

# Code of Federal Regulations for Indians

# 25

## Indians

Revised as of April 1, 1974



**CONTAINING  
A CODIFICATION OF DOCUMENTS  
OF GENERAL APPLICABILITY  
AND FUTURE EFFECT**

**AS OF APRIL 1, 1974**

*With Ancillaries*

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accordance with procedures as the Director determines will adequately protect the interests of such persons.

#### § 110.7 Assignment of shares.

No part of any of the funds which may be distributed shall be subject to any lien, debt, or claim of any nature whatsoever against the Tribe or individual Indians, except delinquent debts owed by the Tribe to the United States, or owed by individual Indians to the Tribe or to the United States.

#### § 110.8 Power of attorney.

Powers of attorney will not be recognized, nor will any order given to another person by anyone entitled to share in the payment be honored.

#### § 110.9 Shares of deceased heirs.

The Director shall not distribute proportional shares of deceased heirs or legatees amounting to \$10 or less and he shall not pay an inherited share amounting to \$5 or less. The unpaid and undistributed shares shall revert to the Tribe.

#### § 110.10 Disposition of unclaimed and unpaid shares.

All per capita shares of living enrollees and proportional shares of deceased enrollees for which a claim has not been filed within 3 years from the date of approval of the Act, as provided by the Act and in § 110.5, shall revert to the Tribe. The Director shall keep accurate records of all monies reverting to the Tribe.

### PART 111—REIMBURSEMENT OF THE UTE TRIBE OF THE UINTAH AND OURAY RESERVATION, UTAH

#### ADJUDICATION OF CLAIMS OF FORMER MIXED-BLOOD MEMBERS

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**AUTHORITY:** The provisions of this Part 111 issued under sec. 3, 84 Stat. 843.

**SOURCE:** The provisions of this Part 111 appear at 36 F.R. 4870, Mar. 13, 1971, unless otherwise noted.

#### ADJUDICATION OF CLAIMS OF FORMER MIXED-BLOOD MEMBERS

#### § 111.1 Definitions.

As used in this part—

(a) "Secretary" means the Secretary of the Interior or his authorized representative.

(b) "Commissioner" means the Commissioner of Indian Affairs.

(c) "Financial Management Officer" means the Chief of the Division of Financial Management, Post Office Box 127, 500 Gold Avenue SW., Albuquerque, NM 87103.

(d) "Heirs" means those persons entitled to inherit under State law from a person whose name appears on the final roll of mixed-blood Indians that was prepared pursuant to section 8 of the Act of August 27, 1954 (68 Stat. 868).

(e) "Legatee" means those persons entitled to personalty or realty under a valid will of a person whose name appears on the final roll of mixed-blood Indians that was prepared pursuant to section 8 of the Act of August 27, 1954 (68 Stat. 868).

[36 F.R. 4870, Mar. 13, 1971; 36 F.R. 6080, Apr. 2, 1971]

#### § 111.2 Purpose.

The rules in this part are to govern payment to be made by the Secretary pursuant to section 3 of the Act of September 18, 1970, to those persons whose names appear on the final roll of mixed-blood Indians that was prepared pursuant to section 8 of the Act of August 27, 1954 (68 Stat. 868) or to their heirs or legatees.

#### § 111.3 Eligibility for reimbursement.

Each person whose name appears on the final roll of mixed-blood Indians that was prepared pursuant to section 8 of the Act of August 27, 1954 (68 Stat. 868) or their heirs or legatees may obtain a copy of the form for Claim for Reimbursement Due as provided by Public Law 91-403, approved September 18, 1970, by request directed to the Financial Management Officer, Bureau of Indian Affairs, Post Office Box 127, 500 Gold Avenue SW., Albuquerque, NM 87103. The completed claim must be filed with the Financial Management Officer at the same address not later than September 18, 1973.

#### § 111.4 Information required from claimant.

Each Claim for Reimbursement shall contain the following information:

(a) The name and address of the claimant, and if the claimant is a minor or mental incompetent, the name, address, and representative capacity of the person executing the claim on behalf of the minor or mental incompetent.

(b) The roll number if the claimant is an enrollee on the roll of mixed-blood Indians prepared pursuant to section 8 of the Act of August 27, 1954 (68 Stat. 868).

(c) The name and roll number of the deceased enrollee through which a legatee is claiming and the place and date of the deceased enrollee's death. A certified copy of the decree of distribution or other final order of the probate court should be submitted with the Claim for Reimbursement.

