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OF FEDERAL
REGULATIONS

Title 25—Indians

AS OF
JANUARY 1
1960

For changes on and after
January 1, 1960, see the daily issues of the Federal Register

§ 104.12 Title 25--Indians

restricted property by the State courts, and claims allowed pursuant to Part 16 of this chapter.

§ 104.12 Appeals. Appeal from an action taken by a Superintendent or other officer in charge of an Indian agency or reservation may be taken within 30 days of notification of the ac-

tion to the Area Director in charge of an area office of the Bureau of Indian Affairs. An appeal from an action of an Area Director may be taken within 30 days to the Commissioner of Indian Affairs. An appeal from an action of the Commissioner may be taken within 30 days to the Secretary of the Interior.

SUBCHAPTERS K-O LANDS, SURFACE ESTATES AND RESOURCES

SUBCHAPTER K--PATENTS, ALLOTMENTS AND SALES

PART 121--ISSUANCE OF PATENTS IN FEE, CERTIFICATES OF COMPETENCY, SALE OF CERTAIN INDIAN LANDS, AND REINVESTMENT OF PROCEEDS

PATENTS IN FEE

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- Sec. 121.51 Removal of restrictions.
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121.56 Appeals from decision to issue order.
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MORTGAGES AND DEEDS OF TRUST TO SECURE LOANS TO INDIANS

- 121.61 Approval of mortgages and deeds of trust. [Redesignated; revised]

PATENTS IN FEE

§ 121.2 Issuance of patents in fee.

(a) The Secretary of the Interior may, in his discretion, and pursuant to the Acts of February 8, 1887, as amended (24 Stat. 388, as amended; 25 U.S.C. 349); June 25, 1910, as amended (36 Stat. 855, as amended; 25 U.S.C. 372); and May 14, 1948 (62 Stat. 236; 25 U.S.C. 483), and pursuant to other authorizing Acts, issue patents in fee to Indians applying therefor in accordance with § 121.1. A patent in fee will be issued pursuant to this paragraph if it is determined that the applicant is competent and capable of managing his or her own affairs. At the time of the issuance of a patent in fee, an inventory of the estate covered thereby shall be delivered to the patentee. If an application is denied, the applicant shall be so notified in writing.

[Paragraph (a) amended at 24 F.R. 7100, Sept. 2, 1959]

§ 121.2a Information regarding status of applications for patents in fee.

The status of applications by Indians for patents in fee shall be disclosed to employees of the Department whose duties require that such information be disclosed to them and to the applicant, or his attorney, upon request. Such information will be made available to all other persons, upon request, fifteen (15) days after the fee patent has been issued by the Bureau of Land Management, or after the application has been rejected and the applicant notified, if such be the case.

[24 F.R. 5020, June 20, 1959]

SALES AND EXCHANGES OF INDIVIDUALLY OWNED TRUST OR RESTRICTED LAND, EXCLUSIVE OF FIVE CIVILIZED TRIBES LAND [REVISED]

SOURCE: §§ 121.9 to 121.22 appear at 24 F.R. 7100, Sept. 2, 1959.

NOTE: §§ 121.9 to 121.22 supersede former §§ 121.9 to 121.31.

§ 121.9 Authority.

(a) Pursuant to the Acts of May 27, 1902 (32 Stat. 275; 25 U.S.C. 379); March 1, 1907 (34 Stat. 1018; 25 U.S.C. 405); May 29, 1908 (35 Stat. 444; 25 U.S.C. 404); and May 14, 1948 (62 Stat. 236; 25 U.S.C. 483), and pursuant to other authorizing Acts, the following classes of land may be sold or exchanged by the Indian owner(s) with the approval of the Secretary of the Interior:

(1) Allotted land, and devised and inherited interests therein;

(2) Land acquired by purchase, exchange or gift, and devised and inherited interests therein, held under an instrument of conveyance which recites either that title is in the United States in trust for the Indian or that the land shall not be sold or alienated without the consent or approval of the Superintendent, the Commissioner of Indian Affairs, the Secretary of the Interior, or other official of the Federal Government.

