



FEDERAL REGISTER

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TITLE 25—INDIANS

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

REPUBLICATION OF REGULATIONS

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

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

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

FRED A. SEATON,
Secretary of the Interior.

DECEMBER 6, 1957.

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

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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.

§ 105.9 *Deposits.* Each bank that has been designated as a depository and has filed proper bond will be given a deposit in an amount equal to 95 percent of the penalty of the bond, unless it has been selected to carry an active checking account in which case the deposit will be limited to 90 percent of the security. Upon receipt of the deposit from the disbursing agent, the bank shall immediately credit it to an account which must be opened under his name and official title. The deposit shall be subject to withdrawal in accordance with the terms of the depository's surety bond or its deposit agreement. Time certificates of deposit, running for definite periods during which deposits are not subject to check, are not acceptable. The terms of any such instruments issued contrary to the regulation in this part will be considered void and of no effect.

§ 105.10 *Payment of interest.* Except as to depositories for funds of the Osage and Five Civilized Tribes Agencies, each bank carrying a deposit shall credit interest thereon at the agreed rate to the account of the disbursing agent at the close of June 30, and December 31 of each year. Banks carrying deposits in the names of the disbursing agents of the Five Civilized Tribes and Osage Agencies shall credit interest to their accounts at the close of April 30 and October 31 of each year. Within 5 days after the close of the interest period, the amount credited to the account of a disbursing agent shall be remitted to him by draft unless he has previously arranged to withdraw it by check. Any bank delinquent in the payment of interest shall be liable for interest on the overdue amount. In the event that a deposit or any part thereof is withdrawn during an interest period by reason of the cancellation of a bond, interest which has accrued on the amount so withdrawn shall immediately be credited and promptly remitted to the disbursing agent by draft unless included in his check or covered by separate check.

§ 105.11 *Reports; statement of disbursing account (Form 5-308).* Each depository for Indian funds shall furnish monthly statements of receipts and paid checks on Form 5-308 (and Form 5-308a if extra space is needed). Paid checks will be listed thereon in numerical order showing for each check its date, number, and amount. These statements will be prepared in triplicate for each disbursing officer having funds to his official credit. A duplicate copy will be forwarded to the disbursing officer in charge of the unit for reconciliation within 10 days after the close of the month. The disbursing officer will make a prompt comparison with his records, and after adjusting any errors found with the bank, the latter will immediately forward the original statement and paid checks directly to the General Accounting Office, Audit Division, Washington, D. C. The triplicate copy of the statement will be retained in the bank's files. In no case will the depository send the paid checks to the disbursing officer nor should the statement and checks be sent to or routed through the Bureau. Statements will be required of both time and checking depositories so long as any balance of In-

dian moneys remains on deposit and must be furnished for fractional parts of a month whenever a change of disbursing officers takes place or a new bond (disbursing agent's) becomes effective before the end of a month. Depositories should apply to disbursing officers for a supply of the necessary forms.

§ 105.12 *Statement of deposits (Form 5-302).* Each bank having a deposit not actively checked against shall submit semiannually, within 5 days after the close of June 30, and December 31, of each year, to the officer in whose name the deposit is carried, a statement in duplicate on Form 5-302. After comparing the statement with his records, the officer will forward the original to the Bureau of Indian Affairs if it is found correct. Banks carrying active checking accounts shall submit the statements within 5 days after the close of each month. Depositories should apply to the Bureau for Forms 5-302.

§ 105.13 *Report of condition.* When called for by the Commissioner of Indian Affairs, a report of financial condition shall be submitted by each depository. A copy of the report made to the Comptroller of the Currency (or the State Banking Department) will suffice if not more than 1 month has elapsed since such report. If a longer period has elapsed, current figures shall be given, but in the same form. No printed forms are provided by the Department for the submission of the reports.

§ 105.14 *Checks.* Each bank designated as a depository shall furnish the disbursing agent, without charge, an adequate supply of blank checks. Checks to be supplied by banks carrying active checking accounts must be printed in accordance with instructions from disbursing agents.

§ 105.15 *Service charges prohibited.* No bank in which Indian funds are deposited shall charge or receive any exchange or other fees or compensation on account of the cashing or collection of any checks or drafts or the performance of any other service for disbursing agents.

§ 105.16 *Statements required.* Depositories shall render such statements and give such information as properly accredited inspecting and administrative officers may request.

§ 105.17 *Disqualification.* Any bank which shall fail to comply with the regulations in this part shall be liable to be disqualified.

