

must immediately report allegations to the internal affairs unit. Depending upon the severity of the allegation, the matter may be dealt with locally or it will be investigated by the internal affairs unit. Failure of any Bureau of Indian Affairs employee to report known allegations may be considered misconduct in itself. Citizens may report officer misconduct directly to the internal affairs unit if that is more practical.

**§ 12.54 What can I do if I believe my civil rights have been violated?**

All allegations of civil rights violations must be reported immediately to the internal affairs unit. That office will insure such allegations are immediately reported to the Civil Rights Division of the U. S. Department of Justice through established procedures. The Bureau of Indian Affairs internal affairs unit may also conduct an investigation into the matter and make recommendations for additional action as necessary.

**§ 12.55 Are there any limits on how much force an officer can use when performing law enforcement duties?**

The Director will develop and maintain the use of force policy for all Bureau of Indian Affairs law enforcement personnel, and for programs receiving Bureau of Indian Affairs funding or authority. Training in the use of force, to include non-lethal measures, will be provided annually. All officers will successfully complete a course of instruction in firearms, to include judgement pistol shooting, approved by the Indian Police Academy prior to carrying a firearm on or off duty.

**Subpart G—Support Functions**

**§ 12.61 Can informants be paid for information that helps solve a crime?**

The Director has the authority to expend money for the purchase of evidence or information, or to offer a reward, in the investigation of a crime. This is subject to the availability of funds. This authority may be delegated in writing to supervisory criminal investigators within the Office of Law Enforcement Services in the Bureau of Indian Affairs. The Director must develop policies and procedures for the expenditure, control, and audit of these funds prior to their use.

**§ 12.62 Who decides what uniform an Indian country law enforcement officer can wear and who pays for it?**

Each local law enforcement program must establish their own uniform requirements for patrol and detention personnel. Uniformed Bureau of Indian

Affairs police officers may be paid an annual uniform allowance not to exceed \$400. Local programs may provide uniforms and related equipment to officers in lieu of this payment. All law enforcement officers must also have their official identification on their person at all times when performing law enforcement duties. Uniforms, when worn, will be plainly distinguishable from the uniforms of any non-law enforcement personnel working on the reservation.

**§ 12.63 Do Indian country law enforcement officers perform other duties as well?**

Law enforcement commissions will only be issued by the Bureau of Indian Affairs to persons occupying positions as full-time officers. Bureau of Indian Affairs funded or commissioned criminal investigators will not be responsible for supervising or managing any patrol, detention, or other uniformed police programs.

Dated: May 31, 1996.  
Ada E. Deer,  
*Assistant Secretary—Indian Affairs.*  
[FR Doc. 96-16040 Filed 7-03-96; 8:45 am]  
BILLING CODE 4310-02-P

**25 CFR Part 171**

**RIN 1076-AD44**

**Irrigation Projects and Systems**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Bureau of Indian Affairs is revising its regulations governing irrigation projects. The purpose of the revisions is to make it easier to read and understand for the customers of Indian irrigation projects; provide for consistent administration; establish the process for updating practices, policies, and procedures for the administration, operation, maintenance, and rehabilitation of irrigation projects; and provide uniform accounting and record keeping procedures.

**DATES:** You may send us written comments. We must receive them by September 3, 1996.

**ADDRESSES:** You must mail or hand carry your comments to Terrance 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.

**FOR FURTHER INFORMATION CONTACT:** Ross Mooney, Chief, Branch of Irrigation and Power, Division of Water and Land Resources, Bureau of Indian Affairs,

Department of the Interior, 1849 C Street, N.W., Mail Stop 4513 MIB, Washington, D.C. 20240, Phone Number (202) 208-5480.

**SUPPLEMENTARY INFORMATION:** We are publishing this revised rule by the authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by 209 DM 8.

