

153°00'00" W., to lat. 59°28'00" N. long.  
 154°13'00" W., to lat. 59°18'00" N. long.  
 154°04'00" W., to lat. 59°11'00" N. long.  
 155°17'00" W., to lat. 59°32'00" N. long.  
 155°31'00" W., to lat. 59°41'00" N. long.  
 156°35'00" W., to the point of beginning.

\* \* \* \* \*

Issued in Anchorage, AK, on July 5, 2006.

**Anthony M. Wylie,**

*Director, Flight Service Information Office  
 (AK).*

[FR Doc. E6-11188 Filed 7-14-06; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### 25 CFR Part 171

**RIN 1076-AD44**

#### Irrigation Operation and Maintenance

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of the Interior, Bureau of Indian Affairs (BIA), is proposing to revise the regulations governing irrigation projects under its jurisdiction. The purpose of the revisions is to provide consistent administration; establish the process for updating practices, policies, and procedures for the administration, operation, maintenance, and rehabilitation of irrigation projects; and provide uniform accounting and recordkeeping procedures.

These regulations have also been rewritten in plain English as mandated by Executive Order 12866. They also address several issues that prior regulations did not cover.

**DATES:** We must receive your written comments on this proposed rulemaking by November 14, 2006.

**ADDRESSES:** You may submit comments on this proposed rule, identified by the number 1076-AD44, by any of the following methods:

- Federal rulemaking portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Fax: (202) 219-0006.
- Mail: Arch Wells, Acting Deputy Director, Office of Trust Services, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW., Mail Stop 4655-MIB, Washington, DC 20240.
- Hand delivery: Office of Trust Services, Bureau of Indian Affairs, 1849 C Street, NW., Mail Stop 4655-MIB, Washington, DC 20240.

You may submit comments with respect to the information collection

burden of the proposed rule to the Office of Information and Regulatory Affairs, Office of Management and Budget, by telefacsimile at (202) 395-6566 or by e-mail at

*OIRA\_DOCKET@omb.eop.gov*. Please also send a copy of your comments to BIA at the location specified above.

Note that requests for comments on the rule and the information collection are separate.

**FOR FURTHER INFORMATION CONTACT:** John Anevski, Chief, Branch of Irrigation and Power, Division of Water and Land Resources, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW., Mail Stop 4655-MIB, Washington, DC 20240; Telephone (202) 208-5480.

**SUPPLEMENTARY INFORMATION:** We are publishing this revised rule under the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

#### Background

The revised regulations clarify prior regulatory language, in keeping with the "plain language" standard required by Executive Order 12866. In revising this regulation, many sections of the regulation were identified as redundant or unnecessary and are proposed to be deleted. New sections have been added to comply with the Inspector General's (IG) audit findings and to implement the provisions of the Debt Collection Improvement Act of 1996.

Several IG audits, the most recent in 1996 (96-I-641), identified a management deficiency concerning full cost rates for operation and maintenance. Also, the Debt Collection Improvement Act of 1996 established new procedures to manage monies owed the Federal Government. The revisions address both of these issues.

The proposed revisions to 25 CFR part 171 were previously published on July 5, 1996 (61 FR 35167). Due to the length of time that has passed and changes to the proposed regulations, the proposed revisions are being published again for public comment. This republication is to provide a fresh start on the rulemaking process for this revision.

Consultation meetings with the tribes that may be impacted by these regulations were held on August 24 and 26, 2004, and May 10 and 12, 2005. Additional consultation meetings with tribes may be scheduled during the comment period. These consultation meetings are in accordance with Executive Order 13175 and are for tribes and tribal members only. The general public and non-tribal members must submit their comments in accordance

with this document. Tribes and tribal members may also submit comments in accordance with this document.

#### Procedural Requirements

##### *Regulatory Planning and Review (Executive Order 12866)*

This document is not a significant rule and the Office of Management and Budget has not reviewed this rule under Executive Order 12866.

(1) This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This is an existing regulation that is being revised to implement the Inspector General's audit findings and the Debt Collection Improvement Act of 1996.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The irrigation projects impacted by these revisions are solely owned by the BIA and no other agency provides supplemental services or is impacted by the operation.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. The user fees or assessments that the BIA establishes at each irrigation project to recover its costs will eventually be impacted as the BIA reviews its rates and strives to implement full cost rates.

(4) This rule does not raise novel legal or policy issues. No new authorities or policies are being established.

##### *Regulatory Flexibility Act*

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An initial Regulatory Flexibility Analysis is not required because Indian tribes are not considered to be small entities for purposes of this act.

##### *Small Business Regulatory Enforcement Fairness Act (SBREFA)*

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 total revenue stream for the operation and maintenance of BIA irrigation projects is approximately \$25 million annually. This is below the \$100 million threshold.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. These revisions establish a procedure for identifying full cost rates for BIA irrigation projects. This is not expected to cause major increases in the near future. However, there is a potential that this could result in appreciable rate increases in the long-term.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. BIA irrigation projects are generally small and have minimal impacts on the economy. The projects are not in competition with other entities since they are located on reservations that are under the strict purview of the Department of the Interior, Bureau of Indian Affairs.

*Unfunded Mandates Reform Act*

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. The

BIA irrigation projects are located on reservations that are under the strict purview of the Department of the Interior, Bureau of Indian Affairs. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

*Takings (Executive Order 12630)*

In accordance with Executive Order 12630, the rule does not have significant takings implications. The rule revisions do not deprive the public, state, or local governments of rights or property. A takings implication assessment is not required.

