

## INTERNATIONAL BOUNDARY AND WATER COMMISSION

### 22 CFR Part 1102

#### United States and Mexico, United States Section, Freedom of Information Act: Uniform Fee Schedule and Administrative Guidelines

**AGENCY:** United States Section, International Boundary and Water Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule will revise the United States Section, International Boundary and Water Commission (IBWC) regulations that implement the Freedom of Information Act (FOIA) fee schedule. This revision pertains to the charge for recovery of the full, allowable direct costs of searching for and reviewing records requested under the FOIA and section 1102.4 of the IBWC rules, unless such fees are restricted or waived in accordance with section 1102.6. These fees are being revised to correspond to modifications of rates of pay approved by the U.S. Congress.

**DATES:** All comments received on or before July 22, 1996, will be considered before final action is taken on this proposed rule.

**ADDRESSES:** Please submit any written comments to the Freedom of Information Act Officer, International Boundary and Water Commission, United States Section, The Commons, Bldg. C, Suite 310, 4171 N. Mesa, El Paso, TX 79902-1441, telephone: (915) 534-6697.

**FOR FURTHER INFORMATION CONTACT:** Dell Driver, telephone (915) 534-6697.

**SUPPLEMENTARY INFORMATION:** The IBWC is modifying section 1102.4(a) of the rules which pertains to the charges for searching and reviewing records requested under the Freedom of Information Act (FOIA).

The FOIA requires Federal agencies to establish a schedule of fees for the processing of requests for agency records in accordance with fee guidance issued by the Office of Management and Budget (OMB). In 1987, OMB issued its Uniform Freedom of Information Act Fee Schedule and Guidelines. However, since the FOIA requires that each agency's fees be based upon its direct costs of providing FOIA services, OMB did not provide a unitary, government wide selection of fees.

List of Subjects in 22 CFR Part 1102

Freedom of information.

For the reasons set out in the preamble, part 1102.4(a)(1) of title 22 of

the Code of Federal Regulations is proposed to be amended as follows:

### PART 1102—FREEDOM OF INFORMATION ACT

1. The authority for this part continues to read as follows:

Authority: 5 U.S.C. 552 (Pub. L. 90-23, as amended by Pub. L. 93-502 and Pub. L. 99-570).

2. Section 1102.4 (a)(1) and (a)(2) are revised to read as follows:

#### § 1102.4 Fees.

(a) The following shall be applicable with respect to services rendered to the public under this subpart:

(1) Fee Schedule.

(i) Searching for records, per hour or fraction thereof, per individual:

Professional.....	\$23.71
Technical.....	\$16.57
Clerical .....	\$13.38

Includes the salary of the category of employee who actually performs the search computed at Step 5 of each grade level plus an additional 24% of that rate for personnel benefits. These fees will be periodically modified to correspond to changes in pay approved by Congress.

(ii) The cost for computer searches will be calculated based on the salary of the category of employee who actually performs the computer search, plus 24% of that rate to include personnel benefits, plus the direct costs of the central processing unit, input-output devices, and memory capacity of the actual computer configuration.

(iii) Reproduction fees:

Pages no larger than 8½×14 inches when reproduced by routine electrostatic copying: \$0.10 per page.

Pages requiring reduction, enlargement, or other special services will be billed at direct cost to the Section. Reproduction by other than routine electrostatic copying will be billed at direct cost to the Section.

(iv) Certification of each record as a true copy—\$1.00.

(v) Duplication of architectural photographs and drawings:

Blueprinting.....	\$1.00 per sq. ft.
Vellum Reproducible from blueprints .....	\$5.00 per sq. ft.

(vi) *Postage and handling.* Full costs will be recovered from the requestor if special mailing such as express mail is indicated. Otherwise, records will be sent by first-class certified mail, domestic addresses only, direct cost paid by the U.S. Section.

(2) Only requesters who are seeking documents for commercial use will be charged for time spent reviewing records to determine whether they are exempt from mandatory disclosure. The

cost for review will be calculated based on the salary of the category of the employee who actually performed the review plus 24% of the rate to cover personal benefits. Charges will be assessed only for the initial review (i.e., review undertaken the first time in order to analyze the applicability of specific exemption(s) to a particular record or portion of record) and not review at the administrative appeal level of the exemption(s) already applied.

Dell Driver,

*Freedom of Information Act Officer.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### 25 CFR Part 142

RIN 1076 AD66

#### Operation of U.S.M.S. "North Star" Between Seattle, Washington, and Stations of the Bureau of Indian Affairs and Other Government Agencies, Alaska

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Bureau of Indian Affairs (BIA) is proposing to revise its regulations in Alaska Resupply Operation as mandated by Executive Order 12866 to streamline the regulatory process and enhance the planning and coordination of existing regulations.

