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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Part 128—Sale of Irrigable Lands, Special Water Contract Requirements

CROSS REFERENCES: For additional regulations pertaining to the payment of fees and charges in connection with the sale of irrigable lands, see Part 129 and §§ 211.4 and 121.23 of this chapter. For general regulations pertaining to the issuance of patents in fee, see Part 121 of this chapter.

§ 128.1 *Conditions of contract.* (a) The form of contract (Form 5-462b)[1] for sale of irrigable lands specifically provides that the purchaser will obligate and pay on a per acre basis all irrigation charges assessed or to be assessed against the land purchased including accrued assessment, which accrued assessment shall be paid prior to the approval of the sale, and for the payment of the construction and operation and maintenance assessments on the due dates of each year. The agreement is to be acknowledged and recorded in the county records in which county the land is situated. The charges incidental to the recording of the instrument shall be paid by the purchaser at the time of executing the agreement.

(b) A strict compliance with the terms of paragraph (a) of this section is absolutely necessary and required.

[Secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U. S. C. 385. Interprets or applies sec. 1, 41 Stat. 409; 25 U. S. C. 386) [22 F. R. 10566, Dec. 24, 1957]

NOTE: On May 12, 1921, Circular No. 1677, re sale of irrigable lands, was addressed to all superintendents. It was pointed out therein that the collection of irrigation construction charges was required by the terms of an act approved February 14, 1920 (41 Stat. 409; 25 U. S. C. 386), and that in addition to the construction charge there was an operation and maintenance charge assessable annually that must be paid by the landowners benefited; furthermore, that the purpose of this circular was to point out to the superintendents the necessity of advising prospective purchasers that irrigation charges must be paid and that a so-called paid-up water right was not conveyed with the land. A form of agreement to be executed by the prospective purchaser accompanied this circular.

It has been brought to the attention of the Bureau that irrigation construction charges and operation and maintenance charges have accrued against irrigable allotments prior to the time of their being advertised for sale and that the superintendents have failed to provide for payment of the accrued irrigation charges, with the result that no means are apparent for their collection.

With a view of preventing any future misunderstanding the form of contract accompanying Circular No. 1677 has been regrafted and Form 5-462b designed to it. The circular has been designated "No. 1677a."

Part 129—Inclusion of Liens in All Patents and Instruments Executed

Sec.
129.1 Liens.
129.2 Instructions.
129.3 Leases to include description of lands.
129.4 Prompt payment of irrigation charges by lessees.

AUTHORITY: §§ 129.1 to 129.4 issued under secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U. S. C. 385.

SOURCE: §§ 129.1 to 129.4 appear at 22 F. R. 10566, Dec. 24 1957.

§ 129.1 *Liens.* The act of March 7, 1928 (45 Stat. 210; 25 U. S. C. 387) creates a first lien against irrigable lands under all Indian irrigation projects where the construction, operation and maintenance costs of such projects remain unpaid and are reimbursable, and directs that such lien shall be recited in any patent or instrument issued for such lands to cover such unpaid charges. Prior to the enactment of this legislation similar liens had been created by legislative authority against irrigable lands of the projects on the Fort Yuma, Colorado River, and Gila River Reservations, in Arizona; Blackfeet, Fort Peck, Flathead, Fort Belknap, and Crow Reservations, Mont.; Wapato project, Yakima Reservation, Wash.; the irrigable lands on the Colville Reservation within the West Okanogan irrigation district, Washington, and the Fort Hall Reservation, Idaho. This legislation, therefore, extends protection similar to that existing in the legislation applicable to the projects on the reservations above mentioned.

CROSS REFERENCES: For operation and maintenance charges and construction costs see Parts 221, 211, 214, and 215 of this chapter.

§ 129.2 *Instructions.* All superintendents and other officers are directed to familiarize themselves with this provision of law, and in all cases involving the issuance of patents or deeds direct to the Indian or purchaser of Indian allotments embracing irrigable lands, they will recite in the papers forwarded to the Department for action the fact that the lands involved are within an irrigation project (giving the name) and accordingly are subject to the provisions of this law. This requirement will be in addition to the existing regulations requiring the superintendents in case of sales of irrigable lands to obtain from the project engineer a written statement relative to the irrigability of the lands to be sold, and whether or not there are any unpaid irrigation charges, together with the estimated per acre construction cost assessable against the land involved in the sale. Each sale will also be accompanied by contract executed in accordance with regulations obligating the purchaser to pay the accrued charges, namely, construction, operation, and maintenance, prior to the approval of the sale and to assume and pay the unassessed irrigation charges in accordance with regulations promulgated by the Secretary of the Interior.

