of water to ditches that are not in proper condition to receive and convey it to the place of use with a minimum loss. While the water is measured at the point of delivery to ditches from canals and laterals operated and maintained by the project and the loss would be to the detriment of the user, the law provides that water must be used beneficially.

§ 191.12 *Right-of-way.* For use in the necessary activities and emergencies incident to the operation and maintenance of the irrigation system, there is reserved a right-of-way along all canals, laterals, sublaterals and drains, in addition to the land actually occupied by such channels and their embankments, measured from the outside limits of the embankments or channel, a strip of land of sufficient width on each side of said canals, laterals, sublaterals and drains to permit the operation of maintenance equipment, making repairs and improvements, and travel by the project ditchriders.

§ 191.13 *Obstructions; their removal.* No trees, buildings, hay or straw stacks, or other obstructions are to be placed upon said reserved right-of-way by any adjacent landowners or others. Any trees, buildings, hay or straw stacks, or other obstructions of any kind whatsoever, located upon said right-of-way may be ordered removed by the project engineer, and if not removed by the person or persons placing them thereon they shall be removed under the supervision of the project engineer at his discretion, and the cost of such removal shall be added to the cost of operation and maintenance of the particular tract of land under the project belonging to the persons so placing or causing such obstructions to be placed thereon.

§ 191.14 *Fencing.* No fences shall be placed within the right-of-way except those crossing a canal or lateral, and in each case provision shall be made for a gate on each side of the canal or lateral of sufficient width to pass ditch cleaning equipment and to permit travel on the banks of the canal or lateral by the ditchrider. Such gates must be provided with some approved convenient type of fastening which will permit the ditchrider to open and close them with a minimum loss of time. Any wire or timbers used in fencing across a canal or lateral shall not be closer than 12 inches to the maximum high water surface.

§ 191.15 *Water users' ledgers.* Separate entries shall be made in the water users' ledgers for each tract. Bills are issued to the record owner, and payments made thereon are credited to the proper ledger accounts.

§ 191.16 *Assessments.* The annual per acre charge for operation and maintenance shall be levied against the entire irrigable area of each farm unit or allotment to which irrigation water can be delivered from present constructed works. Charges shall become due and payable in accordance with the annual public notice issued each year, and the provisions of the annual public notice regarding refusal of delivery of water in case of delinquency shall be enforced.

§ 191.17 *Interference with project operation.* No persons other than those specifically designated by the project engineer are authorized to regulate project structures or to interfere in any way with project operated canals or any works appurtenant thereto, or the water flowing therein.

§ 191.18 *Crop and statistical report.* A crop and statistical report on forms furnished for that purpose will be taken each year by the ditchrider or some person authorized to do so. This report will show the number of acres devoted to each crop, total yield and value of crops for each unit of the project and for the entire project.

§ 191.19 *Co-operation between users and employees.* Close co-operation between the project water users and the project management is desired, and will work to the advantage of the entire project. Suggestions looking to better or more economical service will be welcomed by the project management. Information as to damage or danger to canals or structures shall be immediately reported to the nearest project employee.

§ 191.20 *Complaints.* All complaints must be made in writing to the project engineer.

§ 191.21 *Disputes.* In case of dispute regarding aplication of rules and regulations and decisions of the project engineer made pursuant thereto, appeal may be made to the proper supervising engineer who will adjust the matter or refer same to the Commissioner of Indian Affairs whose decision will be final.

PART 192—COLVILLE IRRIGATION PROJECT, WASHINGTON

Sec.

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192.16 Water users' ledgers.
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192.18 Definitions.
192.19 Complaints.

AUTHORITY: §§ 192.1 to 192.19 issued under secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U. S. C. 385.

§ 192.1 *Organization.* The Colville Irrigation Project is in charge of the Commissioner who is fully authorized to administer, carry out and enforce the rules and regulations in this part, either directly or through project employees delegated by him, such as Superintendents, watermasters, ditchriders, foremen, and other assistants. The Commissioner is fully authorized to refuse or discontinue delivery of water to any person who willfully disregards the rules and regulations in this part.

§ 192.2 *Irrigation season.* Water shall be available for irrigation purposes from April 15 to September 30 each year. These dates may be varied as much as 15 days when the Commissioner determines that weather conditions and the necessity for doing maintenance work warrant doing so.

§ 192.3 *Domestic and stock use.* Irrigation projects are primarily built and maintained for serving land with water for the irrigation of crops during the growing season. Water for domestic and stock water use shall be delivered during the non-irrigation season only at the discretion of the Commissioner or his authorized representative.

§ 192.4 *Farm units.* For the purpose of the rules and regulations in this part and for the delivery of water, a farm unit shall be defined as a contiguous area of land in single ownership containing not less than one 40-acre subdivision of the public survey regardless of its original status as a farm unit or allotment. In the case of leases a farm unit shall be defined as the contiguous area under a single lease.

§ 192.5 *Delivery point.* The general rule of the project shall be one delivery point at the upper boundary of the farm unit or allotment, and the project shall maintain the lateral system to that extent. In special cases where from a cost or topographic standpoint it is impracticable for the landowner or lessee to irrigate the entire irrigable area of his tract from one delivery point, the Commissioner shall be authorized to establish additional delivery points but in no instance shall more than one delivery point be established and maintained when the landowner or lessee can at a reasonable expense provide for delivery by the construction of suitable head ditches.

§ 192.6 *Method of delivery.* Water for irrigation purposes shall be delivered throughout the irrigation season at the discretion of the Commissioner either by the continuous flow or rotation method.

§ 192.7 *Duty of water.* Water shall be delivered subject to the provisions of the regulations in this part, on a demand basis so long as a sufficient quantity is available for project use. In case of a shortage of water, the Commissioner is authorized to adopt a rotation system, either for the entire project or for individual units thereof when, in his opinion, such action shall be for the best interests of the project. In the apportionment of the water each user shall receive his proportionate share of the available water supply on an irrigable area basis.

§ 192.8 *Water users responsible for delivered water.* It shall be the duty of the Bureau of Indian Affairs to furnish water for beneficial irrigation use only, and it shall be the duty of the wateruser to assist in the prevention of waste, and also prevent damage to adjacent lands. Waterusers shall be held responsible for water after it is delivered to their land, and they shall be required to have their field ditches in suitable condition and of such capacity as to permit the use of economical heads.

§ 192.9 *Waste water.* In all cases waste water shall be kept to a minimum consistent with good irrigation practice and the wateruser shall be held responsible for the disposal of all waste water, coming from his fields, in such a manner that no injury shall be done to his land or other land by flooding or "subbing". Waste water may be emptied into project canals, laterals and drain ditches only at such points as have been designated for that purpose by the Commissioner, who shall have the right summarily to shut off water from any lands where he finds that water is being unnecessarily wasted or that the provisions of this section are being violated by the owner of such land, or other person who may be in charge of such land under authority of the owner.

§ 192.10 *Right-of-way.* For use in the necessary activities and emergencies incident to the operation and maintenance of the irrigation system, there shall be reserved a right-of-way along all canals, laterals, sub-laterals and drains, in addition to the land actually occupied by such channels and their embankments, measured from the outside limits of the embankments or channel, a strip of land of sufficient width on each side of said canals, laterals, sub-laterals and drains to permit the operation of maintenance equipment, making repairs and improvements, and travel by the project ditchriders.

§ 192.11 *Obstructions and their removal.* No trees, buildings, hay or straw stacks, or other obstructions, shall be placed upon said reserved right-of-way by any adjacent landowners or others. Any trees, buildings, hay or straw stacks, or other obstructions of any kind whatsoever, located upon said right-of-way may be ordered removed by the Commissioner, and if not removed by the person or persons placing them thereon they shall be removed under the supervision of the Commissioner at his direction, and the cost of such removal shall be added to the cost of operation and maintenance for the particular tract of land under the project belonging to the persons so placing or causing such obstructions to be placed thereon.

§ 192.12 *Fences.* No fences shall be placed in the right-of-way except those crossing a canal, lateral or drain ditch, and in such case a gate of approved type shall be installed and maintained by the property owner on each side of the canal, lateral or drain ditch of sufficient width to permit the operation of equipment, travel of ditchriders and all other necessary activities incident to the proper operation and maintenance of the project system. No wire, timber or other material used in the construction of fences across a project canal, lateral or drain ditch shall be placed less than 12 inches above the maximum high water surface elevation of the canal, material or drain ditch.

§ 192.13 *Structures.* All necessary headgates, checks and measuring devices shall be installed and maintained by the project. Any person or corporation desiring to build a structure over, under, in or across a project canal, lateral or drainage ditch shall first obtain from the Commissioner a permit to build such structure.

§ 192.14 *Service ditches.* The farm unit or service ditch into which water is

delivered from the project canals or laterals shall have ample capacity and be maintained by the water user in proper condition to receive water and convey it to the place of use with a minimum of loss. Any service ditch that has been or may be constructed upon any project canal, lateral or drain right-of-way shall be considered an obstruction and subject to the provisions of § 192.11.

§ 192.15 *Assessments.* The annual per-acre charge for operation and maintenance shall be levied against the entire irrigable area of each farm unit or allotment to which irrigation water can be delivered from present constructed works. Charges shall become due and payable in accordance with § 221.9 of this chapter, and the provisions therein regarding the refusal of delivery of water in case of delinquency shall be enforced.

§ 192.16 *Water users' ledgers.* Separate entries shall be made in the water-users' ledgers for each tract. Bills shall be issued to the record owner, and payments made thereon shall be credited to the proper ledger accounts.

§ 192.17 *Crop and statistical report.* A crop report on forms furnished for that purpose shall be taken each year by the Commissioner. This report shall show the number of acres devoted to each crop, total yield and value of crops for each unit of the project and for the entire project.

§ 192.18 *Definitions.* As used in §§ 192.1 through 192.17, "Commissioner" shall mean the Commissioner of Indian Affairs or his authorized representative.

§ 192.19 *Complaints.* All complaints shall be made to the Superintendent in writing. In case of dispute regarding application of rules and regulations and decisions of the Superintendent made pursuant thereto, appeal may be made within 30 days to the Area Director who shall settle the dispute if possible or refer it with his recommendations to the Commissioner of Indian Affairs.

PART 193—CROW IRRIGATION PROJECT, MONTANA

Sec.

193.1 Organization.
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193.8 Water users responsible for delivered water.
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193.13 Obstructions; their removal.
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193.15 Water users' ledgers.
193.16 Assessments.
193.16a Willow Creek Storage Reservoir, partial construction assessments.
193.17 Interference with project operation.
193.18 Crop and statistical report.
193.19 Cooperation between water users and project employees.
193.20 Complaints.
193.21 Disputes.

AUTHORITY: §§ 193.1 to 193.21 issued under secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U. S. C. 385.

CROSS REFERENCE: For rights-of-way and water right applications, Crow Reservation, Mont., see Part 161 of this chapter.

§ 193.1 *Organization.* Indian irrigation projects are in charge of a project engineer or other appointed employee of the Bureau of Indian Affairs who is fully authorized to administer, carry out and enforce the rules and regulations in this part, either directly or through project employees delegated by him, such as watermasters, ditchriders, foremen or other assistants. The project engineer or his representative is fully authorized to refuse or discontinue delivery of water to any person who disregards the rules and regulations in this part.

§ 193.2 *Irrigation season.* The irrigation season for the Crow irrigation project covers the period from May 1 to September 30. In the event of unusual conditions in the spring, owing to construction or maintenance work on canals or laterals or when the designated opening date appears detrimental to crop production, the proper officers of the United States are authorized to advance or delay, for a period of 15 days, the beginning of the season's operation, and a corresponding change may be made for the date of closing the season, if it is to the best interests of the project or the farmers so to do. In no event, however, shall the canals be operated during any one season for a period in excess of 6 months.

§ 193.3 *Domestic and stock use.* Irrigation projects are primary built and maintained for serving land with water for the irrigation of crops during the growing season and not for supplying domestic and stock water during the winter months or nonirrigation season.

§ 193.4 *Farm units.* For the purpose of the rules and regulations in this part and the delivery of water a farm unit is defined as a tract in single contiguous ownership or allotment containing not less than one 40-acre subdivision of the public survey. In the case of leases a farm unit will be considered a tract in a single lease comprising one or more contiguous tracts.

§ 193.5 *Delivery point.* The general rule of the project shall be one delivery point at the upper boundary of the farm unit or allotment and the project shall maintain the lateral system to that extent. In special cases where from a cost or topographic standpoint it is impracticable for the landowner or lessee to irrigate the entire irrigable area of his tract from one delivery point, the project engineer is authorized to establish additional delivery points but in no instance shall more than one deliverly point be established and maintained when the landowner or lessee can at a reasonable expense provide for delivery by the construction of suitable head ditches.

§ 193.6 *Record of deliveries.* Water users who are entitled to the delivery of water shall file with the ditchrider, or other proper operation employee, 48 hours in advance of the time delivery is desired, a properly signed water request card on which is indicated the time delivery is desired, the description of the subdivision, area to be irrigated, and the turnouts to be used. Printed water request cards will be supplied by the project. Request cards are required for each irrigation, and upon completion of a delivery the water user shall acknowledge same by signing the water request card. Ditchriders are specially prohibited from making water delivery to any water user until he (the ditchrider) receives notice from the project office that all charges have been paid and proper water request cards have been filed by the water user. Water request cards for all completed deliveries must be filed in the project office at the end of each month during the irrigation season, and he must also file a statement of all uncompleted deliveries with the estimated acreage irrigated under such requests to the end of the month.

§ 193.7 *Duty of water.* Water will be delivered, subject to the provisions of the regulations in this part, on a demand basis so long as a sufficient quantity is available for project use. In case of a shortage of water, the project engineer is authorized to adopt a rotation system, either for the entire project or for individual units thereof, when, in his opinion, such action is for the best interests of the project in the apportionment to each water user of his just proportionate share of the available water supply.

§ 193.8 *Water users responsible for delivered water.* It is the duty of the Indian Irrigation Service to furnish water for beneficial irrigation use only, and it is the duty of the water user to assist in the prevention of waste, and also prevent damage to adjacent lands. Water users are responsible for water after it is delivered to their land, and they are required to have their field ditches in suitable condition and of such capacity as to permit the use of economical heads.

§ 193.9 *Waste water.* Water users will be required to construct and maintain in good order and repair upon their lands, such ditches as may be necessary to catch and conduct to some waste canal, ditch or natural drainage channel, all waste water flowing upon or from their lands. No waste water shall be allowed to flow upon a road or highway right-of-way, and no waste water will be allowed to collect within 20 feet of any canal or lateral belonging to the United States, nor shall any waste water ditches be constructed within 10 feet of any canal or lateral, except at points of intersection or crossing, and such crossings shall be located and constructed only by order and under the direction of the proper employee of the United States. Water delivery will be refused any water user during such time as he fails or refuses to comply with the provisions of this section.

§ 193.10 *Structures.* (a) All necessary headgates, checks, drops, turnouts, flumes and measuring devices will be installed and maintained by the project. Any person or corporation desiring to

build a bridge or other structures over, under, in or across a project canal, lateral or drainage ditch, shall first obtain from the project engineer a written permit to build such structures, which permit shall stipulate that it is granted, and accepted by the permittee, on the condition that the repair and maintenance of the structures shall be the duty of the permittee, or his successors, without cost to the project. The permit shall further provide that if any such structure be not regularly used for a period of one year or more the project engineer may notify the person responsible for its maintenance to remove it within a period of 90 days; and that if the structure is not removed within the time allowed, it may thereafter be removed by the project engineer, the cost of such removal to be paid by the party responsible for the maintenance of the structure.

(b) Where a new irrigation project is installed, or an existing project is extended to an area without existing roads, and the construction of roads, bridges, or culverts becomes necessary, the project engineer shall investigate the possibility of liquidating all or part of the cost of such construction by securing funds from any governmental agency providing funds for such purposes, and he is authorized to negotiate, subject to the approval of the Commissioner of Indian Affairs, any necessary agreement with such governmental agency.

(c) All persons or corporations are warned against the violation of this section.

§ 193.11 *Head or service ditches.* The head or service ditches are those ditches to which delivery of water is made by the ditchrider or watermaster from canals or laterals operated and maintained by the project. Such ditches which have been or may be placed upon the project right-of-way are considered an encroachment, and are subject to regulation contained in § 193.12. The watermaster and ditchriders are authorized to refuse delivery of water to ditches that are not in proper condition to receive and convey it to the place of use with a minimum loss. While the water is measured at the point of delivery to ditches from canals and laterals operated and maintained by the project and the loss would be to the detriment of the user, the law provides that water must be used beneficially.

§ 193.12 *Right-of-way.* For use in the necessary activities and emergencies incident to the operation and maintenance of the irrigation system, there is reserved a right-of-way along all canals, laterals, sublaterals and drains, in addition to the land actually occupied by such channels and their embankments, measured from the outside limits of the embankments or channel, a strip of land of sufficient width on each side of said canals, laterals, sublaterals and drains to permit the operation of maintenance equipment, making repairs and improvements, and travel by the project ditchriders.

§ 193.13 *Obstructions; their removal.* No trees, buildings, hay or straw stacks, or other obstructions, are to be placed upon said right-of-way by any adjacent landowners or others. Any trees, buildings, hay or straw stacks, or other obstructions of any kind whatsoever, located upon said right-of-way may be ordered removed by the project engineer, and if not removed by the person or persons placing them thereon they shall be removed under the supervision of the project engineer at his discretion, and the cost of such removal shall be added to the cost of operation and maintenance for the particular tract of land under the project belonging to the persons so placing or causing such obstructions to be placed thereon.

§ 193.14 *Fencing.* No fences shall be placed within the right-of-way except those crossing a canal or lateral, and in each case provision shall be made for a gate on each side of the canal or lateral of sufficient width to pass ditch cleaning equipment and to permit travel on the banks of the canal or laterals by the ditchrider. Such gates must be provided with some approved convenient type of fastening which will permit the ditchrider to open and close them with a minimum loss of time. Any wire or timbers used in fencing across a canal or lateral shall not be closer than 12 inches to the maximum high water surface.

§ 193.15 *Water users' ledgers.* Separate entries shall be made in the water users' ledgers for each tract. Bills are issued to the record owner, and payments made thereon are credited to the proper ledger accounts.

§ 193.16 *Assessments.* The annual per-acre charge for operation and maintenance shall be levied against the entire irrigable area of each farm unit or allotment to which irrigation water can be delivered from present constructed works. Charges shall become due and payable in accordance with the annual public notice issued each year, and the provisions of the annual public notice regarding refusal of delivery of water in case of delinquency shall be enforced.

CROSS REFERENCE: For public notice of annual charges, see §§ 221.12, 221.13 of this chapter.

§ 193.16a *Willow Creek Storage Reservoir, partial construction assessments.* (a) Appropriations for the construction of the Willow Creek Dam as authorized by the act of May 10, 1939 (53 Stat. 702-703) and subsequent appropriation acts for this project made the funds so expended reimbursable.

§ 193.17 *Interference with project operation.* No persons other than those specifically designated by the project engineer are authorized to regulate project structures or to interfere in any way with project operated canals or any works appurtenant thereto, or the water flowing therein.

§ 193.18 *Crop and statistical report.* A crop and statistical report on forms furnished for that purpose will be taken each year by the ditchrider or some person authorized to do so. This report will show the number of acres devoted to each crop, total yield and value of crops for each unit of the project and for the entire project.

§ 193.19 *Cooperation between water users and project employees.* Close cooperation between the project water users and the project management is desired, and will work to the advantage of the entire project. Suggestions looking to better or more economical service will be welcomed by the project management. Information as to damage or danger to canals or structures shall be immediately reported to the nearest project employee.

§ 193.20 *Complaints.* All complaints must be made in writing to the project engineer.

§ 193.21 *Disputes.* In case of dispute regarding application of rules and regulations and decisions of the project engineer made pursuant thereto, appeal may be made to the proper supervising engineer who will adjust the matter or refer same to the Commissioner of Indian Affairs whose decision will be final.

PART 194—FLATHEAD IRRIGATION PROJECT, MONTANA

Sec.

194.1 Organization.
194.2 Irrigation season.
194.3 Domestic and stock use.
194.4 Farm units.
194.5 Delivery point.
194.6 Record of deliveries.
194.7 Duty of water.
194.8 Delivery in periods of shortage.
194.9 Water users responsible for water after delivery.
194.10 Waste water.
194.11 Structures.
194.12 Head or service ditches.
194.13 Right-of-way.
194.14 Obstructions; their removal.
194.15 Fencing.
194.16 Water users' ledgers.
194.17 Assessments.
194.18 Interference with project operation.
194.19 Crop and statistical report.
194.20 Cooperation between water users and project employees.
194.21 Complaints.
194.22 Disputes.

AUTHORITY: §§ 194.1 to 194.22 issued under secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U. S. C. 385.

CROSS REFERENCE: For Bureau of Land Management regulations pertaining to the Flathead irrigation project, see 43 CFR Part 233.

§ 194.1 *Organization.* Indian irrigation projects are in charge of a project engineer or other appointed employee of the Bureau of Indian Affairs who is fully authorized to administer, carry out and enforce the rules and regulations in this part, either directly or through project employees delegated by him, such as watermasters, ditchriders, foremen or other assistants. The project engineer or his representative is fully authorized to refuse or discontinue delivery of water to any person who disregards the rules and regulations in this part.

§ 194.2 *Irrigation season.* The irrigation season for the Flathead irrigation project covers the period from April 15 to October 15. In the event of unusual conditions in the spring, owing to construction or maintenance work on canals or laterals or when the designated opening date appears detrimental to crop production, the proper officers of the United States are authorized to advance

or delay, for a period of 15 days, the beginning of the season's operation, and a corresponding change may be made for the date of closing the season, if it is to the best interests of the project or the farmers to do so. In no event, however, shall the canals be operated during any one season for a period in excess of 6 months.

§ 194.3 *Domestic and stock use.* Irrigation projects are primarily built and maintained for serving land with water for the irrigation of crops during the growing season and not for supplying domestic and stock water during the winter months or nonirrigation season.

§ 194.4 *Farm units.* For the purpose of the rules and regulations in this part and for the delivery of water, a farm unit is defined as a contiguous area of land in single ownership containing not less than one 40-acre subdivision of the public survey regardless of its original status as a farm unit or allotment. In the case of leases a farm unit is defined as the contiguous area under a single lease.

§ 194.5 *Delivery point.* The general rules of the project shall be one delivery point at the upper boundary of the farm unit or allotment, and the project shall maintain the lateral system to that extent. In special cases where, from a cost or topographic standpoint, it is impracticable for the landowner or lessee to irrigate the entire irrigable area of his tract from one delivery point, the project engineer is authorized to establish additional delivery points but in no instance shall more than one delivery point be established and maintained when the landowner or the lessee can at a reasonable expense provide for delivery by the construction of suitable head ditches. Delivery points at and through established structures controlled, operated and maintained by the project, shall be used by the farm unit operators as the points at which they shall take the water they have ordered irrespective of the irrigation method used. Pumping direct from project canals and laterals will not be permitted.

§ 194.6 *Record of deliveries.* Water users who are entitled to the delivery of water shall file with the ditchrider, or other proper operation employee, 48 hours in advance of the time delivery is desired, a properly signed water request card on which is indicated the time delivery is desired, the description of the subdivision area to be irrigated, and the turnouts to be used. Printed water request cards will be supplied by the project. Request cards are required for each irrigation, and upon completion of a delivery the water user shall acknowledge same by signing the water request card. Ditchriders are specifically prohibited from making water delivery to any water user until he (the ditchrider) receives notice from the project office that all charges have been paid and proper water request cards have been filed by the water user. Water request cards for all completed deliveries must be filed in the project office at the end of each month during the irrigation season, and he must also file a statement of all uncompleted deliveries with the estimated acreage irrigated under such requests to the end of the month.

§ 194.7 *Duty of water.* Payment of the annual operation and maintenance assessments shall entitle a water user to the delivery of water, without further charge, up to the maximum number of acre-feet specified in the annual assessment notice for each acre of irrigable land in the farm unit or allotment. Water will be delivered, subject to the provisions of this part, on a demand basis so long as a sufficient quantity is available for project use. Where the exigencies, however, justify, the project engineer is authorized to adopt a rotation system, either for the entire project or for individual units thereof, when, in his opinion, such action is for the best interests of the project in the apportionment to each water user of his just proportionate share of the available water supply.

§ 194.8 *Delivery in periods of shortage.* At any time during the irrigation season when it shall appear, in the judgment of the project engineer, that there shall not be sufficient water available to deliver the maximum amount, as provided for in the annual assessment notice, to the entire irrigable area for which application for delivery of water has been made and approved, then the project engineer shall be authorized to reduce such amount to the extent that there shall in his judgment, be sufficient water available to make proportionate delivery to each unit or allotment; and when any unit or allotment shall have had delivered to it the amount so fixed, it shall not be entitled to further delivery of water except when it shall appear that there is a surplus of water available.

§ 194.9 *Water users responsible for water after delivery.* It is the duty of the Indian Irrigation Service to furnish water for beneficial irrigation use only, and it is the duty of the water user to assist in the prevention of waste, and also prevent damage to adjacent lands. Water users are responsible for water after it is delivered to their lands, and they are required to have their field ditches in suitable condition and of such capacity as to permit the use of economical heads.

§ 194.10 *Waste water.* Water users will be required to construct and maintain in good order and repair upon their lands such ditches as may be necessary to catch and conduct to some waste canal, ditch or natural drainage channel, all waste water flowing upon or from their lands. No waste water shall be allowed to flow upon a road or highway right-of-way, and no waste water will be allowed to collect within 20 feet of any canal or lateral belonging to the United States, nor shall any waste water ditches be constructed within 10 feet of any canal or lateral, except at points of intersection or crossing, and such crossings shall be located and constructed only by order and under the direction of the proper employee of the United States. Water delivery will be refused any water user during such time as he fails or refuses to comply with the provisions of this section.

§ 194.11 *Structures.* (a) All necessary headgates, checks, drops, turnouts, flumes and measuring devices will be installed and maintained by the project. Any person or corporation desiring to build a bridge or other structures over, under, in or across a project canal, lateral or drainage ditch, shall first obtain from the project engineer a written permit to build such structures, which permit shall stipulate that it is granted, and accepted by the permittee, on the condition that the repair and maintenance of the structures shall be the duty of the permittee, or his successors, without cost to the project. The permit shall further provide that if any such structure be not regularly used for a period of one year or more the project engineer may notify the person responsible for its maintenance to remove it within a period of 90 days; and that if the structure is not removed within the time allowed, it may thereafter be removed by the project engineer, the cost of such removal to be paid by the party responsible for the maintenance of the structure.

(b) Where a new irrigation project is installed, or an existing project is extended to an area without existing roads, and the construction of roads, bridges, or culverts becomes necessary, the project engineer shall investigate the possibility of liquidating all or part of the cost of such construction by securing funds from any governmental agency providing funds for such purposes, and he is authorized to negotiate, subject to the approval of the Commissioner of Indian Affairs, any necessary agreement with such governmental agency.

(c) All persons or corporations are warned against the violation of this section.

§ 194.12 *Head or service ditches.* The head or service ditches are those ditches to which delivery of water is made by the ditchrider or watermaster from canals or laterals operated and maintained by the project. Such ditches which have been or may be placed upon the project right-of-way are considered an encroachment, and are subject to regulation contained in § 194.13. The watermaster and ditchriders are authorized to refuse delivery of water to ditches that are not in proper condition to receive and convey it to the place of use with a minimum loss. While the water is measured at the point of delivery in ditches from canals and laterals operated and maintained by the project and the loss would be to the detriment of the user, the law provides that water must be used beneficially.

§ 194.13 *Right-of-way.* For use in the necessary activities and emergencies incident to the operation and maintenance of the irrigation system, there is reserved a right-of-way along all canals, laterals, sublaterals and drains, in addition to the land actually occupied by such channels and their embankments, measured from the outside limits of the embankments or channel, a strip of land of sufficient width on each side of said canals, laterals, sublaterals and drains to permit the opera-

tion of maintenance equipment, making repairs and improvements, and travel by the project ditchriders.

§ 194.14 *Obstructions; their removal.* No trees, buildings, hay or straw stacks, or other obstructions, are to be placed upon said reserved right-of-way by any adjacent landowners or others. Any trees, buildings, hay or straw stacks, or other obstructions of any kind, whatsoever, located upon said right-of-way may be ordered removed by the project engineer, and if not removed by the person or persons placing them thereon they shall be removed under the supervision of the project engineer at his discretion, and the cost of such removal shall be added to the cost of operation and maintenance for the particular tract of land under the project belonging to the persons so placing or causing such obstructions to be placed thereon.

§ 194.15 *Fencing.* No fences shall be placed within the right-of-way except those crossing a canal or lateral, and in each case provision shall be made for a gate on each side of the canal or lateral of sufficient width to pass ditch cleaning equipment and to permit travel on the banks of the canal or lateral by the ditchrider. Such gates must be provided with some approved convenient type of fastening which will permit the ditchrider to open and close them with a minimum loss of time. Any wire or timbers used in fencing across a canal or lateral shall not be closer than 12 inches to the maximum high water surface.

§ 194.16 *Water users' ledgers.* In all cases where the land is not under a district which has executed a repayment contract, separate entries shall be made in the water users' ledgers for each tract, bills issued to the record owners and payments made thereon and credited to the proper ledger accounts. In irrigation districts where repayment contracts have been executed the bill shall be rendered to the districts and when payments of such charges have been received, such payments shall be credited to the proper ledger accounts of the record owners.

§ 194.17 *Assessments.* The annual per acre charge for operation and maintenance shall be levied against the entire irrigable area of each farm unit or allotment to which irrigation water can be delivered from present constructed works. Charges shall become due and payable in accordance with the annual public notice issued each year, and the provisions of the annual public notice regarding refusal of delivery of water in case of delinquency shall be enforced.

Cross References: For public notice of annual charges, see §§ 221.15–221.22 of this chapter.

§ 194.18 *Interference with project operation.* No persons other than those specifically designated by the project engineer are authorized to regulate project structures or to interfere in any way with project operated canals or any works appurtenant thereto, or the water flowing therein.

§ 194.19 *Crop and statistical report.* A crop and statistical report on forms furnished for that purpose will be taken each year by the ditchrider or some person authorized to do so. This report will show the number of acres devoted to each crop, total yield and value of crops for each unit of the project and for the entire project.

§ 194.20 *Cooperation between water users and project employees.* Close cooperation between the project water users and the project management is desired, and will work to the advantage of the entire project. Suggestions looking to better or more economical service will be welcomed by the project management. Information as to damage or danger to canals or structures shall be immediately reported to the nearest project employee.

§ 194.21 *Complaints.* All complaints must be made in writing to the project engineer.

§ 194.22 *Disputes.* In case of dispute regarding application of rules and regulations and decisions of the project engineer made pursuant thereto, appeal may be made to the proper supervising engineer who will adjust the matter or refer same to the Commissioner of Indian Affairs whose decision will be final.

Part 195—Flathead, Mission, and Jocko Valley Irrigation Districts, Montana

Sec.

195.1 Water delivery rates.
195.2 Default; refusal of water.
195.3 Delinquent assessment rules and regulations made and enforced by district.
195.4 Proportionment of water when specified amount not available.
195.5 Application for water service.
195.6 Minimum charge assessment.
195.7 Duty of water on Moiese district.
195.8 Penalty for nonpayment of assessment.
195.9 Adjustment of deficit or surplus.
195.10 Care of waste water.

Authority: §§ 195.1 to 195.10 issued under secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U. S. C. 385.

Cross Reference: For annual operation and maintenance charges for Flathead, Mission, and Jocko Valley irrigation districts, Montana, see §§ 221.24–221.29 of this chapter.

§ 195.1 *Water delivery rates.* For all water delivered to any farm unit, allotment, or tract of land in excess of one and one-half acre-feet of water per acre allowable under the minimum charge assessment fixed under § 195.6 for such allotment, farm unit, or tract, there shall be an additional per acre-foot charge fixed at the rate of two-thirds of the minimum charge, and this charge shall be added to the minimum advance levy for the following irrigation season: *Provided,* That the maximum charge per acre for water delivered to any farm unit, allotment, or tract, during any irrigation season, shall not exceed $4 per acre for the entire irrigable area of the farm unit, allotment, or tract.

§ 195.2 *Default; refusal of water.* The United States reserves the right to refuse to deliver water to an irrigation district, in the event of the default by such district or landowner for a period of more than 1 year in any payment due the United States.

§ 195.3 *Delinquent assessment rules and regulations made and enforced by district.* An irrigation district may make such rules and regulations as it may find necessary in regard to the delivery of water to a landowner of the district who is delinquent in payment of any assessment to the district, and such rules and regulations will be enforced by the project engineer when it appears to be to the best interests of both the United States and the district to do so.

§ 195.4 *Proportionment of water when specified amount not available.* At any time during the irrigation season when it shall appear, in the judgment of the project engineer, that there shall not be sufficient water available to deliver the amount specified in this part to the entire irrigable area for which application for delivery of water has been made and approved, then the project engineer shall be authorized to reduce such amounts to the extent that there shall, in his judgment, be sufficient water available to make proportionate delivery to each farm unit, allotment or tract; and when any farm unit, allotment or tract shall have had delivered to it the amount so fixed, it shall not be entitled to further delivery of water except when it shall appear that there is a surplus of water available.

§ 195.5 *Application for water service.* No water will be delivered except under an approved application. The irrigation season for this project covers the period from April 15 to October 15, inclusive. To receive full recognition for an irrigation season, application for water service should be filed in the office of the Indian Irrigation Service at St. Ignatius, Montana, sufficiently early so that the same may be approved by the project engineer on or before the opening of the irrigation season. Every application accepted by the United States after May 1 shall be approved with the understanding that water will be delivered thereunder for the then current season only after requirements of lands covered by applications previously approved shall have been fully provided for. Application must describe the entire area which will be irrigated during the season.

§ 195.6 *Minimum charge assessment.* The proper officials of the respective irrigation districts shall levy a minimum charge assessment against the irrigable area of the individual tracts included in the district, which minimum charge assessment shall result in a sum sufficient to provide for the payment of the assessment against the district. Payment of the assessment so levied shall entitle a water user to the delivery of water without further charge up to 1½ acre-feet per acre of irrigable assessable land included in the farm unit, allotment or tract of land: *Provided,* That after an agreement has been reached by the commissioners of the irrigation district and the project engineer as to duty of water on individual tracts where water users claim excess requirements on account of porous or gravelly soils, the project engineer shall have authority, pending further orders, to increase the quality of water to be delivered under the minimum charge levy to such porous or gravelly tracts provided

it shall not exceed 4 acre-feet of water per acre for the assessable irrigable area of the tract.

§ 195.7 *Duty of water on Moiese district. Provided further,* That upon agreement between the commissioners of the district and the project engineer as to duty of water on any individual tracts within the Moiese subdivision of the project, which is supplied entirely through the Lower Crow Reservoir, the owners of which tracts claim excessive water requirements because of extremely porous or gravelly soils, the project engineer is authorized, pending further orders, to increase the quantity of water to be delivered under the minimum charge levy provided it shall not exceed 6 acre-feet per acre of assessable irrigable land: *Provided further,* That this special provision regarding tracts within the Moiese subdivision shall be applicable only in the event the water supply available from the stored water supply in the Lower Crow Reservoir is ample to allow such excess use without drawing on the water supply of other portions of the Mission Valley Division of the Flathead project.

§ 195.8 *Penalty for non-payment of assessments.* All assessments duly authorized shall be paid on the due date to the properly designated Officer of the Indian Irrigation Service at St. Ignatius, Montana, and on all such assessments remaining unpaid on and after March 1, and August 1, following the due dates there shall be assessed a penalty of one-half percent per month or fraction thereof, from the due date until paid.

§ 195.9 *Adjustment of deficit or surplus.* Any deficit or surplus arising by reason of the costs being more or less than the assessments shall be adjusted in an equitable manner by taking it into account when fixing future assessment rates.

§ 195.10 *Care of waste water.* All applicants for water shall be required to construct and maintain in good order and repair upon their lands such ditches as may be necessary to catch and conduct to some waste canal, ditch, lateral or natural drainage channel any water flowing upon or from such lands. No waste water will be allowed to collect within 20 feet of any canal or lateral belonging to the United States, nor shall any waste ditches be constructed or maintained within 10 feet of any canal or lateral belonging to the United States, except at points of intersection or crossing, which shall be located only by order and under the direction of the proper officer of the United States. No water will be furnished to any applicant during such time as he fails to comply with the provisions of this section.

PART 196—FORT BELKNAP IRRIGATION PROJECT, MONTANA

Sec.
196.1 Organization.
196.2 Irrigation season.
196.3 Domestic and stock use.
196.4 Farm unit.
196.5 Delivery point.
196.6 Record of deliveries.
196.7 Duty of water.
196.8 Water users responsible for water after delivery.
196.9 Waste water.
196.10 Structures.
196.11 Head or service ditches.
196.12 Right-of-way.
196.13 Obstructions; their removal.
196.14 Fencing.
196.15 Water users' ledgers.
196.16 Assessments.
196.17 Interference with project operation.
196.18 Crop and statistical report.
196.19 Cooperation between water users and project employees.
196.20 Complaints.
196.21 Disputes.

AUTHORITY: §§ 196.1 to 196.21 issued under secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U. S. C. 385.

§ 196.1 *Organization.* Indian irrigation projects are in charge of a project engineer or other appointed employee of the Bureau of Indian Affairs who is fully authorized to administer, carry out and enforce the rules and regulations in this part, either directly or through project employees delegated by him, such as watermasters, ditchriders, foremen or other assistants. The project engineer or his representative is fully authorized to refuse or discontinue delivery of water to any person who disregards the rules and regulations in this part.

§ 196.2 *Irrigation season.* The irrigation season for the Fort Belknap irrigation project covers the period from May 1 to September 30. In the event of unusual conditions in the spring, owing to construction or maintenance work on canals or laterals or when the designated opening date appears detrimental to crop production, the proper officers of the United States are authorized to advance or delay, for a period of 15 days, the beginning of the season's operation, and a corresponding change may be made for the date of closing the season, if it is to the best interests of the project or the farmers so to do. In no event, however, shall the canals be operated during any one season for a period in excess of 6 months.

§ 196.3 *Domestic and stock use.* Irrigation projects are primarily built and maintained for serving land with water for the irrigation of crops during the growing season and not for supplying domestic and stock water during the winter months or nonirrigation season.

§ 196.4 *Farm unit.* For the purpose of the rules and regulations in this part and the delivery of water, a farm unit is defined as a tract in single contiguous ownership or allotment containing not less than one 40-acre subdivision of the public survey. In the case of leases a farm unit will be considered a tract in a single lease comprising one or more contiguous tracts.

§ 196.5 *Delivery point.* The general rule of the project shall be one delivery point at the upper boundary of the farm unit or allotment, and the project shall maintain the lateral system to that extent. In special cases where from a cost or topographic standpoint it is impracticable for the landowner or lessee to irrigate the entire irrigable area of his tract from one delivery point, the project engineer is authorized to establish additional delivery points but in no instance shall more than one delivery point be established and maintained when the landowner or lessee can at a reasonable expense provide for delivery by the construction of suitable head ditches.

§ 196.6 *Record of deliveries.* Water users who are entitled to the delivery of water shall file with the ditchrider, or other proper operation employee, 48 hours in advance of the time delivery is desired, a properly signed water request card on which is indicated the time delivery is desired, the description of the subdivision, area to be irrigated, and the turnouts to be used. Printed water request cards will be supplied by the project. Request cards are required for each irrigation, and upon completion of a delivery the water user shall acknowledge same by signing the water request card. Ditchriders are specifically prohibited from making water delivery to any water user until he (the ditchrider) receives notice from the project office that all charges have been paid and proper water request cards have been filed by the water user. Water request cards for all completed deliveries must be filed in the project office at the end of each month during the irrigation season, and he must also file a statement of all uncompleted deliveries with the estimated acreage irrigated under such requests to the end of the month.

§ 196.7 *Duty of water.* Water will be delivered, subject to the provisions of this part, on a demand basis so long as a sufficient quantity is available for project use. In case of a shortage of water, the project engineer is authorized to adopt a rotation system, either for the entire project or for individual units thereof, when, in his opinion, such action is for the best interests of the project, in the apportionment to each water user of his just proportionate share of the available water supply.

§ 196.8 *Water users responsible for water after delivery.* It is the duty of the Indian Irrigation Service to furnish water for beneficial irrigation use only, and it is the duty of the water user to assist in the prevention of waste, and also prevent damage to adjacent lands. Water users are responsible for water after it is delivered to their land, and they are required to have their field ditches in suitable condition and of such capacity as to permit the use of economical heads.

§ 196.9 *Waste water.* Water users will be required to construct and maintain in good order and repair upon their lands such ditches as may be necessary to catch and conduct to some waste canal, ditch or natural drainage channel, all waste water flowing upon or from their lands. No waste water shall be allowed to flow upon a road or highway right-of-way, and no waste water will be allowed to collect within 20 feet of any canal or lateral belonging to the United States, nor shall any waste water ditches be constructed within 10 feet of any canal or lateral, except at points of intersection or crossing, and such crossing shall be located and constructed only

by order and under the direction of the proper employee of the United States. Water delivery will be refused any water user during such time as he fails or refuses to comply with the provisions of this section.

§ 196.10 *Structures.* (a) All necessary headgates, checks, drops, turnouts, flumes and measuring devices will be installed and maintained by the project. Any person or corporation desiring to build a bridge or other structures over, under, in or across a project canal, lateral or drainage ditch, shall first obtain from the project engineer a written permit to build such structures, which permit shall stipulate that it is granted, and accepted by the permittee, on the condition that the repair and maintenance of the structures shall be the duty of the permittee, or his successors, without cost to the project. The permit shall further provide that if any such structure be not regularly used for a period of one year or more the project engineer may notify the person responsible for its maintenance to remove it within a period of 90 days; and that if the structure is not removed within the time allowed, it may thereafter be removed by the project engineer, the cost of such removal to be paid by the party responsible for the maintenance of the structure.

(b) Where a new irrigation project is installed, or an existing project is extended to an area without existing roads, and the construction of roads, bridges or culverts becomes necessary, the project engineer shall investigate the possibility of liquidating all or part of the cost of such construction by securing funds from any governmental agency providing funds for such purposes, and he is authorized to negotiate, subject to the approval of the Commissioner of Indian Affairs, any necessary agreement with such governmental agency.

(c) All persons or corporations are warned against the violation of this section.