Our policy is to give the public an opportunity to participate in the rule making process by submitting written comments regarding proposed rules. We will consider all comments received during the public comment period. We will determine necessary revisions and issue the final rule. Please refer to this preamble's "ADDRESSES" section for where you must submit your written comments on this proposed rule.

We have determined that these proposed regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

This rule is not a significant rule under Executive Order 12866 and does not require approval by the Office of Management and Budget.

This 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*.

We determined this proposed rule:  
(a) Does not constitute a major Federal action significantly affecting the human environment, and no detailed statement is needed under the Environmental Policy Act of 1969;

(b) Does not have significant takings implications in accordance with Executive Order 12630; and

(c) Does not have significant federalism effects.

**Paperwork Reduction Act of 1995**

Sections 171.214 and 171.215 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Bureau of Indian Affairs has submitted a copy of these sections to the Office of Management and Budget for its review.

Water users must apply for water delivery. The information to be collected includes: name; watery deliver location; time and date of requested water delivery; duration of water delivery; rate of water flow; number of acres irrigated; crop statistics; and other operational information identified in the local administration manuals. The Bureau needs and uses the information to operate and maintain its irrigation projects and fulfill our reporting requirements.

All information is to be collected annually from each water user. Annual

reporting and record keeping burden for this collection of information is estimated to average 40 minutes for each response for approximately 51,500 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus, the total annual reporting and recordkeeping burden for this collection is estimated to be 4,292 hours.

Organizations and individuals wishing to submit comments on the information collection requirement should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10202, New Executive Office Building, Washington, D.C. 20503; Attention Desk Officer for U.S. Department of Interior.

The Bureau of Indian Affairs considers comments by the public on this proposed collection of information in:

Evaluating whether the proposed collection of information is necessary for the proper performance of the Bureau, including whether the information will have practical utility;

Enhancing the quality, usefulness, and clarity of the information to be collected; and

Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate collection techniques or other form of information technology.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment to the OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Bureau of Indian Affairs on the proposed rule.

#### List of Subjects in 25 CFR Part 171

Indians-lands, Irrigation.

For the reasons set out in the preamble we are proposing to revise Part 171 of Title 25 of the Code of Federal Regulations, as follows:

