DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 11

RIN 1076–AE19

Law and Order on Indian Reservations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule and request for comments.

SUMMARY: The Bureau of Indian Affairs (BIA) is amending its regulations to add the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony (Western Region, Nevada) to the listing of Courts of Indian Offenses. This amendment will set up a Court of Indian Offenses with jurisdiction over the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony to protect lives and property.

DATES: *Effective Date:* This rule is effective on September 30, 2002.

Comment Date: Comments must be received on or before November 25, 2002.

ADDRESSES: Send comments on this rule to Ralph Gonzales, Office of Tribal Services, Bureau of Indian Affairs, 1849 C Street NW, MS 4660, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sharlot Johnson, Tribal Government Officer, Western Regional Office, Bureau of Indian Affairs, 400 N. Fifth Street, Phoenix, Arizona 85004, (602) 379–6786; or Ralph Gonzales, Branch of Judicial Services, Office of Tribal Services, Bureau of Indian Affairs, 1849 C Street NW., MS 4660 Washington, DC 20240, (202) 208–4401.

SUPPLEMENTARY INFORMATION: The authority to issue this rule is vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 2 and 9; and 25 U.S.C. 13, which authorizes appropriations for ''Indian judges.'' See *Tillett* v. *Hodel,* 730 F. Supp. 381 (W.D. Okla. 1990), *aff'd,* 931 F.2d 636 (10th Cir. 1991) *United States* v. *Clapox,* 13 Sawy. 349, 35 F. 575 (D. Ore. 1888). This rule is published in exercise of the rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs.

On September 18, 2001, the Bureau of Indian Affairs published a temporary final rule (66 FR 48085) amending its regulations contained in 25 CFR part 11 to add the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony (Western Region, Nevada) to the list of Courts of Indian Offenses. This amendment established a Court of Indian Offenses for a period not to exceed one year. The purpose of establishing a Court of Indian Offenses at the Fallon Reservation and Colony was to protect persons, land, lives and property of people residing there, until the tribe reassumed its Law and Order program. The tribe has not established a tribal court to exercise jurisdiction at Fallon Reservation and Colony consistent with 25 CFR 11.100(c). Therefore a Court of Indian Offenses is established for an indefinite period at Fallon Reservation and Colony until such time as the tribe establishes a tribal court. The jurisdiction of the Court of Indian Offenses will remain the same as published in the **Federal Register** on September 18, 2001 at 66 FR 48085.

BIA's action provided a 60-day public comment period ending November 19, 2001. During the comment period, BIA received 86 form letters. Commenters stated that they accept the BIA's emergency amendment establishing a CFR Court at Fallon. In addition, the commenters indicated that we should eliminate the tribal court. The tribal government created the tribal court as an exercise of its inherent sovereignty. Therefore, we cannot eliminate the tribal court in response to the comments. We can only establish a CFR Court when it is necessary to protect lives and property where a tribal court has not been established or a tribal court fails to perform this function. This amendment permanently establishes a CFR Court until such time as the tribal government establishes a tribal court consistent with the regulations contained in part 11.100(c).

Determination To Publish a Final Rule Effective Immediately

In accordance with the requirements of the Administrative Procedure Act (5 U.S.C. 553(B)), we have determined that publishing a proposed rule would be impractical because of the risk to public safety as well as further risk of exposure of the Federal Government to a lawsuit for failure to execute diligently its trust responsibility and to provide adequate judicial services for law enforcement on trust land. The Bureau of Indian Affairs Law Enforcement Services has reassumed the Law Enforcement Program from the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony, and a CFR Court is a necessary judicial forum within the reservation for the adjudication of criminal cases. For these reasons, an immediate effective date is in the public interest and in the interest of the tribe not to delay implementation of this amendment. We are therefore publishing this change as a final rule with request for comments.

BIA has determined it appropriate to make the rule effective immediately by waiving the U.S.C. 553(d) requirement of publication 30 days in advance of the effective date. This is because of the critical need to expedite establishment of this court to fill the void in law enforcement at the Fallon Reservation and Colony. Therefore, this final rule is effective immediately.

We invite comments on any aspect of this rule and we will revise the rule if comments warrant. Send comments on this rule to the address in the **ADDRESSES** section.