§ 196.11 *Head or service ditches.* The head or service ditches are those ditches to which delivery of water is made by the ditchrider or watermaster from canals or laterals operated and maintained by the project. Such ditches which have been or may be placed upon the project right of way are considered an encroachment, and are subject to regulation contained in § 196.12. The watermaster and ditchriders are authorized to refuse delivery of water to ditches that are not in proper condition to receive and convey it to the place of use with a minimum loss. While the water is measured at the point of delivery to ditches from canals and laterals operated and maintained by the project and the loss would be to the detriment of the user, the law provides that water must be used beneficially.

§ 196.12 *Right-of-way.* For use in the necessary activities and emergencies incident to the operation and maintenance of the irrigation system, there is reserved a right-of-way along all canals, laterals, sublaterals and drains, in addition to the land actually occupied by such channels and their embankments, measured from the outside limits of the embankments or channel, a strip of land of sufficient width on each side of said canals, laterals, sublaterals and drains to permit the operation of maintenance equipment, making repairs and improvements, and travel by the project ditchriders.

§ 196.13 *Obstructions; their removal.* No trees, buildings, hay or straw stacks, or other obstructions are to be placed upon said reserved right-of-way by any adjacent landowners or others. Any trees, buildings, hay or straw stacks, or other obstructions of any kind whatsoever, located upon said right-of-way may be ordered removed by the project engineer, and if not removed by the person or persons placing them thereon they shall be removed under the supervision of the project engineer at his discretion, and the cost of such removal shall be added to the cost of operation and maintenance for the particular tract of land under the project belonging to the person so placing or causing such obstructions to be placed thereon.

§ 196.14 *Fencing.* No fences shall be placed within the right-of-way except those crossing a canal or lateral, and in each case provision shall be made for a gate on each side of the canal or lateral of sufficient width to pass ditch cleaning equipment and to permit travel on the banks of the canal or lateral by the ditchrider. Such gates must be provided with some approved convenient type of fastening, which will permit the ditchrider to open and close them with a minimum loss of time. Any wire or timbers used in fencing across a canal or lateral shall not be closer than 12 inches to the maximum high water surface.

§ 196.15 *Water users' ledgers.* Separate entries shall be made in the water users' ledgers for each tract. Bills are issued to the record owner, and payments made thereon are credited to the proper ledger accounts.

§ 196.16 *Assessments.* The annual per acre charge for operation and maintenance shall be levied against the entire irrigable area of each farm unit or allotment to which irrigation water can be delivered from present constructed works. Charges shall become due and payable in accordance with the annual public notice issued each year, and the provisions of the annual public notice regarding refusal of delivery of water in case of delinquency shall be enforced.

CROSS REFERENCE: For public notice of annual charges, see §§ 221.30, 221.31 of this chapter.

§ 196.17 *Interference with project operation.* No persons other than those specifically designated by the project engineer are authorized to regulate project structures or to interfere in any way with project operated canals or any works appurtenant thereto, or the water flowing therein.

§ 196.18 *Crop and statistical report.* A crop and statistical report on forms furnished for that purpose will be taken each year by the ditchrider or some person authorized to do this. This report will show the number of acres devoted to each crop, total yield and value of crops for each unit of the project and for the entire project.

§ 196.19 *Cooperation between water users and project employees.* Close cooperation between the project water users and the project management is desired, and will work to the advantage of the entire project. Suggestions looking to better and more economical service will be welcomed by the project management. Information as to damage or danger to canals or structures shall be immediately reported to the nearest project employee.

§ 196.20 *Complaints.* All complaints must be made in writing to the project engineer.

§ 196.21 *Disputes.* In case of dispute regarding application of rules and regulations and decisions of the project engineer made pursuant thereto, appeal may lations and decisions of the project engineer who will adjust the matter or refer same to the Commissioner of Indian Affairs whose decision will be final.

PART 197—FORT HALL IRRIGATION PROJECT, IDAHO

Sec.

197.1 Organization.
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197.3 Domestic and stock water.
197.4 Domestic and stock water deliveries cease.
197.5 Farm units defined.
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197.16 Head or service ditches.
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197.20 Charges.
197.21 Charges for small tracts.
197.22 Crop and statistical reports.
197.23 Complaints.
197.24 Disputes.

AUTHORITY: §§ 197.1 to 197.24 issued under secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U. S. C. 385.

§ 197.1 *Organization.* The Fort Hall Project is in charge of an engineer of the Bureau of Indian Affairs who is fully authorized to administer, carry out and enforce the rules and regulations in this part, either directly or through project employees delegated by him, such as watermasters, ditchriders, foremen, and other assistants. The project engineer, or his representative, is fully authorized to refuse or discontinue delivery of water to any person who willfully disregards the rules and regulations in this part.

§ 197.2 *Irrigation season.* Water will be turned into the canals and laterals on April 15 for irrigation purposes, and discontinued on September 30. The date for the beginning or ending of the season may be varied by 15 days, de-

pending on weather conditions and the amount of maintenance work to be done.

§ 197.3 *Domestic and stock water.* Irrigation projects are primarily built and maintained for serving land with water for the irrigation of crops during the growing season, and not for supplying domestic and stock water during the winter months or nonirrigation season.

§ 197.4 *Domestic and stock water deliveries cease.* While it is the present intention to deliver domestic or stock water in such laterals in each district where the delivery will not interfere with the maintenance work necessary in preparing the canals and laterals for the next irrigation season, the water users are advised that the practice will not be continued after September 30, 1934, and that they must provide themselves with other sources of water supply for domestic and stock purposes.

§ 197.5 *Farm units defined.* For the purpose of the rules and regulations in this part and the delivery of water a farm unit on the Fort Hall project shall consist of:

(a) Forty or more contiguous acres of land in single ownership covered by one or more water right contracts

(b) Forty or more contiguous acres of Indian owned land under a lease to the same party

(c) A minimum of 40 contiguous acres of land in multiple ownership: *Provided however,* That such minimum 40 contiguous acres, as used in this section, shall be construed to mean that all such contiguous acreage shall be within the same 40-acre subdivision of the United States public land surveys.

§ 197.6 *Delivery points.* Water will be delivered by the project to the boundary of each farm unit on the project: *Provided however,* That where, under the system as at present constructed, there has been established a point of delivery for a farm unit, no further extensions to the project lateral system will be made by the project, even though such farm unit be subdivided into tracts of 40 acres or more under the same or different ownership. Any additional laterals necessary to deliver water to such subdivided tracts of said farm unit as originally established shall be constructed by the landowner, at his expense, so as to receive water from the delivery point as originally established for said farm unit, and said lateral or laterals shall be thereafter, at all times, maintained and operated by the owner or owners benefited.

§ 197.7 *Maintenance of necessary appurtenances by project.* Canals, laterals and necessary appurtenances will be maintained by the project in proper condition to make deliveries of water at such elevation as is necessary to serve farm units susceptible of irrigation by gravity flow from the present constructed system, and to any parts of a farm unit which, after having been properly graded and leveled, is susceptible of irrigation by gravity flow from an elevation not higher than the present normal water surface in the said present constructed system at a point established for said such farm unit.

§ 197.8 *Delivery.* Water for irrigation purposes will be delivered from April 15 to May 31 on either the demand, or the continuous flow method. If the demand is high and can not be met, the continuous flow method, allotting each acre its proportionate part of water based on the duty outlined in § 197.13 will be used. Notice to turn water on or off during this period must be given in writing, 48 hours in advance, on form cards furnished by the project office upon request. Such cards must be placed on the gate from which the ditchrider makes deliveries from the canal or lateral operated by the project.

§ 197.9 *Dates and methods of delivery.* Water for irrigation purposes will be delivered from June 1 to August 31 by the rotation method, and from September 1 to September 30 by the same method as prescribed for the period April 15 to May 31. All dates are subject to change by the project engineer. During the period of rotation, June 1 to August 31, if a water user desires to lend his turn to a neighbor, he shall notify either the watermaster or the ditchrider, who will permit such loan if possible, provided said neighbor is eligible to receive water.

§ 197.10 *Persons specified to make deliveries.* The delivery of water will be made by the watermaster or ditchrider only, and any person interfering with delivery or diversion devices without specific authorization will be liable to prosecution. Consumers are prohibited from cutting the banks of canals or laterals.

§ 197.11 *Preparation and submission of water schedule.* In preparing the rotation schedules, the project is divided into districts, and each district is divided into subdistricts. The subdistricts vary in size to best suit the conditions and usually range from 120 acres to 400 acres. Owners of tracts of 120 acres or more who receive water from one canal or lateral may elect as between the rotation and the continuous flow methods of delivery, providing such choice does not interfere with delivery to other lands on the same lateral. The watermaster will assist the users on each lateral in preparing a schedule, should they choose to get together and prepare the schedule. In cases where users fail to exercise this right before March 1, a schedule will be prepared by the watermaster which shall be final for the season. Those having 120 acres or more electing to use the continuous flow, as well as those coming under the rotation system, will be governed by the duty of water set forth in § 197.13.

§ 197.12 *Record of deliveries.* A careful record of water deliveries will be kept by the ditchrider, on forms furnished for that purpose, such records to state the time of beginning and ending and the amount of each delivery.

§ 197.13 *Duty of water.* (a) The duty of water based on the delivery of 3 acre-feet per acre to the land for the period April 15 to September 30, in general, will be substantially as follows, subject to modification, in his discretion, by the project engineer:

Period	Acres per second foot	Miner's inches per acre	Second feet per acre	Acre-feet per acre
Apr. 15–Apr. 30	300	0.165	0.0033	0.165
May 1–May 15	200	.25	.005	.148
May 16–May 31	143	.35	.007	.222
June 1–June 30	77	.65	.013	.773
July 1–July 31	71	.70	.014	.861
Aug. 1–Aug. 15	83	.60	.012	.357
Aug. 16–Aug. 31	100	.50	.010	.317
Sept. 1–Sept. 15	250	.20	.004	.119
Sept. 16–Sept. 30	300	.165	.0033	.098
Total limited acre-feet per season				3.000

(b) The duty in paragraph (a) of this section will be subject to modification by the project engineer when found not to meet the needs of the land. All such changes will be made prior to the beginning of any irrigation season and shall not be changed during the season. In no case shall the total acre-feet per season be changed.

§ 197.14 *Waste water.* Excessive wasting of water will be avoided or subject consumers to regulatory action. In some localities the topography is such that it is difficult to irrigate without a small amount of waste water. In these cases the rancher must provide means of disposal for such water by carrying it to the nearest lateral or wasteway where disposal can be made. Under no circumstances, however, shall water be wasted into canal or drainage ways except at points designated by the project engineer The ditchriders and watermaster are specifically instructed to shut off water when an excessive amount is being wasted; and also not to permit any waste water, regardless of how small the amount may be, without the regulations regarding disposal being fully complied with.

§ 197.15 *Structures.* (a) All necessary headgates, checks, drops, turnouts, flumes and measuring devices will be installed and maintained by the project. Any person or corporation desiring to build a bridge or other structures over, under, in or across a project canal, lateral or drainage ditch, shall first obtain from the project engineer a written permit to build such structures, which permit shall stipulate that it is granted, and accepted by the permittee, on the condition that the repair and maintenance of the structures shall be the duty of the permittee, or his successors, without cost to the project. The permit shall further provide that if any such structure be not regularly used for a period of one year or more the project engineer may notify the person responsible for its maintenance to remove it within a period of 90 days; and that if the structure is not removed within the time allowed, it may thereafter be removed by the project engineer, the cost of such removal to be paid by the party responsible for the maintenance of the structure.

(b) Where a new irrigation project is installed, or an existing project is extended to an area without existing roads, and the construction of roads, bridges or culverts becomes necessary, the project

engineer shall investigate the possibility of liquidating all or part of the cost of such construction by securing funds from any governmental agency providing funds for such purposes, and he is authorized to negotiate, subject to the approval of the Commissioner of Indian Affairs, any necessary agreement with such governmental agency.

(c) All persons or corporations are warned against the violation of this section.

§ 197.16 *Head or service ditches.* The head or service ditches are those ditches to which delivery of water is made by the ditchrider or watermaster from canals or laterals operated and maintained by the project. Such ditches which have been or may be placed upon the project right-of-way are considered an encroachment, and are subject to regulation contained in § 197.17. The watermaster and ditchriders are authorized to refuse delivery of water to ditches that are not in proper condition to receive and convey it to the place of use with a minimum loss.

§ 197.17 *Right-of-way.* For use in the necessary activities and emergencies incident to the operation and maintenance of the irrigation system, there is reserved a right-of-way along all canals, laterals, sublaterals and drains, in addition to the land actually occupied by such channels and their embankments, measured from the outside limits of the embankments or channel, a strip of land of sufficient width on each side of said canals, laterals, sublaterals and drains to permit the operation of maintenance equipment, making repairs and improvements, and travel by the project ditchriders.

§ 197.18 *Obstructions; their removal.* No trees, buildings, hay or straw stacks, or other obstructions, are to be placed upon said reserved right-of-way by any adjacent landowners or others. Any trees, buildings, hay or straw stacks, or other obstructions of any kind whatsoever, located upon said right-of-way may be ordered removed by the project engineer, and if not removed by the person or persons placing them thereon they shall be removed under the supervision of the project engineer at his discretion, and the cost of such removal shall be added to the cost of operation and maintenance for the particular tract of land under the project belonging to the persons so placing or causing such obstructions to be placed thereon.

§ 197.19 *Fencing.* No fences shall be placed within the right-of-way excepting those crossing a canal or lateral, and in such cases a gate of approved type shall be installed and maintained by the property owner, on each side of the canal or lateral, of sufficient width to permit the operation of maintenance equipment and travel on the banks of the canal or lateral by the ditchriders. Such gates must be provided with some approved convenient type of fastening which will permit the ditchrider to open and close them with a minimum loss of time. Any wire or timbers used in fencing across a canal or lateral shall not be closer than 12 inches to the maximum high water surface.

§ 197.20 *Charges.* Bills covering irrigation charges will be issued to the owner of record, taken from the records of Bannock and Bingham Counties as of January 31, preceding the due date. Since some of the land covered by a water right contract has been subdivided into town lots, and small acreage tracts, it is obvious that some additional expense will be incurred in obtaining the record owners, handling individual accounts and issuing bills, that is not an expense which should be applied to the large tract owners. To overcome this additional expense, a schedule of charges will be fixed for each year in the public notice for tracts of 10 acres or less.

CROSS REFERENCE: For public notice of annual operation and maintenance charges, see §§ 221.32–221.36 of this chapter.

§ 197.21 *Charges for small tracts.* For the purpose of eliminating such work and obtaining for the small tract owners the same per acre rate as charged for tracts in excess of 10 acres any number of owners of small tracts may join in a contract appointing an agent with full authority to enter into such new contract, as may be approved by the Secretary of the Interior, with the project, covering the water right for the entire area of their respective small tracts: *Provided, however,* Such contract must represent not less than 10 acres: *And provided further,* That whether such contract be for 10 or more acres of land, it must in either event represent contiguous acreages. When the owners of such lands desire to take advantage of the group contract rate herein provided for they shall execute such contract appointing their agent (the form of such contract to be first approved by the Secretary of the Interior) and have their agent execute the contract for them as herein provided for with the project on or before February 1, preceding any irrigation season.

§ 197.22 *Crop and statistical reports.* A crop and statistical report will be taken, on forms furnished for that purpose, each year by the ditchrider or some person authorized to do so. This report will show the number of acres devoted to each crop, total yield, and a building and livestock census of each particular farm.

§ 197.23 *Complaints.* All complaints must be made in writing to the project engineer.

§ 197.24 *Disputes.* In case of dispute regarding application of rules and regulations and decisions of the project engineer made pursuant thereto, appeal may be made to the proper supervising engineer who will adjust the matter or refer same to the Commissioner of Indian Affairs whose decision will be final.

PART 198—FORT PECK INDIAN IRRIGATION PROJECT, MONTANA

Sec.
198.1 Organization.
198.2 Irrigation season.
198.3 Domestic and stock use.
198.4 Farm units.
198.5 Delivery point.
198.6 Record of deliveries.
198.7 Duty of water.
198.8 Water users responsible for water after delivery.
198.9 Waste water.
198.10 Structures.
198.11 Head or service ditches.
198.12 Rights-of-way.
198.13 Obstructions; their removal.
198.14 Fencing.
198.15 Water users' ledgers.
198.16 Assessments.
198.17 Interference with project operation.
198.18 Crop and statistical report.
198.19 Cooperation between water users and project employees.
198.20 Complaints.
198.21 Disputes.

AUTHORITY: §§ 198.1 to 198.21 issued under sec. 11, 39 Stat. 142.

§ 198.1 *Organization.* The Fort Peck Indian Irrigation Project shall be in charge of the Superintendent of the Fort Peck Reservation acting through the Project Engineer who is authorized to administer, carry out and enforce the regulations in this part, either directly or through project employees designated by him, such as watermasters, ditchriders, foremen or other assistants. The Project Engineer or his representative is authorized to refuse or discontinue the delivery of water to any person who disregards the regulations in this part.

§ 198.2 *Irrigation season.* The irrigation season for the Fort Peck Irrigation Project covers the period from April 15th to September 30th. If unusual conditions in the spring cause delay in construction or maintenance work on canals or laterals, the Project Engineer is authorized to advance the beginning of the season's operations for a period not to exceed 25 days, and a corresponding change may be made in the date of closing the season: *Provided,* That it is in the best interests of the project or the farmers to do so. Water delivery schedules in the area served with pumped water shall be so regulated that the operation of the pumping plant will be limited to pumping periods during which actual delivery of water within the area so served aggregates forty percent (40%) or more of the capacity of the pump or pumps being operated: *Provided,* That such limited operation will not, in the judgment of the Project Engineer, result in excessive damage to crops.

§ 198.3 *Domestic and stock use.* As the irrigation project is primarily built and maintained for the purpose of serving land with water for the irrigation of crops during the growing season, domestic and stock water shall not be supplied during the winter months or nonirrigation season.

§ 198.4 *Farm units.* For the purpose of the regulations in this part, a farm unit on the Fort Peck Irrigation Project shall consist of:

(a) 40 or more contiguous acres of land in single ownership, except that original Indian allotments containing less than 40 irrigable acres of the same subdivision of the public land survey, shall be considered as farm units.

(b) 40 or more contiguous acres of Indian owned land under a lease to the same party.

(c) A minimum of 40 contiguous acres in multiple ownership within the same 40

acre subdivision of the United States public land survey.

§ 198.5 *Delivery point.* The project will deliver water to one point on the upper boundary of each farm unit and the lateral system of the project shall be maintained on this basis. In cases where, from a cost or topographic standpoint, it is impracticable for the owner or lessee of the farm unit to irrigate the entire irrigable area of the unit from one delivery point, and the owner or lessee of the farm unit cannot at a reasonable expense to him provide for delivery of water to the farm unit by the construction of a suitable head ditch or ditches, the Project Engineer, or other official in charge is authorized to establish an additional delivery point or points.

§ 198.6 *Record of deliveries.* Water users who are entitled to the delivery of water shall file with the ditchrider, or other proper operational employee, 48 hours in advance of the time water delivery is desired, a signed water request card on the approved form, which shall show the time delivery of water is desired, the description and area of the subdivision to be irrigated and the turnouts to be used. Upon the completion of delivery the water user shall acknowledge the same by a proper notation upon the water request card. Ditchriders are specifically prohibited from making water delivery to any water user until they have received notice from the project office that all charges have been paid and proper water request cards have been filed by the water user. Water request cards for all completed and uncompleted deliveries, and statements of the estimated acreage irrigated under such requests, must be filed by the ditchriders in the project office at the end of each month during the irrigation season.

§ 198.7 *Duty of water.* Water shall be delivered on a demand basis so long as a sufficient quantity is available. In case of a shortage of water, in order to insure each water user his just proportionate share of the available water supply, the Project Engineer, or other official in charge of the project, is authorized to adopt a rotation system, either for the entire project or for individual units thereof.

§ 198.8 *Water users responsible for water after delivery.* Water shall be furnished for beneficial irrigation use only. It is the duty of the water user to assist in the prevention of waste, and to prevent damage to adjacent lands. Water users shall be held responsible for water after it is delivered to their land, and they shall be required to have their field ditches of such condition and capacity as to permit the use of economical heads.

§ 198.9 *Waste water.* Water users shall be required to construct and maintain in good order and repair upon their lands, such ditches as may be necessary to catch and conduct to some waste canal, ditch, or natural drainage channel, all waste water flowing upon or from their lands. No waste water shall be allowed to flow upon a road or highway right-of-way, and no waste water shall be allowed to collect within 20 feet of any canal or lateral belonging to the project. Waste water ditches shall not be constructed within 10 feet of any canal or lateral, except at points of intersection or crossing, and such crossings shall be located and constructed only under the direction of the proper project employee. Water delivery shall be refused any water user during such time as he fails or refuses to comply with the provisions of this section.

§ 198.10 *Structures.* (a) The necessary headgates, checks and measuring devices shall be installed by the project in canals, laterals and drainage ways operated and maintained by the project. Any person or corporation desiring to build a bridge or other structure over, under, in or across a project canal, lateral or drainage ditch operated and maintained by the project, shall first obtain from the Project Engineer, or other official in charge, a written permit to build such structure. The permit shall stipulate that it is granted, and accepted by the permittee, on the condition that the repair and maintenance of the structure shall be the duty of the permittee, or his successors, without cost to the project. The permit shall further provide that if any such structure be not regularly used for a period of one year or more, the person responsible for its maintenance may be requested to remove it within a period of 90 days; and that if the structure is not removed within the time allowed, it may thereafter be removed by the Project Engineer, the cost of such removal to be paid by the party responsible for the maintenance of the structure. All persons and corporations are warned against the violation of this provision.

(b) Wherever the project is extended to an area without existing roads, and the construction of roads, bridges, or culverts becomes necessary, the Project Engineer shall investigate the possibility of liquidating all or part of the cost of such construction by securing funds from any State or Federal agency providing funds for such purposes, and he is authorized to negotiate, subject to the approval of the Commissioner of Indian Affairs or his authorized representative, any necessary agreement with any such agency.

§ 198.11 *Head or service ditches.* The head or service ditches are those ditches to which delivery of water is made from canals or laterals operated and maintained by the project. Any such ditches as have been or may be placed upon the project right-of-way, as defined in § 198.12, shall be considered an encroachment. The water master and ditchriders or other authorized employees may refuse delivery of water to ditches that are not in proper condition to receive and convey it to the place of use with a minimum loss. Water must be used beneficially, notwithstanding the fact that it is measured at the point of delivery to ditches from canals and laterals operated and maintained by the project, and the loss would be to the detriment of the user.

§ 198.12 *Rights-of-way.* For use in connection with the necessary activities and emergencies incident to the operation and maintenance of the project, there is reserved a right-of-way along all canals and their embankments, laterals, sublaterals and drains, measured from the outside limits of the embankments or channel, a strip of land of sufficient width on each side of said canals, embankments, laterals, sublaterals and drains, to permit the operation of maintenance equipment, the making of repairs and improvements, and travel by the project ditchriders.

§ 198.13 *Obstructions; their removal.* No trees, buildings, hay or straw stacks, or other obstructions may be placed by any landowner upon the right-of-way reserved for the project. Any such obstruction may be ordered removed by the Project Engineer, and if not removed by the person or persons placing it thereon, may be removed under the supervision of the Project Engineer. The cost of such removal shall be added to the cost of operation and maintenance chargeable to the landowner responsible for the obstruction.

§ 198.14 *Fencing.* No fences shall be placed within the right-of-way except those crossing a canal, lateral, or drainage ditch and in such cases provision shall be made for a gate on each side of the canal or lateral of sufficient width to pass ditch cleaning equipment and to permit travel on the banks of the canal or lateral by the ditchrider. Such gates must be provided with some approved type of fastening which will permit the ditchrider to open and close them with a minimum loss of time. Any wire, timbers, or other materials used in fencing across a canal or lateral shall not be closer than 12 inches to the maximum high water surface.

§ 198.15 *Water users' ledgers.* Separate entries of individual water users' accounts shall be made in the water users' ledgers for each tract. Bills shall be issued to the record owner, and payments made thereon shall be credited to the proper ledger accounts.

§ 198.16 *Assessments.* The annual per acre charge for operation and maintenance of the project shall be levied against the entire irrigable area of each farm unit or allotment to which irrigation water can be delivered from present constructed works. Charges shall become due and payable in accordance with the annual public notice issued each year, and the provisions of the annual public notice regarding refusal of delivery of water in case of delinquency shall be enforced.

§ 198.17 *Interference with project operation.* No persons other than those specifically designated by the Project Engineer may regulate project structures or interfere in any way with canals operated by the project or any other works appurtenant thereto, or the water flowing therein.

§ 198.18 *Crop and statistical report.* The ditchrider or other authorized employee of the project shall be responsible for collecting the information necessary to enable the Project Engineer to make to the Commissioner of Indian Affairs

an annual crop and statistical report for the project. He shall record this information on forms furnished to him by the Project Engineer. The report of the Project Engineer shall show the number of acres devoted to each crop and the total yield and value of the crops for the entire project, and for each unit of the project.

§ 198.19 *Cooperation between water users and project employees.* As close cooperation between the project water users and the project management is desired, and will work to the advantage of the entire project, suggestions looking to better or more economical service shall be welcomed by the project management. Information as to damage or danger to canals or structures shall be immediately reported to the nearest project employee.

§ 198.20 *Complaints.* All complaints concerning the operation of the project must be made to the Project Engineer in writing.

§ 198.21 *Disputes.* In case of any dispute between a water user and the Project Engineer, concerning the application of these regulations, an appeal may be taken through the Superintendent of the Reservation to the Area Director. If the Area Director cannot satisfactorily adjust the dispute, he shall refer the same to the Commissioner of Indian Affairs.

PART 199—UINTAH IRRIGATION PROJECT, UTAH

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199.1 Organization.
199.2 Irrigation season.
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199.5 Delivery point.
199.6 Method of delivery.
199.7 Delivery to lands under the Duchesne River.
199.8 Division of water.
199.9 Lands under Duchesne River not subject to water division.
199.10 Waste water.
199.11 Construction of waste water ditches.
199.12 Water may be shut off if wasted.
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199.14 Head of service ditches.
199.15 Right-of-way.
199.16 Obstructions and their removal.
199.17 Fencing.
199.18 Assessments.
199.19 Place of payment of assessments.
199.20 Interference with project operation.
199.21 Crop and statistical report.
199.22 Complaints.

AUTHORITY: §§ 199.1 to 199.22 issued under secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U. S. C. 385.

CROSS REFERENCE: For rights-of-way for the construction of irrigation projects, Uintah Reservation, Utah, see Part 161 of this chapter.

§ 199.1 *Organization.* The Uintah project is in charge of an engineer of the Bureau of Indian Affairs who is fully authorized to administer, carry out and enforce the rules and regulations in this part, either directly or through project employees delegated by him, such as watermasters, ditchriders, foremen and other assistants. The project engineer or his representative is fully authorized to refuse or discontinue delivery of water to any person who willfully disregards the rules and regulations in this part.

§ 199.2 *Irrigation season.* Water will be turned into the canals and laterals on March 1 for irrigation purposes and discontinued on November 1. The time when water will be turned into the canals and laterals may be postponed for 15 days and the time for discontinuing the flow may be advanced 15 days, depending upon weather conditions and the amount of maintenance work to be done.

§ 199.3 *Domestic and stock water.* Irrigation projects are primarily built and maintained for serving land with water for the irrigation of crops during the growing season and not for supplying domestic and stock water during the winter months or nonirrigation season. Domestic and stock water will be carried in the project canals before and after the irrigation season only when such practice will not be detrimental to the canal system. Domestic or stock water will not be carried in project canals when such use of the canals will interfere with maintenance work necessary in preparing the canals and laterals for the next irrigation season.

§ 199.4 *Farm units defined.* For the purpose of the rules and regulations in this part and the delivery of water, a farm unit on the Uintah project shall consist of:

(a) Forty or more contiguous acres of land in single ownership.

(b) Forty or more contiguous acres of Indian-owned land under lease to the same person or being farmed by the same Indian.

(c) A minimum of 40 contiguous acres of land in multiple ownership provided that such contiguous 40 acres shall be within the same 40-acre subdivision of the United States public land surveys.

§ 199.5 *Delivery point.* Water will be delivered by the project to one point on the upper boundary of each farm unit on the project, and the project shall maintain the lateral system to said delivery point: *Provided, however,* That where, under the system as at present constructed, there has been established a point of delivery for a farm unit, no further extensions to the project lateral system will be made by the project, even though such farm unit be subdivided into tracts of 40 acres or more under the same or different ownership. Any additional laterals necessary to deliver water to such subdivided tracts of said farm units as originally established shall be constructed by the landowner, at his expense, so as to receive water from the delivery point as originally established for said farm unit, and said lateral or laterals shall be thereafter, at all times, maintained and operated by the owner or owners benefited. In special cases where from a cost or topographic standpoint it is impracticable for the landowner or lessee to irrigate the entire irrigable area of his tract from one delivery point, the project engineer is authorized to establish additional delivery points but in no instance shall more than one delivery point be established and maintained when the landowner or lessee can at a reasonable expense provide for delivery by the construction of suitable head ditches.

§ 199.6 *Method of delivery.* Water for irrigation purposes will be delivered through the irrigation season for the lands under the Lakefork, Uintah and Whiterocks Rivers by the rotation method. Rotation schedules for the lands under the canals diverting from these rivers will be prepared under the direction of the project engineer and will be put into effect each season as soon as it is determined what acreage is to be irrigated. A written copy of the water schedule will be delivered to each water user showing the time that his turn starts on each particular tract and the duration of such turn.

§ 199.7 *Delivery to lands under the Duchesne River.* Water will be delivered to all lands under the Duchesne River upon demand until such time as the project engineer deems it advisable to adopt the rotation method of delivery. In the event the rotation method is adopted under the canals diverting from this river the same procedure will be followed that is used under the Lakefork, Uintah and Whiterocks Rivers: *Provided,* That the project engineer shall first give reasonable notice, in advance, to all users to be affected by adoption of same.

§ 199.8 *Division of water.* Water will be delivered to all lands under the Lakefork, Uintah and Whiterocks Rivers in accordance with the provisions of the decrees of the Federal court in the cases of *United States* v. *Dry Gulch Irrigation Company, et al.*[1] and *United States* v. *Cedarview Irrigation Company, et al.*,[1] which decrees fix the maximum duty of 3 acre-feet per acre for the period from March 1 to November 1 of each year. The rate of delivery will be substantially in accordance with the following schedule, which schedule is subject to modification by the project engineer at such time as changed climatic and water supply conditions might prove that such modification would be beneficial to the projects:

Period	Acres per second-foot	Acre-feet per acre
Mar. 1-18	None	None
Mar. 19-31	1,000	0.023
Apr. 1-10	800	.025
Apr. 11-20	400	.050
Apr. 21-30	200	.099
May 1-10	180	.110
May 11-20	135	.147
May 21-31	95	.229
June 1-20	70	.566
June 21-30	85	.233
July 1-10	90	.220
July 11-20	95	.208
July 21-31	100	.218
Aug. 1-10	133	.147
Aug. 11-20	155	.128
Aug. 21-31	175	.124
Sept. 1-10	195	.101
Sept. 11-30	220	.180
Oct. 1-10	220	.090
Oct. 11-20	300	.066
Oct. 21-31	600	.036
		3.000

[1] Unreported case.

§ 199.9 *Lands under Duchesne River not subject to water division.* The lands deriving water from the Duchesne River will not be subject to the above water duty as long as there is an ample water supply in the Duchesne River. These lands, however, may be reduced to the above water duty at any time that the Duchesne River fails to supply more water than is included in § 199.8.

§ 199.10 *Waste water.* Wasting of water will subject users to regulatory action. Water users will be required to construct and maintain in good order and repair such ditches as may be necessary to catch and conduct to some waste canal, ditch or channel all waste water flowing from their lands. Waste water may be emptied into project canals, laterals and drain ditches at such points only as have been designated for that purpose by the project engineer.

§ 199.11 *Construction of waste water ditches.* No waste water ditches shall be constructed upon the right-of-way of any project canal or lateral except where the same crosses or intersects said canal or lateral. Any such crossing or intersection shall be designated by the project engineer and the necessary works shall be constructed in accordance with his instructions.

§ 199.12 *Water may be shut off if wasted.* The project management shall have the right to shut off summarily water from any lands where water is being unnecessarily wasted or where the provisions of this section are being violated by the owners of such land or by any person who may be in charge of such land under authority of the owner.

§ 199.13 *Structures.* (a) All necessary headgates, checks, drops, turnouts, flumes and measuring devices will be installed and maintained by the project. Any person or corporation desiring to build a bridge or other structures over, under, in or across a project canal, lateral or drainage ditch, shall first obtain from the project engineer a written permit to build such structures, which permit shall stipulate that it is granted, and accepted by the permittee, on the condition that the repair and maintenance of the structures shall be the duty of the permittee, or his successors, without cost to the project. The permit shall further provide that if any such structure be not regularly used for a period of one year or more the project engineer may notify the person responsible for its maintenance to remove it within a period of 90 days; and that if the structure is not removed within the time allowed, it may thereafter be removed by the project engineer, the cost of such removal to be paid by the party responsible for the maintenance of the structure.

(b) Where a new irrigation project is installed, or an existing project is extended to an area without existing roads, and the construction of roads, bridges or culverts becomes necessary, the project engineer shall investigate the possibility of liquidating all or part of the cost of such construction by securing funds from any governmental agency providing funds for such purposes, and he is authorized to negotiate, subject to the approval of the Commissioner of Indian Affairs, any necessary agreement with such governmental agency.

(c) All persons or corporations are warned against the violation of this section.

§ 199.14 *Head or service ditches.* The head or service ditches are those ditches to which delivery of water is made by the ditchrider or watermaster from canals or laterals operated and maintained by the project. Such ditches which have been or may be placed upon the project right-of-way are considered an encroachment, and are subject to regulation contained in § 199.15. The watermaster and ditchriders are authorized to refuse delivery of water to ditches that are not in proper condition to receive and convey it to the place of use with a minimum loss.

§ 199.15 *Right-of-way.* For use in the necessary activities and emergencies incident to the operation and maintenance of the irrigation system, there is reserved for a right-of-way along all canals, laterals, sublaterals and drains, in addition to the land actually occupied by such channels and their embankments, measured from the outside limits of the embankments or channel, a strip of land of sufficient width on each side of said canals, laterals, sublaterals and drains to permit the operation of maintenance equipment, making repairs and improvements, and travel by the project ditchriders.

§ 199.16 *Obstructions and their removal.* No trees, buildings, hay or straw stacks, or other obstructions are to be placed upon said reserved right-of-way by any adjacent landowners or others. Any trees, buildings, hay or straw stacks, or other obstructions of any kind whatsoever, located upon said right-of-way may be ordered removed by the project engineer, and if not removed by the person or persons placing them thereon they shall be removed under the supervision of the project engineer at his discretion, and the cost of such removal shall be added to the cost of operation and maintenance for the particular tract of land under the project belonging to the persons so placing or causing such obstructions to be placed thereon.

§ 199.17 *Fencing.* No fences shall be placed within the right-of-way excepting those crossing a canal or lateral, and in such cases a gate of approved type shall be installed and maintained by the property owner, on each side of the canal or lateral, of sufficient width to permit the operation of maintenance equipment and travel on the banks of the canal or lateral by the ditchrider. The gate must be provided with some approved convenient type of fastening which will permit the ditchrider to open and close it with a minimum loss of time. Any wire or timbers used in fencing across a canal or lateral shall not be lower than 12 inches above the maximum high water surface.

§ 199.18 *Assessments.* Bills for the yearly assessment of construction and operation and maintenance charges will be issued each year to the record owner of the land within the project. The annual per-acre charge for operation and maintenance shall be levied against the entire irrigable area of each farm unit or allotment to which irrigation water can be delivered from present constructed works. Charges shall become due and payable in accordance with the order fixing operation and maintenance charges issued annually by the Secretary of the Interior. The provision of the order regarding refusal of delivery of water in case of delinquency shall be enforced. An additional operation and maintenance charge may be made if water is delivered by the project to tracts of less than 40 acres in area. The amount of this additional charge if any, will be stated in the order fixing operation and maintenance charges.

CROSS REFERENCES: For regulations pertaining to construction costs, see Part 211 of this chapter. For orders fixing operation and maintenance charges, see §§ 221.77–221.81 of this chapter.

§ 199.19 *Place of payment of assessments.* The assessments against white-owned tracts are to be paid at the project office, Myton, Utah, and those against leased Indian lands are to be paid at the Indian Agency office, Fort Duchesne, Utah.

§ 199.20 *Interference with project operation.* No persons other than those specifically designated by the project engineer are authorized to regulate project structures or to interfere in any way with project-operated canals or any works appurtenant thereto or to the water flowing therein.

§ 199.21 *Crop and statistical report.* A crop and statistical report on forms furnished for that purpose will be taken each year by the ditchrider or some person authorized to do so. This report will show the number of acres devoted to each crop, total yield and value of crops for each unit of the project and for the entire project and a live stock census of each farm.

§ 199.22 *Complaints.* All complaints must be made in writing to the project engineer. In case of dispute regarding application of rules and regulations and decisions of the project engineer made pursuant thereto, appeal may be made to the proper supervising engineer who will settle the dispute or refer it to the Commissioner of Indian Affairs whose decision will be final.

PART 200—WAPATO IRRIGATION PROJECT, WASHINGTON

Sec.

200.1 Organization.
200.2 Irrigation season.
200.3 Farm unit.
200.4 Delivery point.
200.5 Method of delivery.
200.6 Preparation; submission and approval; schedule of delivery.
200.7 Division of water.
200.8 Waste water.
200.9 Right-of-way.
200.10 Obstructions and their removal.
200.11 Fences.
200.12 Structures.
200.13 Service ditches.
200.14 Service ditch as an obstruction.
200.15 Assessments.

Sec.
200.16 Crop reports.
200.17 Complaints.
200.18 Disputes.

AUTHORITY: §§ 200.1 to 200.18 issued under sec. 1, 3, 36 Stat. 270, 272, as amended; 25 U.S.C. 385.

§ 200.1 *Organization.* The Wapato project shall be in charge of an engineer of the Bureau of Indian Affairs who is authorized to administer, carry out and enforce the regulations of this part, either directly or through project employees. The project engineer or his representative may refuse delivery of water to any water user or landowner who disregards or fails to comply with the regulations of this part. The project engineer is vested with authority to execute on behalf of the Secretary of the Interior water right applications by landowners of the project on the approved departmental form of application.

§ 200.2 *Irrigation season.* Water will be available for irrigation purposes from April 1 to September 30 each year. These dates may be varied as much as 15 days when weather conditions and the necessity for doing maintenance work seems to warrant doing so.

§ 200.3 *Farm unit.* For the purpose of the rules and regulations in this part and the delivery of water, a farm unit on the Wapato project shall consist of:

(a) Eighty or more contiguous acres of land in single ownership covered by one or more water right contracts.

(b) Eighty or more contiguous acres of Indian owned land under lease to the same person or being farmed by the same Indian.

(c) A minimum of 80 contiguous acres in multiple ownership provided that such contiguous 80 acres shall be within the same 80-acre subdivision of the United States public land surveys.

(d) That in all cases where an original Indian allotment consisted of less than 80 acres such original Indian allotment whether under single or multiple ownership and/or covered by one or more water right contracts or whether under lease to the same or different lessees or whether farmed by one or more Indians, shall be treated as a farm unit.

§ 200.4 *Delivery point.* (a) The project will deliver water to one point on the boundary of each farm unit on the project, except that where the cost or topography makes it impractical for the landowner to irrigate the entire irrigable area of his tract from one delivery point, the Project Engineer may establish additional delivery points if the landowner cannot, at a reasonable expense, provide for the delivery by the construction of suitable head ditches.

(b) The project will maintain canals, laterals and necessary appurtenances in proper condition to make deliveries of water at such elevation as is necessary to serve each farm unit by gravity flow. Where portions of a farm unit lie at an elevation too high to be watered by gravity flow from the present normal elevation of water level in the canal system, no change will be made in the water level elevation of the canal system so as to place water on such land. Where such land has been included in the project, the landowner may install and operate pumping equipment at his own expense to raise the water to such included land at a point on the canal designated by the Project Engineer and in accordance with his specifications. If the landowner so installs pumping equipment and pays the project construction and maintenance charges, the project will deliver in its canal at such point of installation the same amount of water per acre for his land as the project delivers at the delivery point for other lands on the project.

§ 200.5 *Method of delivery.* Water for irrigation purposes will be delivered throughout the irrigation season at the discretion of the project engineer either by the continuous flow or rotation method.

§ 200.6 *Preparations; submission and approval; schedule of delivery.* Wherever the rotation method is to be followed, the water users in the rotated area shall have the right to prepare their schedule subject always to approval or modification by the project engineer. The water users must exercise the right granted in this section and submit their rotation schedule on February 15 for the following irrigation season and in the event they do not so submit their schedule the project engineer will prepare the schedule.

§ 200.7 *Division of water.* The division of water in all cases shall be made or authorized by a watermaster or ditchrider and any person, who in any manner interferes with the flow of water in or from the project canal or who opens, closes or in any manner changes the position of a headgate in a project canal or lateral without specific authority to do so, will be liable to prosecution. The cutting of a canal or lateral bank for the purpose of diverting water from the canal and the placing of obstruction in a canal or lateral for the purpose of increasing or decreasing the amount of flow through a project canal headgate will be considered a violation of this section.

§ 200.8 *Waste water.* In all cases waste water must be kept to a minimum consistent with good irrigation practice and the water user will be held responsible for the disposal of all waste water, coming from his fields, in such a manner that no injury is done to his or other land by flooding or "subbing." Waste water may be emptied into project canals, laterals and drain ditches at such points only as have been designated for that purpose by the project engineer. The project management shall have the right summarily to shut off water from any lands where water is being unnecessarily wasted or where the provisions of this section are being violated by the owner of such land, or other person who may be in charge of such land under authority of the owner.

§ 200.9 *Right-of-way.* For use in the necessary activities and emergencies incident to the operation and maintenance of the irrigation system, there is reserved a right-of-way along all canals, laterals, sublaterals and drains, in addition to the land actually occupied by such channels and their embankments, measured from the outside limits of the embankments or channel, a strip of land of sufficient width on each side of said canals, laterals, sublaterals and drains to permit the operation of maintenance equipment, making repairs and improvements, and travel by the project ditchriders.