### PART 171—IRRIGATION PROJECTS AND SYSTEMS

#### Subpart A—General Provisions

##### Sec.

171.101 Definitions.

171.102 How we will administer irrigation projects.

171.103 How we will establish local administration manuals for each project.

171.104 What are the responsibilities and authorities of irrigation districts?

171.105 How can you appeal our decisions?

#### Subpart B—How We Will Distribute Water

171.201 Water delivery points for farm units.

171.202 What if my farm is too high?

171.203 What must I do if I subdivide a farm unit?

171.204 What must I do if I combine farm units?

171.205 How we will distribute water.

171.206 What restrictions are there on my use of water?

171.207 Will you deliver water to my farm unit if I have not paid my assessments?

171.208 May I ever receive water if I cannot pay my assessments on time?

171.209 May I use water for leaching?

171.210 Is there a deadline by which I must use water that you deliver for leaching?

171.211 May I use water for domestic and stock purposes?

171.212 Will you deliver water over my quota?

171.213 How can I get water delivered to my service or farm ditch?

171.214 How do I apply for water delivery?

171.215 How we record your water delivery.

171.216 What are my responsibilities concerning waste water and surface drainage?

171.217 When will we establish carriage agreements?

#### Subpart C—Project Facilities

171.301 Who is responsible for obtaining rights of way?

171.302 Who is responsible for structures on our property or rights of way?

171.303 May I ever take over a structure that you have built?

171.304 Can you install a fence on our property or rights of way?

171.305 Can you place an obstruction on our property or rights of way?

#### Subpart D—Financial Matters and Records

171.401 Definitions for this subpart.

171.402 What costs must I pay?

171.403 How will I know what fees you will charge me?

171.404 How do you compute the costs that you charge me?

171.405 How will I be billed for the water that I use?

171.406 Uniform accounting and billing procedures are required.

171.407 What procedures apply if there are assessment or construction repayment charges?

171.408 How will you recover late payments?

#### Subpart E—Miscellaneous

171.501 Information you must provide us.

171.502 Your responsibility concerning refuse.

Authority: Secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U.S.C. 385. Sec. 171.4(b) also issued under 34 Stat. 1024, 38 Stat. 583, and 68 Stat. 1026. Secs. 171.4(a), 171.4(c), 171.16(b), and 171.17(f) also issued under sec. 11, 39 Stat. 142.

### Subpart A—General Provisions

#### § 171.101 Definitions.

*Administration Manual* means the written compilation of policies, procedures, and practices we must use to govern the local day-to-day administration, operation, maintenance, and rehabilitation of our individual projects.

*Construction assessment* means the periodic charge you must pay us to repay appropriated funds we used to build project facilities that the United States Congress has determined to be reimbursable to us.

*Farm ditch* means a ditch or canal located on your farm unit which you own, operate, maintain, and rehabilitate.

*Farm unit* means the smallest parcel of land for which we will establish a delivery point.

*Farm unit size* will be defined by us for each project in the local Administration Manual.

*Irrigation district* means an organization representing water users, established under proper legal authority to represent all of, or a portion of, the water users for the purposes of the fair and beneficial use of irrigation water, and conferring with us on the administration, operation, maintenance, and rehabilitation of our project serving it.

*Operation & Maintenance (O&M) Assessment* means the computed per acre cost you must pay us for administering, operating, maintaining, and rehabilitating our facilities.

*Project* means a facility we own, including all appurtenant works, for the delivery, diversion, and storage of irrigation water, authorized and established by specific Congressional legislation. For the purposes of this part, we will reference both projects and systems using the term "project."

*Service ditch* means a ditch or canal you own, operate, maintain, and rehabilitate into which we deliver water.

*Severance agreement* means an agreement between us and a landowner to provide access, if we, through construction or extension of a project, cause severance of the owner's property.

*System* means a facility we own, including all appurtenant works, for the delivery, diversion, and storage of irrigation water, which we established under the authority of the Snyder Act (25 U.S.C. 13).

*Waste water* means the runoff of water we deliver to you.

*Water* means water we deliver from, or return to, our facilities for the general purpose of irrigation.

*Water user* means any person, business, government, or other entity we provide water.

*Water users' ledger* means our record of water user accounts.

*We* means the United States Government, the Secretary of the Interior, the Bureau of Indian Affairs, and all who are authorized to represent us in matters covered under this part.

*You* means all interested parties receiving beneficial use of our projects, such as water users and landowners, irrigation districts, or other entities affected by this part.

#### **§ 171.102 How we will administer irrigation projects.**

(a) We must enforce the regulations in this part and the provisions of the local administration manuals to ensure the safe, reliable, and efficient administration, operation, maintenance, and rehabilitation of our facilities.

(b) Our enforcement includes refusing water delivery to you.

(c) We must use the construction debt repayment funds we collect from you to repay the construction debt of the particular project where we collect the money.

(d) You must agree to a construction debt repayment plan for the project where you are located if repayment of the appropriated construction funds is required.

#### **§ 171.103 How we will establish local administration manuals for each project.**

(a) We will establish policies, procedures, and practices for the local administration, operation, maintenance, and rehabilitation of each project and compile them in a local administration manual.

(b) We must publish a notice in the Federal Register before establishing, or amending, a project's administration manual.

(c) We must consult with the water users, or their authorized representatives, and tribal representatives to seek comment on administration manuals and other matters of irrigation priorities and policies.

#### **§ 171.104 What are the responsibilities and authorities of irrigation districts?**

(a) Water users may form an irrigation district to represent their interests.

