

Dated: June 6, 1996.
 Ada E. Deer,
Assistant Secretary—Indian Affairs.
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25 CFR Part 152

RIN 1076-AD42

Issuance of Patents in Fee, Certificates of Competency, Removal of Restrictions, and Sale of Certain Indian Lands

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule making action is to revise the Issuance of Patents in Fee, Certificates of Competency, Removal of Restrictions, and Sale of Certain Indian Lands regulations. This rule was identified for reinvention under the National Performance Review. It is written in plain English to make the rule easier to read and understand for Indian landowners and Bureau realty staff.

DATES: Comments must be received on or before September 3, 1996.

ADDRESSES: Mail or hand carry your comments to Terrance L. Virden, Acting Director, Office of Trust Responsibilities, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, N.W., MS 4513 MIB, Washington, D.C. 20240. Comments may be hand delivered from 9:00 a.m. to 4:00 p.m., Monday through Friday or sent by facsimile to Facsimile No. (202) 219-1065.

FOR FURTHER INFORMATION CONTACT: Alice Harwood, Acting Chief, Division of Real Estates Services, Office of Trust Responsibilities, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, N.W., MS 4513 MIB, Washington, D.C. 20240, Telephone No. (202) 208-7737.

SUPPLEMENTARY INFORMATION: The primary author of this document is Pearl Kennedy, Realty Specialist, Division of Real Estate Services, Bureau of Indian Affairs, Department of the Interior. The proposed rule has been rewritten to facilitate its use by the general public and the individual Indians affected by the rule. Sections that no longer apply have been deleted and sections added for clarification. No substantive revisions are proposed in this rule.

The authority to issue rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes, 25 U.S.C. 2 and 9, and delegated to the

Assistant Secretary—Indian Affairs by 209 DM 8.

Publication of the proposed rule by the Department of the Interior (Department) provides the public an opportunity to participate in the rulemaking process. Interested persons may submit written comments regarding the proposed rule to the location identified in the "addresses" section of this document.

The Department has determined that this rule:

- does not have significant federalism effects.
- is not a major rule under E.O. 12866 and will not require a review by the Office of Management and Budget.
- will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*) because this rule applies only to Indian applicants.
- does not have significant takings implications under E.O. 12630.
- does not have significant effects on the economy, nor will it result in increases in costs or prices for consumers, individual industries, Federal, State, or local governments, agencies, or geographical regions.
- does not have any adverse effects on competition, employment, investment, productivity, innovation, or the export/import market.
- is categorically excluded from the National Environmental Policy Act of 1969 because it is of an administrative, technical, and procedural nature. Therefore, neither an environmental assessment nor an environmental impact statement is warranted.
- does not impose any unfunded mandates on any governmental or private entity and is in compliance with the provisions of the Unfunded Mandates Act of 1995.
- is exempt by OMB from the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) and does not require a review by the Office of Management and Budget.

List of Subjects in Part 152

Indians—lands.

For the reasons given in the preamble, we propose to revise Part 152 to Title 25 Chapter 1 of the Code of Federal Regulations, as set forth below.

PART 152—ISSUANCE OF PATENTS IN FEE, CERTIFICATES OF COMPETENCY, REMOVAL OF RESTRICTIONS, AND SALE OF CERTAIN INDIAN LANDS

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Authority: 5 U.S.C. 301. Interpret or apply sec. 7, 32 Stat. 275; 34 Stat. 1018; sec. 1, 35 Stat. 444; sec. 1 and 2, 36 Stat. 855, as amended, 856, as amended; sec. 17, 39 Stat. 127; 40 Stat. 579; 62 Stat. 236; sec. 2, 40 Stat. 606; 68 Stat. 358; 69 Stat. 666; 25 U.S.C. 355, 372, 373, 378, 379, 404, 405, 483, unless otherwise noted.

Cross-Reference: See part 159 and part 160 in this chapter for further regulations regarding sale of irrigable lands.

§ 152.1 What are the definitions of the terms used in this part?