§ 200.10 *Obstructions and their removal.* No trees, buildings, hay or straw stacks, or other obstructions, are to be placed upon said reserved right-of-way by any adjacent landowners or others. Any trees, buildings, hay or straw stacks, or other obstructions of any kind whatsoever, located upon said right-of-way may be ordered removed by the project engineer, and if not removed by the person or persons placing them thereon they shall be removed under the supervision of the project engineer at his discretion, and the cost of such removal shall be added to the cost of operation and maintenance for the particular tract of land under the project belonging to the persons so placing or causing such obstructions to be placed thereon.

§ 200.11 *Fences.* No fences shall be placed in the right-of-way except those crossing a canal, lateral or drain ditch, and in such case a gate of approved type shall be installed and maintained by the property owner on each side of the canal, lateral or drain ditch of sufficient width to permit the operation of equipment, travel of ditchriders and all other necessary activities incident to the proper operation and maintenance of the project system. No wire, timber or other material used in the construction of fences across a project canal, lateral or drain ditch shall be placed less than 12 inches above the maximum high water surface elevation of the canal, lateral or drain ditch.

§ 200.12 *Structures.* (a) All necessary headgates, checks, drops, turnouts, flumes and measuring devices will be installed and maintained by the project. Any person or corporation desiring to build a bridge or other structures over, under, in or across a project canal, lateral or drainage ditch, shall first obtain from the project engineer a written permit to build such structures, which permit shall stipulate that it is granted, and accepted by the permittee, on the condition that the repair and maintenance of the structures shall be the duty of the permittee, or his successors, without cost to the project. The permit shall further provide that if any such structure be not regularly used for a period of one year or more the project engineer may notify the person responsible for its maintenance to remove it within a period of 90 days; and that if the structure is not removed within the time allowed, it may thereafter be removed by the project engineer, the cost of such removal to be paid by the party responsible for the maintenance of the structure.

(b) Where a new irrigation project is installed, or an existing project is extended to an area without existing roads, and the construction of roads, bridges or culverts becomes necessary, the proj-

ect engineer shall investigate the possibility of liquidating all or part of the cost of such construction by securing funds from any governmental agency providing funds for such purposes, and he is authorized to negotiate, subject to the approval of the Commissioner of Indian Affairs, any necessary agreement with such governmental agency.

(c) All persons or corporations are warned against the violation of this section.

§ 200.13 *Service ditches.* The farm unit or service ditch into which water is delivered from the project canals or laterals must have ample capacity and be maintained by the water user in proper condition to receive water and convey it to the place of use with a minimum of loss.

§ 200.14 *Service ditch as an obstruction.* Any service ditch that has been or may be constructed upon any project canal, lateral or drain ditch right-of-way shall be considered an obstruction and subject to the provisions of § 200.10.

§ 200.15 *Assessments.* Bills for the yearly assessments of construction and operation and maintenance charges will be issued each year to the owners of record for all tracts of land designated for inclusion in the Wapato project. Where farm units have been subdivided into tracts of less than 40 acres the Secretary of the Interior in his discretion may fix a higher operation and maintenance rate for such subdivided acreage, than the rate fixed for tracts of 40 acres or more. In the event the Secretary does fix the higher rate for such subdivided tracts the individual owners thereof may obtain for their lands the rate fixed for 40 acres or more in single ownership by joining in the execution of a contract, appointing an agent with full authority to enter into such new contract, as may be approved by the Secretary of the Interior, with the project, covering the water right for the entire area of their respective small tracts: *Provided, however,* Such contract must represent not less than 40 acres: *And provided further,* That whether such contract be for 40 or more acres of land, it must in either event represent contiguous acreages. When the owners of such lands desire to take advantage of the group contract rate herein provided for they shall execute such contract appointing their agent (the form of such contract to be first approved by the Secretary of the Interior) and have their agent execute the contract for them as provided in this part, for with the project on or before February 1, preceding any irrigation season.

CROSS REFERENCES: For regulations pertaining to construction costs, see Part 211 of this chapter. For order fixing operation and maintenance charges, see §§ 221.86–221.94 of this chapter.

§ 200.16 *Crop reports.* A crop and statistical report will be taken each year by the ditchriders or other persons authorized to do so, on forms furnished for that purpose. This report will show the number of acres devoted to each crop, the total yield and a building and livestock census of each farm.

§ 200.17 *Complaints.* All complaints must be made in writing to the project engineer.

§ 200.18 *Disputes.* In case of dispute regarding application of rules and regulations and decisions of the project engineer made pursuant thereto, appeal may be made to the proper supervising engineer who will adjust the matter or refer same to the Commissioner of Indian Affiairs whose decision will be final.

PART 201—WIND RIVER IRRIGATION PROJECT, WYOMING

Sec.

201.1 Organization.
201.2 Irrigation season.
201.3 Domestic and stock use.
201.4 Farm units.
201.5 Delivery point.
201.6 Record of deliveries.
201.7 Duty of water.
201.8 Water users responsible for water after delivery.
201.9 Waste water.
201.10 Structures.
201.11 Head or service ditches.
201.12 Rights-of-way.
201.13 Obstructions; their removal.
201.14 Fencing.
201.15 Water users' ledgers.
201.16 Assessments.
201.17 Interference with project operation.
201.18 Crop and statistical report.
201.19 Cooperation between water users and project employees.
201.20 Complaints.
201.21 Disputes.

AUTHORITY: §§ 201.1 to 201.21 issued under secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U. S. C. 385.

§ 201.1 *Organization.* Indian irrigation projects are in charge of a project engineer or other appointed employee of the Bureau of Indian Affairs who is fully authorized to administer, carry out and enforce the rules and regulations in this part, either directly or through project employees delegated by him, such as watermasters, ditchriders, foremen or other assistants. The project engineer or his representative is fully authorized to refuse or discontinue delivery of water to any person who disregards the rules and regulations in this part.

§ 201.2 *Irrigation season.* The irrigation season for the Wind River irrigation project covers the period from May 1 to September 30th. In the event of unusual conditions in the spring, owing to construction or maintenance work on canals or laterals or when the designated opening date appears detrimental to crop production, the proper officers of the United States are authorized to advance or delay, for a period of 15 days, the beginning of the season's operation, and a corresponding change may be made for the date of closing the season, if it is to the best interests of the project or the farmers so to do. In no event, however, shall the canals be operated during any one season for a period in excess of 6 months.

§ 201.3 *Domestic and stock use.* Irrigation projects are primarily built and maintained for serving land with water for the irrigation of crops during the growing season and not for supplying domestic and stock water during the winter months or nonirrigation season.

§ 201.4 *Farm units.* For the purpose of the regulations in this part and the delivery of water, a farm unit is defined as an original allotment, homestead entry or assignment of unallotted tribal land. Assignments of unallotted tribal land shall be made whenever practicable to conform to existing Wind River irrigation facilities. Where an established farm unit already has more than one delivery point, service may be continued to the existing delivery points. Leases covering more than one farm unit may have water delivery at the regularly established farm unit delivery points.

§ 201.5 *Delivery point.* The general rule of the project shall be one delivery point at the upper boundary of the farm unit and the project shall maintain the lateral system to that extent. In special cases where from a cost or topographic standpoint it is impracticable for the landowner or lessee to irrigate the entire irrigable area of his tract from one delivery point, the project engineer is authorized to establish additional delivery points but in no instance shall more than one delivery point be established and maintained when the landowner or lessee can at a reasonable expense provide for delivery by the construction of suitable head ditches.

§ 201.6 *Record of deliveries.* Water users who are entitled to the delivery of water shall file with the ditchrider, or other proper operation employee, 48 hours in advance of the time delivery is desired, a properly signed water request card on which is indicated the time delivery is desired, the description of the subdivision, area to be irrigated, and the turnouts to be used. Printed water request cards will be supplied by the project. Request cards are required for each irrigation, and upon completion of a delivery the water user shall acknowledge same by signing the water request card. Ditchriders are specifically prohibited from making water delivery to any water user until he (the ditchrider) receives notice from the project office that all charges have been paid and proper water request cards have been filed by the water user. Water request cards for all completed deliveries must be filed in the project office at the end of each month during the irrigation season, and he must also file a statement of all uncompleted deliveries with the estimated acreage irrigated under such requests to the end of the month.

§ 201.7 *Duty of water.* Water will be delivered, subject to the provisions of the regulations in this part, on a demand basis so long as a sufficient quantity is available for project use. In case of a shortage of water, the project engineer is authorized to adopt a rotation system, either for the entire project or for individual units thereof, when, in his opinion, such action is for the best interests of the project in the apportionment to each water user of his just proportionate share of the aavilable water supply.

§ 201.8 *Water users responsible for water after delivery.* It is the duty of

the Indian Irrigation Service to furnish water for beneficial irrigation use only, and it is the duty of the water user to assist in the prevention of waste, and also prevent damage to adjacent lands. Water users are responsible for water after it is delivered to their land, and they are required to have their field ditches in suitable condition and of such capacity as to permit the use of economical heads.

§ 201.9 *Waste water.* Water users will be required to construct and maintain in good order and repair upon their lands, such ditches as may be necessary to catch and conduct to some waste canal, ditch or natural drainage channel, all waste water flowing upon or from their lands. No waste water shall be allowed to flow upon a road or highway right-of-way, and no waste water will be allowed to collect within 20 feet of any canal or lateral belonging to the United States, nor shall any waste water ditches be constructed within 10 feet of any canal or lateral, except at points of intersection or crossing, and such crossings shall be located and constructed only by order and under the direction of the proper employee of the United States. Water delivery will be refused any water user during such time as he fails or refuses to comply with the provisions of this section.

§ 201.10 *Structures.* (a) All necessary headgates, checks, drops, turnouts, flumes and measuring devices will be installed and maintained by the project. Any person or corporation desiring to build a bridge or other structures over, under, in or across a project canal, lateral or drainage ditch, shall first obtain from the project engineer a written permit to build such structures, which permit shall stipulate that it is granted, and accepted by the permittee, on the condition that the repair and maintenance of the structures shall be the duty of the permittee, or his successors, without cost to the project. The permit shall further provide that if any such structure be not regularly used for a period of one year or more the project engineer may notify the person responsible for its maintenance to remove it within a period of 90 days; and that if the structure is not removed within the time allowed, it may thereafter be removed by the project engineer, the cost of such removal to be paid by the party responsible for the maintenance of the structure.

(b) Where a new irrigation project is installed, or an existing project is extended to an area without existing roads, and the construction of roads, bridges or culverts becomes necessary, the project engineer shall investigate the possibility of liquidating all or part of the cost of such construction by securing funds from any governmental agency providing funds for such purposes, and he is authorized to negotiate, subject to the approval of the Commissioner of Indian Affairs, any necessary agreement with such governmental agency.

(c) All persons or corporations are warned against the violation of this section.

§ 201.11 *Head or service ditches.* The head or service ditches are those ditches to which delivery of water is made by the ditchrider or watermaster from canals or laterals operated and maintained by the project. Such ditches which have been or may be placed upon the project right of way are considered an encroachment, and are subject to regulation contained in § 201.12. The watermaster and ditchriders are authorized to refuse delivery of water to ditches that are not in proper condition to receive and convey it to the place of use with a minimum loss. While the water is measured at the point of delivery to ditches from canals and laterals operated and maintained by the project and the loss would be to the detriment of the user, the law provides that water must be used beneficially.

§ 201.12 *Rights-of-way.* For use in the necessary activities and emergencies incident to the operation and maintenance of the irrigation system, there is reserved a right-of-way along all canals, laterals, sublaterals and drains, in addition to the land actually occupied by such channels and their embankments, measured from the outside limits of the embankments or channel, a strip of land of sufficient width on each side of said canals, laterals, sublaterals and drains to permit the operation of maintenance equipment, making repairs and improvements, and travel by the project ditchriders.

§ 201.13 *Obstructions; their removal.* No trees, buildings, hay or straw stacks, or other obstructions, are to be placed upon said reserved right-of-way by any adjacent landowners or others. Any trees, buildings, hay or straw stacks, or other obstructions of any kind whatsoever, located upon said right-of-way may be ordered removed by the project engineer, and if not removed by the person or persons placing them thereon they shall be removed under the supervision of the project engineer at his discretion, and the cost of such removal shall be added to the cost of operation and maintenance for the particular tract of land under the project belonging to the persons placing or causing such obstructions to be placed thereon.

§ 201.14 *Fencing.* No fences shall be placed within the right-of-way except those crossing a canal or lateral, and in each case provision shall be made for a gate on each side of the canal or lateral of sufficient width to pass ditch cleaning equipment and to permit travel on the banks of the canal or lateral by the ditchrider. Such gates must be provided with some approved convenient type of fastening which will permit the ditchrider to open and close them with a minimum loss of time. Any wire or timbers used in fencing across a canal or lateral shall not be closer than 12 inches to the maximum high water surface.

§ 201.15 *Water users' ledgers.* Separate entries shall be made in the water users' ledgers for each tract. Bills are issued to the record owner, and payments made thereon are credited to the proper ledger accounts.

§ 201.16 *Assessments.* The annual per acre charge for operation and maintenance shall be levied against the entire irrigable area of each farm unit or allotment to which irrigation water can be delivered from present constructed works. Charges shall become due and payable in accordance with the annual public notice issued each year, and the provisions of the annual notice regarding refusal of delivery of water in case of delinquency shall be enforced.

CROSS REFERENCE: For public notice of annual charges, see §§ 221.95, 221.96 of this chapter.

§ 201.17 *Interference with project operation.* No persons other than those specifically designated by the project engineer are authorized to regulate project structures or to interfere in any way with project operated canals or any works appurtenant thereto, or the water flowing therein.

§ 201.18 *Crop and statistical report.* A crop and statistical report on forms furnished for that purpose will be taken each year by the ditchrider or some person authorized to do so. This report will show the number of acres devoted to each crop, total yield and value of crops for each unit of the project and for the entire project.

§ 201.19 *Cooperation between water users and project employees.* Close cooperation between the project water users and the project management is desired, and will work to the advantage of the entire project. Suggestions looking to better or more economical service will be welcomed by the project management. Information as to damage or danger to canals or structures shall be immediately reported to the nearest project employee.

§ 201.20 *Complaints.* All complaints must be made in writing to the project engineer.

§ 201.21 *Disputes.* In case of dispute regarding application of rules and regulations and decisions of the project engineer made pursuant thereto, appeal may be made to the proper supervising engineer who will adjust the matter or refer same to the Commissioner of Indian Affairs whose decision will be final.

PART 202—PUEBLO INDIAN LANDS BENEFITED BY IRRIGATION AND DRAINAGE WORKS OF MIDDLE RIO GRANDE CONSERVANCY DISTRICT, NEW MEXICO

§ 202.1 *Acreage designated.* Pursuant to the provisions of the act of March 13, 1928 (45 Stat. 312) the contract executed between the Middle Rio Grande Conservancy District of New Mexico and the United States under date of December 14, 1928, the official plan approved pursuant thereto, as modified, and the terms of section 24 of a contract between said parties dated September 4, 1936, dealing among other things with the payment of operation and maintenance and betterment assessments by the United States to the District, and section 24 of a similar contract dated April 8, 1938 executed by the representative of the United States, on this date, it is found that a total of 20,242.05 acres of Pueblo Indian lands of the Pueblos of Cochiti, Santo Domingo, San Felipe, Santa Ana,

Sandia and Isleta is susceptible of economic irrigation and cultivation and is materially benefited by the works constructed by said District. This acreage is designated as follows:

	Acres
Lands with recognized water rights not subject to operation and maintenance or betterment charges by the District and designated as "now irrigated"	8,847
Lands classified as "newly reclaimed" lands (exclusive of the purchased area)	11,074.4
Lands classified as newly reclaimed lands (the area recently purchased)	320.65
Total irrigable area materially benefited	20,242.05

(45 Stat. 312)

PART 203—CONCESSIONS, PERMITS AND LEASES ON LANDS WITHDRAWN OR ACQUIRED IN CONNECTION WITH INDIAN IRRIGATION PROJECTS

Sec.

203.0 Scope.
203.1 Terms used.
203.2 Project engineer's authority.
203.3 Enforcement.
203.4 Permits subject to existing and future rights-of-way.
203.5 Plans, approval thereof.
203.6 Stock grazing.
203.7 Permits, transferable.
203.8 Applications.
203.9 Bonds.
203.10 Payments.
203.11 Supervision of permittees' rates.
203.12 Services from project.
203.13 Permit not a lease.
203.14 Further requirements authorized.
203.15 Permittee subject to State law.
203.16 Reserved area, Coolidge Dam.
203.17 Agricultural and grazing permits and leases.
203.18 Term and renewal of permits.
203.19 Improvements.
203.20 Revocation of permits.
203.21 Notice to vacate.
203.22 Disposition of revenue.
203.23 Organized tribes.

AUTHORITY: §§ 203.0 to 203.23 issued under 52 Stat. 193; 25 U. S. C. 390.

§ 203.0 *Scope.* The regulations in this part are promulgated governing the granting of concessions, business, agricultural and grazing leases or permits on reservoir sites, reserves for canals or flowage areas, and other lands withdrawn or otherwise acquired in connection with the San Carlos, Fort Hall, Flathead and Duck Valley or Western Shoshone irrigation projects.

§ 203.1 *Terms used.* When used in this part "Secretary" refers to the Secretary of the Interior; "project" to the Federal Indian irrigation project on which concession, lease or permit is granted, and "project engineer" to the engineer in charge of said project.

§ 203.2 *Project engineer's authority.* The project engineer is the official charged with the responsibility for the enforcement of this part. He is vested with the authority to issue temporary concession permits to applicants for periods not to exceed 30 days. All except temporary permits shall become effective when approved by the Secretary.

§ 203.3 *Enforcement.* The project engineer shall enforce these and all project regulations now or hereafter promulgated by the Secretary. Willful violation or failure to comply with the provisions of this part and all proper orders of the project engineer shall be cause for revocation of the permit by the Secretary who shall be the judge of what constitutes such violation. The project engineer may suspend any permit for cause. The project engineer shall, immediately after suspending a permit, submit to the Secretary through the Commissioner of Indian Affairs a detailed report of the case, accompanied by his reasons for the action and his recommendations, for final action by the Secretary.

§ 203.4 *Permits subject to existing and future rights-of-way.* Use by the permittee of any land authorized under this part shall be subject to the right of the Secretary to establish trails, roads and other rights-of-way including improvements thereupon or through the premises, and the right to use same by the public. No intereference shall be permitted with the continued use of all existing roads, trails and other rights-of-way and improvements thereon.

§ 203.5 *Plans, approval thereof.* No building or other structure shall be erected by permittee except in accordance with plans, specifications and locations approved by the project engineer. All premises and appurtenances shall be kept in a sanitary, safe and sightly condition.

§ 203.6 *Stock grazing.* Permittees may graze upon lands covered by such permits, such stock as may be required in connection with the purposes for which the permit is issued subject to such restrictions and limitations as may be prescribed by the project engineer.

§ 203.7 *Permits, transferable.* Permits may be transferred only with the approval of the Secretary.

§ 203.8 *Applications.* All applications for permits must be made on the approved form. The project engineer will furnish copies of this form upon request. All applications must be executed in triplicate.

§ 203.9 *Bonds.* Except in cases of temporary concession permits, leases, permits, and traders' licenses granted under Parts 151, 131, and 251 of this chapter, which are governed by the requirements of those parts, the applicant shall within 60 days after approval of the application furnish a surety bond for the faithful performance of the terms of the permit in an amount equal to the total sum accruing during the period of the permit. Such bond shall be executed by an approved surety company, or by at least three individual sureties, whose individual unencumbered assets are equal to double the amount of the bond. In the case of temporary concession permits, the permittee shall deposit at the time of receiving the permit, a sum equal to twice the rental, which sum shall, upon the expiration of the permit, be refunded to the permittee, if all the terms and conditions of the permit have been met; otherwise, such sum shall be retained as liquidated damages.

§ 203.10 *Payments.* Each permittee shall pay at the time of receiving the permit the first year's charge as fixed therein. When a permit extends over a period of years, the next and succeeding payments shall be due and payable annually in advance. The full amount accruing under a temporary permit shall be paid at the time the application is filed.

§ 203.11 *Supervision of permittees' rates.* All rates or charges collected by a permittee for services rendered by the permittee in the operation of the concession granted under a permit, must be submitted through the project engineer to the Secretary for approval. Copies of the approved rate schedule shall be posted in at least two conspicuous places on the premises. Approved rates may not be changed without first obtaining in the same manner a change in the rate schedule. The Secretary shall have the right to readjust rates charged from time to time and to amend or change any permit issued. Failure to comply with the approved rates automatically makes the permit subject to cancellation.

§ 203.12 *Services from project.* When the facilities of the project make it possible to supply water for domestic purposes, electricity or any other type of service to the permittee, the cost of connecting the project facilities shall be borne by the permittee and the work must be in accordance with standard practices and accepted by the project engineer, and as provided for in project regulations. All services rendered by the project to the permittee shall be paid for at the existing or modified schedule of rates; or if no schedule has been approved, at a rate to be approved by the Secretary which will reasonably reimburse the project for the cost of such services.

§ 203.13 *Permit not a lease.* Any permit issued under this part does not grant any leasehold interest nor cover the sale, barter, merchandising, or renting of any supplies or equipment except as therein specified. Any permittee who engages in trade with the Indians must also apply for and receive a trader's license as provided by Part 251 of this chapter.

§ 203.14 *Further requirements authorized.* The project engineer is authorized to incorporate into any proposed permit to meet the needs of any particular case, subject to the approval of the Secretary, such further special requirements as may be agreed upon by him and the applicant, such requirements to be consistent with the general purposes of this part.

§ 203.15 *Permittee subject to State law.* The holder of any permit issued under this part shall be subject to and abide by the laws and regulations of the United States and State laws if applicable to the conduct of the particular business or activity conducted by the permittee. Violations of this section shall render the permit void but shall not release the permittee from any obligations arising therunder.

§ 203.16 *Reserved area, Coolidge Dam.* No permit for any commercial business

or other activity (except boating concessions confined to the Soda Spring Canyon) shall be issued to any applicant to operate within a radius of three-fourths of a mile from the center of the Coolidge Dam, Arizona.

§ 203.17 *Agricultural and grazing permits and leases.* (a) Permits or leases may be granted after the lands set forth in § 203.0 have been classified as to use and then only for the purpose for which the land is classified. Permits for grazing lands suitable for division into range units shall be granted in accordance with Part 151 of this chapter; and agricultural lands and all other grazing lands shall be leased in accordance with Part 151 of this chapter.

(b) Lands for which leases or permits are granted pursuant to the terms and conditions of this part shall not be eligible for benefit payments under the provisions and conditions of the Crop Control and Soil Conservation Act of April 27, 1935 (49 Stat. 163; 16 U. S. C. 590a), as amended by the act of February 29, 1936 (49 Stat. 1148; 16 U. S. C. 590g), and subsequent amendatory acts.

§ 203.18 *Term and renewal of permits.* No concession granted under the provisions of this part shall extend for a period in excess of 10 years. An application for the renewal of a lease, permit, or concession permit shall be treated in the same manner as an original application under this part. Should there be an application or applications other than the renewal application for a permit covering the same area, the renewal application may, if the applicant has met all the requirements of the expiring permit and has been a satisfactory permittee, be given preferential consideration for the renewal of the permit should the applicant meet the highest and most satisfactory offer contained in the several applications.

§ 203.19 *Improvements.* Title to improvements constructed on the premises by the permittee shall be fixed and determined by the terms of the permit.

§ 203.20 *Revocation of permits.* Any permit issued pursuant to this part may be revoked at any time within the discretion of the Secretary. Agricultural and grazing leases dealt with in § 203.17 shall be subject to cancellation as provided for in the respective Parts 131 and 151 of this chapter, and the conditions of the instruments executed pursuant thereto.

§ 203.21 *Notice to vacate.* A permittee shall within 10 days after notification in writing of the cancellation of his permit by the Secretary, vacate the premises covered by the said permit. Any person occupying lands dealt with in the act of April 4, 1938 (52 Stat. 193) without an approved permit or lease shall be notified in writing by the project engineer of the requirements of this part and that for the failure of such person to comply with these requirements and receive a permit or lease within 60 days after receipt of the written notice shall constitute a willful violation of this part, and the project engineer shall submit promptly to the Commissioner of Indian Affairs a detailed report concerning the case, together with recommendations looking to the taking of appropriate legal action to remove such person from the area and to the collection of such funds to compensate for any use made of the property or damages suffered thereto.

§ 203.22 *Disposition of revenue.* Funds derived from concessions or leases under this part except those so derived from Indian tribal property withdrawn for irrigation purposes and for which the tribe has not been compensated, shall be available for expenditure under existing law in the operation and maintenance of the irrigation project on which collected and as provided for in Part 130 of this chapter. Funds so derived from Indian tribal property withdrawn for irrigation purposes and for which the tribe has not been compensated, shall be deposited to the credit of the proper tribe.

§ 203.23 *Organized tribes.* Concessions and leases on tribal lands withdrawn or reserved for the purposes specified in the act of April 4, 1938 (52 Stat. 193) and dealt with in this part, of any Indian tribe organized under section 16 of the act of June 18, 1934 (48 Stat. 984; 25 U. S. C. 476) for which the tribe has not been compensated shall be made by the organized tribe pursuant to its constitution or charter: *Provided,* No lease or concession so made shall be inconsistent with the primary purpose for which the lands were reserved or withdrawn.

Subchapter S—Construction

PART 211—PARTIAL PAYMENT CONSTRUCTION CHARGES ON INDIAN IRRIGATION PROJECTS

Sec.

211.1 Partial reimbursement of irrigation charges; 5 percent per annum of cost of system, June 30, 1920.
211.2 Landowners financially unable to pay.
211.3 Period for payments extended.
211.4 Annual payment reduced.
211.4a Assessment and collection of additional construction costs.
211.5 Payments to disbursing officer.
211.6 "Owner" defined.
211.7 Modification.

AUTHORITY: §§ 211.1 to 211.7 issued under secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U. S. C. 385. Interpret or apply sec. 1, 41 Stat. 409; 25 U. S. C. 386.

§ 211.1 *Partial reimbursement of irrigation charges; 5 percent per annum of cost of system, June 30, 1920.* In pursuance of the act of February 14, 1920 (41 Stat. 409; 25 U. S. C. 386), regulations governing partial payment of construction charges on Indian irrigation projects, with the exception of certain ones mentioned therein, were approved by the Department June 21, 1920, and require that each owner of irrigable land under any irrigation system constructed for the benefit of Indians under provisions of law requiring reimbursement of the cost of such system and to which land, water for irrigation purposes can be delivered from such system, shall pay, on or before November 15, 1920, a sum equal to 5 percent of the per acre cost, as of June 30, 1920, of the construction of the system under which such land is situated. The per acre cost of a given system as of June 30, 1920, shall be determined by dividing the total amount expended for construction purposes on such system up to that date by the total area of land to which water for irrigation purposes can be delivered on that date; and on November 15 of each year following the year 1920, until further notice, the land owners, as therein prescribed, shall pay 5 percent of the per acre construction cost as of June 30 of the current year, such per acre cost to be determined by dividing the cost of the system to June 30 of that year by the total area of land to which water for irrigation purposes can be delivered from the system on that date. Provision is contained that no payments shall be required under the regulations in behalf of lands still in process of allotment or prior to the issuance of the first or trust patent therefor, nor for lands reserved for school, agency, or other administrative purposes where the legal title still remains in the United States.

§ 211.2 *Landowners financially unable to pay.* Considerable difficulty has been encountered in collecting charges under the regulations in this part owing to the fact that Indians have been financially unable to pay the charges, the result being that the construction charges have accrued against the lands and in cases where the land is sold for the benefit of the allottee or his heirs under the regulations, the purchaser is to pay the accrued and future irrigation charges which make it difficult in some instances, to sell the land at as favorable terms as might otherwise be secured.

§ 211.3 *Period for payments extended.* Furthermore, in recent legislation dealing with specific projects in the Bureau and also all reclamation projects the policy has been to extend the payment of such charges over a longer period of years.

§ 211.4 *Annual payment reduced.* In view of these conditions the regulations governing this matter are hereby modified so as to distribute the unaccrued installments over a period of time so that 2½ percent of the total amount yet due shall be due and payable on November 15 of each year until further notice. You shall accordingly ascertain the per acre cost after deducting the amount of the accrued charges and take 2½ percent of that amount and a like sum each year so that the amount of the annual installments will be the same each year. Superintendents are obligated to submit all proposed lists of sales involving allotments containing irrigable allotments to the project or supervising engineer for checking, as to the irrigable acreage and amounts of unpaid construction, operation, and maintenance charges against such allotments. Each sale forwarded to the Bureau for action shall be accompanied by contract executed on Form 5-462b where irrigable acreage is involved and after approval thereof a copy of contract on said form shall be sent to the project engineer for his records and the charges paid by the purchaser shall be turned over to the disbursing agent for credit and deposit as

instructed in the next paragraph. The regulations in this part shall not apply to lands on the Wapato project, on the Yakima Indian Reservation, nor to the irrigation projects on the Blackfeet, Fort Peck, Flathead, and Crow Reservations, Montana, for which special regulations have been issued nor to the Fort Hall Reservation, Idaho, or the San Carlos project, Arizona.[1]

CROSS REFERENCES: For special regulations applying to San Carlos project, see Part 215 of this chapter. For further information concerning Form 5—462B, see Part 128 of this chapter.

§ 211.4a *Assessment and collection of additional construction costs.* (a) Upon the completion of the construction of an Indian irrigation project, or unit thereof, subsequent to the determination of the partial per acre construction assessment rate which was fixed prior to July 1, 1957 pursuant to § 211.4 the Secretary of the Interior or his authorized representative shall determine such additional construction cost and distribute that cost on a per acre basis against all of the irrigable lands of the project, or unit thereof, and 1/40th of such per acre additional construction cost thus determined shall be assessed and collected annually from the non-Indian landowner of the project, or unit, thereof. The first installment shall be due and payable on November 15 of the year following the completion of such additional construction work or, if such additional construction work on the project, or unit thereof, has been completed prior to July 1, 1957 and the per acre annual rate determined, the first installment of the additional construction cost to be repaid by such non-Indian landowners shall be due and payable on November 15, 1958. This annual per acre rate shall be in addition to, and run concurrently with, the per acre construction rate assessed annually under § 211.4.

(b) Project lands in Indian ownership are not subject to assessment for their proportionate share of the per acre construction cost of the project, or unit thereof, until after the Indian title to the land has been extinguished. At that time the total annual per acre assessment rate against non-Indian lands of the project, or unit thereof, shall be assessed against the former Indian lands for each and every acre of irrigable land to which water can be delivered through the project works, beginning on November 15 of the year following the extinguishment of the Indian title to the land and on November 15 of each year thereafter over a forty year period. In cases where the Indian title to project land was extinguished prior to July 1, 1957 the assessment rate shall be due and payable on November 15, 1958.

§ 211.5 *Payments to disbursing officer.* Payments under this part shall be made to the disbursing officer for the supervising engineer of the Indian Irrigation Service having jurisdiction over the irrigation system under which the land for which payment is made may lie. The sum so collected will then, after proper credit has been made to the land for which collected, be deposited in the Treasury of the United States to the credit of the respective funds used in constructing irrigation systems toward which reimbursement shall have been made.

§ 211.6 *"Owner" defined.* The word "owner" as used in this part shall be construed to include any person, Indian or white, or any firm, partnership, corporation, association, or other organization to whom title to the land capable of irrigation, as provided in the act of February 14, 1920 (41 Stat. 409; 25 U. S. C. 386), has passed, either by fee or trust patent, or otherwise.

§ 211.7 *Modification.* The act of July 1, 1932 (47 Stat. 564; 25 U. S. C. 386a), cancelled all irrigation assessments for construction costs against lands in Indian ownership which were unpaid at that date and deferred all future assessments for construction costs until the Indian title to the land shall have been extinguished.

PART 212—CONSTRUCTION ASSESSMENTS, CROW INDIAN IRRIGATION PROJECT

Subpart A—Charges Assessed Against Irrigation District Lands

Sec.
212.1 Contracts.
212.2 Annual rate of assessments.
212.3 Annual assessments.
212.4 Time of payment.
212.5 Penalty.
212.6 Refusal of water delivery.

Subpart B—Charges Assessed Against Non-Indian Lands Not Included in an Irrigation District

212.20 Private contract lands; assessments.
212.21 Time of payment.
212.22 Penalty.
212.23 Refusal of water delivery.

AUTHORITY: §§ 212.1 to 212.23 issued under sec. 15, 60 Stat. 338.

SUBPART A—CHARGES ASSESSED AGAINST IRRIGATION DISTRICT LANDS

§ 212.1 *Contracts.* Under provisions of the act of Congress approved June 28, 1946 (60 Stat. 333–338), contracts were executed June 28, 1951, by the United States with the Lower Little Horn and Lodge Grass Irrigation District and the Upper Little Horn Irrigation District providing for the payment, over a period of 40 years, by each of the Districts of its respective share of the sum of $210,726 expended for the construction of the Willow Creek storage works on account of non-Indian lands within the Districts entitled to share in the storage water, directly or by substitution.

§ 212.2 *Annual rate of assessments.* Within the Lower Little Horn and Lodge Grass Irrigation District there are 3,196.8 acres for which the District is obligated by contract to pay its proper share of the total construction costs. Within the Upper Little Horn Irrigation District there are 1,554.7 acres for which the District is obligated by contract to pay its proper share of the total construction costs. There are 3,237.6 acres, more or less, covered by contracts with private landowners, obligating such owners to pay their proper share of such construction costs. The total per acre charge against all such lands is $26.38. This amounts to an annual per acre rate of $0.6595. For the purpose of this notice the annual per acre rate is hereby fixed at $0.66. This annual per acre rate of assessment will continue for a 40-year period within which the total amount of construction costs of $210,726 is to be repaid without interest. The amount of each annual installment chargeable against each of the Districts for the acreage covered by their respective contracts shall be determined by multiplying the total acreage, under each contract entitled to Willow Creek storage rights, either directly or by substitution, by the per acre annual rate.

§ 212.3 *Annual assessments.* Notice is hereby given of an annual assessment of $2,108.05 to be repaid by the Lower Little Horn and Lodge Grass Irrigation District for the 3,196.8 acres of irrigable land of the District, and an annual assessment of $1,025.06 to be repaid by the Upper Little Horn Irrigation District for the 1,554.7 acres of irrigable land of the District. Against the amounts due annually by the Districts under this notice, there shall be allowed any credits due under section 6 of the act of June 28, 1946. Credits due on behalf of any land shall be reflected by the respective Districts when placing against such land the annual assessment on the tax rolls.

§ 212.4 *Time of payment.* Annual assessments shall be paid by the Districts to the United States, one-half thereof on or before February 1 and one-half thereof on or before July 1 following, of each year commencing with the calendar year 1952.

§ 212.5 *Penalty.* To all assessments not paid on the due date, there shall be added a penalty of one-half of one percent per month or fraction thereof, from the due date so long as the delinquency continues.

§ 212.6 *Refusal of water delivery.* The right is reserved to the United States to refuse the delivery of water to each of the said Irrigation Districts in the event of default in the payment of assessments, including penalties on account of delinquencies.

SUBPART B—CHARGES ASSESSED AGAINST NON-INDIAN LANDS NOT INCLUDED IN AN IRRIGATION DISTRICT

§ 212.20 *Private contract lands; assessments.* In addition to 4,751.5 acres of non-Indian land included within the two irrigation Districts dealt with in Subpart A, there are 3,237.6 acres of land, more or less, in non-Indian ownership under private ditches, covered by repayment contracts executed pursuant to the act of June 28, 1946 (60 Stat. 333–338), obligating such owners to pay their proper share of such construction costs. The total per acre charge against all such lands is $26.38. This amounts to an annual per acre rate of $0.6595. For the purposes of this notice the annual per acre rate is hereby fixed at $0.66. This annual rate of assessment will continue for a 40-year period within which

[1] The special regulations for Wapato, Fort Peck, and Flathead, were not codified. Operations of the Blackfeet project were discontinued by the Bureau, July 20, 1938, effective September 30, 1933.

the total amount of construction cost of $210,726 is to be repaid without interest. The amount of each annual installment chargeable against the lands covered by each of the several contracts with individual landowners whose lands are served under private ditches, shall be determined by multiplying the total acreage, under each contract entitled to Willow Creek storage rights, either directly or by substitution, by the per acre annual rate. Against the amounts due annually by the individual landowners whose lands are served by private ditches, under this notice there shall be allowed any credits due under section 6 of the act of June 28, 1946. Credits due on behalf of any land shall be reflected in any statement submitted to the landowners.

§ 212.21 *Time of payment.* The amount of each annual installment, payable under the private landowner contracts, determined as provided in this part shall be paid by the landowners to the United States, on or before November 15 of each year commencing with the calendar year 1951.

§ 212.22 *Penalty.* To all assessments not paid on the due date there shall be added a penalty of one-half of one per cent per month or fraction thereof, from the due date so long as the delinquency continues.

§ 212.23 *Refusal of water delivery.* The right is reserved to refuse the delivery of water to any landowner in the event of default in the payment of assessments, including penalties on account of delinquencies.

PART 213—FORT HALL INDIAN IRRIGATION PROJECT, IDAHO

Sec.
213.1 Repayment contracts.
213.2 Construction costs.
213.3 Repayment of construction costs.

AUTHORITY: §§ 213.1 to 213.3 issued under sec. 9, 46 Stat. 1063.

§ 213.1 *Repayment contracts.* A rehabilitation program was established on the Fort Hall Unit of the Fort Hall Project in 1936. Based upon the estimated construction costs, contracts were signed by all non-Indian landowners within the project, including such landowners within the Little Indian Unit, now a part of the Fort Hall Unit. Under the terms of their contracts, the landowners agreed to repay to the Government their pro rata share, on an acreage basis, of all expenditures for construction and other necessary improvements for carrying out the approved program, payments not to exceed $7.50 per acre, based upon an estimated expenditure of $450,000.00 for a project then considered as covering approximately 60,000 acres.

§ 213.2 *Construction costs.* The program of rehabilitation has now been completed at a cost of $419,186.52. This amount, chargeable on an equal per acre basis against 60,000 acres, amounts to a rate of $6.986 per acre, which rate is hereby determined to be the per acre cost to be repaid to the United States under the 1936 contracts.

§ 213.3 *Repayment of construction costs.* Under the terms of the contracts, the landowners agreed to repay the construction cost in forty (40) equal annual installments. Therefore, the annual per acre installment is hereby fixed at seventeen and one-half cents (17½¢) per acre, due and payable on December 1st of each year, the first payment being due on December 1, 1955. Under section 4 of the repayment contracts of the landowners and the act of March 10, 1928 (45 Stat. 210), the charges remain a lien against the lands until paid.

PART 214—REIMBURSEMENT CONSTRUCTION COSTS, LUMMI INDIAN DIKING PROJECT, WASHINGTON

Sec.
214.1 Enabling Act.
214.2 Land classification.
214.3 Construction charges.
214.4 Payment.
214.5 Default.

AUTHORITY: §§ 214.1 to 214.5 issued under sec. 5, 44 Stat. 212.

§ 214.1 *Enabling Act.* In pursuance of the provisions of an act of Congress approved March 18, 1926 (44 Stat. 211) entitled "An Act for the purpose of reclaiming certain lands in Indian and private ownership within and immediately adjacent to the Lummi Indian Reservation, in the State of Washington, and for other purposes," notice is hereby given, that the total cost of the project has been distributed equitably by the Secretary of the Interior among the lands benefited by the project in accordance with the benefits received by the land.

§ 214.2 *Land classification.* That for the purpose of fixing these costs or charges, the Secretary of the Interior has divided the lands benefited into four classes to wit: Classes 1, 2, 3, and 4, and maps showing such classification are on file in the office of the proper supervising engineer of the Bureau, and in the office of the superintendent of the Lummi Reservation at Tulalip, Washington.

§ 214.3 *Construction charges.* The total construction cost of the project together with the estimated cost of certain additional improvements is the sum of $70,821.84. The construction cost assessed against each acre of land benefited by the project is stated in the schedule of charges and by this reference made a part of this notice: *Provided,* That adjustments shall be made in the assessment of costs in this section against Classes 2, 3, and 4, should the additional work contemplated be not done or the cost thereof shall be less than the estimate, such adjustments, if any, to be made before final settlement of the indebtness.

§ 214.4 *Payment.* The construction cost under the schedule shall be paid in annual installments, the first installment to be 5 percent of the total charge and be due and payable on the first day of December 1933. The remainder of said cost with interest on deferred amounts against land in private ownership from the date of said public notice will be 4 percent to be payable on each December 1 thereafter, on the same basis as the first installment, until the obligation is paid in full. Interest on deferred payments on Indian lands shall not be charged. All landowners, Indian and white, have the right to pay on the due date of the first installment the total assessment against their respective lands, and by so doing, in the case of white-owned lands, avoid payment of interest charged on all deferred obligations. They shall have the right also to pay at any time the total of the then unpaid indebtedness.

§ 214.5 *Default.* The Secretary of the Interior, in the case of default by the landowners of any installments, may take such action as he may deem proper to enforce the payment thereof under the provisions of the act of March 18, 1926, and the contracts executed with the respective landowners.

PART 215—REIMBURSEMENT OF CONSTRUCTION COSTS, SAN CARLOS INDIAN IRRIGATION PROJECT, ARIZONA

Sec.
215.1 Water supply.
215.2 Availability of water.
215.3 Construction charges.
215.4 Future charges.
215.5 Construction costs limited.
215.6 Power development.
215.7 Private ownership defined.
215.8 Indian lands excluded.

AUTHORITY: §§ 215.1 to 215.8 issued under sec. 5, 43 Stat. 476.

§ 215.1 *Water supply.* The engineering report dealt with in section 1 of the act of June 7, 1924 (43 Stat. 475) and other available records show that the storage capacity of the San Carlos reservoir created by the Coolidge Dam and the water supply therefor over a period of years will provide for the irrigation of only 80,000 acres of lands in Indian and public or private ownership within the San Carlos irrigation project, the balance of the water supply needed for the additional 20,000 acres of the project to be provided for by recaptured and return flow water and by means of pumping the underground supply. The cost of providing the proposed supply and of operating the works for this latter acreage to be equally distributed over the entire 100,000 acres of the project regardless of where the works are placed and operated.

§ 215.2 *Availability of water.* Pursuant to section 3 of the act of June 7, 1924, 43 Stat. 475, requiring the Secretary of the Interior by public notice to announce when water is actually available for lands in private ownership under the project and the amount of the construction charges per irrigable acre against the same which charges shall be payable in annual installments as provided for therein, this public notice, of which § 215.1 is made a part hereof, is hereby given:

The date when a reasonable water supply is actually available for lands in private ownership under the San Carlos irrigation project is hereby declared to be the 1st day of December 1932.