*Federalism (Executive Order 13132)*

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment because they will not interfere with the roles, rights, and responsibilities of states.

*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.

*Paperwork Reduction Act of 1995*

These rule revisions affect the collection of information, which was previously approved by the Office of Information and Regulatory Affairs, Office of Management and Budget, under the Paperwork Reduction Act of 1995. The additions to the information collection reflect new requirements since the last renewal. A revised information collection package is being submitted to OMB for approval.

The Bureau of Indian Affairs operates 15 irrigation projects that provide irrigation services to the end user. The information we collect enables us to properly bill for the services we provide by collecting information that identifies the individual responsible for paying the costs of the services. Some of the information is needed to satisfy the requirements of the Debt Collection Improvement Act of 1996. Our previous cleared collection of information did not reflect other services, which are now available to the user. The table addresses the services available, the number of users, the burden for each as well as the yearly total and the sections in the rule that apply to the collection items.

Service	CFR section 171	Hourly burden to respondent per request	Number of respondent requests annually	Total annual burden hours	Salary per hour (\$20) × all respondent requests = annual cost burden
Requesting irrigation service .....	200/600	0.5	26,156	13,078	\$261,560
Subdividing a farm unit .....	225	4	1	4	80
Requesting leaching service .....	305	1	40	40	800
Requesting water for domestic or stock purposes .....	*310	.3	474	142	2,840
Building non-government structures in BIA rights-of-ways .....	405	3	67	201	4,020
Installing a fence on BIA property or rights-of-ways .....	410	1.5	52	78	1,560
What information must be provided for billing purposes ...	530	0.2	500	100	2,000
Requesting Payment Plans on bills .....	550	2	126	252	5,040
Establishing a carriage agreement (carrying third party water through our facilities) .....	605	1	3	3	60
Negotiating an irrigation incentive lease with the BIA .....	*610/615	6	21	126	2,520
Requesting annual assessment waiver .....	*710/715	1	135	135	2,700
Annual Totals .....	.....	.....	27,575	14,159	283,180

\*New requests for information collection are marked by an asterisk.

We estimate that we service 6,539 users who submit information about 27,575 times a year. We estimate that the total annual hourly burden is 14,159 at an estimated cost of \$283,180. The users mainly request water to be turned on or turned off. Users are not required to maintain records but may do so for business purposes. The information they submit is for the purpose of obtaining or retaining a benefit, namely

irrigation water. While we do require personal information for the purpose of adhering to the controlling laws and regulations, we protect the information under the Privacy Act.

We invite comments on the information collection requirements in the proposed regulation. You may submit comments by telefacsimile at (202) 395-6566 or by e-mail at [OIRA\\_DOCKET@omb.eop.gov](mailto:OIRA_DOCKET@omb.eop.gov). Please also send a copy of your comments to

BIA at the location specified under the heading **ADDRESSES**. Note that requests for comments on the rule and the information collection are separate.

You can receive a copy of BIA's submission to OMB by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section, or by requesting the information from the BIA Information Collection Clearance Officer, 625 Herndon Parkway, Herndon, VA 20171.

Comments should address:

(1) Whether the proposed collection of information is necessary for the proper performance of the Program, including the practical utility of the information to BIA;

(2) The accuracy of BIA's burden estimates;

(3) Ways to enhance the quality, utility, and clarity of the information collected; and

(4) Ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Organizations and individuals who submit comments on the information collection requirements should be aware that BIA keeps such comments available for public inspection during regular business hours. If you wish to have your name and address withheld from public inspection, you must state this prominently at the beginning of any comments you make. BIA will honor your request to the extent allowable by law. However, this exemption does not apply to organizations or their representatives. We may also withhold this information for other reasons.

#### *National Environmental Policy Act*

This rule does not constitute a major Federal action significantly affecting the quality of the human environment and no detailed statement is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370(d)).

#### *Consultation and Coordination With Indian Tribal Governments (Executive Order 13175)*

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM 2, we have identified potential effects on Indian trust resources and they are addressed in this rule. Consultation meetings have been held with the affected tribes and additional consultation is expected to take place during the public comment period. Accordingly:

a. We have consulted with the affected tribes.

b. We have consulted with tribes on a government-to-government basis and the consultations have been open and candid so that the affected tribes could fully evaluate the potential impact of the rule on trust resources.

c. We will consider tribal views in the final rule.

d. We have not consulted with the appropriate bureaus and offices of the Department about the potential effects

of this rule on Indian tribes. Other Department bureaus and offices are not affected by this rule.

The BIA irrigation projects are vital components of the local agricultural economy of the reservations on which they are located. To fulfill its responsibilities to the tribes, tribal organizations, water user organizations, and the individual water users, the BIA communicates, coordinates, and consults on a continuing basis with these entities on issues of water delivery, water availability, costs of administration, operation, maintenance, and rehabilitation. This is accomplished at the individual irrigation projects by Project, Agency, and Regional representatives, as appropriate, in accordance with local protocol and procedures. The BIA Central Office held four consultation meetings for tribes and tribal members. Consultation meetings were held on August 24, 2004 and May 12, 2005 in Phoenix, Arizona, and on August 26, 2004 and May 10, 2005 in Billings, Montana. This notice is one component of the BIA's overall coordination and consultation process to provide notice and request comments from these entities.

#### *Effects on the Nation's Energy Supply (Executive Order 13211)*

In accordance with Executive Order 13211, this regulation does not have a significant effect on the nation's energy supply, distribution, or use. The revision to 25 CFR 171 will have no adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increase use of foreign supplies) should the proposed revisions be implemented. This rule impacts irrigation projects that have little or no energy supply issues.