CROSS REFERENCES: For additional regulations pertaining to the payment of fees and charges in connection with the sale of irrigable lands, see Part 128 and §§ 211.4 and 121.23 of this chapter.

§ 129.3 *Leases to include description of lands.* It is important, also, for superintendents in leasing irrigable lands to present to the project engineer lists containing descriptions of the lands involved for his approval of the irrigable acreage and for checking as to whether or not such lands are in fact irrigable under existing works. Strict compliance with this section is required for the purpose of avoiding error.

§ 129.4 *Prompt payment of irrigation charges by lessees.* Superintendents will also see that irrigation charges are promptly paid by lessees, and where such charges are not so paid take appropriate and prompt action for their collection. Such unpaid charges are a lien against the land, and accordingly any failure on the part of the superintendents to collect same increases the obligation against the land.

[1] Forms may be obtained from the Commissioner of Indian affairs, Washington 25, D. C.

SUBCHAPTER L—LEASING AND PERMITTING

Part 131—Leasing and Permitting

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AUTHORITY: §§ 131.1 to 131.29 issued under R. S. 161; 5 U. S. C. 22. Interpret or apply secs. 3, 26 Stat. 795, sec. 1, 28 Stat. 305, secs. 1, 2, 31 Stat. 229, 246, secs. 7, 12, 34 Stat. 545, 34 Stat. 1015, 1034, 35 Stat. 70, 95, 97, sec. 4, 36 Stat. 856, sec. 1, 39 Stat. 128, 41 Stat. 415, as amended, 751, 1232, sec. 17, 43 Stat. 636, 641, 44 Stat. 658, as amended, 894, 1365, as amended, 47 Stat. 1417, sec. 17, 48 Stat. 984, 988, 49 Stat. 115, 1135, sec. 55, 49 Stat. 781, sec. 3, 49 Stat. 1967, 54 Stat. 745, 1057, 60 Stat. 308, secs. 1, 2, 60 Stat. 962, sec. 5, 64 Stat. 46, secs. 1, 2, 4, 5, 6, 69 Stat. 539, 540, 69 Stat. 725; 25 U. S. C. 380; 393, 393a, 394, 396, 397, 402, 402a, 403, 403a, 403b, 403c, 413, 415, 415a, 415b, 415c, 415d, 477, 635.

SOURCE: §§ 131.1 to 131.29 appear at 22 F. R. 10566, Dec. 24, 1957.

§ 131.1 *Definitions.* As used in this part:

(a) "Secretary" means Secretary of the Interior.

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

(c) "Area Director" means the official in charge of an area office of the Bureau of Indian Affairs, or such other employee of the Bureau as he may properly designate in writing as acting director.

(d) "Superintendent" means the superintendent or other officer in charge of an Indian agency or unit under which the administration of restricted lands as described in this part has been placed.

(e) "Tribe" means a tribe, band, pueblo, rancheria, or other group of Indians.

(f) "Tribal Council" means the council, business committee, governor, or other body or individual authorized to represent the tribe.

(g) "Restricted lands" means lands or interests in lands held by Indian tribes in fee or by Indian title or held in trust by the United States for the benefit of Indian tribes; and lands or interests in lands held by the United States in trust for individual Indians or held by individual Indians subject to restrictions against alienation without the consent of the Secretary of the Interior or his duly authorized representative.

(h) "Permit" means a permit revocable in the discretion of the issuing or approving officer.

(i) "Farm-pasture" lease means a lease authorizing the grazing of livestock on areas of land used in connection with farming operations or which for any reason are not included in range units, pursuant to Part 151 of this chapter.

(j) "Specialized crops" means those crops requiring a deferred period of years for investment return.

§ 131.2 *Purpose of regulations.* The regulations in this part prescribe the terms and conditions under which restricted lands that are not in use by the Indian owners or the United States may be leased or permitted for farm, farm-pasture, business and other purposes authorized by statute. No leases shall be approved under the regulations of this part that contain any provision that will prevent or delay a termination of Federal trust responsibilities with respect to the land during the term of the lease.