PART 107—CREATION OF TRUSTS FOR RESTRICTED PROPERTY OF INDIANS, FIVE CIVILIZED TRIBES, OKLAHOMA

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107.1	Application for trust.
107.2	Obligations of trust company.
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107.7	Trust duration.
107.8	Trustee's security.
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107.11 Limit restricted property in trust.
107.12 Amendments.

AUTHORITY: §§ 107.1 to 107.12 issued under sec. 7, 47 Stat. 778.

§ 107.1 *Application for trust.* Indians desiring to establish trust estates under the provisions of the said act must make written application therefor to the Secretary of the Interior through the superintendent or other official in charge of the Five Civilized Tribes Agency, Muskogee, Oklahoma. The application shall designate the trustee, the beneficiary or beneficiaries and the manner in which it is desired the corpus of the estate shall be distributed upon the termination of the trust. A form of application will, upon request, be furnished by the said superintendent and should be filled out and executed in the presence of the field clerk or, in the office of the superintendent and duly attested by the field clerk or some other Government employee. The information required by the form of application and such other information as may be requested concerning the Indian and his affairs shall be carefully considered by the superintendent who will affix his recommendation to the application and forward it to the Secretary of the Interior with his report, which report shall contain full advice with respect to the education and business qualifications of the applicant, his ability to read, write and understand the English language, his reputation for industry and thrift and what experience, if any, he has had in a business way.

§ 107.2 *Obligations of trust company.* The form of proposed trust agreement shall be executed by the trust company or banking institution selected as trustee, and shall be signed by and submitted with the application of the Indian, together with a statement in writing by said trust company or banking institution similar in form to that prescribed by the Comptroller of the Currency (or by the State banking department), showing fully the conditions of said trust company or banking institutions on a day not more than 1 month prior to the date of the application for the creation of the trust. The agreement must also be accompanied by a written certificate duly executed by the trustee to the effect that it has not paid or promised to pay any person other than an officer or employee on its regular payroll any fee, charge, commission or remuneration for any service or influence in securing or attempting to secure for it the trusteeship in that or in other trusts to which the regulations in this part apply.

§ 107.3 *Secretarial approval discretionary.* No such trust agreement will be favorably considered unless in the judgment of the Secretary of the Interior the trustee therein named is deemed by him to be on a sound financial basis and otherwise sufficiently qualified to justify approval of such trust.

§ 107.4 *Contents trust agreement.* In addition to the subject matter of the trust, its objects and beneficiaries, duties of trustee, etc., the form of trust agreement shall contain provisions to the following general effect:

(a) That such of the current income from the corpus of the estate as may be payable to the Indians of the Five Civilized Tribes of one-half or more Indian blood shall be remitted by the trustee to the Secretary of the Interior or such other official as he may designate for appropriate disposition.

(b) That the trusts declared and each of them shall be irrevocable except with the approval of the Secretary of the Interior, but, subject to his approval, the beneficiaries named in any approved trust may be redesignated by the maker without in any manner otherwise impairing or altering any of the provisions thereof, particularly the duration of the trust or the compensation to be paid to the trustee.

(c) That neither the corpus of the trust estate nor the income derived therefrom is, during the restriction period provided by law, subject to alienation or incumbrance, or to the satisfaction of any debt or other liability of any beneficiary of such trust during the said restricted period.

(d) That if the trust be annulled, cancelled or set aside by order of any court or otherwise, the principal of the trust with all accrued and unpaid interest shall be returned to the Secretary of the Interior as restricted individual property.

(e) That the trustee shall render an annual accounting to the Secretary of the Interior and to the beneficiary or beneficiaries to whom the income from any such trust for the preceding year or any part thereof was due and payable, such annual accounting to be submitted within 30 days following the ending of each annual period of the trust, and the trustee shall render accounting to the Secretary of the Interior at any other time on written request by the Secretary of the Interior, within 30 days from such request.

(f) That except as to United States Government bonds and other securities fully guaranteed by the Federal Government in which such funds in the hands of the trustee may be invested without limitations, the following limitations are prescribed on the right of the trustee to invest or reinvest any part of the corpus or income from the trust: (1) Not more than 30 percent of the estate may be invested in securities exclusive of all other limitations contained in this part, which appear on the current list of legal investments for savings banks prepared by the superintendent of banks of the State of New York, except that this authorization shall not include the purchase of public utility securities or railroad securities which do not represent obligations of operating companies, or the purchase of stocks: *Provided, however,* That in the purchase of such securities not more than 20 percent may be invested in general obligations issued by States or by any political subdivisions thereof, and not more than 10 percent may be invested in public utilities and in railroad securities, or in either of them; (2) not more than 15 percent of the trust estate may be invested in Federal land bank bonds issued