#### *Clarity of This Regulation*

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "\$" and a numbered

heading; for example, § 171.105 Does this part apply to me?)

(5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule?

(6) What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail the comments to this address:

*Exsec@ios.doi.gov.*

#### *Public Comment Solicitation*

Our policy is to give the public an opportunity to participate in the rulemaking process by submitting written comments to us regarding proposed rules. We will consider all comments received during the public comment period. We will determine necessary revisions and issue the final rule. Please refer to the **ADDRESSES** section of this document for submission of your written comments regarding this proposed rule.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record. We will honor the request to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

#### **List of Subject in 25 CFR Part 171**

Indians—lands, Irrigation.

Dated: March 15, 2006.

**Michael D. Olsen,**

*Acting Principal Deputy Assistant Secretary—Indian Affairs.*

**Editors Note:** This document was received at the Office of the Federal Register on July 12, 2006.

For the reasons set out in the preamble, the Bureau of Indian Affairs proposes to revise part 171 of Title 25

of the Code of Federal Regulations as follows:

## PART 171—IRRIGATION OPERATION AND MAINTENANCE

### Subpart A—General Provisions

Sec.

- 171.100 What are some of the terms I should know for this part?  
 171.105 Does this part apply to me?  
 171.110 How does BIA administer its irrigation facilities?  
 171.115 Can I and other irrigators establish representative organizations?  
 171.120 What are the authorities and responsibilities of a representative organization?  
 171.125 Can I appeal BIA decisions?  
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 171.135 Where do I submit written information, requests, or appeals?  
 171.140 Information Collection.

### Subpart B—Irrigation Service

- 171.200 How do I request irrigation service from the BIA?  
 171.205 How much water will I receive?  
 171.210 Where will BIA provide my irrigation service?  
 171.215 What if the elevation of my farm unit is too high to receive irrigation water?  
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 171.230 What are my responsibilities for wastewater?

### Subpart C—Water Use

- 171.300 Does BIA restrict my water use?  
 171.305 Will BIA provide leaching service to me?  
 171.310 Can I use water delivered by BIA for domestic or livestock purposes?

### Subpart D—Irrigation Facilities

- 171.400 Who is responsible for structures on a BIA irrigation project?  
 171.405 Can I build my own structure or take over responsibility of a BIA structure?  
 171.410 Can I install a fence on a BIA irrigation project?  
 171.415 Can I place an obstruction on a BIA irrigation project?  
 171.420 Can I dispose of sewage, trash or other refuse on a BIA irrigation project?

### Subpart E—Financial Matters: Assessments, Billing, and Collections

- 171.500 How does BIA determine the annual operation and maintenance assessment rate for the irrigation facility servicing my farm unit?  
 171.505 How does BIA calculate my annual operation and maintenance assessment?  
 171.510 How does BIA calculate my annual operation and maintenance assessment if supplemental water is available on the irrigation facility servicing my farm unit?  
 171.515 Who will BIA bill?  
 171.520 How will I receive my bill and when do I pay it?

- 171.525 How do I pay my bill?  
 171.530 What information must I provide BIA for billing purposes?  
 171.535 Why is BIA collecting this information from me?  
 171.540 What can happen if I do not provide this information?  
 171.545 What can happen if I don't pay my bill on time?  
 171.550 May I arrange a Payment Plan if I cannot pay the full amount due on my bill?  
 171.555 What additional costs will I incur if I am granted a Payment Plan?  
 171.560 What if I fail to make payments as specified in my Payment Plan?  
 171.565 How will I know if BIA plans to adjust my annual operation and maintenance assessment rate?  
 171.570 What is the **Federal Register** and where can I get it?  
 171.575 Can BIA change my annual operation and maintenance assessment without notifying me first?

### Subpart F—Records, Agreements, and Other Matters

- 171.600 What information is collected and retained on the irrigation service I receive?  
 171.605 Can I establish a Carriage Agreement with the BIA?  
 171.610 May I arrange an Incentive Agreement if I want to farm idle lands?  
 171.615 Can I request improvements to BIA facilities as part of my Incentive Agreement?

### Subpart G—Non-Assessment Status

- 171.700 When do I not have to pay my annual operation and maintenance assessment?  
 171.705 What criteria must be met for my land to be granted an Annual Assessment Waiver?  
 171.710 Can I receive irrigation water if I am granted an Annual Assessment Waiver?  
 171.715 How do I obtain an Annual Assessment Waiver?  
 171.720 For what period does an Annual Assessment Waiver apply?

**Authority:** 25 U.S.C. 2; 25 U.S.C. 9; 25 U.S.C. 13; 25 U.S.C. 381; Act of April 4, 1910, 36 Stat. 270, as amended (codified at 25 U.S.C. 385); 25 U.S.C. 386a; Act of June 22, 1936, 49 Stat. 1803 (codified at 25 U.S.C. 389 *et seq.*).

### Subpart A—General Provisions

#### § 171.100 What are some of the terms I should know for this part?

*Annual Assessment Waiver* means a mechanism for us to waive your annual operation and maintenance assessment under certain specified circumstances.

*Annual operation and maintenance assessment* means the charges you must pay us for our costs of administration, operation, maintenance, and rehabilitation of the irrigation facility servicing your farm unit.

*Annual operation and maintenance assessment rate* means the per acre

charge we establish for the irrigation facility servicing your farm unit.

*Assessable acres* (see *Total assessable acres*).