Agency means an Indian agency or other field unit of the Bureau of Indian Affairs having trust or restricted Indian land under its immediate jurisdiction.

Competent means that you possess sufficient ability, knowledge, experience, and judgment to manage your business affairs, including the administration, use, investment, and disposition of any property you own and the income or proceeds derived from the property, with a reasonable degree of prudence and wisdom to prevent the loss of such property or benefits. (Act of August 11, 1955 (69 Stat. 666)).

Fiduciary means a person acting primarily for another's benefit such as a trustee, guardian, or conservator.

I and my mean the Indian applicant.

Patent in fee means an instrument of conveyance issued by the government to

transfer the title of trust, or any interest in trust land, to a non-Indian or Indian determined to be competent. A patent in fee removes all restrictions against alienation of all restriction property and terminates the trust responsibility of the Secretary of the Interior for the land.

Restricted land means land or any interest therein, the title to which is held by an individual Indian, subject to Federal restrictions against alienation or encumbrance.

Secretary means the Secretary of the Interior or authorized representative acting under delegated authority.

Tribe means any Indian tribe, band, nation, pueblo, community, corporation, rancheria, colony, or other group of Indians.

Trust land means land or any interest therein held in trust by the United States for an individual Indian or tribe.

We means the Secretary of the Interior or authorized representative acting under delegated authority.

You means the Indian applicant.

Your refers to the Indian applicant.

Issuing Patents in Fee, Certificates of Competency, or Orders Removing Restrictions

§ 152.2 Who can apply for a patent in fee?

Indians 21 years of age or over. The written application must be in a form approved by the Secretary and filed with the agency having immediate jurisdiction over the land.

§ 152.3 How do I apply for a patent in fee?

You must complete and submit a written application in the form approved by the Secretary and file it with the agency superintendent having immediate jurisdiction over the land.

§ 152.4 What happens when I apply for a patent in fee?

(a) If we determine that you are competent, we will issue you a fee patent and give you an inventory of your estate. (Acts of Feb. 8, 1887 (24 Stat. 388), as amended (25 U.S.C. 349); June 25, 1910 (36 Stat. 855), as amended (25 U.S.C. 372); and May 14, 1948 (62 Stat. 236; 25 U.S.C. 483); and other authorizing acts.)

(b) If we deny your application, we will tell you why in a letter. You have the right to appeal the decision under 25 CFR part 2.

(c) White Earth Reservation: We will issue a patent in fee to any adult Indian of mixed-blood owning land within the White Earth Reservation in the State of Minnesota. When you apply, we do not consider your competency (Act of March 1, 1907 (34 Stat. 1015)).

(d) Fort Peck Reservation: Interests in oil and gas underlying certain

allotments on the Fort Peck Reservation were granted to certain Indians to be held in trust for them. Provisions were made to issue patents in fee for such oil and gas or patents in fee for land in certain circumstances (Act of June 30, 1954 (68 Stat. 358)).

(1) Title to the entire interest in the oil and gas, underlying a parcel of land within the Fort Peck Reservation, was conveyed by the act in fee simple status to Indian grantees who received a patent or patent in fee before June 30, 1954.

(2) We will convey by patent, without application, unrestricted fee simple title to the entire interest in oil and gas granted by this act to Indians to whom a fee patent has been issued at any time for any land within the Fort Peck Reservation or who have been determined to be competent.

(3) When we determine that the entire interest in a tract of land on the Fort Peck Reservation is owned by a competent Indian grantee of oil and gas under the act, we will issue fee patents to them, covering all interests in the land, without application.

§ 152.5 Will patents in fee be issued to non-Indians and Indians with whom a special relationship does not exist?

We will issue a patent in fee to any non-Indian, or Indian to whom the United States owes no trust responsibility, without application, whenever we determine that trust land, or any interest in trust land, has been acquired through inheritance or devise.

§ 152.6 Who can apply for a certificate of competency?

Indians 21 years old or over, except certain adult members of the Osage Indian Tribe as provided in § 152.8, who hold land or an interest in land under a restricted fee patent. The written application must be in a form approved by the Secretary and filed with the agency having immediate jurisdiction over the land.

