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(R.S. 251, as amended, secs. 498, 624, 46 Stat. 728, as amended, 759, sec. 1, 59 Stat. 669; 19 U.S.C. 66, 1498, 1624, 22 U.S.C. 288)

Inasmuch as these amendments merely correct the listing of organizations entitled by law to claim free entry privileges as public international organizations, notice and public procedure thereon are found to be unnecessary and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

Approved: January 3, 1974.

JAMES B. CLAWSON,
Acting Assistant Secretary of the Treasury.

[FR Doc.74-1246 Filed 1-14-74;8:45 am]

Title 25—Indians

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

SUBCHAPTER G—TRIBAL GOVERNMENT

PART 60—USE OR DISTRIBUTION OF INDIAN JUDGMENT FUNDS

The authority to issue 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).

Beginning on page 31430 of the FEDERAL REGISTER of November 14, 1973 (38 FR 31430), there was published a notice of proposed rule making to add a new Part 60 to 25 CFR relating to the preparation of proposed plans for the use or distribution of judgment funds appropriated in satisfaction of awards made by the Indian Claims Commission and the United States Court of Claims. The regulations were proposed pursuant to the Act of October 19, 1973 (Public Law 93-134; 87 Stat. 466, 467, 468).

Interested persons were given 53 days, beginning on November 14, 1973, and ending on January 5, 1974, in which to submit written comments, views or objections regarding the proposed regulations. Pursuant to section 6(c) of Public Law 93-134, a public hearing on the proposed regulations was held December 13, 1973, at Denver, Colorado, notice of which was published December 4, 1973, in the FEDERAL REGISTER (38 FR 33401). Before, at, and since the hearing, numerous comments, suggestions and objections, both oral and written, on the proposed regulations have been received. Careful consideration has been given to these views and the result has been to make the changes in the proposed regulations which are published below as final rules. The following sections of the proposed regulations were modified (sections not listed were not changed):

Section 60.1 *Definitions.* Deletions and modifications in the definitions were made to conform with the changes made in the other sections of Part 60.

Section 60.3 *Time limits.* This section was revised to eliminate self-imposed time limits which might in some cases prevent compliance with statutory deadlines. Other changes were made to reflect more completely the statutory provisions and to eliminate the detailing of administrative mechanics.

Section 60.4 *Conduct of hearings of record.* Revision of this section was made to authorize an Area Director to designate an appropriate Departmental official to conduct hearings in his stead.

Section 60.5 *Submittal of proposed plan by Secretary.* Modifications were made in this section to eliminate references to matters of internal administration. The last sentence was deleted as a possible interference with meeting the deadlines established by the Act.

Section 60.6 *Submittal of proposed legislation by Secretary.* This section was renumbered § 60.7. The last sentence of the section was eliminated as being unnecessary.

Section 60.7 *Extension of period for submitting plans.* This section was renumbered § 60.6.

Section 60.8 *Enrollment aspects of plans.* The first part of the section was modified to simplify the language and to eliminate the detailing of matters of internal administration. The last sentence was deleted as being unnecessary.

Section 60.9 *Programming aspects of plans.* This section was slightly modified to make it possible to consider all relevant factors in programming judgment funds.

Section 60.10 *Per capita payment aspects of plans and protection of funds accruing to minors and legal incompetents.* This section was revised to clarify its provisions and to provide fully for all authorized methods of handling per capita payments made to deceased beneficiaries, minors, and legal incompetents.

Section 60.11 *Investment of judgment funds.* This section was revised to provide, in addition to investment of judgment funds by the Secretary, for investments by tribes after approval of plans or enactment of use or distribution legislation.

Section 60.12 *Insuring the proper performance of effective plans.* The first sentence of the section was modified to reflect the possibility that an official of the Department of the Interior other than the Area Director might work with tribal governing bodies in establishing timetables.