(d) The name and roll number of the deceased enrollee through which an heir is claiming, the place and date of the deceased enrollee's death and the relationship of the claimant to the deceased enrollee accompanied by copies of birth or marriage certificates or other evidence proving the relationship.

#### § 111.5 Burden of proof.

The burden of proof rests upon the claimant to establish that he or she is entitled to reimbursement as an enrollee, heir, or legatee.

#### § 111.6 Appeals.

Any person whose claim for reimbursement is rejected may appeal by filing such appeal in writing with the Financial Management Officer not more than thirty (30) days from receipt of the notice of rejection. The claimant must submit with his appeal any supporting data not previously furnished. When upon review of the evidence submitted by the appellant, the Financial Management Officer is satisfied that the claimant has established his right for reimbursement, the appellant shall be so notified. In any case where the Financial Management Officer determines the claimant ineligible, the Financial Management Officer shall forward the appeal together with the complete record and his recommendation thereon to the Commissioner for transmittal to the Secretary.

#### § 111.7 Action by the Secretary.

The decision by the Secretary on an appeal shall be final and the claimant shall be given written notice of the decision.

#### § 111.8 Special instruction.

To facilitate the work of the Financial Management Officer, the Commissioner may issue special instruction not inconsistent with the rules of this part.

### PART 112—DISTRIBUTION OF JUDGMENT FUNDS AWARDED TO THE OSAGE TRIBE OF INDIANS IN OKLAHOMA

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112.1	Definitions.
112.2	Purpose.
112.3	Notice of time limit and place for filing claims.
112.4	Issuance of Orders of Distribution.
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112.7	Notice of orders to claimants and distributees.
112.8	Appeal from an Order of Distribution.
112.9	Disbursement of distributed shares.
112.10	Miscellaneous provisions.

**AUTHORITY:** 5 U.S.C. 301; 86 Stat. 1295.

**SOURCE:** 38 FR 9163, Apr. 11, 1973, unless otherwise noted.

#### § 112.1 Definitions.

(a) "Act" means the act of October 27, 1972 (86 Stat. 1295).

(b) "Allottee" means a person whose name appears on the roll of the Osage Tribe of Indians approved by the Secretary of the Interior on April 11, 1908, pursuant to the act of June 28, 1906 (34 Stat. 539).

(c) "Associate Solicitor" means the Associate Solicitor-Indian Affairs, U.S. Department of the Interior, Washington, D.C. 20240.

(d) "Distributee" means one to whom a distribution is ordered pursuant to the regulations in this part.

(e) "Secretary" means the Secretary of the Interior or his authorized representative.

(f) "Superintendent" means the Superintendent, Osage Agency, Bureau of Indian Affairs, Pawhuska, Oklahoma 74056.

#### § 112.2 Purpose.

The regulations in this part govern the distribution, pursuant to the act, of judgment funds awarded to the Osage Tribe

of Indians of Oklahoma. All funds appropriated by the act of January 8, 1971 (84 Stat. 1991), in satisfaction of a judgment in the Indian Claims Commission against the United States in docket numbers 105, 106, 107, and 108, together with interest thereon, are to be distributed, except the sum of \$1 million and any funds that revert to the Osage Tribe and except the amount allowed for attorney fees and expenses and the cost of distribution.

**§ 112.3 Notice of time limit and place for filing claims.**

The act provides for distribution of funds to allottees and heirs of Osage Indian blood of deceased allottees.

(a) All claims for per capita shares by heirs of Osage Indian blood shall be filed with the Superintendent, Osage Agency, Bureau of Indian Affairs, Pawhuska, Okla. 74056, not later than April 27, 1974. An individual who claims as an heir of Osage Indian blood should make a timely filing of a claim which identifies, by name and allotment number, each allottee in whose share the individual claims an interest, in order that the Superintendent may notify the individual when the order of distribution for each such allottee is made. Failure to file a claim in this manner may prevent an individual from receiving notice of distribution in an instance in which he is an interested party. Failure of an heir of Osage Indian blood to file a claim will not necessarily prevent the distribution to such heir of the portion of the allottee's share due that heir if sufficient evidence to support such distribution is available to the Superintendent. However, no heir who fails to file a claim within the prescribed period (on or before April 27, 1974) shall after that period have any right to any distribution other than that ordered by the Superintendent based on evidence available to the Superintendent during that period. Unclaimed shares of distributees are required by statute to revert to the Osage Tribe 6 months after determination of their right to share.