§ 131.3 *Applicability of regulations.* This part is generally applicable but is subject to the special exceptions provided in §§ 131.24 to 131.26, inclusive.

§ 131.4 *Authority for leases or permits.* Either leases or permits may be granted for tribally or individually-owned restricted lands, except that, where no specific statutory authority to lease has been provided, permits only may be issued.

§ 131.5 *Ownership of improvements.* Leases granted under the regulations in this part shall be made for such terms and shall be limited in duration to a period that will permit amortization of the investment by the lessee in permanent improvements. All improvements made under the terms of the lease shall remain on the land as the property of the lessor unless specifically excepted therefrom under the terms of the lease. At the termination of the lease, the lessor shall have the option to purchase the improvements specifically excepted, which option shall be exercised in writing by the lessor by notice to the lessee at least sixty days prior to the expiration of the lease. The lessee shall have sixty days from the date of the expiration of his lease in which to remove the improvements.

§ 131.6 *Duration of leases and permits of restricted lands.* (a) Indian lands, whether tribally or individually owned, may be leased for public, religious, educational, recreational, residential, or business purposes for a period of not to exceed twenty-five years. With the consent of both parties, such leases may include provisions authorizing their renewal for one additional term of not to exceed twenty-five years.

(b) Farming and agricultural development leases which require the making of a substantial investment for the production of specialized crops, and such farm leases which require the development or utilization of the soil and water resources in connection with their operation as determined by the Secretary or his authorized representative may be executed for a term of not to exceed twenty-five years.

(c) Farming leases not requiring such investment or development may be executed for a term of not to exceed five years for dry-farming lands or ten years for irrigable lands.

(d) Grazing leases may be executed for a term of not to exceed ten years when such leases require substantial development or improvement.

(e) Unless otherwise provided by the Commissioner or his authorized representative, the rental on leases granted for more than five years shall be subject to adjustment at not more than five year intervals.

(f) Leases granted by the superintendent on lands of deceased Indians whose heirs have not been determined shall be limited to terms not exceeding one year, except as otherwise provided in § 131.7.

(g) With the exception set forth in paragraph (a) of this section there shall be no provision for renewal in the leases.

§ 131.7 *Power of superintendent to grant leases or permits for restricted lands of individual Indians.* (a) The superintendent may grant leases or permits for individual restricted lands on behalf of: (1) Indians non compos mentis and orphaned minors for whom no legal guardians have been appointed; (2) nonresidents whose whereabouts are unknown to him.

(b) The superintendent may grant leases or permits embracing inherited or devised restricted individual lands: (1) When the heirs or devisees of the decedents have not been determined, (2) when the heirs or devisees of the decedents have been determined and the lands are not in use by any of the heirs or devisees and the heirs or devisees have not been able during the three months period immediately following the date on which a lease may be renewed to agree upon a lease by reason of the number of heirs, their absence from the reservation or for any other cause.

(c) Where the majority interest in land being leased is owned by Indians authorized to negotiate their leases as provided for in § 131.8 and such Indians have agreed to and executed a lease on terms satisfactory to the superintendent, the superintendent is authorized to execute the lease in behalf of undetermined presumptive heirs owning the minority interest in such lands and in behalf of such Indians whose lands he is authorized to lease under paragraphs (a) and (b) of this section, without advertising such minority interest and without the limitation as to term as provided for in § 131.6 (f).

(d) Except as provided in paragraph (c) of this section, the superintendent, prior to the granting by him of a lease or permit in accordance with the provisions set forth in the regulations of this part or in accordance with a power to issue a lease or permit granted by the owners, shall advertise the lands for lease, unless prior authority to waive advertising has been granted by the Commissioner or his duly authorized representative, and assure that the present fair market value is obtained for the owners. After exposure to the open competitive market, through advertisement for sealed bids, if the highest bid received is less than the appraised value, such bid may be accepted by the superintendent when the bid price is not substantially less than the appraised value with the consent of the owner. Leases granted by the superintendent may, in his discretion, provide for the payment of the rentals due thereunder to the person having custody of the owner of the lands.

