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to negotiable orders of withdrawal where authorized by Federal law.

By order of the Board of Governors,  
May 1, 1978.

THEODORE E. ALLISON,  
Secretary of the Board.

[FR Doc. 78-12699 Filed 5-9-78; 8:45 am]

[1505-01]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE; DEPARTMENT OF THE TREASURY

[T. D. 78-99]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Correction

In FR Doc. 78-8181, appearing at page 13058 in the issue of Wednesday, March 29, 1978, the first line of the second column on page 13060 should read, "section 141.11(b) for the reference 'section 8.6(n)' wherever it appears."

[4310-02]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER J—FISCAL AND FINANCIAL AFFAIRS

PART 113—ALASKA NATIVE FUND

Recognition of Assignments of Future Interests

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rules.

SUMMARY: These regulations implement section 31 of the Alaska Native Claims Settlement Act, as amended by section 4 of the Act of November 15, 1977, which gives the Secretary of the Interior the authority to recognize validly executed assignments made by Regional Corporations of their rights to receive payments from the Alaska Native Fund.

EFFECTIVE DATE: May 10, 1978.

ADDRESS: Assistant Director, Financial Management, Office of Administration, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT:

Louis H. Conger, Jr., Bureau of Indian Affairs, 202-343-6342.

SUPPLEMENTARY INFORMATION: Section 4 of the Act of November 15, 1977 (Pub. L. 95-178; 91 Stat. 1369, 1370; 43 U.S.C. 1628), amended the Alaska Native Claims Settlement Act by adding a new section 31 which provides as follows:

(a) Notwithstanding the provision of section 3477 of the Revised Statutes, as amended (31 U.S.C. 203), the Secretary is authorized to recognize validly executed assignments made by Regional Corporations of their rights to receive payments from the Alaska Native Fund. Such assignments shall only be recognized to the extent that the Regional Corporation involved is not required to distribute funds pursuant to subsection (j) or (m) of section 7 of this Act.

(b) The Secretary shall not recognize any assignment under this section which does not provide that the United States reserve the right to assert against the assignee and successors of the assignee, any setoff or counterclaim which the United States has against the assignor Corporation.

(c) No stockholder of any Regional or Village Corporation shall have any claim against the Secretary or the United States as the result of any assignment duly recognized by the Secretary pursuant to this section.

These rules implement that provision.

Prior to the enactment of that provision, it had been determined that the Secretary had no authority to recognize such assignments of a Regional Corporation's future interest in the Alaska Native Fund. Comptroller General Opinion No. B-108439 (November 16, 1976). The cited opinion stated that recognition of such an assignment by the Secretary was prohibited by the terms of the so-called Anti-Assignment Act (31 U.S.C. 203). However, the opinion acknowledged that the Act did not prohibit a Regional Corporation from assigning its right to future distributions from the Alaska Native Fund. Only Secretarial recognition of such an assignment was prohibited by the Anti-Assignment Act. Absent such recognition, the Secretary is obliged only to make distributions of the Alaska Native Fund as directed by the payee Regional Corporations; he cannot be bound by the terms of the assignment.

Government recognition of assignments of these claims against the United States in effect provides the assignee with a secured interest in the future distributions. After recognition, a Regional Corporation is no longer able to direct the Secretary to make payments of its share of the Alaska Native Fund in a manner inconsistent with the terms of the assignment. The Act of November 15, 1977, now gives the Secretary the authority to create such a secured interest. This will enable Regional Corporations to borrow the necessary capital for development projects at reduced interest

rates. However, the new authorization permits the Secretary only to recognize such assignments to the extent that the Regional Corporation is not required to distribute those funds pursuant to subsection (j) or (m) of section 7 of the Settlement Act. Those provisions require a Regional Corporation to redistribute a certain percentage of its Alaska Native Fund share to the Village Corporations in its region and to certain stockholders.