Public Law 93-134 requires that plans for the use or distribution of judgments awarded by the Indian Claims Commission or the United States Court of Claims shall be submitted by the Secretary of the Interior to the Congress within one hundred and eighty (180) days after the appropriations of the funds to pay the judgments, or within 180 days of the date of the Act for judgments for which funds were appropriated before the date of the Act. An additional delay in the effective date of these regulations will further shorten the time remaining to prepare plans pursuant to them. The revisions made in the proposed regulations, and reflected in these final regulations, are in consonance with the comments received and within the limits of the underlying laws; and no benefits would be gained by deferring the effective date. Therefore, good cause exists and is so found that the 30-day deferred effective date or any other deferred effective date otherwise required by 5 U.S.C. section 553(d) should be dispensed with under the exception provided in subsection 553 (d) (3). Accordingly, the new Part 60 as written below will be effective on January 15, 1974.

Sec.
60.1 Definitions.
60.2 Purpose.
60.3 Time limits.
60.4 Conduct of hearings of record.
60.5 Submittal of proposed plan by Secretary.
60.6 Extension of period for submitting plans.
60.7 Submittal of proposed legislation by Secretary.
60.8 Enrollment aspects of plans.
60.9 Programing aspects of plans.
60.10 Per capita payment aspects of plans and protection of funds accruing to minors and legal incompetents.
60.11 Investment of judgment funds.
60.12 Insuring the proper performance of approved plans.

AUTHORITY: 5 U.S.C. 301; 87 Stat. 466, 467, 468.

§ 60.1 Definitions.

As used in this Part 60, terms shall have the meanings set forth in this section.

(a) "Act" means the Act of October 19, 1973 (P.L. 93-134; 87 Stat. 466, 467, 468).

(b) "Secretary" means the Secretary of the Interior or his authorized representative.

(c) "Commissioner" means the Commissioner of Indian Affairs or his authorized representative.

(d) "Area Director" means the Area Director or his equivalent of any one of the Area Offices of the Bureau of Indian Affairs or his authorized representative.

(e) "Superintendent" means the Superintendent or Officer in Charge of any one of the Agency Offices or other local offices of the Bureau of Indian Affairs or his authorized representative.

(f) "Congressional Committees" means the Committees on Interior and Insular Affairs of the Senate and House of Representatives of the United States.

(g) "Indian tribe or group" means any Indian tribe, nation, band, pueblo, community or identifiable group of Indians, or Alaska Native entity.

(h) "Tribal governing body" means, as recognized by the Secretary, the governing body of a formally organized or recognized tribe or group; the governing body of any informally organized tribe or group, the governing body of a formally organized Alaska Native entity or recognized tribe in Oklahoma, and for the purposes of the Act the recognized spokesmen or representatives of any descendant group.

(i) "Plan" means the document submitted by the Secretary, together with all pertinent records, for the use or distribution of judgment funds, to the Congressional Committees.

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(j) "Enrollment" means that aspect of a plan which pertains to making or bringing current a roll of members of an organized, reservation-based tribe with membership criteria approved or accepted by the Secretary, a roll of members of an organized or recognized entity in Oklahoma, or Alaska or elsewhere, or a roll prepared for the purpose of making per capita payments for judgments awarded by the Indian Claims Commission or United States Court of Claims; or which pertains to using an historical roll or records of names, including tribal rolls closed and made final, for research or other purposes.

(k) "Program" means that aspect of a plan which pertains to using part or all of the judgment funds for tribal social and economic development projects.

(l) "Per capita payment" means that aspect of a plan which pertains to the individualization of the judgment funds in the form of shares to tribal members or to individual descendants.

(m) "Use or distribution" means any utilization or disposition of the judgment funds, including programing, per capita payments, or a combination thereof.

(n) "Individual beneficiary" means a tribal member or any individual descendant, found by the Secretary to be eligible to participate in a plan, who was born on or prior to, and is living on, the approval date of the plan.