*Authorized use* means your use of water delivered by us that supports irrigated agriculture, livestock, Carriage Agreements or other uses defined by laws, regulations, treaty, compact, judicial decree, the river regulatory plan, or other authority.

*BIA* means the Bureau of Indian Affairs within the United States Department of the Interior.

*Bill* means our statement to you of the assessment charges and/or fees you owe the United States for administration, operation, maintenance, rehabilitation, and/or construction of the irrigation facility servicing your farm unit.

*Carriage Agreement* means a legally binding contract we enter into:

- (1) to convey third party water through our irrigation facilities; or
- (2) to convey our water through third party facilities.

*Construction assessment* means the periodic charge we assess you to repay us the funds we used to construct our irrigation facilities serving your farm unit that are determined to be reimbursable under applicable statutes.

*Customer* means any person or entity to whom we provide irrigation service.

*Ditch*, see *Farm ditch* or *Service ditch*.

*Due date* means the date printed on your bill, 30 days after which your bill becomes past due.

*Facility*, see *Irrigation facility*.

*Farm ditch* means a ditch or canal, which you own, operate, maintain, and rehabilitate.

*Farm unit* means the smallest parcel of land for which we will establish a delivery point. The size of farm units at our irrigation facilities is defined in the authorizing legislation for each irrigation facility, or in the absence of such legislation, we will define the farm unit size.

*I, me, my, you, and your* means all interested parties, especially persons or entities to which we provide irrigation service and receive use of our irrigation facilities, such as irrigators, landowners, lessees, irrigator organizations, irrigation districts, or other entities affected by this part and our supporting policies, manuals, and handbooks.

*Idle lands* means lands that are not currently farmed because they have characteristics that limit crop production.

*Incentive Agreement* means a written agreement between you and us that allows us to waive your annual operation and maintenance assessment, for up to 3 years, when you agree to improve idle lands and we determine

that it is in the best interest of our irrigation facility.

*Irrigation bill*, see *Bill*.

*Irrigation district*, see *Representative organization*.

*Irrigation facility* means all structures and appurtenant works for the delivery, diversion, and storage of irrigation water. These facilities may be referred to as projects, systems, or irrigation areas.

*Irrigation service* means the full range of services we provide customers, including, but not limited to, administration, operation, maintenance, and rehabilitation of our irrigation facilities.

*Irrigation water* or *water* means water we deliver through our facilities for the general purpose of irrigation and other authorized purposes.

*Irrigator*, see *Customer*.

*Landowner* means a person or entity that owns fee, tribal trust, and/or individual allotted trust lands.

*Leaching Service* means our delivery of water to you at your request for the purpose of transporting salts below the root zone of a farm unit.

*Lessee* means any person or entity that holds a lease approved by us on lands that we provide irrigation service to.

*Must* means an imperative or mandatory act or requirement.

*My land* and *your land* mean all or part of your farm unit.

*Obstruction* means anything permanent or temporary that blocks, hinders, impedes, stops or cuts off our facilities or our ability to perform the services we determine necessary to provide service to our customers.

*Organization*, see *Representative organization*.

*Past due bill* means a bill that has not been paid within 30 days of the due date stated on your bill. Beginning on the 31st day after the due date we will begin assessing additional charges.

*Permanently non-assessable acres (PNA)* means lands that the Secretary of the Interior has determined to be permanently non-irrigable pursuant to the standards set out in 25 U.S.C. 389b.

*Representative organization* or *organization* means a legally established organization representing your interests that confers with us on how we provide irrigation service at a particular irrigation facility.

*Service(s)*, see *Irrigation service*.

*Service Area* means lands designated by us to be served by one of our irrigation facilities.

*Service ditch* means a ditch or canal which we own, administer, operate, maintain, and rehabilitate that we use to provide irrigation service to your farm unit.

*Soil salinity* means soils containing high salt content that limit crop production.

*Structures* (see *Irrigation facilities*).

*Subdivision* means a farm unit that has been subdivided into smaller parcels.

*Supplemental water* means water available for delivery by our irrigation facilities beyond the quantity necessary to provide all project customers requesting water with the per-acre water duty established for that project.

*Taxpayer identifying number* means either your Social Security Number or your Employer Identification Number.

*Temporarily non-assessable acres (TNA)* means lands that the Secretary of the Interior has determined to be temporarily non-irrigable pursuant to the standards set out in 25 U.S.C. 389a.

*Total assessable acres* means the total acres of land served by one of our irrigation facilities to which we assess operation and maintenance charges. The *Total assessable acres* within the service area of an irrigation facility do not include those acres of land that are designated PNA or TNA, nor those acres of land granted an Annual Assessment Waiver.

*Trust or restricted land* or *land in trust or restricted status*, refer to 25 CFR 151.2, "definitions."

*Urgency* means a situation we have determined that may adversely impact our irrigation facilities, operation, or other irrigation activities and/or affect public safety or damage property and/or equipment.

*Wastewater* means irrigation water returned to our irrigation facilities.

*Water*, see *Irrigation water*.

*Water delivery* is an activity that is part of the irrigation service we provide to our customers when water is available.

*Water duty* means the amount of water, in acre-feet per acre, necessary for full-service irrigation. This value is established by decree, compact, or other legal document, or by specialized engineering studies.

*Water user*, see *Customer*.

*We*, *us*, and *our* means the United States Government, the Secretary of the Interior, the BIA, and all who are authorized to represent us in matters covered under this part.

#### § 171.105 Does this part apply to me?

This part applies to you if you own or lease land within an irrigation project where we assess fees and collect monies to administer, operate, maintain, and rehabilitate project facilities.