The following rules have been formulated to require that a Regional Corporation provide evidence that the Corporation's Board of Directors has authorized an assignment, and that it specifically intended that the Secretary recognize that assignment. These rules would not require that the Secretary substitute his business judgment for that of the Regional Corporation in determining whether to recognize a validly executed assignment.

DRAFTING INFORMATION

Proposed rules were published on March 2, 1978 (43 FR 8557). Interested persons were given until April 3, 1978, to submit written comments. Nine comments were received, six from representatives of Regional Corporations. The following changes were made in the proposed rules.

In response to one suggestion, the definition of "Assignee" in § 113.2 was clarified. In addition, the definition of "Payee" was broadened to include savings institutions insured by the Federal Savings and Loan Insurance Corporation and federally insured credit unions. The regulation also requires that payees be capable of receiving payment through the United States Treasury's Financial Communication System.

Referring to § 113.3(c), two commenters questioned the need to require that a Regional Corporation designate an eligible payee to receive its quarterly distributions, in the absence of a recognized assignment. This provision was inserted to insure the speedy and safe delivery of the quarterly distributions, without an unnecessary loss of interest. The provision is also a reflection of the current practice of all Regional Corporations.

Another commenter, speaking on behalf of a Village Corporation, expressed the view that priority should not be given to selected creditors of a Regional Corporation when that corporation has outstanding obligations to Village Corporations within its region. This concern was addressed by adding a new subsection (b) to § 113.4, repeating language from section 31(a) of the Act. This addition is intended to emphasize that Village Corporation and stockholder entitlements under section 7(j) of the Act remain unaffected by recognition of a validly executed assignment of a Regional cor-

poration's future interests in the Fund.

Several comments were received in response to the application process of proposed § 113.4(c). One questioned the requirement of subsection (c)(2) that the assignment be of a "fixed sum." The commenter stated that under most credit financing arrangements it is impossible to predict the amount which will ultimately be paid to the creditor and which is also the amount for which a recognized assignment is desired to secure the creditor's interest. He proposed that assignments be made, and recognized on a "standby basis," i.e., that they remain in effect until canceled by the parties.

The decision was made to retain the "fixed sum" requirement, rather than to permit the recognition of "open-ended" assignments. The latter would make it difficult for the Regional Corporation to enter into additional assignments of its future interests in the Fund. Secondly, such assignments would also depend entirely on the good faith of the assignee/creditor to agree upon cancellation when the Regional Corporation believes it has paid its obligation in full. Thus, when a contractual dispute arises between the parties to an open-ended assignment, the assignee could unfairly refuse to agree to request cancellation of the Secretary's recognition—even where the amount financed is but a small fraction of the Regional Corporation's ultimate entitlement from the Fund. Rather, the authors of these regulations thought that the parties to a proposed assignment could in all cases agree upon a reasonable amount to secure the assignee's interest, and then seek recognition of an assignment of that amount.

The Deputy Comptroller General of the General Accounting Office offered the comment that the requirement of proposed § 113.4(c)(4) (now (d)(4)), that the applicant Regional Corporation submit a resolution of its Board of Directors authorizing the assignment, may be inadequate in some circumstances. He pointed out that Alaska Statutes §§ 10.05.435-44 require shareholder approval of mortgages or pledges of all or substantially all of the property or assets of an Alaska corporation, if not made in the usual and regular course of business. The authors of these regulations thought it unlikely that an assignment of a fixed amount of a Regional Corporation's future interests in the Alaska Native Fund would fall in the category of transactions requiring shareholder approval. But a requirement was added to the regulation that the applicant must submit evidence of stockholder approval, when required by Alaska law.

In response to three other comments, the requirements of proposed

subsection (c)(5) were clarified in several respects. The primary change was the revision of paragraph (c)(5)(ii) (now (d)(5)(ii)), to emphasize that all claims of the United States against the assignor may be asserted against the assignee.

