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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.

The following table lists the former part numbers and headings and indicates their position in reorganized Chapter I:

Former Part No.	Former Part No.	New Part No.	Former Part No.	New Part No.
42	Care of Indian children in contract schools.....	22	128	Granting of concessions on reservoir sites, canal reserves, flowage areas, and other withdrawn and acquired lands in connection with Indian irrigation projects and the leasing of such lands for agricultural, grazing, and other purposes.....
43	Administration of educational loans, grants and other assistance for higher education.....	32	129	Pueblo Indian lands benefited by irrigation and drainage works of Middle Rio Grande conservancy district, New Mexico.....
44	Enrollment of Indians in public schools.....	33	130	Operation and maintenance charges.....
49	Administration of a program of vocational training for adult Indians.....	34	131	Electric power system, Flathead Indian irrigation project, Montana.....
52	Reallotment of lands to unallotted Indian children.....	125	132	Electric power system, Colorado River irrigation project, Arizona.....
54	Enrollment of Indians of the Cabazon, Augustine, and Torres-Martinez Bands of Mission Indians in California.....	43	133	Electric power system, San Carlos irrigation project, Arizona.....
55	Enrollment appeals.....	42	141	Partial payment construction charges on Indian irrigation projects.....
56	Preparation of rolls for the distribution of the funds awarded certain Indian tribes or bands of Oregon.....	44	144	Reimbursement of construction costs, Lummi Indian diking project, Washington.....
61	General forest regulations.....	141	147	Reimbursement of construction costs, San Carlos Indian irrigation project, Arizona.....
62	Sale of timber products and use of forest lands for nonforest purposes, Menominee Indian Reservation.....	143	148	Construction assessments, Crow Indian irrigation project.....
63	Sale of forest products, Red Lake Indian Reservation, Minn.....	144	149	Reimbursement of construction costs, Fort Hall Unit, Fort Hall Indian irrigation project, Idaho.....
64	Sale of lumber and other forest products produced by Indian enterprises from the forests on Indian reservations.....	142	150	Reimbursement of construction costs, Ahtanum Unit, Wapato Indian irrigation project, Washington.....
71	General grazing regulations.....	151	151	Inclusions of liens in all patents and instruments executed.....
72	Navajo grazing regulations.....	152	154	Sale of irrigable lands, special water contract requirements.....
73	Grazing, Pine Ridge Aerial Gun-nery Range.....	153	161	Law and order on Indian reser-vations.....
81	Determination of heirs and ap-proval of wills, except as to members of the Five Civilized Tribes and Osage Indians.....	15	170	Allotment of lands on the Caba-zon, and Augustine Indian Res-ervations, Riverside County, California.....
82	Determination of heirs and prob-ate of the estates of deceased Indians of the Five Civilized Tribes.....	16	171	Leasing and permitting.....
83	Actions on wills of Osage Indians.....	17	180	Leasing of Osage reservation lands for oil and gas mining.....
88	Commitment to St. Elizabeths Hospital.....	253	183	Leasing of restricted lands of mem-bers of Five Civilized Tribes, Oklahoma, for mining.....
91	Blackfoot irrigation project, Montana.....	191	186	Leasing of tribal lands for mining.....
94	Crow irrigation project, Montana.....	193	189	Leasing of certain restricted al-lotted Indian lands for mining.....
95	Colville irrigation project, Wash-ington.....	192	192	Leasing of certain lands in Wind River Indian Reservation, Wyo., for oil and gas mining.....
97	Flathead irrigation project, Montana.....	194	195	Leasing of lands in Crow Indian Reservation, Mont., for mining.....
100	Flathead, Mission, and Jocko Val-ley irrigation districts, Montana.....	195	201	Lead and zinc mining operations and leases, Quapaw Agency.....
103	Fort Belknap irrigation project, Montana.....	196		
106	Fort Hall irrigation project, Idaho.....	197		
110	Fort Peck Indian irrigation project, Montana.....	198		
121	Utah irrigation project, Utah.....	199		
124	Wapato irrigation project, Wash-ington.....	200		
127	Wind River irrigation project, Wyoming.....	201		

