



# FEDERAL REGISTER

VOLUME 22

NUMBER 248

Washington, Tuesday, December 24, 1957.

## TITLE 25—INDIANS

### Chapter I—Bureau of Indian Affairs, Department of the Interior

#### REPUBLICATION OF REGULATIONS

Chapter I of Title 25 is republished to read as set forth below. Since its original codification, there have been numerous amendments and additions to the chapter. To facilitate the use of this material, the various amendments and additions are brought together in their entirety and the chapter has been arranged on a functional rather than alphabetical basis.

The numbers of the parts in this chapter have been adjusted to conform with its revised arrangement. The effective date of these numbers shall be the date of this republication. Existing delegations of authority, forms and other legal or administrative documents which refer to former part numbers of Chapter I are continued in effect and shall be construed to refer to the new part numbers until modified or revoked. A listing of the respective new and former part numbers is set forth below.

It is the intent of the Department in preparing this republication to make no substantive changes in the regulations and this republication is approved accordingly.

FRED A. SEATON,  
*Secretary of the Interior.*

DECEMBER 6, 1957.

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

Former Part No.	Former Part No.	New Part No.	New Part No.
2	42	90	128
3	43	132	203
11	44	254	202
14	49	71	221
15	52	72	232
18	54	73	233
21	55	91	231
23	56	92	141
28	61	93	143
41	62	31	144
	63		147
	64		148
	71		149
	72		150
	73		151
	81		152
	82		153
	83		15
	88		16
	91		17
	94		170
	95		171
	97		180
	100		183
	103		174
	106		186
	110		189
	121		192
	124		199
	127		200
			201
			202
			203
			204
			205
			206
			207
			208
			209
			210
			211
			212
			213
			214
			215
			216
			217
			218
			219
			220
			221
			222
			223
			224
			225
			226
			227
			228
			229
			230
			231
			232
			233
			234
			235
			236
			237
			238
			239
			240
			241
			242
			243
			244
			245
			246
			247
			248
			249
			250
			251
			252
			253
			254
			255
			256
			257
			258
			259
			260
			261
			262
			263
			264
			265
			266
			267
			268
			269
			270
			271
			272
			273
			274
			275
			276
			277
			278
			279
			280
			281
			282
			283
			284
			285
			286
			287
			288
			289
			290
			291
			292
			293
			294
			295
			296
			297
			298
			299
			300
			301

