3–23–99
Vol. 64 No. 55
Pages 13881–14096

federal register

Tuesday
March 23, 1999

HeinOnline -- 64 Fed. Reg. I 1999

Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta ACO, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Brazilian airworthiness directive 1999–02–01R1, dated February 18, 1999.

(g) This amendment becomes effective on March 29, 1999, to all persons except those persons to whom it was made immediately effective by emergency AD 99–05–04, issued February 19, 1999, which contained the requirements of this amendment.

Issued in Renton, Washington, on March 16, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–6981 Filed 3–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Parts 31, 39, 111, 112, 115, 140, 151, 152, 160, 162, 226, 256, 273, 275 and 276

RIN 1076–AD88

Correction of Codification Errors in 25 CFR

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Technical correction.

SUMMARY: The Bureau of Indian Affairs is publishing this rule at the request of the Office of the Federal Register to correct several technical errors at various locations in 25 CFR. The errors include incorrect cross references and incorrect paragraph designations. None of the corrections will affect the substance of any provision in 25 CFR.

EFFECTIVE DATE: This rule is effective on March 23, 1999.

ADDRESSES: Mail comments to Laura Cloud, Bureau of Indian Affairs, 1849 C Street NW, MS 4657–MIB, Washington, D.C. 20240. Comments may be hand delivered to the same address from 9:00 a.m. to 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John Strylowski, Office of Regulatory Affairs, at 202–208–3071 or e-mail john__strylowski@ios.doi.gov.

SUPPLEMENTARY INFORMATION: The Office of the Federal Register has asked the Department of the Interior to correct technical errors at various locations in 25 CFR. These errors are of three kinds. First, there are errors in designating paragraphs (for example, a section may have more than one paragraph designated as "(g)"). Second, there are erroneous cross references. For example, there are currently several citations in 25 CFR to parts 174 and 261, both of which have been removed from 25 CFR. Finally, two previous corrections to part 226 were incorrectly worded, resulting in changes not being made. The affected sections are §§ 226.21(f) and 226.25(b). BIA published corrections to these sections in a final rule on August 14, 1990, at 55 FR 33112. The Office of the Federal Register has inserted editorial notes into 25 CFR to explain the corrections that BIA requested and the reasons that they could not be made. The document we are publishing today will ensure that the corrections are made properly so that the Office of the Federal Register can remove the editorial notes.

In order to make some of the changes, we have had to rewrite small portions of the text. An example of this is the definition of the term "standard housing" in § 256.2. The rewrite was necessary in this case because in order to change the designations within the definition we had to change the original wording. We have carefully reworded each rewrite to preserve the original meaning.

Because these changes are technical and do not affect the substance of 25 CFR, we are publishing this rule as a final rule with no opportunity for public comment. We are doing this in accordance with the provisions of 5 U.S.C. 553(b)(3)(B), which provides that an agency need not publish a proposed rule if it finds that doing so would be "impracticable, unnecessary, and contrary to the public interest." Since delaying the effective date of these corrections through use of the normal rulemaking process would be contrary to the public interest, we are publishing these changes as a final rule.

Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because it makes technical changes that do not affect the substance of the rules there is no economic effect at all, other than to improve the utility of the rules for users.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (1 U.S.C. 1531, *et seq.*) is not required.

Takings (E.O. 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications.

Federalism (E.O. 12612)

In accordance with Executive Order 12630, the rule does not have significant takings implications.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

HeinOnline -- 64 Fed. Reg. 13894 1999

Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83–I is not required.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

List of Subjects

25 CFR Parts 31, 39, 273, 275, and 276

Indians, Indians—education.

25 CFR Parts 111, 112, and 115

Indians, Indians—claims.

25 CFR Part 140

Indians, Indians—business and finance.

25 CFR Parts 151, 152, 162, and 226

Indians, Indians—lands.

25 CFR Part 160

Indians, Indians—law.

25 CFR Part 256

Indians, Housing, Home improvement, Low and moderate income housing.

Dated: March 9, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

For the reasons set out in the preamble, 25 CFR parts 31, 39, 111, 112, 115, 140, 151, 152, 160, 162, 226, 256, 273, 275 and 276 are amended as follows:

PART 31—FEDERAL SCHOOLS FOR INDIANS

1. The authority for part 31 continues to read as follows:

Authority: Sec. 1, 41 Stat. 410; 25 U.S.C. 282, unless otherwise noted.