§ 131.8 *Negotiation of individual leases and permits.* Adult Indians (other than those non compos mentis) may negotiate for themselves and for their minor children on forms approved by the Secretary or his duly authorized representative, leases or permits for the use of individual restricted lands, subject to the regulations of this part and the written approval of the superintendent. Unless such leases or permits provide otherwise, rentals shall be paid directly by the lessees or permittees to the adult Indian lessors or permittors for their lands. Rentals on minors' lands shall be paid to the superintendent except where under applicable statutes it is mandatory that such rentals be paid to the parents. Negotiated leases shall not be approved at less than the appraised fair rental value.

§ 131.9 *Negotiation of tribal leases and permits.* (a) Tribes, acting through their tribal councils or their authorized representatives, may negotiate on forms approved by the Secretary or his duly authorized representative and subject to the approval of the Secretary or his authorized representative, leases or permits with respect to tribal lands, at not less than the appraised value. A lease or permit may provide for the payment of rentals direct to the lessor when a tribe is organized and has facilities for handling its own funds, including an acceptable bonded officer to receipt for funds. Otherwise, the lease or permit

shall provide for the payment of rentals to the superintendent for deposit to the credit of the tribe in the United States Treasury.

(b) The constitutions, bylaws, charters, ordinances, and resolutions, adopted by tribes organized pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984, 25 U. S. C. 461-479), as amended June 15, 1935 (49 Stat. 378), and May 1, 1936 (49 Stat. 1250), and the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967, 25 U. S. C. 501-509), shall govern where inconsistent with the regulations in this part.

§ 131.10 *Grants of permits for the use of other lands.* In order to conserve and protect them from deterioration, lands acquired by the United States for Indian school or other Indian administrative purposes or transferred to or placed under the administration of the Bureau of Indian Affairs and which are not immediately needed for the purpose for which they were acquired or transferred, may be made available by the superintendent, subject to the approval of the Commissioner or his authorized representative, for farm, farm-pasture, business, or other purposes under permits for minimum periods conducive to proper use.

§ 131.11 *Irrigable lands, drainage districts, payment of charges.* Any lease or permit for restricted lands within an irrigation project shall require the lessee or permittee to pay on the due date annually in advance during the term of the instrument, and in the amounts determined by orders of the Secretary or his duly authorized representative, charges assessed against such lands. Such charges shall be in addition to the rental payments prescribed in the lease or permit. All payments of such charges and penalties shall be made to the superintendent or other officer designated by the Commissioner.

§ 131.12 *Farm and farm-pasture units.* (a) When areas of restricted land, consisting of parts or all of a number of allotments of individual lands or separate tracts of tribal lands, can be developed and effectively utilized under proper soil conservation and land use practices as single operational units, a suitable division shall be made by the superintendent of such lands into units: *Provided, however,* That the establishment of units containing in excess of 640 acres of irrigable land or in excess of 2,560 acres of dry farming or farm-pasture land shall be subject to the approval of the Commissioner or his authorized representative.

(b) A lease or permit may be issued by the superintendent on restricted land in a unit if such authority has been granted to the superintendent by the owners of the areas in the unit or if the superintendent is authorized in accordance with the provisions of this part to issue leases or permits covering such lands without the consent of the owners.

§ 131.13 *Grazing units excepted.* Restricted grazing lands within range units established pursuant to Part 151 of this chapter, general grazing regulations, shall not be leased and permits respecting such lands shall not be issued under this part.

§ 131.14 *Minor's land, use by parents.* Any Indian who supports his dependent minor children may use their restricted lands during the period of their minority without charge for the use of their lands if such use will enable him to engage in a farming or business enterprise which will also be beneficial to his minor children, and any such Indian may also pledge the income from such lands for the period of his children's minority as security for a loan from the United States, an Indian chartered corporation, an unincorporated tribe, or an Indian credit association.

§ 131.15 *Bonds.* Unless otherwise provided by the Commissioner or his authorized representative, full performance of the conditions of each lease or permit issued under this part shall be guaranteed by a satisfactory corporate surety bond or individual surety bond in a penal sum of not less than one year's rental and other provided charges, plus the estimated value of any improvements to be constructed by the lessee or permittee for the benefit of the lessor or permitter. In lieu of furnishing a surety bond, a lessee or permittee may deposit with the superintendent cash or negotiable United States Treasury Bonds or other negotiable Treasury obligations in the appropriate amount, together with a power of attorney appointing and empowering the Commissioner or his authorized representative in the event of any breach of the lease or permit to pay over any such cash, or to dispose of any such bonds and pay over the proceeds

derived therefrom, as liquidated damages to or for the benefit of the lessor or permitter.