#### § 171.110 How does BIA administer its irrigation facilities?

(a) We administer our irrigation facilities by enforcing the applicable statutes, regulations, Executive Orders, directives, Indian Affairs Manual, the Irrigation Handbook, and other written policies, procedures, directives, and practices to ensure the safe, reliable, and efficient administration, operation, maintenance, and rehabilitation of our facilities. Such enforcement can include refusal or termination of irrigation services to you.

(b) We will cooperate and consult with you, when appropriate and time allows, on irrigation activities and policies of the particular irrigation facility serving you.

#### § 171.115 Can I and other irrigators establish representative organizations?

Yes. You and other irrigators may establish a representative organization under applicable law, to represent your interests for the particular irrigation facilities serving you.

#### § 171.120 What are the authorities and responsibilities of a representative organization?

(a) A legally established organization representing you may make rules, policies, and procedures it may find necessary to administer the activities it is authorized to perform.

(b) An organization must not make rules, policies, or procedures that conflict with our regulations, or any of our other written policies, procedures, directives and manuals.

(c) If this organization collects operation and maintenance assessments and construction assessments on your behalf to be paid to us, it must pay us all your past and current operation and maintenance and construction assessment charges before we will provide irrigation service to you.

#### § 171.125 Can I appeal BIA decisions?

(a) You may appeal our decisions in accordance with procedures set out in 25 CFR 2, unless otherwise prohibited by law.

(b) Until your appeal is resolved, you must conform to our requirements before we will provide irrigation service to you.

#### § 171.130 Who can I contact if I have any questions about these regulations or my irrigation service?

Contact the local irrigation project where you receive service or want to apply for service. If your questions are not addressed to your satisfaction at the local project level, you may contact the appropriate BIA Regional Office.

**§ 171.135 Where do I submit written information, requests, or appeals?**

You must submit any required or requested written information, requests, or appeals to the irrigation project servicing your farm unit.

**§ 171.140 Information Collection.**

The information collection requirements contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. *et seq.* and assigned clearance number 1076-xxxx. This information collection is specifically found in §§ 171.200, 171.225, 171.305, 171.310, 171.405, 171.410, 171.530, 171.550, 171.600, 171.605, 171.610, 171.615, 171.710, and 171.715. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**Subpart B—Irrigation Service****§ 171.200 How do I request irrigation service from the BIA?**

(a) You must request service from the irrigation facility servicing your farm unit.

(b) Your request must contain at least the following information:

- (1) Your full legal name;
- (2) Where you want service;
- (3) The time and date you want service to start;
- (4) How long you want service;
- (5) The rate of water flow you want, if available;
- (6) How many acres you want to irrigate; and

(7) Any additional information required by the project office responsible for providing your irrigation service.

(c) You must request supplemental water in accordance with the project guidelines established by the specific project providing your irrigation service.

**§ 171.205 How much water will I receive?**

The amount of water you receive will be based on your request, your legal entitlement to water and the available water supply.

**§ 171.210 Where will BIA provide my irrigation service?**

(a) We will provide service to your farm unit at a single delivery point which we designate.

(b) At our discretion, we may establish additional delivery points when:

- (1) We determine it is impractical to deliver water to your farm unit from a single delivery point;

(2) You agree in writing to be responsible for all costs to establish an additional delivery point;

(3) You pay us our costs prior to our establishing an additional delivery point; and

(4) Any work accomplished under this section does not disrupt our service to other customers without their written agreement.

(c) We may establish your delivery point(s) at a well head.

**§ 171.215 What if the elevation of my farm unit is too high to receive irrigation water?**

(a) We will not change our service ditch level to provide service to you.

(b) You may install, operate, and maintain your own facilities, at your cost, to provide service to your land:

- (1) From a delivery point we designate; and
- (2) In accordance with specifications we approve.

**§ 171.220 What must I do to my farm unit to receive irrigation service?**

You must meet the following requirements for us to provide service:

(a) Put water we deliver to authorized uses;

(b) Make sure your farm ditch has sufficient capacity to carry the water we deliver; and

(c) Properly operate, maintain, and rehabilitate your farm ditch.

**§ 171.225 What must I do to receive irrigation service to my subdivided farm unit?**

In order to receive irrigation service, you must:

(a) Provide us a copy of the recorded plat or map of the subdivision which shows us how the irrigation water will be delivered to the irrigable acres;

(b) Pay for any extensions or alterations to our facilities that we approve to serve the subdivided units;

(c) Construct, at your cost, any facilities within your subdivided farm unit; and

(d) Operate and maintain, at your cost, any facilities within your subdivided farm unit.

**§ 171.230 What are my responsibilities for wastewater?**

(a) You must convey your wastewater back to our facilities for drainage, at your cost.

(b) You must return wastewater to our facilities only at locations we designate and in a manner we approve.

(c) You may share wastewater facilities with other customers, but you remain responsible for conveying your wastewater to our facilities.

(d) You must not allow your wastewater to flow or collect on our

facilities or roads, except at locations we designate and in a manner we approve.

(e) If you fail to comply with this section, we may withhold services to you.

**Subpart C—Water Use****§ 171.300 Does BIA restrict my water use?**

(a) You must not interfere with or alter our service to you without our prior written authorization; and

(b) You must only use water we deliver for authorized uses. We may withhold services if you use water for any other purpose.

**§ 171.305 Will BIA provide leaching service to me?**

(a) We may provide you leaching service if:

(1) You submit a written plan that documents how soil salinity limits your crop production and how leaching service will correct the problem;

(2) We approve your plan in writing; and

(3) Your irrigation bills are not past due.