(b) An irrigation district must do the following before we will deliver water:

(1) Properly execute a construction repayment contract;

(2) Pay all charges in accordance with the construction repayment contract;

(3) Pay us all past and current construction assessment charges; and

(4) Pay us all past and current O&M assessment charges.

(c) Irrigation districts may make rules, policies, and procedures they may find necessary to administer water delivery within their district.

(d) Irrigation districts cannot make rules, policies, or procedures that conflict with the regulations in this part, or the local administration manual.

#### **§ 171.105 How can you appeal our decisions?**

(a) You may appeal our decisions in accordance with subchapter A, part 2 of Title 25 or in accordance with the established local administrative manual, whichever has specific application for what you are appealing.

(b) Until your appeal is settled, you must:

(1) Conform to our requirements for us to deliver water; and

(2) Pay the charge(s) or rates, if you are appealing assessments, rates, or fees.

#### **Subpart B—How We Will Distribute Water**

##### **§ 171.201 Water delivery points for farm units.**

(a) We will normally deliver water to your farm unit at a single point we designate.

(b) We may establish additional delivery point(s) under the following conditions:

(1) We determine it is impractical for you to irrigate your farm unit from a single delivery point;

(2) You must bear all costs for establishing additional delivery point(s); and

(3) We may establish your delivery point(s) at a well head.

##### **§ 171.202 What if my farm is too high?**

(a) We will not change our water level to deliver water to you.

(b) You may install, operate and maintain equipment, at your expense, to put our water on your land:

(1) From a point we designate; and

(2) In accordance with specifications we approve.

##### **§ 171.203 What must I do if I subdivide a farm unit?**

(a) Legally record a plat or map of the subdivision and provide us a copy; and

(b) Show on the plat or map how water is to be delivered within the subdivision; and

(c) Assume full responsibility for the facilities within your subdivision.

##### **§ 171.204 What must I do if I combine farm units?**

(a) If you combine farm units, or portions of farm units, under a lease, or

ownership, we must modify or remove existing delivery points to comply with § 171.203 (a) and (b). You must pay us the cost of modification or removal to meet this requirement. Any modifications must not disrupt water delivery to other water users.

(b) Should you change your mind about combining farm units after we have modified or removed our facilities:

(1) We must approve reestablishment of the water delivery points;

(2) Other water users must not have their water delivery service disrupted to reestablish the water delivery points, and

(3) You must pay us all costs to reestablish the delivery points.

#### **§ 171.205 How we will distribute water.**

We will follow the distribution procedures in the local administration manual. We will notify you in writing when your quota of water for the season has been delivered.

#### **§ 171.206 What restrictions are there on my use of water?**

(a) You must not interfere with, or alter, water flow, storage, or delivery without our authorization.

(b) You must not possess or use water in any way without our permission.

#### **§ 171.207 Will you deliver water to my farm unit if I have not paid my assessments?**

No. You must pay all O&M and construction assessments before we will deliver water to your farm unit. The only limited exceptions to this rule are contained in § 171.208.

#### **§ 171.208 May I ever receive water if I cannot pay my assessments on time?**

We may agree to deliver water to your farm unit if you cannot pay your assessments on time and if you meet one of the conditions in the following table.

We may deliver water to you if:	and . . .
your farm unit is held in trust or is restricted land.	(1) we certify in writing that you are an Indian owner and are financially unable to pay on time; (2) you make arrangements to pay us eventually; and (3) you allow us to place a first lien against your land until you pay the assessments.

We may deliver water to you if:	and . . .
your farm unit is leased trust or restricted land and the lease was negotiated by the Indian owner.	you make delayed payment arrangements with us.
you have asked us for an adjustment or cancellation for the assessment on your land.	we have not yet acted on your request.
you have an approved deferred payment contract on your land that was executed under the Act of June 22, 1936 (49 Stat. 1803).	