§ 152.7 What happens when I apply for a certificate of competency?

(a) If we determine that you are competent, we will approve your application, and a certificate of competency will be issued. The delivery of the certificate will have the effect of removing the restrictions from the described land. (Act of June 25, 1910 (36 Stat. 855), as amended (25 U.S.C. 372)).

(b) If we deny your request, we will tell you why in a letter. You have the right to appeal this action under part 2 of this chapter.

§ 152.8 Can certain Osage Indian adults apply for a certificate of competency?

Adult members of the Osage Indian Tribe of one-half or more Indian blood may apply for a certificate of competency. Applications must be in the form approved by the Secretary. If the Secretary determines that you are competent, a certificate of competency will be issued removing restrictions against alienation on all restricted property and terminating the United States trust responsibility on all restricted property. Your Osage headright interest remains under the trust responsibility of the United States. For regulations pertaining to the issuance of certificates of competency to adult Osage Indians of less than one-half Indian blood, see part 154 of this chapter.

§ 152.9 Who can apply for an order removing restrictions?

(a) You can apply for an order removing restrictions if you are:

(1) An Indian not under legal disability under the laws of the State where you reside or where the land is located; or

(2) A court-appointed guardian or conservator of any Indian.

(b) If you are a member of the Five Civilized Tribes, see § 152.13.

§ 152.10 How do I apply for an order removing restrictions?

(a) You must send a written application, in the form approved by the Secretary, telling why you need the removal of restrictions, to the agency having immediate jurisdiction over the lands.

(b) If you are a member of the Five Civilized Tribes, see § 152.12.

§ 152.11 What happens when I apply for an order removing restrictions?

(a) If we determine that you are competent or that a removal of restrictions is in your best interest, we will approve your application and issue an order removing restrictions from the described lands.

(b) If you are a member of the Five Civilized Tribes, see § 152.13.

(c) If we deny the application, we will tell you why in a letter. You have the right to appeal this action under part 2 of this chapter.

Order Removing Restrictions for Members of the Five Civilized Tribes**§ 152.12 If I am a member of the Five Civilized Tribes, how do I apply for removal of restrictions under authority other than section 2(a) of the Act of August 11, 1955?**

When you ask us to remove restrictions on your restricted lands

under authority other than section 2(a) of the Act of August 11, 1955 (69 Stat. 666), you may not include lands, or interest in lands, acquired by inheritance or devise. You can apply in either of the two following ways:

(a) If you apply for an unconditional removal, we will grant the removal if we determine that you are competent.

(b) If you apply for a conditional removal, we will grant the removal. The conditional order will be effective only and simultaneously with the execution of a deed by you and upon completion of an advertised or negotiated sale acceptable to us.

§ 152.13 If I am a member of the Five Civilized Tribes, what happens when I apply for removal of restrictions under section 2(a) of the Act of August 11, 1955?

(a) If we determine that you are competent, we will issue an order removing restrictions having the effect stated in § 152.16.

(b) If your application is rejected, this action is not subject to administrative appeal.

(c) If the Secretary rejects, or takes no action within 90 days of the application date, you may apply to the State district court in the county in which you reside. If that State district court issues an order, it will have the effect stated in § 152.16.

§ 152.14 If I am a member of the Five Civilized Tribes, can the restrictions be removed from my land without an application?

(a) Yes. When you are determined to be competent, section 2(b) of the Act of August 11, 1955 (69 Stat. 666), authorizes the removal of restrictions on property belonging to members of the Five Civilized Tribes. The Secretary will issue an order removing restrictions without an application. We will tell you in a letter that we intend to issue an order removing restrictions 30 days after the date of the letter.

(b) This decision may be appealed under part 2 of this chapter within the 30 days.

(c) All administrative appeals will postpone the issuance of this order.

(d) An order removing restrictions will be issued when:

(1) The decision is not appealed within 30 days after the date of the notice;

(2) Any dismissal of an appeal is not appealed within the prescribed time limit; or

(3) The final appeal is dismissed.