(b) Leaching service will only be available during the timeframe established by your irrigation facility.

(c) We reserve the right to terminate this service if we determine you are not complying with paragraph (a) of this section.

**§ 171.310 Can I use water delivered by BIA for domestic or livestock purposes?**

Yes. If we determine it will not:

(a) Interfere with the operation, maintenance, or rehabilitation of our facilities;

(b) Be detrimental to or jeopardize our facilities;

(c) Adversely affect the water supply; or

(d) Cause additional costs to us that we do not agree to in writing.

**Subpart D—Irrigation Facilities****§ 171.400 Who is responsible for structures on a BIA irrigation project?**

(a) We may build, operate, maintain, rehabilitate and/or remove structures, including bridges and other crossings on our irrigation projects.

(b) We may build other structures for your private use during the construction or extension of an irrigation project. We may charge you for structures built for your private use under this section, and we may require you to maintain them.

(c) If we require you to maintain a structure and you do not do so to our satisfaction, we may remove it, or perform the necessary maintenance, and we will bill you for our costs.

**§ 171.405 Can I build my own structure or take over responsibility of a BIA structure?**

You may build a structure on our irrigation facility for your private use or take responsibility of one of our structures, under a written agreement between you and us, which:

- (a) Relieves us from any future liability or responsibility for the structure;
- (b) Relieves us from any future costs incurred for maintaining the structure;
- (c) Describes what is granted by us and accepted by you; and
- (d) Provides that if you do not regularly use a structure for a period of time that we have determined, or you do not properly maintain and rehabilitate the structure, we will notify you in writing that:

- (1) You must either remove it or correct any unsafe condition;
- (2) If you do not comply with our notice, we may remove the structure and you must reimburse us our costs; and
- (3) We may modify, close or remove your structure without notice due to an urgency we have identified.

**§ 171.410 Can I install a fence on a BIA irrigation project?**

Yes. Fences are considered structures and may be installed in compliance with § 171.405.

**§ 171.415 Can I place an obstruction on a BIA irrigation project?**

No. You may not place obstructions on BIA irrigation projects.

- (a) If you do so, we will notify you in writing that you must remove it.
- (b) If you do not remove your obstruction in compliance with our notice, we will remove it and we will bill you for our costs.
- (c) We can remove your obstruction without notice due to an urgency we have identified.

**§ 171.420 Can I dispose of sewage, trash or other refuse on a BIA irrigation project?**

No. Sewage, trash, or other refuse are considered obstructions and must be removed in accordance with § 171.415.

**Subpart E—Financial Matters: Assessments, Billing, and Collections****§ 171.500 How does BIA determine the annual operation and maintenance assessment rate for the irrigation facility servicing my farm unit?**

(a) We calculate the annual operation and maintenance assessment rate by estimating the following annual costs and then dividing by the total assessable acres for your irrigation facility:

- (1) Personnel salary and benefits for the facility engineer/manager and

employees under their management control;

- (2) Materials and supplies;
- (3) Vehicle and equipment repairs;
- (4) Equipment costs, including lease fees;
- (5) Depreciation;
- (6) Acquisition costs;
- (7) Maintenance of a reserve fund available for contingencies or emergency costs for, and insuring, reliable operation of the irrigation facility infrastructure;
- (8) Maintenance of a vehicle and heavy equipment replacement fund;
- (9) Systematic rehabilitation and replacement of project facilities;
- (10) Contingencies for unknown costs and omitted budget items; and
- (11) Other costs we determine necessary to properly perform the activities and functions characteristic of an irrigation facility.

(b) Annual operation and maintenance assessment rates may be lowered through the exercise of our discretion when items listed in (a) of this section are adjusted pursuant to our authority under 25 U.S.C. 385, 386a and 389.

(c) If you subdivide your farm unit, you may be subject to a higher annual operation and maintenance assessment rate, which we publish annually in the **Federal Register**.

(d) At projects where supplemental water is available, the calculation of your annual operation and maintenance assessment rate may take into consideration the total estimated annual amount to be collected for supplemental water deliveries.

**§ 171.505 How does BIA calculate my annual operation and maintenance assessment?**

(a) We calculate your annual operation and maintenance assessment by multiplying the total assessable acres of your land within the service area of our irrigation facility by the annual operation and maintenance assessment rate we establish for that facility.

(b) We will not assess lands that have been re-classified as either permanently non-assessable (PNA) or temporarily non-assessable (TNA) or lands that have been granted an Annual Assessment Waiver.

(c) If your lands are under an approved Incentive Agreement, we may waive your assessment as described in the Incentive Agreement (See § 171.610).

(d) Some irrigation facilities may charge a minimum operation and maintenance assessment. If the irrigation facility serving your farm unit charges a minimum operation and

maintenance assessment that is more than your assessment calculated by the method described in subpart (a) of this section, you will be charged the minimum operation and maintenance assessment. We provide public notice of any minimum operation and maintenance assessments annually in the **Federal Register** (See § 171.565).

**§ 171.510 How does BIA calculate my annual operation and maintenance assessment if supplemental water is available on the irrigation facility servicing my farm unit?**

(a) For projects where supplemental water is available, and you request and receive supplemental water, your assessment will include two components: A base rate, which is for your per-acre water duty delivered to your farm unit; and a supplemental water rate, which is for water delivered to your farm unit in addition to your per acre water duty.

(b) We publish base and supplemental water rates annually in the **Federal Register**. The base and supplemental water rates are established to recover the costs identified in § 171.500(a) of this subpart.