10513

## RULES AND REGULATIONS

Former Part No.	New Part No.	SUBCHAPTERS F—H—TRIBAL GOVERNMENT AND ENTERPRISES	Part
204		Leasing of Osage Reservation lands, Oklahoma, for mining, except oil and gas.	126
221	175	Indian money accounts.	127
222	104	Deposit and expenditure of individual funds of members of the Osage Tribe of Indians who do not have certificates of competency.	128
223	108	Judgment and payments in lieu of allotment funds.	129
224	109	Annuity and other per capita payments.	
227	101	Creation of trusts for restricted property of Indians, Five Civilized Tribes, Oklahoma.	
230	107	Deposit of Indian funds in banks.	
233	105	Regulations for pro rata shares of tribal funds.	
241	102	Issuance of patents in fee, certificates of competency, sale of certain Indian lands, and reinvestment of proceeds.	
242	121	Osage roll, certificates of competency, and Osage lands:	
	123	Subpart A.	
	127	Subpart B.	
243	122	Determination of competency; Crow Indians.	
262	21	Arrangement with States, Territories, or other agencies for relief of distress and social welfare of Indians.	
266	161	Rights-of-way over Indian lands.	
261	162	Roads of the Bureau of Indian Affairs.	
276	251	Licensed Indian traders.	
227	252	Traders on Navajo, Zuni, and Hopi Reservations.	
281	163	Establishment of roadless and wild areas on Indian reservations.	
291	89	Commercial fishing on Red Lake Indian Reservation.	
296	3	List of forms.	
		<b>SUBCHAPTER A—PROCEDURES; PRACTICE</b>	
		<b>SUBCHAPTER A—PROCEDURES; PRACTICE</b>	
Part			
1		Rules of the Bureau of Indian Affairs. [Reserved.]	
2		Appeals. [Reserved.]	
3		List of forms.	
		<b>SUBCHAPTERS B—E—FEDERAL SERVICES; INDIVIDUAL INDIANS</b>	
		<b>SUBCHAPTER B—LAW AND ORDER</b>	
11		Law and order on Indian reservations.	
		<b>SUBCHAPTER C—PROBATE</b>	
15		Determination of heirs and approval of wills, except as to members of the Five Civilized Tribes and Osage Indians.	
16		Determination of heirs and probate of the estate of deceased Indians of the Five Civilized Tribes.	
17		Actions on wills of Osage Indians.	
		<b>SUBCHAPTER D—SOCIAL WELFARE</b>	
21		Arrangement with States, Territories or other agencies for relief of distress and social welfare of Indians.	
22		Care of Indian children in contract schools.	
		<b>SUBCHAPTER E—EDUCATION</b>	
31		Federal schools for Indians.	
32		Administration of educational loans, grants and other assistance for higher education.	
33		Enrollment of Indians in public schools.	
34		Administration of a program of vocational training for adult Indians.	
		<b>SUBCHAPTERS F—H—TRIBAL GOVERNMENT AND ENTERPRISES</b>	
		<b>SUBCHAPTER F—ENROLLMENT</b>	
Part			
41		Membership and enrollment of Indians. [Reserved.]	
42		Enrollment appeals.	
43		Enrollment of Indians of the Cabazon, Augustine and Torres-Martinez Bands of Mission Indians in California.	
44		Preparation of rolls for the distribution of the funds awarded certain Indian tribes or bands of Oregon.	
		<b>SUBCHAPTER G—TRIBAL GOVERNMENT</b>	
51		Indian organizations exclusive of the Indian Reorganization Act. [Reserved.]	
52		Tribes organized under sec. 16 of the Indian Reorganization Act. [Reserved.]	
53		Alaskan native groups organized under sec. 16 of the Indian Reorganization Act, and the Alaskan Act, as amended. [Reserved.]	
54		Tribes organized under the Oklahoma Indian Welfare Act. [Reserved.]	
71		Recognition of attorneys and agents to represent claimants.	
72		Attorney contracts with Indian tribes.	
73		Regulations governing the election of officers of the Osage Tribe.	
		<b>SUBCHAPTER H—ECONOMIC ENTERPRISES</b>	
81		Indian business corporations under sec. 17 of the Indian Reorganization Act. [Reserved.]	
82		Alaskan native business corporations organized under sec. 17 of the Indian Reorganization Act or the Alaska Act. [Reserved.]	
83		Indian Business Corporations under the Oklahoma Indian Welfare Act. [Reserved.]	
89		Commercial fishing on Red Lake Indian Reservations.	
90		Reindeer in Alaska.	
		<b>SUBCHAPTER I—CREDIT ACTIVITIES</b>	
		<b>SUBCHAPTER I—CREDIT ACTIVITIES</b>	
91		General credit to Indians.	
92		Revolving cattle pool.	
93		Klamath tribal loan fund.	
		<b>SUBCHAPTER J—FISCAL AND FINANCIAL AFFAIRS</b>	
		<b>SUBCHAPTER J—FISCAL AND FINANCIAL AFFAIRS</b>	
101		Annuity and other per capita payments.	
102		Regulations for pro rata shares of tribal funds.	
104		Indian money accounts.	
105		Deposit of Indian funds in banks.	
107		Creation of trusts for restricted property of Indians, Five Civilized Tribes, Oklahoma.	
108		Deposit and expenditure of individual funds of members of the Osage Tribe of Indians who do not have Certificates of Competency.	
109		Judgment funds, Shoshone Tribe of the Wind River Reservation, Wyoming.	
111		Service charges against Indians. [Reserved.]	
		<b>SUBCHAPTERS K—O—LANDS; SURFACE ESTATES AND RESOURCES</b>	
		<b>SUBCHAPTER K—PATENTS, ALLOTMENTS AND SALES</b>	
121		Issuance of Patents in Fee, Certificates of Competency, sale of certain Indian lands, and reinvestment of proceeds.	
122		Determination of competency: Crow Indians.	
123		Osage Roll, Certificates of Competency.	
125		Reallotment of lands to unallotted Indian children.	
		<b>SUBCHAPTER L—LEASING AND PERMITTING</b>	
131		Leasing and permitting.	
132		Preservation of antiquities.	
		<b>SUBCHAPTER M—FORESTRY</b>	
141		General forest regulations.	
142		Sale of lumber and other forest products produced by Indian enterprises from the forests on Indian reservations.	
143		Sale of timber products and use of forest lands for nonforest purposes, Menominee Indian Reservation.	
144		Sale of forest products, Red Lake Indian Reservation, Minn.	
		<b>SUBCHAPTER N—GRAZING</b>	
151		General grazing regulations.	
152		Navajo grazing regulations.	
153		Grazing, Pine Ridge Aerial Gunnery Range.	
		<b>SUBCHAPTER O—RIGHTS-OF-WAY—ROADS</b>	
161		Rights-of-way over Indian lands.	
162		Roads of the Bureau of Indian Affairs.	
163		Establishment of roadless and wild areas on Indian Reservations.	
		<b>SUBCHAPTERS P—Q—LANDS; SUBSURFACE ESTATES AND RESOURCES</b>	
		<b>SUBCHAPTER P—MINING</b>	
171		Leasing of tribal lands for mining.	
172		Leasing of allotted lands for mining.	
173		Leasing of lands in Crow Indian Reservation, Mont., for mining.	
174		Leasing of restricted lands of members of Five Civilized Tribes, Oklahoma for mining.	
175		Leasing of Osage Reservation lands, Oklahoma, for mining, except oil and gas.	
176		Lead and zinc mining operations and leases, Quapaw Agency.	
		<b>SUBCHAPTER Q—OIL AND GAS</b>	
181		Oil and gas leases and operations on tribal lands. [Reserved.]	
182		Oil and gas leases and operations on allotted lands. [Reserved.]	
183		Leasing of Osage Reservation lands for oil and gas mining.	
184		Leasing of certain lands in Wind River Indian Reservation, Wyoming, for oil and gas mining.	
		<b>SUBCHAPTERS R—U—WATER AND POWER RESOURCES</b>	
		<b>SUBCHAPTER R—IRRIGATION PROJECTS</b>	
191		Blackfeet irrigation project, Montana.	
192		Colville irrigation project, Washington.	
193		Crow irrigation project, Montana.	
194		Flathead irrigation project, Montana.	
195		Flathead, Mission, and Jocko Valley Irrigation districts, Montana.	
196		Fort Belknap irrigation project, Montana.	
197		Fort Hall irrigation project, Idaho.	
198		Fort Peck Indian irrigation project, Montana.	
199		Utah irrigation project, Utah.	
200		Wapato irrigation project, Washington.	
201		Wind River irrigation project, Wyoming.	
202		Pueblo Indian lands benefited by irrigation and drainage works of Middle Rio Grande Conservancy District, New Mexico.	