(o) "Approval date" means the date that a plan is approved by the Congress. Except for a plan disapproved by either House, the approval date of a plan shall be the sixtieth (60) day after formal submittal of a plan by the Secretary to the Congressional Committees, excluding days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three (3) calendar days to a day certain. In the event a proposed plan is disapproved by either House, or in the event the Secretary is unable to submit a plan and therefore proposes legislation, the approval date shall be the date of the enabling legislation for the disposition of the judgment funds.

(p) "Minor" is an individual beneficiary who is eligible to participate in a per capita payment and who has not reached the age of eighteen (18) years.

(q) "Legal incompetent" is an individual beneficiary eligible to participate in a per capita payment and who has been declared to be under a legal disability, other than being a minor, by a court of competent jurisdiction, including tribal courts.

(r) "Attorney fees and litigation expenses" means all fees and expenses incurred in litigating and processing tribal claims before the Indian Claims Commission or the United States Court of Claims.

§ 60.2 Purpose.

The regulations in this part govern the preparation of proposed plans for the use or distribution, pursuant to the Act, of all judgment funds awarded from the date of the Act to Indian tribes and groups by the Indian Claims Commission or the United States Court of Claims, excepting any tribe or group whose trust relationship with the Federal Government has been terminated and for which there exists legislation authorizing the disposition of its judgment funds; and of all funds deriving from judgments entered prior to the date of the Act for which there has been no enabling legislation.

§ 60.3 Time limits.

(a) The Secretary shall cause to begin as early as possible the necessary research to determine the identity of the ultimate or present day beneficiaries of judgments. Such research shall be done under the direction of the Commissioner of Indian Affairs. The affected tribes or groups shall be encouraged to submit pertinent data. All pertinent data, including cultural, political and historical material, and records, including membership, census and other rolls shall be considered. If more than one entity is determined to be eligible to participate in the use or distribution of the funds, the results of the research shall include a proposed formula for the division or apportionment of the judgment funds among or between the involved entities.

(b) The results of all research shall be provided to the governing bodies of all affected tribes and groups. The Area Director shall assist the affected tribe or group in arranging for preliminary sessions or meetings of the tribal governing body, or public meetings. The Area Director shall make a presentation of the results of the research and shall arrange for expertise of the Bureau of Indian Affairs to be available at these meetings to assist the tribe or group in developing a use or distribution proposal, bearing in mind that under the Act not less than twenty (20) per centum of the judgment funds, including investment income thereon, is to be used for tribal programs unless the Secretary determines that the particular circumstances of the affected Indian tribe clearly warrant otherwise.

§ 60.4 Conduct of hearings of record.

(a) As soon as appropriate after the tribal meetings have been held and the Commissioner has reviewed the tribal proposal(s), the Area Director, or such other official of the Department of the Interior as he shall designate to act for him, shall hold a hearing of record to receive testimony on the tribal proposal(s).

(b) The hearing shall be held after appropriate public notice beginning at least twenty (20) days prior to the date of such hearing, and after consultation with the governing body of the tribe or group regarding the date and location of the hearing, to obtain the testimony of members of the governing body and other representatives, spokesmen or members of the tribe or group on the proposal(s).

(c) All testimony at the hearing shall be transcribed and a transcript thereof shall be furnished to the Commissioner and the tribal governing body immediately subsequent to the hearing. Particular care shall be taken to insure that minority views are given full opportunity for expression either during the hearing or in the form of written communications by the date of the hearing.

(d) Whenever two or more tribes or groups are involved in the use or distribution of the judgment funds, including situations in which two or more Area Offices are concerned, every effort shall be made by the Area Director or Directors to arrange for a single hearing to be conducted at a time and location as convenient to the involved tribes and groups as possible. Should the tribes and groups not reach agreement on such time or place, or on the number of entities to be represented at the hearing, the Commissioner, after considering the views of the affected tribes and groups, shall within twenty (20) days of receipt of such advice by the Area Director, designate a location and date for such hearing and invite the participation of all entities he considers to be involved and the Commissioner's decision shall be final.