(b) Distribution of a living allottee's own share will be made without the filing of a claim.

**§ 112.4 Issuance of Orders of Distribution.**

The Superintendent, Osage Agency, Bureau of Indian Affairs, Pawhuska, Okla. 74056, is authorized to issue the

Orders of Distribution in accordance with the act and the regulations in this part. The Superintendent's decisions thereon shall be final unless a timely appeal therefrom is filed in accordance with § 112.8.

**§ 112.5 Segregation of per capita shares.**

The Superintendent shall segregate one per capita share for each allottee for distribution as follows:

(a) One share for distribution to each such allottee who is living on the date the Order for Distribution for that share is issued; and

(b) One share for distribution to the heir or heirs of Osage Indian blood of each allottee who is deceased on the date the Order of Distribution for that share is issued, to be divided among such heirs in such proportions as shall be computed in accordance with § 112.6.

**§ 112.6 Distribution of share of deceased allottee.**

The Superintendent shall issue an Order of Distribution which, except as otherwise provided in this § 112.6, divides the share of a deceased allottee leaving heirs of Osage Indian blood in such proportions as the allottee's heirs of Osage Indian blood would have shared in the estate of the allottee if the allottee had died intestate leaving one or more individuals of Osage Indian blood as the allottee's only heirs at law under the Oklahoma law of intestate succession. In preparing such an order, the Superintendent shall accept as accurate any unambiguous determination of heirship, of an allottee or of the heir of an allottee, either made by the Secretary prior to April 18, 1912, or contained in a final order of an Oklahoma court after that date. When no such unambiguous determination is available, such order shall be based upon all other pertinent heirship evidence available to the Superintendent. When one or more of the immediate heirs of Osage Indian blood of an allottee is deceased, the heirs of Osage Indian blood of such deceased heirs shall be ascertained, successively among all remote heirs of Osage Indian blood of the allottee, in the sequence in which the deaths of the heirs occurred until the identities of all living remote heirs of Osage Indian blood, and the respective proportions of the share to which they are entitled, have been ascertained. To qualify for distribution as an heir, it must be established that the distributee and each heir of

the allottee through whom the claim is traced had Osage Indian blood acquired either from an allottee or from a common ancestor of an allottee and the distributee.

**§ 112.7 Notice of orders to claimants and distributees.**

Notice of an Order of Distribution shall be mailed, on the date of issuance of such order, to the allottee whose share is being distributed if living, but if not living, to (a) each distributee named therein, (b) each claimant whose claim asserts entitlement to a portion of the allottee's share, and (c) each person who had not filed a claim on the date of issuance of such order but is in that order determined by the Superintendent to be ineligible to receive a portion of the allottee's share. Such notice shall be accompanied by a copy of the Order of Distribution and shall contain instructions for filing an appeal in accordance with paragraphs (a) or (b) and (c) of § 112.8.

**§ 112.8 Appeal from an Order of Distribution.**

(a) An Order of Distribution of the share of an allottee living on the date the order is issued shall become final 3 days from the date thereof unless an appeal is filed by an interested party with the Superintendent before the expiration of those 3 days.

(b) An Order of Distribution of the share of an allottee who is deceased on the date the order is issued shall become final 30 days from the date thereof unless an appeal is filed by an interested party with the Superintendent before the expiration of those 30 days.

(c) Each appeal must contain a statement of the reasons that the appellant considers the Order of Distribution to be subject to error, and each appellant must, at the time of filing his appeal, mail a copy thereof to each person named as a distributee in the Order of Distribution. The Superintendent shall furnish a copy of the appeal to each other interested party to whom a copy of the Order of Distribution was mailed.

(d) The Associate Solicitor-Indian Affairs, U.S. Department of the Interior, Washington, D.C. 20240, is authorized to determine appeals from Orders of Distribution in accordance with the act and the regulations in this part. The Associate Solicitor's decision thereon shall

be final on the date of the issuance of his decision and shall constitute the final action of the Department of the Interior in connection with such appeal.

(e) The Superintendent may, in his discretion for good cause shown, order partial distribution of any undisputed segment of any share for which an appeal is pending when such distribution will not be affected by the appeal decision on the disputed portion of the share.

