PART II

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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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Subchapter A—Procedures; Practice

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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 in 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.

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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.

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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

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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:

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(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-

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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

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