Two commenters criticized the requirement of proposed § 113.4(d) that an applicant Regional Corporation be current in its transmittal of annual audit reports to the Secretary pursuant to section 7(o) of the Act. A number of Regional Corporations have been delinquent in this respect. Section 7(d) of the Act provides that a Regional Corporation "shall be eligible for the benefits of this chapter so long as it is organized and functions in accordance with this chapter." 43 U.S.C. 1606(d). The question of the Secretary's authority and responsibility in this regard is currently under study within the Department, and the proposed requirement has thus been deleted as premature.

In response to a comment of the Deputy Comptroller General, proposed § 113.4(e)(1)(iii) has been revised for purposes of clarity.

One commenter suggested that the register of recognized assignments provided for in § 113.5 also reflect the date of receipt of applications for recognition, and that priority among assignments by a single Regional Corporation be established by reference to that date of receipt. The first suggestion was adopted, but not the second. Section 113.7 provides a more effective way of determining priority among assignments. Rather than institutionalizing a "race of the applications" and making creditors' rights dependent upon the vagaries of the mail system, it was thought that the Regional Corporation should have the responsibility of arranging priority among its assignees for whom there are competing applications for recognition. The Assistant Secretary is expected to defer to that judgment. Of course, once an assignment is recognized, a Regional Corporation may not re-establish priorities without the concurrence of the recognized assignees.

Four commenters were critical of proposed § 113.6, contending that the Secretary had no business prohibiting re-assignment of a Regional Corporation's future interests in the Fund. The proposed section, however, did not prohibit re-assignment, but only prohibited Secretarial recognition of such transactions since the Secretary's authority extends only to recognition of assignments "made by Regional Corporations." Nevertheless, because of the confusion created by proposed § 113.6(a), it has been rewritten to clarify the point that assignees may make "sub-assignments" but that the Assistant Secretary has no authority to recognize them.

In response to one comment, proposed § 113.10(a) was rewritten to require the Assistant Secretary to inform an applicant Regional Corporation of his reasons for denial of the application. The proposed provision had only required the transmittal of such information upon a Regional Corporation's petition for reconsideration.

These regulations were authored by employees of the Division of Financial Management of the Bureau of Indian Affairs, and attorneys in the Division of Indian Affairs of the Office of the Solicitor, U.S. Department of the Interior. The principal authors were Louis H. Conger, Jr., Bart Wright, and Margaret Daniels of the Bureau of Indian Affairs, and Scott Keep and Tim Vollmann of the Solicitor's Office.

**NOTE.**—The Department of the Interior has determined that these regulations do not have major economic consequences requiring preparation of a regulatory analysis in accordance with section 3 of Executive Order 12044 (March 23, 1978).

Considerable interest has already been expressed in these regulations by both Regional Corporations and their creditors. Within two weeks of enactment of the Act of November 15, 1977, the Department began to receive copies of assignments and requests for their recognition. Meanwhile, two Regional Corporations have indicated that recognition of new assignments may be needed as soon as possible to implement financial arrangements critical to those Corporations' futures. Because the Regional Corporations appear to desire implementation of this program as soon as possible, and because these final rules are not significantly changed from the proposed rules published on March 2, 1978, it has been determined that there is good cause for making these regulations effective upon publication, rather than waiting 30 days as otherwise required by the Administrative Procedure Act, 5 U.S.C. 553(d).

These regulations are promulgated in exercise of the authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 230 DM 1.2A(1).

Subchapter J of Chapter I of Title 25 of the Code of Federal Regulations is hereby amended by adding a new Part 113, as follows:

- Sec.
- 113.1 Scope and purpose.
  - 113.2 Definitions.
  - 113.3 Payment of shares in the Fund in the absence of recognition of an assignment.
  - 113.4 Recognition of assignments.
  - 113.5 Register of recognized assignments.
  - 113.6 Sub-assignment.
  - 113.7 Multiple assignments.
  - 113.8 Disclaimer.
  - 113.9 Cancellation of assignments.
  - 113.10 Decision; finality.