Regulatory Planning and Review (Executive Order 12866)

In accordance with the criteria in Executive Order 12866, this rule is not a significant regulatory action. OMB makes the final determination under Executive Order 12866.

(a) This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required. The establishment of this Court of Indian Offenses is estimated to cost less than $200,000 annually to operate. The cost associated with the operation of this court will be with the Bureau of Indian Affairs.

(b) This rule will not create inconsistencies with other agencies' actions. The Department of the Interior, through the Bureau of Indian Affairs, has the sole responsibility and authority to establish Courts of Indian Offenses on Indian reservations.

(c) This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. The establishment of this Court of Indian Offenses will not affect any program rights of the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony. Its primary function will be to administer justice for misdemeanor offenses within the tribe's reservation and colony. The court's jurisdiction will be exercised as provided in 25 CFR part 11.

(d) This rule will not raise novel legal or policy issues. The Solicitor analyzed and upheld the Department of the Interior's authority to establish Courts of Indian Offenses in a memorandum dated February 28, 1935. The Solicitor found that authority to rest principally in the statutes placing supervision of the Indians in the Secretary of the Interior, 25 U.S.C. 2 and 9, and 25 U.S.C. 13, which authorizes appropriations for ''Indian judges.'' The United States

Supreme Court recognized the authority of the Secretary to promulgate regulations with respect to Courts of Indian Offenses in *United States* v. *Clapox,* 35 F. 575 (D. Ore. 1888).

Regulatory Flexibility Act

The Department of the Interior, BIA, certifies that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). An initial Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. The amendment to 25 CFR 11.100(a) will establish a Court of Indian Offenses with limited criminal jurisdiction over Indians within a limited geographical area at Fallon, Nevada. Accordingly, there will be no impact on any small entities.

Small Business Regulatory Enforcement Fairness Act

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. The establishment of this Court of Indian Offenses is estimated to cost less than $200,000 annually to operate. The cost associated with the operation of this court will be with the Bureau of Indian Affairs.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This is a court established specifically for the administration of misdemeanor justice for Indians located within the boundaries of the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony and will not have any cost or price impact on any other entities in the geographical region.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises. This is a court established specifically for the administration of misdemeanor justice for Indians located within the boundaries of the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony, Fallon, Nevada, and will not have an adverse impact on competition, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.):

(a) This rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. The establishment of this Court of Indian Offenses will not have jurisdiction to affect any rights of the small governments. Its primary function will be to administer justice for misdemeanor offenses within the Fallon Indian Reservation and Colony. Its jurisdiction will be limited to criminal offenses provided in 25 CFR part 11.

(b) This rule will not produce a Federal mandate of $100 million or greater in any year; i.e., it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings Implication Assessment (Executive Order 12630)

In accordance with Executive Order 12630, this rule does not have significant takings implications. A takings implication assessment is not required. The amendment to 25 CFR 11.100(a) will establish a Court of Indian Offenses with limited criminal jurisdiction over Indians within a limited geographical area at Fallon, Nevada. Accordingly, there will be no jurisdictional basis for the CFR Court to affect adversely any property interest because the court's jurisdiction is limited to personal jurisdiction over Indians.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, this rule does not have significant Federalism effects. A Federalism assessment is not required. This rule concerns only courts established for tribes by the Federal Government at the tribe's request and does not infringe on states' judicial systems. If the tribe chooses, they can establish their own judicial system apart from any State or local government in accordance with 25 CFR 11.100(c).

Civil Justice Reform (Executive Order 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. The Solicitor analyzed and upheld the Department of the Interior's authority to establish Courts of Indian Offenses in a memorandum dated February 28, 1935. The Solicitor found that authority to rest principally in the statutes placing supervision of the Indians in the Secretary of the Interior, 25 U.S.C. 2 and 9; and 25 U.S.C. 13, which authorizes appropriations for ''Indian judges.'' The United States Supreme Court recognized the authority of the Secretary to promulgate regulations with respect to Courts of Indian Offenses in *United States* v. *Clapox,* 35 F. 575 (D. Ore. 1888). Part 11 also requires the establishment of an appeals court; hence, the judicial system defined in Executive Order 12988 does not involve this judicial process.