§ 215.3 *Construction charges.* Each acre of land in private ownership of said project is hereby charged with $95.25, of construction cost assessable thereto at the date hereof (Dec. 1, 1932), which sum is based upon 50,000 acres of such privately owned lands, making a total charge or assessment due from the owners thereof of $4,762,250 on this date (Dec. 1, 1932), excluding the cost of operation and maintennace for the calendar year of 1933 which may be carried into construction cost as provided for by section 3 of the act of June 7, 1924 (43 Stat. 476), and also excluding interest at the rate of 4 percent which is charged against such lands by said act. Of the 50,000 acres constituting the lands in private ownership within the said project only 46,107.49 acres have at this date (Dec. 1, 1932) actually been designated as coming within the project. Should this present designated area be not increased within a reasonable time herefrom and prior to the due date of the first installment of the charge fixed in this section, namely, on December 1, 1935, so as to bring the total designated area up to the 50,000 acres, the per acre charge fixed in this section shall be proportionately increased against the then designated area so as to assure reimbursement of the total indebtedness due the Government by the owners of the lands in private ownership from the lesser designated acreage.

§ 215.4 *Future charges.* The payment of said construction cost and costs of future operation and maintenance of said project as provided for in said section 3 of the act of June 7, 1924 (43 Stat. 476) as supplemented or amended and such contingent project liabilities which may be incurred in accordance with the provisions of said repayment contract shall be made in accordance with the provisions of said act of June 7, 1924, as supplemented or amended and the repayment contract [1] by and between the San Carlos irrigation and drainage district and the Secretary of the Interior bearing date of June 8, 1931; the said construction cost incurred subsequent to this public notice assessable against the lands in private ownership and costs of operation and maintenance assessed against such privately owned lands within the project for the first year after this public notice to be included in the construction cost and such contingent project liabilities which may be incurred in accordance with provisions of the repayment contract shall also be repaid to the Government pursuant to the terms of said act of June 7, 1924, as supplemented or amended, and the repayment contract and this public notice.

§ 215.5 *Construction costs limited.* The repayment contract [1] with the San Carlos irrigation and drainage district, page 13 thereof, contains the following:

> In accordance with the foregoing the costs of the San Carlos project as fixed by the public notice to be issued as aforesaid, unless further sums shall be agreed to by the Secretary of the Interior and the district after the execution of this instrument, may amount to but shall not exceed the sum of $9,556,313.77, except that said total may be exceeded by the inclusion of any sums expended to safeguard the project as hereinabove provided for, and any sums expended on account of contingent liabilities as in the next paragraph hereof provided.
>
> The foregoing and subsequent statements of project costs, the district's shares of which are to be repaid hereunder, unless otherwise provided by Congress more favorably to the lands of the project, may be increased by the addition of sums not now fixed as project charges but which possibly constitute contingent project liabilities incurred after the date of the San Carlos Act of June 7, 1924 (43 Stat. 476), or incurred on account of the Florence-Casa Grande project, and so may become project charges by the judgment of courts of competent jurisdiction or of other proper authority.
>
> The limitation therein fixed has approximately been reached, there remaining but $32,815.02 yet to be expended on project works before reaching that limitation. Upon the expenditure of this additional sum there shall be no further expenditures of funds for construction, operation and maintenance of the San Carlos project so far as the private lands are concerned until the San Carlos irrigation and drainage district shall, through appropriate action, authorize pursuant to the terms of the said repayment contract such additional expenditures. This limitation does not apply to project expenditures for the extension of the distributing and pumping system regardless of where they may arise. This class of expenditures being excepted from the limitation on expenditures contained in the said repayment contract [1] by section 14, page 10, thereof, which section is known as the "Equalization of Expenditures."

§ 215.6 *Power development.* The cost of the power development at the Coolidge Dam is hereby fixed at $735,000. The net revenues derived from the operation of this power development shall be disposed of as required by the terms and conditions of the act of March 7, 1928 (45 Stat. 210) as supplemented or amended.

§ 215.7 *Private ownership defined.* The term "private ownership" used in this public notice includes all lands of the San Carlos irrigation project that have or may be designated by the Secretary of the Interior that are situated outside of the boundaries of the Gila River Indian Reservation.

§ 215.8 *Indian lands excluded.* This public notice, with the exception of that part dealing with payment in advance each year of operation and maintenance charges against lands in Indian ownership operated under lease, does not apply in so far as payments are concerned to Indian lands within the project. The act of July 1, 1932 (47 Stat. 564; 25 U. S. C. 386a) defers the collection of construction costs from Indian owned lands so long as the title to such lands remain in the Indian ownership.

[1] Contract available at the Bureau of Indian Affairs, Washington 25, D. C.

PART 216—REIMBURSEMENT OF CONSTRUCTION COSTS, AHTANUM UNIT, WAPATO INDIAN IRRIGATION PROJECT, WASHINGTON

Sec.
216.1 Construction costs and assessable acreage.
216.2 Repayment of construction costs.
216.3 Payments.
216.4 Deferment of assessments on lands remaining in Indian ownership.
216.5 Assessments after the Indian title has been extinguished.

AUTHORITY: §§ 216.1 to 216.5 issued under secs. 1, 3, 36, Stat. 270, 272, as amended; 25 U. S. C. 385.

§ 216.1 *Construction costs and assessable acreage.* The construction program has been completed on the Ahtanum Unit of the Wapato Indian Irrigation Project and the construction costs have been established as $79,833.64. The area benefited by this development has been established at 4,765.2 acres. Under the requirements of the acts of February 14, 1920 (41 Stat. 409) and March 7, 1928 (45 Stat. 210), these costs are to be repaid to the United States Treasury by the owners of the lands benefited.

§ 216.2 *Repayments of construction costs.* The cost per acre under § 150.1 is, therefore, established at $16.7535. Under the provisions of the acts of February 14, 1920 (41 Stat. 409) and March 7, 1928 (45 Stat. 210) and based on forty equal annual payments, the annual per acre assessment is hereby fixed at $0.42 per acre for the year 1957 and each succeeding year until the entire cost for each tract shall have been repaid to the United States Treasury. On those tracts where payments have been made pursuant to Part 211 of this chapter, annual assessments beginning with the year 1957 at the rate of $0.42 per acre will be made until the entire cost of $16.7535 per acre shall have been repaid to the United States Treasury. Landowners may pay at any time the total of the then remaining indebtedness. Under the act of March 10, 1928 (45 Stat. 210) the unpaid charges stand as a lien against the lands until paid.

§ 216.3 *Payments.* Payments are due on December 31 of each year and shall be made to the official in charge of collections for the project.

§ 216.4 *Deferment of assessments on lands remaining in Indian ownership.* In conformity with the act of July 1, 1932 (47 Stat. 564; 25 U. S. C. 386 (a) no assessment shall be made on behalf of construction costs against Indian-owned land within the Project until the Indian title thereto has been extinguished.

§ 216.5 *Assessments after the Indian title has been extinguished.* Indian-owned lands passing to non-Indian ownership shall be assessed for construction costs and the first assessment shall be due on December 31 of the year that Indian title is extinguished. Assessments against this land will be at the annual rate of $0.42 per acre and shall be due as provided in § 216.3, and payable promptly thereafter until the total construction cost of $16.7535 per acre chargeable against the land has been paid in full.

Subchapter T—Operation and Maintenance

PART 221—OPERATION AND MAINTENANCE CHARGES

AHTANUM INDIAN IRRIGATION PROJECT, WASHINGTON

Sec.
221.1 Charges.
221.2 Time of payment.
221.3 Deliveries to fee owners.
221.4 Deliveries to Indian farmers.
221.5 Deliveries to lessees.

Sec.
221.5a Water users responsible for water after delivery.

COLORADO RIVER INDIAN IRRIGATION PROJECT, ARIZONA

221.6 Charges.
221.7 Excess water charge.
221.7a Charges for stock water.
221.8 Time of payments.
221.8a Advance payment may be waived.
221.8b Water users responsible for water after delivery.

COLVILLE INDIAN IRRIGATION PROJECT, WASHINGTON

221.9 Charges.
221.10 Payment.
221.10a Payments, Monse Pumping Unit.
221.11 Delivery contingent on payment.
211.11a Water users responsible for water after delivery.

CROW INDIAN IRRIGATION PROJECT, MONTANA

221.12 Charges.
221.13 Payment.
221.13a Big Horn Irrigation District, Crow Indian Reservation, Montana; charges.
221.13b Lower Little Horn and Lodge Grass Irrigation District, Crow Indian Reservation, Montana; charges.
221.13c Upper Little Horn Irrigation District, Crow Indian Reservation, Montana; charges.
221.13d Time of payment.
221.13e General regulations.

FLATHEAD INDIAN IRRIGATION PROJECT, MONTANA

221.15 General.
221.16 Charges, Jocko Division.
221.17 Charges, Mission Valley and Camas Divisions.
221.18 Lands with secretarial private water rights.
221.19 Maximum and minimum charge.
221.20 Payment.
221.21 State-owned land.
221.22 Apportionment of water.

FLATHEAD IRRIGATION DISTRICT, FLATHEAD INDIAN RESERVATION, MONTANA

221.24 Charges.
221.25 Payment.
221.25a General regulations.

MISSION IRRIGATION DISTRICT, FLATHEAD INDIAN IRRIGATION PROJECT, MONTANA

221.26 Charges.
221.27 Payment.
221.27a General regulations.

JOCKO VALLEY IRRIGATION DISTRICT, FLATHEAD INDIAN IRRIGATION PROJECT, MONTANA

221.28 Charges.
221.29 Payment.
221.29a General regulations.

FORT BELKNAP INDIAN IRRIGATION PROJECT, MONTANA

221.30 Charges.
221.31 Payment.
221.31a Water users responsible for water after delivery.

FORT HALL INDIAN IRRIGATION PROJECT, IDAHO

221.32 Basic and other water charges.
221.33 Payment.
221.34 Delivery to white owners.
221.35 Delivery to lessees without contracts.
221.36 Delivery to lessees with contracts.

FORT PECK INDIAN IRRIGATION PROJECT, MONTANA

221.38 Charges.
221.39 Payment.
221.40 Care of waste water.

NAVAJO INDIAN IRRIGATION PROJECT, ARIZONA AND NEW MEXICO

Sec.
221.41 Charges.
221.42 Payment.
221.43 Water users responsible for water after delivery.

KLAMATH INDIAN IRRIGATION PROJECT, OREGON

221.47 Assessments.
221.48 Payment.
221.48a Areas assessable.

LUMNI INDIAN DIKING PROJECT, WASHINGTON

221.49 Charges.
221.50 Payment.

PALA INDIAN IRRIGATION PROJECT, CALIFORNIA

221.51 Charges.
221.52 Payment.
221.53 Water users responsible for water after delivery.

PINE RIVER INDIAN IRRIGATION PROJECT, COLORADO

221.55 Charges.
221.56 Time of payment.
221.57 Conditions of payment.

RINCON INDIAN IRRIGATION PROJECT, CALIFORNIA

221.58 Charges.
221.59 Payment.
221.60 Water users responsible for water after delivery.

SAN CARLOS INDIAN IRRIGATION PROJECT, ARIZONA

221.63 Assessments, joint works.
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221.66 Modification.
221.67 Operation by district.
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221.69 District obligations.

DEFINING JOINT DISTRICT AND INDIAN WORKS OF THE SAN CARLOS FEDERAL IRRIGATION PROJECT

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221.69b District works.
221.69c Indian works.
221.69d Operation and maintenance charges; joint works.
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221.69g Application of funds from excess water deliveries and sales.
221.69h Florence-Casa Grande project lands.
221.69i United States and district to keep and exchange records.
221.69j District compliance with Gila decree.
221.69k Division of project equipment.
221.69l Certain features contingent on appropriations.
221.69m Supervisory control retained.

FLORENCE-CASA GRANDE INDIAN IRRIGATION PROJECT, ARIZONA

221.70 Charges.
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221.72 Conditions.

TOPPENISH-SIMCOE INDIAN IRRIGATION PROJECT, YAKIMA INDIAN RESERVATION, WASHINGTON

221.73 Charges.
221.74 Delivery to fee owners.
221.75 Delivery to Indian farmers.
221.76 Delivery to lessees.

UINTAH INDIAN IRRIGATION PROJECT, UTAH

Sec.
221.77 Basic water charges.
221.77b Charges for additional delivery points.
221.78 Payment.
221.79 Delivery to fee owners.
221.80 Delivery to Indian farmers.
221.81 Delivery to lessees.

WALKER RIVER INDIAN IRRIGATION PROJECT, NEVADA

221.83 Charges.
221.84 Payment.
221.85 Water users responsible for water after delivery.

WAPATO INDIAN IRRIGATION PROJECT, WASHINGTON

221.86 Charges.
221.87 Time of payment.
221.88 Delivery to non-Indian lands.
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221.90 Delivery to Indian lands under lease.
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221.92 Assessable lands.
221.93 Cleaning waste ditches.
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WIND RIVER INDIAN IRRIGATION PROJECT, WYOMING

221.95 Charges.
221.96 Payment.

ZUNI PUEBLO INDIAN IRRIGATION PROJECT, NEW MEXICO

221.98 Charges.
221.99 Time of payment.
221.100 Conditions of payment.

MISCELLANEOUS INDIAN IRRIGATION PROJECTS

221.105 Charges.
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TRIBAL AND TRUST PATENT INDIAN LANDS OF SAN CARLOS PROJECT, ARIZONA

221.110 Basic charge.
221.111 Excess water charge.
221.112 Time and place of payment.
221.113 Alternate method of payment.
221.114 Application for water service.
221.115 Distribution and apportionment of water.
221.116 Care of farm ditches.

SALT RIVER INDIAN IRRIGATION PROJECT, ARIZONA

221.120 Basic charge.
221.121 Payment.
221.122 Delivery of water.

BLACKFEET INDIAN IRRIGATION PROJECT, MONTANA

221.130 Basic agreement.
221.131 Excess water assessment.
221.132 Payment.
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MISSION MISCELLANEOUS IRRIGATION UNITS, CALIFORNIA

221.140 Charges.
221.141 Payment.
221.142 Water users responsible for water after delivery.

AUTHORITY: §§ 221.1 to 221.142 issued under secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U. S. C. 385.

AHTANUM INDIAN IRRIGATION PROJECT, WASHINGTON

§ 221.1 *Charges.* Pursuant to the provisions of the acts of August 1, 1914 and March 7, 1928 (38 Stat. 583 and 45 Stat. 210; 25 U. S. C. 385, 387), the operation and maintenance charges on lands of the

Ahtanum Indian irrigation project, Yakima Indian Reservation, Washington, for the calendar year 1949 and subsequent years until further notice, are hereby fixed at $2.25 per acre per annum for each irrigible acre of land to which water can be delivered from the project works.

§ 221.2 *Time of payment.* The charges as fixed in this part shall become due April 1 of each year, and are payable on or before that date. To all the charges assessed against owners of patent in fee lands not paid on July 1 of the year in which they fall due, there shall be added a penalty of one-half of 1 percent per month, or fraction thereof, from April 1 of that year, so long as the delinquency continues.

§ 221.3 *Deliveries to fee owners.* No water shall be delivered to patent in fee landowners, until at least 50 percent of the current year's charges assessed in this part is paid, and water delivery shall not be continued after July 1, unless the total charges for the year shall have been paid.

§ 221.4 *Deliveries to Indian farmers.* No water shall be delivered to Indians farming their own land, until the charges are paid to the Indian Irrigation Service as required of patent in fee owners in § 221.3, or until the superintendent of the reservation shall have issued a certificate to the project engineer certifying that the Indian will pay such charges through the superintendent or that such Indian is financially unable to pay the charge, and such unpaid charges shall be entered on the accounts as a first lien against the land, without penalty.

§ 221.5 *Deliveries to lessees.* No water shall be delivered to lessees of Indian lands or non-Indian lands, until the lessee shall have paid as required in the case of patent in fee owners, § 221.3. Or, in cases where the terms of the lease provide that the landowner shall pay the operation and maintenance charges from the lease rental, no water shall be delivered until the superintendent of the reservation shall have furnished the project engineer a certificate stating that the lessee has fully complied with all the terms of the lease.

§ 221.5a *Water users responsible for water after delivery.* It is the duty of the Indian Irrigation Service to furnish water for beneficial irrigation use only. It is the duty of all water users, as designated in §§ 221.3–221.5, to assist in the prevention of waste and the prevention of damage to adjacent lands. The water users are responsible for the water after it has been delivered to their lands and are required to have their field ditches in suitable condition and of proper capacity to permit the use of economical heads of water.

COLORADO RIVER INDIAN IRRIGATION PROJECT, ARIZONA

§ 221.6 *Charges.* Pursuant to the provisions of the acts of Congress approved August 1, 1914 and March 7, 1928 (38 Stat. 583, 45 Stat. 210; 25 U. S. C. 385–387), the annual basic charge against the land to which water can be delivered under the Colorado River Indian Irrigation Project in Arizona, for the operation and maintenance of that project, is hereby fixed until further notice at $6.00 per acre per annum for the delivery of not to exceed five acre-feet of water per acre per annum, except that when with the approval of the Superintendent, certain alkali tracts are planted to rice with a view to reclaiming the lands, a quantity of water reasonably sufficient to carry away alkali salts may be furnished to any such tracts of land for not more than two successive years at a rate of $6.00 per acre per annum: *Provided, however,* That the owners of Indian lands that are not under lease to non-Indian lessees and whose lands are located within the boundaries of Townships 8 and 9 North, Ranges 20 and 21 West, S. & G. R. B. M., commonly known as the old portion of the project, shall be required to make only a partial cash payment of $3.00 per acre per annum until such time as in the opinion of the Superintendent these lands are subjugated to the standards now being followed in the development of new lands in other parts of the project. The remaining unpaid part of the $6.00 basic assessments in such cases shall stand as a first lien against the land until paid. The foregoing charges shall become effective for the irrigation season of 1953 and continue in effect thereafter until further notice.

§ 221.7 *Excess water charge.* Additional water, if and when available, in excess of five acre-feet per acre per annum, may be delivered upon request of landowners or lessees at the rate of $1.50 per acre-foot, or fraction thereof.

§ 221.7a *Charges for stock water.* For stock water delivered through the project canal and lateral system to residents using reservation lands for stock purposes only, a charge of $2.00 shall be made for each filling of a stock water tank.

§ 221.8 *Time of payments.* The basic water charge fixed in § 221.6 shall become due on March 1 of each year and shall be payable on or before that date each year, except that in cases of Indians who have been in possession of lands under tribal permit or assignment less than six months on said date, the payment shall become due the first day of July following; except further that where Indian lands, upon which the annual assessment has not been paid for any particular year, are leased effective July 1 of such year to terminate June 30 of a subsequent calendar year, and containing provisions that the lessee shall pay the operation and maintenance assessments, only one-half of the assessment shall be collected from the lessee for the remainder of the calendar year during which the lease is made and shall be payable on or before the effective date of the lease. For the last six months of the term of such a lease one-half of the annual assessment shall be paid on or before March 1, preceding the expiration of the lease.

§ 221.8a *Advance payment may be waived.* Upon certification by the superintendent that any Indian farming his own land or tribal assignment not to exceed 10 acres in any one case, is financially unable to pay the required charges on the due date, water may be delivered to not to exceed such 10 acres farmed by such Indian. The charges therefor shall be entered on the accounts and will stand as a first lien against the land until paid, but without penalty for deliquency.

§ 221.8b *Water users responsible for water after delivery.* It is the duty of the Indian Irrigation Service to furnish available water for beneficial irrigation use only. It is the duty of all water users of the project to aid in the prevention of the waste of water and of damage to adjacent lands. The water users are responsible for the water after it has been delivered to their lands, and are required to have their field ditches of proper capacity and in suitable condition for the use of economical heads of water.

COLVILLE INDIAN IRRIGATION PROJECT, WASHINGTON

§ 221.9 *Charges.* The annual operation and maintenance charges are hereby fixed for the lands under the various units in the amounts named in this section, on the Colville Indian Irrigation Project, Washington.

(a) The per acre per annum rates for the following units are: Nespelem Unit $4.00; Little Nespelem Unit $4.00. All patent in fee lands and all Indian trust lands to which water can be delivered for irrigation and on which application for water services is made by the water users and approved by the Superintendent of the Indian Reservation, are subject to the above rates.

(b) The per acre per annum rate for the Monse Pumping Unit is hereby fixed at $5.00 per acre for all patent in fee lands for which there are water right contracts, and for all Indian trust lands to which water can be delivered for irrigation. These charges shall apply regardless of whether water is requested or not.

§ 221.10 *Payment.* (a) The annual charges fixed in § 130.9 shall become due on April 1 of each year, are payable on or before that date, and any assessment remaining unpaid after the due date shall stand as a first lien against the land. Any delinquent charges against land in non-Indian ownership and Indian lands under lease to non-Indians shall be subject to a penalty of one-half of 1 percent per month, or fraction thereof, from the due date until paid.

(b) The delivery of water shall be refused to all tracts of land for which the charges have not been paid when due, except where the lands are in Indian ownership, not under lease to non-Indians, and the Indian owners shall have made the necessary arrangements with the superintendent as hereafter provided. When any Indian owner of land not under lease to a non-Indian is financially unable to pay the operation and maintenance charges on the due date from cash on hand, the superintendent may make the necessary arrangements with such Indian owner as will permit him to perform labor on the irrigation project works, the proceeds derived

therefrom to be applied in partial payment of such charges. The superintendent may also make necessary arrangements for such Indian owner to pay the operation and maintenance charges from the proceeds of the crops grown on the land when harvested and marketed within that calendar year, provided written statements to that effect are furnished the superintendent by the Indian owner on or before the due date.

(c) In any instance where the superintendent is convinced that an Indian landowner, whose land is not under lease to a non-Indian, is financially unable to pay his operation and maintenance charges from proceeds of labor performed on the project works, or from the proceeds of the crops being grown on the land, or from any other source, the delivery of water may be continued if a written certificate is issued by the superintendent stating that such Indian is not financially able to pay such charges. In such cases the unpaid charges shall be entered on the accounts and will stand as a first lien against the land until paid but without penalty for delinquency.

§ 221.10a *Payments, Monse Pumping Unit.* The annual operation and maintenance charges for lands under the Monse Pumping Unit for the irrigation season, May 20 to September 20 of each year, may be paid in four installments. Each installment shall be at the rate of $1.25 per each irrigable acre of land. The first installment shall be due April 1 of each year and become delinquent if unpaid on June 20 following. The second installment shall be due on July 1 of each year and become delinquent if unpaid on July 31 following. The third installment shall be due on August 1 each year and become delinquent if unpaid on August 31 following. The fourth installment shall be due on September 1 each year and become delinquent if unpaid on September 30 following. Payment shall be made in advance at the rate of $1.25 per month for services in addition to the irrigation season.

§ 221.11 *Delivery contingent on payment.* (a) No water shall be delivered to Indian patent in fee lands and other privately owned lands until such charges shall have been paid. A penalty of one-half of 1 percent per month or fraction thereof from the due date will be added to all delinquent charges.

(b) The Indian owners of trust lands who are financially unable to pay the charges on the due date may be furnished water provided the superintendent of the Indian reservation certifies to the project engineer that such Indians are financially unable to make the payments. The unpaid charges shall be entered on the accounts and will stand as a lien against the lands without penalty.

(c) No water shall be delivered for use on Indian trust lands under lease until after the superintendent of the Indian reservation has certified to the project engineer that the lessee has paid the annual operation and maintenance charges and complied with all terms of the lease contract.

§ 221.11a *Water users responsible for water after delivery.* It is the duty of the Indian Irrigation Service to furnish available water for beneficial irrigation use only. It is the duty of all water users of the project to aid in the prevention of the waste of water and of damage to adjacent lands. The water users are responsible for the water after it has been delivered to their lands, and are required to have their field ditches of proper capacity and in suitable condition for the use of economical heads of water.

CROW INDIAN IRRIGATION PROJECT, MONTANA

§ 221.12 *Charges.* In compliance with the provisions of the act of August 1, 1914 (38 Stat. 583; 25 U. S. C. 385), the operation and maintenance charges for irrigable lands under the Crow Indian Irrigation Project and under certain private ditches for the calendar year 1956 and subsequent years until further notice are hereby fixed as follows:

For the assessable non-district area under constructed works on all Government-operated units excepting Coburn Ditch, per acre	$2.50
For the assessable area under constructed works on certain tracts of irrigable trust patent Indian land within and benefited by the Two Leggins Unit, per acre	1.74
For the assessable area on certain tracts of irrigable trust patent Indian land within and benefited by the Bozeman Trail Unit, per acre	1.25
For all lands in Indian ownership under the Bozeman Trail Unit on June 28, 1946, and under constructed works on all Government-operated units in the Little Big Horn watershed; for non-Indian, non-irrigation district lands, under private ditches, contracting for the benefits and repayment for the costs of the Willow Creek Storage Works; for operation and maintenance of said Works, per acre	.10
For certain tracts of irrigable trust patent Indian lands within and benefited by the Two Leggins Drainage District (contract dated June 29, 1932), per acre	.75

§ 221.13 *Payment.* The charges as fixed in § 221.12 shall become due on April 1 of each year, and are payable on or before that date. To all charges, which are not paid on July 1 following the due date, there shall be added a penalty of one-half of 1 percent per month, or fraction thereof, from the due date, April 1, so long as the delinquency continues. No water shall be delivered until such charges have been paid.

§ 221.13a *Big Horn Irrigation District, Crow Indian Reservation, Montana; charges.* Pursuant to a contract executed by the Big Horn Irrigation District, Crow Indian Irrigation Project, Montana, and approved by the Secretary of the Interior on June 28, 1948, notice is hereby given that an assessment of $2.50 per acre is hereby fixed for the season of 1956 and subsequent years until further notice, for the operation and maintenance of the irrigation systems which serve that portion of the project within the confines and under the jurisdiction of the Big Horn Irrigation District. This assessment is applicable to an area of approximately 7,582 acres; does not include any lands held in trust for Indians and covers all proper general charges and project overhead.

§ 221.13b *Lower Little Horn and Lodge Grass Irrigation District, Crow Indian Reservation, Montana; charges.* (a) Pursuant to a contract executed by the Lower Little Horn and Lodge Grass Irrigation District, Crow Indian Irrigation Project, Montana, and approved by the Secretary of the Interior on June 28, 1948, notice is hereby given that an assessment of $2.50 per acre is hereby fixed for the season of 1956 and subsequent years until further notice, for the operation and maintenance of the irrigation systems which serve that portion of the project within the confines and under the jurisdiction of the Lower Little Horn and Lodge Grass Irrigation District. This assessment is applicable to an area of approximately 2,463 acres; does not include any lands held in trust for Indians and covers all proper general charges and project overhead.

(b) Pursuant to a second contract executed by the above district and approved by the Assistant Secretary of the Interior on June 28, 1951, notice is hereby given that an assessment of ten cents ($0.10) per acre is hereby fixed for the season of 1956 and subsequent years until further notice, for the operation and maintenance of the Willow Creek storage works which serve storage water either directly or by substitution to that portion of the project within the confines and under the jurisdiction of the Lower Little Horn and Lodge Grass Irrigation District.

§ 221.13c *Upper Little Horn Irrigation District, Crow Indian Reservation, Montana; charges.* (a) Pursuant to a contract executed by the Upper Little Horn Irrigation District, Crow Indian Irrigation Project, Montana, and approved by the Secretary of the Interior on June 28, 1948, notice is hereby given that an assessment of $2.50 per acre is hereby fixed for the season of 1956 and subsequent years until further notice for the operation and maintenance of the irrigation systems which serve storage water either directly or by substitution to that portion of the project within the confines and under the jurisdiction of the Upper Little Horn Irrigation District. This assessment includes an area of approximately 1,461 acres; does not include any lands held in trust for Indians and covers all proper general charges and project overhead.

(b) Pursuant to a second contract executed by the above district and approved by the Assistant Secretary of the Interior on June 28, 1951, notice is hereby given that an assessment of ten cents ($0.10) per acre is hereby fixed for the season of 1956 and subsequent years until further notice, for the operation and maintenance of the Willow Creek storage works which serve storage water either directly or by substitution to that portion of the project within the confines and under the jurisdiction of the Upper Little Horn Irrigation District.

§ 221.13d *Time of payment.* The amount of assessments fixed in §§ 221.13a, 221.13b and 221.13c shall be paid by the respective irrigation districts to the United States, one-half thereof on or before February 1, in advance of the delivery of water for that season, and the remainder on or before July 1 following, of each year. To all assessments not paid on July 1 of each year, there shall be added a penalty of one-half of one per cent per month, or fraction thereof, from the due date so long as the delinquencies continue; and the right is reserved to refuse delivery of water to a district or individual landowner in the event of default by the district or landowner in the payment of assessments, including penalties on account of delinquencies.

§ 221.13e *General regulations.* The irrigation districts shall comply fully with the general rules and regulations now in existence and as hereafter amended, applicable to the areas included in the districts, contained in Part 193 of this chapter.

FLATHEAD INDIAN IRRIGATION PROJECT, MONTANA

§ 221.15 *General.* In compliance with the provisions of the acts of August 1, 1914 (38 Stat. 142) and March 7, 1928 (45 Stat. 210, 25 U. S. C. 387), the annual charges for the operation and maintenance of the subdivisions of the Flathead Indian Irrigation Project, Montana, which are not included under any of the irrigation districts, are hereby fixed and are payable as provided in §§ 221.16 to 221.22, inclusive, (as amended May 1, 1947).

§ 221.16 *Charges, Jocko Division.* (a) An annual minimum charge of $2.69 per acre, for the season of 1957 and thereafter until further notice, shall be made against all assessable irrigable land in the Jocko Division that is not included in an Irrigation District organization regardless of whether water is used.

(b) The minimum charge when paid shall be credited on the delivery of the pro rata acre share of the available water up to one and one-half acre feet per acre for the entire assessable area of the farm unit, allotment or tract. Additional water, if available, will be delivered at the rate of one dollar and seventy-nine cents ($1.79) per acre foot or fraction thereof.

CROSS REFERENCE: For method of assessment of operation and maintenance charges, see § 194.17 of this chapter.

§ 221.17 *Charges, Mission Valley and Camas Divisions.* (a) (1) An annual minimum charge of $3.30 per acre, for the season of 1957 and thereafter until further notice, shall be made against all assessable irrigable land in the Mission Valley Division that is not included in an Irrigation District organization regardless of whether water is used.

(2) The minimum charge when paid shall be credited on the delivery of the pro rata per acre share of the available water up to one and one-half acre feet per acre for the entire assessable area of the farm unit, allotment or tract. Additional water, if available, will be delivered at the rate of two dollars and twenty cents ($2.20) per acre foot or fraction thereof.

(b) (1) An annual minimum charge of $3.20 per acre, for the season of 1957 and thereafter until further notice, shall be made against all assessable irrigable land in the Camas Division that is not included in an Irrigation District organization regardless of whether water is used.

(2) The minimum charge when paid shall be credited on the delivery of the pro rata per acre share of the available water up to one and one-half acre feet per acre for the entire assessable area of the farm unit, allotment or tract. Additional water, if available, will be delivered at the rate of two dollars and thirteen cents ($2.13) per acre foot or fraction thereof.

§ 221.18 *Lands with secretarial private water rights.* (a) For all areas recognized by the Secretary of the Interior as entitled to so-called private water rights where the water is regulated by the Flathead irrigation project and delivered through any part of the Flathead irrigation project system, a charge equal to fifty percent of the annual operation and maintenance charge for project lands not having such private water rights in the same general area shall be made for water delivered up to two acre-feet per acre or such quantity of water allowed for each acre under the Secretary's private water-right findings.

(b) Upon filing a written application on the approved form by the owner of land with a secretarial private water right for a pro rata per acre share of the available water, natural flow and project stored supply, which application shall be a recognization that his land has relative water requirements as the soils of similar character of project lands, then there shall be delivered each irrigation season thereafter to his lands, the pro rata per acre share of the available water for which shall be paid the annual per acre charge fixed in §§ 221.16 and 221.17. The lands covered by any application filed pursuant to this section shall be treated from the date of the application as a part of the Flathead Indian irrigation project and subject to all the terms and conditions of applicable law and regulations.

§ 221.19 *Mamimum and minimum charge.* The maximum assessment for water delivered to any farm unit, allotment or tract shall not exceed $3 per acre for the entire irrigable area, and no assessment for water delivered shall be less than $5 for the season.

§ 221.20 *Payment.* The charges as fixed in §§ 221.16 and 221.17 shall become due April 1 and are payable on or before that date. To all charges which are not paid on July 1 following the due date, there shall be added a penalty of one-half of 1 percent per month, or fraction thereof, from the due date, April 1, so long as the delinquency continues. No water will be delivered until such charges have been paid.

§ 221.21 *State-owned land.* In the case of lands belonging to the State of Montana, where water service is requested by lessees, delivery will be made upon payment in advance by the lessee of the same minimum charge and at the same rates, and under the same regulations, as are in force for other lands in the same general area that are not included in the irrigation districts.

§ 221.22 *Apportionment of water.* If at any time during the irrigation season when it shall appear, in the judgment of the project engineer, that there shall not be sufficient water available to deliver the amount specified under the minimum assessments provided for in §§ 221.16 to 221.19, inclusive, to the entire assessable irrigable area for which application for delivery of water has been made and approved, then the project engineer shall reduce such amounts to the extent that there shall, in his judgment, be sufficient water available to make proportionate delivery to each farm unit, allotment, or tract, and when any farm unit, allotment, or tract shall have had delivered to it the amount so fixed, it shall not be entitled to further delivery of water except when it shall appear that there is a surplus of water available: *Provided,* That, for those tracts located in the Mission Valley and Camas divisions of the Flathead irrigation project only, after an agreement has been reached between a landowner and the project engineer as to duty of water on individual tracts where the landowner claims excess requirements on account of porous or gravelly soils, the project engineer may, pending further order, increase the quantity of water to be delivered under the minimum assessment to such porous or gravelly tract, provided it shall not exceed 4 acre-feet of water per acre per season for the assessable irrigable area of the farm unit, allotment or tract.

FLATHEAD IRRIGATION DISTRICT, FLATHEAD INDIAN RESERVATION, MONTANA

§ 221.24 *Charges.* Pursuant to a contract executed by the Flathead Irrigation District, Flathead Indian Irrigation Project, Montana, on May 12, 1928, as supplemented and amended by later contracts dated February 27, 1929, March 28, 1934, August 26, 1936, and April 5, 1950, there is hereby fixed for the season of 1958, an assessment of $240,002 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Flathead Irrigation District. This assessment involves an area of approximately 73,482 acres; does not include any land held in trust for Indians and covers all proper general charges and project overhead.

CROSS REFERENCE: For method of assessment of charges, see Part 195 of this chapter.

§ 221.25 *Payment.* The assessment fixed in § 221.24 shall become due and payable one-half on or before February 1, in advance of the delivery of water for that season, and the remainder on or before July 1. Payment shall be made by the irrigation district to the United States through the Office of Flathead Indian irrigation project, St. Ignatius, Montana.

§ 221.25a *General regulations.* The Flathead irrigation district shall comply fully with the general rules and regulations applicable to the areas included in the irrigation districts on the Flathead irrigation project approved by the Secretary of the Interior on June 5, 1937, as contained in Part 195 of this chapter.

MISSION IRRIGATION DISTRICT, FLATHEAD INDIAN IRRIGATION PROJECT, MONTANA

§ 221.26 *Charges.* Pursuant to a contract executed by the Mission Irrigation District, Flathead Indian Irrigation Project, Montana, on March 7, 1931, approved by the Secretary of the Interior on April 21, 1931, as supplemented and amended by later contracts dated June 2, 1934, June 6, 1936, and May 16, 1951, there is hereby fixed, for the season of 1958, an assessment of $44,872 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Mission Irrigation District. This assessment involves an area of approximately 13,659 acres; does not include any land held in trust for Indians and covers all proper general charges and project overhead.

CROSS REFERENCE: For method of assessment of charges, see Part 195 of this chapter.

§ 221.27 *Payment.* The assessment fixed in § 221.26 shall become due and payable, one-half on or before February 1, in advance of the delivery of water for that season, and the remainder on or before July 1. Payment shall be made by the irrigation district to the United States through the Office of Flathead Indian irrigation project, St. Ignatius, Montana.

§ 221.27a *General regulations.* The Mission irrigation district shall comply fully with the general rules and regulations applicable to the areas included in the irrigation districts on the Flathead irrigation project approved by the Secretary of the Interior on June 5, 1937, as contained in Part 195 of this chapter.

JOCKO VALLEY IRRIGATION DISTRICT, FLATHEAD INDIAN IRRIGATION PROJECT, MONTANA

§ 221.28 *Charges.* Pursuant to a contract executed by the Jocko Valley Irrigation District, Flathead Indian Irrigation Project, Montana, on November 13, 1934, approved by the Secretary of the Interior on February 26, 1935, as supplemented and amended by later contracts dated August 26, 1936, and April 18, 1950, there is hereby fixed, for the season of 1958, an assessment of $16,484 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Jocko Valley Irrigation District. This assessment involves an area of approximately 5,993 acres; does not include any lands held in trust for Indians and covers all proper general charges and project overhead.

§ 221.29 *Payment.* The assessment fixed in § 221.28 shall become due and payable, one-half on or before February 1, in advance of the delivery of water for that season, and the remainder on or before July 1. Payment shall be made by the irrigation district to the United States through the Office of the Flathead Indian irrigation project, St. Ignatius, Montana.

§ 221.29a *General regulations.* The Jocko Valley irrigation district shall comply fully with the general rules and regulations applicable to the areas included in the irrigation districts on the Flathead irrigation project approved by the Secretary of the Interior on June 5, 1937, as contained in Part 195 of this chapter.

FORT BELKNAP INDIAN IRRIGATION PROJECT, MONTANA

§ 221.30 *Charges.* Pursuant to the provisions of the acts of August 1, 1914, and March 7, 1928 (38 Stat. 583, 45 Stat. 210; 25 U. S. C. 385, 387) the basic annual charges for operation and maintenance against the irrigable lands to which water can be delivered under the constructed works of the Fort Belknap Irrigation Project in Montana are (a) for the Milk River and White Bear Units, including the lands operated as a tribal farming and livestock enterprise, is hereby fixed at $2.65 per acre for the year 1957 and thereafter until further notice, (b) for the Peoples Creek (Hays), Brown, Ereaux and Three-Mile Units hereby fixed at $2.00 per acre for the year 1957 and thereafter until further notice.

CROSS REFERENCE: For method of assessment of operation and maintenance charges, see § 196.16 of this chapter.

§ 221.31 *Payment.* (a) The annual charges fixed in § 221.30 shall become due on April 1 of each year, are payable on or before that date, and any assessment remaining unpaid after the due date shall stand as a first lien against the land. Any delinquent charges against land in non-Indian ownership and Indian lands under lease to non-Indians shall be subject to a penalty of one-half of 1 percent per month or fraction thereof from the due date until paid.

(b) The delivery of water shall be refused to all tracts of land for which the charges have not been paid when due, except where the lands are in Indian ownership, not under lease to non-Indians, and the Indian owners shall have made the necessary arrangements with the superintendent as hereafter provided. When any Indian owner of land not under lease to a non-Indian is financially unable to pay the operation and maintenance charges on the due date from cash on hand, the superintendent may make the necessary arrangements with such Indian owner as will permit him to perform labor on the irrigation project works, the proceeds derived therefrom to be applied in partial payment of such charges. The superintendent may also make necessary arrangements for such Indian owner to pay the operation and maintenance charges from the proceeds of the crops grown on the land when harvested and marketed within that calendar year, provided written statements to that effect are furnished the superintendent by the Indian owner on or before the due date.

(c) In any instance where the superintendent is convinced that an Indian landowner, whose land is not under lease to a non-Indian, is financially unable to pay his operation and maintenance charges from proceeds of labor performed on the project works, or from the proceeds of the crops being grown on the land, or from any other source, the delivery of water may be continued if a written certificate is issued by the superintendent stating that such Indian is not financially able to pay such charges and copies thereof forwarded to the Commissioner of Indian Affairs for approval or rejection. In such cases the unpaid charges shall be entered on the accounts and will stand as a first lien against the land until paid but without penalty for delinquency.

§ 221.31a *Water users responsible for water after delivery.* It is the duty of the Indian Irrigation Service to furnish available water for beneficial irrigation use only. It is the duty of all water users of the project to aid in the prevention of the waste of water and of damage to adjacent lands. The water users are responsible for the water after it has been delivered to their lands, and are required to have their field ditches of proper capacity and in suitable condition for the use of economical heads of water.

FORT HALL INDIAN IRRIGATION PROJECT, IDAHO

§ 221.32 *Basic and other water charges.* (a) In compliance with the provisions for the act of March 1, 1907 (34 Stat. 1024), the annual basic water charges for the operation and maintenance of the lands in non-Indian ownership of the Fort Hall Indian Reservation, Idaho, to which water can be delivered for irrigation are hereby fixed for the calendar year 1957 and subsequent years until further notice as follows:

(1) Fort Hall Project	$3.25 per acre
(2) Minor Units, Fort Hall	1.25 per acre

(b) In addition to the foregoing charges, there shall be collected annually a minimum charge of $3.00 for the first acre or fraction thereof on each tract of land for which operation and maintenance bills are prepared. No bill shall be rendered for less than $6.50.

(c) Indian lands, leased, as discussed in the letter from the Commissioner of Indian Affairs of December 1, 1938, and approved by the Assistant Secretary of the Interior on December 17, 1938, are subject to the payment of the foregoing charges as therein provided.

CROSS REFERENCE: For method of assessment of operation and maintenance charges, see § 197.20 of this chapter.

§ 221.33 *Payment.* (a) The assessments fixed in § 221.32 shall become due on April 1, of each year, and are payable on or before that date.

(b) Delivery of water may be made to land upon receipt of 50 percent of the assessment due but the delivery shall not continue after July 1, following the due date, unless the assessment against the land has been paid in full. To all assessments remaining unpaid on or after July 1, following the due date, there shall be added a penalty of one-half of 1 percent

per month, or fraction thereof, from the due date, until paid.

(c) No water shall be delivered to land in Indian ownership under lease to non-Indians when such land has been under lease to non-Indians for 3 years or more, until the superintendent of the reservation has certified to the project engineer that the lessee has fully complied with the terms of the lease contract relative to the payment of operation and maintenance assessments, or that the land is not subject to assessment. (See Solicitor's opinion approved by the Department September 24, 1936 (M. 28701), and the instructions of September 19, 1938, approved September 24, 1938, and of December 1, 1938, approved December 17, 1938.)