(b) Pursuant to the Act of June 25, 1910 (36 Stat. 855; 25 U.S.C. 372), as amended, in certain circumstances the Secretary of the Interior or his duly authorized representative may sell interests in trust allotments acquired by Indians through inheritance or devise.

§ 121.10 Statutory prohibitions.

Trust or restricted Indian lands, or any interest therein, may not be conveyed without the approval of the Secretary of the Interior or his authorized representative (see 25 U.S.C. 348, in addition to Acts cited above). Moreover, inducing an Indian to execute any instrument purporting to convey any trust or restricted land or interest therein, or the offering of any such instrument for record, is prohibited and criminal penalties may be incurred. (See 25 U.S.C. 202.)

§ 121.11 Petition for sale.

Petitions for the sale of trust or restricted land shall be filed on approved forms with the Superintendent or other officer in charge of the Indian Agency or other local facility having administrative jurisdiction over the land. Sales will be authorized only if, after careful examination of the circumstances in each case, a sale appears to be clearly justified in the light of the long-range best interests of the owner(s). Written notice of the approval of petitions for sale of land shall be given to the tribe, occupying the reservation where the land is located, a sufficient time in advance of public advertising to reasonably enable the tribal authorities to consider the possibility of tribal interest in the land being sold. Such notice need not be given where a tribe has, by appropriate resolution, expressed a lack of interest in acquiring land on the reservation.

§ 121.12 Appraisal.

Prior to making or approving a sale, exchange, or gift of trust or restricted land, an appraisal shall be made indicating the fair market value of such land. If the highest bid received at an advertised sale is less than the appraised value, the bid may be accepted with the consent of the owner(s); if the bid price approximates the appraised value and is, in the judgment of the Secretary, the highest price that may be realized in the circumstances.

§ 121.13 Advertisement.

Upon approval of an application for an advertised sale, notice of the sale will be published not less than 30 days prior to the date fixed for the sale, unless a

shorter period is authorized. Notice of sale will state the terms, conditions, and method of sale; and will include the date, hour, and place of sale; description of the tract or tracts; a list of all reservations to which title will be subject; where and how bids shall be submitted; and a statement warning all bidders against violation of the provisions of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders. With the consent of the owner(s), the notice may afford to the tribe, to members of such tribe, or to any reasonably defined class of Indians, a right to meet the high bid.

§ 121.14 Bids

Advertised sales may be made under sealed bid or under sealed bid followed by an oral auction. The notice of sale (§ 121.13) shall state the method of bidding. Sealed bids may be submitted either by mail or personally by the principal or an agent, and in either event, will be considered only if received by the officer in charge prior to the hour fixed for the sale. Sealed bids must be enclosed in a sealed envelope, and must be accompanied by a certified check, cashier's check, money order, or United States Treasury Check, payable to the Bureau of Indian Affairs, for not less than 10 percent of the amount of the bid. The sealed envelope must be marked as prescribed in the notice of sale. The sealed envelopes will be publicly opened by the officer in charge only at the time fixed for the sale. The bids will be announced and will be appropriately recorded. The advertisement will provide for an oral auction to follow the opening of sealed bids in all cases in which a preference right to meet the high bid has not been granted to a tribe seeking such a right, provided the tribe is not the high bidder in such cases. The auction will be held provided one or more acceptable sealed bids are received. The auction shall be limited to bidders who, in their sealed bids, offer 75 percent or more of the appraised value of the land. The provision for holding an oral auction is based on a policy which recognizes that in many instances a tribe has a valid interest in acquiring lands of individual Indians which are offered for sale and which is designed to provide an additional opportunity to Indian tribes to acquire the lands. In furtherance of this policy, it

will not be required that the sealed bid of the tribe amount to 75 percent or more of the appraised value of the land, in order for the tribe to be eligible to participate in the oral auction. At the conclusion of the auction, the highest bidder shall be required to increase his deposit to not less than 10 percent of the amount of his bid.