**§ 171.209 May I use water for leaching?**

We may deliver water to your farm unit for leaching land that is impregnated by alkali. We may charge for this water. We will deliver this water if:

- (a) The water is available;
- (b) You have a plan of operation that we have approved;
- (c) You have made a written agreement with us to correct the alkali problem; and
- (d) You do not owe us any money.

**§ 171.210 Is there a deadline by which I must use water that you deliver for leaching?**

Yes. You must make full beneficial use of water delivered for leaching purposes by the date in the administration manual. If you have not:

- (a) We must refuse to deliver water to you for leaching; and
- (b) We must charge you for any delivered water.

**§ 171.211 May I use water for domestic and stock purposes?**

We may deliver water for domestic and stock purposes if it will not:

- (a) Interfere with the operation, maintenance, or rehabilitation of our facilities;
- (b) Be detrimental to, or endanger, our facilities;
- (c) Adversely affect the stored water supply, and
- (d) Incur additional costs to us.

**§ 171.212 Will you deliver water over my quota?**

We may deliver additional water above your quota:

- (a) If we determine excess water is available;
- (b) You request the water in writing; and
- (c) You agree to pay for the water at published rates.

**§ 171.213 How do I get water delivered to my service or farm ditch?**

For us to deliver water to your service or farm ditch you must:

- (a) Put the water to beneficial use;
- (b) Make sure your ditch has sufficient carrying capacity;
- (c) Properly maintain and rehabilitate your ditch; and
- (d) Make sure your ditch has minimal losses.

**§ 171.214 How do I apply for water delivery?**

(a) You must request water delivery in accordance with the administration manual we have established for your project.

(b) Your request must contain at least the following information:

- (1) Your name;
- (2) Where you want water delivered;
- (3) The time and date you want water delivered;
- (4) How long you want water delivered;
- (5) The rate of water flow you want; and
- (6) How many acres you are irrigating.

**§ 171.215 How we record your water delivery.**

(a) We maintain the water delivery records in accordance with the administration manual.

(b) We will keep at least the following information as part of your water delivery record:

- (1) Your name;
- (2) Beginning date and time of your water delivery;
- (3) Ending date and time of your water delivery;
- (4) Amount of water we delivered to you; and
- (5) The actual acreage you irrigated.

**§ 171.216 What are my responsibilities concerning waste water and surface drainage?**

(a) You are responsible for conveying your irrigation waste water back to our facilities for drainage.

(b) You are responsible for all costs we might incur in helping you meet your responsibility as described in paragraph (a) of this section.

(c) You will return waste water to our facilities only at points we designate, and in a way we approve.

(d) When there are two or more landowners or water users, it is their responsibility to work out a satisfactory arrangement for conveying their irrigation waste water to our facilities.

(e) Your waste water must not flow upon, or collect on, our rights of way or roads, except at points we designate, and in a way we approve.

**§ 171.217 When will we establish carriage agreements?**

(a) We may enter into an agreement to deliver non-project water to non-project land if we have determined there is excess capacity in our facilities to do so.

(b) We may enter into an agreement with a private enterprise or individual to convey water through other than our own facilities to isolated project land you are irrigating.

(c) You must pay us all administrative, operating, maintenance, and rehabilitation costs associated with these agreements before we will convey the water.

**Subpart C—Project Facilities****§ 171.301 Who is responsible for obtaining rights of way?**

You must obtain rights of way necessary for us to construct or extend facilities to deliver water to your farm unit, in accordance with the following:

(a) For rights of way across trust or restricted lands, you must obtain these rights-of-way in accordance with 25 CFR part 169.

(b) For rights of way across fee patented lands, you must obtain the right-of-way from the property owner(s).

(c) You must provide the rights of way to us at no cost.

(d) The right of way must be wide enough to permit passage and use of our equipment for construction, operation, maintenance, and rehabilitation of our facilities.

**§ 171.302 Who is responsible for structures, on our property or rights-of-way?**

(a) We must build, operate, maintain, and rehabilitate our own structures, including bridges and other crossings, unless we authorize someone else to do it, in writing.

