

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 426

RIN 1006-AA43

Acreage Limitation Rules and Regulations—Changes to Addresses for Submitting Appeals

AGENCY: Bureau of Reclamation, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Reclamation (Reclamation) is revising its regulations governing acreage limitation appeals to reflect a change of address for submitting appeals to the Commissioner of Reclamation and a change of address for submitting appeals to the Office of Hearings and Appeals (OHA). The change of address for the Commissioner is being made to facilitate the processing of appeals, while the change of address for OHA is needed because that agency is moving to a new building in Arlington, Virginia, effective February 11, 2002.

DATES: This rule is effective on March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Richard Rizzi, Lead Water and Land Regulatory Specialist, Office of Policy, Bureau of Reclamation, P.O. Box 25007, Mail Code D-5200, Denver, Colorado 80225, telephone (303) 445-2900.

SUPPLEMENTARY INFORMATION:**I. Background**

In 43 CFR part 426, Reclamation has promulgated regulations implementing certain provisions of Federal reclamation law that address the ownership and leasing of land on Reclamation projects and the pricing of Reclamation irrigation water. Included in those regulations are procedures for appeals of regional directors' final determinations to the Commissioner of Reclamation and for appeals of Commissioner's decisions to the Department of the Interior's Office of Hearings and Appeals.

The Office of the Commissioner has staff located in both Washington, D.C., and Denver, Colorado. The Office of Policy staff in Denver reviews all appeals of final determinations made under the Acreage Limitation Rules and Regulations by regional directors and makes recommendations for action on each appeal. Since the staff at the Denver Office has those responsibilities, it is more efficient for appeals to be sent directly to Denver instead of coming to Washington and then being forwarded to Denver.

OHA consists of a headquarters office, located in Arlington, Virginia, and nine field offices located throughout the country. Since 1970, the headquarters office has been located at 4015 Wilson Boulevard, and that address is included in 43 CFR 426.24(g). Effective February 11, 2002, the OHA headquarters office is being relocated to 801 North Quincy Street, Arlington, Virginia. In anticipation of that move, we are revising the administrative appeals section of the Acreage Limitation Rules and Regulations to reflect OHA's new street address.

II. Procedural Requirements**A. Determination To Issue Final Rule Effective in Less Than 30 Days**

We have determined that the public notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b), do not apply to this rulemaking because the changes being made relate solely to matters of agency organization, procedure, and practice. They therefore satisfy the exemption from notice and comment for rulemaking in 5 U.S.C. 553(b)(A).

We have determined that there is good cause to waive the requirement of publication 30 days in advance of the rule's effective date under 5 U.S.C. 553(d)(3). The timing of OHA's relocation is dictated by the construction schedule for the building to which OHA is moving. The actual move date was confirmed only in the past few weeks. If the changes in this rule were to become effective 30 days after publication, it would cause delays in processing appeals. An immediate effective date means that appeals received after the rule is published will go directly to Denver to be processed more rapidly. Because an immediate effective date benefits the public and because this is an administrative change, there is a good cause for making this rule effective immediately, as allowed by 5 U.S.C. 553(d)(3). We will include the new OHA address in any Commissioner's decision made under 43 CFR 426.24 that we issue after February 10, 2002.

B. Review Under Procedural Statutes and Executive Orders

We have reviewed this final rule under the following statutes and executive orders governing rulemaking procedures: the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*; the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*; the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801 *et seq.*; the National Environmental Policy Act of 1969, 42

U.S.C. 4321 *et seq.*; the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*; Executive Order 12630 (Takings); Executive Order 12866 (Regulatory Planning and Review); Executive Order 12988 (Civil Justice Reform); Executive Order 13132 (Federalism); Executive Order 13175 (Tribal Consultation); and Executive Order 13211 (Energy Impacts). We have determined that these rule changes do not trigger any of the procedural requirements of those statutes and executive orders because this final rule merely changes the mailing address where appeals of acreage limitation final determinations and Commissioner decisions are to be sent.

List of Subjects in 43 CFR Part 426

Administrative practice and procedure, Irrigation, Reclamation, Reporting and recordkeeping requirements.

Dated: February 6, 2002.

R. Thomas Weimer,

Acting Assistant Secretary—Water and Science.

For the reasons stated in the preamble, Reclamation amends its regulations in 43 CFR part 426 as follows:

PART 426—ACREAGE LIMITATION RULES AND REGULATIONS

1. The authority citation for part 426 continues to read as follows:

Authority: 5 U.S.C. 301; 5 U.S.C. 553; 16 U.S.C. 590z-11; 31 U.S.C. 9701; and 32 Stat. 388 and all acts amendatory thereof or supplementary thereto including, but not limited to, 43 U.S.C. 390aa to 390zz-1, 43 U.S.C. 418, 43 U.S.C. 423 to 425b, 43 U.S.C. 431, 434, 440, 43 U.S.C. 451 to 451k, 43 U.S.C. 462, 43 U.S.C. 485 to 485k, 43 U.S.C. 491 to 505, 43 U.S.C. 511 to 513, and 43 U.S.C. 544.

2. In § 426.24, paragraphs (g)(1) and (g)(2) are revised to read as follows:

§ 426.24 Reclamation decisions and appeals.

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(g) * * *

(1) Commissioner, Bureau of Reclamation, Office of Policy, Attention: D-5200, P.O. Box 25007, Denver, Colorado 80225.

(2) Director, Office of Hearings and Appeals, Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203.

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