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

SUBCHAPTER 5—CONSTRUCTION

211 Partial payment construction charges on Indian irrigation projects.

212 Construction assessments, Crow Indian irrigation project.

213 Fort Hall Indian irrigation project, Idaho.

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

215 Irrigation project, Arizona.

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

SUBCHAPTER 7—OPERATION AND MAINTENANCE

221 Operation and maintenance charges.

SUBCHAPTER 9—ELECTRIC POWER SYSTEM

231 Colorado River irrigation project, Arizona.

232 Flathead Indian irrigation project, Montana.

233 San Carlos irrigation project, Arizona.

SUBCHAPTER V [RESERVED]

SUBCHAPTER W—MISCELLANEOUS ACTIVITIES

SUBCHAPTER W—MISCELLANEOUS ACTIVITIES

251 Licensed Indian traders.

252 Traders on Navajo, Zuni and Hopi Reservations.

253 Commitment to St. Elizabeths Hospital.

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

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

Subchapter A—Procedures; Practice

Subchapter A—Procedures; Practice

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

PART 2—APPEALS [RESERVED]

PART 3—LIST OF FORMS

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

(R. S. 161; 5 U. S. C. 22)

Subchapters B—E—Federal Services; Individual Indians

Subchapter B—Law and Order

PART 11—LAW AND ORDER ON INDIAN RESERVATIONS

APPLICATION; JURISDICTION

Sec. 11.1 Application of regulations.

11.2 Jurisdiction.

COURTS OF INDIAN OFFENSES

11.2CA Jurisdiction.

11.3 Judges.

11.3CA Judges.

11.4 Removal of judges.

11.5 Court procedure.

11.5CA Court proceedings.

11.6 Appellate proceedings.

11.6C Appellate proceedings.

11.6CA Appellate proceedings.

Sec. 11.7

11.7C

11.8

11.8CA

11.9

11.9CA

11.10

11.11

11.12

11.13

11.14

11.15

11.16

11.17

11.18

11.19

11.20

11.20C

11.21

11.22

11.22C

11.22CA

11.23

11.24

11.24C

11.24CA

11.25

11.25CA

11.26

11.26C

11.27

11.28

11.28CA

11.29

11.29C

11.30

11.30CA

11.31

11.31C

11.31CA

11.32

11.32C

11.33

11.33CA

11.34

11.34C

11.35

11.36

11.36C

11.37

11.37CA

11.38

11.39

11.40

11.41

11.42

11.43

11.44

11.45

11.46

11.47

11.48

11.49

11.49CA

11.50

11.50C

11.51

11.52

11.52CA

11.53

11.53CA

11.54

11.55

11.56

11.57

Juries.

Juries.

Witnesses.

Witnesses.

Professional attorneys.

Professional attorneys.

Clerks.

Records.

Copies of laws.

Complaints.

Warrants to apprehend.

Arrests.

Search warrants.

Commitments.

Ball or bond.

Definition of signature.

Definition of tribal council.

Definition of tribal council.

Cooperation by Federal employees.

CIVIL ACTIONS

Jurisdiction.

Jurisdiction.

Jurisdiction.

Law applicable in civil actions.

Judgments in civil actions.

Judgments in civil actions.

Judgments in civil actions.

Costs in civil actions.

Costs in civil actions.

Payment of judgments from individual Indian moneys.

Payment of judgments from individual Indian moneys.

DOMESTIC RELATIONS

Recording of marriages and divorces.

Tribal custom marriage and divorce.

Marriages, divorces, and adoptions.

Tribal custom adoption.

Adoption.

Determination of paternity and support.

Determination of paternity and support.

Determination of heirs.

Determination of heirs.

Determination of heirs.

Approval of wills.

Approval of wills.

SENTENCES

Nature of sentences.

Nature of sentences.

Probation.

Probation.

Parole.

Juvenile delinquency.

Juvenile delinquency.

Disposition of fines.

Deposit and disposition of fines.

CODE OF INDIAN TRIBAL OFFENSES

Assault.

Assault and battery.

Carrying concealed weapons.

Abduction.

Theft.

Embezzlement.

Fraud.

Forgery.

Misbranding.

Receiving stolen property.

Extortion.

Disorderly conduct.

Disorderly conduct.

Reckless driving.

Reckless driving.

Malicious mischief.

Trespass.

Trespass.

Trespass.

Injury to public property.

Injury to public property.

Maintaining a public nuisance.

Liquor violations.

Cruelty to animals.

Game violations.

Sec. 11.58

11.59

11.60C

11.61

11.62

11.63

11.63C

11.63CA

11.64

11.64C

11.65

11.66

11.67

11.68

11.69

11.70

11.71

11.72

11.73

11.74

11.75C

11.75CA

11.76CA

11.76NE

11.77NE

11.78NE

11.79NE

11.80NE

11.81NE

11.82NE

11.83NE

11.84NE

11.85NE

11.86NE

11.87NE

THE INDIAN POLICE

11.301 Superintendent in command.

11.302 Police commissioners.

11.303 Police training.

11.304 Indian policemen.

11.305 Dismissal.

11.306 Return of equipment.

AUTHORITY: §§ 11.1 to 11.306 issued under R. S. 463; 25 U. S. C. 2. Interpret or apply sec. 1, 38 Stat. 586; 25 U. S. C. 200.

NOTE: The regulations in this part are applicable on Indian reservations subject to the provisions of § 11.1, and the following exceptions:

§§ 11.6, 11.7, 11.20, 11.22, 11.24, 11.26, 11.28, 11.29, 11.31, 11.32, 11.34, 11.36, 11.50, 11.63, and 11.64, not applicable to Crow Indians.

§§ 11.6C, 11.7C, 11.20C, 11.22C, 11.24C, 11.26C, 11.29C, 11.31C, 11.32C, 11.34C, 11.36C, 11.50C, 11.60C, 11.63C, 11.64C, and 11.75C, applicable only to Crow Indians.

§§ 11.76NE to 11.87NE, inclusive, applicable only to Navajo and Hopi Indians.