§ 121.15 Action at close of bidding.

The officer in charge of the sale shall publicly announce the highest bid, and the deposit submitted by the unsuccessful bidders shall be returned immediately to them. The deposit submitted by the successful bidder shall be held in special deposits. The awarding of bid shall be made by the Area Director, who shall appropriately notify the successful bidder and require the deposit of the remainder of the purchase price within 30 days from the date of notification. Upon a showing of cause, the Area Director may, in his discretion, extend the time for payment of the balance due. The issuance of patent or delivery of deed to the purchaser will not be authorized until the balance has been paid. If the remainder of the bid is not paid within the time allowed, the bid will be rejected and the bidder's deposit will be forfeited to the use of the owner(s) of the land.

§ 121.16 Rejection of bids; disapproval of sale.

The officer in charge of the sale shall have the right to reject any and all bids prior to award. The Secretary of the Interior reserves the right to reject any bid at any time prior to the issuance of patent or approval of deed, when he shall have determined such action to be in the best interests of the Indian owner(s).

§ 121.17 Bidding by employees.

Except as authorized by the provisions of § 251.5 of this chapter, no person employed in Indian affairs shall directly or indirectly bid, or make or prepare any bid, or assist any bidder in preparing his bid. Sales between Indians, either of whom is an employee of the United States Government, are governed by the provisions of § 251.5 of this chapter (see 25 U.S.C. 68 and 441).

§ 121.18 Negotiated sales.

(a) The following types of conveyances may be negotiated: (1) A sale to

another Indian, an Indian tribe, or a conveyance to a member of the Indian's immediate family pursuant to the provisions of paragraph (b) of this section; (2) the United States or an agency thereof, or a state or local government or agency thereof, or such other sale as may be for a public purpose; (3) a sale to a non-Indian when the Secretary determines that it is impractical to advertise; (4) an exchange; (5) temporary easements for rights of way not to exceed fifty years. Except as provided in paragraphs (b) and (c) of this section, the consideration for a negotiated sale shall be not less than the appraised value of the land. The consideration for an exchange shall be either land, or a combination of land and money or other thing of value, the fair market value of which is not less than the appraised value of the trust or restricted land.

(b) An Indian owner of trust or restricted land may, with the approval of the Secretary, convey land to a member of his or her immediate family for a consideration less than that prescribed in paragraph (a) of this section, or for no consideration. For purposes of this section, immediate family is defined as the Indian's spouse, brothers and sisters, lineal ancestors of Indian blood, and lineal descendants.

(c) Indian owners of trust or restricted land may, with the approval of the Secretary, convey land to any Indian who is a co-owner of the land for a consideration less than that prescribed in paragraph (a) of this section, or for no consideration. If more than one of the Indian co-owners wish to buy the land, and if the owners agree, all such co-owners interested will submit sealed bids. With the consent of the owners, the award will be made to the highest such bidder.

§ 121.19 Deferred payment sales.

When the Indian owner and purchaser desire, a sale may be made or approved on the deferred payment plan. The terms of the sale will be incorporated in a Memorandum of Sale which shall constitute a contract for delivery of title upon payment in full of the amount of the agreed consideration. The deed executed by the grantor or grantors will be held by the Superintendent and will be delivered only upon full compliance

with the terms of the sale. If conveyance of title is to be made by fee patent, request therefor will be made only upon full compliance with the terms of the sale. If the purchaser, whether Indian or non-Indian, is to take title in a non-trust and unrestricted status, the purchaser shall pay not less than 25 percent of the purchase price in advance, and shall execute notes on Form 5-110g for the balance payable in three equal payments on or before 1, 2, and 3 years after date. If the purchaser is an individual Indian or Indian tribe, and if the purchaser is to take title in a trust or restricted status, the purchaser shall pay not less than 10 percent of the purchase price in advance; terms for the payment of the remaining installments are within the discretion of the Secretary of the Interior. If the purchaser on any deferred payment plan makes default in the first or subsequent payments, all payments, including interest, previously made will be forfeited to the Indian owner.

