CODE

OF FEDERAL

REGULATIONS

TITLE 25

Revised as of January 1, 1958

CONTAINING A CODIFICATION OF DOCUMENTS OF GENERAL APPLICABILITY AND FUTURE EFFECT AS OF JANUARY 1, 1958

With Ancillaries and Index

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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 thereon. 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 permittee's 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 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 create 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 voided under leasehold, barter, merchandising, supplies or equipment lease.* Any permit issued under any leasehold, barter, merchandising, supplies or equipment lease does not exempt sever the sale, renting of any [illegible] 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 laws.* 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 tribal 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. 590o), as amended by the act of February 20, 1936 (49 Stat. 1148; 16 U. S. C. 590p), 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, all constitute a willful violation of the act, 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

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211.2 Landowners financially unable to pay.
211.3 Period for payments extended.
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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.

SOURCE: §§ 211.1 to 211.7 appear at 22 F. R. 10643, Dec. 24, 1957.

§ 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.

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 initial 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 such 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.
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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.

SOURCE: §§ 212.1 to 212.23 appear at 22 F. R. 10044, Dec. 24, 1957.

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 Ledge Grass Irrigation District and the Upper Little Horn Irrigation District providing for the payment, over a period

[1] The special regulations for Wapato, Fort Peck, and Flathead, were not modified. Operations of the Blackfeet project were discontinued by the Bureau, July 20, 1938, effective September 30, 1933.