§ 221.34 *Delivery to white owners.* No water will be delivered to land in non-Indian ownership until at least 50 percent of the assessment for the season has been paid in advance and water deliveries will not be continued after July 1 of that season until all unpaid annual charges against such lands have been paid in full.

§ 221.35 *Delivery to lessees without contracts.* No water will be delivered to lands in Indian ownership leased for a term longer than 3 years, with no provision in the lease contract governing payment of operation and maintenance charges, until at least 50 percent of the assessment for the season has been paid in advance and water deliveries will not be continued after July 1 of that season until all unpaid annual charges against such lands have been paid in full.

§ 221.36 *Delivery to lessees with contracts.* No water will be delivered to lands in Indian ownership under lease for a term longer than 3 years, with provision in the lease contract for payment of operation and maintenance charges, until the terms of the contract have been complied with by the lessee in payment of such charges.

FORT PECK INDIAN IRRIGATION PROJECT, MONTANA

§ 221.38 *Charges.* (a) On the Poplar River Unit and that part of the Big Porcupine Unit not served by the Wiota Pumping Plant, water, when available, will be furnished upon approved application during the 1955 irrigation season and until further notice, at a flat rate of $3.00 per acre per annum for all irrigable lands included in the farm unit or allotment described in the application, whether water is used or not.

(b) On that part of the Big Porcupine Unit that is under the service area of the Big Porcupine or Wiota pumping plant, water, when available, will be furnished to all irrigable non-Indian lands and to all Indian lands leased to non-Indians, to which delivery of water can be made, during the 1955 irrigation season and thereafter until further notice, at a minimum rate of $3.00 per acre per annum whether water is used or not. Payment of the minimum rate entitles the water-user to the delivery of two acre-feet of water per acre of irrigable land included in each farm unit or allotment. Any additional water delivered shall be charged for at the rate of $1.15 per acre-foot or fraction thereof for the first additional acre-foot, $1.50 per acre-foot or fraction thereof for the second additional acre-foot and $1.75 per acre-foot or fraction thereof for water delivered in excess of the second additional acre-foot.

(c) (1) For Indian land farmed by the Indian owner or leased and farmed by Indians, under that part of the Big Porcupine Unit that is within the service area of the Wiota pumping plant, water, when available, will be furnished during the 1955 season and until further notice at the minimum rate of $3.00 per acre per annum for the entire irrigable area included in the allotment whether water is used or not. Payment of the minimum rate entitles the Indian water user to the delivery of two acre-feet of water per acre included in the allotment. Any additional water delivered shall be charged for at the rate of $1.15 per acre-foot or fraction thereof for the first additional acre-foot, $1.50 per acre-foot or fraction thereof for the second additional acre-foot and $1.75 per acre-foot or fraction thereof for water delivered in excess of the second additional acre-foot.

(2) For all irrigable lands situated adjacent to and outside of that part of the Big Porcupine Unit that is under the service area of the Big Porcupine Unit or Wiota pumping plant, surplus water, when available and not required for irrigation of lands within the Big Porcupine Unit, will be furnished at the flat rate of $2.00 per acre-foot. Water measurement and delivery thereof will be made at the project limits.

(d) On the Frazer-Wolf Point Unit (comprising all irrigable lands supplied with water from the Little Porcupine Reservoir and the Frazer pumping plant) water, when available, will be furnished to all irrigable non-Indian lands and to all irrigable Indian-owned allotments leased to non-Indian (whether subjugated or not) to which delivery of water can be made during the 1955 irrigation season and until further notice at a minimum rate of $3.00 per acre per annum whether water is used or not. Water, when available, will be furnished at a like minimum rate for the irrigable area for all subjugated Indian-owned allotments to which delivery of water can be made. Payment of the minimum rate entitles the water user to the delivery of two acre-feet of water per acre of irrigable land included in each farm unit or allotment. Any additional water delivered shall be charged for at the rate of $1.15 per acre-foot or fraction thereof for the first additional acre-foot, $1.50 per acre-foot or fraction thereof for the second additional acre-foot and $1.75 per acre-foot or fraction thereof for water delivered in excess of the second additional acre-foot.

(e) For all Indian lands farmed by the Indian owner, or leased and farmed by Indians in the Frazer-Wolf Point Unit, not subjugated but to which water can be delivered, water, when available will be furnished during the 1955 irrigation season and thereafter until further notice at the minimum rate of $3.00 per acre per annum for the entire irrigable area included in each allotment whether water is used or not. Payment of the minimum rate entitles the Indian water user to the delivery of two acre-feet of water per irrigable acre included in the allotment. Any additional water delivered shall be charged for at the rate of $1.15 per acre-foot or fraction thereof for the first additional acre-foot, $1.50 per acre-foot or fraction thereof for the second additional acre-foot and $1.75 per acre-foot or fraction thereof for water delivered in excess of the second additional acre-foot.

§ 221.39 *Payment.* (a) The flat rate and the minimum charges fixed in § 221.38 shall become due and payable on April 1 of each calendar year. The charges for excess water delivered during any irrigation season shall be included in the bill for the ensuing season and shall be due and payable on April 1 following the season in which the excess water is delivered, except in the case of excess water deliveries to lessees of Indian lands where payment is required in advance of the delivery of water.

(b) No water shall be delivered to any lands until all charges shall have been paid except in the case of Indian trust lands farmed by Indians to which water may be delivered upon certification by the superintendent of the reservation that satisfactory written arrangements have been made providing for the payment of such charges from the proceeds of the crops or from proceeds received in payment for labor performed by the water user on the project works. Copies of such certificates shall be forwarded to the Commissioner of Indian Affairs and shall be subject to rejection or modification upon review. Any unpaid assessments, in instances where the superintendent has certified the Indian owner is financially unable to pay the charges, shall be entered on the accounts as a lien against the land but without penalty for delinquency.

(c) To all charges assessed against lands in non-Indian ownership and Indian lands under lease to non-Indian lessees which are not paid on or before July 1 of each year there shall be added a penalty of one-half of 1 percent per month or fraction thereof from the due date, April 1, so long as the delinquency continues.

§ 221.40 *Care of waste water.* All applicants for water will be required to construct and maintain in good order and repair upon their lands such ditches as may be necessary to catch and conduct to some waste canal, ditch, lateral, or natural drainage channel, any waste water flowing upon or from said lands. No waste water will be allowed to collect within 20 feet of any canal or lateral belonging to the United States, nor shall any waste water ditches be constructed or maintained within 10 feet of any canal or lateral of the United States, except at points of intersection or crossing, which shall be located only by order and under the direction of the proper officers of the United States. No water will be furnished to any applicant during such time as he fails to comply with the provisions of this section.

NAVAJO INDIAN IRRIGATION PROJECT, ARIZONA AND NEW MEXICO

§ 221.41 *Charges.* Pursuant to the provisions of the acts of August 1, 1914 (38 Stat. 583; 25 U. S. C. 385) and March 7, 1928 (45 Stat. 210), the annual basic charges for operation and maintenance assessed against the irrigable lands of the Navajo Indian Irrigation Project, Arizona and New Mexico, to which water can be delivered through the constructed works of the project, are hereby fixed at $2.00 per acre per annum for the year 1956 and thereafter until further notice, for the following units:

Navajo project	Agency	Per acre per annum
Fruitland Unit	Navajo	$2.00
Ganado Unit	do	2.00
Hogback Unit	do	2.00
Many Farms Unit	do	2.00
Red Lake Unit	do	2.00

For domestic water delivered through the project canal system and lateral system to permittees on the reservation lands, $7.50 for each cistern.

For Tribal lands operated by the Shiprock High School, $2.00 per acre.

For Tribal lands operated as a Nursery by the Branch of Land Operations, Soil and Moisture Conservation Activity, $2.00 per acre.

§ 221.42 *Payment.* (a) The annual charges fixed in § 221.41 shall become due on April 1 of each year; are payable on or before that date, and any charges that remain unpaid after the due date shall stand as a first lien against the land until paid.

(b) The delivery of water shall be refused to all tracts of land for which the charges have not been paid when due, except in instances where the lands are in Indian assignment, and the Indian assignee shall have made the necessary arrangements with the superintendent as provided in this section. When any Indian assignee of land is financially unable to pay the operation and maintenance charges on the due date from cash on hand, arrangements may be made by prior agreement with the superintendent whereby the Indian will perform labor on the project works and pay from the proceeds received from such work at least an amount equal to $1.00 per acre per annum; or the superintendent may make the necessary arrangements for such Indian assignee to pay the operation and maintenance charges from the proceeds of the crops grown on the land when harvested and marketed within that calendar year, provided written statements to that effect are furnished by the Indian assignee on or before the due date.

(c) In any instance where the superintendent is convinced that an Indian assignee is financially unable to pay his operation and maintenance charges from proceeds of labor performed on the project works, or from the proceeds of the crops being grown on the land, or from any other source, the delivery of water may be continued if a written certificate is issued by the superintendent stating that such Indian is not able to pay his charges and copies thereof forwarded to the district office director for approval or rejection. In such cases the unpaid charges shall be entered on the accounts and will stand as a first lien against the land until paid but without penalty for delinquency.

§ 221.43 *Water users responsible for water after delivery.* It is the duty of the Indian irrigation service to furnish available water for beneficial irrigation use only. It is the duty of all water users of the project to aid in the prevention of the waste of water and of damage to adjacent lands. The water users are responsible for the water after it has been delivered to their lands, and are required to have their field ditches of proper capacity and in suitable condition for the use of economical heads of water.

KLAMATH INDIAN IRRIGATION PROJECT, OREGON

§ 221.47 *Assessments.* (a) The rate of assessment of operation and maintenance charges on irrigable land of the Modoc Point Unit to which water can be delivered is hereby fixed at $4.00 per acre per annum for the calendar year 1957, and subsequent years, until further notice.

(b) The rate of assessment of operation and maintenance charges on land under the Sand Creek Unit shall remain at $3.00 per acre per annum until further notice.

§ 221.48 *Payment.* (a) The assessment fixed in § 221.47 shall become due on April 1, of each year, and is payable on or before that date.

(b) No delivery of water shall be made to land until the assessment has been paid in full. Assessments remaining unpaid on and after July 1, following the due date, shall be subject to a penalty of one-half of 1 percent per month, or fraction thereof, from the due date until paid.

(c) Indian water users, who are financially unable to pay the assessment on the due date, may be furnished water upon the execution of an agreement promising to pay the water charges to the superintendent of the Klamath Reservation from the crop proceeds on or before September 15, following the due date. The agreement shall authorize the superintendent to deduct the amount of the unpaid assessment from any funds accruing at the agency to the credit of the Indian water user.

(d) Land in Indian ownership to which water can be delivered, where no water is furnished because the land is not farmed, is not relieved of the assessment, but no attempt will be made to collect the assessment when the superintendent certifies to the project engineer that the Indian owner is financially unable to pay. Under such condition assessments shall be entered on the accounts against the land without penalty.

§ 221.48a *Areas assessable.* (a) The assessment against the land of the Modoc Point Unit shall be based tentatively on the area listed in the schedule of February 12, 1935, pending the approval of a final land designation of the unit. The delivery of a pro rata share of the available supply of water shall not be refused, if requested, for land not listed in the schedule and to which delivery can be made. Any collections made for water furnished to land not listed in the schedule shall be taken into account in fixing the assessment rate for the following year.

(b) The assessment against the land of the Sand Creek Unit shall be based on the area to which water can be delivered.

LUMMI INDIAN DIKING PROJECT, WASHINGTON

§ 221.49 *Charges.* In compliance with the provisions of the act of March 18, 1926 (44 Stat. 211) as supplemented by the act of February 17, 1933 (47 Stat. 820, 832), the maintenance and operation charges for the lands under the Lummi Indian Diking Project on the Lummi Indian Reservation, Washington, are hereby fixed at $2.50 per acre, for the calendar year 1952, and for subsequent years unless such charges shall be modified by the Commissioner of Indian Affairs or by the Area Director of the Portland Area Office upon the direction of the Commissioner.

§ 221.50 *Payment.* The charges as fixed in § 221.49 shall become due April 1 of each year, and shall be payable on or before that date. To all charges assessed against these lands, except lands in Indian ownership, not paid on the due date, April 1, there shall be added a penalty of one-half of one percent per month, or fraction thereof, so long as the delinquency shall continue.

PALA INDIAN IRRIGATION PROJECT, CALIFORNIA

§ 221.51 *Charges.* The reimbursable cost of operating and maintaining the Pala Indian irrigation project in California is apportioned on a per acre basis against the irrigable lands of that project and for the calendar year 1943, and each succeeding year until further order, there shall be collected, as a partial reimbursement of such cost, from each acre of irrigable land to which water can be delivered through the constructed works of the project, a charge of $1.00 per acre per annum against lands in Indian ownership, not under lease to a non-Indian, and $6.50 per acre per annum against lands in non-Indian ownership and lands in Indian ownership under lease to a non-Indian lessee.

§ 221.52 *Payment.* The annual charges fixed in § 221.51 shall become due on April 1 of each year and are payable on or before that date. The delivery of water shall be refused to tracts of land on which the charges are not paid when due unless arrangements shall have been made as hereafter provided. Where an Indian owner of land under a trust patent or a fee patent, not under lease to a non-Indian, is financially unable to pay the charges from the proceeds of the crops, or from the proceeds of labor performed on the project works, or from any other source, the delivery of water may be continued if a written certificate be issued by the superintendent that such Indian is financially unable to pay his charges. Copies of such certificates

shall be forwarded to the Commissioner of Indian Affairs and shall be subject to rejection or modification upon review. In such cases the charges shall be entered on the accounts and will stand as a first lien against the lands until paid but without penalty for delinquency.

§ 221.53 *Water users responsible for water after delivery.* It is the duty of the Indian Irrigation Service to furnish available water for beneficial irrigation use only. It is the duty of all water users of the project to aid in the prevention of the waste of water and of damage to adjacent lands. The water users are responsible for the water after it has been delivered to their lands, and are required to have their field ditches of proper capacity and in suitable condition for the use of economical heads of water.

PINE RIVER INDIAN IRRIGATION PROJECT, COLORADO

§ 221.55 *Charges.* Pursuant to the provisions of the acts of August 1, 1914 (38 Stat. 583; 25 U. S. C., sec. 385) and March 7, 1928 (45 Stat. 200, 210), the annual basic charge for operation and maintenance assessed against the irrigable lands of the Pine River Indian Irrigation Project, Colorado, to which water can be delivered and beneficially applied under the constructed works of the project, is hereby fixed at $2.00 per acre per annum for the year 1956 and thereafter until further notice.

§ 221.56 *Time of payment.* The charges as fixed in § 221.55 shall become due April 1, and are payable on or before that date. To all charges assessed against owners of patent in fee of white owned lands not paid on July 1, following, there shall be added a penalty of one-half of 1 percent per month, or fraction thereof, so long as the delinquency continues. No water shall be delivered to lands of competent Indians or white owned lands until such charges shall have been paid, or to lands of incompetent Indians until the superintendent of the reservation shall have issued a certificate to the project engineer that the Indian farming such lands is financially unable to pay the charge, or in case such Indian lands are leased, the terms of the lease relative to the payment of water charges shall have been complied with.

§ 221.57 *Conditions of payment.* These charges shall not apply to any lands furnished irrigation water under contract between the Department of the Interior and any company or corporation or individual person, which contract contains provisions for payment for furnishing or carrying water, differing from the conditions herein provided. In all such cases sums will be collected in accordance with the terms of the respective contracts.

RINCON INDIAN IRRIGATION PROJECT, CALIFORNIA

§ 221.58 *Charges.* The reimbursable cost of operating and maintaining the Rincon Indian irrigation project in California, is apportioned on a per acre basis against the irrigable lands of the project and for the calendar year 1943, and each succeeding year until further order, there shall be collected, as a partial reimbursement of such cost, from each acre of irrigable land to which water can be delivered through the constructed works of the project, a charge of $1.00 per acre per annum against lands in Indian ownership, not under lease to a non-Indian, and $6.50 per acre per annum against lands in non-Indian ownership and lands in Indian ownership under lease to a non-Indian lessee.

§ 221.59 *Payment.* The annual charges fixed in § 221.58 shall become due on April 1 of each year and are payable on or before that date. The delivery of water shall be refused to tracts of land on which the charges are not paid when due unless arrangements shall have been made as hereafter provided. Where an Indian owner of land under a trust patent or a fee patent, not under lease to a non-Indian, is financially unable to pay the charges from the proceeds of the crops, or from the proceeds of labor performed on the project works, or from any other source, the delivery of water may be continued if a written certificate be issued by the superintendent that such Indian is financially unable to pay his charges. Copies of such certificates shall be forwarded to the Commissioner of Indian Affairs and shall be subject to rejection or modifications upon review. In such cases the charges shall be entered on the accounts and will stand as a first lien against the lands until paid but without penalty for delinquency.

§ 221.60 *Water users responsible for water after delivery.* It is the duty of the Indian Irrigation Service to furnish available water for beneficial irrigation use only. It is the duty of all water users of the project to aid in the prevention of the waste of water and of damage to adjacent lands. The water users are responsible for the water after it has been delivered to their lands, and are required to have their field ditches of proper capacity and in suitable condition for the use of economical heads of water.

SAN CARLOS INDIAN IRRIGATION PROJECT, ARIZONA

§ 221.63 *Assessments, joint works.* (a) Pursuant to the act of Congress approved June 7, 1924 (43 Stat. 476) and supplementary acts, and the repayment contracts of June 8, 1931, as amended, between the United States and the San Carlos Irrigation and Drainage District, and in accordance with applicable provisions of the order of the Secretary of the Interior of June 15, 1938 (§§ 221.69a–221.69m), the cost of the operation and maintenance of the Joint Works of the San Carlos Indian Irrigation Project for the fiscal year 1958 is estimated to be $135,000 and the rate of assessment for the said fiscal year and subsequent years until further order, is hereby fixed at $1.35 for each acre of land.

§ 221.64 *Assessment, State and Federal agencies.* Pursuant to the provisions of the act of March 7, 1928 (45 Stat. 210), and Article 12 of the repayment contract of June 8, 1931 and in accordance with §§ 221.69a–221.69m, the State lands and Federal agencies may be delivered water, out of such project water as may be set aside for that purpose, for the calendar year 1946, and until further order, upon the payment of $2.50 per acre per annum, payable in advance each year of the delivery of water. Such payment shall entitle the lands to receive 2 acre-feet of water per acre per annum or such lesser amount as represents the proportionate share of the available supply of water. Any water delivered to such lands in excess of 2 acre-feet per acre shall be paid for on the same terms under which excess water is furnished to project lands.

The water service to the State lands and Federal agencies shall be made by:

(a) The San Carlos irrigation and drainage district shall serve the State lands for which service the district shall collect and retain $2.50 per acre.

(b) The Indian unit of the project, as defined in §§ 221.69a–221.69m, shall serve the Federal agencies for which it shall collect and retain $2.50 per acre.

The collections for the sale of excess water as defined in §§ 221.69a–221.69m, to the State lands and Federal agencies shall be made by the district and Indian unit respectively in advance of the delivery of water, and shall be paid on or before December 31 of each year as provided in §§ 221.69a–221.69m.

§ 221.65 *Assessment, villages, towns and schools.* Such project water as shall be available may be delivered to the villages, towns and schools, not included in the designated area of the San Carlos irrigation project, for the irrigation of lawns and gardens. The charge for such service for the calendar year 1939, and until further order, shall be $2.50 per acre-foot of water delivered, payable in advance of delivery.

The delivery of water and the collection therefor shall be made by the San Carlos irrigation and drainage district. It is agreed that, for the season of 1939, the district shall retain $1.25 per acre-foot, for each acre-foot on which collection shall be made, as its compensation for rendering the service. The remainder of the collections shall be paid to the project engineer for the San Carlos irrigation project for the benefit of the joint works.

§ 221.66 *Modification.* Sections 221.62–221.65 are subject to modification for future years by the issuance and publication of changes hereto.

§ 221.67 *Operation by district.* The San Carlos irrigation and drainage district upon request of its board of directors may continue for the period of this order to operate the canals serving lands in private and public ownership within its boundary, and in the event said district elects to continue such operation a credit of 70 cents per acre shall be allowed from the said basic charge for the area of district lands so operated and the basic charge to be paid to the Government by the district will accordingly be reduced to 95 cents per acre.

§ 221.68 *Restriction of Government obligations.* It should be understood that the provisions of §§ 221.62–221.69 requiring funds to be made available by the

United States are dependent upon appropriations being made by Congress therefor; that the charges based upon the conditions defined shall apply to the calendar year 1938 only, and that nothing herein shall be construed as establishing a precedent for future years.

§ 221.69 *District obligations.* Should the San Carlos irrigation and drainage district, through its board of directors, request and be granted the privilege of maintaining certain of the works of the project designated in the said repayment contract as "Works of the District," the rights and obligations of the district shall be prescribed and governed by the departmental order turning over the maintenance of such works to the district.

DEFINING JOINT DISTRICT AND INDIAN WORKS OF THE SAN CARLOS FEDERAL IRRIGATION PROJECT

§ 221.69a *Joint works.* The joint works of the San Carlos Federal irrigation project are hereby defined and declared to be as follows:

(a) Coolidge Dam and San Carlos Reservoir.

(b) Electrical power generating, transmission and distribution system.

(c) Ashurst-Hayden Diversion Dam.

(d) Florence-Casa Grande Canal to and including turnout to the Picacho Reservoir.

(e) Picacho Reservoir. Feeder Canal and Outlet Structure: *Provided, however,* That at any time in the future when the Picacho Reservoir is not or can not be used for project storage or regulatory purposes, it and the outlet structure and feeder canal upon further order of the Secretary may be designated as part of the district works.

(f) North Side Canal from the Florence-Casa Grande Canal to the boundary of the Pima Indian Reservation.

(g) Pima Lateral to the boundary of the Pima Indian Reservation.

(h) Sub-laterals of the Pima Lateral outside of the reservation which serve in whole or in part Indian lands.

(i) Drainage and irrigation pumping works including wells and structures regardless of whether located within the district or the reservation.

(j) All structures on any and all of the above works, together with measuring devices such as measuring flumes or gauging stations used for the division of water as between Indian lands and district lands, even though some of such structures may be located in laterals and canals themselves designated as district or Indian works.

(k) Telephone lines and appurtenances belonging thereto.

(l) All project buildings paid for on joint account including the office building at Coolidge, the project garage and shops, including the shops at Olberg, and all machines and other equipment necessary for the operation and maintenance of the joint works heretofore selected for that purpose by the project engineer and the officials of the San Carlos Irrigation and Drainage District: *Provided, however,* That in the event the project joint works organization does not need all the office and warehouse space to carry on the activities of the project joint works, the district and the Indian unit, or either, shall have the right to use such space for official purposes on the following conditions, to-wit:

(1) The project engineer shall have the right to determine the amount if any of still available space.

(2) The project engineer has determined that for the present, joint works will need approximately two-thirds of the available office space at Coolidge. The Indian unit has set up its office at Sacaton and makes that location the headquarters for its operation and maintenance activities on Indian lands and, therefore, no longer occupies any of the office space at Coolidge. The district, therefore, is permitted to use one-third of said office space until such time as the project engineer finds that the requirements of joint works for such office space increase or decrease. The occupancy of the office building at Coolidge or any other project building occupied by the district and/or the Indian unit shall be by mutual agreement of the project engineer, the district engineer and the engineer in charge of the Indian unit. Payment shall be made by the Indian unit or by the district for the cost of operating and maintaining space occupied in the office building at Coolidge or in such other project buildings as may be occupied by either unit for its exclusive use. Until the requirements of joint works increase the district may continue to occupy the approximate east one-third of the office building for which occupancy the district shall pay such sum per month from August 1, 1952 as has been or may be agreed upon in writing between the district and the project engineer. The use of such space, which shall include the right to use part of the basement space, and garage referred to in an agreement between the project engineer and the district engineer of August 25, 1952, approved by the Area Director on December 19, 1952, shall continue, subject to the paramount need for such space for joint works operations, and the judgment of the project engineer in this regard shall be final unless otherwise determined by the Secretary of the Interior. The monthly payments received shall be deposited in the joint works account of the project and applied as provided in the said agreement.

(3) The district and the Indian unit shall have the right at all times to the services of the project shops for official work on the following conditions:

(i) The shops shall be maintained for the purpose principally of doing work for the joint works part of the project.

(ii) The shops shall be operated at all times under the supervision and management of the project engineer who shall make such rules and regulations in regard to their operation as he may from time to time think necessary to promote efficiency and economy, including the time and method of payment for work done for the district or Indian units.

(iii) All shop work done for the district and the Indian units shall be done by the project shop organization on a cost basis, and shall be done only at such times as may not interfere with joint works requirements. All such work shall be done as between the Indian unit and the district on the basis of "first come, first served," except that the project engineer may do emergency work for either at any time, when in his judgment it is necessary.

(m) All lands upon which any of the foregoing buildings or structures are located and the rights-of-way therefor, including the right-of-way for the San Carlos and Picacho Reservoir sites.

(1) If at any time it shall be found that the project joint works does not require the use of some of said land, and any of it can be used advantageously by the district or the Indian unit, the project engineer may assign such area to either of said units for use without cost to be used by the unit to which assigned until needed by the project. The availability of such land for assignment as aforesaid, and the purposes for which it may be used by the party to which it may be assigned, and the manner in which it shall be used and cared for shall be determined by the project engineer, whose judgment shall be final in case of disagreement in such matters.

(2) In the event the project engineer determines it is necessary for joint works to have and use any or all of the project buildings or premises in this order, or hereafter, assigned to the district, he shall give the district 6 months' notice in advance of the date when the district shall vacate any such buildings or premises occupied or used by it.

§ 221.69b *District works.* All project works not reserved in this part as joint works and which are used for the serving of district lands are hereby defined and declared to be district works.

The district works as defined in this section are hereby turned over to the district beginning July 1, 1938, to be operated and maintained by the district and at its expense under management satisfactory to the Secretary of the Interior of the United States, until further order.

The operation and maintenance of the district works by the district as provided for in this section shall be at all times done both as to quality and quantity in a manner satisfactory to the said Secretary. The district shall at all times keep the works hereby entrusted to its care for operation and maintenance in a satisfactory operating condition; it being understood in that regard that if at any time either the management or the operation and maintenance of the district works by the district shall prove unsatisfactory to the United States the Secretary of the Interior or his duly authorized representative, the project engineer, shall, in writing, call such matters to the attention of the district; and in the event such unsatisfactory matters are not corrected by the district within a reasonable time, the Secretary retains the right to withdraw from the district the privilege of operating and maintaining said works. What constitutes "a reasonable time" within the meaning of this section shall be determined and definitely set forth in any letter or notice calling any such unsatisfactory conditions to the attention of the district: *Provided, however,* That in the event any such notice shall be

given by the duly authorized representative of the Secretary, his fixing of a reasonable time for remedying the unsatisfactory conditions called to the attention of the district in any such notice may be appealed to the Secretary whose decision in that regard shall be final.

§ 221.69c *Indian works.* All project works serving Indian lands not reserved in this part as joint works as defined in § 130.69a shall be considered and are hereby declared to be Indian works.

All Indian works as defined in this section shall be operated and maintained by the United States and at its or the Indians' expense.

§ 221.69d *Operation and maintenance charges; joint works.* (a) The joint works as defined will be operated and maintained by the United States and the cost thereof, including the administration of the Gila decree (such costs for the fiscal year beginning July 1, 1938, are estimated to be $60,000) exclusive of the cost of operating and maintaining electric power generating plants at the Coolidge Dam and the diesel plant at Coolidge and the power transmission and distribution system, as well as all the appurtenances belonging to the project electrical system, which is payable from power revenues, and for the payment of which such revenues are now expected to be sufficient, shall be paid by the project landowners as provided for in the landowners' agreement and the repayment contract.

(b) Since the project consists of 50,000 acres of Indian lands and 50,000 acres of public and private lands, said cost of maintaining and operating the joint works shall be paid equally on account of the Indian lands and the public and private lands at a per acre rate to be established by order of the Secretary annually hereafter, which said rate shall produce such a sum of money as shall be determined by the Secretary to be the amount necessary to meet, on the aforesaid basis, the proportionate share of the expense required by the project to maintain and operate the joint works.

(c) That part of the charges for operation and maintenance of the joint works to be borne by the district when so determined shall be paid on a fiscal year basis to the United States annually in advance, not later than the first day of March of each year, beginning the first of March 1939, all as provided in the repayment contract as amended, which said first payment shall be for the fiscal year 1940, and the United States or the Indians will make available the same amount of money each fiscal year for the operation and maintenance of the joint works for and on account of the Indian lands.

(d) Since the district has made payments to the project covering its share of the cost of joint works for the calendar year 1938, and its estimated share of the cost of the project maintenance to July 1, 1938, also the money collected by it for excess water deliveries during the year 1937; and since in any event there will be unadjusted credits due the district or payments due from it to the project on account of its share of said costs and its share of joint works maintenance and operation costs for the last half of the fiscal year 1939, it is hereby provided that any unadjusted credits or payments on account of said items existing on July 1, 1938, shall be adjusted at the first opportunity after the actual figures are determined by the project engineer, in any event within 30 days after the project engineer furnishes the district with a statement of its account with the project as of July 1, 1938, for and on account of the aforesaid items. The project engineer in determining what amount if any the district owes the project on July 1st on account of said items shall allow the district credit for 50 percent of the total project revenues derived from excess water deliveries for the calendar year 1937, to the extent such revenues have been collected and are available for project uses, but no credit can be allowed the district on account of such revenues due for deliveries to Indian lands during 1937 until made available by Congress; credit for such uncollected amounts shall be allowed on future payments by the district.

§ 221.69e *Delivery of water and operation and maintenance charges for district lands and works.* (a) The district, in accordance with the repayment contract, shall make an annual charge against lands of the district, designated in this section as the basic charge, for operation and maintenance of district works and for the district's share of operation and maintenance of joint works which charge when collected will, together with its proper share of revenue from the anticipated excess water charges hereinafter provided for, cover the cost of operating and maintaining said district works and pay the district's share of operating and maintaining the joint works.

(b) The district, in accordance with the repayment contract, shall deliver two (2) acre-feet of water or such part thereof as may be legally and physically available, to each irrigated acre in the district on payment of its said basic charge and any other charges due the district or the United States under the provisions of the Landowners' Agreement and the Repayment Contract: *Provided*, That all sums due the United States provided for in this section shall have been paid by the district in accordance with the provisions of this order and the terms of the repayment contract; all additional water, except free water, as provided for in the repayment contract shall be paid for by the landowners and collected by the district, at the rate of fifty cents (50¢) per acre-foot for the third acre-foot per acre and at the rate of one dollar fifty cents ($1.50) per acre-foot for all additional water delivered, but the Secretary retains the right to change at any time the charge for excess water.

(c) In order to protect the interests of the United States and facilitate the collection of the construction charges due from the landowners within the district owing to the United States, it is further provided that the district shall maintain an organization which will not entail an overhead expense disproportionate to the services which it renders the landowners in the operation and maintenance of said district works.

(d) It is further provided that if at any time the Secretary determines that the charges made by the district for operation and maintenance of the district works are excessive, the district shall proceed immediately upon written notice from the Secretary of the Interior to reduce said cost, to a maximum to be fixed in such notice by the Secretary of the Interior and if within a reasonable time the district finds itself unable to meet the demands of the Secretary in that regard the Secretary may withdraw the operation and maintenance of the district works from the district. The Secretary retains full power to determine what constitutes a reasonable time within the meaning of this section.

§ 221.69f *Delivery of water and operation and maintenance charges for and on account of the Indian lands and works.* As provided in this part, the United States will make available for operating and maintaining the joint works the aforesaid share thereof due on account of the 50,000 acres of Indian lands in said project. In addition thereto the United States or the Indians shall provide an amount of money which will be sufficient to meet the per acre cost of maintaining and operating the Indian works, which said per acre cost shall be termed the basic charge for Indian lands and shall be paid or provided for at the time and in the manner provided from time to time by the Secretary of the Interior in accordance with law and the repayment contract. It is further provided that when the basic charge for Indian lands plus the Indians' per acre share of the cost of joint works has been determined and the payment thereof made by the Indians in advance or provided for by the United States then there shall be delivered to each irrigated acre of Indian land two acre-feet of water or such part thereof as may be legally and physically available annually; and all additional water, except free water as provided for in the repayment contract, delivered to Indian lands shall be upon such terms as may be prescribed by the Secretary from time to time as provided for in Article 11 of the repayment contract, but until further order in that regard it shall be paid for in advance by the Indians or provided for by the United States in advance of delivery at the rate of fifty cents (50¢) per acre-foot for the third acre-foot per acre and at the rate of one dollar fifty cents ($1.50) per acre-foot for all additional water delivered.

§ 221.69g *Application of funds from excess water deliveries and sales.* The revenue from charges for excess water deliveries shall be used and paid as provided in the repayment contract, and its provisions shall be considered as having been complied with as long as the district operates and maintains district works, if the said collections shall be made and applied as follows:

(a) Both the district and the Indian unit or the United States for the Indians shall be entitled to use 50 percent of the total of such charges due or collected hereafter from both Indian and district

lands in any one year to meet, to the extent it will, their respective basic sum charges. Where deliveries to district lands exceed those to Indian lands or vice versa, any balance due to or owing from either by reason of such differences shall be adjusted at the end of each calendar year by proper payments from the district or credits to it. Such payments or credits to be made on or before March 1, of the succeeding year as provided in the repayment contract.

(b) In harmony with the act of March 7, 1928 (45 Stat. 210), and Article 12 of the repayment contract, it has been the practice since the San Carlos project has been in operation to furnish water when available to the State prison near Florence, and to the cities and towns in the project as well as to the agency grounds and gardens and the experimental farm at Sacaton, and it is believed that so long as that can be done it will be to the best interests of the project to continue such uses of water. It is contemplated that contracts and such proper orders as may be required will be made in the near future to carry that policy into effect on a well-defined and permanent basis. When that shall have been done all such services as may be required from the district or the Indian unit to deliver water to said agencies shall be paid for as shall from time to time be provided by the Secretary of the Interior.

(c) All money received from the sale or leasing of water to any or all of the aforesaid public institutions for public enterprises, and beautification, where such service shall be rendered by the district or the Indian unit, shall after due compensation as aforesaid for such service, be used and paid in the same manner provided herein with reference to money received from excess water deliveries. In the event, however, that the project joint works can and does render the service to any or all of said public institutions without using district or Indian unit works, it shall make the collections and the revenue shall go into the joint works operation and maintenance fund and be used to reduce the amount due for that purpose from the district and the Indian unit each year.

§ 221.69h *Florence-Casa Grande project lands.* (a) There are certain lands of the Florence-Casa Grande project which have water rights, but have not been merged as yet with the San Carlos project. It is necessary that said lands be served in part through project canals the amount of water to which, under the law and the Florence-Casa Grande agreement, they are entitled. It is contemplated that contracts and proper orders shall be made with the Florence-Casa Grande landowners, which shall provide among other things for payment by them of construction costs and operation and maintenance charges of the Florence-Casa Grande project. The operation and maintenance charges collected from said lands shall be paid into the San Carlos project operation and maintenance fund and be used to reduce the assessments for joint works against Indian and district lands each year. The district shall be allowed due compensation however for any service which it may be required to and renders to said lands or to the State lands or cities and towns. The extent of service and compensation shall be agreed upon hereafter, but in the event an agreement can not be reached in that regard mutually satisfactory to the project engineer, the district and the Indian unit, the Secretary retains the right to determine such matters.

(b) It is further provided that until such permanent arrangements have been consummated for the State lands, the cities, towns and villages, the Florence-Casa Grande lands and the non-project Federal agency lands at Sacaton, that the district will continue as in the past to deliver to the Florence-Casa Grande project lands, such water as they are entitled to in accordance with law and the Florence-Casa Grande agreement and shall collect from said landowners such operation and maintenance charges as shall be determined upon and fixed by the Secretary of the Interior from year to year, and it will also deliver to the State prison lands and the cities and towns such water as may be allotted to them upon the same terms as has heretofore been done. The Indian unit will make deliveries to the Federal agencies for which it shall also be allowed compensation to be hereafter fixed on a per acre basis: *Provided,* The project shall be allowed a credit of $1.80 per acre for service it performs on account of said agencies for the year 1937. All net revenue from collections made on said temporary basis shall be paid to the San Carlos project joint works.

§ 221.69i *United States and district to keep and exchange records.* The district and the Indian unit or the United States for it will keep records of the amounts and rates of delivery of water to farm units of the district, and the amount and rate of delivery of water to the Indian lands, according to methods approved by the Secretary of the Interior. They will furnish to each other a summary of such amounts and rates of supply for their information. These records are to be kept open for inspection by the Indian unit, the United States and the district. Such records of the deliveries to district lands served through Government operated canals will be furnished the district in detail for assessment purposes.

§ 221.69j *District compliance with Gila decree.* It is further provided that the district in the operation and maintenance of said district works and the delivery of water to the project lands within the district and the delivery of water to Florence-Casa Grande project lands shall use every legal means at its command to see that the terms of the Gila decree are not violated and to cooperate with the project engineer and the Federal court water commisisoner in the enforcement of its terms and provisions.

§ 221.69k *Division of project equipment.* (a) Equipment belonging to the San Carlos project shall be divided as between joint works, the district, and the Indian unit of the project, according to the needs of each unit. All equipment used or needed for the operation and maintenance of joint works shall first be selected from available project equipment by the project engineer and shall be designated as belonging to the project for joint works. A division of the remaining equipment shall be made by the district and the project engineer on such equitable basis as will most nearly equalize the benefits to both the district and Indian units in the use of said equipment in the operation and maintenance of their respective units of the project. In the event that an agreement cannot be reached as to this division the matter or disagreement shall be promptly referred to the Secretary of the Interior, together with a statement of the requirements of each as to such equipment, and his decision in the matter shall be final.

(b) The value of such equipment as may be taken over by the district or the Indian unit of the project shall be paid for by the party receiving it. The payment therefor shall be made to the project disbursing agent or other properly designated project employee. The amount to be paid by each of said parties for the equipment turned over to them, respectively, shall be the current, approved value of said equipment as shown on the project inventory and equipment accounts. Said equipment shall be paid for by the party receiving same at the time said property is turned over: *Provided, however,* That the district may use any unadjusted credit due it from the project on January 1, 1938, in payment for any such equipment taken over by it, and the Indian unit may pay for such equipment as it takes over such terms as may be agreed to by the project engineer, but in the event the said Indian unit takes over any such equipment on terms other than by payment at the time of delivery, it shall in any event pay the full value thereof as of the date when so taken over, even though the equipment be worn out or destroyed before it shall have been paid for.

(c) When, in the judgment of the project engineer, emergencies exist, or at such other times as in his judgment economies may be effected in the operation and maintenance work on any part of the project he may, at the request of the district or the Indian unit, use joint works equipment together with its operating crews to do the emergency work or effect economies, if it can be done without sacraficing joint works activities. In the event joint works equipment shall have been used as aforesaid, joint works shall be fully compensated by the unit for which the work shall have been performed, on an actual per diem or shift basis, according to the procedure established by the project in accounting for the cost chargeable to the particular piece or pieces of equipment so used at the time such work may be done as aforesaid for the district or Indian unit.

§ 221.69l *Certain features contingent on appropriations.* It should be remembered that the provisions of §§ 221.69a–221.69m, to the extent that funds are required to be made available by the United States beyond the fiscal year 1939, are dependent upon appropriations being made by Congress for such purposes. The United States, however, through its

Secretary of the Interior, will use every legal effort at its command to see that the assessments which may become due for joint and Indian works as provided for herein are made available to the project or other proper Indian service official, to the end that the project joint works and the Indian works may be maintained and operated in the best possible manner so as to promote efficiency and economy in the use of water and conserve the project water supply.

§ 221.69m *Supervisory control retained.* Sections 221.69a–221.69l are not intended to be and shall not be construed as an amendment or modification of either the landowners' agreement or the repayment contract, but as an administrative operating order made pursuant to the provisions of the repayment contract for the purpose of defining the conditions upon which certain of the objectives provided for in said contract may be achieved. The Secretary reserves the right to exercise at any time any and all rights, powers and privileges given him by law and the aforesaid contracts with reference to the San Carlos Federal Irrigation Project, whether specifically mentioned in §§ 221.69a–221.69l or not, including the right to supervise, through his duly authorized representatives, to the extent he may deem necessary, the doing of the maintenance and operation work conditionally delegated in §§ 221.69a–221.69l to the district. The Secretary also retains the right to modify §§ 221.69a–221.69l and impose new or modified conditions on the district from time to time and to permit the Indian unit to be operated in whole or in part by the Indians if deemed advisable; also to revoke in whole or in part, at any time, this or any amended or modified order.

FLORENCE-CASA GRANDE INDIAN IRRIGATION PROJECT, ARIZONA

§ 221.70 *Charges.* Pursuant to the provisions of the act of May 18, 1916 (39 Stat. 130) and supplementary acts, and an agreement with the landowners commonly called the Florence-Casa Grande landowners' agreement, the operation and maintenance charges, including the administration of the Gila River Decree, which shall be assessed against privately owned lands of the Florence-Casa Grande irrigation project not included in the San Carlos Indian irrigation project, are hereby fixed at $1.50 per acre for the calendar year 1946 and until further notice.

§ 221.71 *Time of payment.* The per acre charge fixed in § 221.70 for the privately owned land shall be paid on or before March 1 of each year. Upon payment of the annual per acre charge fixed by § 221.70, each acre of such land shall be entitled to receive its proper proportionate share of the available water supply as provided for by the Florence-Casa Grande landowners' agreement referred to in § 221.70.

§ 221.72 *Conditions.* The San Carlos irrigation and drainage district, pursuant to §§ 221.69a–221.69m, shall collect the charges as provided for in §§ 221.70 and 221.71, and shall make delivery of water to the lands of the Florence-Casa Grande project. The district shall be compensated for such service at the rate of $1.00 per acre, for each acre to which water shall be delivered and the charges collected, and shall pay the balance of such amount to the project engineer of the San Carlos irrigation project for the benefit of the joint works.