§ 121.20 Cost of conveyances; payment.

In all cases involving the sale of restricted allotted Indian lands, either on a cash basis or on deferred payments, the purchasers will be required to deposit with the Superintendent, in addition to the consideration for the land, the sum of \$22.50, such amount to be paid when the purchaser is notified that he is the successful bidder. Such fees should not be included in checks covering payment for the land, but collected separately and deposited to the credit of the United States as general fund receipts, except when the expenses of the work are paid from Indian tribal funds, in which event they shall be credited to such funds. This fee is collected for the purpose of paying, at least in part, for the work incident to the sale as required by the Act of February 14, 1920, as amended by the Act of March 1, 1933 (47 Stat. 1417; 25 U.S.C. 413). The fee may be reduced to a lesser amount than \$22.50 or to a nominal amount if the circumstances justify such reduction in the discretion of the Secretary of the Interior. When the purchaser is an Indian tribe which bears all or any part of the expenses of the realty functions, the collection of the fee shall be waived.

(Sec. 1, 41 Stat. 415, as amended; 25 U.S.C. 413)

§ 121.21 Irrigation fees: payment.

Where irrigable lands are to be sold, a statement for use in preparing the appraisal will be obtained from the supervising or project engineer as to the proportionate per acre construction cost of the project to be assessed against the land, the amount of such assessment which has not been paid, and the amount of unpaid operation and maintenance charges assessed against the lands. In such sales the purchaser will be required to pay the proportionate per acre construction cost of the particular project to be assessed against the land; and in addition, the purchaser will be required to pay the annual operation and maintenance charges assessed against the land which will be based on the annual cost of the operation of the system. All such charges, remaining unpaid as of the date of the acceptance of the bid, must be paid by the purchaser. In all cases purchasers will be required to enter into an agreement for the payment of all such charges. A lien clause covering the cost of all irrigation charges, past and future, will be inserted in the patent or other instrument issued to the purchaser.

CROSS REFERENCES: For regulations pertaining to construction costs see Parts 211, 214, 215 of this chapter. For additional regulations pertaining to the payment of fees and charges in connection with the sale of irrigable lands, see Parts 128, 129, and § 211.4 of this chapter.

§ 121.22 Preference right to purchase lands in Oklahoma.

In the case of any sale of restricted Indian land at public auction or by sealed bids in Oklahoma, except in the case of the Osage Reservation, the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 501-509), provides in part that whenever any restricted Indian land or interests in land other than sales or leases of oil, gas, or other minerals therein, are offered for sale, pursuant to the terms of this or any other Act of Congress, the Secretary of the Interior shall have a preference right, in his discretion, to purchase the same for or in behalf of any other Indian or Indians of the same or any other tribe at a fair valuation to be fixed by the appraisement satisfactory to the Indian owner(s) or if offered for sale at auction, said Secretary shall have a preference right, in his discretion, to purchase the same for or in behalf of any other Indian or Indians by meeting the

highest bid otherwise offered therefor. Such preference right to purchase is placed in the Secretary of the Interior under the Act and is recognized as remaining in full force and effect until released by said Secretary or his authorized representative through endorsement on deeds of conveyance or in an appropriate order, the form of which is "Preference right of purchase resting in the Secretary of the Interior under section 9 of the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 502), is hereby waived as to the lands herein described."

(Sec. 9, 49 Stat. 1968; 25 U.S.C. 509)

REMOVAL OF RESTRICTIONS AND SALE OF LANDS, FIVE CIVILIZED TRIBES AND RE-INVESTMENT OF FUNDS IN NONTAXABLE LANDS

§ 121.33 Applicability of other sections.

Sections 121.18(a) (5) and 121.22 are applicable to the Five Civilized Tribes.