§ 31.4 [Amended]

2. In the cross references at the end of § 31.4, "§§ 11.65 and 11.66" is revised to read "§ 11.424."

PART 39—THE INDIAN SCHOOL EQUALIZATION PROGRAM

3. The authority for part 39 continues to read as follows:

Authority: 25 U.S.C. 13; 25 U.S.C. 2008.

§ 39.22 [Amended]

4. In § 39.22(b), the words "part 271" are revised to read "part 900."

§ 39.31 [Amended]

5. In § 39.31(b), the words "part 271" are revised to read "part 900" both places they appear.

§ 39.53 [Amended]

6. In § 39.53(b), the words "part 271" are revised to read "part 900."

§ 39.54 [Amended]

7. In § 39.54(b), the words "part 271" are revised to read "part 900."

PART 111—ANNUITY AND OTHER PER CAPITA PAYMENTS

8. The authority for part 111 continues to read as follows:

Authority: 5 U.S.C. 301.

§ 111.1 [Amended]

9. In the cross references at the end of § 111.1, "§§ 11.30 through 11.32(c)" is revised to read "subpart G of part 11."

PART 112—REGULATIONS FOR PRO RATA SHARES OF TRIBAL FUNDS

10. The authority for part 112 continues to read as follows:

Authority: Sec. 2, 34 Stat. 1221, as amended; 25 U.S.C. 121.

11. In the cross references following the table of contents to part 112, "§§ 11.30 through 11.32" is revised to read "subpart G of part 11."

PART 115—INDIVIDUAL INDIAN MONEY ACCOUNTS

12. The authority for part 115 continues to read 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.

§ 115.9 [Amended]

13. In the cross references at the end of § 115.9, "§§ 11.26" is revised to read "§ 11.208."

PART 140—LICENSED INDIAN TRADERS

14. The authority for part 140 continues to read as follows:

Authority: Sec. 5, 19 Stat. 200, Sec. 1, 31 Stat. 1066 as amended; 25 U.S.C. 261, 262; 94 Stat. 544, 18 U.S.C. 437; 25 U.S.C. 2 and 9, and 5 U.S.C. 301, unless otherwise noted.

15. The cross reference following § 140.25 is revised to read as follows:

§ 140.25 Trade in antiquities prohibited.

* * * * *

CROSS REFERENCES: For regulations pertaining to archaeological resources, see part 262 of this chapter. For regulations of the Bureau of Land Management regarding antiquities, see 43 CFR part 3.

PART 151—LAND ACQUISITIONS

16. The authority for part 151 continues to read as follows:

Authority: R.S. 161: 5 U.S.C. 301. Interpret or apply 46 Stat. 1106, as amended; 46 Stat. 1471, as amended; 48 Stat. 985, as amended; 49 Stat. 1967 as amended, 53 Stat. 1129; 63 Stat. 605; 69 Stat. 392, as amended; 70 Stat. 290, as amended; 70 Stat. 626; 75 Stat. 505; 77 Stat. 349; 78 Stat. 389; 78 Stat. 747; 82 Stat. 174, as amended, 82 Stat. 884; 84 Stat. 120; 84 Stat. 1874; 86 Stat. 216; 86 Stat. 530; 86 Stat. 744; 88 Stat. 78; 88 Stat. 81; 88 Stat. 1716; 88 Stat. 2203; 88 Stat. 2207; 25 U.S.C. 2, 9, 409a, 450h, 451, 464, 465, 487, 488, 489, 501, 502, 573, 574, 576, 608, 608a, 610, 610a, 622, 624, 640d–10, 1466, 1495, and other authorizing acts.

§ 151 [Amended]

17. In the cross references following the table of contents for part 151, the words "part 272" are revised to read "part 900."