TOPPENISH–SIMCOE INDIAN IRRIGATION PROJECT, YAKIMA INDIAN RESERVATION, WASHINGTON

§ 221.73 *Charges.* Pursuant to the provisions of the acts of August 1, 1914 and March 7, 1928 (38 Stat. 583 and 45 Stat. 210; U. S. C. 385, 387), the operation and maintenance charges for the lands under the Toppenish-Simcoe Indian irrigation project, Yakima Indian Reservation, Washington, for the calendar year 1956 and subsequent years until further notice, are hereby fixed as follows:

All lands for which application for water is made and approved by Project Engineer, per acre $2.25

§ 221.74 *Delivery to fee owners.* No water shall be delivered to patent in fee landowners, until at least 50 percent of the charges assessed in § 221.73 is paid, and water delivery shall not be continued after July 1, 1934, unless the total charges shall have been paid.

§ 221.75 *Delivery to Indian farmers.* No water will be delivered to Indians farming their own land until the charges are paid to the Indian Irrigation Service as required in this order of patent in fee owner, or the superintendent of the reservation shall have issued a certificate to the project engineer certifying that the Indian will pay such charges through the superintendent or that such Indian is financially unable to pay the charges.

§ 221.76 *Delivery to lessees.* No water shall be delivered to lessees of trust Indian lands, until the lessee shall have paid as required in this order of patent in fee owners. Or, in cases where the terms of the lease provide that the landowner shall pay the operation and maintenance charges from the lease rental, no water shall be delivered until the superintendent of the reservation shall have furnished the project engineer a certificate stating that the lessee has fully complied with all the terms of the lease.

UINTAH INDIAN IRRIGATION PROJECT, UTAH

§ 221.77 *Basic water charges.* Pursuant to the provisions of the acts of June 21, 1906 (34 Stat. 375) and March 7, 1928 (45 Stat. 210, 25 U. S. C. 387), the reimbursable costs expended in the operation and maintenance of the Uintah Indian Irrigation Project, Utah, are apportioned on a per-acre basis against the irrigable lands of all units of the project and for the calendar year 1953 and each succeeding year until further order, there shall be collected for each acre of irrigable land to which water can be delivered from the constructed works, a uniform basic charge of $2.10 per acre per annum, where not otherwise established by contract. No bill shall be rendered for less than $4.00.

CROSS REFERENCE: For method of assessment of operation and maintenance charges, see § 199.18 of this chapter.

§ 221.77b *Charges for additional delivery points.* The charges provided in this part are on the basis of one delivery point for each tract of land in contiguous ownership. For each additional delivery point on any tract of land in contiguous ownership, now existing thereon or which may be installed in the future, a service charge of 10 cents per acre shall be assessed annually against each acre of such tract.

§ 221.78 *Payment.* (a) The assessments fixed in §§ 221.77 and 221.77b shall become due on April 1 of each year, and are payable on or before that date.

(b) No delivery of water shall be made to land until the assessment has been paid in full. Assessments remaining unpaid on October 1, following the due date, shall be subject to a penalty of one-half of 1 percent per month, or fraction thereof, from the due date until paid.

(c) No water shall be delivered to land under lease to non-Indians until the superintendent of the reservation certifies to the project engineer that the lessee has fully complied with the lease contract relative to the payment of the operation and maintenance assessment.

(d) Indian water users who are financially unable to pay the assessment on the due date may be furnished water provided the superintendent of the reservation certifies to the project engineer that such Indian is not financially able to pay his assessment. Under such condition the assessment shall be entered on the accounts as a lien against the land, without penalty.

§ 221.79 *Delivery to fee owners.* No water shall be delivered to patent in fee landowners, until at least 50 percent of charges assessed in §§ 221.77 and 221.77b is paid, and water delivery shall not be continued after July 1 unless the total charges shall have been paid.

§ 221.80 *Delivery to Indian farmers.* No water will be delivered to Indians farming their own land, until the superintendent of the reservation shall have issued a certificate to the project engineer certifying that the Indian has paid or will pay such charges through the superintendent or that such Indian is financially unable to pay the charges.

§ 221.81 *Delivery to lessees.* No water will be delivered to a lessee of Indian trust patent land, until the superintendent of the reservation shall have furnished the project engineer with a certificate stating that the lessee has fully complied with the terms of the lease relative to the payment of the annual operation and maintenance charges.

WALKER RIVER INDIAN IRRIGATION PROJECT, NEVADA

§ 221.83 *Charges.* The reimbursable cost of operating and maintaining the Walker River Indian irrigation project, Nevada, is apportioned on a per acre basis against the irrigable lands of the project and for the calendar year 1943, and each succeeding year until further order, there shall be collected, as a par-

tial reimbursement of such cost, from each acre of irrigable land to which water can be delivered through the constructed works of the project, a charge of 50 cents per acre per annum against lands in Indian ownership, under lease to a non-Indian, and $1.25 per acre per annum against lands in non-Indian ownership and lands in Indian ownership under lease to a non-Indian lessee.

§ 221.84 *Payment.* The annual charges fixed in § 221.83 shall become due on April 1 of each year and are payable on or before that date. The delivery of water may be refused to tracts of lands for which the charges are not paid when due unless arrangements shall have been made as provided in this section. When an Indian owner of land under a trust patent or a fee patent, not under lease to a non-Indian, is financially unable to pay the charges from the proceeds of the crops, or from the proceeds of labor performed on the project works, or from any other source, the delivery of water may be continued if a written certificate be issued by the superintendent that such Indian is financially unable to pay his charges. Copies of such certificates shall be forwarded to the Commissioner of Indian Affairs and shall be subject to rejection or modification upon review. In such cases the charges shall be entered on the account and will stand as a first lien against the lands until paid but without penalty for delinquency. To all charges assessed against lands in non-Indian ownership and lands in Indian ownership under lease to a non-Indian lessee there shall be added a penalty of one-half of one percent per month or fraction thereof, from the due date, if not paid on or before July 1 following the due date.

§ 221.85 *Water users responsible for water after delivery.* It is the duty of the Indian Irrigation Service to furnish available water for beneficial irrigation use only. It is the duty of all water users of the project to aid in the prevention of the waste of water and of damage to adjacent lands. The water users are responsible for the water after it has been delivered to their lands, and are required to have their field ditches of proper capacity and in suitable condition for the use of economical heads of water.

WAPATO INDIAN IRRIGATION PROJECT, WASHINGTON

§ 221.86 *Charges.* Pursuant to the provisions of the acts of August 1, 1914 and March 7, 1928 (38 Stat. 583, 45 Stat. 210; 25 U. S. C. 385, 387), the operation and maintenance charges on assessable lands under the Wapato Indian Irrigation Project, Yakima Indian Reservation, Washington, for the calendar year 1957 and subsequent years until further notice are hereby fixed as follows:

(a) Minimum charges for all tracts in noncontiguous single ownership	$7.25
(b) Flat rate upon all farm units or tracts for each accessible acre	6.00
(c) Storage operation and maintenance. For all lands with a storage water right, known as "B" lands, in addition to other charges per acre	.45

CROSS REFERENCE: For methods of assessment of operation and maintenance charges, see § 201.15 of this chapter.

§ 221.87 *Time of payment.* The charges fixed by § 221.86 shall become due April 1, of each year, and are payable on or before that date. To all charges assessed against lands in non-Indian ownership and those paid by lessees of Indian lands direct to the project office, remaining unpaid on July 1, following, there shall be added a penalty of one-half of one percent for each month or fraction thereof, from the due date until the charges shall have been paid.

§ 221.88 *Delivery to non-Indian lands.* No water will be delivered to non-Indian lands until all irrigation charges assessed against such lands for construction, operation and maintenance and all penalties that may have accrued, shall have been paid.

§ 221.89 *Delivery to Indian lands being farmed by Indian farmers.* No water will be delivered to lands owned by Indian farmers until the charges fixed in § 221.86 shall have been paid, or until the Superintendent of the Reservation shall have issued a certificate to the Project Engineer, certifying that such Indian will pay such charges through the Superintendent, or that the Indian is financially unable to pay the charges.

§ 221.90 *Delivery to Indian lands under lease.* No water will be delivered to trust Indian lands under lease until the lessee shall have paid the assessment fixed by § 221.86 and any penalties assessed under § 221.87, or, in cases where the lease provides that the landowners shall pay the operation and maintenance charges from the lease rental, no water shall be delivered until the Superintendent of the Reservation shall have issued a certificate to the Project Engineer, certifying that the lessee has complied fully with the terms of the lease.

§ 221.91 *Maximum delivery on bench lands.* To protect adjointing lands against seepage and erosion by the excessive use of water on tracts located in the so-called bench areas, the maximum delivery of water is fixed at 4½ acre-feet per acre.

§ 221.92 *Assessable lands.* The following lands of the Wapato project will be assessable under this order:

(a) All Indian trust (A or B) land, designated as assessable by the Secretary of the Interior, except land which has not heretofore been cultivated, if in the opinion of the project engineer the cost of preparing such land for irrigation is so high as to preclude its being leased for agricultural purposes.

(b) All Indian trust (A or B) land, not designated as assessable by the Secretary of the Interior, for which application is made for water or on which water had been charged during the preceding year on the project books.

(c) All patent in fee land covered by a water right contract, except land that because of inadequate drainage is no longer productive. The adequacy of the drainage is to be determined by the project engineer.

(d) Any patent in fee land, in the discretion of the project engineer, on which a water right contract has been applied for or is being amended, upon the payment of charges; without prejudice to the rejection or approval of such contract.

§ 221.93 *Cleaning waste ditches.* In all cases where a landowner refuses or fails to clean waste ditches, the project engineer is hereby authorized to have such ditches cleaned and include the cost of such cleaning in the operation and maintenance assessments against the land benefited: *Provided,* That before such cleaning shall be done by the project engineer the landowner shall first be duly notified of his failure and of the necessity for action by the project engineer.

§ 221.94 *Leaching.* Water may be delivered for leaching purposes, without the payment of operation and maintenance charges, to any Indian trust land or patent in fee land covered by water right contract, which because of inadequate drainage facilities in the past has become impregnated with alkali to such an extent as to become nonproductive, provided the land has been classed as irrigable. In the case of patent in fee land all assessments on account of construction cost repayment, must be paid before water may be delivered.

§ 221.95 *Charges.* In compliance with the provisions of the Acts of August 1, 1914 and March 7, 1928 (38 Stat. 583, 25 U. S. C. 385; 45 Stat. 210, 25 U. S. C. 387) the operation and maintenance charges for the lands under the Wind River Irrigation Project, Wyoming, for the calendar year 1957 and subsequent years until further notice, are hereby fixed at $2.60 per acre for the assessable area under the constructed works on the diminished Wind River Project and at $2.50 per acre on the Ceded Wind River Project; except in the case of all irrigable trust patent Indian land which lies within the Ceded Reservation and which is benefited by the Big Bend Drainage District where an additional assessment of $0.45 (45 cents) per acre is hereby fixed.

CROSS REFERENCE: For method of assessment of operation and maintenance charges, see § 201.16 of this chapter.

§ 221.96 *Payment.* The charges as fixed in § 221.95 shall become due April 1 of each year and are payable on or before that date. To all charges which are not paid on July 1 following the due date, there shall be added a penalty of one-half of 1 percent per month or fraction thereof, from the due date, April 1, so long as the delinquency continues. No water shall be delivered until such charges have been paid.

ZUNI PUEBLO INDIAN IRRIGATION PROJECT, NEW MEXICO

§ 221.98 *Charges.* In accordance with the provisions of the act of August 1, 1914 (38 Stat. 583; 25 U. S. C. 385) the operation and maintenance charges for irrigable lands of the Zuni Pueblo, New Mexico, are fixed as follows for the cal-

endar year 1938 and subsequent years until further notice:

For tribal lands operated by the Zuni School or Sanatorium the rate shall be $2 per acre.

§ 221.99 *Time of payment.* The charges fixed in § 221.98 shall be due and payable on April 1 of each year.

§ 221.100 *Conditions of payment.* No water shall be delivered until the charges have been paid or until the superintendent shall have issued a certificate that provision has been made for such payment.

MISCELLANEOUS INDIAN IRRIGATION PROJECTS

§ 221.105 *Charges.* Pursuant to the acts of August 1, 1914 and March 7, 1928 (38 Stat. 583, 45 Stat. 210; 25 U. S. C. 385, 387), a part of the reimbursable cost of operating and maintaining the irrigation projects named in this section is apportioned on a per-acre basis against the irrigable lands of the respective projects for the calendar year 1957 and for each succeeding calendar year until further order, in the amounts designated below for each project, and there is assessed against each acre of irrigable land to which water can be delivered through the constructed works of the respective projects, the amounts designated for each project, to be applied in the reimbursement of such apportionments:

Project and agency	*Per acre (per annum)*
Duck Valley, Western Shoshone	$3.40
Miscellaneous Units, Navajo	.50
Pyramid Lake Unit, Carson	5.15
San Carlos Reservation Unit, San Carlos	.50
San Xavier Unit, Sells	1.00
Tongue River Unit, Tongue River	.25
Warm Springs Unit, Warm Springs	2.00
Burns Indian Village, Warm Springs	12.65

§ 221.106 *Payment.* (a) The annual charges fixed in § 221.105 shall become due on April 1 of each year, are payable on or before that date, and any charges that remain unpaid after the due date shall stand as a first lien against the land until paid.

(b) The delivery of water shall be refused to all tracts of land for which the charges have not been paid when due, except in instances where the lands are in Indian ownership, not under lease to a non-Indian, and the Indian owners shall have made the necessary arrangements with the superintendent as hereafter provided. When any Indian owner of land not under lease to a non-Indian is financially unable to pay the operation and maintenance charges on the due date from cash on hand, the superintendent may make the necessary arrangements with such Indian owner as will permit him to perform labor on the irrigation project works with the understanding that the proceeds derived therefrom shall be applied in partial payment of the operation and maintenance charges; and/or the superintendent may make the necessary arrangements for such Indian owner to pay the operation and maintenance charges from the proceeds of the crops grown on the land when harvested and marketed within that calendar year, provided written statements to that effect are furnished by the Indian owner on or before the due date.

(c) In any instance where the superintendent is convinced that an Indian landowner, whose land is not under lease to a non-Indian, is financially unable to pay his operation and maintenance charges from proceeds of labor performed on the project works, or from the proceeds of the crops being grown on the land, or from any other source, the delivery of water may be continued if a written certificate is issued by the superintendent stating that such Indian is not financially able to pay his charges and copies thereof forwarded to the Commissioner of Indian Affairs for approval or rejection. In such cases the unpaid charges shall be entered on the accounts and will stand as a first lien against the land until paid but without penalty for delinquency.

§ 221.107 *Water users responsible for water after delivery.* It is the duty of the Indian Irrigation Service to furnish available water for beneficial irrigation use only. It is the duty of all water users of the project to aid in the prevention of the waste of water and of damage to adjacent lands. The water users are responsible for the water after it has been delivered to their lands, and are required to have their field ditches of proper capacity and in suitable condition for the use of economical heads of water.

TRIBAL AND TRUST PATENT INDIAN LANDS OF SAN CARLOS PROJECT, ARIZONA

§ 221.110 *Basic charge.* Pursuant to the provisions of section 10 of the act of March 3, 1905 (33 Stat. 1081) as amended and supplemented by the acts of August 24, 1912 (37 Stat. 522), August 1, 1914 (38 Stat. 583, 25 U. S. C. 385), section 5 of the act of June 7, 1924 (43 Stat. 476), March 7, 1928 (45 Stat. 210, Title 25 U. S. C. 387), and the act of August 9, 1937 (50 Stat. 577), as amended by the act of May 9, 1938 (52 Stat. 291–305), and in accordance with the public notice issued on December 1, 1932, operation and maintenance charges are assessable against the 50,000 acres of tribal lands and trust patent Indian lands of the San Carlos Indian irrigation project within the boundaries of the Pima Indian Reservation, Arizona, and the basic rate assessed for the calendar year 1953 and the subsequent years unless changed by further order, is hereby fixed at $3.85 per acre. Such rate shall entitle each acre of land to have delivered for use thereon two (2) acre-feet of water per acre or its proportionate share of the available water supply.

The foregoing changes are to become effective for the fiscal year 1953 and continue thereafter until further notice; the assessment for the 50,000 acres of Indian land will be payable as provided in §§ 221.111 to 221.116, inclusive.

§ 221.111 *Excess water charge.* For water delivered in excess of two (2) acre-feet per acre there shall be charged 50 cents per acre-foot per acre for the first acre-foot of excess water or fraction thereof delivered, and $1.50 per acre-foot or fraction thereof per acre for water delivered in excess of three (3) acre-feet per acre; provided there shall be no charge for free water delivered in accordance with existing regulations and no discrimination in the delivery of free water to Indian and non-Indian lands.

§ 221.112 *Time and place of payment.* Basic charges shall become due on January 1 of each year and shall be payable on or before May 15: *Provided,* No water shall be delivered prior to the payment of said basic charge unless pursuant to law proper arrangements have been made for such payment. Payment for excess water as provided in § 221.111 shall be made at the time of request for delivery thereof or previous to the time of delivery. Payment of these assessments and charges shall be made at the office of the superintendent of the Gila River Reservation at Sacaton, Arizona.

§ 221.113 *Alternate method of payment.* Payment of charges may be made from revenue derived from farming operations on tribal lands conducted by the Pima Agency as provided by the act of August 9, 1937 (50 Stat. 577), as amended by the act of May 9, 1938 (52 Stat. 305). Should the subjugation and cropping operations not produce sufficient revenues to meet the charges fixed in §§ 221.110 and 221.111, the deficit shall be paid or otherwise satisfactorily provided for by the Indians, or from such other funds as may be made available therefor by law; *Provided,* In such event where the allottee or assignee is required to pay the charges such allottee or assignee shall be entitled to the benefit of the 3-year exemption period from the payment of operation and maintenance charges as provided for in office letter of June 20, 1933, as confirmed by departmental order of November 18, 1936. The 3-year exemption period shall begin to run from the date the land is placed under cultivation by the individual Indian, or in the case of assignment of tribal land or release of allotted land which has been operated under the subjugation and cropping program the exemption period shall begin with the date of the assignment or release to the individual Indian for his individual operation: *Provided,* That this order shall be subject to the power of the Gila River Pima-Maricopa Indian community, through its community council or through referendum vote, as provided in its constitution and bylaws, to prevent the use of revenue derived from farming operations on tribal lands within the project or any other tribal funds in payment of any charges established by this order. Failure by the community to consent within a reasonable time to the use of such revenue or funds for the calendar year 1939 shall result in immediate termination of water service to tribal lands within the project.

§ 221.114 *Application for water service.* Before the first delivery of water is made an application for water service shall be made to the superintendent on an approved form provided by him and signed by the applicant, or an oral request may be made by the Indian to the superintendent, which application or request, when approved by the superintendent, will be furnished the project

engineer of the Irrigation Service which will be his authority for delivery of irrigation water to the land described therein. For all subsequent deliveries of water the water users will notify the watermaster or ditchrider when delivery is desired.

§ 221.115 *Distribution and apportionment of water.* The stored and pumped water of the project is deemed a common project water supply in which all lands of the entire project are entitled to share equally and all such water shall be distributed to the lands of the project as equitably as physical conditions permit. The portion of the common supply available for the Indian lands will be distributed in equal amounts per acre to each acre under cultivation and irrigation, in so far as is possible, and subject to beneficial use. Water users will be notified at the beginning of the season of the amount of stored and pumped water available and at later dates of additional apportionments as they are made. Waste of water by users must be avoided as far as is physically possible in order that the supply shall be sufficient for the entire area in crop. When floods produce a supply of water in excess of demands or available storage facilities, free water shall be declared available and all water users will be promptly notified thereof. Such water shall not be counted as a part of the apportioned share to the lands on which it is used.

§ 221.116 *Care of farm ditches.* Water users will be required to keep their farm ditches in suitable condition to take water from project laterals and to carry it to the lands being irrigated. Failure to do this may result in refusal of delivery of water to lands on which the farm ditches are not in condition to take the water ordered if this condition prevents proper operation of project laterals and structures and causes waste of water.

SALT RIVER INDIAN IRRIGATION PROJECT, ARIZONA

§ 221.120 *Basic charge.* Pursuant to provisions of the acts of Congress, approved August 1, 1914, and March 7, 1928 (38 Stat. 583; 45 Stat. 210, 25 U. S. C. 385, 387), the basic operation and maintenance charge against the lands under the Salt River Indian Irrigation Project in Arizona to which water can be delivered through the Irrigation Project works is hereby fixed at $5.50 per acre per annum until further notice.

§ 221.121 *Payment.* The annual basic charge fixed in § 221.120 shall be due and payable on or before May 1, 1947, and on April 1 of each year thereafter until further notice. Charges not paid on the due date shall stand as a first lien against the lands until paid.

§ 221.122 *Delivery of water.* Delivery of water shall be refused to all tracts of land for which the basic charge remains unpaid on the due date except that water may be delivered (a) to irrigate Indian owned lands that are not under lease, permit, or other form of use by someone other than the Indian owner, upon the partial payment on or before the due date of not less than $2.00 per acre per annum of the basic charge; (b) to irrigate Indian owned lands not under lease, permit, or other form of use by someone other than the Indian owner when said owner is unable to pay any part of the basic charge, upon the performance of labor on project works and the prior agreement that he will pay from the proceeds received for such work at least an amount equal to $3.50 per acre per annum; and (c) to irrigate not to exceed 10 acres of Indian owned land when the Superintendent is of the opinion that an Indian landowner is unable to meet the requirements of paragraphs (a) or (b) of this section, when the Superintendent certifies to that fact. The Superintendent shall promptly furnish the director of the district, for approval or rejection, all such certifications. In such cases, covered by paragraphs (a), (b) and (c) of this section, the unpaid charges shall be entered on the accounts and will stand as a first lien against the land until paid, without penalty.

BLACKFEET INDIAN IRRIGATION PROJECT, MONTANA

§ 221.130 *Basic agreement.* Pursuant to the acts of Congress approved August 1, 1914, May 18, 1916 and March 7, 1928 (38 Stat. 583; 39 Stat. 142; 45 Stat. 210; 25 U. S. C. 385, 387), the basic rate of assessment of operation and maintenance charges against the irrigable lands under the Blackfeet Indian Irrigation Project, Montana, for the season of 1951 and until further notice, is hereby fixed at $1.80 per acre per annum for the delivery of water, on an application basis, of not to exceed 1½ acre-feet per acre during each irrigation season.

§ 221.131 *Excess water assessment.* Additional water may be delivered in excess of 1½ acre-feet per acre per annum at the rate of $1.00 per acre-foot or fraction thereof.

§ 221.132 *Payment.* (a) The assessments fixed in §§ 221.130 and 221.131 shall be due and payable at the time of the filing of the application for water. Payment must be made to the disbursing officer through the project office, Browning, Montana, before water is delivered.

(b) Delinquent assessments which accrued prior to 1939 against land covered by an application for water shall not prevent the delivery of water for the calendar year 1939 and until further order.

(c) In the event an Indian water user is unable to pay the assessment in advance water may be furnished upon certification by the superintendent of the reservation that the assessment will be paid from the proceeds of the crops, or Indian water users who are financially unable to pay any of the assessment may be furnished water upon certification by the superintendent that such Indians are financially unable to pay. Under such condition where the Indian water users are unable to pay the assessment the same shall be charged on the accounts as a lien against the land, without penalty.

§ 221.133 *Application for water.* (a) Application for water may be received up to the estimated capacity of the several systems, and should the demand for water exceed the available supply, applications shall be given preference in the order of receipt at the project office.

(b) Applications will not be accepted for partial tracts but must cover the entire irrigable acre of the farm unit or allotment, as determined by the land designation schedules.

(c) Water for each irrigation will be delivered only upon the written request of the landowner or water user. Such request shall be filed with the project engineer, or other employee duly designated, at least 48 hours in advance of the time the delivery is to begin. The written request shall show the legal description of the farm unit or allotment for which delivery is requested, also the day and hour it is desired. Water request forms are available at the project office.

(d) The right is reserved to limit the head of water to an amount not to exceed 2½ second-feet for each 160-acre farm unit or allotment, or fraction thereof, and to a total delivery of three-fourths of 1 acre-foot per acre for any one irrigation, and should conditions warrant, to adopt the rotation system of delivery.

MISSION MISCELLANEOUS IRRIGATION UNITS, CALIFORNIA

§ 221.140 *Charges.* The reimbursable costs of operating and maintaining the miscellaneous irrigation units under the jurisdiction of the Mission Indian Agency in California are apportioned on a per acre basis against the irrigable lands of the respective units and for the calendar year 1943, and each succeeding calendar year until further order, there shall be collected, as a partial reimbursement of such costs, from each acre of irrigable land to which water can be delivered through constructed works of the project, a charge of $1.00 per acre per annum against lands in Indian ownership, not under lease to a non-Indian, and $3.00 per acre per annum against lands in non-Indian ownership and lands in Indian ownership under lease to a non-Indian lessee.

§ 221.141 *Payment.* The annual charges fixed in § 221.140 shall become due on April 1 of each year and are payable on or before that date. The delivery of water shall be refused to tracts of land on which the charges are not paid when due unless arrangements shall have been made as hereafter provided. Where an Indian owner of land under a trust patent or a fee patent, not under lease to a non-Indian, is financially unable to pay the charges from the proceeds of the crops, or from the proceeds of labor performed on the project works, or from any other source, the delivery of water may be continued if a written certificate be issued by the superintendent that such Indian is financially unable to pay his charges. Copies of such certificates shall be forwarded to the Commissioner of Indian Affairs and shall be subject to rejection or modification upon review. In such cases the charges shall be entered on the accounts and will stand as a first lien against the lands until paid but without penalty for delinquency.

§ 221.142 *Water users responsible for water after delivery.* It is the duty of

the Indian Irrigation Service to furnish available water for beneficial irrigation use only. It is the duty of all water users of the project to aid in the prevention of the waste of water and of damage to adjacent lands. The water users are responsible for the water after it has been delivered to their lands, and are required to have their field ditches of proper capacity and in suitable condition for the use of economical heads of water.

Subchapter U—Electric Power System

PART 231—COLORADO RIVER IRRIGATION PROJECT, ARIZONA

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AUTHORITY: §§ 231.1 to 231.56 issued under sec. 5, 43 Stat. 476.

§ 231.1 *Purpose of regulations.* The rules and regulations in this part are approved for the conduct of electric power system of the Colorado River Project, Arizona. The rules and regulations of this part are subject to change by the proper authority and such changes will apply to all contracts then and afterwards in effect.

§ 231.2 *Authority of project engineer.* The project engineer is responsible for operation of electric power system and enforcement of public notices establishing rates and rules and regulations. He is fully authorized to carry out and enforce the rules and regulations in this part either directly or through the power superintendent or other project employees designated by him.

§ 231.3 *Disputes.* In case of dispute regarding application of rules and regulations and decisions of the project engineer made pursuant thereto, appeal may be made to the proper supervising engineer who will adjust or refer to Commissioner of Indian Affairs whose decision will be final. While an appeal is pending electric service will not be discontinued except in case of emergency by reason of the existing dangerous conditions provided for in § 231.36, provided payments or deposits are made as provided in § 231.31.

§ 231.4 *Applications; contracts.* In order to become a consumer under the Colorado River Project electric power system, an application shall be made which becomes a contract upon the approval of the Project Engineer. In general, service will be rendered to all applicants signing valid contracts where service lines exist. The Project Engineer is authorized to reject applications where it does not appear that the rules and regulations in this part will be complied with, or when not to the interest of the United States. Upon 30 days' written notice to the contractor, the Project Engineer may suspend or cancel any contract upon failure to comply with rules and regulations or to make payment under the standard schedule of rates. Negotiations for contracts involving special conditions or service within town sites of record will be subject to approval by the Commissioner of Indian Affairs.

§ 231.5 *Cash deposits.* Cash deposit in advance in the amount of twice the estimated monthly bill, but not less than $10 will be required from all consumers except property owners. In case of delinquency by property owners such advance payment will be required for 1 year, after which deposit will be returned.

§ 231.6 *Deposits waived.* Deposit requirements in the case of tenants will be waived when property owner jointly signs the tenant's contract, subject to delinquency clause in § 231.5.

§ 231.7 *Deposits returned.* The consumers cash deposit less the amount of any unpaid bills for electric service will be returned to him when service is discontinued by order of the consumer. The special disbursing agent will require the consumer to sign a proper refund voucher before returning the net cash deposit.

§ 231.8 *Deposits for extensions.* For extensions beyond existing service lines and for temporary service, certain guarantees and deposits may be required as prescribed in §§ 231.10–231.19.

§ 231.9 *Service bills.* Certain service bills, for removal, reconnection charge, and final settlement are payable on presentation.

§ 231.10 *Extensions.* In so far as practicable all extensions will be constructed along established highways and transformers placed thereon.

§ 231.11 *Urban areas.* Within the limits of urban areas, extensions of single phase circuits will not exceed 100 feet for each dollar of guaranteed monthly revenue. Three phase extensions in urban areas will not exceed 80 feet for each dollar of guaranteed monthly revenue.

§ 231.12 *Rural areas.* In rural areas, extensions of single phase circuits will not exceed 330 feet for each dollar of guaranteed monthly revenue and extensions of three phase circuits will not exceed 210 feet for each dollar of guaranteed monthly revenue.

§ 231.13 *Guarantees.* Before extensions are constructed the consumers must deposit with the special disbursing officer an amount at least equal to the required minimum revenue for a period of one year and must establish their credit in such a manner as to satisfy the project engineer of their ability and intention to meet the guarantees.

§ 231.14 *Measuring extensions.* In measuring an extension there shall be included all the primary distribution circuit which it is necessary to build and also the length of the secondary circuit, in excess of 100 feet, to the point of connection with the consumer's service.

§ 231.15 *Extensions beyond specified distance.* If extensions are desired beyond the distances specified in §§ 231.11, 231.12, or if project funds are not available, the prospective consumers may after appropriate written agreement with the project engineer furnish or pay for such satisfactory line material and labor as may be necessary to construct the additional extension. The agreement may provide that part or all of the cost of the extension will be refunded to the consumer by allowing him a monthly credit equal to 20 percent of his bill each month during the life of the contract until the agreed amount is refunded but refund will not be made for any extension not along a public highway except the difference, if any, between the deposit and the actual cost thereof, which will be refunded monthly by credit allowance on monthly bills.

§ 231.16 *Extensions limited.* The project engineer shall decline to construct any extension which in his opinion will be excessive in cost or detrimental to the best interest of the project or for which appropriations and funds are not available. All extensions provided for under §§ 231.11, 231.12, and 231.15 shall remain the property of the United States.

§ 231.17 *Rights-of-way.* The consumer shall make or procure satisfactory conveyance to the United States of rights-of-way across property owned or controlled by the consumer, necessary for the lines of the United States or incidental to the furnishing of service.

§ 231.18 *Temporary service.* Unless the payment of the cost is satisfactorily guaranteed, applicants for temporary service shall be required to deposit with the special disbursing agent a sum of money equal to the estimated net cost of installing and removing any facilities necessary in connection with furnishing

such service, and also an additional sum approximately equal to the estimated bill for electric service: *Provided*, That if service is to continue for more than 2 months the said additional sum need not be greater than twice the estimated monthly bill. After service is discontinued an account shall be rendered to the consumer and proper adjustment shall be made.

§ 231.19 *Temporary service defined.* Temporary service refers to service to circuses, bazaars, fairs, construction works, and other business of such a nature that service on the premises will probably be discontinued within less than 1 year.

§ 231.20 *Type of service.* (a) Service for lights and usual domestic and other appliances, including motors of less than 5 horse power, will be single phase, either 115 or 230 volts, and two or three wire except when special approval for another type of service has been obtained from the project engineer:

(b) Three phase service at suitable voltage may be furnished for motor installations of 5 horse power and over providing a three phase circuit and the required voltage are available at the point where the consumer desires service.

(c) All service will be 60 cycle.

§ 231.21 *Service connections.* (a) The consumer shall furnish and install the service within the building and shall extend the service conductors at least 3 feet beyond the outside wall of the building. Service switch, service cut-outs and all necessary arrangements for meters shall be provided by the consumer in accordance with the following specifications:

(1) Service wires from the main line switch to the service entrance shall be encased in steel conduit and shall be brought outside the building at the location most convenient to the lines of the United States. If brought out elsewhere they shall be carried in conduit to the point designated by the power superintendent. Service wires will not be carried over buildings to reach outlets where clearance of 8 feet for roofs less than one-fourth pitch, and 2 feet for roofs greater than one-fourth pitch cannot be obtained. Outlets must be brought out at least 10 feet above the ground. If the consumer or his wiring contractor has any doubt as to the proper location for the service entrance, he should consult the power superintendent before the work is done.

(b) The ordinary method of connection with the street mains will be overhead wires. Customers desiring the feed wires to run underground must run their own wires in conduit from the building to the service arm on the pole where connection is to be made. Conduits on the pole must be installed in a manner satisfactory to the power superintendent. They must be placed outside the climbing space and must be wholly encased, from the upper end to a point not less than 8 feet below the lowest conductor on the pole, in a casing equal in durability and insulating value to a wooden casing not less than 1½ inches thick. Conduits must be provided at the upper end with a suitable weatherproof fitting installed not more than 4 inches below the service arm. The conductors must be of such size that at full load the voltage drop from the cross arm on the pole to the building entrance will not exceed 2 percent.

(c) Ordinarily not more than one service will be installed to any one building. An exception will be made where both single phase and three phase are required.

§ 231.22 *Entrance wires, switch, and protection.* (a) On single phase installations meters will be of the socket type. The socket and meter will be furnished by the United States. The socket shall be installed by the customer. From the load side of the meter socket the customer shall install the service wire in rigid conduit to a distribution box. This box must contain an automatic switch or breaker of an approved size for the connected demand. An additional grouping of branch fuse blocks or circuit breakers must be installed to serve lights, motors or other appliances, as required by the rules of the National Electrical Code. The neutral wire shall not be fused.

(b) On three phase installations a main line entrance switch must be placed on the line side of the meter and adjacent thereto. This switch shall be fused on the load side of the switch or an automatic circuit breaker of approved type and capacity shall be installed. If fuses are used they must be of cartridge type when the voltage is in excess of 150 volts to ground. The neutral wire shall not be fused.

(c) Entrance wires must be carried to the meter in rigid conduit and so arranged that they can be connected to the left side of the meter, and the load wires to the right side without crossing them near the meter.

(d) Where two or more meters are to be placed in one installation extra arrangements for meter sockets or loops and meter boards shall be made by the consumer and each meter shall be protected by an individual cutout and switch. In such a case, the meter loops must be plainly marked to show the service and load ends and to what circuit each belongs.

§ 231.23 *Location and installation of meters.* Meters will be furnished and installed by the United States. The consumer shall provide and maintain the necessary meter box or cabinet, switches, wiring, and test facilities. The locations of meters must be satisfactory to the power superintendent and in accordance with the following specifications:

(a) All meters must be located as near as possible to the point of entrance of the service, in a clean, dry, safe place, where they will be free from vibration.

(b) Meters must be in readily accessible locations so that the meter readers and test men may have access to the meters without inconveniencing the consumer. Location on an open porch or in an approved shelter on the outside of a building will be satisfactory. Under no circumstances will meters be installed in attics, sitting rooms, bathrooms, rest rooms, bedrooms, kitchens, or over stoves, sinks, tubs, doors, windows, or in any location where the visits of the meter reader or tester will cause annoyance to the customer.

(c) The proper height for all meters is about 6 feet above the floor or ground and no meter will be installed more than 8 feet nor less than 6 feet above the floor or working level. Meters must not be located above stairways, porch steps, basement entrances, or in any place where a short step ladder or chair cannot be safely placed for reaching the meter.

(d) Meter boards must be furnished by the consumer where meters are to be set on lath and plaster, concrete, brick, stone, metal, or uneven surfaces, or in other places where the meter cannot be conveniently supported directly on the wall. Meter boards must be not less than three-quarters of an inch thick, of sound wood, surfaced on all sides and of ample dimensions for the meters. They must be mounted in a substantial manner with their faces set truly vertical.

(e) A working space of not less than 24 inches must be provided and maintained in front of every meter and meter box.

(f) Where current and potential transformers are required for use with meters, ample provision shall be made by the consumer for their mounting and a ground wire shall be provided.

(g) Where two or more meters are to be placed in one building it is preferred that they be grouped at one common place.

(h) No load wires of any description shall be carried within the same conduit as the supply wires except in cases of pole metering for rural customers. Tampering or in any way interfering with a meter or its connections is prohibited.

§ 231.24 *Consumer responsible for equipment.* The consumer shall, at his own risk and expense, furnish, install, and keep in good and safe condition all electric wires, line, machinery, and apparatus which may be required for receiving electric energy from the United States, and for applying and utilizing such energy, including all necessary protective appliances therefor.

§ 231.25 *Change of consumer's equipment.* In the event the consumer shall make any material change either in the amount or character of the electric lamps, appliances, machinery, or apparatus installed upon his premises he shall immediately give the project engineer written notice thereof.

§ 231.26 *Apparatus detrimental to service.* (a) The project engineer may refuse to supply loads of a character that may seriously impair service to other consumers. He may require the consumer to provide suitable equipment to limit reasonably the fluctuations.

(b) All motors shall be provided with suitable starting devices or apparatus to limit their starting current.

(c) The project engineer may discontinue electric service to any consumer who shall continue to use appliances or apparatus detrimental to the service

after he has been notified to correct the condition and has failed to do so within a reasonable time.

§ 231.27 *Wiring standards.* (a) The project engineer may require all wiring and apparatus on consumers' premises to be installed in accordance with and to conform to the regulations of the State of Arizona and of the National Board of Fire Underwriters.

(b) The United States reserves the right to make all service connections. No service will be connected, where an inspection is required by municipal ordinance, until the installation has been inspected and approved by the municipal inspector.

§ 231.28 *Meter reading.* Meters will be read and bills for electric service will be rendered at regular intervals. Should the seal of the meter be broken by other than the proper representative of the United States, or in case the meter fails to register correctly, the consumer shall pay an amount estimated from the records of his previous use and other available and proper information. Bills are delinquent after the 15th day of the month succeeding that in which the service is rendered. Payments shall be made at the designated office of the Indian Irrigation Service or to a properly authorized employee of the Service.

§ 231.29 *Bills.* (a) Removal bills, special bills, bills for temporary service, bills rendered on vacation of premises, or bills rendered to persons discontinuing the service are due on presentation.

(b) Bills for connection or reconnection of service and payments for deposits or to reinstate deposits shall be paid before service is connected or reconnected.

§ 231.30 *Discontinuance of service on failure to pay bills.* On failure of the consumer to pay his bill for electric service within 30 days after the end of the period in which the service was rendered, the project engineer shall discontinue the supply of energy and service to the same consumer will not be resumed at the same or at any other location until the consumer has paid all bills then due, plus a reconnection charge of $2, and in addition has made to the special disbursing agent the cash deposit of $10 required by § 231.5.

§ 231.31 *Disputed bills.* (a) In case of a dispute between the consumer and project engineer as to the correct amount of any bill for electric service furnished the consumer, the consumer shall deposit the amount of the bill with the special disbursing agent and file a complete statement of his claim. The matter shall then be referred to the supervising engineer as provided in § 231.3.

(b) Service will not be discontinued because of nonpayment of bills if the amount of each bill, as it becomes due, is either paid to or deposited under protest with the special disbursing agent, as above within 30 days after the close of the month in which the electric service was rendered.

§ 231.32 *Notice by consumer.* A consumer about to vacate premises supplied with service or who desires discontinuance of service, shall give written notice of his intended removal at least 2 days prior thereto, specifying the date he desires service to be discontinued. If such notice is not given he will be held responsible for all electric energy furnished to such premises until the service is discontinued.

§ 231.33 *Tampering with equipment.* Tampering or in any way interfering with meters, transformers, poles, conductors, or any part of the property of the United States is prohibited, and any violation of this provision shall be subject to prosecution pursuant to law.

§ 231.34 *Fraud.* Service will be discontinued to any premises at any time when it is found necessary to protect against abuse, fraud, or theft.

§ 231.35 *Compensation of employees.* All employees are strictly forbidden to demand or accept any personal compensation for services rendered to a consumer.

§ 231.36 *Noncompliance with rules.* (a) Should a consumer be found to be violating the rules and regulations and should he not remedy the violation within a reasonable time after being notified in writing to do so, the project engineer may discontinue such service.

(b) Except in cases of emergency or as otherwise provided, the consumer will be given written notice of at least 5 days. The notice shall state the particular rule or regulation that has been violated and inform the consumer of the action to be taken. Advance notice need not be given in the event of the discovery of a dangerous condition on a consumer's premises, or in case a consumer is utilizing the service in such a manner as to make it dangerous to occupants of the premises.

§ 231.37 *Definition of maximum demand.* The maximum demand for each month shall be defined as the average amount of power used by the consumer during that period of 15 consecutive minutes when such average is the greatest for that month as determined from time to time by the United States by suitable meters or otherwise. If power under a single contract is delivered at more than one point or is measured by different sets of meters, the maximum demand for the purpose of the contract will be determined by taking the sum of the maximum demands indicated by the separate meters.

§ 231.38 *Interruptions to service.* The United States will furnish energy continuously so far as reasonable diligence will permit but the United States, its officers, agents, or employees shall not be liable for damages when, for any reason, suspensions of the operation of the power system of the United States, or any part thereof, interfere with the delivery of electrical energy to a consumer. Should such suspensions occur, due to causes arising on the system of the United States, the minimum bills of consumers who are affected may be reduced 1 percent for each 8 hours or major fraction of total suspension occurring in one month.

§ 231.39 *Written claim.* The consumer may make written claim, within thirty days after receiving monthly bill, for reduction on account of any suspension or suspensions alleged to have occurred and not considered in such bill. If written claim is not made within 30 days claim shall be deemed to have been waived. If any dispute arises as to the existence of any such suspension or whether any suspension is due to causes arising on the power system of the United States, the matter shall be referred to the supervising engineer as provided in § 231.3.

§ 231.40 *Contingent upon appropriations.* All contracts are subject to appriations being made by Congress from year to year of moneys sufficient to do the work provided for therein, and to there being sufficient moneys available to permit allotments to be made for the performance of said work. No liability shall accrue against the United States by reason of such moneys not being appropriated, nor on account of there not being sufficient moneys to permit sufficient allotments.

§ 231.51 *Combination rate, application of schedule.* This schedule is applicable to residences, stores, and other customers whose load is limited to 5 kilovolt amperes; all energy being measured through one meter.

Net monthly rate:

(a) A minimum charge of $3 per month, which $3 entitles the customer to the use of 60 K. W. H.

(b) 2.5 cents per K. W. H. for the next 250 K. W. H.

(c) 2.0 cents per K. W. H. for all additional K. W. H.