§ 152.15 If I am a member of the Five Civilized Tribes, what happens when a removal of restrictions is issued to me without an application?

When an order removing restrictions is issued, under § 152.14:

(a) A copy of the order will be delivered to you, or any person acting on your behalf, and the Board of County Commissioners for the county in which you reside.

(b) Under the terms the Act of August 11, 1955 (69 Stat. 66), the Secretary will tell you and the Board of County Commissioners in a letter that you and/or the Board have the right to appeal within six months of the date of this letter. The appeal must be to the State district court for the district in which you reside. The appeal will stay the effective date of the order until such proceedings are concluded. If the State district court dismisses the appeal, the order will become effective six months after the date of the letter. The effect of the order is described in § 152.16.

§ 152.16 If I am a member of the Five Civilized Tribes, what is the effect of an order removing restrictions from my land under the Act of August 11, 1955 (69 Stat. 666)?

(a) The effective date will remove all jurisdiction and supervision of the Bureau of Indian Affairs.

(b) Full ownership and control of money and property will be given to you, and the Secretary will issue title documents if necessary.

(c) The Secretary may make provisions to insure repayment of money lent to you by the Federal Government or by an Indian tribe.

(d) The interest of any lessee or permittee in any lease, contract, or permit that is outstanding when an order becomes effective will be preserved.

Sales, Exchanges, and Conveyances of Trust or Restricted Lands**§ 152.17 Can I sell, exchange, or otherwise convey my Indian land?**

Trust or restricted lands acquired by allotment, devise, inheritance, purchase, exchange, or gift may be sold, exchanged, and conveyed by you with the approval of the Secretary or by the Secretary with your consent under the Acts of May 27, 1902 (32 Stat. 275; 25 U.S.C. 379); May 17, 1906 (34 Stat. 197), as amended August 2, 1956 (70 Stat. 954; 48 U.S.C. 357); March 1, 1907 (34 Stat. 1018; 25 U.S.C. 405); May 29, 1908 (35 Stat. 444; 25 U.S.C. 404); June 25, 1910 (36 Stat. 855; 25 U.S.C. 372), as amended May 25, 1926 (44 Stat. 629; 48 U.S.C. 355a-355d); June 18, 1934 (48 Stat. 984; U.S.C. 464); and May 14, 1948

(62 Stat. 236; 25 U.S.C. 483); and other authorizing acts.

§ 152.18 Can a natural guardian or person designated by the Secretary sell my Indian land?

(a) Under the Act of May 29, 1908 (35 Stat. 444; 25 U.S.C. 404), we may sell trust or restricted land belonging to:

- (1) A minor, with the consent of the natural guardian of the minor;
- (2) Indian orphans without a natural guardian; and
- (3) Indians who are non compos mentis or otherwise under legal disability.

(b) The authority contained in the Act of May 29, 1908 is not applicable to lands in Oklahoma, Minnesota, and South Dakota, nor to lands authorized to be sold by the Act of May 14, 1948 (62 Stat. 236; 25 U.S.C. 483).

§ 152.19 Can fiduciaries sell my Indian land?

With our approval or consent, guardians, conservators, or other fiduciaries appointed by State courts, or by tribal courts operating under approved constitutions or law and order codes, may convey trust or restricted land belonging to Indians who are minors, non compos mentis, or otherwise under legal disability. This section is subject to the exceptions contained in 25 U.S.C. 954(b).

§ 152.20 Can the Secretary sell land owned by more than one person?

Under the Act of June 25, 1910 (36 Stat. 855), as amended (25 U.S.C. 372), lands or all interests in land may be sold if the Secretary determines that one or more of the heirs who have inherited trust land are incapable of managing their own affairs. This authority does not apply to lands authorized to be sold under the Act of May 14, 1948 (62 Stat. 236; 25 U.S.C. 483).

§ 152.21 Can a tribe sell or exchange tribal land?