§ 151.15 [Amended]

18. In § 151.15(a) "§ 151.11(2)(c)" is revised to read "§ 151.11(c)."

PART 152—ISSUANCE OF PATENTS IN FEE, CERTIFICATES OF COMPETENCY, REMOVAL OF RESTRICTIONS, AND SALE OF CERTAIN INDIAN LANDS

19. The authority for part 152 continues to read as follows:

Authority: R.S. 161: 5 U.S.C. 301. Interpret or apply Sec. 7, 32 Stat. 275, 34 Stat. 1018, Sec. 1, 35 Stat. 444, Sec. 1 and 2, 36 Stat. 855, as amended, 856, as amended, Sec. 17, 39 Stat. 127, 40 Stat. 579, 62 Stat. 236, Sec. 2, 40 stat. 606, 68 Stat. 358, 69 Stat. 666: 25 U.S.C. 378, 379, 405, 404, 372, 373, 483, 355, unless otherwise noted.

§ 152 [Amended]

20. In the cross references following the table of contents for part 152, "§§ 11.30 through 11.32C" is revised to read "subpart G of part 11."

PART 160—INCLUSION OF LIENS IN ALL PATENTS AND INSTRUMENTS EXECUTED

21. The authority for part 160 continues to read as follows:

Authority: Secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U.S.C. 385.

§ 160.1 [Amended]

22. In the cross references at the end of § 160.1, "parts 174, 134, and 137" is revised to read "parts 134 and 137."

HeinOnline -- 64 Fed. Reg. 13895 1999

PART 162—LEASING AND PERMITTING

23. The authority for part 162 continues to read as follows:

Authority: 5 U.S.C. 301, R.S. 463 and 465; 25 U.S.C. 2 and 9. Interpret or apply Sec. 3, 26 Stat. 795, Sec. 1, 28 Stat. 305, secs. 1, 2, 31 Stat. 229, 246, secs. 7, 12, 34 Stat. 545, 34 Stat. 1015, 1034, 35 Stat. 70, 95, 97, Sec. 4, 36 Stat. 856, Sec. 1, 39 Stat. 128, 41 Stat. 415, as amended, 751, 1232, Sec. 17, 43 Stat. 636, 641, 44 Stat. 658, as amended, 894, 1365, as amended, 47 Stat. 1417, Sec. 17, 48 Stat. 984, 988, 49 Stat. 115, 1135, Sec. 55, 49 Stat. 781, Sec. 3, 49 Stat. 1967, 54 Stat. 745, 1057, 60 Stat. 308, secs. 1, 2, 6, 64 Stat. 470, 69 Stat. 539, 540, 72 Stat. 968; 25 U.S.C. 380, 393, 393a, 394, 395, 397, 402, 402a, 403, 403a, 403b, 403c, 413, 415, 415a, 415b, 415c, 415d, 477, 635.

§ 162.13 [Amended]

24. In § 162.13(a), "Except as provided in part 174 of this chapter, any lease covering" is revised to read "Any lease covering."

PART 226—LEASING OF OSAGE RESERVATION LANDS FOR OIL AND GAS MINING

25. The authority for part 226 continues to read as follows:

Authority: Sec. 3, 34 Stat. 543; secs. 1, 2, 45 Stat. 1478; sec. 2(a), 92 Stat. 1660.

§ 226.21 [Amended]

26. In § 226.21, the second sentence of paragraph (f) is revised to read as follows:

§ 226.21 Procedure for settlement of damages claimed.

* * * * *

(f) * * * The decision shall be in writing and shall be served forthwith upon the parties in interest.* * *

* * * * *

§ 226.25 [Amended]

27. In § 226.25, paragraph (b) is revised to read as follows:

§ 226.25 Gas well drilled by oil lessees and vice versa.

* * * * *

(b) Oil well to be turned over to oil lessee. If the gas lessee drills an oil well, he/she must immediately, without removing from the well any of the casing or other equipment, notify the oil lessee and the superintendent.

(1) If the oil lessee does not, within 45 days after receipt of notice and cost of drilling, elect to take over the well, he/she must immediately notify the gas lessee. From that point, the superintendent must approve the disposition of the well, and any gas produced from it.

(2) If the oil lessee chooses to take over the well, he/she must pay to the gas lessee:

(i) The cost of drilling the well, including all damages paid; and

(ii) The cost in place of casing and other equipment.

(3) If the oil lessee and the gas lessee cannot agree on the cost of the well, the superintendent will apportion the cost between the oil and gas lessees. If the lessees do not accept the apportionment, the oil or gas lessee who drilled the well must plug the well.