§§ 11.1, 11.2, 11.3, 11.5, 11.6, 11.6C, 11.7, 11.7C, 11.8, 11.9, 11.20C, 11.22, 11.22C, 11.24, 11.24C, 11.25, 11.26C, 11.28, 11.29, 11.29C, 11.30, 11.31, 11.31C, 11.32, 11.32C, 11.33, 11.34C, 11.36C, 11.37, 11.49, 11.50C, 11.52, 11.53, 11.57, 11.58, 11.60C, 11.63C, 11.63C, 11.64C, 11.74, 11.75C, and 11.76NE—11.87NE, inclusive, are not applicable to Coeur d'Alene Indians.

All sections which follow bearing the symbol "CA" at the end of the number are applicable only to the Coeur d'Alene Indians.

All sections in Part 11 not heretofore mentioned in this note are applicable to the Coeur d'Alene Indians.

**PART 108—DEPOSIT AND EXPENDITURE OF INDIVIDUAL FUNDS OF MEMBERS OF THE OSAGE TRIBE OF INDIANS WHO DO NOT HAVE CERTIFICATES OF COMPETENCY**

Sec.	Definitions.
108.1	Payment of taxes of adult Indians.
108.2	Payment of taxes of Indians under 21 years of age.
108.3	Disbursement of allowance funds.
108.4	Procedure for hearings to assume supervision of expenditure of allowance funds.
108.5	Allowance for minors.
108.6	Disbursement or expenditure of surplus funds.
108.7	Purchase of land.
108.8	Construction and repairs.
108.9	Purchase of automotive equipment.
108.10	Insurance.
108.11	Costs of recording and conveyancing.
108.12	Telephone and telegraph messages.
108.13	Miscellaneous expenditures of surplus funds.
108.14	Collections from insurance companies.
108.15	Reimbursement to surplus funds.
108.16	Inactive surplus funds accounts.
108.17	Withdrawal and payment of segregated trust funds.
108.18	Debts of Indians.
108.19	Purchase orders.
108.20	Fees and expenses of attorneys.
108.21	Disbursements to legal guardians.
108.22	Transactions between guardian and ward.
108.23	Compensation for guardians and their attorneys.
108.24	Charges for services to Indians.
108.25	Expenses incurred pending qualification of an executor or administrator.
108.26	Custody of funds pending administration of estates.
108.27	Payment of claims against estates.
108.28	Sale of improvements.
108.29	Sale of personal property.
108.30	Removal of restrictions from personal property.
108.31	Funds of Indians of other tribes.
108.32	Signature of illiterates.
108.33	Financial status of Indians confidential.
108.34	Appeals.
108.35	

**AUTHORITY:** §§ 108.1 to 108.35 issued under R. S. 161; 5 U. S. C. 22.

§ 108.1 *Definitions.* When used in the regulations in this part the following words or terms shall have the meaning shown below:

(a) "Secretary" means the Secretary of the Interior or his authorized representative.

(b) "Commissioner" means the Commissioner of Indian Affairs or his authorized representative.

(c) "Superintendent" means the superintendent of the Osage Agency.

(d) "Quarterly payment" means the payment of not to exceed \$1,000 which is made each fiscal quarter to or on behalf of an adult Indian, from the following sources:

(1) The pro rata distribution of tribal mineral income and other tribal revenues.

(2) The interest on segregated trust funds.

(3) Surplus funds in addition to the income from the foregoing sources in the amount necessary to aggregate \$1,000 when the income from those sources is less than \$1,000 and the Indian has a balance of accumulated surplus funds in excess of \$10,000.

(e) "Surplus funds" means all those moneys and securities readily convertible into cash, except allowance funds and segregated trust funds, which are held to the credit of an Indian at the Osage Agency and which may be disbursed, expended or invested only upon authorization by the Secretary. The term includes:

(1) That portion of the quarterly distribution of tribal income and interest on segregated trust funds, in excess of \$1,000, belonging to an adult Indian.

(2) The proceeds, including appreciation, of the sale or conversion of restricted real or personal property (other than partition sales).

(3) Payments made by insurance companies or others for loss or damage to restricted real or personal property.

(4) All moneys and securities, other than segregated trust funds, to the credit of an Indian who is less than 21 years of age (except the income from restricted lands payable as provided by § 108.3).

(5) Funds and securities placed to the credit of an Indian upon the distribution of an Osage estate.

(f) "Allowance funds" means that income payable to or on behalf of a living adult Indian, the expenditure and disbursement of which is not subject to supervision unless authorized pursuant to the procedure contained in § 108.5. The term includes:

(1) The quarterly payment in an amount not to exceed \$1,000.

(2) The rentals and income from restricted lands owned by the Indian.

(3) The rentals and income from restricted lands owned by the minor children of the Indian, as provided in § 108.3.

(4) Income from investments.

(5) Interest on deposits to the credit of the Indian.

(g) "Segregated trust funds" means those moneys held in the United States Treasury at interest to the credit of an Indian which represent pro rata shares of the segregation of tribal trust funds and the proceeds of the partition of restricted lands.

§ 108.2 *Payment of taxes of adult Indians.* The superintendent may cause to be paid out of any money heretofore accrued or hereafter accruing to the credit of any adult Indian all taxes of every kind and character for which such Indian is or may be liable before paying to or for such person any funds as required by law. All checks in payment of taxes shall be made payable to the proper collector. For the purpose of establishing a fund with which to meet the payment of such taxes when due, the Superintendent may cause the funds of adult Indians to be hypothecated in the following manner:

(a) For the payment of ad valorem taxes, one-fourth of the estimated amount of ad valorem taxes from each quarterly payment unless this procedure would cause the obligation of more than 25 percent of such quarterly payments, in which event the necessary additional funds shall be retained from other allowance funds payable to such person under the law. If there be no other allowance funds available, or if the funds from these sources are insufficient, one-

fourth of the estimated amount of such ad valorem taxes may be obligated from each quarterly payment. If an Indian who is liable for ad valorem taxes has no allowance funds, or such funds are insufficient for the payment thereof, surplus funds may be used for such payment.