Paperwork Reduction Act

This regulation does not require an information collection under the Paperwork Reduction Act. The information collection is not covered by an existing OMB approval. An OMB form 83–I has not been prepared and has not been approved by the Office of Policy Analysis. No information is being collected as a result of this court exercising its limited criminal misdemeanor jurisdiction over Indians within the exterior boundaries of the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony.

National Environmental Policy Act

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act and 516 DM. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement/assessment is not required. The establishment of this Court of Indian Offenses conveys personal jurisdiction over the criminal misdemeanor actions of Indians within the exterior boundaries of the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony and does not have any impact on the environment.

Consultation and Coordination with Indian Tribal Governments (Executive Order 13175)

Pursuant to Executive Order 13175 of November 6, 2000, ''Consultation and Coordination with Indian Tribal Governments,'' we have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects. The amendment to 25 CFR 11.100(a) does not apply to any of the 562 federally recognized tribes, except the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony. The tribe agreed to the establishment of the provisional Court of Indian Offenses until the Secretary determines that enforcement of the criminal offenses contained in part 11 of the Code of Federal Regulations is no longer

justified. The Department of the Interior, in establishing this provisional court, is fulfilling its trust responsibility and complying with the unique government-to-government relationship that exists between the Federal Government and Indian tribes.

List of Subjects in 25 CFR Part 11

Courts, Indians—law, Law enforcement, Penalties.

For the reasons stated in the preamble, we are amending part 11, chapter I of title 25 of the Code of Federal Regulations, as set forth below.

PART 11—LAW AND ORDER ON INDIAN RESERVATIONS

1. The authority citation for part 11 continues to read as follows:

Authority: 5 U.S.C. 301; R.S. 463, 25 U.S.C. 2; R.S. 465, 25 U.S.C. 9; 42 Stat. 208, 25 U.S.C. 13; 38 Stat. 586, 25 U.S.C. 200.

2. Section 11.100 is amended by adding new paragraph (a)(15) to read as follows:

§ 11.100 Listing of Courts of Indian Offenses.

(a) * * *

(15) Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony (land in trust for the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony).

* * * * *

Dated: September 13, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–24241 Filed 9–23–02; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 6

Protection and Security of Vessels, Harbors, and Waterfront Facilities

CFR Correction

In Title 33 of the Code of Federal Regulations, parts 1 to 124, revised as of July 1, 2001, § 6.01–4 is corrected to read as follows:

§ 6.01–4 Waterfront facility.

Waterfront facility. ''Waterfront facility,'' as used in this part, means all piers, wharves, docks, or similar structures to which vessels may be secured and naval yards, stations, and installations, including ranges; areas of land, water, or land and water under and in immediate proximity to them; buildings on them or contiguous to them and equipment and materials on or in them.

[EO 13143, 64 FR 68273, Dec. 6, 1999]

[FR Doc. 02–55521 Filed 9–23–02; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 9

[FRL–7381–4]

OMB Approvals Under the Paperwork Reduction Act; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this technical amendment amends the table that lists the Office of Management and Budget (OMB) control numbers issued under the PRA for regulations for Motor Vehicle Emission and Fuel Economy Compliance.

EFFECTIVE DATE: This final rule is effective September 24, 2002.

FOR FURTHER INFORMATION CONTACT: Richard W. Nash, Certification and Compliance Division, 2565 Plymouth Road, Ann Arbor MI 48103, (734) 214–4412, *nash.dick@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA is amending the table of currently approved information collection request (ICR) control numbers issued by OMB for various regulations. The amendment updates the table to list those information collection requirements approved by OMB on July 18, 2002 under control number 2060–0104. The affected regulations are codified at 40 CFR parts 85, 86 and 600. EPA will continue to present OMB control numbers in a consolidated table format to be codified in 40 CFR part 9 of the Agency's regulations. The table lists CFR citations with reporting, recordkeeping, or other information collection requirements, and the current OMB control numbers. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR part 1320.

This ICR was previously subject to public notice and comment prior to OMB approval. Due to the technical nature of the table, EPA finds that further notice and comment is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), to amend this table without prior notice and comment.

I. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655, May 10, 1998), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of September 24, 2002. EPA will submit a report containing this