§ 131.16 *Subleases; assignments.* A sublease or assignment of any lease or permit issued under this part may be made only with the written consent of all parties thereto, including the surety or sureties, and the Government officer or employee who had authority to approve the original lease or permit.

§ 131.17 *Special mandatory provisions.* All leases or permits issued under this part shall contain provisions as follows:

(a) Nothing contained in this lease shall operate to delay or prevent a termination of Federal trust responsibilities with respect to the land during the term of this lease; however, such termination shall not serve to abrogate this lease. In the event of such termination, all powers, duties, or other functions of the Secretary of the Interior or his authorized representative shall terminate, and the responsibility for enforcing compliance with the covenants of this lease shall be assumed by the lessor, his heirs, devises, executors, administrators, or assigns.

(b) In the event of termination of Federal supervision, the lessor and lessee, or their successors in interest, shall have a period of 30 days from the anniversary date provided for in the lease for adjustment of the rental within which to agree upon the rental adjustment or to agree upon a commercial appraiser to determine the fair annual rental value. If no agreement can be reached at the end of 30 days, the lessor and lessee, or their successors, shall each appoint an appraiser and the two appraisers shall select a third appraiser. The three appraisers so selected shall constitute the appraisal board to reevaluate the fair annual rental.

(c) The lessee (permittee) further agrees that he will not use or permit to be used any part of said premises for any unlawful conduct or purpose whatsoever; that he will not use or permit to be used any part of said premises for the manufacture, sale, gift, transportation, drinking or storage of intoxicating liquors or beverages in violation of existing laws relating thereto, and that any violation of this clause by the lessee (permittee) or with his knowledge, shall render this lease voidable at the option of the superintendent.

§ 131.18 *Advance execution of leases.* Except with the approval of the Commissioner or his authorized representative, no lease or permit shall be negotiated more than 12 months prior to the date when it is to become effective.

§ 131.19 *Payment of rentals.* No rent or other consideration for the use of land leased pursuant to the regulations of this part shall be paid or collected more than one year in advance, unless so provided in the lease. Any lease containing a provision for payment or collection of rental for more than one year in advance shall not be approved by the superintendent. Authority to approve such leases may be granted by the Area Director in his discretion.

§ 131.20 *Description of leased property.* When a lease covers only part of an allotment, a definite description by subdivision or by metes and bounds must be incorporated therein, accompanied by a plat of the part intended to be leased when the metes and bounds do not conform to the public survey.

§ 131.21 *Conservation and land use requirements.* All farming and grazing operations conducted under leases executed pursuant to the regulations of this part shall be in accordance with the lease terms and land use stipulations or a plan of conservation operations prepared by the superintendent in accordance with approved methods. Such stipulation or plan shall be annexed to and made a part of the lease.

§ 131.22 *Violation of lease or permit.* The superintendent is responsible for and shall enforce compliance with the requirements of leases or permits issued under this part and the applicable regulations. If he has reason to believe that a lessee or permittee has violated the lease or permit or the regulations, he shall serve written notice upon the lessee or permittee setting forth in detail the nature of the alleged violation and give the violator 10 days from the date of notice in which to show cause why the lease or permit should not be canceled. The surety or sureties on the lease or permit shall be notified of the alleged violation by promptly mailing to each surety a copy of each notice sent to the lessee or permittee. Where the breach of contract is satisfied by the payment

of damages, the superintendent may approve the damage settlement. The failure of a lessee or permittee within the prescribed time to furnish satisfactory reasons why the lease or permit should not be canceled shall result in the cancellation of the instrument. The superintendent shall immediately notify the lessee or permittee in writing of the cancellation of the instrument, demand payment of all obligations due, and direct the premises be vacated promptly. This notice shall also inform the lessee or permittee that his failure to abide by the notice will necessitate the presentation of the case to the United States Attorney for appropriate action.

§ 131.23 *Business leases or permits.* Business leases or permits executed in accordance with § 131.6 may be approved by the superintendent where the annual rental does not exceed $5,000. All other business leases or permits shall be subject to the approval of the Commissioner or his authorized representative.