(b) (1) For the payment of income taxes, one-half of the estimated amount of income taxes from each semi-annual payment of interest on deposits, but if such interest payments are insufficient to meet this obligation, additional funds shall be retained from interest on investments, rentals, or other allowance funds.

(2) Whenever funds are withheld for the purpose of establishing a fund to meet the payment of taxes, the Indian shall be notified of the action taken.

§ 108.3 *Payment of taxes of Indians under 21 years of age.* All taxes assessed against the restricted lands of Indians less than 21 years of age shall be paid by the superintendent direct to the collector from the rents and income derived from such lands, and the balance, if any, of such rents and income shall be paid to the living parents or parent. If the parents are separated, the balance shall be paid to the parent having custody of the Indian under 21 years of age. All other taxes for which an Indian under 21 years of age may be liable shall be paid from his surplus funds.

§ 108.4 *Disbursement of allowance funds.* Except as provided in § 108.5, all allowance funds shall be disbursed to the Indian owner unless the Indian owner directs otherwise in writing. At the request of the Indian owner, such funds may be retained by the superintendent as voluntary deposits subject to withdrawal or other disposition upon demand or direction of the Indian owner. The superintendent may recognize a power of attorney executed by the Indian and may disburse the allowance funds of the Indian in conformity therewith so long as the power of attorney remains in force and effect.

§ 108.5 *Procedure for hearings to assume supervision of expenditure of allowance funds.* (a) Whenever the superintendent has reason to believe that an adult Indian is wasting or squandering his allowance funds the superintendent may cause an investigation and written report of the facts to be made. If the report indicates that the Indian is wasting or squandering his allowance funds the following notice shall be served upon the Indian, in person or by registered mail, and a copy thereof shall likewise be served upon his guardian if the Indian is under guardianship:

Section 1 of the act of February 27, 1925 (43 Stat. 1008) provides in part as follows:

"All payments to adults not having certificates of competency, including amounts paid for each minor, shall, in case the Secretary of the Interior finds that such adults are wasting or squandering said income, be subject to the supervision of the Superintendent of the Osage Agency: . . ."

Enclosed is a copy of a report which has been made to me concerning your handling and management of the income paid to you through the Osage Agency. This report in-

dicates that you have been wasting and squandering your payments.

You are hereby notified that a hearing will be held in the Osage Indian Agency, Pawhuska, Oklahoma, at \_\_\_\_\_ m., on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before the Superintendent, for the purpose of taking testimony and evidence to be submitted to the Commissioner of Indian Affairs for his consideration in determining whether your payments shall be subject to the supervision of the Superintendent.

You are requested to be present at the hearing at the time and place designated above. You may introduce at the hearing such testimony and evidence as you deem appropriate to show that you are not wasting or squandering your payments and that your payments should continue to be made to you without supervision for your unrestricted use.

You are entitled to employ an attorney to assist you in this matter. Upon your request the employees of the Osage Agency will furnish you with any information you desire concerning your accounts at the Osage Agency or any of your transactions handled through the Osage Agency.

Date \_\_\_\_\_

\_\_\_\_\_  
Superintendent.

(b) A hearing shall be held pursuant to the notice, the date of which shall be not less than 30 days after the date of the notice. For good cause shown to exist the superintendent may continue the hearing to a later date.

(c) A record of the proceedings, consisting of the superintendent's preliminary report, the notice and proof of service, all testimony and evidence introduced at the hearing, and all briefs and letters filed by the Indian or his attorney shall be submitted to the Commissioner, together with a recommendation from the superintendent.

(d) Upon a finding by the Commissioner that the Indian is wasting or squandering his income, his allowance funds shall thereafter be subject to the supervision of the superintendent. Notice of the decision of the Commissioner shall be furnished all interested parties.

§ 108.6 *Allowance for minors.* The superintendent may disburse from the surplus funds of an Indian under 21 years of age not to exceed \$300 quarterly for the support and maintenance of the minor. Disbursement may be made to the parent, guardian, or other person, school or institution having actual custody of the minor, or, when the minor is 18 years of age or over, disbursement may be made direct to the minor.

§ 108.7 *Disbursement or expenditure of surplus funds.* Except as provided in the regulations in this part, no disbursement or expenditure of surplus funds of Indians shall be made without the consent of the Indian owner and until authorization has been obtained from the Commissioner. Application by an Indian or his legal guardian, or if he is a minor, by his parent or legal guardian, for the expenditure of surplus funds shall be presented to the Commissioner, fully justified with the appropriate attachments such as court orders, decrees or other papers. Such application shall contain full information regarding the individual including his cash balance, the sum invested, the number of shares

in the Osage mineral estate, total income from all sources including that paid on behalf of minors, the family status and the occupation or industry of the applicant. When request is made for payment to the individual without supervision, the record of said individual and his ability to handle such funds shall be shown.

§ 108.8 *Purchase of land.* Upon written application of an adult Indian, the superintendent may disburse not to exceed \$10,000 from the surplus funds of such Indian for the purchase of land, the title to which has been examined and accepted by the special attorney for the Osage Indians or other legal officer designated by the Commissioner. In all cases title must be taken by deed containing a clause restricting alienation or encumbrance without the consent of the Secretary of the Interior or his authorized representative.

§ 108.9 *Construction and repairs.* Upon written application by an adult Indian, the superintendent may disburse not to exceed \$1,000 during any one fiscal year from the surplus funds of such Indian to make repairs and improvements to restricted real property and in addition not to exceed \$300 for new construction. When such expenditures are being made on property producing an income, reimbursement shall be required from such income unless otherwise directed by the Commissioner. When an Indian refuses to make application for funds to defray the cost of repairs necessary to preserve restricted property, the superintendent may, when authorized by the Commissioner, expend the surplus funds of the Indian for such repairs.