10513

RULES AND REGULATIONS

Former Part No.	New Part No.	SUBCHAPTERS F—H—TRIBAL GOVERNMENT AND ENTERPRISES	Part
204		SUBCHAPTER F—ENROLLMENT	126
		41 Membership and enrollment of Indians. [Reserved.]	127
221	175	42 Enrollment appeals.	128
222	104	43 Enrollment of Indians of the Cabazon, Augustine and Torres-Martinez Bands of Mission Indians in California.	129
		44 Preparation of rolls for the distribution of the funds awarded certain Indian tribes or bands of Oregon.	
223	108	SUBCHAPTER G—TRIBAL GOVERNMENT	
		51 Indian organizations exclusive of the Indian Reorganization Act. [Reserved.]	131
224	109	52 Tribes organized under sec. 16 of the Indian Reorganization Act. [Reserved.]	132
		53 Alaskan native groups organized under sec. 16 of the Indian Reorganization Act, and the Alaskan Act, as amended. [Reserved.]	
227	101	54 Tribes organized under the Oklahoma Indian Welfare Act. [Reserved.]	141
230	107	71 Recognition of attorneys and agents to represent claimants.	142
233	105	72 Attorney contracts with Indian tribes.	143
		73 Regulations governing the election of officers of the Osage Tribe.	144
241	102	SUBCHAPTER H—ECONOMIC ENTERPRISES	
242	121	81 Indian business corporations under sec. 17 of the Indian Reorganization Act. [Reserved.]	151
		82 Alaskan native business corporations organized under sec. 17 of the Indian Reorganization Act or the Alaska Act. [Reserved.]	152
		83 Indian Business Corporations under the Oklahoma Indian Welfare Act. [Reserved.]	153
		89 Commercial fishing on Red Lake Indian Reservations.	
		90 Reindeer in Alaska.	
		SUBCHAPTER I—CREDIT ACTIVITIES	
		SUBCHAPTER I—CREDIT ACTIVITIES	
		91 General credit to Indians.	175
		92 Revolving cattle pool.	176
		93 Klamath tribal loan fund.	
		SUBCHAPTER J—FISCAL AND FINANCIAL AFFAIRS	
		SUBCHAPTER J—FISCAL AND FINANCIAL AFFAIRS	
		101 Annuity and other per capita payments.	181
		102 Regulations for pro rata shares of tribal funds.	182
		104 Indian money accounts.	183
		105 Deposit of Indian funds in banks.	184
		107 Creation of trusts for restricted property of Indians, Five Civilized Tribes, Oklahoma.	
		108 Deposit and expenditure of individual funds of members of the Osage Tribe of Indians who do not have Certificates of Competency.	
		109 Judgment funds, Shoshone Tribe of the Wind River Reservation, Wyoming.	
		111 Service charges against Indians. [Reserved.]	
		SUBCHAPTERS K—O—LANDS; SURFACE ESTATES AND RESOURCES	
		SUBCHAPTER K—PATENTS, ALLOTMENTS AND SALES	
		121 Issuance of Patents in Fee, Certificates of Competency, sale of certain Indian lands, and reinvestment of proceeds.	191
		122 Determination of competency: Crow Indians.	192
		123 Osage Roll, Certificates of Competency.	193
		125 Reallocation of lands to unallotted Indian children.	194
		SUBCHAPTER L—LEASING AND PERMITTING	
		131 Leasing and permitting.	195
		132 Preservation of antiquities.	196
		SUBCHAPTER M—FORESTRY	
		141 General forest regulations.	197
		142 Sale of lumber and other forest products produced by Indian enterprises from the forests on Indian reservations.	198
		143 Sale of timber products and use of forest lands for nonforest purposes, Menominee Indian Reservation.	199
		144 Sale of forest products, Red Lake Indian Reservation, Minn.	200
		SUBCHAPTER N—GRAZING	
		151 General grazing regulations.	201
		152 Navajo grazing regulations.	202
		153 Grazing, Pine Ridge Aerial Gunnery Range.	
		SUBCHAPTER O—RIGHTS-OF-WAY—ROADS	
		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.	
		SUBCHAPTERS P—Q—LANDS; SUBSURFACE ESTATES AND RESOURCES	
		SUBCHAPTER P—MINING	
		171 Leasing of tribal lands for mining.	
		172 Leasing of allotted lands for mining.	
		173 Leasing of lands in Crow Indian Reservation, Mont., for mining.	
		174 Leasing of restricted lands of members of Five Civilized Tribes, Oklahoma for mining.	
		175 Leasing of Osage Reservation lands, Oklahoma, for mining, except oil and gas.	
		176 Lead and zinc mining operations and leases, Quapaw Agency.	
		SUBCHAPTER Q—OIL AND GAS	
		181 Oil and gas leases and operations on tribal lands. [Reserved.]	
		182 Oil and gas leases and operations on allotted lands. [Reserved.]	
		183 Leasing of Osage Reservation lands for oil and gas mining.	
		184 Leasing of certain lands in Wind River Indian Reservation, Wyoming, for oil and gas mining.	
		SUBCHAPTERS R—U—WATER AND POWER RESOURCES	
		SUBCHAPTER R—IRRIGATION PROJECTS	
		191 Blackfeet irrigation project, Montana.	
		192 Colville irrigation project, Washington.	
		193 Crow irrigation project, Montana.	
		194 Flathead irrigation project, Montana.	
		195 Flathead, Mission, and Jocko Valley Irrigation districts, Montana.	
		196 Fort Belknap irrigation project, Montana.	
		197 Fort Hall irrigation project, Idaho.	
		198 Fort Peck Indian irrigation project, Montana.	
		199 Uintah irrigation project, Utah.	
		200 Wapato irrigation project, Washington.	
		201 Wind River irrigation project, Wyoming.	
		202 Pueblo Indian lands benefited by irrigation and drainage works of Middle Rio Grande Conservancy District, New Mexico.	
		SUBCHAPTER A—PROCEDURES; PRACTICE	
		SUBCHAPTER A—PROCEDURES; PRACTICE	
Part		1 Rules of the Bureau of Indian Affairs. [Reserved.]	
		2 Appeals. [Reserved.]	
		3 List of forms.	
		SUBCHAPTERS B—E—FEDERAL SERVICES; INDIVIDUAL INDIANS	
		SUBCHAPTER B—LAW AND ORDER	
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.	
16		Determination of heirs and probate of the estate of deceased Indians of the Five Civilized Tribes.	
17		Actions on wills of Osage Indians.	
		SUBCHAPTER D—SOCIAL WELFARE	
21		Arrangement with States, Territories or other agencies for relief of distress and social welfare of Indians.	
22		Care of Indian children in contract schools.	
		SUBCHAPTER E—EDUCATION	
31		Federal schools for Indians.	
32		Administration of educational loans, grants and other assistance for higher education.	
33		Enrollment of Indians in public schools.	
34		Administration of a program of vocational training for adult Indians.	

