

### Institutional Controls

The Omaha Lead Registry, (available at [www.omahalead.org](http://www.omahalead.org)) is a GIS based database that provides the public with on-line access to the status of the EPA investigation and response actions. EPA notifies residents and property owners about the information that is available through the lead hazard registry as part of the transmittal sent at the completion of soil remediation at each individual property.

### Community Involvement

EPA worked extensively with the Omaha community through a variety of communication vehicles including, but not limited to: Local speaking engagements, participation in citizens' groups and city council meetings, local public access television, public service announcements on local cable television, coverage on radio, television, in local and national newspapers, mass mailings of informational materials, public outreach by telephone, conducting public meetings, and through the EPA Web site.

EPA has been performing outreach to Omaha citizens, elected officials, school officials, health officials, the media, nonprofit groups, and others since becoming involved in the project in an effort to convey information about the hazards of lead poisoning, particularly the ways that lead affects the health of children. The EPA participated in numerous formal and informal meetings to explain EPA's role and commitment in Omaha, convey information about the Superfund process, and provide general information about the site and lead contamination. EPA responds to inquiries on a daily basis regarding the site and individual property owner's sampling results.

In January 2004, a Community Advisory Group (CAG) was formed for the OLS site. A CAG is a committee, task force, or board made up of residents affected by a Superfund site. They provided a public forum where representatives with diverse community interests could present and discuss their needs and concerns related to the site and the cleanup process. The CAG was discontinued after the last meeting was held in October 2011. A new group, Child Lead Poisoning Prevention Group, formed. The first meeting of the Child Lead Poisoning Group was held at City Hall in May 2012. The Group is no longer active.

### Five-Year Review

EPA completed the first Five-Year Review for the site in September 2014. Five-Year Reviews for the site are

statutory. The triggering action for the Five-Year Review is the completion of the Final Record of Decision for Operable Unit 2, completed in May 2009.

The protectiveness of the remedy was deferred in the Five-Year Review because the remedy has not been completed at all of the properties within the site boundary. However, clean up activities at the 294 residential parcels included in this partial deletion action are complete and protective of human health.

The next Five-Year Review will be completed in 2019.

### Summary of EPA Work Completed

#### Soil Testing and Remediation

EPA Region 7 completed the EPA lead portion of the remedial action on December 29, 2015. The City of Omaha and the Douglas County Health Department will be performing the remaining field work. As of December 29, 2015, EPA collected soil samples from 42,047 properties. There are 489 remaining properties to be sampled. The EPA has obtained access to collect samples from 163 of the 489 properties.

Based on the soil sampling results, 14,019 properties were eligible for soil remediation. The EPA remediated lead contaminated soil at 13,090 properties (93 percent) of the properties that were eligible for remediation. There are approximately 929 remaining properties that are eligible for soil remediation. The EPA obtained access to remediate fifty-one of the remaining properties.

#### Lead-Based Paint Testing and Stabilization

The EPA tested 12,057 properties for the presence of lead-based paint (LBP) and determined 6,782 properties qualified for LBP stabilization. The EPA has completed LBP stabilization on 6,249, (92 percent) of the eligible properties.

#### Dust Sampling

The EPA collected dust samples from 3,933 properties consisting of 4,477 residences for lead contaminated dust. These numbers reflect the fact that some of the properties are multi-residence properties.

#### Continuing Remedial Action

EPA completed Cooperative Agreements with the City of Omaha and the Douglas County Health Department that provide funds to allow these local government agencies to continue efforts to obtain access to the remaining properties and conduct sampling and remediation activities at those properties where they obtain access.

### Determination That the Criteria for Deletion Has Been Achieved

In accordance with 40 CFR 300.425(e), Region 7 of the EPA finds that the 294 residential parcels of the Omaha Lead Superfund site (the subject of this deletion) meet the substantive criteria for deletion from the NPL. EPA has consulted with and has the concurrence of the State of Nebraska.

All responsible parties or other persons have implemented all appropriate response actions required. All appropriate Fund-financed response under CERCLA was implemented, and no further response action by responsible parties is appropriate.

### List of Subjects in 40 CFR Part 300

Environmental protection, air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

Dated: September 12, 2016.

