jurisdiction that discloses the right of the tribe to assert sovereign immunity as a defense in an action brought against the tribe; or

(iii) Includes an express waiver of the right of the tribe to assert sovereign immunity as a defense in any action brought against the tribe, including a waiver that limits the nature of relief that may be provided or the jurisdiction of a court with respect to such an action.

(b) The Secretary will consult with the Indian tribe as soon as practicable before disapproving a contract or agreement regarding the elements of the contract or agreement that may lead to disapproval.

§ 84.007 What is the status of a contract or agreement that requires Secretarial approval under this part but has not yet been approved?

A contract or agreement that requires Secretarial approval under this part is not valid until the Secretary approves it.

§ 84.008 What is the effect of the Secretary's disapproval of a contract or agreement that requires Secretarial approval under this part?

If the Secretary disapproves a contract or agreement that requires Secretarial approval under this part, the contract or agreement is invalid as a matter of law.

Dated: July 9, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–18475 Filed 7–25–01; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 89

RIN 1076–AE18

Attorney Contracts With Indian Tribes

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final Rule.

SUMMARY: We are issuing a final rule removing the text of certain sections and thereafter reserving those sections of the regulations pertaining to approval by the Secretary of the Interior of tribal attorney contracts, except for those entered into by the Five Civilized Tribes (Cherokee, Choctaw, Chickasaw, Creek and Seminole) in Oklahoma. Congress repealed our statutory authority for such approvals of tribal attorney contracts as part of the Indian Tribal Economic Development and Contract Encouragement Act of 2000.

EFFECTIVE DATE: July 26, 2001.

FOR FURTHER INFORMATION CONTACT: Duncan L. Brown, Department of the Interior, Office of the Secretary, 1849 C Street, NW., MS 7412 MIB, Washington, DC 20240, telephone 202/208–4582.

SUPPLEMENTARY INFORMATION:

Background

In 1871, Congress enacted section 2103 of the Revised Statutes, codified at 25 U.S.C. 81 (Section 81). It placed several restrictions, including a requirement for approval by the Secretary of the Interior, on contracts between any person and any Indian tribe or individual Indians for

> the payment or delivery of any money or other thing of value, in present or in prospective, or for the granting or procuring any privilege to him, or any other person in consideration of services for said Indians relative to their lands, or to any claims growing out of, or in reference to, annuities, installments, or other moneys, claims, demands, or thing, under laws or treaties with the United States, or official acts of any officers thereof, or in any way connected with or due from the United States.

Section 81 reflected Congressional concern that Indian tribes and individual Indians were incapable of protecting themselves from fraud in their financial affairs. To that end, it also required that the Secretary approve any contracts for legal services between an Indian tribe and an attorney. Congress later confirmed the requirement for Secretarial approval of tribal attorney contracts with the passage of section 16 of the Indian Reorganization Act (IRA) of 1934, 25 U.S.C. 476 (Section 476 does not apply to the Five Civilized Tribes (Cherokee, Choctaw, Chickasaw, Creek, and Seminole) in Oklahoma. The Secretary has separate authority for approval of attorney contracts for the Five Civilized Tribes under section 1 of Pub. L. 82–440, 25 U.S.C. 82a.)

In March 2000, Congress enacted the Indian Tribal Economic Development and Contract Encouragement Act of 2000 (the Act), Pub. L. 106–179. The Act generally replaces Section 81 with a new provision that does not include the requirement to approve tribal attorney contracts. (We are publishing final regulations today at 25 CFR part 84 implementing the Act.) Subsection (f) of the Act repeals the portion of 25 U.S.C. 476 concerning approval of tribal attorney contracts. The Act does not address the separate requirement that attorney contracts by the Five Civilized Tribes must be approved by the Secretary.

Because the Act repealed much of our statutory authority for approval of tribal attorney contracts, we are today repealing the corresponding regulations in 25 CFR part 89. We are not repealing the regulations concerning approval of tribal attorney contracts for the Five Civilized Tribes, since Congress left our authority for those approvals in place. We will, however, issue a separate proposed rule, in consultation with the Five Civilized Tribes, to revise these regulations, especially 25 CFR 89.30, in light of the amendments to section 81. We are also not repealing our regulations in part 89 for the payment of tribal attorneys fees.