(b) When we are building, or extending our existing facilities, we may build other structures or facilities for private use when justified by severance agreements, or other considerations.

(c) We own these structures unless we decide to do otherwise.

(d) If we build and own a structure for your benefit, we may require you to maintain it. If you do not, and we perform the necessary maintenance ourselves, you must pay us all costs incurred.

(e) You may build a structure encroaching on our rights of way for your private use after:

- (1) We approve in writing;
- (2) We approve the plans for construction; and
- (3) You sign a written agreement with us stating you will bear all costs of installation, maintenance,

rehabilitation, and possible future removal.

(f) If any structure built under this part is no longer needed, we may remove it.

**§ 171.303 May I ever take over a structure that you have built?**

(a) If you want to use a structure we plan on removing, you may request in writing to take ownership of the structure.

(b) We may transfer ownership of a structure to you under an agreement which:

(1) Relieves us from any future liability or responsibility for the structure;

(2) Relieves us from any future costs incurred for maintaining the structure; and

(3) Stipulates all that is granted and accepted by you.

(4) Provides that if you do not regularly use a structure for a period of one year, or do not properly maintain and rehabilitate the structure, we will notify you in writing that:

(i) You must either remove it or correct any unsafe condition; and

(ii) If you do not comply with our notice, we may remove the structure and you must pay us all costs we incur.

**§ 171.304 Can you install a fence on our property or rights of way?**

(a) You must not place a fence across or within our property or rights of way without our written approval.

(b) We will approve fences on our property or rights of way only if it:

(1) Is properly installed;

(2) Does not interfere with the flow or delivery of water; and

(3) Does not interfere with the passage of our equipment and employees.

(c) We must notify you in writing to remove fences we do not approve.

(d) If you do not remove the fence in accordance with our notice, we will remove the fence at your expense.

**§ 171.305 Can you place an obstruction on our property or rights of way?**

No. You must not place obstructions on our property or rights-of-way. If you do, we will notify you in writing that you must remove it. If you do not remove the obstruction in accordance with our notice, we will remove it at your expense.

**Subpart D—Financial Matters and Records**

**§ 171.401 Definitions for this subpart.**

*Administrative costs* means all expenses we incur to administer our project at the local level. This does not include the agency, area, or central office expenses.

*Assessment rate* means the published charge you must pay for us to deliver water to your farm unit.

*Costs* means the expenses we incur to provide direct support or benefit to your project's activities for administration, operation, maintenance, and rehabilitation. Depending on the activity, we must include at least:

(1) Salary and benefits for the project engineer/manager and our employees under his or her control;

(2) Materials and supplies;

(3) Major and minor vehicle and equipment repairs;

(4) Equipment, including transportation, fuel, oil, grease, lease and replacement;

(5) Capitalization expenses;

(6) Acquisition expenses; and

(7) Other expenses we determine necessary to properly perform the activities and functions necessary for an irrigation project.

*Maintenance costs* means all expenses we incur to maintain and repair our facilities and equipment of our project.

*Operation costs* means all expenses we incur to operate the facilities and equipment of our project.

*Rehabilitation costs* means all expenses we incur to maintain our project facilities to original design specifications.

*Total assessable acres* means the total authorized acres within a project to which we can deliver water.

*Total cost* means the total of all administrative, operating, maintenance, and rehabilitation costs we incur to deliver water at the particular project you are located. These costs do not generally include costs above the project engineer/manager.

*Total cost per acre* means the computed cost we incur on a per acre basis by dividing the total cost by the total assessable acres, as follows:

Total Costs per Acre equals Total Cost divided by Total Assessable Acres.

**§ 171.402 What costs must I pay?**

You must pay us for the total costs we incur for operating and maintaining the project where you are located. You must pay your assessment, in accordance with the local administration manual, before we will deliver water to your farm unit.

