

100
45
2.23

CUMULATIVE POCKET SUPPLEMENT

TO THE . . . CODE
OF FEDERAL
REGULATIONS

Title 25—Indians

as of Jan. 1, 1954

FOR USE
DURING
1954

For changes subsequent to
December 31, 1953, see the daily issues of the Federal Register

ceder or opened portion of the Wind River Reservation.

§ 223.57 *Issuance of purchase orders.* In the discretion of the superintendent, expenditures from pro rata share accounts, other than for the purchase of real property, may be made either by purchase order or by cash disbursement to the individual for the execution of an approved program.

§ 223.58 *Purchase of real property.* Except as otherwise provided in § 223.68 payment for the purchase of real property shall be made by the superintendent, and such payment shall be made only after the title has been found satisfactory by the Area Director.

§ 223.59 *Trust status of property.* Title to all real property to be acquired with restricted funds, when such property is situated within the diminished portion of the Wind River Reservation, shall be taken in the name of the United States in trust for the individual. Title to personal property acquired pursuant to a purchase order shall be taken in trust and shall be held in trust until released in writing by the superintendent. Livestock purchased in trust and the offspring thereof shall be branded "I. D." and shall be marked with the individual brand of the owner. The provisions of this section are subject to the provisions of § 223.68.

§ 223.60 *Allowances for support.* The superintendent may, upon proper showing, approve expenditures for the maintenance and support of the aged, infirm, decrepit, and incapacitated, whether adults or minors, and expenditures from that part of an adult's pro rata share which exceeds \$1,450 for the support of an individual who has proved to be incapable of conducting a productive enterprise. The manner of disbursement and the amount of funds to be used for such purposes shall be determined by the superintendent, subject to the expenditure limitations set forth in § 223.62.

§ 223.61 *Medical treatment.* The superintendent may approve the expenditure from that part of an adult's pro rata share which exceeds \$1,450 to cover medical, dental, surgical, or hospital treatment, including nursing services. No part of a minor's pro rata share shall be expended for such purposes.

§ 223.62 *Education.* The superintendent may authorize the expenditure

of funds from any minors account for clothing because of school needs, and in addition, from the account of any minor who is in the ninth grade or higher for his tuition and other necessary expense in a government, private, public, or mission school.

§ 223.63 *Approval for certain expenditures.* [Revoked]

§ 223.65 *Repayment of loans.* Before approving a program, the superintendent shall make certain that provision has been made therein for the repayment of any amounts due on any loan, evidenced by a written agreement, from the United States or from the Shoshone Tribe.

§ 223.66 *Funds not available for payment of certain debts.* Debts, except those to the United States and the Shoshone Tribe, incurred by Indians prior to July 27, 1939, shall not be paid from any funds made available from the Shoshone Judgment Fund. Debts of Indians will not be paid from the funds to be disbursed under this subpart unless previously authorized by the superintendent, except in emergency cases necessitating medical treatment or in the payment of last illness or funeral expenses, as authorized in this subpart, and any other exceptional cases where specific authority is granted by the Commissioner of Indian Affairs.

§ 223.67 *Disposition of funds in event of death.* Prior to the determination of heirs, the superintendent may disburse whatever amount he deems necessary and proper for the support of the widow of the decedent and for each minor child of the decedent. Before making the disbursement, the superintendent shall be reasonably satisfied that actual need for assistance exists and that the value of the estate is sufficient to justify such payments, considering all proper claims. A complete record of all disbursements shall be reported by the superintendent to the examiner of inheritance and by the latter considered and included in his report of probate proceedings. After payment of all proper claims against the funds, including reimbursable or other debts due the United States or the Shoshone Tribe and excluding any claims arising out of debts incurred prior to July 27, 1939, the balance shall be trans-

* Comptroller General Bulletin A-62264, dated July 25, 1935.

ferred to the individual accounts of the heirs of the decedent in accordance with the approved heirship findings. Expenditures from inherited funds shall be made for purposes authorized in this subpart.

§ 223.68 *Fee patent Indians.* For the purposes of this subpart, a "fee patent Indian" shall be an adult Indian who has received a patent in fee to his allotment. Fee patent Indians shall be required to submit a program, the approval of which shall be in conformity with §§ 223.50 through 223.55. Fee patent Indians shall not be required to make purchases through purchase orders, but shall have funds disbursed to them direct by the superintendent for such purchases.