Certain tribal land may be sold or exchanged under the Acts of February 14, 1920 (41 Stat. 415; 25 U.S.C. 294); June 18, 1934 (48 Stat. 984; 25 U.S.C. 464); August 10, 1939 (53 Stat. 1351; 25 U.S.C. 463(e)); July 1, 1948 (62 Stat. 1214); June 4, 1953 (67 Stat. 41; 25 U.S.C. 293(a)); July 28, 1955 (69 Stat. 392), as amended August 31, 1964 (78 Stat. 747; 25 U.S.C. 608–608c); June 18, 1956 (70 Stat. 290; 25 U.S.C. 403a–2); July 24, 1956 (70 Stat. 626); May 19, 1958 (72 Stat. 121; 25 U.S.C. 463, Note); September 2, 1958 (72 Stat. 1762); April 4, 1960 (74 Stat. 13); April 29, 1960 (74 Stat. 85); December 11, 1963 (77 Stat. 349); August 11, 1964 (78 Stat. 389); January 12, 1983 (96 Stat. 2517, 25

U.S.C. 2201), and under other authorizing acts. Except as otherwise provided by law, the regulations in this part 152 apply to sale or exchanges of tribal land.

§ 152.22 Is the Secretary's approval necessary to convey individual-owned trust or restricted lands or lands owned by a tribe?

(a) *Individual lands.* Yes, except inherited lands of the Five Civilized Tribes, see § 152.12. Influencing an Indian to execute an instrument purporting to convey any interest in trust land, or the offering of any instrument for record is prohibited, and criminal penalties may be incurred. (See 25 U.S.C. 202 and 348.)

(b) *Tribal lands.* Yes, except where acts of Congress authorize sales without approval. (See 25 U.S.C. 177.)

§ 152.23 Where do I file an application for sale, exchange, or gift?

Applications must be filed in a form approved by the Secretary with the agency having immediate jurisdiction over the land. Applications may be approved if the transaction appears to be in the long-range best interest of the owner or owners, or under conditions in § 152.25(d).

§ 152.24 Is an appraisal necessary?

Yes. Except as otherwise provided by the Secretary, we must do an appraisal to determine the fair market value before making or approving a sale, exchange, or other transfer of title of trust or restricted land.

§ 152.25 Can I negotiate a sale, gift, or exchange of my trust or restricted lands?

Sales, exchanges, and gifts specifically described in paragraphs (a), (b), (c), and (d) of this section may be negotiated; all other sales must be by advertised sale, or as determined by the Secretary. With the approval of the Secretary:

(a) *Consideration not less than the appraised fair market value.* You may negotiate and sell trust or restricted land for not less than the appraised fair market value when:

(1) The sale is to the United States, States, or political subdivisions, or sale for a public purpose.

(2) The sale is to the tribe or another Indian; or

(3) The Secretary determines it is impractical to advertise.

(b) *Exchange at appraised fair market value.* You may exchange trust or restricted land in combination with other things of value. The value you receive in the exchange must be substantially equal to the appraised fair

market value of the consideration given by you.

(c) *Sale to co-owners.* You may negotiate and sell trust or restricted land to a co-owner. The consideration may be less than the appraised fair market value, if we determine there is a special relationship between the co-owners or special circumstances exist.

(d) *Gifts and conveyances for less than the appraised fair market value.* You may convey trust or restricted land for less than the appraised fair market value or for no consideration, when:

(1) The prospective grantee is your spouse, brother, sister, lineal ancestor of Indian blood, or lineal descendant;

(2) Some other special relationship exists between you and grantee; or

(3) The Secretary determines that special circumstances exist that warrant the approval of the conveyance.

§ 152.26 How is my land advertised for sale?

(a) Once your application is approved, a notice of sale will be published not less than 30 days prior to the date fixed for the sale. A shorter period may be authorized by the Secretary.