§ 108.10 *Purchase of automotive equipment.* The superintendent may disburse from the surplus funds of an adult Indian not to exceed \$2,000 for the purchase of automotive equipment when the Indian agrees in writing to carry property and liability insurance on the automotive equipment and to reimburse his surplus funds account from allowance funds within 24 months. No disbursement of surplus funds for the purchase of automotive equipment shall be made if the fulfillment of the reimbursable agreement will endanger the payment of taxes, insurance or other obligations, or result in the inability of the Indian to meet his current living expenses from allowance funds.

§ 108.11 *Insurance.* The superintendent may obtain policies of insurance covering the restricted property, real or personal, of minor Indians and pay the premiums thereon from the funds of the minors. Upon application by an adult Indian the superintendent may procure insurance on any restricted property, real or personal, owned by the applicant and pay the necessary premiums from his surplus or allowance funds. When authorized by the Commissioner, the superintendent may also procure insurance on restricted property, real or personal, of any adult Indian who neglects or refuses to take out such insurance.

§ 108.12 *Costs of recording and conveyancing.* The superintendent may

expend the surplus funds of an Indian to make direct payment of recording fees and costs of conveyancing, including abstracting costs, which are properly payable by the Indian.

§ 108.13 *Telephone and telegraph messages.* The superintendent may expend the surplus funds of an Indian to make direct payment for telephone and telegraph messages sent by the agency or received at the agency at the instance of the Indian or his guardian or attorney.

§ 108.14 *Miscellaneous expenditure of surplus funds.* Upon application by an adult Indian the superintendent may disburse the surplus funds of such Indian for the following purposes:

(a) Medical, dental, and hospital expenses for the applicant or a member of his family, not to exceed one thousand dollars (\$1,000) during any one fiscal year.

(b) Funeral expenses, including the funeral feast, of a deceased member of his family, in an amount not to exceed one thousand dollars (\$1,000).

(c) A tombstone or monument to mark the grave of a deceased member of his family in an amount not to exceed five hundred dollars (\$500).

(d) Court costs in any judicial proceeding to which the applicant is a party.

(e) Bond premiums, except bail and supersedeas bonds.

(f) For miscellaneous purposes, not to exceed five hundred dollars (\$500) during any one fiscal year.

§ 108.15 *Collections from insurance companies.* Moneys collected from insurance companies for loss or damage to restricted real or personal property shall be deposited to the credit of the Indian owner as surplus funds. Moneys so deposited to the credit of an adult Indian may, upon the written application of the Indian, be disbursed by the superintendent for the purpose of repairing or replacing the property. Moneys collected from insurance companies for loss or damage to unrestricted real or personal property shall be paid to the Indian for his unrestricted use.

§ 108.16 *Reimbursement to surplus fund.* When expenditures have been made from surplus funds upon the condition, and with the written agreement of the Indian, that reimbursement or repayment shall be made from future allowance funds, the superintendent is authorized to withhold from succeeding quarterly payments or other allowance funds such amounts as may be necessary to effect reimbursement within a period not exceeding 24 months from date of the first expenditure under the given authority.

§ 108.17 *Inactive surplus funds accounts.* When the balance of surplus funds to the credit of an adult Indian is less than \$300 and when there is no likelihood of its increase within 90 days, the superintendent may disburse the entire balance to the Indian owner for his unrestricted use.

§ 108.18 *Withdrawal and payment of segregated trust funds.* The withdrawal and payment of segregated trust funds

will be made only upon application and satisfactory evidence that the withdrawal and payment of such funds would be to the best interest of the Indian in view of all the circumstances shown to exist. The segregated trust funds of an Indian under guardianship or an Indian under 21 years of age shall not be released and paid except to a guardian appointed by a proper court and after the filing of a bond approved by the court conditioned upon the faithful handling of the funds. Applications for the withdrawal and payment of segregated trust funds must be made upon the forms prescribed by the Secretary for that purpose.

§ 108.19 *Debts of Indians.* No indebtedness of Indians will be paid from their funds under the control or supervision of the Secretary unless authorized in writing and obligated against their accounts by the superintendent or some other designated employee except in cases of emergency involving the protection or preservation of life or property, which emergency must be clearly shown. With this exception, no authorization or obligation against the account of any Indian for indebtedness incurred by him shall be made by the superintendent unless specifically authorized by the regulations in this part.

§ 108.20 *Purchase orders.* Purchase orders may be issued by the superintendent for expenditures authorized by the regulations in this part or for expenditures specifically authorized by the Commissioner. When necessary to prevent hardship or suffering, purchase orders may be issued by the superintendent against the future income of an Indian in an amount not to exceed 80 percent of the anticipated quarterly payment. The payment of purchase orders issued against future income shall be contingent upon the availability of funds.

§ 108.21 *Fees and expenses of attorneys.* When payment of an attorney fee for services to an Indian is to be made from his surplus funds, the employment of the attorney by the Indian must be approved in advance. All fees will be determined on a quantum meruit basis and paid upon completion of the services. The superintendent may approve the employment of an attorney, determine the fee, and disburse the surplus funds of the Indian in payment thereof when the fee does not exceed \$500. Upon application by the Indian and upon the presentation of properly authenticated vouchers, the superintendent may disburse the surplus funds of the Indian in an amount not to exceed \$200 in payment of necessary expenses incurred by the attorney.

§ 108.22 *Disbursements to legal guardians.* Any disbursement authorized to be made to an Indian by the regulations of this part may, when the Indian is under guardianship, be made by the superintendent to the guardian. All expenditures by a guardian of the funds of his ward must be approved in writing by the court and the superintendent.

§ 108.23 *Transactions between guardian and ward.* Business dealings between

the guardian and his ward involving the sale or purchase of any property, real or personal, by the guardian to or from the ward, or to or from any store, company or organization in which the guardian has a direct interest or concern or contrary to the policy of the Department and shall not be approved by the superintendent without specific authority from the Commissioner.