§ 131.24 *Crow Reservation.* (a) Notwithstanding § 131.6 (b), no lease or permit of any irrigable allotment on the Crow Reservation shall be made for a period longer than five years, except that irrigable lands in Indian ownership within the Big Horn unit of the Crow Indian Irrigation project may be leased or permits may be issued for farming purposes for periods not to exceed 10 years.

(b) A lease or permit respecting restricted land on this reservation may be negotiated for farming purposes not to exceed 18 months before it is to become effective.

(c) The approval of the superintendent of the Crow Agency shall not be required under § 131.8 with respect to leases or permits which are issued by Indian allottees whose names appear as competent on the rolls completed in accordance with the provisions of section 3 of the act of June 4, 1920 (41 Stat. 751), as supplemented by the acts of May 19, 1926 (44 Stat. 666), May 2, 1928 (45 Stat. 482), March 15, 1948 (62 Stat. 80), and September 8, 1949 (63 Stat. 695), and which cover their own allotments or the allotments of their minor children for farming or grazing purposes except that leases other than farming and grazing made pursuant to the provisions of the act of August 9, 1955 (69 Stat. 539), all leases made by adult Crow Indians not classified as competent, and leases on heirship lands of Crow Indians having more than five competent devisees or heirs require the approval of the superintendent. Leases or permits requiring the approval of the superintendent shall provide that all rentals are to be paid by the lessee or permittee to the superintendent for the benefit of the Indian owners. Copies of all leases and permits that do not require the approval of the superintendent shall be filed promptly with the superintendent of the Crow Agency. Such filing shall impart constructive notice to all persons of its contents. No such lease which has not been so filed shall be recognized by the superintendent or by the Bureau as against lessees, purchasers, or encumbrancers of the same land in good faith for value and without notice. Any Crow Indian classified as competent shall have the full responsibility of obtaining compliance with the terms of any lease made by him pursuant to this section.

§ 131.25 *Fort Belknap Reservation.* Not to exceed 20,000 acres of allotted and tribal lands (nonirrigable as well as irrigable) on the Fort Belknap Reservation in Montana may be leased or permits respecting such lands may be granted for the culture of sugar beets and other crops in rotation for terms not exceeding 10 years.

§ 131.26 *Colorado River Reservation.* (a) For a period of two years from August 14, 1955, the Secretary of the Interior or his authorized representative may lease the unassigned lands on the Colorado River Reservation. Such lands may be leased for the purposes and terms provided for in § 131.6.

(b) Income from leases on land in the southern reserve, as defined in ordinance numbered 5 of the Colorado River Indian Tribes, dated February 3, 1945, shall be segregated from income from leases on land in the northern reserve, as defined by such ordinance, and from leases on land on the California side of the Colorado River. All income received prior to August 14, 1957, and prior to determination of the beneficial ownership of the lands, from leases on land in the northern reserve and land on the California side of the Colorado River may be expended by the Secretary or his authorized representative for the benefit of the Colorado River Indian Tribes and their members. All income received prior to August 14, 1957, and prior to determination of the beneficial ownership of the lands, from leases on land in the southern reserve may be expended by the Secretary or his authorized representative for the development or improvement of any land in the southern reserve. All income received after August 14, 1957, shall be held in a special account until the beneficial ownership of the land on the reservation has been determined. All income received after beneficial ownership has been determined shall be held in trust for the beneficial owners of the land from which the income was derived and shall be expended as otherwise authorized by law.

§ 131.27 *Appeals.* (a) Any heir or devisee who feels aggrieved by the action taken by the superintendent on leasing the restricted lands of deceased Indians may, within 10 days after the date of execution of the lease, file with the superintendent a notice of appeal to the Secretary. The notice of appeal shall be in writing and shall set forth the reasons for the appeal. Copies of the notice shall be furnished by the appellant to the superintendent, the lessee, and to all parties who share in the estate.

(b) The appeal, the lease or a true copy thereof, and all papers relating to the lease shall be submitted to the Secretary through the Commissioner.

(c) The appellant and any other interested party may, within 30 days from the date on which a notice of appeal is filed, submit written arguments to the Secretary.