(c) If your project has established a supplemental water rate, and you request and receive supplemental water, we will calculate your total annual operation and maintenance assessment by multiplying the total assessable acres of your land within the service area of our irrigation facility by the annual operation and maintenance assessment rate we establish for that facility plus, the actual quantity of supplemental water you request and we deliver (in acre-feet) times the supplemental water rate established for that facility.

**§ 171.515 Who will BIA bill?**

(a) We will bill the landowner, unless:

- (1) The land is leased under a lease approved by us, in which case we will bill the lessee, or
- (2) The landowner(s) is represented by a representative organization that collects annual operation and maintenance assessments on behalf of its members and the representative organization makes a direct payment to us on your behalf.

(b) If you own or lease assessable lands within a BIA irrigation facility, you will be billed for annual operation and maintenance assessments, whether you request water or not, unless specified in § 171.505(b).

**§ 171.520 How will I receive my bill and when do I pay it?**

(a) You will receive your bill in the mail at the address of record you provide us.

(b) You should pay your bill no later than the due date stated on your bill.

(c) You will not receive a bill for supplemental water. You must pay us in advance at the supplemental water rate established for you project published annually in the **Federal Register**.

**§ 171.525 How do I pay my bill?**

(a) You can pay your bill by:

(1) Personally going to the local office of the irrigation facility authorized to receive your payment during normal business hours;

(2) Depositing your payment in an authorized drop box, if available, at the local office of the irrigation facility; or

(3) Mailing your payment to the address indicated on your bill.

(b) Your payment must be in the form of:

(1) Check or money order in the mail or authorized drop box; or

(2) Cash, check or money order if you pay in person.

**§ 171.530 What information must I provide BIA for billing purposes?**

We must obtain certain information from you to ensure we can properly bill, collect, deposit and account for money you owe the United States. At a minimum, this information is:

(a) Your full legal name;

(b) Your correct mailing address; and

(c) Your taxpayer identifying number.

**§ 171.535 Why is BIA collecting this information from me?**

(a) As part of doing business with you, we must collect enough information from you to properly bill and service your account.

(b) We are required to collect your taxpayer identifying number under the authority of, and as prescribed in, the Debt Collection Improvement Act of 1996, Public Law 104–134 (110 Stat. 1321–364).

**§ 171.540 What can happen if I do not provide this information?**

We will not provide you irrigation service.

**§ 171.545 What can happen if I don't pay my bill on time?**

(a) We will not provide you irrigation service until:

(1) Your bill is paid; or

(2) You make arrangement for payment, pursuant to § 171.550 of this part.

(b) If you do not pay your bill prior to the close of business on the 30th day after the due date, we consider your bill past due, send you a notice, and assess you the following:

(1) Interest, as required by 31 U.S.C. 3717. Interest will accrue from the original due date stated on your bill.

(2) An administrative fee, as required by 31 CFR 901.9.

(c) If you do not pay your bill prior to the close of business of the 90th day after the due date, we will assess you a penalty, as required by 31 CFR 901.9(d). Penalties will accrue from the original due date stated on your bill.

(d) We will forward your past due bill to the United States Treasury no later than 180 days after the original due date, as required by 31 CFR 901.1, "Aggressive agency collection activity."

**§ 171.550 May I arrange a Payment Plan if I cannot pay the full amount due on my bill?**

We may approve a Payment Plan if:

(a) You are a landowner and your land is not leased;

(b) You certify that you are financially unable to make a lump sum payment;

(c) You provide additional information we request, which may include information identified in 31 CFR 901.8, "Collection in installments"; and

(d) You sign our Payment Plan containing terms and conditions we specify.

**§ 171.555 What additional costs will I incur if I am granted a Payment Plan?**

You will incur the following costs:

(a) An administrative fee to process your Payment Plan, as required by 31 CFR 901.9.

(b) Interest, accrued on your unpaid balance, in accordance with § 171.545.

**§ 171.560 What if I fail to make payments as specified in my Payment Plan?**

(a) We will discontinue irrigation service until your bill is paid in full;

(b) You will be subject to the provisions in § 171.555; and

(c) You will be ineligible for Payment Plans for the next 6 years.

**§ 171.565 How will I know if BIA plans to adjust my annual operation and maintenance assessment rate?**

(a) We provide public notice of our proposed rates annually in the **Federal Register**.

(b) You may contact the irrigation facility servicing your farm unit.

**§ 171.570 What is the Federal Register and where can I get it?**

(a) The **Federal Register** is the official daily publication for Rules, Proposed Rules, and Notices of official actions by Federal agencies and organizations, as well as Executive Orders and other Presidential Documents and is produced by the United States Government Printing Office (GPO).

(b) You can get publications of the **Federal Register**:

(1) By going on the World Wide Web at <http://www.gpo.gov>;

(2) By writing to the GPO, Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250–7954; or

(3) By calling them at (202) 512–1530.

**§ 171.575 Can BIA change my annual operation and maintenance assessment without notifying me first?**

Yes. If we determine in writing we have a significant uncontrolled cost change that requires an immediate adjustment we will change your annual operation and maintenance assessment without notifying you first. However, we will make every reasonable effort to comply with § 171.565 as soon as practicable.

**Subpart F—Records, Agreements, and Other Matters**

**§ 171.600 What information is collected and retained on the irrigation service I receive?**

We will collect and retain at least the following information as part of our record of the irrigation service we have provided you:

(a) Your name;

(b) Delivery point(s) where service was provided;

(c) Beginning date and time of your irrigation service;

(d) Ending date and time of your irrigation service; and

(e) Amount of water we delivered to your farm unit.