Part 203 Concessions, permits and leases on lands withdrawn or acquired in connection with Indian irrigation projects.

SUBCHAPTER 5—CONSTRUCTION

211 Partial payment construction charges on Indian irrigation projects.

212 Construction assessments, Crow Indian irrigation project.

213 Fort Hall Indian irrigation project, Idaho.

214 Reimbursement of construction costs, Lummi Indian diking project, Washington.

215 Irrigation project, Arizona.

216 Reimbursement of construction costs, Ahtanum Unit, Wapato Indian irrigation project, Washington.

SUBCHAPTER 7—OPERATION AND MAINTENANCE

221 Operation and maintenance charges.

SUBCHAPTER 9—ELECTRIC POWER SYSTEM

231 Colorado River irrigation project, Arizona.

232 Flathead Indian irrigation project, Montana.

233 San Carlos irrigation project, Arizona.

SUBCHAPTER V [RESERVED]

SUBCHAPTER W—MISCELLANEOUS ACTIVITIES

SUBCHAPTER W—MISCELLANEOUS ACTIVITIES

251 Licensed Indian traders.

252 Traders on Navajo, Zuni and Hopi Reservations.

253 Commitment to St. Elizabeths Hospital.

254 Operation of the U. S. M. S. "North Star" (between Seattle, Wash., and stations of the Bureau of Indian Affairs and other Government agencies, Alaska).

APPENDIX—EXTENSION OF THE TRUST OR RESTRICTED STATUS OF CERTAIN INDIAN LANDS

Subchapter A—Procedures; Practice

Subchapter A—Procedures; Practice

PART 1—RULES OF THE BUREAU OF INDIAN AFFAIRS [RESERVED]

PART 2—APPEALS [RESERVED]

PART 3—LIST OF FORMS

§ 3.1 Availability of forms. Forms upon which applications and related documents may be filed and upon which rights and privileges may be granted may be inspected and procured at the Bureau of Indian Affairs, Washington 25, D. C., and at the office of any Area Director or Agency Superintendent. (R. S. 161; 5 U. S. C. 22)

Subchapters B—E—Federal Services; Individual Indians

Subchapter B—Law and Order

PART 11—LAW AND ORDER ON INDIAN RESERVATIONS

APPLICATION; JURISDICTION

Sec. 11.1 Application of regulations.