§ 108.24 *Compensation for guardians and their attorneys.* (a) The superintendent may approve compensation for services rendered by the guardian of an Indian on an annual basis, the amount of the compensation to be determined by application of the following schedule to the moneys collected by the guardian:

First \$1,000 or portion thereof, not to exceed 10 percent.

Second \$1,000 or portion thereof, not to exceed 9 percent.

Third \$1,000 or portion thereof, not to exceed 8 percent.

Fourth \$1,000 or portion thereof, not to exceed 7 percent.

Fifth \$1,000 or portion thereof, not to exceed 6 percent.

Sixth \$1,000 or portion thereof, not to exceed 5 percent.

Seventh \$1,000 or portion thereof, not to exceed 4 percent.

Eighth \$1,000 or portion thereof, not to exceed 3 percent.

Ninth \$1,000 or portion thereof, not to exceed 2 percent.

All above \$9,000 not to exceed 1 percent.

(b) Balance carried forward from previous reports and moneys received by a guardian or his attorney as compensation shall be excluded in determining the compensation of the guardian or his attorney.

(c) The attorney for a guardian shall be allowed compensation in an amount equal to one-half of the amount allowed the guardian under the foregoing schedule except when such attorney is himself the guardian and acting as his own attorney, in which event he shall be allowed a fee of not to exceed one-fourth of the amount allowed the guardian under the foregoing schedule in addition to the fee as guardian.

(d) The superintendent may in his discretion permit the guardian to collect rentals from restricted city or town properties belonging to his ward.

§ 108.25 *Charges for services to Indians.* The superintendent shall make the following charges for services to Indians: Five per cent of all interest and non-liquidating dividends received from all types of securities, including stocks, bonds, and mortgages held in trust for individual Indians and interest on group investments. Such fees shall be deposited in the Treasury of the United States to the credit of the fund "Proceeds of Oil and Gas Leases, Royalties, etc., Osage Reservation, Oklahoma".

§ 108.26 *Expenses incurred pending qualification of an executor or administrator.* Pending the qualification of the executor or administrator of the estate of a deceased Indian of one-half or more Indian blood who did not have a certificate of competency at the time of his death, the superintendent may authorize the extension of credit for the following

purposes, subject to allowance of claims by the executor or administrator and approval thereof by the court:

(a) Funeral expenses, including the cost of a funeral feast, in an amount not to exceed \$1,000.

(b) Necessary expenses in hearings before the Osage Agency involving the approval or disapproval of last wills and testaments.

(c) Expenses necessary to preserve restricted property.

§ 108.27 *Custody of funds pending administration of estates—(a) Estates of Indians of less than one-half Indian blood and estates of Indians who had certificates of competency.* Upon the death of an Indian of less than one-half Indian blood or an Indian who had a certificate of competency, the superintendent shall pay to the executor or administrator of the estate all moneys and securities, other than segregated trust funds to the credit of the Indian and all funds which accrue pending administration of the estate.

(b) *Estates of Indians of one-half or more Indian blood who did not have certificates of competency.* Upon the death of an Indian of one-half or more Indian blood who did not have a certificate of competency at the time of his death, the following classes of funds, less any amount hypothecated for the payment of taxes as provided in § 108.2, shall be paid by the superintendent to the executor or administrator of the estate:

(1) Allowance funds to the credit of the Indian.

(2) Any quarterly payment authorized prior to the death of the Indian.

(3) Interest on segregated trust funds and deposits computed to the date of death.

(4) Rentals and income from restricted lands collected after the death of the Indian which were due and payable to the Indian prior to his death.

Except as provided in § 108.28, the superintendent shall not pay to the executor or administrator any surplus funds to the credit of the Indian or any funds, other than those listed in subparagraphs (1) (2) (3) and (4) of this paragraph which accrue pending administration of the estate.

§ 108.28 *Payment of claims against estates.* The superintendent may disburse to the executor or administrator of the estate of a deceased Indian of one-half or more Indian blood who did not have a certificate of competency at the time of his death sufficient funds out of the estate to pay the following classes of claims approved by the court:

(a) Debts authorized by the superintendent during the lifetime of the Indian.

(b) Expenses incurred pending the qualifications of an executor or administrator under authority contained in § 108.26.

(c) Expenses of administration, including court costs, premium on bond of executor or administrator, transcript fees and appraiser fees.

(d) Living expenses incurred within 90 days immediately preceding the date of death of the Indian.

(e) Allowance of not to exceed \$100 per month for 12 months to a widow who is entitled to participate in the distribution of the estate and who does not have sufficient funds of her own.

(f) Allowance of not to exceed \$35 per month for 12 months for each child of the decedent under 21 years of age who is entitled to participate in the distribution of the estate and who is in need of such support.

(g) Insurance premiums and license fees on restricted property.

(h) Not to exceed \$1,000 for the preservation and upkeep of restricted property, including the services of a caretaker when necessary.

(i) Debts incurred during the lifetime of the Indian but not authorized by the superintendent, if found by the Commissioner to be just and payable.

The superintendent shall disburse no funds to an executor or administrator for the payment of the foregoing classes of claims unless the executor or administrator has no other funds in his hands available for the payment of such claims.

**§ 108.29 Sale of improvements.** The superintendent may approve the sale of improvements on restricted Indian lands when such improvements are appraised at not more than \$500 and when the owner has submitted a written request that the sale be made and a statement that the improvements can no longer be used by him. The proceeds of all such sales shall be deposited to the credit of the Indian as surplus funds. Improvements consisting of buildings, etc., located on property within the Osage villages of Pawhuska, Hominy, and Grayhorse may, upon approval of the superintendent, be disposed of to other Osage Indians. The superintendent may disburse the surplus funds of the purchaser to consummate the transaction. Sale of such improvements to non-Indian or non-Osage Indians must be approved by the Commissioner.