[24 F.R. 7102, Sept. 2, 1959]

§ 121.35 Removal of restrictions, unconditionally.

(a) Upon proper showing to the Secretary of the Interior that an applicant, for the unconditional removal of restrictions pursuant to statutory authority other than section 2(a) of the act of August 11, 1955 (69 Stat. 666), should have the unrestricted control of his allotment or a part thereof, he may remove the restrictions therefrom.

(b) If the restrictions are to be removed pursuant to an application filed under section 2(a) of the act of August 11, 1955 (69 Stat. 666), the qualifications of the applicant shall be the same as those listed in § 121.51 and the factors to be considered in connection with the application shall be the same as those listed in § 121.53. If an order removing restrictions is granted, it shall be effective upon issuance and the effect thereof shall be the same as that described in § 121.52.

(c) If an application for the removal of restrictions pursuant to section 2(a) of the act of August 11, 1955 (69 Stat. 666), is disapproved or there is a failure to approve or disapprove within 90 days of the date of the application, the Indian applicant may apply to the county court for the county in which he or she resides for an order removing restrictions.

[24 F.R. 3692, May 7, 1959]

§ 121.36 Removal of restrictions, conditionally.

With the exception of applications for removal of restrictions filed under section 2(a) of the act of August 11, 1955 (69 Stat. 666) which removals are unconditional, when the Secretary of the Interior finds it to be for the best interest of any applicant that all or part of his restricted lands should be sold with conditions concerning terms of sale and disposal of the proceeds, he may remove the restrictions, to become effective only and simultaneously with the execution of a deed by said applicant and issue an order specifically providing the terms under which the land may be sold and providing for the disposal of the proceeds.

[24 F.R. 3693, May 7, 1959]

REMOVAL OF RESTRICTIONS, FIVE CIVILIZED TRIBES (ADDED)

AUTHORITY: §§ 121.51 to 121.57 issued under R. S. 161; 5 U. S. C. 22. Interpret or apply sec. 2, 49 Stat. 666, 69 Stat. 666, 25 U.S.C. 255

SOURCE: §§ 121.51 to 121.57 appear at 23 F.R. 6494, Aug. 22, 1958.

NOTE: Former § 121.52 was redesignated § 121.61.

§ 121.51 *Removal of restrictions.* Upon a determination by the Secretary of the Interior that an adult Indian of the Five Civilized Tribes owning trust or restricted property possesses sufficient ability, knowledge, experience, and judgment to enable him to manage his business affairs, including the administration, use, investment, and disposition of any property turned over to such person 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, the Secretary or his authorized representative shall issue, without application therefor by the Indian affected, an order removing restrictions.

§ 121.52 *Effect of order.* When an order becomes effective, the Secretary shall cause to be turned over to the Indian full ownership and control of any money and property that is held in trust for him or that is held subject to a restriction against alienation imposed by the United States, issuing, in the case of land, such title document as may be appropriate; provided, that the Secretary may make such provisions as he

deems necessary to insure payment of money loaned to any such Indian by the Federal Government or by an Indian tribe, and provided further, that the interest of any lessee or permittee in any lease, contract, or permit that is outstanding when an order removing restrictions become effective shall be preserved as provided in section 2 (d) of the act of August 11, 1955. The effect of such order also shall be to terminate the Indian's eligibility for all special services provided for him by the Department of the Interior because of his status as an Indian, except in cases (a) where it is determined by the Secretary, or his authorized representative, that the termination of eligibility because of such order will result in substantial hardship for the Indian, and (b) where the Secretary, or his authorized representative, is directed by law to provide such special services for the Indian, and if he inherits or there is devised to him interests in trust or restricted property, subsequent to the effective date of the order, the property will be acquired without restrictions. Any existing exemption from taxation that constitutes a vested property right shall continue in force and effect until it terminates by virtue of its own limitations.

