

§ 2531.2

not thereby deprived of the right to file an application for herself, provided she is otherwise eligible, and also for her minor children where her husband is for any reason disqualified.

(3) An Indian woman who is separated from her husband who has not received an allotment under the fourth section will be regarded as the head of a family and may file applications for herself and for the minor children under her care.

(4) In every case where an Indian woman files applications for her minor children it must appear that she has not only applied for herself under the fourth section but has used the land in her own application in some beneficial manner.

(f) *Citizenship.* (1) Under section 6 of the Act of February 8, 1887 (24 Stat. 390; 25 U.S.C. 349), every Indian born within the territorial limits of the United States, to whom allotments were made under that Act, and every Indian who voluntarily takes up his residence separate and apart from any tribe of Indians and adopts the habits of civilized life is declared to be a citizen of the United States.

(2) The Act of May 8, 1906 (34 Stat. 182; 8 U.S.C. 3), changed the time when an Indian became a citizen by virtue of the allotment made to him to the time when patent in fee should be issued on such an allotment.

(3) The Act of June 2, 1924 (43 Stat. 253, 8 U.S.C. 3), conferred citizenship on all noncitizen Indians born within the Territorial limits of the United States, but expressly reserved to them all rights to tribal or other property. These rights include that of allotment on the public land, if qualified.

[35 FR 9589, June 13, 1970, as amended at 37 FR 23185, Oct. 31, 1972]

§ 2531.2 Petition and applications.

(a) Any person desiring to receive an Indian allotment (other than those seeking allotments in national forests, for which see subpart 2533 of this part) must file with the authorized officer, an application, together with a petition on forms approved by the Director, properly executed, together with a certificate from the authorized officer of the Bureau of Indian Affairs that the person is Indian and eligible for allot-

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ment, as specified in § 2531.1(b). However, if the lands described in the application have been already classified and opened for disposition under the provisions of this part, no petition is required. The documents must be filed in accordance with the provisions of § 1821.2 of this chapter.

The petition and the statement attached to the application for certificate must be signed by the applicant.

(b) Blank forms for petitions and applications may be had from any office of the Bureau of Indian Affairs, or from land offices of the Bureau of Land Management.

[35 FR 9590, June 13, 1970]

§ 2531.3 Effect of application.

(a) Where an allotment application under the fourth section of the Act of February 8, 1887, as amended, 25 U.S.C. 334 (is not accompanied by the requisite certificate from the Bureau of Indian Affairs showing the applicant to be eligible for an allotment, and the applicant is given time to furnish such certificate, the application does not segregate the land, and other applications therefor may be received and held to await final action on the allotment application.

(b) Where an allotment application is approved by the authorized officer, it operates as a segregation of the land, and subsequent application for the same land will be rejected.

[37 FR 23185, Oct. 31, 1972]

Subpart 2532—Allotments

§ 2532.1 Certificate of allotment.

(a) When the authorizing officer approves an application for allotment, he will issue to the applicant a *certificate of allotment*, on a prescribed form, showing the name in full of the applicant, post office address, name of the tribe in which membership is claimed, serial number of the certificate issued by the Commissioner of Indian Affairs, and a description of the land allotted.

(b) Where the application under investigation is that of a single person over 21 years of age, or of the head of a family, report will also be made as to

the character of the applicant's settlement and improvements. A similar report will be made on applications filed in behalf of minor children as to the character of the settlement and improvements made by the parent, or the person standing in loco parentis, on his or her own allotment under the fourth section.

[35 FR 9591, June 13, 1970]

§ 2532.2 Trust patent.

(a) To enable an Indian allottee to demonstrate his good faith and intention, the issuance of trust patent will be suspended for a period of 2 years from date of settlement; but in those cases where that period has already elapsed at the time of adjudicating the allotment application, and when the evidence either by the record or upon further investigation in the field, shows the allottee's good faith and intention in the matter of his settlement, trust patents will issue in regular course. Trust patents in the suspended class, when issued will run from the date of suspension.

(b) In the matter of fourth-section applications filed prior to the regulations in this part, where, by the record or upon further investigation in the field, it appears that such settlement has not been made as is contemplated by the regulations, such applications will not be immediately rejected, but the applicant will be informed that 2 years will be allowed within which to perfect his settlement and to furnish proof thereof, whereupon his application will be adjudicated as in other cases.

[35 FR 9591, June 13, 1970]

Subpart 2533—Allotments Within National Forests

SOURCE: 35 FR 9591, June 13, 1970, unless otherwise noted.

§ 2533.0-3 Authority.

By the terms of section 31 of the Act of June 25, 1910 (36 Stat. 863; 25 U.S.C. 337), allotments under the fourth section of the Act of February 8, 1887, as amended, may be made within national forests.

§ 2533.0-8 Land subject to allotment.

An allotment under this section may be made for lands containing coal and oil and gas with reservation of the mineral contents to the United States, but not for lands valuable for metalliferous minerals. The rules governing the conduct of fourth-section applications under the Act of February 8, 1887 as amended, apply equally to applications under said section 31.

§ 2533.1 Application.

An Indian who desires to apply for an allotment within a national forest under this act must submit the application to the supervisor of the particular forest affected, by whom it will be forwarded with appropriate report, through the district forester and Chief, Forest Service, to the Secretary of Agriculture, in order that he may determine whether the land applied for is more valuable for agriculture or grazing than for the timber found thereon.

§ 2533.2 Approval.

(a) Should the Secretary of Agriculture decide that the land applied for, or any part of it, is chiefly valuable for the timber found thereon, he will transmit the application to the Secretary of the Interior and inform him of his decision in the matter. The Secretary of the Interior will cause the applicant to be informed of the action of the Secretary of Agriculture.

(b) In case the land is found to be chiefly valuable for agriculture or grazing, the Secretary of Agriculture will note that fact on the application and forward it to the Commissioner of Indian Affairs.

(c) If the Commissioner of Indian Affairs approves the application, he will transmit it to the Bureau of Land Management for issuance of a trust patent.

[35 FR 9591, June 13, 1970, as amended at 41 FR 29122, July 15, 1976]

PART 2540—COLOR-OF-TITLE AND OMITTED LANDS

Subpart 2540—Color-of-Title: Authority and Definitions

Sec.

2540.0-3 Authority.

2540.0-5 Definition.