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Wednesday  
January 22, 1986

# REGISTRATION

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# Rules and Regulations

Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 85-369]

#### Plant-Related Quarantine; Citrus Canker; Florida

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects typographical errors concerning the listing of a portion of Louisiana as a commercial citrus producing area in § 301.75-4 of the citrus canker regulations (7 CFR 301.75 *et seq.*) published in the Federal Register on December 13, 1985 (50 FR 51228-51234). In the first column on page 51232, the reference to "Baton Rouge Parish" in lines 11 and 12 is corrected to read "East Baton Rouge Parish" and the reference to "St. Tammary Parish" in line 14 is corrected to read "St. Tammany Parish".

**FOR FURTHER INFORMATION CONTACT:** B. Glen Lee, Assistant Director of the National Program Planning Staff, in charge of the Survey and Emergency Response Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 611, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

Done at Washington, DC, this 16th day of January, 1986.

William F. Helms,

*Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.*

[FR Doc. 86-1352 Filed 1-21-86; 8:45 am]

BILLING CODE 3410-34-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Parts 11 and 93

[Docket No. 24105; Amdts. Nos. 11-28 and 93-49]

#### High Density Traffic Airports; Slot Allocation and Transfer Methods

##### Correction

In FR Doc. 85-30081, beginning on page 52180 in the issue of Friday, December 20, 1985, make the following correction: On page 52180, in the first column, under "DATES", the second sentence of the second paragraph should read: "Existing slot allocations are established in reference to conditions in effect on the issuance date of this rule (§ 93.215(a))."

**Note.**—The issuance date of FR Doc. 85-30081 was December 18, 1985.

BILLING CODE 1505-02-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### 25 CFR Part 115

#### Individual Indian Money Accounts

December 3, 1985.

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

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Indian Affairs is amending 25 CFR Part 115 by adding new §§ 115.10 and 115.15, amending the present § 115.13, and renumbering the present §§ 115.10 through 115.13 as §§ 115.11 through 115.14.

These amendments to 25 CFR Part 115 provide the due process procedure which in *Kennerly v. United States*, 721 F.2d 1252 (9th Cir. 1983), was found to be wanting in the existing regulations with respect to the payment of claims from Individual Indian Money accounts as authorized by 25 CFR 115.9.

**EFFECTIVE DATE:** This rule becomes effective February 21, 1986.

**FOR FURTHER INFORMATION CONTACT:** Barbara C. Davis, Program Coordination Staff, Office of Trust Responsibilities, Bureau of Indian Affairs, Department of the Interior, Washington, DC 20245, telephone number (202) 343-2963.

**SUPPLEMENTARY INFORMATION:** 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 456 of the Revised Statutes (25 U.S.C. 2 and 9).

This final rule is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. This amendment was published in the Federal Register as a proposed rule on March 19, 1985 (50 FR 10980).

The policy of the Department of Interior is, whenever practical, to afford the public an opportunity to participate in the rule-making process. Accordingly, a 30 day comment period on the proposed regulations governing the due process procedures with respect to the payment of claims from Individual Indian Money accounts was provided. The comment period closed on April 18, 1985.

We received six letters suggesting changes within the comment period. Most of the changes suggested were for clarification purposes. It was suggested that the following, "subject to the terms of § 115.10(c)(2)." be added to § 115.14 Appeals, after the word "Part 2.", to make it clear that the provisions of 10(c)(2) in § 115 are applied to appeals taken under 25 CFR Part 2. We accepted this change. One commentator asked "since § 115.10(a) provides that if an individual's access to funds in the IIM account is limited, the individual must be notified in writing with the notice given to the individual affected. Does this apply only to access limited under 25 CFR 115.9?" To clarify that this is so, the words "under § 115.9," have been added in § 115.10(a) after the first word of the paragraph, "If."

Two commentators suggested that the proposed rule does not address tribal court judgments, including the extent to which they might be reviewed under this part. Upon consideration of this comment, it was decided that by making the following changes tribal court proceedings that determine the validity of an underlying debt, the collection of which is sought from an IIM account, would be covered. In § 115.10(a), strike out "pursuant to § 115.9 and insert "including creditors with judgments from courts of Indian offenses for which preliminary procedures are prescribed in 25 CFR 11.26." In § 115.10(c), insert the word "delinquent" after "payment of"

and "and judgments of tribal courts and courts of Indian offenses" after "claims". To clarify when the restriction period begins we have added the following sentence to § 115.10(a)(4) "The date appearing on the return receipt shall constitute the beginning of the restriction period." One of the commentors advised us that many of the delinquent claims involve credit loans. As interest is charged on delinquent loans, and any delay in payment will increase the interest due, it was suggested that the following be added as § 115.10(a)(6): "The notice shall advise that if the individual wishes to have the delinquent claim or money judgment paid without delay and without a hearing the individual can so request by signing a form furnished for that purpose with the notice." We agreed with this addition.