**AUTHORITY:** Sec. 25 and 31, Pub. L. 92-203, 85 Stat. 715, as amended by Pub. L. 95-178, 91 Stat. 1370 (43 U.S.C. 1624, 1628).

§ 113.1 Scope and purpose.

(a) The regulations in this part shall apply to all future distributions of the Alaska Native Fund pursuant to section 6 of the Alaska Native Claims Settlement Act (43 U.S.C. 1605), except money reserved for the payment of attorney and other fees as provided in section 20 of the Act (43 U.S.C. 1619).

(b) These regulations are not intended (1) to alter the distribution formula of section 6 of the Act (43 U.S.C. 1605), or the redistribution formulas of sections 7(j) or 7(m) of the Act (43 U.S.C. 1606(j), (m)); or (2) to require the distribution of money in the Fund when not authorized by the Act, or when the money has been set aside in an escrow or reserved account pursuant to an order of a court of competent jurisdiction.

(c) The regulations in this part are intended to implement section 31 of the Act (43 U.S.C. 1628) which authorizes the Secretary to recognize validly executed assignments of a Regional Corporation's rights to receive payments from the Fund.

§ 113.2 Definitions.

As used in the regulations in this part.

*Act* means the Alaska Native claims Settlement Act, as amended (Pub. L. 92-203, 85 Stat. 715, 43 U.S.C. 1601 et seq.; Pub. L. 95-178, 91 Stat. 1370).

*Assignee* means the person or entity receiving from a Regional Corporation an assignment of certain of the corporation's future interests in the Fund.

*Assignor* means a Regional Corporation which has assigned to another certain of its future interests in the Fund.

*Assistant Secretary* means the Assistant Secretary for Indian Affairs, U.S. Department of the Interior, or his authorized representative.

*Fund* means the Alaska Native Fund created by section 6 of the Act (43 U.S.C. 1605).

*Payee* means the recipient of a distribution from the Fund. The payee must be a financial corporation such as a bank, credit union, or savings and loan association which is insured under the Federal Deposit Insurance Corporation, the National Credit Union Administration, or the Federal Savings and Loan Insurance Corporation, respectively. The payee must be capable of receiving payment through the United States Treasury's Financial Communication System.

*Regional Corporation* means an Alaska Native Regional Corporation established under the laws of the State of Alaska in accordance with the provisions of the Act.

*Secretary* means the Secretary of the Interior.

§ 113.3 Payment of shares of the Fund in the absence of recognition of an assignment.

(a) All money in the Fund shall be distributed by the Assistant Secretary at the end of each three months of the fiscal year among the Regional Corporations on the basis of the relative numbers of Natives enrolled in each region.

(b) Except as otherwise authorized in the regulations in this part, a Regional Corporation's quarterly share of the Fund shall be made payable to the Regional Corporation through a payee designated by the Regional Corporation.

(c) A Regional Corporation may designate a payee of its quarterly share at any time, and may change that designation at any time, provided that the Assistant Secretary receive written notification of any such designation or change in designation at least ten (10) days before the quarterly distribution date. Any such designation must include the name and address of the payee and the identifying American Banking Association number.

§ 113.4 Recognition of assignments.

(a) Upon application of a Regional Corporation, as provided in paragraph (c) of this section, the Assistant Secretary shall recognize a validly executed assignment of that portion of a future interest in the Fund not subject to the redistribution provisions of sections 7(j) and 7(m) of the Act. A future interest which is not subject to those redistribution provisions shall be referred to in this section as an "assignable future interest" or the "assignable portion of a quarterly distribution."

(b) Such assignments shall only be recognized to the extent that the Regional Corporation involved is not required to distribute funds pursuant to subsections (j) or (m) of section 7 of the Act.

(c) Upon recognition of such an assignment, the Assistant Secretary shall distribute the amount assigned to the payee designated by the parties to the assignment, and shall continue to pay the amount assigned to that payee, except as provided by §§ 113.6(b) and 113.9.