(d) Copies of the decision of the Secretary on the appeal will be mailed to (1) the appellant, (2) all other heirs or devisees of the estate affected by the appeal, (3) the superintendent, (4) the Commissioner, (5) and the lessee.

§ 131.28 *Fees.* When lands are leased or permits are issued in accordance with the provisions of this part, or when they are subleased or assigned (including renewals or extensions) fees shall be fixed as follows:

(a) *To be paid by lessee, permittees, sublessee, or assignee.*

Rental:	Fee
Not to exceed $100	$1.00
$100.01–$250	2.50
$250.01–$500	5.00
For each additional $500 or fraction thereof	1.00

When, under the terms of the instrument, the occupant is to pay taxes accruing during the period of its operation, an amount equal to the estimated total amount of the taxes shall be included in the amount to be used in determining the fee to be charged. In the case of a sublease or assignment, the fee shall be based on the total rental which will accrue under the instrument from the effective date of the transaction. When the lease or permit period is extended with the mutual consent of the parties concerned, the fee shall be computed from the effective date on the same basis as the original instrument. The fee to be collected in case of crop-share or other noncash rental leases or permits shall be based on (1) an estimate of the cash rental value of the acreage, including all improvements to be placed on the land by the lessee or permittee for the benefit of the lessor or permitter, or (2) the estimated value of the lessor's share of the crops.

(b) *Fees, tribal employees.* When the clerical and ministerial work in connection with the grants of leases or permits is performed by tribal employees, fees may be fixed, subject to approval by the Commissioner or his authorized representative, by the respective tribes concerned in lieu of the fees prescribed in paragraph (a) of this section.

(c) *Disposition of fees.* Fees collected pursuant to paragraph (a) of this section shall be covered into the Treasury as miscellaneous receipts, except that when the clerical and ministerial work in the issuance of permits or leases of lands under this part is performed by Bureau employees paid from appropriated tribal funds, the fees shall be credited to such funds.

§ 131.29 *Palm Springs, California.* In addition to the authority for the negotiation of leases contained in § 171.8, leases or permits for the use of individual trust or restricted lands belonging to members of the Agua Caliente or Palm Springs band of Mission Indians may be negotiated by guardians duly qualified as to authority and bond under the laws of California, to enter into transactions on behalf of the owner of the property. Such leases shall be made on forms approved by the Secretary, subject to the regulations of this part and the written approval of the Secretary. Leases so negotiated shall provide that rentals due may, in the discretion of the Secretary, be paid to such guardians, providing, however, that at any time during the term of the lease, the Secretary may, at

his discretion and upon thirty days' notice to the lessee, require the remaining rentals to be paid to the Secretary.

Part 132—Preservation of Antiquities

Sec.
132.1 Penalty.
132.2 Permits.
132.3 Supervision.
132.4 Lapse of permits.
132.5 Restoration of land after work completed.
132.6 Superintendents authorized to confiscate antiquities illegally obtained or possessed.
132.7 Notice to public.
132.8 Report of violations.
132.9 Report on objects of antiquity.

AUTHORITY: §§ 132.1 to 132.9 issued under secs. 3, 4, 34 Stat. 225, as amended; 16 U. S. C. 432.

SOURCE: §§ 132.1 to 132.9 appear at 22 F. R. 10570, Dec. 24, 1957.

CROSS REFERENCE: For uniform regulations issued by the Secretaries of the Interior, Agriculture, and War pertaining to the preservation of antiquities, see Public Lands: Interior, 43 CFR Part 3.

§ 132.1 *Penalty.* The appropriation, excavation, injury, or destruction of any historic or prehistoric ruin or monument, or any object of antiquity situated on lands owned or controlled by the Government of the United States, by any person or persons, without the permission of the Secretary of the department having jurisdiction over the lands on which said antiquities are situated, shall, upon conviction, subject such person or persons to be fined not to exceed $500 or imprisoned for not to exceed 90 days, or both.

§ 132.2 *Permits.* Permits for the excavation of ruins and archaeological sites and the gathering of objects of antiquity on Indian reservations will be granted by the Secretary of the Interior to reputable museums, universities, colleges, or other recognized scientific or educational institutions, or their duly authorized agents, on proper application. Superintendents should not permit any excavations or explorations except as to those persons holding such permits.

§ 132.3 *Supervision.* Superintendents may at all times examine the permit of any person or institution claiming the privileges referred to, and may fully examine all work done under such permit.