Consistent with the long-standing principle that the federal trust obligation may not be unilaterally terminated, the Act does not alter those tribal constitutions that require federal approvals for specific tribal actions, such as attorney contracts. Thus, the Secretary must still approve or disapprove attorney contracts if a tribal constitution so requires. The criteria, if any, for approval of such contracts will be those in the tribal constitution and any relevant Federal law. As is its policy, BIA will defer to the tribe's interpretation of its own law regarding such approvals.

Notice and Public Procedure on This Final Rule

As noted above, this final rule is effective on the publication of this notice. Under 5 U.S.C. 553(b)(3)(B), notice and public comment on this final rule are impracticable, unnecessary, and contrary to the public interest. In addition, we have good cause for making this rule effective immediately under 5 U.S.C. 553(d)(3). Notice and public procedure would be impracticable and unnecessary because this rule is merely repealing regulations for which we now have no statutory authority.

Waiting for notice and comment on this final rule would be contrary to the public interest. Some of the comments on the proposed part 84 regulations expressed confusion as to the status of the part 89 regulations that we are repealing today. By making this a final rule effective immediately, we end such confusion.

Procedural Requirements

A. Review Under Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the BIA must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This final rule is not a ''significant regulatory action'' from an economic or policy standpoint. This final rule is pursuant to a statutory mandate and is consistent with the Department's policy of encouraging tribal self-determination and economic development. The final rule reduces the number of contracts the Department has to review each year. Prior to the amendments enacted under Pub. L. 106–179, tribes had to submit certain contracts for approval by the Secretary of the Interior for which Secretarial approval has now (through enactment of Pub. L. 106–179) been deemed unnecessary. The final rule has no direct or indirect impact on any other agency, does not materially alter the budgetary impact of financial programs, or raise novel legal or policy issues.

B. Review Under Executive Order 12988

With respect to the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section (b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. The Department of the Interior has determined that, to the extent permitted by law, the final rule meets the relevant standards of Executive Order 12988.

C. Review Under the Regulatory Flexibility Act

A Regulatory Flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) is not required for this final rule because it applies only to tribal governments, not State and local governments.

D. Review Under the Small Business Regulatory Enforcement Act of 1996 (SBREFA)

This final rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This finals rule will not result in an annual effect on the economy of $100 million or more. This final rule will not result in a major increase in costs or prices. In fact, it is estimated that the Department will save time and resources through the final rule because the number of contracts submitted for Secretarial approval will be reduced. Therefore, no increases in costs for administration will be realized and no prices would be impacted through the streamlining of the contract approval process within the Department and the BIA. The effect of the final rule is to encourage and foster tribal contracting and, consequently, strengthen tribal self-determination and economic development. This final rule will not result in any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

E. Review Under the Paperwork Reduction Act

No information or recordkeeping requirements are imposed by this final rule. Accordingly, no OMB clearance is required under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

F. Review Under Executive Order 13132 Federalism

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

G. Review Under the National Environmental Policy Act of 1969

This final rule is categorically excluded from the preparation of an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq., because it is of an administrative, legal, and procedural nature. Further, no extraordinary circumstances exist to require preparation of an environmental assessment or environmental impact statement.

H. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the Act, the Department generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. This final rule will not result in the expenditure by the state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

I. Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of May 14, 1998, ''Consultation and Coordination with Indian Tribal Governments'' (63 FR 27655) and 512 DM 2, we have evaluated any potential effects upon Federally recognized Indian tribes and have determined that there are no potential adverse effects.

J. Review Under Executive Order 13211—Energy

In accordance with the President's Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355), we have determined that this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This is merely an administrative action (the removal of text of certain sections of regulations concerning attorney contracts) and does

not otherwise qualify as significant regulatory action under Executive Order 12866 or any successor order.

List of Subjects in 25 CFR Part 89

Indians—tribal government.

Under 25 U.S.C. 81 and as discussed in the preamble, amend Title 25, chapter I, of the Code of Federal Regulations as follows:

PART 89—ATTORNEY CONTRACTS WITH INDIAN TRIBES

1. The authority citation for part 89 is revised to read as follows:

Authority: 5 U.S.C. 301; secs. 89.30 to 89.35 also issued under 25 U.S.C. 2, 9, and 82a; secs. 89.40 to 89.43 also issued under 25 U.S.C. 13, 450 *et seq.*

2. Sections 89.1 through 89.26 of part 89 are removed and reserved.

Dated: July 9, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–18476 Filed 7–25–01; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 159

[CGD17–01–003]

RIN 2115–AG12

Discharge of Effluents in Certain Alaskan Waters by Cruise Vessel Operations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is implementing regulations regarding sewage and graywater discharges from certain cruise vessels transiting applicable waters of Alaska. Operators of cruise vessels carrying 500 or more passengers and transiting applicable waters of Alaska are restricted in where they may discharge effluents and will be required to perform testing of sewage and graywater discharges and maintain records of such discharges. The Coast Guard will inspect, monitor, and oversee this process to ensure compliance with applicable water quality laws and regulations.