(b) The notice of sale will include:

(1) Terms, conditions, place, date, hour, and methods of sale, including explanation of auction procedures set out in § 152.27(b)(2);

(2) Where and how bids must be submitted;

(3) A warning to all bidders against violation of 18 U.S.C. 1860 prohibiting unlawful combination or intimidation of bidders or potential bidders; and

(4) Description of tracts, all reservations to which title will be subject, any restrictions and encumbrances of record with the Bureau of Indian Affairs, and any other information that may improve sale prospects.

§ 152.27 What procedures are followed for an advertised sale?

(a) Advertised sales are by sealed bids except as provided in this paragraph:

(1) Bids, along with a certified check, cashier's check, money order, or U.S. Treasury check, payable to the Bureau of Indian Affairs, for not less than 10 percent of the amount of the bid, must be enclosed in a sealed envelope marked as prescribed in the notice of sale. A cash deposit may be submitted in lieu of these negotiable instruments at the bidder's risk. Tribes submitting bids under this paragraph may guarantee the required 10 percent deposit by an appropriate resolution.

(2) The sealed envelopes containing the bids will be publicly opened at

the time fixed for sale. The bids will be announced and appropriately recorded.

(b) when the Secretary recognizes that a tribe or a tribal member has a valid interest in acquiring the trust or restricted lands offered for sale, the following apply:

(1) With the consent of the owner and when the notice of sale so states, the tribe or tribal members have the right to meet the high bid.

(2) An oral auction may be held following the bid opening if:

(i) The tribe is not the highest bidder;

(ii) One or more acceptable sealed bids are received; or

(iii) When so stated in the notice of sale.

(c) Bidding in the auction will be limited to the tribe and to those who submitted sealed bids at 75 percent or more of the appraised value of the land being auctioned. At the conclusion of the auction, the highest bidder must increase his deposit to not less than 10 percent of his auction bid.

§ 152.28 What happens after the bid closing?

(a) The apparent highest acceptable bid will be publicly announced. The deposits submitted by unsuccessful bidders will be returned immediately. The apparent successful bidder's deposit will be held in a special account.

(b) If the highest bid received is less than the appraised fair market value of the land, the Secretary, with the consent of the owner, may accept that bid if:

(1) The amount approximates said appraised fair market value; and

(2) The amount is the highest price that may be realized.

(c) The Secretary will notify the apparent successful bidder that the remainder of the purchase price must be submitted within 30 days.

(1) The Secretary may extend the time for payment of the balance due upon showing of cause.

(2) If the balance due is not paid within the time allowed, the bid will be rejected, and the apparent successful bidder's 10 percent deposit will be forfeited to the landowner.

(d) The issuance of the patent or delivery of a deed to the purchaser will not be authorized until the balance of the purchase price has been paid. The fee patent may be ordered in cases where the purchaser is obtaining a loan from an agency of the Federal Government, and that agency has given the Secretary a commitment that the balance due will be paid when the fee patent is issued.

§ 152.29 Can the Secretary reject bids or disapprove a sale?

Yes. The Secretary reserves the right to reject any and all bids before or after the award or prior to the issuance of a patent or delivery of a deed, when it has been determined the rejection is in the best interests of the Indian owner.

§ 152.30 Can employees of Indian Affairs bid?

No. No person employed in Indian Affairs will directly or indirectly bid, make, or prepare any bid, or assist any bidder in preparing his bid. Sales between Indians, either of whom is an employee of the U.S. Government, are governed by the provisions of part 140 of this chapter (see 25 U.S.C. 68 and 441).

§ 152.31 Who pays for the cost of conveyance and fees?

(a) Under the Act of February 14, 1920 (41 Stat. 415), as amended by the Act of March 1, 1933 (47 Stat. 1417; 25 U.S.C. 413), the Secretary may collect from a purchaser reasonable fees for work performed or expense incurred in the transaction. The amount collected will be deposited to the credit of the United States as general fund receipts, except as stated in paragraph (b) of the section.

(1) The amount of the fee will be \$22.50 for each transaction.

(2) We may waive or reduce the fee to a lesser amount if justified.

(b) Subject to our approval, an alternate schedule of fees may be established if the cost of the work performed or expenses incurred are to be paid with tribal funds. Part of the fees may be credited to the tribe if appropriate.