(d) A Regional Corporation's application for recognition of an assignment of a future interest in the Fund (1) shall be addressed to the Assistant Secretary for Indian Affairs, Attn.: Assistant Director, Financial Management, Bureau of Indian Affairs, U.S. Department of the Interior, Washington, D.C. 20240; (2) shall specifically request that the Assistant Secretary recognize an assignment of a fixed sum to which the Regional Corporation may be entitled from the Fund; (3) shall designate a payee of the amount assigned; (4) shall be accompa-

nied by a duly-adopted resolution of the Board of Directors of the Regional Corporation, which resolution authorizes the making of the assignment and the application for recognition of that assignment by the Secretary of the Interior, or evidence of stockholder approval when required by Alaska state law; and (5) shall be accompanied by one executed copy and three facsimile copies of a validly executed assignment of all or a portion of the Regional Corporation's assignable future interest in the Fund, which assignment shall contain the following language:-

(i) The parties to this assignment agree to seek recognition of this assignment by the Secretary of the Interior, as authorized by section 4 of the Act of November 15, 1977, Pub. L. 95-178 (91 Stat. 1369, 1370).

(ii) It is understood by the parties to this assignment that in the event the Secretary of the Interior recognizes this assignment, the United States reserves the right to assert against the assignee and successors of the assignee, any setoff or counterclaim which the United States has, or may have, against the Assignor Corporation.

(e)(1) An assignment may provide that: (i) All of the assignable portion of each quarterly distribution be paid to the payee designated in the application for recognition of assignment;

(ii) A fraction of the assignable portion of each quarterly distribution be paid to the designated payee; or that

(iii) The assignable portion of each quarterly distribution, up to a stated maximum amount, be paid to the designated payee.

(2) Other formulas for assignment of assignable future interests may be recognized if (i) such a formula clearly identifies what portion of each affected quarterly distribution is to be paid to the designated payee, and (ii) the formula will permit the Assistant Secretary to set priorities in accordance with § 113.7 when subsequent application is made for recognition of additional assignments.

§ 113.5 Register of recognized assignments.

The Assistant Secretary shall maintain and make available for inspection by the public a register of requests for recognition of assignments and assignments recognized by him pursuant to the regulations in this part. Such register shall list the name of the Regional Corporation; the name and address of the assignee; the name, address, American Banking Association number, and account number for deposit of the payee of the amount assigned; the amount assigned; the amount paid at each quarterly distribution under the terms of the assignment; and the date of the Assistant Secretary's recognition.

§ 113.6 Sub-assignment.

(a) Nothing in the regulations in this part shall prohibit an assignee from

making a valid sub-assignment of a Regional Corporation's rights to receive payments from the Fund. However, the Assistant Secretary has no authority and shall not recognize any sub-assignment by the assignee of any future interest of a Regional Corporation in the Fund.

(b) The Assistant Secretary may accept a re-designation of a new payee of an assignment recognized by the Assistant Secretary, upon application of an authorized official of the assignee in accordance with § 113.3(c).

#### § 113.7 Multiple assignments.

(a) The Assistant Secretary may recognize more than one assignment of a Regional Corporation's future interests in the Fund. A second or later assignment of a Regional Corporation's future interest in the Fund, when recognized in accordance with § 113.4, shall be recognized subject to assignments already recognized.

(b) The Assistant Secretary shall not recognize an assignment of a Regional Corporation's future interest in the Fund if he has more than one outstanding application from that Corporation seeking recognition of such future interests. If more than one application from a Regional Corporation is pending before the Assistant Secretary, he shall notify both the Regional Corporation and the assignees of the assignments sought to be recognized, and seek a written consensus on the priorities to be established. In the absence of such a consensus, the Assistant Secretary shall not recognize any such assignment.

#### § 113.8 Disclaimer.

The Assistant Secretary does not guarantee by any action taken pursuant to the regulations in this part that the entitlement of a Regional Corporation to any quarterly distribution of the Fund shall be of any given amount, or that the cumulative entitlement of that Corporation will reach any given sum.