§ 121.53 *Factors to be considered.* Prior to the issuance of an order removing restrictions, all or part of the following factors, as appropriate, shall be considered in arriving at a decision, and any other factors that may be pertinent:

(a) The extent of the Indian's education and the nature of his training and experience, including business experience, and the manner in which he has demonstrated his ability to manage his own affairs without assistance or supervision.

(b) The extent to which he has made an adequate living for himself and family; the extent to which he has required assistance from the Government, tribe, or other agency or organization in the matter of loans, relief, old-age assistance, aid to dependent children, unemployment compensation, old-age and survivors insurance, etc.; and the extent, if any, his family has been dependent on the income from trust or restricted property.

(c) The assets, including land and improvements, farm equipment, livestock, etc., he, or his family has; the

property, real or personal, he has acquired through his own efforts.

(d) The manner in which he has used assets and funds coming into his possession, whether through earnings, inheritance or otherwise.

(e) The state of his health and physical capacities, insofar as they affect his ability to manage his own affairs.

(f) The value of his property in relation to his demonstrated degree of ability to manage his own affairs.

§ 121.54 *Notice of intent to issue order.* Prior to the issuance of an order removing restrictions the Indian will be notified in writing that:

(a) Section 2 (b) of the act of August 11, 1955 (69 Stat. 666), directs the Secretary of the Interior to issue an order removing restrictions to any Indian of the Five Civilized Tribes who, in the judgment of the Secretary, has sufficient ability, knowledge, experience, and judgment to enable him to manage his business affairs, including the administration, use, investment, and disposition of any property turned over to such person 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.

(b) He has been determined tentatively to be in the category defined by the statute, and an order removing restrictions will be issued 60 days after the date of the notice, unless he or someone acting in his behalf, presents persuasive reasons for not issuing the order. Such reasons should be in writing and received in the office issuing the notice before the end of the 60-day period.

§ 121.55 *Issuance of order.* (a) If no objection is filed, as permitted by § 121.54 (b), the order shall be issued at the end of the 60-day period, and the Indian and the Board of County Commissioners for the county in which the Indian resides shall be so notified. The order shall become effective six months after the date of such notice, unless set aside by order of a county court. The timely initiation of proceedings before a county court shall stay the effective date of an order until the proceedings are concluded.

(b) If an Indian, or someone acting in his behalf, submits within the 60-day period allowed for that purpose, reasons

for not issuing the order, and it is determined the reasons are not persuasive, the Indian and any person acting in his behalf shall be notified in writing that the order will be issued, notwithstanding the objections, 30 days after the date of such notification. The notification shall allow a right of appeal to the Secretary of the Interior within the 30-day period.

§ 121.56 *Appeals from decision to issue order.* An appeal to the Secretary, together with supporting data, must be transmitted to the officer issuing the notice of the proposed removal of restrictions, and must be received by such officer before the expiration of the 30-day period mentioned in § 121.55 (b). Issuance of the order removing restrictions shall be withheld until the appeal is decided. If no appeal is received by the end of the 30-day period allowed for appeals, or if an appeal is dismissed, the order removing restrictions shall be issued, and the Indian and the Board of County Commissioners for the county in which the Indian resides shall be so notified. The order shall become effective six months after the date of such notice, unless set aside by order of a county court. The timely initiation of proceedings before a county court shall stay the effective date of an order until the proceedings are concluded.

§ 121.57 *Judicial review.* When an order removing restrictions is issued, copies thereof shall be delivered to the Indian, and to any person acting in his behalf, and to the Board of County Commissioners for the county in which the Indian resides, with the notification that, under the terms of the act of August 11, 1955 (69 Stat. 666), the Indian or the Board of County Commissioners has the right, within six months from the date of the notice of the order, to apply to the county court for the county in which the Indian resides for an order setting aside the order removing restrictions. The timely initiation of such proceedings shall stay the effective date of the order until the proceedings are concluded.