**DATES:** Comments must be received on or before August 19, 1996.

**ADDRESSES:** Mail comments to Warren Heisler, Assistant Area Director, Juneau Area Office, Bureau of Indian Affairs, Department of the Interior, 709 West 9th Street, Juneau, Alaska 99802; OR, hand deliver them to the above address. Comments will be available for inspection at this address from 9:00 a.m. to 4:00 p.m., Monday through Friday beginning approximately two weeks after publication of this document in the Federal Register.

**FOR FURTHER INFORMATION CONTACT:** Warren Heisler, Assistant Area Director, Juneau Area Office, Bureau of Indian Affairs at telephone (907) 586-7177.

#### SUPPLEMENTARY INFORMATION:

##### Background

The U.S.M.S. North Star has been decommissioned. However, the need for a resupply operation in Alaska continues. The Juneau Area Office

administers the Alaska Resupply Operation through the Seattle Support Center. All accounts receivable and payable are handled by the Seattle Support Center that also publishes a tariff of rates and conditions.

#### Evaluation and Certification

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.

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.

#### Executive Order 12778

The Department has certified to the Office of Management and Budget (OMB) that this proposed rule meets the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order 12778.

#### Executive Order 12866

This proposed rule is not a significant regulatory action under Executive Order 12866.

#### Regulatory Flexibility Act

This proposed rule 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.).

#### Executive Order 12630

The Department has determined that this proposed rule does not have "significant" takings implications. The proposed rule does not pertain to "taking" of private property interests, nor does it impact private property.

#### Executive Order 12612

The Department has determined that this proposed rule does not have significant federalism effects because it pertains solely to Federal-tribal relations and will not interfere with the roles, rights and responsibilities of states.

#### NEPA Statement

The Department has determined that this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

#### Unfunded Mandates Act of 1995

This proposed rule imposes no unfunded mandates on any governmental or private entity and is in compliance with the provisions of the Unfunded Mandates Act of 1995.

#### Paperwork Reduction Act of 1995

There are no information collection requirements contained in this proposed rule which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 et seq.

#### Drafting Information

The primary author of this document is Alan E. Mather, Traffic Manager, Seattle Support Center, Juneau Area Office, Bureau of Indian Affairs.

#### List of Subjects in 25 CFR Part 142

Indians—shipping; Indians—maritime carriers.

For the reasons given in the preamble part 142, Chapter I of Title 25 of the Code of Federal Regulations is proposed to be revised as set forth below:

### **PART 142—ALASKA RESUPPLY OPERATION**

#### Sec.

##### 142.1 Definitions.

##### 142.2 What is the purpose of the Alaska Resupply Operation?

##### 142.3 Who is responsible for the Alaska Resupply Operation?

##### 142.4 For whom is the Alaska Resupply Operation operated?

##### 142.5 Who determines the rates and conditions of service of the Alaska Resupply Operation?

##### 142.6 How are the rates and conditions for the Alaska Resupply Operation established?

##### 142.7 How are transportation and scheduling determined?

##### 142.8 Is economy of operation a requirement for the Alaska Resupply Operation?

##### 142.9 How are orders accepted?

##### 142.10 How is freight to be prepared?

##### 142.11 How is payment made?

##### 142.12 What is the liability of the United States for loss or damage?

##### 142.13 Information collection.

Authority: 5 U.S.C. 301; R.S. 463; 25 U.S.C. 2; R.S. 465; 25 U.S.C. 9; 42 Stat. 208; 25 U.S.C. 13; 38 Stat. 586.

#### **§ 142.1 Definitions.**

*Area Director* means the Area Director, Juneau Area Office, Bureau of Indian Affairs.

*Bureau* means Bureau of Indian Affairs.

*Department* means Department of the Interior.

*Manager* means Manager of the Seattle Support Center.

*Must* is used in place of shall and indicates a mandatory or imperative act or requirement.

*Indian* means any individual who is a member of an Indian tribe.

*Indian tribe* means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to Pub. L. 103-454, 108 Stat. 4791.

*Alaska Native* means a member of an Alaska Native village or a Native shareholder in a corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 et seq.

#### **§ 142.2 What is the purpose of the Alaska Resupply Operation?**

The Alaska Resupply Operation provides consolidated purchasing, freight handling and distribution, and necessary transportation services from Seattle, Washington to and from other points in Alaska or en route in support of the Bureau's mission and responsibilities.

#### **§ 142.3 Who is responsible for the Alaska Resupply Operation?**

The Seattle Support Center, under the direction of the Juneau Area Office, is responsible for the operation of the Alaska Resupply Operation, including the management of all facilities and equipment, personnel, and procurement of goods and services.

(a) The Seattle Support Center is responsible for publishing the rates and conditions that must be published in a tariff.

(b) All accounts receivable and accounts payable are handled by the Seattle Support Center.