**§ 112.9 Disbursement of distributed shares.**

When an Order of Distribution, either as issued or as amended by decision on appeal, has become final, the Superintendent shall either disburse to distributees the amounts distributed to them or deposit such amounts to appropriate accounts, in accordance with the following guidelines:

(a) When the amount distributed to any heir is less than \$20, the amount shall be segregated in a special account for that heir until all Orders of Distribution have become final, at which time the sum of all amounts thus segregated to such account shall be disbursed or redeposited as provided in paragraphs (b), (c), (d) and (e) of this § 112.9, if such sum equals or exceeds \$20. When such sum is less than \$20, such sum in each of such accounts, and all unclaimed shares, and all amounts awarded to distributees which remain unclaimed for 6 months after the Order of Distribution has become final, shall, subsequent to April 27, 1974, be deposited to the account of the Osage Tribe as sums which have reverted to it.

(b) Living allottees having certificates of competency shall have their distributions disbursed directly to them.

(c) Living allottees not having certificates of competency shall have their distributions deposited to their accounts, subject to withdrawal by them at their request.

(d) Heirs of Osage Indian blood who are at least 18 years of age and are not under guardianship shall have their distributions disbursed directly to them.

(e) Heirs of Osage Indian blood who are under guardianship shall have their distributions deposited to their accounts, subject to disbursement to the distributees or their guardians or other persons on their behalf on such terms and conditions as the Superintendent shall consider to be in their best interests during their legal disability, after which the re-

maintaining portion shall be disbursed to such distributees.

(f) Heirs of Osage Indian blood who are under 18 years of age shall have their distributions deposited to their accounts, with the funds represented by such deposits invested at favorable rates of return for prudent investments, to be disbursed with earnings thereon only when the respective distributees for whom they are held attain minimum age of 18 years.

SUBCHAPTER K—LANDS SURFACE ESTATES AND RESOURCES

CHAPTER K—PATENTS, ALLOTMENTS AND SALES

PART 121—LAND RECORDS AND TITLE DOCUMENTS

§ 121.1 Maintenance of land records and title documents.

The authority for the maintenance of records of the Department for trust or restricted Indian lands shall be the title plants that have been or may be established by the Bureau of Indian Affairs to serve the respective area offices as recording offices. At the time such a title plant is ready to undertake the maintenance of such records as to any trust or restricted Indian-owned lands under the jurisdiction of a particular area office, the Secretary of the Interior shall cause to be transferred from Washington, or from the area office previously having the custody of the official records to such title plant all the records and title documents pertaining to such lands. Upon such transfer of records to the appropriate title plant, the Secretary of the Interior shall have a notice published in the FEDERAL REGISTER of such action setting forth the effective date thereof. Thereafter, the custody and maintenance of land records and title documents as to such lands will rest with the title plant. Also, after such transfer, all documents which affect the title to trust or restricted lands for which the records have been so transferred shall be submitted to such title plant for recording. Nothing in this section shall prevent the consolidation of any title plants that have or may be established and the further transfer of records to such consolidated plant(s). The requirement of publication of notice shall apply further transfer.

(5 U.S.C. 301) [30 FR 11076, Sept. 11, 1965]

§ 112.10 Miscellaneous provisions.

- (a) Powers of attorney, assignments, and orders given to another person by any one entitled to share in the payment will not be recognized.
- (b) None of the funds distributed are subject to Federal or State income taxes.
- (c) Claimants are hereby notified that criminal penalties are provided by statute (18 U.S.C. 1001) for knowingly filing fraudulent information.

PART 121—ISSUANCE OF PATENTS IN FEE, CERTIFICATES OF COMPETENCY, REMOVAL OF RESTRICTIONS, AND SALE OF CERTAIN INDIAN LANDS

- Sec. 121.1 Definitions.
- 121.2 Withholding action on application.
- ISSUING PATENTS IN FEE, CERTIFICATES OF COMPETENCY OR ORDERS REMOVING RESTRICTIONS
- 121.3 Information regarding status of applications for removal of Federal supervision over Indian lands.
- 121.4 Application for patent in fee.
- 121.5 Issuance of patent in fee.
- 121.6 Issuance of patents in fee to non-Indians and Indians with whom a special relationship does not exist.
- 121.7 Application for certificate of competency.
- 121.8 Issuance of certificate of competency.
- 121.9 Certificates of competency to certain Osage adults.
- 121.10 Application for orders removing restrictions, except Five Civilized Tribes.
- 121.11 Issuance of orders removing restrictions, except Five Civilized Tribes.
- 121.12 Removal of restrictions, Five Civilized Tribes, after application under authority other than section 2(a) of the Act of August 11, 1955.
- 121.13 Removal of restrictions, Five Civilized Tribes, after application under section 2(a) of the Act of August 11, 1955.
- 121.14 Removal of restrictions, Five Civilized Tribes, without application.
- 121.15 Judicial review of removal of restrictions, Five Civilized Tribes, without application.
- 121.16 Effect of order removing restrictions, Five Civilized Tribes.