11.2 Jurisdiction.

COURTS OF INDIAN OFFENSES

11.2CA Jurisdiction.

11.3 Judges.

11.3CA Judges.

11.4 Removal of judges.

11.5 Court procedure.

11.5CA Court proceedings.

11.6 Appellate proceedings.

11.6C Appellate proceedings.

11.6CA Appellate proceedings.

Sec. 11.7

11.7C

11.8

11.8CA

11.9

11.9CA

11.10

11.11

11.12

11.13

11.14

11.15

11.16

11.17

11.18

11.19

11.20

11.20C

11.21

11.22

11.22C

11.22CA

11.23

11.24

11.24C

11.24CA

11.25

11.25CA

11.26

11.26C

11.27

11.28

11.28CA

11.29

11.29C

11.30

11.30CA

11.31

11.31C

11.31CA

11.32

11.32C

11.33

11.33CA

11.34

11.34C

11.35

11.36

11.36C

11.37

11.37CA

11.38

11.39

11.40

11.41

11.42

11.43

11.44

11.45

11.46

11.47

11.48

11.49

11.49CA

11.50

11.50C

11.51

11.52

11.52CA

11.53

11.53CA

11.54

11.55

11.56

11.57

Juries.

Juries.

Witnesses.

Witnesses.

Professional attorneys.

Professional attorneys.

Clerks.

Records.

Copies of laws.

Complaints.

Warrants to apprehend.

Arrests.

Search warrants.

Commitments.

Ball or bond.

Definition of signature.

Definition of tribal council.

Definition of tribal council.

Cooperation by Federal employees.

CIVIL ACTIONS

Jurisdiction.

Jurisdiction.

Jurisdiction.

Law applicable in civil actions.

Judgments in civil actions.

Judgments in civil actions.

Judgments in civil actions.

Costs in civil actions.

Costs in civil actions.

Payment of judgments from individual Indian moneys.

Payment of judgments from individual Indian moneys.

DOMESTIC RELATIONS

Recording of marriages and divorces.

Tribal custom marriage and divorce.

Marriages, divorces, and adoptions.

Tribal custom adoption.

Adoption.

Determination of paternity and support.

Determination of paternity and support.

Determination of heirs.

Determination of heirs.

Determination of heirs.

Approval of wills.

Approval of wills.

SENTENCES

Nature of sentences.

Nature of sentences.

Probation.

Probation.

Parole.

Juvenile delinquency.

Juvenile delinquency.

Disposition of fines.

Deposit and disposition of fines.

CODE OF INDIAN TRIBAL OFFENSES

Assault.

Assault and battery.

Carrying concealed weapons.

Abduction.

Theft.

Embezzlement.

Fraud.

Forgery.

Misbranding.

Receiving stolen property.

Extortion.

Disorderly conduct.

Disorderly conduct.

Reckless driving.

Reckless driving.

Malicious mischief.

Trespass.

Trespass.

Trespass.

Injury to public property.

Injury to public property.

Maintaining a public nuisance.

Liquor violations.

Cruelty to animals.

Game violations.

Sec. 11.58

11.59

11.60C

11.61

11.62

11.63

11.63C

11.63CA

11.64

11.64C

11.65

11.66

11.67

11.68

11.69

11.70

11.71

11.72

11.73

11.74

11.75C

11.75CA

11.76CA

11.76NE

11.77NE

11.78NE

11.79NE

11.80NE

11.81NE

11.82NE

11.83NE

11.84NE

11.85NE

11.86NE

11.87NE

THE INDIAN POLICE

11.301 Superintendent in command.

11.302 Police commissioners.

11.303 Police training.

11.304 Indian policemen.

11.305 Dismissal.

11.306 Return of equipment.

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.

§§ 11.76NE to 11.87NE, 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, 11.63C, 11.63C, 11.64C, 11.74, 11.75C, and 11.76NE—11.87NE, 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.

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 $\frac{1}{10}$ th 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

¹The 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, 43 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 indebtedness.

§ 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.