**§ 171.403 How will I know what fees you will charge me?**

(a) We will establish, and adjust as necessary, rates, charges, and fees for recovering our total cost.

(b) When we establish or adjust the fees for your project, we will notify you by publishing a notice in the Federal Register. We will review our costs for

your project each year, and adjust the rates, charges, and fees when necessary to comply with § 171.402.

(c) We must use the assessed money we collect from you to support the administration, operation, maintenance, and rehabilitation activities of the project where you are located.

**§ 171.404 How do you compute the costs that you charge me?**

We will base our assessments for your farm unit on the computed total cost per acre times the total number of assessable acres in your farm unit. If you subdivide your farm unit into smaller farming acreages we may set a higher assessment rate for your subdivided acreage. If we do this, we will notify you by publishing a notice in the Federal Register.

**§ 171.405 How will I be billed for the water that I use?**

(a) We will maintain water users' ledgers in accordance with the administration manual on all projects where we levy and collect assessment and construction repayment charges.

(1) We will make separate entries in the ledger for each water user, and issue bills to the water users of record.

(2) When we receive payment, we will credit it to the proper ledger account.

(3) If water is used for leased trust or restricted land, we will bill the lessee.

(b) Where irrigation districts have been established and have executed a construction repayment contract, the district will bill you and will follow the procedures in paragraph (a) of this section.

**§ 171.406 Uniform accounting and billing procedures are required.**

All projects under the jurisdiction of the Bureau must follow the accounting and billing procedures that we establish.

**§ 171.407 What procedures apply if there are assessment or construction repayment charges?**

Where payment of assessment or construction repayment charges is required, refer to 4 CFR Parts 102, 103, 104, 105, and 25 CFR Part 115, in addition to this part.

**§ 171.408 How will we recover late payments?**

(a) We will file liens in accordance with the administration manual, against fee patent or trust lands within a project to recover delinquent payments.

(b) Federal, State, and tribal government agencies are exempt from interest, penalty, and administrative charges for delinquent payments.

(c) We will file and execute liens against Individual Indian Moneys (IIM) in accordance with 25 CFR 115.10.

**Subpart E—Miscellaneous****§ 171.501 Information you must provide us.**

(a) You must provide us with the information we request to assist in the proper administration, operation, maintenance, and rehabilitation of our facilities.

(b) We will request all information in accordance with the local administration manual.

**§ 171.502 Your responsibility concerning refuse.**

You must not use our property or rights of way to dispose of sewage, trash, or other refuse.

Dated: May 24, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96-16184 Filed 7-3-96; 8:45 am]

BILLING CODE 4310-02-P

**NATIONAL LABOR RELATIONS BOARD****29 CFR Parts 101 and 102****Procedure Governing Advisory Opinions and Rules Governing Summary Judgment Motions and Advisory Opinions**

**AGENCY:** National Labor Relations Board.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** As part of its ongoing efforts to streamline its operations by eliminating unnecessary and inefficient procedures, the National Labor Relations Board (NLRB) is proposing to revise its rules to eliminate the notice-to-show-cause procedure in summary judgment cases and to remove provisions which permit parties to pending state proceedings to file petitions for an advisory opinion on whether the Board would assert jurisdiction under its commerce standards.

**DATES:** All comments must be received on or before August 5, 1996.

**ADDRESSES:** All written comments should be sent to the Office of the Executive Secretary, National Labor Relations Board, 1099 14th Street, NW., Room 11600, Washington, DC 20570. The comments should be filed in eight copies, double spaced, on 8 1/2 by 11 inch paper and shall be printed or otherwise legibly duplicated.