* * * * *

PART 256—HOUSING IMPROVEMENT PROGRAM

28. The authority for part 256 continues to read as follows:

Authority: 42 Stat. 208. (25 U.S.C. 13).

§ 256.2 [Amended]

29. In § 256.2, the definition of "Service housing office is removed," the definition of "Servicing housing office" is added, and the definition of "Standard Housing" is revised to read as follows:

§ 256.2 Definitions.

* * * * *

Servicing housing office means the tribal housing office or bureau housing assistance office administering the Housing Improvement Program in the service area in which the applicant resides.

Standard Housing means a dwelling that is decent, safe, and sanitary.

(1) Except as provided in paragraph (2) of this definition, standard housing must meet each of the following conditions:

(i) General construction must conform to applicable tribal, county, State, or national codes and to appropriate building standards for the region;

(ii) The heating system must have the capacity to maintain a minimum temperature of 70 degrees in the dwelling during the coldest weather in the area;

(iii) The heating system must be safe to operate and maintain and deliver a uniform heat distribution;

(iv) The plumbing system must include a properly installed system of piping and fixtures;

(v) The electrical system must include wiring and equipment properly installed to safely supply electrical energy for lighting and appliance operation;

(vi) Occupants per dwelling must not exceed these limits:

(A) Two bedroom dwelling: Up to four persons;

(B) Three-bedroom dwelling: Up to seven persons;

(C) Four-bedroom dwelling: Adequate for all but the very largest families;

(vii) The first bedroom must have at least 120 sq. ft. of floor space and additional bedrooms have at least 100 sq. ft. of floor space each;

(viii) The house site must provide economical access to utilities and must be easy to enter and leave; and

(ix) Aesthetics and access to school bus routes must be considered.

(2) The following exceptions apply to the standards in paragraph (1) of this definition:

(i) If access to a particular utility is not available and there is no prospect of access becoming available, then the standard relating to that utility does not apply; and

(ii) In regions of severe climate, the size of the house may be reduced to meet the region's applicable building standards.

* * * * *

30. In § 256.6, paragraph (e) is revised to read as follows:

§ 256.6 Am I eligible for the Housing Improvement Program?

* * * * *

(e) You meet the ownership requirements for the assistance needed, as defined in § 256.8, § 256.9, or § 256.10;

* * * * *

PART 273—EDUCATION CONTRACTS UNDER JOHNSON-O'MALLEY ACT

31. The authority for part 273 continues to read as follows:

Authority: Secs. 201–203, Pub. L. 93–638, 88 Stat. 2203, 2213–2214 (25 U.S.C. 455–457), unless otherwise noted.

§ 273.1 [Amended]

32. In § 273.1(c), the words "part 271" are revised to read "part 900."

PART 275—STAFFING

33. The authority for part 275 continues to read as follows:

Authority: Sec. 502, Pub. L. 91–648, 84 Stat. 1909, 1925 (42 U.S.C. 4762); Sec. 105, Pub. L. 93–638, 88 Stat. 2203, 2208–2210 (25 U.S.C. 450i); 26 U.S.C. 48.

§ 275.3 [Amended]

34. In § 275.3(b), the words "part 271" are revised to read "part 900."

PART 276—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS

35. The authority for part 276 continues to read as follows:

HeinOnline -- 64 Fed. Reg. 13896 1999

Authority: 34 CFR 256; sec. 104, Pub. L. 93–638, 88 Stat. 2203, 2207 (25 U.S.C. 450h).

§ 276.11 [Amended]

36. In § 276.11, in paragraphs (b) introductory text, (b)(1), and (c) introductory text, the words "part 272" are revised to read "part 900."

[FR Doc. 99–6695 Filed 3–22–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–022]

RIN 1218–AB55

Dipping and Coating Operations

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule.