(c) The collection of cost from the tribe may be waived if the tribe is the purchaser.

§ 152.32 Who pays irrigation fees and payments?

Under the Act of July 1, 1932 (47 Stat. 564; 25 U.S.C. 386a), collection of all construction costs against any Indian-owned lands within Indian irrigation projects is deferred as long as Indian title has not been extinguished. This statute applies only where the land is owned by Indians either in trust or restricted status.

(a) Any person, whether Indian or non-Indian, acquiring Indian lands that are a part of an Indian Irrigation project must enter into an agreement to:

(1) Pay the pro rata share of the construction of the project chargeable to the land;

(2) Pay all construction costs that accrue in the future; and

(3) Pay all future charges assessable to the land which are based on the annual

cost of operation and maintenance of the irrigation system.

(b) Any operation and maintenance charges that are delinquent when Indian land is sold will be deducted from the proceeds of sale unless other acceptable arrangements are made to provide for the payment prior to the approval of the sale.

(c) A lien clause covering all unpaid irrigation construction costs, past and future, will be inserted in the patent or other instrument of conveyance issued to all purchasers of restricted or trust lands that are under an Indian irrigation project.

Partitions in Kind of Inherited Allotments

§ 152.33 Can I partition my Indian lands?

(a) Land may be partitioned without an application if we find that any one or more inherited trust allotments are capable of partition in kind to the advantage of the heirs regardless of their competency. Patents in fee will be issued to the competent heirs for the lands set apart to them. The trust period will terminate in accordance with the terms of the original patent or order of extension of the trust period set out in the patent. (Act of May 18, 1916, (39 Stat. 127; 25 U.S.C. 378)). The authority contained in the Act of May 18, 1916, does not apply to lands authorized to be sold by the Act of May 14, 1948, nor to land held in restricted fee status.

(b) Heirs of a deceased allottee may submit a written application on an approved form for a partition of their trust or restricted land. If we approve the partition, new patents or deeds will be issued to the heirs for the portions set aside to them. If title to the allotment is held as restricted fee, a partition may be accomplished by the heirs executing approved deeds to the other heirs for their respective portions.

Mortgages and Deeds of Trust To Secure Loans to Indians

§ 152.34 Can I mortgage my land?

Yes. With the Secretary's approval, you may execute a mortgage or deed of trust to your land. The Secretary will secure appraisal information prior to approval of the mortgage or deed of trust. Such lands will be subject to foreclosure or sale, according to the terms of the mortgage or deed of trust, and in accordance with the laws of the State in which the lands are located. For the purpose of foreclosure or sale proceedings under this section, you will be regarded as vested with unrestricted fee simple title to the lands (Act of March 29, 1956) (70 Stat. 62; 25 U.S.C. 483a).

§ 152.35 Can I make a sale on a deferred payment plan?

Yes, when you and purchaser desire. The terms will be set out in a memorandum of sale which constitutes a contract for payment in full and delivery of title. The executed deed will be held by the superintendent to be delivered only upon full compliance with the terms of sale. Request for fee patent will be made only upon full compliance with the terms of the sale. As required by the Act of June 25, 1910 (36 Stat. 855), as amended (25 U.S.C. 372); the terms of the sale will require the purchaser to pay not less than 10 percent of the purchase price in advance. Terms for the payment of the remaining installment, plus interest, must be acceptable to the Secretary and the Indian owner. If the purchaser defaults on any deferred payment plan in the first or subsequent payments, all payments, including interest, previously made will be forfeited to the Indian owner.

Denials of Applications**§ 152.36 When does the Secretary deny approval of my application?**

The Secretary denies any request under this part if a determination shows that it will adversely affect the best interest of other Indians, or the tribe.

§ 152.37 Am I notified of a denial?

Yes, the Secretary makes denials in a written letter. You have the right to appeal the decision under part 2 of this chapter.

