

or by easement, as appropriate. The acquisition of "mitigation credits" in wetland mitigation banks should be accomplished through a legally recognized instrument, such as permanent easement or deed restriction, which provides for protection and permanent continuation of the wetland nature of the mitigation.

(d) A State Highway Agency (SHA) may acquire privately owned lands in cooperation with another public agency or third party. Such an arrangement may accomplish greater benefits than would otherwise be accomplished by the individual agency acting alone.

(e) An SHA may either transfer the title of lands acquired outside the right-of-way, without credit to Federal funds, to an appropriate public agency (e.g., U.S. Fish and Wildlife Service or State natural resource agency) or enter into an agreement with such agency to manage such lands. When such transfer occurs, there shall be an explicit agreement that the lands or interests therein transferred shall remain in the grantee agency's ownership or control so long as the lands continue to serve the purpose of the original acquisition. In the event the area transferred no longer serves the purpose of the original acquisition, the lands or interests therein transferred shall revert to the SHA for proper disposition.

(f) The reasonable costs of acquiring lands or interests therein to provide replacement lands with equivalent wetlands functional capacity are eligible for Federal participation.

(g) The objective in mitigating impacts to all wetlands in the Federal-aid highway program is to implement the policy of no-net-loss in area or functional capacity. Certain activities to ensure the viability of compensatory mitigation wetlands during the period of establishment are eligible for Federal-aid participation. These include, but are not limited to, such activities as repair or adjustment of water control structures, pest control, irrigation, fencing modifications, and replacement of plantings. The establishment period should be specifically determined by the mitigation agreement among the mitigation bank managers prior to beginning any mitigation activities.

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 154

RIN 1076-AD41

Osage Roll; Certificate of Competency

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs is proposing to amend its regulations on the Osage competency roll as required by the National Performance Review regulatory reform effort.

DATES: Comments must be received on or before August 16, 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, NW, MS 4513 MIB, Washington, DC 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 Estate Services, Office of Trust Responsibilities, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, MS 4513 MIB, Washington, DC 20240, Telephone No. (202) 208-7737.

SUPPLEMENTARY INFORMATION: 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.

This rule is not a major rule under Executive Order 12866 and will not require a review by the Office of Management and Budget.

The Department has determined that this rule:

- Does not have significant federalism effects.

- 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 Osage 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.

- Has been found to contain no information collection requirements under the Paperwork Reduction Act of 1995. By memorandum January 11, 1984, then Deputy Administrator for the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), determined that information collections related to Indian land records and title documents did not require OMB clearance.

Drafting 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, 1849 C Street, NW, MS 4522 MIB, Washington, DC, 20240.

List of Subjects in 25 CFR Part 154

Indians, Indians—lands.

For the reasons given in the preamble, Part 154 of Title 25, Chapter I of the Code of Federal Regulations is proposed to be revised as set forth below.

PART 154—OSAGE ROLL, CERTIFICATE OF COMPETENCY

Sec.

154.1 What are the definitions of the terms used in this part?

154.2 Why do I need a certificate of competency?

154.3 How do I apply for a certificate of competency?

154.4 How do I qualify for a certificate of competency?

- 154.5 What is a competency eligibility roll?
 154.6 How is age determined?
 154.7 Who pays for the recording of certificates of competency?
 154.8 When will I get delivery of my funds, if any?

Authority: 62 Stat. 18; 25 U.S.C. 331 note.

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

Certificate of competency is a certificate issued by the Superintendent of the Osage Agency declaring a certain Osage Indian to be competent to handle his or her allotted or inherited Osage Indian lands or Osage headright interest(s).

Commissioner includes the Deputy Commissioner of Indian Affairs or authorized representative acting under delegated authority.

Person means an unallotted member of the Osage Tribe of Oklahoma of less than one-half Osage Indian blood who has not received a certificate of competency.

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

Superintendent means the Superintendent of the Osage Agency, Bureau of Indian Affairs, Department of the Interior.

§ 154.2 Why do I need a certificate of competency?