§ 231.52 *Minimum contract period.* The minimum contract period is one year. The contract, however, may be terminated if the customer vacates the premises, except in cases where an extension has been constructed to supply the customer.

§ 231.53 *General rate; application of schedule.* This schedule is applicable to all classes of service and is available to customers whose load is not limited or who for some other reason do not desire to take energy on the combination rate.

Rate per month:

(a) 6.0 cents per K. W. H. for first 25 K. W. H. per K. W. of maximum demand.

(b) 2.0 cents per K. W. H. for next 100 K. W. H. per K. W. of maximum demand.

(c) 1.5 cents per K. W. H. for all additional K. W. H.

(d) Minimum charge: $1 per month per K. W. of the customer's actual or agreed maximum demand, but not less than $5 per month.

§ 231.54 *Demand discounts.* The following discounts will be applied in accordance with maximum billing demand. Discounts do not apply to minimum charge:

	Percent
Less than 10 K. W. demand	0
10 K. W. demand and less than 15 K. W. demand	4
15 K. W. demand and less than 20 K. W. demand	6
20 K. W. demand and less than 25 K. W. demand	8
25 K. W. demand and less than 32 K. W. demand	10
32 K. W. demand and less than 40 K. W. demand	12
40 K. W. demand and less than 48 K. W. demand	14
48 K. W. demand and less than 58 K. W. demand	16
58 K. W. demand and less than 70 K. W. demand	18
70 K. W. demand and less than 85 K. W. demand	20
85 K. W. demand and less than 100 K. W. demand	22
100 K. W. demand and less than 125 K. W. demand	24
125 K. W. demand and less than 150 K. W. demand	26
150 K. W. demand and less than 175 K. W. demand	28
175 K. W. demand and less than 210 K. W. demand	30
210 K. W. demand and less than 245 K. W. demand	32
245 K. W. demand and less than 295 K. W. demand	34
295 K. W. demand and less than 360 K. W. demand	36
360 K. W. demand and less than 600 K. W. demand	38
600 K. W. demand and over	40

[3 F. R. 1607, July 1, 1938]

§ 231.55 *Minimum contract period.* The minimum contract period is one year. The contract, however, may be terminated if the customer vacates the premises except in cases where an extension has been constructed to supply the customer.

§ 231.56 *Rules and regulations.* Service under this schedule is rendered pursuant to §§ 231.1–231.40.

PART 232—FLATHEAD INDIAN IRRIGATION PROJECT, MONTANA

Sec.

232.1 Effective date; changes.
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232.23 Fraud; tampering.
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STANDARD RATE SCHEDULES

232.51 Rate Schedule No. 1: Residential, urban and rural.
232.52 Rate Schedule No. 2: Commercial.
232.53 Rate Schedule No. 3: Commercial water heating.
232.54 Rate Schedule No. 4: General.

AUTHORITY: §§ 232.1 to 232.54 issued under R. S. 161, sec. 7, 62 Stat. 273; 5 U. S. C. 22.

§ 232.1 *Effective date; changes.* The regulations in this part are approved for the conduct of the Electric Power System of the Flathead Indian Irrigation Project, Montana, referred to in this part as the project. They shall become effective on the first day of the second calendar month, which begins after June 30, 1949. The regulations in this part are subject to change by the proper authority and such changes shall apply to all contracts then and thereafter in effect.

§ 232.2 *Authority of project enginer.* The project engineer is responsible for the operation of the Electric Power System and the enforcement of the regulations in this part. He is authorized to carry out and enforce the regulations either directly or through the Power Superintendent or other project employees designated by him.

§ 232.3 *Disputes.* Any aggrieved party may file with the project engineer a written complaint regarding the application of the regulations. Within fifteen days after its receipt, the project engineer shall render a written decision thereon and serve a copy thereof on the aggrieved party. Within fifteen days from receipt of such decision, the aggrieved party may take an appeal to the Commissioner of Indian Affairs who shall render his decision within sixty days and his decision shall be final. Pending the determination of an appeal, electric service shall be continued, except in cases in which the question of the existence of dangerous conditions on the premises of the consumer is involved, provided the consumer pays the amount of each bill for electric service prior to the time when it becomes delinquent. If the question of the amount of a bill is involved in an appeal, the consumer shall be deemed to have paid the bill under protest and the payment shall be held in a special deposit account until the final decision has been made.

§ 232.4 *Applications; contracts.* In order to contract for the delivery of power, a written application for service under existing regulations accompanied by the required cash deposit and guarantees of the required minimum revenues to the project, shall be filed with the project engineer. Upon acceptance by him, the application will become a contract. In general, such application will be accepted where service lines exist. When special terms and conditions are involved in contracting for service, the project engineer shall require the execution of a form of contract in which such terms and conditions are fully set forth. Each contract involving the construction of a new extension shall be for a period of at least one year, but if the consumer vacates the premises, he shall be liable for the unpaid guaranteed revenue only to the extent that it is not liquidated by the succeeding occupant of the premises. The project engineer is authorized to reject applications which he deems to be adverse to the best interests of the project.

§ 232.5 *Deposits.* A cash deposit in an amount equal to twice the estimated monthly bill, but in no case less than $5.00, will be required from each applicant except that when the premises to be serviced are owned by the applicant, no deposit shall be required until a delinquency in the payment of a bill has occurred. Any cash deposit, less the amount of any unpaid bills, shall be refunded after the termination of service. Before extensions are constructed each applicant must deposit an amount sufficient to cover his portion of the required minimum charges for a period of one year, or must otherwise establish his credit and satisfy the project engineer of his intention to take service and his ability to meet the guarantees.

§ 232.6 *Extensions.* (a) The length of an extension constructed for each dollar of monthly revenue guaranteed to the project shall not exceed the following:

	Feet
In urban areas:	
Single-phase extensions	100
Three-phase extensions	60
In rural areas:	
Single-phase extensions	500
Three-phase extensions	300

(b) The length of an extension shall include the horizontal length of both the primary and secondary circuits exclusive of the service drops. In so far as practicable, all extensions shall be constructed along established highways. The prospective consumer or consumers, shall furnish or procure satisfactory rights-of-way necessary for the lines and other facilities of the project incidental to the furnishing of service. The project engineer may decline to construct any extension which, in his opinion, will be excessive in cost, or detrimental to the best interest of the project, or for which funds are not available. All extensions when constructed shall be and remain the property of the United States.

§ 232.7 *Extensions financed by consumer.* If funds, material, or labor are not otherwise available, or if an extension to a prospective consumer will require new construction beyond the distances, specified in § 232.6, the prospective consumer may, after executing an appropriate contract satisfactory to the project engineer, construct the needed extension. Such extensions shall be built in accordance with suitable plans and specifications approved by the project engineer. The contract may provide that part or all of the cost of the extension shall be refunded to the consumer by allowing him a monthly credit equal to 20 percent of the bill for each month, during the life of the contract or until the specified amount be refunded in full, but no claim for credit shall extend beyond the life of the contract. No refund, however, shall be made if the amount specified in section 6 of the act of May 25, 1948 (Public Law 554, 80th Congress), will be exceeded. Unless the approval of the Commissioner of Indian Affairs has been secured, no

refund shall be made for that portion of an extension not located along a public highway. All extensions constructed under the provisions of this section shall be and remain the property of the United States.

§ 232.8 *Temporary service.* Temporary service refers to service to circuses, bazaars, fairs, construction works, and other activities or businesses of such a nature that service to the premises occupied by them will probably be discontinued within five months. An applicant for temporary service shall be required to deposit with the project a sum of money equal to the estimated cost of installing and removing the necessary facilities and also an additional sum equal to the estimated bill for electric service: *Provided, however,* That such additional sum need not be greater than three times the estimated monthly bill. After termination of service, there shall be refunded any amount remaining on deposit in excess of the actual cost of installing and removing facilities, plus the unpaid amount of bills for electric power and energy, as determined by the project engineer.

§ 232.9 *Type of service.* Service for lights and the usual domestic and other appliances, including motors of less than five horsepower shall be single-phase, nominally 115- or 230-volts, and two- or three-wire, except when special written approval for another type of service has been obtained from the project engineer. Three-phase service at suitable voltage may be furnished for motor installations of five horsepower and over, provided a three-phase circuit of the required voltage and capacity is available where the service is desired. All service will be 60 cycle.

§ 232.10 *Service connections.* On each new service the consumer shall provide and maintain a service entrance at a location convenient to the lines of the project, and all connections from the service entrance to the meter base and from the meter base to the main line circuit breaker or distribution center. The meter socket and meter will be furnished by the United States. The meter socket shall be installed, however, by the consumer and in a suitable location, preferably on the outside of the building, or service pole, where the meter will be accessible to the meter-reader at all times. The meter socket shall not be more than seven feet nor less than five feet above the ground or floor. The entire service installation must be satisfactory to the project engineer and must conform to the provisions then in force of the National Electrical Code of the National Board of Fire Underwriters for Electric Wiring and Apparatus. When alterations of a consumer's premises make it necessary to move an existing meter loop, the consumer may be required to install a meter socket in the new loop, located in conformity with the stipulations of this section. When an inspection is required by municipal ordinance, the project engineer shall require a certificate of inspection and approval by the municipal inspector before connecting a new service.

§ 232.11 *Connection methods.* Service to a consumer's premises will ordinarily be supplied by means of overhead conductors. A consumer may at his own expense provide for an underground service. Such an underground service must be installed in accordance with the provisions of the National Electrical Code and shall be terminated on the pole at a location and in the manner directed by the project engineer. No connection from the circuits of the Electric Power System to a consumer's service entrance shall be made except by the project or its agents.

§ 232.12 *Multiple meter installations.* In the case of new installations in multiple-occupancy buildings such as apartment houses in connection with which more than one meter in a building is required, the meters shall be assembled at one central location. Each meter shall be clearly marked so as to make it possible to identify the consumer.

§ 232.13 *Consumer responsibility.* The consumer shall furnish, install and maintain at his own risk and expense in good and safe condition all protective devices, electric wires, lines, machinery, apparatus, and appliances which may be required or used for receiving and consuming electric energy obtained from the project. The consumer shall be responsible for conforming to the regulations of the Fire Marshal of the State of Montana and of the National Board of Fire Underwriters.

§ 232.14 *Change of equipment.* In the event that a consumer proposes to make any material change in the amount, size or character of the electrical equipment installed on his premises, he shall immediately give written notice of his intention to the project engineer.

§ 232.15 *Apparatus detrimental to service.* The project engineer may refuse to supply loads of a character detrimental to the system, or to service to other consumers, and he may require the installation of suitable corrective devices.

§ 232.16 *Motor starting equipment.* Motors having a rated capacity of three horsepower or more shall be provided with such starting and over-load equipment as may be required by the project engineer.

§ 232.17 *Service discontinued.* The Project Engineer may discontinue electric service to any consumer who shall continue to use appliances or apparatus detrimental to the project after he has been notified to correct the condition and has failed to do so within a reasonable time.

§ 232.18 *Bills for service.* Meters will normally be read and bills for electric service will be rendered at regular intervals. Payments by consumers should be made in person or remitted by check or money order payable to the order of the Treasurer of the United States and mailed to the designated office of the project.

§ 232.19 *Special bills.* Special bills, removal bills, bills for temporary service, bills rendered when premises are vacated or bills rendered to persons discontinuing service are due on presentation.

§ 232.20 *Bills due prior to service.* Bills for connection or reconnection of service, and required cash deposits shall be paid before service is connected, or reconnected.

§ 232.21 *Delinquent bills.* If payment of a bill is not made on or before the fifteenth day of the month following the date of its issue, the project engineer shall discontinue service and shall not restore the same until the consumer has paid all bills then due as well as a $2.00 reconnection charge, and satisfied any deposit requirement which may exist under § 232.5. The discontinuance of service shall not relieve the consumer of liability for minimum monthly payments guaranteed by him under his contract.

§ 232.22 *Discontinuance by consumer.* A consumer shall give at least two days' notice of his desire to discontinue service. If such notice is not given, he will be held liable for payment for all electric energy furnished to such vacated premises until service is discontinued.

§ 232.23 *Fraud; tampering.* Service shall be discontinued to any consumer, or to any premises at any time when, in the opinion of the project engineer, such action is necessary to protect against abuse, fraud, or theft. Tampering or in any way interfering with meters, transformers, poles, conductors, or any part of the property of the project is prohibited and is subject to prosecution pursuant to law.

§ 232.24 *Compensation of employees.* All employees are strictly forbidden to demand or accept any personal compensation for services rendered to a consumer, or any gratuity by reason of the rendition of services.

§ 232.25 *Hardship cases.* The project engineer may relax temporarily strict enforcement of a regulation when in his judgment such enforcement would work undue hardship upon a consumer but all such cases shall be reported promptly to the Commissioner of Indian Affairs with an explanation by the project engineer of the reason for taking such action. The Commissioner of Indian Affairs may cancel the action taken by the project engineer.

§ 232.26 *Interruptions to service.* The United States will furnish energy continuously so far as reasonable diligence will permit but the United States, its officers, agents or employees assume no liability for damages due to interruptions of service to the consumer.

§ 232.27 *Contingent upon appropriations.* All contracts are subject to appropriations made by Congress from year to year of monies sufficient to perform the work or render the service provided therein. No liability shall accrue against the United States by reason of the lack of appropriations.

STANDARD RATE SCHEDULES

§ 232.51 *Rate Schedule No. 1: Residential, urban and rural*—(a) *Application of schedule.* This schedule is available for single-phase electric service de-

livered through one meter to a consumer either urban or rural, for domestic and farm use, including operation of motors no one of which exceeds 5 horsepower in capacity. The electric service is to be used only on the consumer's own premises and must not be resold.

(b) *Monthly rate.*

(1) 4.0 cents per kilowatt-hour for first 50 kilowatt-hours.
(2) 2.0 cents per kilowatt-hour for next 50 kilowatt-hours.
(3) 1.0 cents per kilowatt-hour for next 900 kilowatt-hours.
(4) 1.5 cents per kilowatt-hour for all over 1,000 kilowatt-hours.

(c) *Minimum bill.*

(1) $1.50 per month in urban districts.
(2) $3.00 per month in rural districts.

§ 232.52 *Rate Schedule No. 2: Commercial*—(a) *Application of schedule.* This schedule is available for single-phase or three-phase electric service not exceeding a maximum demand of 20 kilowatts delivered through one meter for use in lighting, heating, operating appliances, and as power for motors which do not exceed 5 horsepower in capacity. The electric service is to be used only on the consumer's own premises and must not be resold.

(b) *Monthly rate.*

(1) 4.0 cents per kilowatt-hour for first 50 kilowatt-hours.
(2) 2.0 cents per kilowatt-hour for all over 50 kilowatt-hours.

(c) *Minimum bill.*

(1) $1.50 per month in urban districts.
(2) $3.00 per month in rural districts.

§ 232.53 *Rate Schedule No. 3: Commercial water heating*—(a) *Application of schedule.* This schedule is available for single-phase electric service delivered through a separate meter for use solely for water heating at 230 volts (nominal) in conjunction with service under either the commercial rate or general rate and applied to non-inductive, storage type water heaters satisfactory to the project engineer. The electric service is to be used only on the consumer's own premises and must not be resold.

(b) *Monthly rate.*

(1) 1.0 cents per kilowatt-hour for all energy used.

(c) *Minimum bill.*

(1) $2.00 per month per kilowatt of rated capacity of the heater elements.

(d) *Service may be intermittent.* The supply of electric energy under this schedule may, at the discretion of the project engineer, be discontinued during intervals of system peak loads and under other operating conditions which make such action desirable from the project standpoint.

(e) *Withdrawal of rate for violation.* The connection of unauthorized appliances to the water heating circuit or use of the water heating service for other purposes than water heating on the consumer's own premises shall be sufficient cause for withdrawal of the commercial water-heating rate and the refusal to allow it again on the same premises so long as the consumer violating the restriction will benefit therefrom. Service may, however, be rendered such consumer under the commercial or the general rate.

§ 232.54 *Rate Schedule No. 4: General*—(a) *Application of schedule.* This schedule is available for single-phase and three-phase electric services for all purposes. Unless specifically permitted by the contract, use must be limited to the consumer's premises and the power supplied must not be resold. If more than one meter is required by the consumer's installations, or for the consumer's convenience, a separate computation shall be made for each meter.

(b) *Monthly rate.*

(1) 4.0 cents per kilowatt-hour for first 50 kilowatt-hours per kilowatt of billing demand.
(2) 2.0 cents per kilowatt-hour for next 50 kilowatt-hours per kilowatt of billing demand.
(3) 1.0 cents per kilowatt-hour for all additional kilowatt-hours.

(c) *Discounts.* The following discounts will be applied in accordance with the contract demand as defined below. Discounts do not apply to the minimum charge.

	Percent
Less than 11 kw. of contract demand	0
11 kw. and more but less than 15 kw. of contract demand	4
15 kw. and more but less than 20 kw. of contract demand	6
20 kw. and more but less than 25 kw. of contract demand	8
25 kw. and more but less than 32 kw. of contract demand	10
32 kw. and more but less than 40 kw. of contract demand	12
40 kw. and more but less than 48 kw. of contract demand	14
48 kw. and more but less than 58 kw. of contract demand	16
58 kw. and more but less than 70 kw. of contract demand	18
70 kw. and more but less than 85 kw. of contract demand	20
85 kw. and more but less than 100 kw. of contract demand	22
100 kw. and more but less than 125 kw. of contract demand	24
125 kw. and more but less than 150 kw. of contract demand	26
150 kw. and more but less than 175 kw. of contract demand	28
175 kw. and more but less than 210 kw. of contract demand	30
210 kw. and more but less than 245 kw. of contract demand	32
245 kw. and more but less than 295 kw. of contract demand	34
295 kw. and more but less than 360 kw. of contract demand	36
360 kw. and more but less than 600 kw. of contract demand	38
600 kw. and more but less than 1,000 kw. of contract demand	40
1,000 kw. and more but less than 1,600 kw. of contract demand	41
1,600 kw. and more but less than 2,400 kw. of contract demand	42
2,400 kw. and more but less than 3,500 kw. of contract demand	43
3,500 kw. and more but less than 5,000 kw. of contract demand	44
5,000 kw. and over of contract demand	45

(d) *Additional discount.* If a customer takes delivery at the primary voltage of the distribution or transmission system of the project and at a location where the project has adequate and suitable facilities available for such delivery, and if the customer furnishes, installs, operates and maintains the substation or substations with step-down transformers, protective equipment and all other facilities (except metering equipment) needed by the customer in distributing and utilizing the delivered power and energy, all subject to conditions and specifications satisfactory to the project engineer, then in that case an additional discount will be allowed, to be applied after the monthly bill has been computed in accordance with the preceding schedule as follows:

(1) For delivery from the project distribution system at 2,300 volts or 11,000 volts (nominal), three-phase, a discount of 5 percent.
(2) For three-phase delivery from the project transmission system where not more than one transformation intervenes between the highest voltage of the project power system and the delivery to the customer—a discount of 8 percent.

(e) *Minimum bill.*

(1) $1.00 per month per kilowatt of billing demand, but not less than $10.00 per month.

(f) *Contract demand.* Each contract shall state the number of kilowatts which the customer expects to require and desires to have reserved for his service. This quantity is called the contract demand. The contract demand shall not be less than 10 kilowatts.

(g) *Actual demand.* The actual demand for any month shall be the average amount of power used during that period of 15 consecutive minutes when such average is the greatest for the month as determined by suitable meters, or if meters are unavailable, the actual demand shall be the connected load or such portion of the connected load as the project engineer may determine to be appropriate, based on available information as to the customer's use of connected lights and appliances or from check metering.

(h) *Billing demand.* The billing demand for a month shall be the contract demand or the actual demand for that month, whichever is the greater.

PART 233—SAN CARLOS IRRIGATION PROJECT, ARIZONA

INTERIM REGULATIONS AND RATES

Sec.

233.1 Effective date; changes.
233.2 Authority of Project Engineer.
233.3 Disputes.
233.4 Applications; contracts.
233.5 Deposits.
233.6 Extensions.
233.7 Installation or extension financed by consumer.
233.8 Temporary service.
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Sec.
233.26 Interruptions to service.
233.27 Contingent upon appropriations.
233.51 Rate Schedule No. 1; combination rate.
233.52 Rate Schedule No. 2: General rate.

AUTHORITY: §§ 233.1 to 233.52 issued under R. S. 161, sec. 5, 43 Stat. 476, 45 Stat. 210, 211; 5 U. S. C. 22.

§ 233.1 *Effective date; changes.* The regulations in this part are approved for the conduct of the electric power system of the San Carlos Project, Arizona, referred to in this part as the Project. The regulations in Part 231 of this subchapter shall no longer be applicable to the said Project. The regulations in this part shall become effective with the first billings made after the first day of the second calendar month which begins after the date of publication in the FEDERAL REGISTER. The regulations in this part are subject to change by the proper authority and such changes shall apply to all contracts then and thereafter in effect.

§ 233.2 *Authority of Project Engineer.* The Project Engineer is responsible for the operation of the electric power system and the enforcement of the regulations in this part. He is authorized to carry out and enforce the regulations either directly or through the power manager or other Project employees designated by him.

§ 233.3 *Disputes.* Any aggrieved party may file with the Project Engineer a written complaint regarding the application of the regulations. Within fifteen days after its receipt, the Project Engineer shall render a written decision thereon and serve a copy thereof on the aggrieved party. Within fifteen days from receipt of such decision, the aggrieved party may take an appeal to the Commissioner of Indian Affairs who shall render his decision within sixty days and his decision shall be final. Pending the determination of an appeal, electric service shall be continued, except in cases in which the question of the existence of dangerous conditions on the premises of the consumer is involved, provided the consumer pays the amount of each bill for electric service prior to the time when it becomes delinquent. If the question of the amount of a bill is involved in an appeal, the consumer shall be deemed to have paid the bill under protest and the payment shall be held in a special deposit account until the final decision has been made.

§ 233.4 *Applications; contracts.* In order to contract for the delivery of power, a written application for service under this part accompanied by the required cash deposit and guarantee of the required minimum revenues to the Project, shall be filed with the Project Engineer. Upon acceptance by him, the application will become a contract. In general, such application will be accepted where service lines exist. When special terms and conditions are involved in contracting for service, the Project Engineer shall require the execution of a form of contract in which such terms and conditions are fully set forth. Each contract involving the construction of a new extension shall be for a period of at least one year, but if the consumer vacates the premises, he shall be liable for the unpaid guaranteed revenue only to the extent that it is not liquidated by the succeeding occupant of the premises. The Project Engineer is authorized to reject applications which he deems to be adverse to the best interests of the Project.

§ 233.5 *Deposits.* A cash deposit in an amount equal to twice the estimated monthly bill, but in no case less than $10.00 will be required from each applicant except that when the premises to be serviced are owned by the applicant, no deposit need be required until a delinquency in the payment of a bill has occurred. Any cash deposit, less the amount of any unpaid bills, shall be refunded after the termination of service. Before extensions are constructed each applicant must deposit an amount sufficient to cover his portion of the required minimum charges for a period of not less than one year, and must otherwise establish his credit and satisfy the Project Engineer of his intention to take service and his ability to meet the guarantee.

§ 233.6 *Extensions.* (a) The length of an extension constructed for each dollar of monthly revenue guaranteed to the Project shall not exceed the following:

	Feet
In urban areas:	
Single phase extensions	100
Three phase extensions	80
In rural areas:	
Single phase extensions	330
Three phase extensions	210

(b) The length of an extension shall include the horizontal length of both the primary and secondary circuits exclusive of the service drops. Insofar as practicable, all extensions shall be constructed along established highways. The prospective consumer, or consumers, shall furnish or procure satisfactory rights-of-way necessary for the lines and other facilities of the Project incidental to the furnishing of service. The Project Engineer may decline to construct any extension which, in his opinion, will be excessive in cost, or detrimental to the best interest of the Project, or for which funds are not available. All extensions when constructed shall be and remain the property of the United States.

§ 233.7 *Installation or extension financed by consumer.* If funds, material or labor are not otherwise available for an installation or extension, of if an extension to a prospective consumer will require new construction beyond the distances specified in § 233.6 of this part, the consumer or prospective consumer may, after executing an appropriate contract satisfactory to the Project Engineer, construct the needed installation or extension, or deposit funds estimated to be sufficient to pay for the construction. Such installations or extensions shall be built in accordance with suitable plans and specifications approved by the Project Engineer. The contract may provide that part or all of the cost of the installation or extension, but not more than the amount specified on the said contract, shall be refunded to the consumer by allowing him a monthly credit not to exceed 20 per cent of the bill for each month during the life of the contract or until the specified amount be refunded in full, but no claim for credit shall extend beyond the life of the contract. Unless the approval of the Commissioner of Indian Affairs or his duly authorized representative has been obtained, no refund shall be made for that portion of an extension not located along a public highway. All installations and extensions constructed under the provisions of this section shall be and remain the property of the United States.

§ 233.8 *Temporary service.* Temporary service refers to service to circuses, bazaars, fairs, construction works, and other activities or businesses of such a nature that service to the premises occupied by them will probably be discontinued within five months. An applicant for temporary service shall be required to deposit with the Project Engineer of sum of money equal to the estimated cost of installing and removing the necessary facilities and also an additional sum equal to the estimated bill for electric service: *Provided, however,* That such additional sum need not be greater than three times the estimated monthly bill. After termination of service, there shall be refunded any amount remaining on deposit in excess of the actual cost of installing and removing facilities, plus the unpaid amount of bills for electric power and energy, as determined by the Project Engineer.

§ 233.9 *Type of service.* Service for lights and the usual domestic and other appliances, including motors of less than five horsepower shall be single phase, nominally 115 or 230 volts and two or three wire, except when special written approval for another type of service has been obtained from the Project Engineer. Three-phase service at suitable voltage may be furnished for motor installations of five-horsepower and over, provided a three-phase circuit of the required voltage and capacity is available where the service is desired. All service will be sixty cycle.

§ 233.10 *Service connections.* On each new service the consumer shall provide and maintain a service entrance at a location convenient to the lines of the Project, and all connections from the service entrance to the meter base and from the meter base to the main line circuit breaker or distribution center. The meter socket and meter will be furnished by the United States. The meter socket shall be installed, however, by the consumer and in a suitable location, preferably on the outside of the building, or on the service pole, where the meter will be accessible to the meter reader at all times. The meter socket shall not be more than seven feet nor less than five feet above the ground or floor. The entire service installation must be satisfactory to the Project Engineer and must conform to the provisions, then in force, of the National Electrical Code of the National Board of Fire Underwriters for Electric Wiring

and Apparatus. When alterations of a consumer's premises make it necessary to move an existing meter loop, the consumer may be required to install a meter socket in the new loop, located in conformity with the stipulations of this section. When an inspection is required by municipal ordinance, the Project Engineer shall require a certificate of inspection and approval by the municipal inspector before connecting a new service.

§ 233.11 *Connection methods.* Service to a consumer's premises will ordinarily be supplied by means of overhead conductors. A consumer may at his own expense provide for an underground service. Such an underground service must be installed in accordance with the provisions of the National Electrical Code and shall be terminated on the pole at a location and in the manner directed by the Project Engineer. No connection from the circuits of the Electrical Power System to a consumer's service entrance shall be made except by the Project or its agents.

§ 233.12 *Multiple meter installations.* In the case of new installations in multiple-occupancy buildings such as apartment houses in connection with which more than one meter in a building is required, the meters shall be assembled at one central location. Each meter shall be clearly marked so as to make it possible to identify the consumer.

§ 233.13 *Consumer responsibility.* The consumer shall furnish, install and maintain at his own risk and expense in good and safe condition all protective devices, electric wires, lines, machinery, apparatus, and appliances which may be required or used for receiving and consuming electric energy obtained from the Project. The consumer shall be responsible for conforming to the regulations of the National Board of Fire Underwriters and to any other regulations applicable to his installation.

§ 233.14 *Change of equipment.* In the event that a consumer proposes to make any material change in the amount, size or character of the electrical equipment installed on his premises, he shall immediately give written notice of his intention to the Project Engineer.

§ 233.15 *Apparatus detrimental to service.* The Project Engineer may refuse to supply loads of a character detrimental to the system, or to service to other consumers, and he may require the installation of suitable corrective devices.

§ 233.16 *Motor starting equipment.* Motors having a rated capacity of three horsepower or more shall be provided with such starting and overload equipment as may be required by the Project Engineer.

§ 233.17 *Service discontinued.* The Project Engineer may discontinue electric service to any consumer who shall continue to use appliances or apparatus detrimental to the Electric Power System after he has been notified to correct the condition and has failed to do so within a reasonable time.

§ 233.18 *Bills for service.* Meters will normally be read and bills for electric service will be rendered at regular intervals. Payments by consumers should be made in person or remitted by check or money order, payable to the order of the Treasurer of the United States, and mailed to the designated office of the Project.

§ 233.19 *Special bills.* Special bills, removal bills, bills for temporary service, bills rendered when premises are vacated or bills rendered to persons discontinuing service are due on presentation.

§ 233.20 *Bills due prior to service.* Bills for connection or reconnection of service, and required cash deposits shall be paid before service is connected, or reconnected.

§ 233.21 *Delinquent bills.* Bills for electric service will be delinquent if not paid on or before the twentieth day following the date of issue. When such delinquency occurs, the Project Engineer shall discontinue service and service shall not be restored until the consumer has paid all bills then due plus a reconnection charge of $2.00 and has made the deposit required under § 233.5. Discontinuance of service for delinquency shall not relieve the consumer of liability for minimum monthly payments guaranteed by him under his contract.

§ 233.22 *Discontinuance by consumer.* Notice of his desire to have service disconnected shall be given by the consumer at least two days in advance. In the absence of such notice the contractor will be held liable for payment for all electrical energy furnished to such vacated premises until service is discontinued. Final bills may be paid by application of the consumer's guarantee deposit to the extent that they are covered thereby. Any surplus remaining in the deposit will be returned to the consumer after the contract is terminated. Where the deposit is insufficient, the consumer will be billed for the difference which shall be immediately due and payable.

§ 233.23 *Fraud; tampering.* Service shall be discontinued to any consumer, or to any premises at any time when, in the opinion of the Project Engineer, such action is necessary to protect against abuse, fraud, or theft. Tampering or in any way interfering with meters, transformers, poles, conductors, or any part of the property of the Project is prohibited and is subject to prosecution pursuant to law.

§ 233.24 *Compensation of employees.* All employees are strictly forbidden to demand or accept any personal compensation for services rendered to a consumer, or any gratuity by reason of the rendition of services.

§ 233.25 *Hardship cases.* The Project Engineer may relax temporarily strict enforcement of a regulation when in his judgment such enforcement would work undue hardship upon a consumer, but all such cases shall be reported promptly to the Commissioner of Indian Affairs with an explanation by the Project Engineer of the reason for taking such action. The Commissioner of Indian Affairs may cancel the action taken by the Project Engineer.

§ 233.26 *Interruptions to service.* The United States will furnish energy continuously so far as reasonable diligence will permit. But the United States, its officers, agents or employees, assume no liability for damages due to interruptions of service to the consumer.

§ 233.27 *Contingent upon appropriations.* All contracts are subject to appropriations made by Congress from year to year of monies sufficient to perform the work or render the service provided therein. No liability shall accrue against the United States by reason of the lack of appropriations.

§ 233.51 *Rate Schedule No. 1; combination rate*—(a) *Application of schedule.* This schedule is applicable to either single phase or three phase service for all purposes. It is especially suitable for residences, farms, stores, commercial uses and installations with similar load characteristics having normal load factors and maximum demands of less than 50 kilowatts. Unless specifically permitted by the contract, use must be limited to the consumer's own premises and power supplied must not be resold. If more than one meter is required by the customer's installation, or for the customer's convenience, bills will be independently calculated for each meter.

(b) *Monthly rate.*

(1) 4 cents per kilowatt-hour for the first 50 kilowatt-hours.

(2) 3 cents per kilowatt-hour for the next 50 kilowatt-hours.

(3) 2 cents per kilowatt-hour for the next 200 kilowatt-hours.

(4) 1.5 cents per kilowatt-hour for all additional kilowatt-hours.

(c) *Minimum bill.* The minimum bill shall be $2.00 per month except when a higher minimum bill is stipulated in the contract.

§ 233.52 *Rate Schedule No. 2: General rate*—(a) *Application of schedule.* This schedule is applicable to three phase electric service for all purposes. Unless specifically permitted by the contract, use must be limited to the customer's premises and the power supplied must not be resold. If more than one meter is required by the customer's installations, or for the customer's convenience, bills will be independently calculated for each meter.

(b) *Monthly rate.*

(1) 3.0 cents per kilowatt-hour for first 25 kilowatt-hours per kilowatt of billing demand.

(2) 2.0 cents per kilowatt-hour for next 100 kilowatt-hours per kilowatt of billing demand.

(3) 1.5 cents per kilowatt-hour for all additional kilowatt-hours.

(c) *Discounts.* The following discounts will be applied in accordance with the contract demand as defined below. Discounts do not apply to the minimum charge.

	Percent
Less than 25 kw. of contract demand	0
25 kw. and more but less than 32 kw. of contract demand	10
32 kw. and more but less than 40 kw. of contract demand	12
40 kw. and more but less than 48 kw. of contract demand	14
48 kw. and more but less than 58 kw. of contract demand	16
58 kw. and more but less than 70 kw. of contract demand	18
70 kw. and more but less than 85 kw. of contract demand	20
85 kw. and more but less than 100 kw. of contract demand	22
100 kw. and more but less than 125 kw. of contract demand	24
125 kw. and more but less than 150 kw. of contract demand	26
150 kw. and more but less than 175 kw. of contract demand	28
175 kw. and more but less than 210 kw. of contract demand	30
210 kw. and more but less than 245 kw. of contract demand	32
245 kw. and more but less than 295 kw. of contract demand	34
295 kw. and more but less than 360 kw. of contract demand	36
360 kw. and more but less than 600 kw. of contract demand	38
600 kw. and more of contract demand	40

(d) *Minimum bill.* The minimum bill shall be $1.00 per month per kilowatt of billing demand and no discount shall apply to this minimum.

(e) *Contract demand.* Each contract shall state the number of kilowatts which the customer expects to require and desires to have reserved for his service. This quantity is called the contract demand. The stated quantity need not be the same for all months of the year but the contract demand shall not be less than 20 kilowatts in any month for which a demand is stipulated.

(f) *Actual demand.* The actual demand for any month shall be the average amount of power used during the period of 15 consecutive minutes when such average is the greatest for the month as determined by suitable meters or, if meters are unavailable, the actual demand shall be the connected load or such portion of the connected load as the Project Engineer may determine to be appropriate based on available information as to the customer's use of connected lights, appliances and equipment or from check metering.

(g) *Billing demand.* The billing demand for a month shall be the contract demand, or the actual demand for that month, whichever is the greater.

Subchapter V—[Reserved]

Subchapter W—Miscellaneous Activities

Subchapter W—Miscellaneous Activities

PART 251—LICENSED INDIAN TRADERS

Sec.

251.1 Sole power to appoint.
251.2 Presidential prohibition.
251.3 Forfeiture of goods.
251.5 Government employees not to trade with Indians except in certain cases.
251.6 Small purchases.
251.8 Regulating sale of arms and ammunition.
251.9 Application for license.
251.10 Bond requirements.
251.11 License period.
251.12 License renewal.
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251.14 Trade limited to specified premises.
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251.16 Trade in annuities or gratuities prohibited.
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251.19 Drugs.
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251.22 Inspection of traders' prices.
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251.24 Cash payments only to Indians.
251.25 Trade in antiquities prohibited.
251.26 Infectious plants.

AUTHORITY: §§ 251.1 to 251.26 issued under sec. 5, 19 Stat. 200, sec. 1, 31 Stat. 1066, as amended; 25 U. S. C. 261, 262. Statutory provisions interpreted or applied are cited to text in parentheses.

CROSS REFERENCES: For law and order regulations on Indian reservations, see Part 11 of this chapter. For regulations pertaining to traders on Navajo, Zuni, and Hopi reservations, see Part 252 of this chapter.

§ 251.1 *Sole power to appoint.* The Commissioner of Indian Affairs shall have the sole power and authority to appoint traders to the Indian tribes. Any person desiring to trade with the Indians on any reservation may, upon establishing the fact, to the satisfaction of the Commissioner of Indian Affairs, that he is a proper person to engage in such trade, be permitted to do so under such rules and regulations as the Commissioner of Indian Affairs may prescribe.

§ 251.2 *Presidential prohibition.* The President is authorized, whenever in his opinion the public interest may require, to prohibit the introduction of goods, or of any particular articles, into the country belonging to any Indian tribe, and to direct that all licenses to trade with such tribe be revoked, and all applications therefor rejected. No trader shall, so long as such prohibition exists, trade with any Indians of or for said tribe.

(R. S. 2132; 25 U. S. C. 263)

§ 251.3 *Forfeiture of goods.* Any person other than an Indian of the full blood who shall attempt to reside in the Indian country, or on any Indian reservation, as a trader, or to introduce goods, or to trade therein, without a license, shall forfeit all merchandise offered for sale to the Indians or found in his possession, and shall moreover be liable to a penalty of $500: *Provided,* That this section shall not apply to any person residing among or trading with the Choctaws, Cherokee, Chickasaws, Creeks, or Seminoles, commonly called the Five Civilized Tribes: *And provided further,* That no white person shall be employed as a clerk by any Indian trader, except as such trade with said Five Civilized Tribes, unless first authorized so to do by the Commissioner of Indian Affairs.

(R. S. 2133, as amended; 25 U. S. C. 264)

§ 251.5 *Government employees not to trade with Indians except in certain cases.* Save as authorized by the act of June 19, 1939 (53 Stat. 840; 25 U. S. C. 68a, 87a, 441), no person employed in Indian affairs shall have any interest or concern in any trade with the Indians except for and on account of the United States; and any person offending herein shall be liable to a penalty of $5,000 and shall be removed from his office. Pending the promulgation of regulations prescribing in more detail the transactions authorized by the act of June 19, 1939, employees of the United States Government, including those in the Bureau of Indian Affairs, may be permitted to trade with Indians or Indian organizations under the conditions specified below:

(a) Employees of the United States Government, including those in the Bureau of Indian Affairs may, with the approval of the Secretary of the Interior in each case where the amount involved exceeds $100, or with the approval of the superintendent or other officer in charge, where the amount involved does not exceed $100, be permitted to purchase from any Indian or Indian organization any arts and crafts or any other product, service or commodity produced, rendered, owned, controlled or furnished by any Indian or Indian organization: *Provided,* That no employee of the United States Government shall be permitted to make any such purchases for the purpose of engaging directly or indirectly in the commercial selling, reselling, trading, or bartering of said purchases by the said employee: *And provided further,* That employees in Alaska may in each case make such purchases with the approval of the Secretary of the Interior where the amount involved exceeds $250, and with the approval of the superintendent or other officer in charge where the amount involved does not exceed $250.

(b) *United States employees, Indian blood.* Indian employees of the United States Government, of whatever degree of Indian blood, may be members in the same manner as other Indian members of the tribe not so employed and receive benefits by reason of their membership in such tribes in corporation or cooperative associations, organized by and operated for Indians. Such Indian government employees may engage in all lawful transactions with Indians, Indian tribes and such corporations or cooperative associations. None of the transactions authorized herein may be entered into by such employees for the purpose of engaging directly or indirectly in the selling, releasing, trading, bartering or passing on in any other way for profit the objects, rights, services or property thus acquired. Nothing in this section shall prevent in proper cases the disposition of any such property when such transaction cannot be considered as actually engaging in any of the businesses prohibited in this section. All transactions authorized herein to be valid must be approved by the Secretary of the Interior.

(c) *Leases or sales restricted Indian land.* Leases or sales of trust or restricted Indian land to or from Indian employees of the United States Government must be made on sealed bids unless the Commissioner of Indian Affairs waives this requirement on the basis of a full report showing (1) the need for the transaction, (2) the benefits accruing to

both parties, and (3) that public bids are not feasible and could not be expected to bring a higher price than the proposed private transaction. An affidavit as follows shall accompany each proposed land transaction:

I, _____, _____
(Name) (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.

(53 Stat. 840; 25 U. S. C. 68a, 87a, 441)

§ 251.6 *Small purchases.* The purchase in small quantities for home use or consumption by Government employees or others, of blankets, baskets, etc., and articles of subsistence offered for sale by Indians, is held not to constitute trading with Indians within the meaning of section 2078 of the Revised Statutes.

(R. S. 2078; 25 U. S. C. 68)

§ 251.8 *Regulating sale of arms and ammunition.* Arms and ammunition may not be sold to the Indians by traders except upon permission of the superintendent, which will be granted only for clearly established lawful purposes.

§ 251.9 *Application for license.* Application for license must be made in writing on Form 5–052,[1] setting forth the full name and residence of the applicant; if a firm, the firm name and the name of each member thereof; the place where it is proposed to carry on the trade; the capital to be invested; the names of the clerks to be employed; and the business experience of the applicant. The application must be forwarded through the superintendent to the Commissioner of Indian Affairs, accompanied by two satisfactory testimonials on Form 5–077 as to the character of the applicant and his employees and their fitness to be in the Indian country, and by an affidavit of the superintendent on Form 5–053 that neither he nor any person for him has any interest, direct or indirect, present or prospective, in the proposed business or the profits arising therefrom, and that no arrangement for any benefit to himself or to any other person on his behalf is contemplated in case the license is granted. Licensed traders will be held responsible for the conduct of their employees.

§ 251.10 *Bond requirements.* (a) Application for license must be accompanied by a bond in the name of the proposed licensee in the amount of $10,000, or such less sum as may be designated by the Commissioner of Indian Affairs, with two or more sureties approved by the superintendent, 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.

(b) The residence of each principal and surety must be distinctly stated, and the signature of each of them attested by two witnesses, and it must appear for whom each witness signs.

[1] Forms may be obtained from the Commissioner of Indian Affairs, Washington 25, D. C.

(c) Individual sureties must not be bonded officers of the United States, attorneys having business before the Bureau of Indian Affairs, or employees of the principal.

§ 251.11 *License period.* No license will be granted for a longer period than 1 year; but at the end of that time, if the Commissioner of Indian Affairs is satisfied that the trade has been conducted properly and that the laws and regulations and terms of the license have been duly observed, a new license may be granted.

§ 251.12 *License renewal.* Application for renewal of license must be made to the Commissioner of Indian Affairs on Form 5-054, through the superintendent, at least 30 days prior to the expiration of the existing license, and the superintendent must report as to the record the applicant has made as a trader and his fitness to continue as such under a new license.