under the provisions of the act of July 17, 1916 (39 Stat. 360) as amended; (3) not more than 40 percent of the trust estate may be invested in total loans secured on first deeds of trust or first mortgages on improved city or farm real estate situated in the States designated in the trust agreements, but no such loans shall exceed 50 percent of the value of the real estate and improvements appraised not more than 30 days prior to such investments by one or more appraisers selected with the approval of the Secretary of the Interior; (4) no part of the trust fund shall be invested in the purchase of real estate or stocks for the trust except to protect the trust estate in foreclosure or other proceedings; (5) no part of the trust estate shall be invested in any kind of foreign securities, loans, or other properties, private or public.

§ 107.5 *Eligibility of appraisers.* Hereafter no person who is interested directly or indirectly, whether through intimate personal, financial or business connections, in any trust company or banking institution designated as trustee under an approved trust agreement involving restricted Indian property, or who is an officer, director, or employee of such trust company or banking institution, shall act as an appraiser of real estate in connection with the making of loans from the trust estate to be secured by first deeds of trust or first mortgages. Nor shall any person having an interest in obtaining such a loan, either personally or as an officer, director or employee of any company, association or partnership seeking such a loan, act as an appraiser. An investigation into the qualifications of all persons selected as appraisers will be made for the purpose of determining that the persons selected are both competent and disinterested.

§ 107.6 *Aiding Indians in formulating trust agreements.* In the formulation of the trust agreement and the provisions thereof the superintendent for the Five Civilized Tribes Agency and the other employees under his supervision will upon request assist the Indian to the fullest possible extent to the end that he may understand fully the meaning and the intent of the agreement and make the most satisfactory provision for the formation and consummation of the trust agreement.

§ 107.7 *Trust duration.* Under the terms of the statute no trust shall be established to continue for a period of more than 21 years after the death of the last surviving beneficiary named in the trust agreement.

§ 107.8 *Trustee's security.* To secure the faithful performance of the duties imposed by the trust agreement the trustee shall, as required by section 7 of the act (47 Stat. 778), deposit securities of the United States or furnish an acceptable corporate surety bond in an amount equal to the value of the trust as fixed and determined by the Secretary of the Interior. Appraisers will be appointed by the Secretary for the purpose of fixing the value of the trust and

of revising such value from time to time as the judgment of the Secretary may dictate. Additional or substitute security may be required at any time when deemed necessary for the protection of the trust estate and the interest of the Indians. Trustees pledging United States bonds or notes as security shall execute on forms¹ prescribed by the Secretary an appropriate resolution and power-of-attorney authorizing the sale, assignment or transfer of the collateral. Only those Corporate sureties who hold certificates of authority from the Secretary of the Treasury to write bonds on which the United States is obligee are acceptable as sureties. The cost to the trustee, if any, of furnishing the required bond, will be regarded as a necessary part of the cost of administering the trust and as such deductible from the gross income accruing therefrom.

§ 107.9 *Trustee's compensation.* As compensation for administering the trust the trustee will be permitted to receive annually not to exceed 5 percent of the gross annual income from such trust estate, and as further compensation will also be permitted to receive not to exceed an amount equal to 1 percent of the corpus of the trust estate, to be paid out of the income first accruing therefrom, and not to exceed an amount equal to 2 percent of the corpus of the estate at the time of final distribution based upon the last valuation made by the Secretary of the Interior prior to such distribution. By final distribution is meant any distribution to a beneficiary of any part of the corpus of the trust estate at any time under the terms of the trust. All fees are to be based on the size of the trust and the nature of the duties to be performed thereunder. The foregoing percentage of fees are maximum and alternative, that is, within such maximum limitations any one or more of said fees may or may not be allowed within the discretion of the Secretary of the Interior.

§ 107.10 *Necessary forms.* In addition to the form of application by the Indians under the act of January 27, 1933 (47 Stat. 777), there are skeleton forms of trust agreement and bond, which forms are subject to such changes as may be necessary to meet the requirements of each particular case.

§ 107.11 *Limit restricted property in trust.* Not more than three million dollars aggregate value of restricted Indian property shall be placed in trust pursuant to the regulations in this part with any one trustee, trust company or other banking institution authorized by law to act as a fiduciary.

§ 107.12 *Amendments.* The regulations in this part may be changed, amended, added to, and any part thereof eliminated at any time by the Secretary of the Interior.

¹Forms may be obtained from the superintendent of the Five Civilized Tribes Agency, Muskogee, Oklahoma.