One commentator felt that the following addition was needed as individuals may have funds over and above the restricted amount of delinquent debt or tribal court judgment and such excess funds could be released unless otherwise restricted. Therefore, we added the following as the last sentence to § 115.10(b), "Notwithstanding continuance of a restriction on an account, if the amount of funds available in the account exceeds the amount of the restriction or the amount of the claims such unrestricted funds in excess of the amount of the restriction or claim shall be available for the account holders use." Because of this change made in § 115.10(b) a further change became necessary. In § 115.10(c)(4) at the end of the paragraph add the following sentence: "The decision of an authorized representative of the Secretary may be appealed as provided in § 115.14." And in § 115.10(d) after the words "No money" insert the following: "except as provided in subsection (b) of this section."

One commentator expressed concern about the proposed rule because he felt that it seemed to allow debtors to relitigate the underlying debt before the Department in a de novo fashion. To clarify this, we have added the following sentence to § 115.10(c)(2): "The account holder may be heard on why a judgment of a tribal court or court of Indian offenses should not be paid from his or her Individual Indian Money account but he or she may not relitigate the facts established by that court." One commenter felt that the proposed rule did not contain a procedure to hold funds pending resolution of a dispute in a hearing. We have reworded § 115.10(d) to now read: "No money, except as provided in subsection (b) of

this section, shall be paid from an Individual Indian Money account or applied against a delinquent claim or judgment of a tribal court or court of Indian offenses until the decision on the claim has become final in accordance with the appeal procedures provided for in § 115.14."

It is our feeling that comments not specifically addressed here were comments not directly addressing the proposed rule and should probably be the subject of a separate rulemaking.

The Department of the Interior has determined that this document is not a major rule under the criteria established by Executive Order 12291 and certifies that this document does not have a significant economic impact on a substantial number of small entities under the criteria established by the Regulatory Flexibility Act (5 U.S.C. 601).

The Department of the Interior has determined that this document does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1983.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The proposed change in the regulations would simply provide due process rights to Individual Indian Money account holders, giving them an opportunity to be heard before funds in their accounts are applied to claims against them.

The primary author of this document is Barbara Davis, Program Coordination Staff, Office of Trust Responsibilities, Bureau of Indian Affairs, Department of the Interior, Washington, DC 20245; telephone number (202) 343-2963.

#### **Lists of Subjects in 25 CFR Part 115**

Indians—business and finances.

Subchapter G of Chapter I of Title 25 of the Code of Federal Regulations is amended as follows:

#### **PART 115—[AMENDED]**

For the reasons set out in the preamble, Part 115 of Chapter I Title 25 of the Code of Federal Regulations is amended as set forth below:

1. The authority citation for Part 115 reads as follows:

Authority: R.S. 441, as amended, R.S. 463, R.S. 465, 5 U.S.C. 301; 25 U.S.C. 2, 9; 43 U.S.C. 1457.

2. Section 115.13 is redesignated as § 115.14 and revised to read as follows:

#### **§ 115.14 Appeals**

Appeals from an action taken by an official of the Bureau of Indian Affairs

may be taken pursuant to 25 CFR Part 2, subject to the terms of § 115.10(c) (2).

#### **§§ 115.10 through 115.12 [Redesignated as §§ 115.11 through 115.13]**

3. Sections 115.10, 115.11, and 115.12 are redesignated as §§ 115.11, 115.12, and 115.13, respectively.

4. A new § 115.10 is added to read as follows:

#### **§ 115.10 Procedures relative to restrictions**

(a) If under § 115.9 an individual's access to funds in the individual's Indian money account is limited, or it is proposed to pay creditors, including creditors with judgments from Courts of Indian Offenses, for which preliminary procedures are prescribed in 25 CFR 11.28, the individual must be notified in writing as follows:

(1) The notice must be given to the individual affected at the commencement of the restriction or at least 40 days prior to involuntary distribution of funds from the account.

(2) The notice must state the reasons giving rise to the restriction or proposed payment.

(3) The notice shall inform the individual of the right to a hearing and that a request for a hearing must be in writing, received by the Secretary, or an authorized representative, within 30 days of receiving the notice of proposed action.

(4) The notice of proposed action shall be sent by Certified Mail-Return Receipt Requested. The date appearing on the returned receipt shall constitute the beginning of the restriction period.

(5) The notice shall state that a copy of the rights listed in paragraph (c) of this section are transmitted along with the notice.

(6) The notice shall advise that if the individual wishes to have the delinquent claim or money judgment paid without delay and without a hearing the individual can so request by signing a form furnished for that purpose with the notice.

(b) If the individual fails to request a hearing, the individual is deemed to consent to the continued limitation on and/or disbursement of funds from the IIM Account in accordance with the terms of the notice. Notwithstanding the continuance of a restriction on an account, if the amount of funds available in the account exceeds the amount of the restriction or the amount of the claim such unrestricted funds in excess of the amount of the restriction or claim shall be available for the account holder's use.

(c) The Secretary, or an authorized representative, shall conduct a hearing, if no requested as specified above, to determine whether to continue to restrict the Individual Indian Money Account, and/or allow payment of delinquent claims and judgments of tribal courts and courts of Indian offenses from such accounts. The following are requirements for such a fair hearing:

(1) The hearing shall be held within 10 working days of the Secretary's or an authorized representative's receipt of the request for a hearing.