If you do not wish to be under the supervision of the Bureau of Indian Affairs and feel that you are competent to handle your own allotted or inherited Osage Indian lands or Osage headright interests, you may apply for a certificate of competency which will remove the restrictions from your land as well as make any income deriving from your Osage headright interests fully taxable by both Federal and State. In addition, a certificate of competency will make any Osage lands or headright subject to creditors' claims.

§ 154.3 How do I apply for a certificate of competency?

You must complete and file with the agency superintendent a written application in the form approved by the Secretary.

§ 154.4 How do I qualify for a certificate of competency?

You must be at least 21 years old and be determined by the Osage Agency Superintendent to be competent to handle your own land and financial affairs.

§ 154.5 What is a competency eligibility roll?

It is a listing, prepared for the Osage Agency Superintendent, of persons 21 years or older who have not received a

certificate of competency. It contains the following information for each individual:

- (a) Name;
- (b) Last known address;
- (c) Date of birth; and
- (d) Total quantity of Osage Indian blood of each person listed.

§ 154.6 How is age determined?

The date of birth as shown on a standard or delayed birth certificate or census records maintained by the Osage Indian Agency is accepted as prima facie evidence in determining the age of a person.

§ 154.7 Who pays for the recording of certificates of competency?

The Superintendent may disburse IIM funds of the persons to whom a certificate of competency is issued in order to provide for the direct payment of costs of recording the certificate of competency into the official land records of the Osage County Clerk.

§ 154.8 When will I get delivery of my funds, if any?

After a certificate of competency is issued and recorded, the Superintendent will deliver to the individual or legal guardian named, the original copy of the certificate and a check for all funds on deposit in the IIM account of the individual at the Osage Indian Agency. At the request of the Superintendent, you will be required to sign a receipt.

Dated: May 31, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96-14641 Filed 6-14-96; 8:45 am]

BILLING CODE 4310-02-M

25 CFR Part 162

RIN 1076-AA29

Leasing and Permitting

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: This rulemaking action will revise the leasing and permitting regulations in 25 CFR Part 162, and incorporate the general grazing permit regulations now found in 25 CFR Part 166. The rule will also implement the relevant provisions in a number of statutes of general application, including the American Indian Agricultural Resource Management Act (AIARMA). Finally, the rule will implement many policy decisions, legal opinions, and administrative actions which have been issued or implemented

by the Bureau of Indian Affairs (BIA) since the last publication of these regulations in the 1960's.

DATE: Comments must be submitted on or before October 15, 1996.

ADDRESSES: Mail comments to: Mark Bradford, Bureau of Indian Affairs, Division of Land and Water, 1849 C Street, N.W., Mail Stop 4559 MIB, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Stan Webb, Branch of Real Estate Services, Phoenix Area Office, Bureau of Indian Affairs, at 602-379-6781, or Virgil Dupuis, Lands Division, Confederated Salish and Kootenai Tribes of the Flathead Nation, at 406-675-2700.

SUPPLEMENTARY INFORMATION: Section 301 of the AIARMA requires that the act be implemented through the promulgation of final regulations within 24 months, and that such regulations be "developed by the Secretary with the participation of the affected Indian tribes." Four work groups (including a leasing and permitting group) were established by a steering committee, with the work groups and the steering committee each being comprised of BIA and tribal representatives. The work groups met in March 1994, and a first set of draft regulations was distributed for comment to some 3000 addressees on April 29, 1994. The first draft did not provide for a consolidation of the permitting provisions in 25 CFR Parts 162 and 166, although such a consolidation had been planned by the BIA since 1988; it did, however, include a number of proposed revisions (unrelated to the AIARMA) intended to address questions raised during the past 25 years by other statutory enactments and various administrative actions and judicial decisions.

After five formal hearings were conducted throughout the nation, a second mailing was distributed for comment on June 28, 1994. The second mailing included a cross-references summary sheet which indicated how most of the permitting provisions in the existing 25 CFR Part 166 would be incorporated in Subpart D of the proposed 25 CFR Part 162, but it did not include the text of the proposed Subpart D. The text of a revised Subpart D—and all of the other proposed regulations drafted to implement the AIARMA—were distributed for a final round of comments on November 30, 1994. The leasing and permitting work group met in September 1994 and March 1995, respectively, to review the written comments and public testimony received in response to the mass mailings.