MORTGAGES AND DEEDS OF TRUST TO SECURE LOANS TO INDIANS

§ 121.61 *Approval of mortgages and deeds of trust.* The Commissioner of Indian Affairs or his authorized representative may approve mortgages or

deeds of trust on any individually owned trust or restricted land whenever such lands under any law or treaty may be sold with the approval of the Secretary of the Interior or his duly authorized representative. The approval of such a mortgage or deed of trust terminates the trust or restricted status of the land only with respect to such mortgage or deed of trust and only for the purpose of permitting foreclosure or sale pursuant to the terms of the mortgage or deed of trust in accordance with the laws of the State or Territory in which the land is situated.

R. S. 181; 5 U. S. C. 22. Interprets or applies sec. 7, 32 Stat. 275, 34 Stat. 1018, sec. 1, '36 Stat. 444, sec. 1, 2, 36 Stat. 855, as amended, 855, as amended, sec. 17, 40 Stat. 570, 62 Stat. 236; 25 U. S. C. 379, 405, 404, 372, 373, 483)

CODIFICATION: Former § 121.52 was redesignated § 121.61 and revised, 23 F. R. 6404, Aug. 22, 1958.

Part 130—Allotment of lands on the Torres-Martinez Indian Reservation, California [Added]

Sec.	
130.1	Purpose.
130.2	Scope.
130.3	Size of allotments.
130.4	Description of allotments.
130.5	Method of selection.
130.6	Notice of allotment.
130.7	Priority of owners or improvements.
130.8	Priority of previous selectees.
130.9	Priority of selecting remaining lands available for allotment.
130.10	Disposition of improvements.
130.11	Submittal of allotment schedule.
130.12	Issuance of trust patents.
130.13	Special instructions.

AUTHORITY: §§ 130.1 to 130.13 issued under sec. 10, 64 Stat. 472.

SOURCE: §§ 130.1 to 130.13 appear at 23 F. R. 1921, Mar. 22, 1958.

§ 130.1 *Purpose.* The rules and regulations in this part will govern the preparation of allotment schedules containing the names and allotment selections of the unallotted members, hereinafter called members, of the Torres-Martinez Band of Mission Indians of the Torres-Martinez Indian Reservation.

§ 130.2 *Scope.* The rules and regulations in this part shall apply to those Indians whose names appear on the official enrollment records of the Torres-Martinez Band of Mission Indians as of

June 30, 1949, approved by the Secretary of the Interior, who have not heretofore received allotments.

§ 130.3 *Size of allotments.* Each member shall be entitled to an allotment of not to exceed 40 acres of land classed as irrigable or potentially irrigable and available for allotment by the Secretary of the Interior.

§ 130.4 *Description of allotments.* Each allotment selection must be described by legal subdivision or aliquot part thereof based upon public land surveys made by the Department of the Interior and wherever possible must consist of a single tract or contiguous tracts of land.

§ 130.5 *Method of selection.* The Area Director, Sacramento Area Office, or his representative, shall be available during the periods specified in this part, at an office of the Bureau of Indian Affairs located in the proximity of the Torres-Martinez Reservation to assist the Indians in making allotment selections. A map of the reservation on which is shown the irrigable and potentially irrigable land which may be allotted, shall be available in such office during regular business hours for use in making the allotment selections. Each adult member shall select his allotment from tribal land available for allotment. Selections for minors shall be made by one of the parents or by the Area Director's authorized representative should the parents refuse or fail to make a selection. Selections for orphan members or members who are under legal disability shall be made by the Area Director's authorized representative. Members who are not able to appear personally and sign the required forms for their selection, may in writing appoint a representative to make the allotment selection, provided the appointment is duly acknowledged before a notary public or other officer authorized to take acknowledgments. Appropriate forms for making selections shall be furnished by the Area Director.

§ 130.6 *Notice of allotment.* The Area Director shall mail a copy of the rules and regulations in this part, together with a letter entitled "Notice of Allotment" bearing the date it is posted, by registered mail to each member eligible for an allotment to the member's last known address. The letter shall inform each member of the place and the period