Receiving Information**§ 152.38 Who receives information regarding status of applications for patents in fee, certificates of competency, or orders removing restrictions of trust or restricted Indian lands?**

(a) The status of applications by Indians for patents in fee, certificates of competency, or orders removing restrictions must be disclosed to:

- (1) Employees of the Department of the Interior whose duties require that the information be disclosed to them;
- (2) The applicant or his attorney, upon request;
- (3) Members of Congress on behalf of the applicant; and
- (4) Owners of trust or restricted land whose property would be affected by the termination of trust or restricted status of the land covered by the application.

(b) All other persons, upon request and only after a patent in fee, certificate of competency, or an order removing restrictions has been issued, according to the following timeframes:

(1) 15 days after the fee patent has been issued by the Bureau of Land Management;

(2) 15 days after issuance of a certificate of competency or order removing restrictions; or

(3) After the application has been rejected, and you have been notified.

Dated: June 10, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96-16037 Filed 7-1-96; 8:45 am]

BILLING CODE 4310-02-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**29 CFR Chapter XIV****Older Workers Benefit Protection Act of 1990 (OWBPA)**

AGENCY: Equal Employment Opportunity Commission (EEOC).

ACTION: Sixth Meeting of Negotiated Rulemaking Advisory Committee.

SUMMARY: EEOC announces the dates of the sixth meeting of the "Negotiated Rulemaking Advisory Committee for Regulatory Guidance on Unsupervised Waivers of Rights and Claims under the Age Discrimination in Employment Act" (the Committee). A Notice of Intent to form the Committee was published in the Federal Register on August 31, 1995, 60 FR 45388, and a Notice of Establishment of the Committee was published in the Federal Register on October 20, 1995, 60 FR 54207.

DATES: The sixth meeting will be held on July 23-24, 1996, beginning at 10:00 a.m. on July 23. It is anticipated that the meeting will last for two days. The session of July 24, 1996 will commence at 9:00 a.m.

ADDRESSES: The meeting will be held at the EEOC Headquarters, 1801 L Street, N.W., Washington, D.C. 20507.

FOR FURTHER INFORMATION CONTACT: Joseph N. Cleary, Paul E. Boymel, or John K. Light, ADEA Division, Office of Legal Counsel, EEOC, 1801 L Street, N.W., Washington, D.C. 20507, (202) 663-4692.

SUPPLEMENTARY INFORMATION: All Committee meetings, including the meeting of July 23-24, will be open to the public. Any member of the public may submit written comments for the Committee's consideration, and may be permitted to speak at the meeting if time permits. In addition, all Committee documents and minutes will be available for public inspection in EEOC's Library (6th floor of the EEOC Headquarters).

Persons who need assistance to review the comments will be provided with appropriate aids such as readers or print magnifiers. To schedule an appointment call (202) 663-4630 (voice), (202) 663-4630 (TDD). Copies of this notice are available in the following alternate formats: large print, braille, electronic file on computer disk, and audio tape. Copies may be obtained from the Office of Equal Employment Opportunity by calling (202) 663-4395 (voice), (202) 663-4399 (TDD).

Purpose of Meeting/Summary of Agenda

At the meeting, the Committee will continue to discuss the unsupervised waiver legal issues that will be considered by the Committee in drafting a recommended notice of proposed rulemaking for EEOC approval.

Dated: June 25, 1996

Frances M. Hart,

Executive Officer.

[FR Doc. 96-16758 Filed 7-1-96; 8:45 am]

BILLING CODE 6570-06-M

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Chapter I****Implementation of the Local Competition Provisions of 1996 Telecommunications Act**

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment date.

SUMMARY: The Public Notice extends an additional Comment opportunity in CC Docket 96-98 in order to allow parties to that proceeding to comment on a staff-prepared working copy of an industry demand and supply simulation model. The model, using publicly-available, industry-wide information, allows users to simulate the relative impact of particular changes in the industry.

DATES: Comments are due on or before July 8, 1996. (No reply comments allowed).

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Thomas J. Beers at (202) 418-0952.

SUPPLEMENTARY INFORMATION:

[DA 96-1030; IAD 96-176]