(c) The Manager must make itineraries for each voyage in conjunction with contracted carriers. Preference is to be given to the work of the Bureau.

(d) The Area Director is authorized to direct the Seattle Support Center to perform special services that may arise and to act in any emergency.

#### **§ 142.4 For whom is the Alaska Resupply Operation operated?**

The Manager is authorized to purchase and resell food, fuel, clothing, supplies and materials, and to order, receive, stage, package, store and transport these goods and materials for:

(a) Alaska Natives, Indian or Native owned businesses, profit or nonprofit Alaska Native corporations, Native cooperatives or organizations, or such other groups or individuals as may be sponsored by any Native or Indian organization.

(b) Other Federal agencies and the State of Alaska and its subsidiaries, as long as the ultimate beneficiaries are the Alaska Natives or their communities.

(c) Non-Indians and Non-Natives and commercial establishments that economically or materially benefit Alaska Natives or Indians.

(d) The Manager must make reasonable efforts to restrict competition with private enterprise.

**§ 142.5 Who determines the rates and conditions of service of the Alaska Resupply Operation?**

The general authority of the Assistant Secretary—Indian Affairs to establish rates and conditions for users of the Alaska Resupply Operation is delegated to the Area Director.

(a) The Manager must develop a tariff that establishes rates and conditions for charging users.

(1) The tariff must be approved by the Area Director.

(2) The tariff must be published on or before March 1 of each year.

(3) The tariff must not be altered, amended, or published more frequently than once each year, except in an extreme emergency.

(4) The tariff must be published, circulated and posted throughout Alaska, particularly in the communities commonly and historically served by the resupply operation.

(b) The tariff must include standard freight categories and rate structures that are recognized within the industry, as well as any appropriate specialized warehouse, handling and storage charges.

(c) The tariff must specify rates for return cargo and cargo hauled between ports.

(1) The rates and conditions for the Bureau, other Federal agencies, the State of Alaska and its subsidiaries must be the same as that for Native entities.

(2) Different rates and conditions may be established for Non-Indian and Non-Native commercial establishments, if those establishments do not meet the standard in § 142.4(c) and no other service is available to that location.

**§ 142.6 How are the rates and conditions for the Alaska Resupply Operation established?**

The Manager must develop tariff rates using the best modeling techniques available to ensure the most economical service to the Alaska Natives, Indian or Native owned businesses, profit or nonprofit Alaska Native corporations, Native cooperatives or organizations, or such other groups or individuals as may be sponsored by any Native or Indian organization, without enhancing the Federal treasury.

(a) The Area Director's approval of the tariff constitutes a final action for the Department for the purpose of establishing billing rates.

(b) The Bureau must issue a supplemental bill to cover excess cost in the event that the actual cost of a specific freight substantially exceeds the tariff price.

(c) If the income from the tariff substantially exceeds actual costs, a prorated payment will be issued to the shipper.

**§ 142.7 How are transportation and scheduling determined?**

(a) The Manager must arrange the most economical and efficient transportation available, taking into consideration lifestyle, timing and other needs of the user. Where practical, shipping must be by consolidated shipment that takes advantage of economies of scale and consider geographic disparity and distribution of sites.

(b) Itineraries and scheduling for all deliveries must be in keeping with the needs of the users to the maximum extent possible. Planned itineraries with dates set as to the earliest and latest anticipated delivery dates must be provided to users prior to final commitment by them to utilize the transportation services. Each shipping season the final departure and arrival schedules must be distributed prior to the commencement of deliveries.

**§ 142.8 Is economy of operation a requirement for the Alaska Resupply Operation?**

Yes. The Manager must ensure that purchasing, warehousing and transportation services utilize the most economical delivery. This may be accomplished by memoranda of agreement, formal contracts, or cooperative arrangements. Whenever possible joint arrangements for economy will be entered into with other Federal agencies, the State of Alaska, Alaska Native cooperatives or other entities providing services to rural Alaska communities.

**§ 142.9 How are orders accepted?**

(a) The Manager must make a formal determination to accept an order, for goods or services, and document the approval by issuing a permit or similar instrument.

(b) The Seattle Support Center must prepare proper manifests of the freight accepted at the facility or other designated location. The manifest must follow industry standards to ensure a proper legal contract of carriage is executed, upon which payment can be exacted upon the successful delivery of the goods and services.

**§ 142.10 How is freight to be prepared?**

All freight must be prepared in accordance with industry standards, unless otherwise specified, for overseas shipment, including any pickup, delivery, staging, sorting, consolidating, packaging, crating, boxing, containerizing, and marking that may be deemed necessary by the Manager.

**§ 142.11 How is payment made?**

(a) Unless otherwise provided in this Part, all regulations implementing the Financial Integrity Act, Anti-Deficiency Act, Prompt Payments Act, Debt Collection Act of 1982, 4 CFR Ch. II Federal Claims Collection Standards, and other like acts apply to the Alaska Resupply Operation.