**§ 108.30 Sale of personal property.** The superintendent may approve the sale of restricted personal property other than livestock. The superintendent may also approve the sale of livestock when authorized so to do by special or general instructions from the Commissioner. The proceeds from the sale of personal property other than livestock shall be deposited to the credit of the Indian as surplus funds unless the surplus funds from which said property was purchased have been reimbursed from allowance funds, in which case the proceeds from such sale shall be disbursed as allowance funds. If partial reimbursement only has been made, such portion of the proceeds of sale as may be necessary to complete the reimbursable agreement shall be deposited to the credit of the Indian as surplus funds and the balance, if any, shall be disbursed as allowance funds. The proceeds from the sale of livestock shall be deposited in conformity with general or specific instructions from the Commissioner.

**§ 108.31 Removal of restrictions from personal property.** The superintendent may relinquish title to personal property

(other than livestock) held by the United States in trust for the Indian when to do so will enable the Indian to use the property as part payment in the purchase of other personal property and when the remainder of the purchase price is to be made from other than surplus funds of the Indian.

**§ 108.32 Funds of Indians of other tribes.** The funds of restricted non-Osage Indians, both adults and minors, residing within the jurisdiction of the Osage Agency, derived from sources within the Osage Nation and collected through the Osage Agency, may be disbursed by the superintendent, subject to the condition that all payments to third persons, including taxes and insurance premiums, shall be made upon the written authorization of the individual whose funds are involved, if an adult, and upon the written authorization of the parent or guardian, if a minor. The funds of restricted non-Osage Indians who do not reside within the jurisdiction of the Osage Agency shall be transferred to the superintendent of the jurisdiction within which the Indian resides, to be disbursed under regulations of the receiving agency.

**§ 108.33 Signature of illiterates.** An Indian who cannot write shall be required to endorse checks payable to his order and sign receipts or other documents by making an imprint of the ball of the right thumb (or the left, if he has lost his right) after his name. This imprint shall be clear and distinct, showing the central whorl and striations and witnessed by two reputable persons whose addresses shall be given opposite or following their names. An Indian may sign by marking "X" before two witnesses where he is unable to attach his thumb mark for physical reasons.

**§ 108.34 Financial status of Indians confidential.** The financial status of Indians shall be regarded as confidential and shall not be disclosed except to the owner of the account or his authorized agent, unless authorized in advance by the Commissioner.

**§ 108.35 Appeals.** Any decision by the superintendent may be appealed to the area director, any decision by the area director may be appealed to the Commissioner, and any decision by the Commissioner may be appealed to the Secretary.

**PART 109—JUDGMENT AND PAYMENTS IN LIEU OF ALLOTMENT FUNDS**

- 109.1 Program required; purposes for which expenditures may be made.
- 109.2 Family programs.
- 109.3 Scope of programs.
- 109.4 Authority to withhold funds.
- 109.5 Approval of programs.
- 109.6 Right of appeal.
- 109.7 Individual land purchases.
- 109.8 Issuance of purchase orders.
- 109.9 Purchase of real property.
- 109.10 Trust status of property.
- 109.11 Allowances for support.
- 109.12 Medical treatment.
- 109.13 Education.
- 109.14 Transfer of funds.
- 109.15 Repayment of loans.

- Sec.
- 109.16 Funds not available for payment of certain debts.
- 109.17 Disposition of funds in event of death.
- 109.18 Fee patent Indians.
- 109.19 Non-resident Indians.
- 109.20 Definition of "adult" and "minor."

**AUTHORITY:** §§ 109.1 to 109.20 issued under sec. 2, 53 Stat. 1128; 25 U. S. C. 572.

**NOTE:** For declaration of policy in disbursement of the judgment fund of the Shoshone Tribe of the Wind River Reservation, Wyo., see 4 F. R. 4797, Dec. 8, 1939.

**§ 109.1 Program required; purposes for which expenditures may be made.** Pro-rata shares of the Shoshone Judgment Fund shall be expended in accordance with an approved program and for: Purchase of land; improvement of land to be acquired or already held by the Indian; erection and improvement of suitable homes; education; purchase of building material, farming equipment, livestock, feed, food, seed, grain, tools, machinery, implements, household goods, bedding, clothing, and any other equipment, supplies, or training necessary to enable the Indian to fit himself for or to engage in farming, livestock raising, industry, or such other pursuits or vocations as will enable him to become self-supporting.

**§ 109.2 Family programs.** The funds of a husband and wife, and of any other adults in a family group, may be used in the execution of a family program: *Provided*, The written consent of each individual is filed with the superintendent of the Wind River Indian Agency, Wyoming, hereafter in this subpart referred to as the superintendent. The available funds of a minor may be used in the execution of such family program, only on condition that (a) the funds of such minor are used solely in the development, repair or maintenance of real or personal property owned by said minor or held in trust for him, or in the creation, development, or completion of a project or undertaking or in the production of a gain or profit which will inure directly to the benefit of such minor, (b) title to any real property or fixtures, purchased wholly or in part with his money shall, except with the approval of the Commissioner of Indian Affairs, be held in trust for him, or (c) the adults convey to the United States in trust for such minor sufficient real or personal property to assure, insofar as is possible, that the minor upon attaining majority will have, in lieu of the money, property of a value equal to that of his funds used in the execution of the program. The superintendent shall not approve a family program which involves the transfer to a minor, in exchange for his funds, of assets of a nature which will not be useful to him. The written consent of a minor who is 16 years of age or over, duly witnessed by at least two disinterested persons, shall accompany any family program which involves the use of said minor's funds.

**§ 109.3 Scope of programs.** Programs shall contemplate the eventual use of the entire pro-rata share or defi-