Funds of minor children of fee patent Indians may be included in an approved family program, but their expenditure shall be subject to the same provisions as cover the expenditure of the funds of minor children of Indians other than fee patent Indians. Fee patent Indians shall be required to conform to the provisions of § 223.58 only when the purchase of real property involves property situated within the diminished portion of the Wind River Reservation. Payments by fee patent Indians for real property outside the diminished portion of the Wind River Reservation may be made by them with funds disbursed to them by the superintendent. Except as otherwise provided in this section, fee patent Indians shall conform to all the provisions of this subpart.

SUBCHAPTER T—PATENTS IN FEE, COMPETENCY CERTIFICATES, SALES AND REINVESTMENT OF PROCEEDS

Part 241—Issuance of Patents in Fee, Certificates of Competency, Sale of Certain Indian Lands, and Reinvestment of Proceeds

Part 243—Determination of Competency; Crow Indians [Revised]

MORTGAGES AND DEEDS OF TRUST TO SECURE LOANS TO INDIANS [ADDED]

241.52 Approval of mortgages and deeds of trust.

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

(R. S. 161; 5 U. S. C. 22). [18 F. R. 8896, Dec. 31, 1953]

Prior Amendments—1951: 16 F. R. 8690, Sept. 22.

- Sec. 243.1 Purpose of regulations.
- 243.2 Application and examination.
- 243.3 Application form.
- 243.4 Factors determining competency.
- 243.5 Children of competent Indians.
- 243.6 Appeals.

AUTHORITY: §§ 243.1 to 243.6 issued under sec. 1, 41 Stat. 755, 46 Stat. 1495, as amended.

SOURCE: §§ 243.1 to 243.6 appear at 16 F. R. 7248, Oct. 28, 1950.

§ 243.1 *Purpose of regulations.* The regulations in this part govern the procedures in determining the competency of Crow Indians under Public Law 303, 81st Congress, approved September 8, 1949.

§ 243.2 *Application and examination.* The Commissioner of Indian Affairs or his duly authorized representative, upon the application of any unenrolled adult member of the Crow Tribe, shall classify him by placing his name to the competent or incompetent rolls established pursuant to the act of June 4, 1920 (41 Stat. 751), and upon application shall determine whether those persons whose names now or hereafter appear on the incompetent roll shall be reclassified as competent and their names placed on the competent roll.

§ 243.3 *Application form.* The application form shall include, among other things: (a) The name of the applicant; (b) his age, residence, degree of Indian blood, and education; (c) his experience in farming, cattle raising, business, or other occupation (including home-making); (d) his present occupation, if any; (e) a statement concerning the applicant's financial status, including his average earned and unearned income for the last two years from restricted leases and from other sources, and his outstanding indebtedness to the United States, to the tribe, or to others; (f) a description of his property and its value, including his allotted and inherited lands; and (g) the name of the applicant's spouse, if any, and the names of his minor children, if any, and their ages, together with a statement regarding the land, allotted and inherited, held by each.

§ 243.4 *Factors determining competency.* Among the matters to be considered by the Commissioner of Indian Affairs in determining competency are the amount of the applicant's indebtedness to the tribe, to the United States Government, and to others; whether he

is a public charge or a charge on friends and relatives, or will become such a charge, by reason of being classed as incompetent; and whether the applicant has demonstrated that he possesses the ability to take care of himself and his property, to protect the interests of himself and his family, to lease his land and collect the rentals therefrom, to lease the land of his minor children, to prescribe in lease agreements those provisions which will protect the land from deterioration through over-grazing and other improper practices, and to assume full responsibility for obtaining compliance with the terms of any lease.

§ 243.5 *Children of competent Indians.* Children of competent Indians who have attained or upon attaining their majority shall automatically become competent except any such Indian who is declared incompetent by a court of competent jurisdiction or who is incompetent under the laws of the State within which he resides.

§ 243.6 *Appeals.* An appeal to the Secretary of the Interior may be made within 30 days from the date of notice to the applicant of the decision of the Commissioner of Indian Affairs.

SUBCHAPTER V—RELIEF OF INDIANS

Part 251—Ration Regulations [Revoked]

REPEALED: Part 251 was revoked, 17 F. R. 6710, June 26, 1952.