**Mark Hague,**

*Regional Administrator, Region 7.*

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## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

#### 43 CFR Part 100

[167A2100DD/AAKC001030/  
AOA501010.999900]

RIN 1093-AA20

#### Appraisals and Valuations of Indian Property

**AGENCY:** Office of the Secretary, Interior.  
**ACTION:** Proposed rule.

**SUMMARY:** Congress recently passed the Indian Trust Asset Reform Act (ITARA), which requires the Secretary of the Interior to establish and publish in the **Federal Register** minimum qualifications for individuals to prepare appraisals and valuations of Indian trust property. This proposed rule would establish the minimum qualifications and would also implement provisions of ITARA that require the Secretary to accept appraisals and valuations without additional review or approval under certain circumstances.

**DATES:** Please submit written comments by November 21, 2016.

**ADDRESSES:** You may submit comments on the proposed rule by any of the following methods:

- Federal rulemaking portal:* <http://www.regulations.gov>. The proposed rule is listed under the agency name “Office of the Secretary” and has been assigned Docket ID: DOI–2016–0005. If you would like to submit comments through the Federal e-Rulemaking Portal, go to [www.regulations.gov](http://www.regulations.gov) and follow the instructions.
- Email:* [Elizabeth.appel@bia.gov](mailto:Elizabeth.appel@bia.gov). Include the number “1093-AA20” in the subject line of the message.
- Mail or hand-delivery:* Ms. Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action, U.S. Department of the Interior, 1849 C Street NW., MS 3642, Washington, DC 20240. Include the number “1093-AA20” on the envelope. Please note, email or [www.regulations.gov](http://www.regulations.gov) are the preferred methods for submitting comments; there is no need to submit a hard copy if you have submitted the comments through either of these electronic methods.

Comments on the Paperwork Reduction Act information collections contained in this rule are separate from comments on the substance of the rule. Submit comments on the information collection requirements in this rule to the Desk Officer for the Department of the Interior by email at [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or by facsimile at (202) 395–5806. Please also send a copy of your comments to [comments@bia.gov](mailto:comments@bia.gov).

We cannot ensure that comments received after the close of the comment period (see **DATES**) will be included in the docket for this rulemaking and considered. Comments sent to an address other than those listed above will not be included in the docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Ms. Elizabeth Appel, Office of Regulatory Affairs and Collaborative Action—Indian Affairs at [elizabeth.appel@bia.gov](mailto:elizabeth.appel@bia.gov) or (202) 273–4680.

**SUPPLEMENTARY INFORMATION:**

- I. Background
- II. Summary of Proposed Rule
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- H. Consultation With Indian Tribes (E.O. 13175)
- I. Paperwork Reduction Act
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- K. Effects on the Energy Supply (E.O. 13211)
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- M. Public Availability of Comments

**I. Background**

On June 22, 2016, President Obama signed into law the Indian Trust Asset Reform Act, Public Law 114–178. Title III of this Act. In relevance to this rulemaking, the Act requires Interior to establish minimum qualifications for individuals to prepare appraisals and valuations of Indian trust property and allow an appraisal or valuation by a qualified person to be considered final without being reviewed or approved by Interior.

This proposed rule would establish the minimum qualifications for individuals to prepare appraisals and valuations of Indian trust property and allow an appraisal or valuation by a qualified person to be considered final without being reviewed or approved by Interior.

The Act also requires appraisals and valuations of Indian trust property to be administered by a single administrative entity within Interior. This rule is proposed under the Office of the Secretary for Department of the Interior, but may be finalized by another entity or agency within Interior depending on what single entity ultimately administers appraisals and valuations of Indian trust property.

**II. Summary of Proposed Rule**

This rule would establish a new Code of Federal Regulations (CFR) part to establish the minimum qualifications for appraisers, employed by or under contract with an Indian tribe or individual Indian, to become qualified appraisers who may prepare an appraisal or valuation of Indian property that will, in certain circumstances, be accepted by the Department without further review or approval. We note that, because the Department is not reviewing and approving the appraisal or valuation, it is not liable for any deficiency or inaccuracy in the appraisal or valuation.

Subpart A, General Provisions, would define terms used in the regulation, describe the purpose of the regulation, and provide the standard Paperwork Reduction Act compliance statement. The terms are defined to include, in the context of this regulation, any property that the U.S. Government holds in trust or restricted status for an Indian tribe or individual Indian, to include not just land, but also natural resources or other

assets. Other important terms include “appraisal,” “valuation,” and “qualified appraiser.” Consistent with the statutory direction, the purpose of the regulations is written broadly, to include appraisals or valuations of any Indian trust property, including:

- Appraisals and valuations of real property;
- Appraisals and valuations of timber, minerals, or other property to the extent they contribute to the value of the whole property (for use in appraisals and valuations of real property); and
- Appraisals and valuations of timber, minerals, or other property separate from appraisals and valuations of real property.