§ 60.5 Submittal of proposed plan by Secretary.

Subsequent to the hearing of record, the Commissioner shall prepare all pertinent materials for the review of the Secretary. Pertinent materials shall include:

(a) the tribal use or distribution proposal or any alternate proposals;

(b) a copy of the transcript of the hearing of record;

(c) a statement on the hearing of record and other evidence reflecting the extent to which such proposal(s) meets the desires of the affected tribe or group, including minority views;

(d) copies of all pertinent resolutions and other communications or documents received from the affected tribe or group, including minorities;

(e) a copy of the tribal constitution and bylaws, or other organizational document, if any; a copy of the tribal enrollment ordinance, if any; and a statement as to the availability or status of the membership roll of the affected tribe or group;

(f) a statement reflecting the nature and results of the investment of the judgment funds as of thirty (30) days of the submittal of the proposed plan, including a statement concerning attorney fees and litigation expenses;

(g) a statement justifying any compromise proposal developed by the Commissioner in the event of the absence of agreement among any and all entities on the division or apportionment of the funds, should two or more entities be involved;

(h) and a statement regarding the feasibility of the proposed plan, including a timetable prepared in cooperation with the tribal governing body, for the implementation of programing and roll preparation.

Within one hundred and eighty (180) days of the appropriation of the judgment funds the Secretary shall submit

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a proposed plan, together with the pertinent materials described above, simultaneously to each of the Chairmen of the Congressional Committees, at the same time sending copies of the proposed plan and materials to the governing body of the affected tribe or group. The one hundred and eighty (180) day period shall begin on the date of the Act with respect to all judgments for which funds have been appropriated and for which enabling legislation has not been enacted.

§ 60.6 Extension of period for submitting plans.

An extension of the one hundred and eighty (180) day period, not to exceed ninety (90) days, may be requested by the Secretary or by the governing body of any affected tribe or group submitting such request to both Congressional Committees through the Secretary, and any such request shall be subject to the approval of both Congressional Committees.

§ 60.7 Submittal of proposed legislation by Secretary.

(a) Within thirty (30) calendar days after the date of a resolution by either House disapproving a plan, the Secretary shall simultaneously submit proposed legislation authorizing the use or distribution of the funds, together with a report thereon, to the Chairmen of both Congressional Committees, at the same time sending copies of the proposed legislation to the governing body of the affected tribe or group. Such proposed legislation shall be developed on the basis of further consultation with the affected tribe or group.

(b) In any instance in which the Secretary determines that circumstances are not conducive to the preparation and submission of a plan, he shall, after appropriate consultation with the affected tribe or group, submit proposed legislation within the 180-day period to both Congressional Committee simultaneously.

§ 60.8 Enrollment aspects of plans.

An approved plan that includes provisions for enrollment requiring formal adoption of enrollment rules and regulations shall be implemented through the publication of such rules and regulations in the FEDERAL REGISTER. Persons not members of organized or recognized tribes and who are are not citizens of the United States shall not, unless otherwise provided by Congress, be eligible to participate in the use or distribution of judgment funds, excepting heirs or legatees of deceased individual beneficiaries.

§ 60.9 Programing aspects of plans.

In assessing any tribal programing proposal the Secretary shall consider all pertinent factors, including the following: the percentage of tribal members residing on or near the subject reservation, including former reservation areas in Oklahoma, or Alaska Native villages; the formal educational level and the general level of social and economic adjustment of such reservation residents; the nature of recent programing affecting the subject tribe or group and particularly the reservation residents; the needs and aspirations of any local Indian communities or districts within the reservation and the nature of organization of such local entities; the feasibility of the participation of tribal members not in residence on the reservation; the availability of funds for programing purposes derived from sources other than the subject judgment; and all other pertinent social and economic data developed to support any proposed program.