SUMMARY: OSHA's standards for dipping and coating operations, codified at sections 1910.108 and 1910.94(d), are designed to protect employees from fire, explosion, and other hazards associated with these operations. On April 7, 1998 (63 FR 16918), OSHA published proposed revisions to these standards in the **Federal Register**. The Federal Register announcement requested comments on the proposed rule, as well as on three major issues identified by OSHA. Based on these comments and other considerations, the Agency has developed the final standard to accomplish several goals: To rewrite the former standards in plain language; to consolidate the former requirements in sequential sections (sections 1910.122 through 1910.126 in subpart H of part 1910); and to update the former standards to increase the compliance options available to employers. In addition to achieving these goals, OSHA concludes that the final rule being published today will enhance employee protection by making it more understandable and useful to employers and employees and more flexible and performance-oriented than the former rules. The final rule accomplishes these goals without increasing the regulatory burden of employers or reducing employee protection.

DATES: The final rule becomes effective April 22, 1999. The incorporation by reference of certain publications listed in the final rule is approved by the Director of the Federal Register as of April 22, 1999.

ADDRESSES: In accordance with 28 U.S.C. 2112(a), the Agency designates the Associate Solicitor for Occupational Safety and Health, Office of the Solicitor of Labor, Room S–4004, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210 to receive petitions for review of the final rule.

FOR FURTHER INFORMATION CONTACT: Ms. Bonnie Friedman, Director, Office of Public Affairs, Room N–3647, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210; telephone: (202) 693–1999. For additional copies of this Federal Register notice contact: OSHA, Office of Publications, U.S. Department of Labor, Room N–3101, 200 Constitution Avenue, N.W., Washington, DC 20210; telephone: (202) 693–1888. Electronic copies of this Federal Register notice, as well as news releases, fact sheets, and other relevant documents, can be obtained from OSHA's web page on the Internet at http://www.OSHA.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In May 1995, President Clinton asked all Federal regulatory agencies to review their regulations to determine if they were inconsistent, duplicative, outdated, or in need of being rewritten in plain language. In response, OSHA conducted a line-by-line review of its standards, and committed the Agency to eliminating those found to be unnecessary, duplicative, or inconsistent and to rewriting those found to be complex and outdated. The Agency's dip-tank standards were identified by that review as needing clarification.

OSHA chose to rewrite these standards in plain language because dip tanks pose serious hazards to employees engaged in dipping and coating operations. There are hundreds of thousands of dip tanks in America. Wherever metals are coated, furniture is stripped and refinished, automobiles are repaired, aircraft are maintained, and leather is tanned, dip tanks are an essential part of the process. The liquids used to perform these operations are often dangerous, both from a safety and health standpoint. These liquids include flammable substances such as acetone, corrosive materials such as cyanide acids and chromic acids, and chronic toxins such as perchloroethylene and methylene chloride. Most facilities with dip tanks are small: OSHA estimates that the majority of these facilities have fewer than 20 employees. Industries with large numbers of dip tanks include automobile manufacturing, electronic manufacturing, electroplating, defense, transportation equipment, computer manufacturing, automobile repair, paint stripping, and other service industries.

The final rule does not change the technical substance of the former standards or alter the regulatory obligations placed on employers or the safety and health protections provided to employees. OSHA believes, moreover, that the performance-oriented language of the final rule will facilitate compliance because it gives employers more compliance options than they had under the former standards.

II. Summary and Explanation of the Final Rule

This section consists of five parts. Part 1 summarizes the comments received by OSHA on the three issues raised in the proposal. The issues are listed together, followed by the comments on each issue and OSHA's responses. The second part summarizes the comments on specific paragraphs of the proposal, as well as OSHA's discussion of the comments. In the third part, OSHA responds to general comments made about the rulemaking, while the fourth part describes technical and editorial revisions made by OSHA to the final regulatory text. Part 5 consists of tables that compare provisions of the former and final rules.

Note that OSHA has redesignated the section numbers in the final rule as 1910.122 through 1910.126, instead of 1910.121 through 1910.125, as proposed. This revision is explained more fully in Part 4, paragraph a.

Part 1

OSHA received the following comments on the three issues raised in the proposal.

(a) *The first issue,* which addressed whether the plain-language version of the final rule reduces employee protections or increases employer burden when compared with the former standards, received only one comment (Ex. 4–13). This commenter stated that the plain-language version improved employee protection because the performance-oriented language would "accommodate technical advancement in industries impacted by the standard." This comment substantiates the Agency's finding that the proposed standard "will enhance employee protection by * * * providing additional compliance flexibility to employers." (63 FR 16918)

(b) *The second issue,* which concerned commenters' preference for the traditional format or question-and-