(2) The individual must be given the opportunity to be heard. This includes the right to hear the case against the individual; to present testimony, to present witnesses, and to question and rebut opposing witnesses. This includes the right to orally present arguments and evidence. The account holder may be heard on why a judgment of a tribal court or court of Indian offenses should not be paid from his or her Individual Indian Money account, but he or she may not relitigate the facts established by that court.

(3) If the individual desires an attorney or other representative, one may be retained at the individual's own expense.

(4) The decision to uphold or overturn the proposed action, must be made by the Secretary, or an authorized representative, and must be based on information presented or referred to at the hearing. The decision of an authorized representative of the Secretary may be appealed as provided in § 115.14.

(5) The Secretary, or an authorized representative, shall make provisions for recording the hearing and shall preserve the record for the duration of the appeal period. Tape recording the hearing is sufficient.

(6) The Secretary, or an authorized representative, will advise all parties concerned, in writing, of a decision within 10 working days after completion of the hearing.

(d) No money except as provided in subsection (b) of this section, shall be paid from an Individual Indian Money Account or applied against a delinquent claim or judgment of a tribal court or court of Indian offenses until the decision on the claim has become final in accordance with the appeal procedures provided for in § 115.14.

5. A new § 115.15 is added to read as follows:

#### § 115.15 Information Collection

This rule does not contain information collection requirements which require

approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*  
Ronald L. Esquerra,  
*Acting Deputy Assistant Secretary-Indian Affairs (Operations).*

[FR Doc. 86-1271 Filed 1-21-86; 8:45 am]  
BILLING CODE 4310-02-M

## DEPARTMENT OF THE TREASURY

### 31 CFR Part 10

#### Regulations Governing the Practice of Attorneys, Certified Public Accountants, Enrolled Agents, and Enrolled Actuaries Before the Internal Revenue Service

**AGENCY:** Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document contains final regulations governing practice before the Internal Revenue Service (31 CFR Part 10) by requiring that those who are enrolled to practice before the Internal Revenue Service renew their enrollment on a periodic basis. A condition of eligibility for renewal of enrollment will be the satisfaction of continuing professional education requirements. The rule also establishes a fee for the renewal of enrollment. The fee will be for the purpose of defraying the costs of administering the program. In addition, this notice contains modifications of the regulations reflecting the transfer to the Office of Director of Practice certain functions formerly performed by the Commissioner of Internal Revenue relative to the enrollment of individuals who wish to practice before the Internal Revenue Service.

**DATE:** These final regulations are effective January 22, 1986.

**FOR FURTHER INFORMATION CONTACT:** Mr. Leslie S. Shapiro, Director of Practice, Internal Revenue Service, Washington, DC 20224 (202) 535-6787.

#### SUPPLEMENTARY INFORMATION:

##### Background and Comments

The administration of the program relating to the enrollment of those who wish to practice before the Internal Revenue Service was transferred to the Office of Director of Practice in 1982. At that time a complete study was made of the enrollment process and the applicable regulations. Those regulations accord individuals permanent enrollment with no need to renew that status. There are over 33,000 enrolled individuals on the enrollment roster. However, there is no means for determining the accuracy of that roster. For example, persons on the roster may have passed away, have become

certified public accountants or attorneys, no longer have a need to retain their enrollment status, etc. Consequently, as a sheer "housekeeping" measure, renewal of enrollment was deemed necessary. At the same time, consideration was given the desirability of continuing professional education for the enrollee community. In this regard, the public relies on tax practitioners to be competent and skillful in representing taxpayers' interests before the Internal Revenue Service. The Internal Revenue Service also relies on the competence and skill of tax practitioners. Continuing professional education was found to be the most widely accepted means of retaining the knowledge of a professional and of keeping abreast of changes in the subject matter, methodology and state of the art applicable to a particular profession. It also was determined that most professions, both learned and trade, have mandated continuing professional education as a requirement for continued licensure. For example, 46 states require continuing professional education as a condition for certified public accountants to retain their active licenses to practice. For those who are enrolled to practice before the Internal Revenue Service, the need for continuing professional education is manifest. Our Federal tax laws and procedures are volatile and dynamic. In 1984 alone, massive changes were made in the Internal Revenue Code by the Tax Reform Act of 1984 (Pub. L. 98-369); the Retirement Equity Act of 1984 (Pub. L. 98-397); the Child Support Enforcement Amendments of 1984 (Pub. L. 98-378); Pub. L. 98-573; Pub. L. 98-611; and Pub. L. 98-612. The benefits of continuing one's education in the tax area and related subjects are abundant; the detriments appear to be non-existent. Accordingly, it was concluded that formalization of a continuing professional education program for individuals enrolled to practice before the Internal Revenue Service would be in the best interest of the public and would be consistent with what has been found necessary and desirable for the other professions in our country. The requirements and methodologies of the continuing education programs of other professions, particularly those relating to certified public accountants, also were studied. Our proposals were based on those studies and on recommendations made to us by representatives of the enrolled practitioner community.

On July 3, 1984, the Treasury Department published in the Federal