§ 60.10 Per capita payment aspects of plans and protection of funds accruing to minors and legal incompetents.

(a) Per capita payments shall be made in accordance with conditions to be prescribed in the plan. The shares of decreased individual beneficiaries, enhanced by investment earnings, shall be held in special accounts until paid to the decedents' heirs or beneficiaries as provided in the plan.

(b) Protection of the shares of minors and legal incompetents shall be part of approved plans containing per capita payment aspects. The Commisioner shall insure the protection of such shares, whether they be handled individually or collectively. As in the case of the per capita shares of deceased beneficiaries, investment income on the per capita shares of minors and incompetents shall accrue to those shares and shall be the property of such minors and incompetents. Per capita shares and investment income accruing on the per capita shares of deceased individual beneficiaries, minor and incompetents, as well as the principal thereof, shall not be subject to State and Federal income taxes and shall not be considered as income or resources under the Social Security Act, as amended.

(c) All per capita shares or portions thereof which are not paid but which remain unclaimed with the Federal Government shall be maintained separately and be enhanced by investment, and shall be subject to the provisions of the Act of September 22, 1961 (75 Stat. 584). No per capita share or a portion thereof shall be transferred to the U.S. Treasury as "Monies Belonging to Individuals Whose Whereabouts are Unknown."

§ 60.11 Investment of judgment funds.

As soon as possible after the appropriation of judgment funds and pending approval of a plan or the enactment of legislation authorizing the use or distribution of the funds, the Commissioner shall invest such funds pursuant to 25 U.S.C. 162a. Investments of judgment funds and of investment income therefrom will continue to be made by the Commissioner after the approval of a plan or enactment of use or distribution legislation to the extent funds remain available for investment under such plan or legislation, and provided that thereafter investments of judgment funds made available for tribal use are not undertaken by the tribe pursuant to authorizing law. Invested judgment funds, including investment income therefrom, shall be withdrawn from investment only as currently needed under approved plans or legislation authorizing the use or distribution of such funds.

§ 60.12 Insuring the proper performance of approved plans.

A timetable prepared in cooperation with the tribal governing body shall be included in the plan submitted by the Secretary for the implementation of all programing and enrollment aspects of a plan. At any time within one calendar year after the approval date of a plan, the Area Director shall report to the Commisisoner on the status of the implementation of the plan, including all enrollment and programing aspects, and thenceforth shall report to the Commissioner on an annual basis regarding any remaining or unfulfilled aspects of a plan. The Area Director shall include in his first and all subsequent annual reports a statement regarding the maintenance of the timetable, a full accounting of any per capita distribution, and the expenditure of all programing funds. The Commissioner shall report the deficient performance of any aspect of a plan to the Secretary, together with the corrective measures he has taken or intends to take.

Dated: January 11, 1974.

ROGERS C. B. MORTON,
Secretary of the Interior.

[FR Doc.74-1298 Filed 1-11-74;1:40 pm]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1954—PROCEDURES FOR THE EVALUATION AND MONITORING OF APPROVED STATE PLANS

Pursuant to the authority in sections 8(g)(2) and 18 of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 657(g)(2) and 667), (hereinafter referred to as the Act) 29 CFR Ch. XVII is amended by adding a new Part 1954.

The new Part 1954 contains interpretations of the statutory provisions of the Act and implementing regulations relating to evaluation of State plans approved under section 18(c) of the Act. Section 18(f) of the Act requires the Assistant Secretary to make a continuing evaluation of the manner in which each State having a plan approved under section 18(c) of the Act is carrying out such plan. This evaluation is to be made on the basis of reports submitted by the States and from the Assistant Secretary's own inspections.

Subpart B of the new Part describes the several reports required of States with approved plans. As part of the evaluation system, States will be required to submit quarterly and annual

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