

SUBCHAPTER A—PROCEDURES AND PRACTICE

PART 1—APPLICABILITY OF RULES OF THE BUREAU OF INDIAN AFFAIRS

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AUTHORITY: 5 U.S.C. 301; R.S. 463, 25 U.S.C. 2.

§ 1.1 [Reserved]

§ 1.2 Applicability of regulations and reserved authority of the Secretary of the Interior.

The regulations in chapter I of title 25 of the Code of Federal Regulations are of general application. Notwithstanding any limitations contained in the regulations of this chapter, the Secretary retains the power to waive or make exceptions to his regulations as found in chapter I of title 25 CFR in all cases where permitted by law and the Secretary finds that such waiver or exception is in the best interest of the Indians.

[25 FR 3124, Apr. 12, 1960]

§ 1.3 Scope.

Chapters I and II of this title contain the bulk of the regulations of the Department of the Interior of general application relating to Indian affairs. Subtitle B, chapter I, title 43 of the Code of Federal Regulations contains rules relating to the relationship of Indians to public lands and townsites. Subtitle A of title 43 CFR has application to certain aspects of Indian affairs and, among other things, contains procedural rules for appellate and other administrative review and for practice before the Department of the Interior, of which the Bureau of Indian Affairs is a part. Indian health matters are covered in 42 CFR part 36. Title 30 CFR contains regulations on oil and gas and other mining operations, which, under

certain circumstances, may be applicable to Indian resources.

[25 FR 3124, Apr. 12, 1960, as amended at 40 FR 20625, May 12, 1975; 48 FR 13414, Mar. 31, 1983]

§ 1.4 State and local regulation of the use of Indian property.

(a) Except as provided in paragraph (b) of this section, none of the laws, ordinances, codes, resolutions, rules or other regulations of any State or political subdivision thereof limiting, zoning or otherwise governing, regulating, or controlling the use or development of any real or personal property, including water rights, shall be applicable to any such property leased from or held or used under agreement with and belonging to any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

(b) The Secretary of the Interior or his authorized representative may in specific cases or in specific geographic areas adopt or make applicable to Indian lands all or any part of such laws, ordinances, codes, resolutions, rules or other regulations referred to in paragraph (a) of this section as he shall determine to be in the best interest of the Indian owner or owners in achieving the highest and best use of such property. In determining whether, or to what extent, such laws, ordinances, codes, resolutions, rules or other regulations shall be adopted or made applicable, the Secretary or his authorized representative may consult with the Indian owner or owners and may consider the use of, and restrictions or limitations on the use of, other property in the vicinity, and such other factors as he shall deem appropriate.

[30 FR 7520, June 9, 1965]

§ 1.10 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, DC, and at the office of