§ 132.4 *Lapse of permits.* Failure to begin work under a permit within 6 months after it is granted, or failure to diligently prosecute such work after it has been begun, shall make the permit void, and superintendents are instructed to report to the office all such failures to begin within the stated time or the failure to diligently pursue the excavation or explorations.

§ 132.5 *Restoration of land after work completed.* Permittees are required to restore the lands on which they have worked to their customary condition, to the satisfaction of the superintendent. Failure to do this should be brought to the attention of the office.

§ 132.6 *Superintendents authorized to confiscate antiquities illegally obtained or possessed.* Superintendents or others in administrative charge of reservations are hereby directed and authorized to confiscate any antiquities that may have been illegally obtained or that may now be illegally in the possession of licensed Indian traders or others and to submit a report and description of the articles confiscated and request instructions as to their disposition.

NOTE: This section prescribed to carry out provisions of 43 CFR 3.16

§ 132.7 *Notice to public.* Copies of the act of June 8, 1906 (34 Stat. 225), and the interdepartmental regulations of December 28, 1906 (43 CFR Part 3), shall be posted conspicuously at all agency offices where the need is justified, and warning notices posted on the reservations and at or near the ruins or other articles to be protected. All licensed traders shall be notified immediately that failure to cease traffic in antiquities will result in a revocation of their license.

NOTE: This section prescribed to carry out provisions of 43 CFR 3.16.

§ 132.8 *Report of violations.* Any and all violations of the regulations in this part should be reported to the Bureau of Indian Affairs immediately.

NOTE: This section prescribed to carry out provisions of 43 CFR 3.16.

§ 132.9 *Report on objects of antiquity.* Superintendents shall from time to time inquire and report as to the existence, on or near their reservations, of ruins, and archaeological sites, historic or prehistoric ruins, or monument, historic landmarks and prehistoric structures, and other objects of antiquity.

SUBCHAPTER M—FORESTRY

Part 141—General Forest Regulations

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AUTHORITY: §§ 141.1 to 141.30 issued under secs. 7, 8, 36 Stat. 857; 25 U. S. C. 406, 407. Statutory provisions interpreted or applied are cited to text in parentheses.

SOURCE: §§ 141.1 to 141.30 appear at 22 F. R. 10570, Dec. 24, 1957.

CROSS REFERENCES: For rights-of-way for logging roads, see Part 161 of this chapter. For sale of forest products, Red Lake Indian reservation, Minnesota, see Part 144 of this chapter. For sale of timber products, Menominee Indian reservation, see Part 143 of this chapter.

§ 141.1 *Objectives.* The following objectives are to be sought in the management of Indian forests:

(a) The preservation of Indian forest lands in a perpetually productive state by providing effective protection, preventing clear cutting of large contiguous areas, and making adequate provision for new forest growth when the mature timber is removed.

(b) The regulation of the cut in a manner which will insure method and order in the harvesting of the tree capital, so as to make possible continuous production and a perpetual forest business.

(c) The development of Indian forests by the Indian people for the purpose of promoting self-sustaining Indian communities, to the end that the Indians may receive from their own property not only stumpage, but also the benefit of whatever profit it is capable of yielding and whatever labor the Indians are qualified to perform.

(d) The sale of Indian timber in open competitive markets on reservations where the volume produced by the forest annually is in excess of that which is practicable of development by the Indians, or where fire damage, insect infestation, disease, overmaturity, or other causes require extensive and rapid harvesting of the timber in order to prevent loss.

(e) The preservation of the forest for scenic purposes along public highways, in the vicinity of Indian or white communities, and wherever the recreational or aesthetic value of the forest seems to exceed its value for the production of forest products.

(f) The management of the forest in such a manner as to retain its beneficial effect in regulating runoff and minimizing erosion.

(Sec. 6, 48 Stat. 986; 25 U. S. C. 466)

§ 141.2 *Development restricted.* Proceeding in accordance with this general policy, the development of reservation timber will not be authorized until practical methods of cutting are prescribed which will assure the perpetuation of the forest, prevent unnecessary waste, and make possible effective protection against destructive agencies. Cutting will be given priority in those stands of timber which are deteriorating as the result of fire damage, disease, insect infestation, overmaturity, or other causes.

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