SUBCHAPTER W—RIGHTS-OF-WAY

Part 256—Rights-of-Way Over Indian Lands [Revised]

Sec.	Definition.	Sec.	Appraisal and schedule of damages.
256.1	Definitions.	256.15	Deposit of damages.
256.2	Purpose and scope of regulations.	256.16	Action on application.
256.3	Consent of landowners.	256.17	Affidavit of completion.
256.4	Permission to survey.	256.18	Change of location.
256.5	Permission to commence construction.	256.19	Texture of approved right-of-way grants.
256.6	Disposition of deposit.	256.20	Renewal of right-of-way grants.
256.7	Application for right-of-way.	256.21	Service lines.
256.8	Maps.	256.22	Condemnation suits involving individually owned restricted lands.
256.9	Field notes.	256.23	Railroads.
256.10	Public survey.	256.24	Railroads in Oklahoma.
256.11	Connection with natural objects.	256.25	Oil or gas pipelines.
256.12	Township and section lines.	256.26	Telephone and telegraph lines.
256.13	Affidavit and certificate.	256.27	Power projects.
		256.28	Public highways.

Sec. 256.20 Drainage projects in Oklahoma.
256.30 Withdrawal and restoration of Superintendent's authority.
256.31 Appeals.

Authority: §§ 256.1 to 256.31 issued under R. S. 161, sec. 1, 30 Stat. 941, sec. 1, 32 Stat. 266, sec. 1, 33 Stat. 359, sec. 4, 37 Stat. 104, sec. 6, 62 Stat. 18; 5 U. S. C. 22, 25 U. S. C. 328. Statutory provisions interpreted or applied are cited to text in parentheses.

Source: §§ 256.1 to 256.31 appear at 16 F. R. 6678, Aug. 25, 1951, except as otherwise noted.

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

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

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

(c) "Area Director" means the officer in charge of an Area Office of the Bureau of Indian Affairs or his duly authorized representative.

(d) "Superintendent" means the superintendent or other officer in charge of an Indian Agency, School, Hospital, or other field unit of the Bureau of Indian Affairs.

(e) "Indians" include (1) Indians, (2) Eskimos, or (3) Aleuts.

(f) "Tribe" means a nation, tribe, band, pueblo, community, or other group of Indians residing on a reservation, rancheria, or other reserve within the continental United States or Alaska.

(g) "Tribal Council" means the official council, business committee, or other body, or the governor or other individual, authorized to represent a tribe in consenting to the granting or the rights-of-way provided for in this part.

(h) "Restricted lands" means (1) lands or interests in lands held by the United States in trust for a tribe; (2) lands or interests in lands held by a tribe in restricted fee or Indian title, including Pueblo lands; (3) lands or interests in lands held by the United States in trust for individual Indians; (4) lands or interests in lands held by individual Indians subject to restrictions against alienation; or (5) other lands acquired or set aside by the United States for the use and benefit of Indians.

(i) "Damages" include the compensation, if any, due the landowner for a right-of-way.

§ 256.2 *Purpose and scope of regulations.* (a) Except as indicated in paragraph (b) of this section, the regulations in this part prescribe the procedures, terms, and conditions under which rights-of-way over and across restricted lands may be granted.

Note: For irrigation rights-of-way, see sec. 18, 26 Stat. 1101, as amended. Stat. 376; 43 U. S. C. 946.

(b) The regulations in this part do not cover the granting of rights-of-way for primary hydroelectric transmission lines over and across tribal lands. Applications for such rights-of-way must be filed with the Federal Power Commission.

§ 256.3 *Consent of landowners.* (a) No right-of-way shall be granted over and across any restricted lands belonging to a tribe, nor shall any permission to survey or to commence construction be issued with respect to any such lands, without the prior written consent of the tribal council.

(b) Except as provided in paragraph (c) of this section, no right-of-way shall be granted over and across any individually owned restricted lands, nor shall any permission to survey or to commence construction be issued with respect to any such lands, without the prior written consent of the owner or owners of such lands and the approval of the Superintendent.

(c) The Superintendent may issue permission to survey or to commence construction with respect to, and he may grant rights-of-way over and across, restricted lands of individual Indians without the consent of the individual Indian owners when (1) the individual owner of the land or of an interest therein is a minor or a person non compos mentis, and the Superintendent finds that such grant will cause no substantial injury to the land or the owner, which cannot be adequately compensated for by monetary damages; (2) the land is owned by more than one person, and the owners or owner of a majority of the interests therein consent to the grant; (3) the whereabouts of the owner of the land or an interest therein are unknown, and the owners or owner of any interests therein whose whereabouts are known, or a majority thereof, consent to the grant; (4)

language of this subparagraph is taken from 25 U. S. C. 324.