**§ 171.605 Can I establish a Carriage Agreement with the BIA?**

(a) We may agree in writing to carry third party water through our facilities to your lands not served by our facilities if we have determined that our facilities have adequate capacity to do so.

(b) If we determine that carrying water in accordance with paragraph (a) of this section is jeopardizing our ability to provide irrigation service to the lands we are required to serve, we will terminate the Agreement.

(c) We may enter into an agreement with a third party to provide service through their facilities to your isolated assessable lands.

(d) You must pay us all administrative, operating, maintenance, and rehabilitation costs associated with any agreement established under this section before we will convey water.

(e) We will notify you in writing no less than 5 days before terminating a Carriage Agreement established under this section.

(f) We may terminate a Carriage Agreement without notice due to an urgency we have identified.



**§ 171.610 May I arrange an Incentive Agreement if I want to farm idle lands?**

We may approve an Incentive Agreement if:

(a) You request one in writing at least 90 days prior to the beginning of the irrigation season that includes a detailed plan to improve the idle lands, which contains at least the following:

(1) A description of specific improvements you will make, such as clearing, leveling, or other activities;

(2) The estimated cost of the improvements you will make;

(3) The time schedule for your proposed improvements;

(4) Your proposed schedule for water delivery, if necessary; and

(5) Justification for use of irrigation water during the improvement period.

(b) You sign our Incentive Agreement containing terms and conditions we specify.

**§ 171.615 Can I request improvements to BIA facilities as part of my Incentive Agreement?**

Yes. You may request and we may agree to make improvements as part of your Incentive Agreement that we determine are in the best interest of the irrigation facility servicing your farm unit.

**Subpart G—Non-Assessment Status****§ 171.700 When do I not have to pay my annual operation and maintenance assessment?**

You do not have to pay your annual operation and maintenance assessment for your land(s) within the service area of your irrigation facility when:

(a) We grant you an Annual Assessment Waiver; or

(b) Your land is re-designated as permanently non-assessable or temporarily non-assessable.

**§ 171.705 What criteria must be met for my land to be granted an Annual Assessment Waiver?**

For your land to be granted an Annual Assessment Waiver, we must determine that our irrigation facilities are not capable of delivering adequate irrigation water to your farm unit. Inadequate water supply due to natural conditions or climate is not justification for us to grant an Annual Assessment Waiver.

**§ 171.710 Can I receive irrigation water if I am granted an Annual Assessment Waiver?**

No. Water will not be delivered in any quantity to your farm unit if you have been granted an Annual Assessment Waiver.

**§ 171.715 How do I obtain an Annual Assessment Waiver?**

For your land to be granted an Annual Assessment Waiver, you must:

(a) Send us a request in writing to have your land granted an Annual Assessment Waiver.

(b) Submit your request prior to the bill due date for the year for which you are requesting the Annual Assessment Waiver; and

(c) Receive our approval in writing.

**§ 171.720 For what period does an Annual Assessment Waiver apply?**

Annual Assessment Waivers are only valid for the year in which they are granted. To obtain an Annual Assessment Waiver for a subsequent year, you must reapply.

[FR Doc. E6-11293 Filed 7-14-06; 8:45 am]

BILLING CODE 4310-W7-P

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[REG-146459-05]

RIN 1545-BF04

**Designated Roth Accounts Under Section 402A; Hearing**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Change of location for public hearing.

**SUMMARY:** This document provides a change of location for a public hearing on proposed regulations under sections 402(g), 402A, 403(b), and 408A of the Internal Revenue Code relating to designated Roth accounts.

**DATES:** The public hearing is being held on Wednesday, July 26, 2006, at 10 a.m.

**ADDRESSES:** The public hearing was originally being held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The hearing location has changed. The public hearing will be held in the IRS Auditorium (New Carrollton location), 5000 Ellin Road, Lanham MD 20706.

**FOR FURTHER INFORMATION CONTACT:** Guy R. Traynor, (202) 874-9752 or Richard Hurst at [Richard.A.Hurst@irscounsel.treas.gov](mailto:Richard.A.Hurst@irscounsel.treas.gov).

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is a notice of proposed rulemaking (REG-146459-05) that was published in the **Federal Register** on Thursday, January 26, 2006 (71 FR 4320).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who submitted written comments by April 26, 2006, and outlines by July 5, 2006, may present oral comments at the hearing.

A period of 10 minutes is allotted to each person for presenting oral comments. The IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing.

**Guy R. Traynor,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. 06-6260 Filed 7-12-06; 2:37 pm]

BILLING CODE 4830-01-P

**DEPARTMENT OF THE TREASURY****Alcohol and Tobacco Tax and Trade Bureau****27 CFR Part 9**

[Notice No. 60]

RIN 1513-AB22

**Proposed Establishment of the Snake River Valley Viticultural Area (2005R-463P)**

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau proposes to establish the 8,263-square mile "Snake River Valley" viticultural area in southwestern Idaho and southeastern Oregon. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. We invite comments on this proposed addition to our regulations.

**DATES:** We must receive written comments on or before September 15, 2006.

**ADDRESSES:** You may send comments to any of the following addresses:

- Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, Attn: Notice No. 60, P.O. Box 14412, Washington, DC 20044-4412.

- 202-927-8525 (facsimile).

- [nprm@ttb.gov](mailto:nprm@ttb.gov) (e-mail).

- <http://www.ttb.gov/alcohol/rules/index.htm>. An online comment form is posted with this notice on our Web site.

- <http://www.regulations.gov> (Federal e-rulemaking portal; follow instructions for submitting comments).