(b) Payment for all goods purchased and freight or other services rendered by the Seattle Support Center are due and payable upon final receipt of the goods or services. If payment is not received within the time specified on the billing document, interest and penalty fees at the current treasury rate will be charged, and handling and administrative fees may be applied.

(c) Where fuel and other goods are purchased on behalf of commercial enterprises, payment for those goods must be made within 30 days of delivery to the Seattle Support Center Warehouse. Payment for freight must be made within 30 days from receipt of the goods by the shipper.

**§ 142.12 What is the liability of the United States for loss or damage?**

(a) The liability of the United States for any loss or damage to, or non-delivery of freight is limited by 46 U.S.C. 746 and the Carriage of Goods by Sea Act (46 U.S.C. 1300 et seq.). The terms of such limitation of liability must be contained in any document of title relating to the carriage of goods by sea. This liability may be further restricted in specialized instances as specified in the tariff.

(b) In addition to the standards of conduct and ethics applicable to all government employees, the employees of the Seattle Support Center shall not conduct any business with, engage in trade with, or accept any gifts or items of value from any shipper or permittee.

(c) The Seattle Support Center will continue to function only as long as the need for assistance to Native village economies exists. To that end, a review of the need for the service must be conducted every five years.

**§ 142.13 Information collection.**

In accordance with Office of Management and Budget regulations in 5 CFR 1320.4, approval of information

collections contained in this regulation is not required.

Dated: May 31, 1996.

Ada E. Deer,

*Assistant Secretary—Indian Affairs.*

[FR Doc. 96-15510 Filed 6-19-96; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[PS-39-93]

RIN 1545-AR63

#### Definition of Structure

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** This document contains proposed regulations relating to deductions available upon demolition of a building. These proposed regulations reflect changes to the law made by the Tax Reform Act of 1984 and affect owners and lessees of real property who demolish buildings. This document also provides notice of a public hearing on these regulations.

**DATES:** Written comments, requests to appear and outlines of topics to be discussed at the public hearing scheduled for October 9, 1996, must be received by September 18, 1996.

**ADDRESSES:** Send submissions to: CC:DOM:CORP:R (PS-39-93), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (PS-39-93), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Concerning the regulations, Bernard P. Harvey, (202) 622-3110; concerning submissions and the hearing, Christina Vasquez, (202) 622-6803 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

This document contains proposed regulations under section 280B of the Internal Revenue Code. Section 280B was added by the Tax Reform Act of 1976, Public Law 94-455, 2124(b), 90 Stat. 1520, 1918 (Oct. 4, 1976), and significant amendments were made to the provision by the Economic Recovery

Tax Act of 1981, Public Law 97-34, 212(d)(2)(C) and (e)(2), 95 Stat. 172, 239 (Aug. 13, 1981) (1981 Act) and the Tax Reform Act of 1984, Public Law 98-369, 1063, 98 Stat. 494, 1047 (July 18, 1984) (1984 Act). Transition rules were provided in the Tax Reform Act of 1986, Public Law 99-514, 1878(h), 100 Stat. 2085, 2904 (Oct. 22, 1986) (1986 Act). As originally enacted, section 280B required any costs or losses incurred on account of the demolition of any certified historic structure (a building or structure meeting certain requirements) to be capitalized into the land upon which the demolished structure was located. The 1981 Act modified the definition of certified historic structure for purposes of section 280B from a building or structure meeting certain requirements to a building (or its structural components) meeting certain requirements. The 1984 Act substituted "any structure" for "certified historic structure." These proposed regulations define what "structure" means for purposes of section 280B.

#### Explanation of Provisions

These proposed regulations define the term "structure" for purposes of section 280B as a building and its structural components as those terms are defined in § 1.48-1(e) of the Income Tax Regulations. Thus, under section 280B, a structure will include only a building and its structural components and not other inherently permanent structures such as oil and gas storage tanks, blast furnaces, and coke ovens.

The proposed regulations rely on the legislative history underlying the 1984 and 1986 Acts, which refer repeatedly to buildings rather than to structures generally. In addition, the legislative history of the 1984 Act discusses the difficulty of applying the intent test of § 1.165-3 of the regulations, which applies to the demolition of buildings, and indicates that the newly added language is meant to eliminate this difficulty.

#### Proposed Effective Date

The regulations are proposed to be effective on and after the date that final regulations are filed with the Federal Register.

#### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do

not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for October 9, 1996, in the Commissioner's Conference Room. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by September 18, 1996.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

#### Drafting Information

The principal author of these regulations is Bernard P. Harvey, Office of Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

#### List of Subjects in 26 CFR Part 1

Income Taxes, Reporting and recordkeeping requirements.

#### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

### PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 \* \* \*