DATES: This rule shall be effective on July 26, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD17–01–003 and are available for inspection or copying at room 751 of the Federal Building in Juneau, AK between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Spencer Wood, Seventeenth District (moc), 907–463–2809.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 25, 2001, we published a notice of proposed rulemaking (NPRM) entitled Discharge of Effluents in Certain Alaskan Waters by Cruise Vessel Operations in the **Federal Register** (66 FR 20770). We received 7 letters commenting on the proposed rule. No public hearing was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The regulations enacted by this final rule are the product of ''Title XIV—Certain Alaskan Cruise Ship Operations'' of the Miscellaneous Appropriations Bill (H.R. 5666) passed by Congress on December 21, 2000 in the Consolidated Appropriations Act of 2001 (Pub. L. 106–554) (''Title XIV''). Discussed at greater length below, Title XIV gives the Coast Guard new enforcement tools essential to curb current sewage and graywater effluent discharges from large cruise vessels in Alaskan waters. There is good cause to make this final rule effective upon publishing because the Coast Guard needs the regulations to enforce the standards set in Title XIV during the summer 2001 cruise season. The lack of a final rule has inhibited enforcement of the new legislation during this season. The Coast Guard has initiated law enforcement action against two vessels that arrived during the first week of the season for violating the Title XIV standards. These and other potential violators of the legislation and these regulations, in particular the self-reporting and record keeping requirements, are currently escaping complete enforcement action. The inability to wholly enforce Congress' mandate in Title XIV will continue until the rule is made effective. Further, the majority (6 of 7) of the public comments received stated that the Coast Guard should immediately begin enforcement of these proposed regulations.

Background and Purpose

Congress passed Title XIV in response to public concern with environmental impacts of cruise vessels on Alaska waters. This legislation was drafted in the wake of past incidents of illegal wastewater discharges, the discovery of high levels of fecal coliform in legal discharges of treated sewage and graywater, the projected growth of the industry, and the trend within the industry towards larger vessels that carry over 5000 people.

In December of 1999, a task force comprised of representatives from the federal government, State government, the cruise industry, and environmental groups was established to develop voluntary procedures for sampling and analyzing wastes generated by cruise vessels while operating in Alaska's waters during the 2000 cruise vessel season.

During the summer 2000 cruise season, the relevant segment of the cruise industry voluntarily agreed not to discharge treated sewage or graywater while in port, not to discharge garbage or untreated sewage in Southeast Alaska's ''Donut Holes'' (bodies of water greater than three miles from any shoreline yet within Alaska's inside passage), and not to discharge treated sewage or graywater, unless more than 10 miles from port and proceeding at a speed of not less than 6 knots.

Additionally, a voluntary sampling and testing protocol and Quality Assurance/Quality Control Plan (QA/QPC) for treated sewage and graywater were developed. The protocol and QA/QPC were applied to 21 cruise vessels calling on Alaska ports during the 2000 season.

The test results revealed that the majority of the vessels' discharges, both treated sewage and graywater, exceeded marine sanitation device (MSD) design standards for water quality of 200 fecal coliform per 100 milliliters and 150 milligrams per liter total suspended solids (TSS). The high levels of fecal coliform and TSS found in treated sewage indicate that the MSDs used by cruise vessels may not be operating properly or functioning as designed. The Coast Guard boarded 15 vessels as a result of high fecal coliform and TSS levels. Five vessels were found to have evidence of improperly functioning MSDs. The source of the high fecal coliform and TSS found in graywater has yet to be positively determined.

Concurrent with this voluntary sampling process, Congress was drafting legislation that addressed sewage and graywater discharges in Alaska's waters and sought to close the ''Donut Holes'' located in Southeast Alaska's Inside Passage to untreated sewage discharge. This legislation was enacted into law on December 21, 2000, as part of the Consolidated Appropriations Act of 2001 in the form of Title XIV.