§ 251.13 *Power to close unlicensed stores.* If persons carry on trade within a reservation with the Indians without a license, or continue to trade after expiration of the license without applying for renewal, the superintendent will immediately report the facts in the case to the Commissioner of Indian Affairs, who may, if necessary, direct the superintendent to close the stores of such traders.

§ 251.14 *Trade limited to specified premises.* No trade with Indians is permitted at any other place than that specified in the license. Licenses do not cover branch stores. A separate license and bond must be furnished for each such store. The business of a licensed trader must be managed by the bonded principal, who must habitually reside upon the reservation, and not by an unbonded subordinate.

§ 251.15 *License applicable for trading only by original licensee.* No trader will be allowed to lease, sublet, rent, or sell any of the buildings which he occupies, for any purpose to any other person or concern, without the approval of the Commissioner of Indian Affairs. A license to trade with Indians does not confer upon the trader any right or privileges in respect to the herding or raising of livestock upon the reservation. The use of reservation lands, whether tribal or allotted, for such purposes can be obtained by a trader only upon the terms and under the restrictions which apply to other persons. His license gives him no advantage over others in this respect.

§ 251.16 *Trade in annuities or gratuities prohibited.* Traders are forbidden to buy, trade for, or have in their possession any annuity or other goods of any description which have been purchased or furnished by the Government for the use or welfare of the Indians. Livestock or their increase purchased by the Government and in possession or control of the Indians may not be purchased by any trader, not a member of the tribe to which the owners or possessors of the cattle belong, except with the written consent of the agent of said tribe.

§ 251.17 *Tobacco sales to minors.* No trader shall sell tobacco, cigars, or cigarettes to any Indian under 18 years of age.

§ 251.18 *Intoxicating liquors.* No trader shall use or permit to be used his premises for any unlawful conduct or purpose whatsoever. No trader shall use or permit to be used any part of his premises for the manufacture, sale, gift, transportation, drinking or storage of intoxicating liquors or beverages in violation of existing laws relating thereto. Violation of this section will subject the trader to criminal prosecution, revocation of license and such other action as may be necessary.

§ 251.19 *Drugs.* Traders shall not keep for sale, or sell, give away, or use any opium, chloral, cocaine, peyote or mescal bean, hashish or Indian hemp or marihuana, or any compound containing either ingredient, and for violation hereof the trader's license shall be revoked.

§ 251.21 *Gambling.* Gambling, by dice, cards, or in any way whatever, is strictly prohibited in any licensed trader's store or on the premises.

§ 251.22 *Inspection of traders' prices.* It is the duty of the superintendent to see that the prices charged by licensed traders are fair and reasonable. To this end the traders shall on request submit to the superintendent or inspecting officials the original invoice, showing cost, together with a statement of transportation charges, retail price of articles sold by them, the amount of Indian accounts carried on their books, the total annual sales, the value of buildings, livestock owned on reservation, the number of employees, and any other business information such officials may desire. The quality of all articles kept on sale must be good and merchantable.

§ 251.23 *Credit at trader's risk.* Credit given Indians will be at the trader's own risk, as no assistance will be given by Government officials in the collection of debts against Indians. Traders shall not accept pawns or pledges of personal property by Indians to obtain credit or loans.

§ 251.24 *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.

§ 251.25 *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 REFERENCES: For additional regulations pertaining to preservation of antiquities, see Part 132 of this chapter. For regulations of the Bureau of Land Management regarding antiquities, see 43 CFR Part 3.

§ 251.26 *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 252—TRADERS ON NAVAJO, ZUNI, AND HOPI RESERVATIONS

Sec.

252.1 Sole power to appoint.
252.2 Presidential prohibitions.
252.3 Forfeiture of goods.
252.4 Government employees not to trade with Indians.
252.5 Purchase in small quantities allowed.
252.6 Application for license.
252.7 Records, reports and obligations of traders.
252.8 Licensee; owner of trading post.
252.9 Bond requirements.
252.10 License period.
252.11 Application for renewal.
252.12 Temporary permits.
252.13 Trade confined to licensed premises.
252.14 Subleasing; livestock herding prohibited.
252.15 Gambling prohibited.
252.16 Security.
252.17 Credit at trader's risk.
252.18 Government checks paid in cash.
252.19 Premises kept in sanitary condition.
252.20 Traders' responsibility.
252.21 License fee.
252.22 Grants and donations prohibited.
252.23 Introduction of livestock prohibited.
252.24 Trade in antiques prohibited.
252.25 Imitation Indian crafts prohibited.
252.26 Sunday trading.
252.27 Purchase of annuities and gratuities goods prohibited.
252.27a Amusement companies.
252.27b Peddlers.
252.27c Fees of governing body.
252.28 Amendments.

AUTHORITY: §§ 252.1 to 252.28 issued under sec. 5, 19 Stat. 200, sec. 1, 31 Stat. 1066, as amended; 25 U. S. C. 261, 262. Statutory provisions interpreted or applied are cited to text in parentheses.

CROSS REFERENCES: For law and order regulations on Indian reservations, see Part 11 of this chapter. For regulations pertaining to traders on other reservations, see Part 251 of this chapter.

§ 252.1 *Sole power to appoint.* The Commissioner of Indian Affairs shall have the sole power and authority to appoint traders to the Indian tribes. Any person desiring to trade with the Indians of the Navajo, Zuni, and Hopi Reservations may, upon establishing the fact, to the satisfaction of the Commissioner of Indian Affairs, that he is a proper person to engage in such trade, be permitted to do so under such rules and regulations as the Commissioner of Indian Affairs may prescribe.

§ 252.2 *Presidential prohibitions.* The President is authorized, whenever in his opinion the public interest may require, to prohibit the introduction of goods, or of any particular articles, into the country belonging to the Navajo, Hopi, and Zuni Indians and to direct that all licenses to trade with such tribes be revoked, and all applications therefor rejected. No trader shall, so long as such prohibition exists, trade with any Indians of or for said tribe or members of any other tribe residing on the Navajo, Zuni or Hopi Reservations.

(R. S. 2132; 25 U. S. C. 263)

§ 252.3 *Forfeiture of goods.* Any person whether Indian or white who shall establish himself as a trader within the exterior boundaries of the Navajo, Hopi, or Zuni Reservations, or introduce goods or trade therein, without a license, shall forfeit all merchandise offered for sale to the Indians or found in his possession and shall moreover be liable to a penalty of $500.

(R. S. 2133, as amended; 25 U. S. C. 264)

§ 252.4 *Government employees not to trade with Indians.* No person employed by the United States Government shall have any interest or concern in any trade with the Indians, except for and on account of the United States; and any person offending herein shall be liable to a penalty of $5,000 and shall be removed from his office.

(R. S. 2078; 25 U. S. C. 68)

§ 252.5 *Purchase in small quantities allowed.* The purchase in small quantities for home use or consumption by Government employees or others, of blankets, baskets, etc., and articles of subsistence offered for sale by Indians, is held not to constitute trading with Indians within the meaning of section 2078 of the Revised Statutes.

(R. S 2078; 25 U S. C. 68)

§ 252.6 *Application for license.* Application for license or renewal of license must be made in writing on a form provided by the Commissioner of Indian Affairs, setting forth the full name and residence of the applicant and three responsible references. If applicant is a firm, the firm name and the name of each member thereof; the place where it is proposed to conduct the trading post; and upon the request of the superintendent, the capital invested or to be invested and of this the amount of capital owned and the amount borrowed, or to be borrowed; the name of the lender of the borrowed capital; the date due, the rate of interest to be paid; indorsers and security; copy of any contract or trade agreement, or agreements, oral or written, with creditors or financing individuals or institutions, including any stipulations whereby financing fees are to be paid, directly or indirectly, tending to restrict the trader as a bargainer in the wholesale markets or otherwise to increase the delivered wholesale costs of merchandise at the trading posts. Application must be accompanied by satisfactory evidence as to the character, experience, and business ability of applicant and his employees and their general fitness to reside on the Indian reservation. All such information shall be considered as confidential. No employee in the Government service shall exert undue influence, direct or indirect, to help any applicant secure a license.

§ 252.7 *Records, reports and obligations of traders.* (a) Each trader shall keep in a form approved by the Commissioner of Indian Affairs accurate records of his business activities and render annually not later than March 1 a report to the superintendent showing capital investment, increases and withdrawals, whether in the form of cash, merchandise, or other property; the value of buildings and improvements, furnishings and fixtures, miscellaneous assets such as automobiles, trucks, or other property essential to the business; a complete record of all liabilities, including accounts, bills and notes payable, and the amount of cash received and disbursed, balances, whether on hand, on deposit, or due the store; the accounts, and notes receivable, and the pawns of pledges taken. The names and respective interests of all persons participating in the business shall be furnished.

(b) The price of all articles of merchandise placed on sale shall be plainly and visibly marked by the trader.

§ 252.8 *Licensee; owner of trading post.* A licensee of a trading post shall be the owner of the business. He shall be responsible to the Commissioner of Indian Affairs for the entire operation of the trading post, including acts of commission or omission of his employees, and for reports required by the Commissioner of Indian Affairs.

§ 252.9 *Bond requirements.* Application for license must be accompanied by a bond in the name of the proposed licensee in the amount of $10,000, or such less sum as may be designated by the superintendent or the Commissioner of Indian Affairs, with two or more sureties approved by the superintendent, 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

§ 252.10 *License period.* Licenses to trade shall not be issued unless the proposed licensee has a right to the use of the land on which the business is to be conducted. The license period shall correspond to the period of the permit or lease held by the licensee on restricted Indian land. The license period in no event shall exceed 25 years. Licenses for periods not to exceed 10 years may be issued by the area director.

§ 252.11 *Application for renewal.* Application for renewal of license must be made to the Commissioner of Indian Affairs on a form[1] prescribed by him, through the superintendent, at least 3 months prior to the expiration of the existing license, and the superintendent must report to the Commissioner of Indian Affairs as to the record the applicant has made as a trader and his fitness to continue under such a license.

§ 252.12 *Temporary permits.* No trader shall carry on trade with the Indians without a license, or continue to trade with the Indians after the expiration of the license. A temporary license for 3 months may be issued by the Commissioner of Indian Affairs, or his duly authorized representative, pending con-

[1] Forms may be obtained from the Commissioner of Indian Affairs, Washington 25, D. C.

sideration of application for renewal of license. In case the trader has neither a temporary permit nor a renewal of license, the Commissioner of Indian Affairs or his duly authorized representative is authorized to close the trading post of such trader. Upon the approval of the tribal council concerned, a trader may be granted the use of not to exceed eight acres of tribal land as a site for a trading post, corrals and other buildings required in connection with the business.

§ 252.13 *Trade confined to licensed premises.* All trade with Indians shall be confined to the premises specified in the license, except the buying of livestock and livestock products, which shall be covered by special permits issued by the superintendent.

§ 252.14 *Subleasing; livestock herding prohibited.* No trader will be allowed to lease, sublet, rent, or sell any of the buildings which he occupies, for any purpose to any other person or concern, without the approval of the Commissioner of Indian Affairs, and the consent of the tribal council concerned. A license to trade with Indians does not confer upon the trader any right or privileges in respect to the herding or raising of livestock upon the reservation or in conjunction with Indians.

§ 252.15 *Gambling prohibited.* Gambling, by dice, cards, or in any way whatever including any mechanical device is strictly prohibited in any licensed trader's store or on the premises.

§ 252.16 *Security.* (a) Traders may accept pawns or pledges of personal property for security of accounts due to them by Indians. Traders shall be liable for the market value of all pawns or pledges held by them. The market value shall be settled by agreement between the Indian and the trader at the time of the transaction. In all cases where pawns or pledges are accepted by the trader a written receipt shall be given the Indian showing (1) the date of the transaction, (2) the nature of the pawn or pledge, (3) the amount loaned thereon, and (4) its market value as agreed upon between the Indian and the trader. A pawn or pledge not redeemed within 11 months shall be displayed in a conspicuous place in the trader's store for a period of 30 days together with a notice stating that unless the amount due, which shall be specified, is paid before the expiration of the 30 days, such pawn or pledge will be forfeited. At the expiration of 12 months from the date of the original loan, a pawn or pledge not redeemed shall become the property of the trader, in which event the amount due shall be cancelled on the trader's books. Notice of such cancellation shall be given in writing to the interested Indian.

(b) On the Navajo Reservation the period for the redemption of a pawn or pledge shall be 6 months unless at least 30 days prior to the expiration of such period not less than 25% of the amount due has been paid, in which case the redemption period shall be 8 months; an additional period of 2 months shall be added to the redemption period for every additional 25% of the amount due that may be paid. The provisions of paragraph (a) of this section with respect to display, forfeiture, and payment within any 30 day period of grace, shall be applicable also to pawns or pledges taken on the Navajo Reservation.

§ 252.17 *Credit at trader's risk.* A trader may extend credit to Indians, but such credit will be at the trader's own risk. All payments to Indians for products or labor must be made in lawful United States money or in credit on the traders' books at the option of the Indian. Receipt must be given Indians for all articles they have sold to traders and on which they have requested book credit. These receipts must show the following information: (a) the date the transaction was made, (b) the amount paid the Indian, and (c) a description of the article or articles sold. All receipts issued by the trader for Indian products must be recorded in the trader's books in such manner that all information contained in the receipt is duplicated. Receipts may be transferred upon order of the initial recipient if it is to his convenience that such a procedure be followed.

§ 252.18 *Government checks paid in cash.* Traders must pay all Government checks accepted in cash, merchandise or credit to the full value of the check presented. The acceptance of cash, merchandise, or credit for Government checks shall be at the option of the Indian in all cases.

§ 252.19 *Premises kept in sanitary condition.* The traders shall keep both their premises and places of business in a clean, sanitary, and presentable condition at all times and shall avoid exposure of foodstuffs to infection from the air, dust, insects or handling. It shall be the duty of the health officers of the reservation and their assistants to make periodical inspections, recommend improvements, and report thereon to the Commissioner of Indian Affairs or his duly authorized representatives.

§ 252.20 *Traders' responsibility.* Traders shall be kept responsible through bond for any loss of Indians' property in their possession, including credit on books.

§ 252.21 *License fee.* (a) An annual license fee of $50.00 shall be paid in advance by all licensed traders who are not members of the Navajo, Zuni, or Hopi Tribes. The area director shall determine the amount of such license fee to be paid by licensees who are members of the Navajo, Zuni, or Hopi Tribes. No such annual license fee shall exceed $50.00. All fees shall be deposited to the credit of the account "Indian Moneys, Proceeds of Labor, Navajo Agency (or Hopi or United Pueblos Agency)" and may be expended by the administrative official in the enforcement of the regulations in this part.

(b) On the Navajo Reservation, this license fee shall be paid on the basis of a calendar year regardless of any change in ownership of the business covered by the license unless the license be canceled for cause. When a license is issued following the cancellation of a license for cause or when a new business is established after the beginning of a calendar year, the license fee shall be determined on a quarterly basis, but the quarterly fee of $12.50 shall be charged also for a fraction of any quarter of a year. A transfer fee of $5.00 shall be collected whenever an unexpired license is transferred or assigned during a calendar year to a new owner of a trader's business.

(c) Deposits made by a temporary licensee under this part as provided by § 252.12 shall be refunded in the event a license is not issued unless the temporary licensee conducts a trading business during the period of temporary operation in which event the temporary licensee shall be charged a fee on a quarterly basis for the period during which the business was conducted and the balance of the deposit shall be refunded.

§ 252.22 *Grants and donations prohibited.* No licensed trader shall be permitted to grant or donate any money or goods to the performance of any Indian dance or ceremony.

§ 252.23 *Introduction of livestock prohibited.* The introduction of livestock by traders or others into the Navajo, Hopi, and Zuni Reservations is prohibited except by special permit issued by the superintendent.

§ 252.24 *Trade in antiques 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 REFERENCES: For additional regulations pertaining to the preservation of antiquities, see Part 132 of this chapter. For Bureau of Land Management regulations relating to antiquities, see 43 CFR Part 3.

§ 252.25 *Imitation Indian crafts prohibited.* It shall be forbidden for any person to introduce or have in his possession for disposition or sale to Indians or others, within the exterior boundaries of the forementioned reservations, any Indian arts and crafts, which are, according to established standards, imitation or spurious. Violators may be punished at the discretion of the superintendent.

CROSS REFERENCE: For Indian arts and crafts standards and certificates of genuineness, see Chapter II of this title.

§ 252.26 *Sunday trading.* Traders shall not keep their places of business open on Sundays. However, this shall not be construed as prohibiting traders from accommodating travelers or Indians coming from a distance to trade in case of emergency.

§ 252.27 *Purchase of annuities and gratuities goods prohibited.* Traders are forbidden to buy, trade for, or have in their possession any annuity or other goods of any description which have been purchased or furnished by the Government for the use or welfare of the Indians. Livestock or their increase purchased by the Government and in possession or control of the Indians, may not be purchased by any trader, not a member of the tribe to which the owners or possessors of the livestock belong, except by special permit issued by the superintendent.

§ 252.27a *Amusement companies.* All carnival companies, circuses, theatrical companies, all persons, firms or companies conducting or operating portable dance pavilions, mechanical devices such as ferris wheels, carousels, or other devices for carrying passengers, and all persons operating games of skill, shall be considered traders and shall be required to obtain a license and to pay such fee as may be prescribed by the superintendent in charge of the jurisdiction, based on the number and class of devices or units to be operated (not less than $5.00 nor more than $25.00 per unit); and shall post a surety bond in an amount not exceeding $10,000.00 and a personal injury and property damage liability bond of not less than $500.00 nor more than $20,000 as may be required by the superintendent.

§ 252.27b *Peddlers.* All itinerant peddlers or purveyors of foodstuffs or other merchandise shall be considered traders and shall be required to obtain a license or permit from the superintendent setting forth the class of trade or peddling to be carried on; shall pay such fee as may be prescribed by the superintendent, and shall post such surety bond (not less than $500.00 nor more than $10,000) as may be required by the superintendent.

§ 252.27c *Fees of governing body.* The fees prescribed by these regulations shall not be considered as precluding the governing body of any Indian reservation or Pueblo from assessing and collecting such fees, etc., as it may deem appropriate.

§ 252.28 *Amendments.* The regulations in this part are subject to change and addition with reasonable notice, at the discretion of the Commissioner of Indian Affairs. The trader is subject to revocation of license, and forfeiture in whole or in part of bond in the event of any violation of the regulations in this part.

PART 253—COMMITMENT TO ST. ELIZABETHS HOSPITAL

Sec.
252.1 Sanitary hearings.
253.2 Petition for commitment in local institutions.
253.3 Commitment in St. Elizabeths Hospital.

AUTHORITY: §§ 253.1 to 253.3 issued under R. S. 463; 25 U. S. C. 2.

§ 253.1 *Sanitary hearings.* No Indian residing on any Indian reservation under the jurisdiction of the United States shall be placed in any hospital or other institution for the care and treatment of the insane except in pursuance of a sanity hearing and an order for commitment issued as provided in this part.

§ 253.2 *Petition for commitment in local institutions.* Upon petition of the spouse, a parent, brother, sister or child of full age or other next of kin of any Indian alleged to be insane for commitment of said Indian to any State hospital or State institution for the care and treatment of the insane, the superintendent or other official in charge of the reservation, whenever he finds after due investigation that such course is justified, may arrange for such commitment in conformity with the laws of the State pertaining to such cases.

§ 253.3 *Commitment in St. Elizabeths Hospital.* Insane Indians residing on Indian reservations under the jurisdiction of the United States may be committed to St. Elizabeths Hospital for the insane in Washington, D. C., by order of the Secretary of the Interior based on certificates of insanity issued as provided in this section:

(a) A certificate of insanity must be made under oath by two reputable physicians appointed to conduct an examination of the alleged insane Indian by the Superintendent of the reservation on which such Indian resides. The physicians must be full time Bureau physicians or graduates of recognized medical schools or colleges, have the qualifications prescribed by law for the practice of medicine or surgery, and shall not be related by blood or marriage to such Indian nor to any person applying for a certificate of insanity.

(b) The spouse, a parent, brother, sister or child of full age or other next of kin of any Indian alleged to be insane may file with the superintendent a petition for a commitment, such petition to contain a statement of the facts on which the allegation of insanity is based. Upon the receipt of such a petition, or in any other case in which the superintendent or other official in charge has reason to believe from personal investigation or otherwise that an Indian is insane, the superintendent or other official in charge shall immediately appoint two physicians having qualifications prescribed in paragraph (a) of this section, to conduct an examination of the Indian alleged to be insane at such time and place as the superintendent or other official in charge may determine. Notice of the time and place of the examination shall be served personally upon the alleged insane Indian, the spouse, parent, or some other of the next of kin of full age if there be any such known to be residing on the reservation, at least 48 hours before the examination of such alleged insane Indian.

(c) The physicians shall make such personal examination of the Indian alleged to be insane as to enable them to form an opinion as to his sanity or insanity and no certificate of insanity shall be issued except after such personal examination. The Indian alleged to be insane shall have the right to present witnesses in his own behalf and to submit other evidence bearing upon his sanity. If upon conclusion of the examination and consideration of all evidence submitted the physicians are of the opinion the Indian is insane, they shall issue a certificate of insanity. The certificate must show: (1) that it is the opinion of the physicians the Indian named therein is actually insane, (2) the facts and circumstances upon which the opinion is based, and (3) whether the condition of the Indian examined is such as to require care and treatment in a hospital for the care, custody and treatment of the insane.

(d) Each certificate of insanity issued in conformity with this section, together with a transcript of all evidence taken in the case, shall be transmitted promptly by the superintendent or other official in charge through the Commissioner of Indian Affairs to the Secretary of the Interior. If in the opinion of the Secretary of the Interior the Indian named in the certificate is a fit subject for treatment in St. Elizabeths Hospital, the Secretary may issue an order for his commitment to that institution until such Indian recovers his reason and is discharged as cured.

(e) In any case in which an Indian is alleged to be insane or of unsound mind and such Indian has displayed homicidal tendencies or has otherwise demonstrated that if permitted to remain at large or to go unrestrained the rights of persons and of property will be jeopardized or the preservation of the public peace imperiled and the commission of crime rendered probable, it shall be the duty of the superintendent or other official in charge to take such Indian into custody and detain him in some suitable place pending examination and hearing as provided in this section.

PART 254—OPERATION OF U.S.M.S. "NORTH STAR" BETWEEN SEATTLE, WASH., AND STATIONS OF THE BUREAU OF INDIAN AFFAIRS AND OTHER GOVERNMENT AGENCIES, ALASKA

Sec.
254.1 Responsibility for operation.
254.2 Transportation of freight for Federal agencies and others.
254.3 Employment of natives.
254.4 Prohibition of trade with natives.
254.5 Passenger rates.
254.6 Private passengers.
254.7 Transportation of children.
254.8 Transportation of Federal employees and their families and natives.
254.9 Preferential passengers.

AUTHORITY: §§ 254.1 to 254.9 issued under R. S. 161; 5 U. S. C. 22.

§ 254.1 *Responsibility for operation.* (a) The Administrative Officer and Special Representative of the Area Director, Juneau Area Office, Bureau of Indian Affairs, with offices in Seattle, Washington, has responsibility for the operation of the ship for the Department of the Interior, Bureau of Indian Affairs, including repair, upkeep, payment of bills and employment of personnel.

(b) Itineraries for each voyage shall be made by the Administrative Officer and Special Representative in consultation with the Area Director of the Bureau of Indian Affairs, Juneau, Alaska. Preference is to be accorded to the work of the Bureau of Indian Affairs. The Area Director is vested with authority to direct the use of the ship to perform special services which may arise and to act in any emergency.

§ 254.2 *Transportation of freight for Federal agencies and others.* (a) All agencies of the Federal Government, including activities of the Bureau of Indian

Affairs, Alaskan Natives, cooperatives of Alaskan Natives, business enterprises owned and operated by Alaskan Natives and Federal employees shall be charged for freight, lighterage and longshoring and other terminal charges in accordance with tariff rates and terminal charges established by the Commissioner of Indian Affairs.

(b) Baggage and other personal property of passengers that cannot be readily accommodated in the passengers' staterooms will be manifested as freight and charged for at the established rates.

(c) Commercial freight may be carried between points where adequate service is not provided by commercial vessels. Commercial freight, when carried, shall be prepaid at the same tariff rates established under paragraph (a) of this section.

(d) All freight accepted must be properly manifested, giving the name and address of the consignor and the consignee, and a description of the goods, including gross weight.

(e) Freight will be accepted only on condition that the United States will not be held responsible for any loss, damage or non-delivery.

§ 254.3 *Employment of Natives.* Natives shall be employed on the "North Star" to fill all positions for which they are qualified.

§ 254.4 *Prohibition of trade with Natives.* Officers and members of the crew on the vessel are prohibited from engaging in trade with the Natives.

§ 254.5 *Passenger rates.* Rates for transportation of passengers shall be established by the Commissioner and shall be the same for all passengers, except as provided in § 254.7. Rates shall be on file for public inspection at the Bureau of Indian Affairs offices in Seattle, Washington and Juneau, Alaska.

§ 254.6 *Private passengers.* No private passengers (except Federal employees and their families and Natives of Alaska) shall be transported on the "North Star" between points where adequate services are provided by commercial vessels. Where such commercial vessels are not available, and where accommodations can be furnished on the "North Star" without detriment to Government business, private travelers may be transported at the rates established pursuant to § 254.5.

§ 254.7 *Transportation of children.* The rates established for the transportation of children shall be subject to the following rules:

(a) No charge shall be made for transportation of children under two years of age.

(b) Children who have reached their second birthday, but not their twelfth birthday shall be transported at half the rate established pursuant to § 254.5 for all other passengers.

§ 254.8 *Transportation of Federal employees and their families and Natives.* (a) All agencies of the Federal Government will be billed at the rates established pursuant to § 254.5 for each employee traveling on official business.

(b) When not in official travel status, Federal employees and families of Federal employees will be transported at the rates established pursuant to § 254.5

(c) Natives of Alaska, who are not indigent, will be charged the same rates as all other passengers.

§ 254.9 *Preferential passengers.* In the booking of passage on the ship, preference shall be given to employees of the Bureau of Indian Affairs and their families, to Natives of Alaska, and to Public Health Service personnel traveling in behalf of the Indian health program, and their families.

APPENDIX—EXTENSION OF THE TRUST OR RESTRICTED STATUS OF CERTAIN INDIAN LANDS

This appendix contains citations of Executive orders and acts of Congress continuing the trust or restricted period of Indian land, which would have expired otherwise, within the several Indian reservations in the States named. The asterisk to the left of the name of a reservation indicates that the reservation is subject to the benefits of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U. S. C. 461–479), as amended, and as therein provided the trust or restricted period of the land is extended indefinitely. Where the name of a reservation is not preceded by an asterisk, such reservation is not subject to the Reorganization Act and is not subject to the benefits of such indefinite trust or restricted period extension, but such reservation is dependent upon acts of Congress or Executive orders for extension of the trust or restricted period of the land.

For the purpose of insuring the continuation of the trust or restricted status of Indian allotments within Indian reservations not subject to the Reorganization Act, Congress by the act of June 15, 1935 (49 Stat. 378) reimposed such restrictions as may have been expired between the dates of June 18, 1934, and December 31, 1936.

State	Reservation	E. O. No.	Date	Period of extension
Arizona	*Papago	2066	Oct. 27, 1914	10 years.
Do	do	4464	June 28, 1926	Do.
California	Agua Caliente	3446	Apr. 30, 1921	Do.
Do	do	5580	Mar. 16, 1931	Do.
Do	Cabazon and Twenty-nine Palms.	3302	July 7, 1920	5 years.
Do	do	4159	Feb. 19, 1925	10 years.
Do	*Capitan Grande	3048	Feb. 27, 1919	5 years.
Do	do		Act of Feb. 8, 1927 (44 Stat. 1061).	10 years.
Do	Hoopa Valley (Klamath River).	2943	Aug. 23, 1918	1 year.
Do	do		Sept. 23, 1919	Do.
Do	do	3304	July 10, 1920	10 years.
Do	do	3980	Mar. 26, 1924	15 years.
Do	do	5416	Aug. 4, 1930	10 years.
	Mission Bands:			
Do	Augustine	2795	Jan. 26, 1918	Do.
Do	Campo	2795	do	Do.
Do	*Cuyapipe	2795	do	Do.
Do	Inaja	2795	do	Do.
Do	*Laguna	2795	do	Do.
Do	*La Posta	2795	do	Do.
Do	*Manzanita	2795	do	Do.
Do	Mesa Grande	2795	do	Do.
Do	Pala	2795	do	Do.
Do	Ramona	2795	do	Do.
Do	Santa Ysabel	2795	do	Do.
Do	Sycuan	2795	do	Do.
Do	do	3383	Jan. 7, 1921	25 years.
Do	San Manuel	2795	Jan. 26, 1918	10 years.
Do	Temecula	2795	do	Do.
Do	All of above Mission Bands	4765	Nov. 23, 1927	Do.
Do	Morongo	6341	Oct. 17, 1933	Do.
Do	Pala	3383	Jan. 7, 1921	25 years.
Do	do		Act of Feb. 11, 1936 (49 Stat. 1106).	10 years.
Do	Potrero and Rincon	2684	Aug. 16, 1917	Do.
Do	do	4687	July 11, 1927	Do.
Do	*Round Valley	3223	Feb. 5, 1920	3 years.
Do	do	3805	Mar. 5, 1923	10 years.
Do	do	3995	Apr. 19, 1924	Do.
Do	do	5953	Nov. 23, 1932	Do.
Do	Temecula	3699	June 27, 1922	Do.
Do	do	5768	Dec. 30, 1931	Do.
Do	Torres-Martinez	7009	Apr. 10, 1935	Do.
Idaho	Nez Perce	3250	Mar. 24, 1920	Do.
Do	do	4694	July 22, 1927	Do.
Do	do	5305	Mar. 18, 1930	Do.
Kansas and Nebraska	*Iowa	2966	Sept. 23, 1918	Do.
Do	do	5023	Jan. 10, 1929	Do.
Do	*Sac and Fox	2607	May 4, 1917	Do.
Do	do	4571	Jan. 24, 1927	Do.
Do	do	5768	Dec. 30, 1931	Do.
Kansas	*Kickapoo	3301	July 3, 1920	1 year.
Do	do	3447	May 2, 1921	10 years.
Do	do	5415	Aug. 4, 1930	Do.
Do	do	5626	May 18, 1931	Do.
Do	*Potawatomi	2747	Nov. 2, 1917	Do.
Do	do	2927	July 30, 1918	Do.
Do	do	3312	July 21, 1920	Do.
Do	do	4688	July 11, 1927	Do.
Do	do	4858	Apr. 16, 1928	Do.
Do	do	5299	Mar. 10, 1930	Do.
Do	do	5356	May 28, 1930	Do.
Do	do	5556	Feb. 11, 1931	Do.
Minnesota	*Fond du Lac	3445	Apr. 30, 1921	Do.
Do	do	5575	Mar. 12, 1931	Do.
Do	*Grand Portage	3613	Jan. 12, 1922	Do.
Do	do	5768	Dec. 30, 1931	Do.
Do	*Winnibigoshish	3614	Jan. 12, 1922	Do.
Do	do	5466	Oct. 22, 1930	Do.

State	Reservation	E. O. No.	Date	Period of extension
Minnesota (Con.)	*Winnibigoshish	5768	Dec. 30, 1931	10 years.
Do	*Deer Creek	4154	Feb. 10, 1925	Do.
Do	*Bois Fort	4233	May 26, 1925	Do.
Do	*Leech Lake, Cass Lake, and White Oak Point.	4298	Aug. 29, 1925	Do.
Do	do	5466	Oct. 22, 1930	Do.
Do	*White Earth	4642	May 5, 1927	Do.
Do	do	5768	Dec. 30, 1931	Do.
Do	do	5953	Nov. 23, 1932	Do.
Do	*Red Lake	5833	June 26, 1930	Do.
Montana	Crow	5301	Mar. 12, 1930	Do.
Do	do	5768	Dec. 30, 1931	Do.
Do	do	7001	Apr. 5, 1935	Do.
Do	Crow (Cont.)		Act of April 1940 (54 Stat. 106)	To May 23, 1940.
Do	*Flathead	5953	Nov. 23, 1932	10 years.
Nebraska	*Omaha		July 3, 1909	Do.
Do	do	3111	July 10, 1919	Do.
Do	do	4145	Jan. 28, 1925	Do.
Do	do	4548	Dec. 4, 1926	Do.
Do	do	5148	July 3, 1929	Do.
Do	do	5253	Dec. 31, 1929	Do.
Do	*Ponca	2374	Apr. 29, 1916	Do.
Do	do	4407	Mar. 30, 1926	Do.
Do	*Santee		Dec. 12, 1910	Do.
Do	do	3348	Nov. 5, 1920	Do.
Do	do	3722	Aug. 12, 1922	Do.
Do	*Santee Sarah Jones allotment	4075	Sept. 17, 1924	Do.
Do	*Santee	5474	Oct. 31, 1930	Do.
Do	do	5768	Dec. 30, 1931	Do.
Do	do	5953	Nov. 23, 1932	Do.
Do	*Winnebago	2965	Sept. 20, 1918	Do.
Do	do	4548	Dec. 4, 1926	Do.
Do	do	4979	Oct. 16, 1928	Do.
Do	do	4994	Nov. 14, 1928	Do.
Do	*Sacand Fox, William Banks allotment.	3878	July 27, 1923	1 year.
Nevada	*Walker River	5730	Oct. 8, 1931	10 years.
North Dakota	Devils Lake	2804	Feb. 11, 1918	Do.
Do	do	3853	May 23, 1923	Do.
Do	do	4775	Nov. 30, 1927	Do.
Do	do	5303	Mar. 12, 1930	Do.
Do	do	5768	Dec. 30, 1931	Do.
Do	do	5953	Nov. 23, 1932	Do.
Do	*Fort Berthold	4293	Aug. 25, 1925	Do.
Do	*Standing Rock	5768	Dec. 30, 1931	Do.
Do	do	5953	Nov. 23, 1932	Do.
Oklahoma	Absentee Shawnee and Citizen Potawatomi.	2494	Nov. 24, 1916	Do.
Do	do	2512	Jan. 15, 1917	Do.
Do	do	4557	Dec. 23, 1926	Do.
Do	Cheyenne and Arapaho	2580	Apr. 4, 1917	Do.
Do	do	4587	Feb. 17, 1927	Do.
Do	Eastern Shawnee	2317	Feb. 15, 1916	Do.
Do	do	4384	Feb. 20, 1926	Do.
Do	do	5768	Dec. 30, 1931	Do.
Do	Mexican Kickapoo	3047	Feb. 27, 1919	5 years.
Do	do	4029	June 19, 1924	10 years.
Do	do		Act of Feb. 17, 1933 (47 Stat. 819).	Do.
Do	Modoc	2453	Sept. 14, 1916	Do.
Do	do	4470	July 1, 1926	Do.
Do	Ottawa, Seneca and Wyandotte.	2591	Apr. 11, 1917	Do.
Do	do	4588	Feb. 17, 1927	Do.
Do	Pawnee	2816	Mar. 2, 1918	Do.
Do	do	4898	May 29, 1928	Do.
Do	Ponca	3327	Sept. 19, 1920	1 year.
Do	do	3363	Dec. 1, 1920	25 years.
Do	do	5539	Jan. 23, 1931	10 years.
Do	Sac and Fox, and Iowa		Mar. 27, 1896	Do.
Do	do		July 23, 1906	Do.
Do	do		Aug. 28, 1906	Do.
Oklahoma (Con.)	Sac and Fox, and Iowa	2432	Aug. 1, 1916	10 years.
Do	do	4435	Apr. 29, 1926	Do.
Do	Tonkawa	2866	May 25, 1918	Do.
Do	Tonkawa (Oakland)	4816	Feb. 25, 1928	Do.
Do	Kaw		Act of March 1923 (42 Stat. 1561).	25 years.
Do	do		Act of May 27, 1924 (43 Stat. 176).	20 years.
Do	Otoe and Missouri	4281	Aug. 11, 1925	10 years.
Do	do	5728	Sept. 29, 1931	Do.
Do	do	5768	Dec. 30, 1931	Do.
Do	Kiowa, Comanche, Apache, and Wichita.	4398	Mar. 18, 1926	Do.
Do	do	5953	Nov. 23, 1932	Do.
Do	do	5955	Nov. 30, 1932 (Gertrude Lamb).	Do.
Do	Seneca	5306	Mar. 18, 1930	Do.
Do	Quapaw		Act of Mar. 3, 1921 (41 Stat. 1248) as amended Nov. 18, 1921 (42 Stat. 1570).	25 years.
Do	do		As supplemented or amended by the act of July 27, 1939 (53 Stat. 1127).	Do.
Oregon	*Grande Ronde	2376	Apr. 29, 1916	10 years.
Do	do	4408	Mar. 30, 1926	Do.
Do	Siletz	3110	July 10, 1919	Do.
Do	Siletz (Cont.)	5087	Apr. 1, 1929	Do.
Do	*Warm Springs	3586	Dec. 7, 1921	Do.
Do	do	5734	Oct. 17, 1931	Do.
Do	Umatilla	4024	June 10, 1924	Do.
Do	do	5516	Dec. 17, 1930	Do.
Do	Klamath	6961	Feb. 4, 1935	Do.
Do	do		Act of Dec. 24, 1942 (56 Stat. 1081).	25 years.
South Dakota	Crow Creek	3362	Nov. 30, 1920	Do.
Do	do	5768	Dec. 30, 1931	10 years.
Do	do	6962	Feb. 9, 1935	Do.
Do	*Rosebud	4417	Apr. 14, 1926	Do.
Do	do	5028	Jan. 16, 1929	Do.
Do	do	5302	Mar. 12, 1930	Do.
Do	do	5768	Dec. 30, 1931	Do.
Do	Sisseton and Wahpeton	1916	Apr. 16, 1914	Do.
Do	do	3994	Apr. 19, 1924	15 years.
Do	*Yankton Sioux	2363	Apr. 20, 1916	10 years.
Do	do	4406	Mar. 30, 1926	Do.
Do	do	5173	Aug. 9, 1929	Do.
Do	*Lower Brule	4981	Oct. 20, 1928	Do.
Do	*Pine Ridge	5557	Feb. 13, 1931	Do.
Do	do	5768	Dec. 30, 1931	Do.
Do	do	5953	Nov. 23, 1932	Do.
Do	*Cheyenne River	5546	Jan. 31, 1931	Do.
Do	do	5768	Dec. 30, 1931	Do.
Utah	*Uncompahgre, Uintah and White River Bands of Utes.	5357	May 29, 1930	Do.
Washington	Chief Moses Band	2109	Dec. 23, 1914	Do.
Do	Do	4382	Feb. 10, 1926	10 years from Mar. 8, 1926.
Do	Colville	4157	Feb. 17, 1925	10 years.
Do	do	6962	Feb. 4, 1935	Do.
Do	*Quinaielt	5768	Dec. 30, 1931	Do.
Do	Spokane	6939	Jan. 7, 1935	Do.
Do	Yakima	3630	Feb. 3, 1922	Do.
Do	do	4168	Mar. 11, 1925	Do.
Do	do	5746	Nov. 10, 1931	Do.
Do	do	7036	May 8, 1935	Do.
Do	do		Act of May 27, 1937 (50 Stat. 210).	To July 9, 1942.
Wisconsin	*Oneida	2623	May 19, 1917	1 year.
Do	do	2856	May 4, 1918	9 years.
Do	do	4600	Mar. 1, 1927	10 years.
Wyoming	Wind River	5768	Dec. 30, 1931	Do.
Do	do	5953	Nov. 23, 1932	Do.

Pursuant to act of June 21, 1906 (34 Stat. 325) extending trust or other period of restriction contained in patents issued to Indians for land on the public domain, the following orders have been promulgated:

E. O. No.	Date	Period of extension
2133	Feb. 3, 1915	1 year.
2326	Feb. 23, 1916	Do.
2505	Jan. 3, 1917	Do.
2778	Dec. 31, 1917	Do.
3024	Jan. 11, 1919	Do.
3204	Dec. 23, 1919	Do.
3365	Dec. 7, 1920	25 years.

No further separate orders covering extension of trust periods on public domain allotments were issued subsequent to Executive Order 3365 of December 7, 1920. The trust or other periods of restriction contained in patents issued to Indians for land on the public domain have thereafter been extended by the terms of the general Executive orders.

GENERAL ORDERS

E. O. No.	Date	Period of extension
6498	Dec. 15, 1933	10 years.
6926	Dec. 20, 1934 (Oklahoma only)	Do.
7206	Oct. 14, 1935 (Oklahoma only)	Do.
7464	Sept. 30, 1936	25 years.
7716	Sept. 29, 1937	Do.
7984	Oct. 7, 1938	Do.
8276	Oct. 28, 1939	Do.
8580	Oct. 29, 1940	Do.
8965	Dec. 10, 1941	Do.
9272	Nov. 17, 1942	Do.
9398	Nov. 25, 1943	Do.
9500	Nov. 14, 1944	Do.
9659	Nov. 21, 1945	Do.
9811	Dec. 17, 1946	Do.
9920	Jan. 8, 1948, effective Jan. 1, 1948	Do.
10027	Jan. 6, 1949	Do.
10091	Dec. 11, 1949	Do.
10191	Dec. 13, 1950	Do.

Beginning with Executive Order 6498, issued December 15, 1933, regardless of the location of the allotments, all trust or restrictive periods on allotments expiring on a given date have been extended by one general Executive order issued annually.

GENERAL ORDERS

Order	Date	Period of extension	F. R. citation
Sec. Int.	Dec. 29, 1951	1 year	17 F. R. 799.
Do	Dec. 29, 1952	do	18 F. R. 106.
Do	Dec. 28, 1953	do	18 F. R. 8897.
Do	Dec. 17, 1954	do	19 F. R. 8658.
Do	Nov. 17, 1955	do	20 F. R. 8519.
Do	Dec. 6, 1956	do	21 F. R. 9644.

NOTE: Executive Orders and orders of the Secretary of the Interior (17 F. R. 799, Jan. 26, 1952; 18 F. R. 106, Jan. 6, 1953; 18 F. R. 8897, Dec. 31, 1953; 19 F. R. 8658, Dec. 17, 1954; 20 F. R. 8519, Nov. 11, 1955; 21 F. R. 9644, Dec. 6, 1956) extended the trust periods on Indian lands expiring during the calendar years of 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, and 1957, respectively.

[F. R. Doc. 57-10663; Filed, Dec. 23, 1957; 8:51 a. m.]