SALES, EXCHANGES AND CONVEYANCES OF TRUST OR RESTRICTED LANDS

- Sec. 121.17 Sales, exchanges, and conveyances by, or with the consent of the individual Indian owner.
- 121.18 Sale with the consent of natural guardian or person designated by the Secretary.
- 121.19 Sale by fiduciaries.
- 121.20 Sale by Secretary of certain land in multiple ownership.
- 121.21 Sale or exchange of tribal land.
- 121.22 Secretarial approval necessary to convey individual-owned trust or restricted lands or land owned by a tribe.
- 121.23 Applications for sale, exchange or gift.
- 121.24 Appraisal.
- 121.25 Negotiated sales, gifts and exchanges of trust or restricted lands.
- 121.26 Advertisement.
- 121.27 Procedure of sale.
- 121.28 Action at close of bidding.
- 121.29 Rejection of bids; disapproval of sale.
- 121.30 Bidding by employees.
- 121.31 Cost of conveyance; payment.
- 121.32 Irrigation fee; payment.

PARTITIONS IN KIND OF INHERITED ALLOTMENTS

- 121.33 Partition.
- MORTGAGES AND DEEDS OF TRUST TO SECURE LOANS TO INDIANS
- 121.34 Approval of mortgage and deeds of trust.
- 121.35 Deferred payment sales.

**AUTHORITY.**—R.S. 161; 5 U.S.C. 301. Interpret or apply sec. 7, 82 Stat. 275, 84 Stat. 1018, sec. 1, 85 Stat. 444, sec. 1 and 2, 86 Stat. 855, as amended, 856, as amended, sec. 17, 89 Stat. 127, 40 Stat. 579, 62 Stat. 236, sec. 2, 40 Stat. 608, 68 Stat. 358, 69 Stat. 668; 25 U.S.C. 378, 379, 405, 404, 372, 373, 483, 355, unless otherwise noted.

**Source:** 38 FR 10060, Apr. 24, 1973, unless otherwise noted.

**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, 106, and 102 of this chapter. For regulations pertaining to the determination of heirs and approval of wills, see Part 15 and §§ 11.30-11.52C of this chapter.

§ 121.1 Definitions.

- As used in this part:
  - (a) "Secretary" means the Secretary of the Interior or his authorized representative acting under delegated authority.
  - (b) "Agency" means an Indian agency or other field unit of the Bureau of In-

dian Affairs having trust or restricted Indian land under its immediate jurisdiction.

(c) "Restricted land" means land or any interest therein, the title to which is held by an individual Indian, subject to Federal restrictions against alienation or encumbrance.

(d) "Trust land" means land or any interest therein held in trust by the United States for an individual Indian.

(e) "Competent" means the possession of sufficient ability, knowledge, experience, and judgment to enable an individual to manage his business affairs, including the administration, use, investment, and disposition of any property turned over to him and the income or proceeds therefrom, with such reasonable degree of prudence and wisdom as will be apt to prevent him from losing such property or the benefits thereof. (Act of August 11, 1955 (69 Stat. 666).)

(f) "Tribe" means a tribe, band, nation, community, group, or Pueblo of Indians.

§ 121.2 Withholding action on application.

Action on any application, which if approved would remove Indian land from restricted or trust status, may be withheld, if the Secretary determines that such removal would adversely affect the best interest of other Indians, or the tribes, until the other Indians or the tribes so affected have had a reasonable opportunity to acquire the land from the applicant. If action on the application is to be withheld, the applicant shall be advised that he has the right to appeal the withholding action pursuant to the provisions of Part 2 of this chapter.

ISSUING PATENTS IN FEE, CERTIFICATES OF COMPETENCY OR ORDERS REMOVING RESTRICTIONS

§ 121.3 Information regarding status of applications for removal of Federal supervision over Indian lands.

The status of applications by Indians for patents in fee, certificates of competency, or orders removing restrictions shall be disclosed to employees of the Department of the Interior whose duties require that such information be disclosed to them; to the applicant or his attorney, upon request; and to Members of Congress who inquire on behalf of the applicant. Such information will be available to all other persons, upon request, 15 days after the fee patent has