#### § 113.9 Cancellation of assignments.

(a) The Assistant Secretary shall cancel his recognition of an assignment upon joint application of the assignee and Regional Corporation involved. Such application must include a resolution of the Board of Directors of the Regional Corporation, and a validly executed agreement between the Regional Corporation and assignee cancelling the assignment and authorizing the Secretary of the Interior to cancel his recognition of the assignment.

(b) Such cancellation of recognition of an assignment shall be reflected in the register compiled by the Assistant Secretary as provided in § 113.5.

#### § 113.10 Decision; finality.

(a) A decision of the Assistant Secretary not to recognize an assignment of

a future interest in the Fund shall inform the Regional Corporation what defects, if any, remain in its application for recognition, and shall provide the corporation with an opportunity to cure those defects.

(b) A decision of the Assistant Secretary to recognize an assignment of a Regional Corporation's future interest in the Fund shall not be subject to reconsideration or administrative appeal, and shall therefore be final for the Department.

Dated: April 28, 1978.

FORREST J. GERARD,  
Assistant Secretary,  
Indian Affairs.

[FR Doc. 78-12703 Filed 5-9-78; 8:45 am]

### [4410-01]

#### Title 28—Judicial Administration

#### CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 777-78]

#### PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

#### Subpart T—United States Marshals Service

DELEGATING CONTRACTING AUTHORITY FOR THE SUPPORT OF CERTAIN FEDERAL PRISONERS TO THE DIRECTOR, UNITED STATES MARSHALS SERVICE

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice Appropriation Act, 1978, has transferred from the Bureau of Prisons to the United States Marshals Service the appropriations for the supervision and support in non-Federal institutions of United States prisoners who are in the custody of the United States Marshals (Pub. L. 95-86, 91 Stat. 425). Under the resulting realignment of functions the United States Marshals Service has become responsible for the contracting with non-Federal authorities for the detention in non-Federal facilities of prisoners who are in its custody. This Order delegates to the Director, United States Marshals Service, the authority provided for in section 4002, title 18, United States Code, for the contracting with the proper authorities in any State, Territory, or political subdivision thereof for the imprisonment, subsistence, care, and proper employment of such Federal prisoners.

EFFECTIVE DATE: April 27, 1978.

FOR FURTHER INFORMATION CONTACT:

William E. Hall, Director, United States Marshals Service, Washing-

ton, D.C. 20530 (202-739-5345).

By virtue of the authority vested in me by U.S.C. § 301 and 28 U.S.C. §§ 509, 510, Section 0.111 of Subpart T of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by adding a new paragraph (o) immediately after paragraph (n) to read as follows:

#### § 0.111 General functions.

(o) Contracting with the proper authorities of any State, Territory or political subdivision thereof, for the imprisonment, subsistence and care of Federal prisoners under the custody of the U.S. Marshals including contracting for such physical improvements as may be required.

Dated: April 27, 1978.

MICHAEL J. EGAN,  
Acting Attorney General.

[FR Doc. 78-12637 Filed 5-9-78; 8:45 am]

### [3410-11]

#### Title 36—Parks, Forests and Public Property

#### CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

#### PART 212—ADMINISTRATION OF FOREST DEVELOPMENT TRANSPORTATION SYSTEM

#### PART 295—USE OF MOTOR VEHICLES OFF FOREST DEVELOPMENT ROADS

#### Final Rules

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations on the administration of the Forest Development Transportation System and use of vehicles off Forest Development Roads. The action is necessary to reflect an earlier amendment which consolidated all regulations on prohibited acts. The effect of the rule will be to clarify existing regulations, consolidate administrative regulations relating to roads and trails, and specify that certain regulations concern vehicles that travel off Forest Development Roads.

EFFECTIVE DATE: May 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Willard Clementson, 703-235-8074 or William Holman, 202-447-4228.

SUPPLEMENTARY INFORMATION:

On September 16, 1977, a notice of proposed amendment to the regula-