**FOR FURTHER INFORMATION CONTACT:** John J. Toner, Executive Secretary, Telephone: (202) 273-1940.

**SUPPLEMENTARY INFORMATION:** Over approximately the last two years, the

NLRB has been conducting an intensive internal review of its procedures at all levels of the Agency. The purpose of this internal review has been to find ways to maintain and improve the Agency's case-processing efficiency in light of the Agency's diminishing resources. Many initiatives have already been implemented by the Board as part of this ongoing review, such as the recent initiative authorizing the use of settlement judges and providing judges with the discretion to dispense with briefs and to issue bench decisions, which was published as a final rule on February 23, 1996, following a one-year experimental period (61 FR 6940). Other initiatives are currently under consideration. Two such initiatives, involving the elimination of the notice-to-show-cause procedure in summary judgment cases and the removal of provisions permitting parties to pending state proceedings to file petitions for an advisory opinion on whether the Board would assert jurisdiction under its commerce standards, are set forth below.

1. *Notices to show cause in summary judgment cases.* Section 102.24(b) of the Board's rules currently requires the Board to issue a notice to show cause to the parties prior to granting a motion for summary judgment or dismissal. Such notices have historically served several purposes or functions, including providing notice of the motion to the opposing party, postponing any scheduled hearing date, and setting the deadline for responding (normally 14 days from the date of the notice).

All of these functions are essentially unnecessary, however. The motion itself must be served on the opposing party and the motion therefore provides its own notice to the opposing party. No further notice is necessary.

With respect to postponing the hearing date, the Regional Director has the unrestricted authority under Section 102.16 of the Board's rules to do so at any time prior to 21 days before the hearing. Thus, the General Counsel need not rely on the Board to postpone the hearing upon filing a timely motion for summary judgment, which under Section 102.24(b) of the Board's rules must normally be filed at least 28 days before the scheduled hearing. In the event the General Counsel does not determine that a motion for summary judgment is warranted until after expiration of the 28-day deadline for filing such motions with the Board and the 21-day deadline on the Regional Director's unrestricted authority to postpone the hearing, the General Counsel may in that event seek a postponement from the Division of

Judges prior to filing the motion for summary judgment. See, e.g., *R. B. Contracting Co.*, 321 NLRB No. 41 (May 20, 1996).

Of course, it may still be necessary in certain circumstances for the Board to issue an order postponing the hearing in response to a respondent's motion for summary judgment or dismissal. The Board's experience with such motions, however, indicates that in the vast majority of such cases there are factual issues which make summary judgment or dismissal inappropriate. Thus, the Board in the past has only rarely issued notices to show cause postponing the hearing in response to respondent motions, and there is no reason why this experience would change under the revised rule. In any event, as under the current rule, under the revised rule the respondent may request the Regional Director, administrative law judge, and/or the Board to postpone the hearing when it files the motion for summary judgment or dismissal. The Board normally completes its initial review of the respondent's motion prior to the hearing, and in the event that its initial review indicates that summary judgment may be appropriate, and the hearing has not already been postponed, as under the current rule the Board may issue an order postponing the hearing.

With respect to setting the time for responding, there is no reason why the deadline for responding cannot be established by rule in all cases. Similar deadlines are set forth in the Board's rules for the filing of other pleadings (see, e.g., Sec. 102.20 of the Board's rules, setting 14-day deadline for filing an answer to the complaint), and no further or special notice of the deadline is required with respect to those pleadings. See, e.g., *Superior Industries*, 289 NLRB 834, 835 n. 13 (1988) (no further reminder or warning of the failure to file an answer required).

Moreover, we note that the General Counsel's practice with respect to complaints and compliance specifications has been to specifically advise the respondent in the complaint or specification itself of the time for filing an answer. See NLRB Casehandling Manual, Sec. 10267 (complaints) and 10622.1 and App. 14 (compliance specifications). We approve of this practice and anticipate that the General Counsel would also adopt this practice with respect to default and other summary judgment motions in the event the proposed revisions are adopted by the Board.<sup>1</sup>

<sup>1</sup> The General Counsel's failure to include such notice in the motion for summary judgment would