Subpart B, Appraiser Qualifications, would establish the minimum qualifications an appraiser must meet to be considered a “qualified appraiser” and would establish that the Secretary must verify that the appraiser meets those minimum qualifications. The Department seeks comment as to whether these minimum qualifications are appropriate for both real property appraisals and valuations and for appraisals and valuations of timber, minerals, or other property separate from appraisals and valuations of real property.

This subpart would require that the verification information be submitted contemporaneously with the appraisal or valuation so that the Secretary can verify that the appraiser is a qualified appraiser at that point in time. The Department seeks ideas for allowing for verification in a way that would not require submission with each appraisal, but would ensure there were no changes in the appraiser’s qualifications (e.g., the appraiser no longer holds a current Certified General Appraiser license) at the time the appraisal is submitted.

Subpart C, Appraisals and Valuations, would require the submission of appraisals and valuations to the Department for transactions requiring Secretarial approval under titles 25 and 43 of the Code of Federal Regulations (e.g., 25 CFR 162, Leases and Permits; 25 CFR 169, Rights-of-Way on Indian Land). This subpart also sets out the circumstances in which the Department will forego review and approval of the appraisal or valuation. The proposed rule would require submission of the appraisal or valuation to the Department regardless of whether the Department will be reviewing and approving the appraisal or valuation. This requirement is included because the Department must use the results of the appraisal or valuation in completing the transaction requiring Secretarial approval.

The proposed rule would require the Department to forego review and

approval of the appraisal or valuation and consider the appraisal or valuation final if three conditions are met: (1) The appraisal or valuation was completed by a qualified appraiser; (2) the Indian tribe or individual Indian expressed their intent to waive Departmental review and approval; and (3) no owner of any interest in the Indian property objects to the use of the appraisal or valuation without Departmental review and approval. The first condition is clearly required by ITARA. The second condition is implied by ITARA. The number of individual Indian owners of fractionated tracts that must express their intent to waive Departmental review and approval, under the second condition, would depend upon the underlying title 43 or title 25 requirements. For example, if the underlying transaction is a right-of-way, then the owners of a majority of the interests in the tract must express their intent to waive Departmental review and approval, consistent with the general consent requirements in 25 CFR part 169. The third condition, that no Indian property owner objects, is necessary to address situations where one or more owners of the tract still want Departmental review and approval of the appraisal or valuation, consistent with our trust responsibility to all owners of the Indian trust property.

This subpart proposes to exempt certain transactions, thereby requiring Departmental review of the appraisal or valuation. The exempted transactions include any legislation expressly requiring the Department to review and approve an appraisal or valuation, such as the Land Buy Back Program under Claims Resolution Act of 2010 (Pub. L. 111–291), and purchase at probate under 43 CFR part 30, because the judge will not be in a position to verify an appraiser's qualifications.

### III. Tribal Consultation

The Department is hosting listening sessions and consultation sessions with Indian tribes and trust beneficiaries on each of the items in Title III of ITARA (see "I. Background" for the list of items) at the dates and locations announced in 81 FR 47176 (July 20, 2016), as corrected by 81 FR 51210 (August 3, 2016). The Department will also consult on this proposed rule at those listening sessions and consultation sessions.

### IV. Specific Questions on Which the Department Seeks Comment

The Department seeks comment on any aspect of this rule that commenters wish to comment on, but also specifically poses the following

questions for your consideration in commenting:

1. Do any tribes grant Certified General Appraiser licenses similar to those granted by States? If so, are the prerequisite requirements of individuals receiving this license consistent with the requirements established by the Appraisal Qualifications Board for State certification?

2. Are the minimum qualifications in this regulation appropriate for appraisals and valuations of timber, minerals, or other property separate from appraisals and valuations of real property? If not, what qualifications would be better suited to those appraisals and valuations?

3. Is there a way to allow for the Department to verify an appraiser's qualifications, without requiring the qualifications to be submitted with each appraisal, that would ensure the appraiser is qualified at the time the appraisal is submitted (and that there have been no changes in the appraiser's qualifications)?

### V. Procedural Requirements

#### A. Regulatory Planning and Review (E.O. 12866)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

#### B. 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.*). It does not change current funding requirements and any

economic effects on small entities (*e.g.*, the cost to obtain an appraiser license) would be incurred as part of their normal cost of doing business.

#### C. Small Business Regulatory Enforcement Fairness Act

This proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This proposed rule:

(a) Will not have an annual effect on the economy of \$100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises.

#### D. Unfunded Mandates Reform Act

This proposed 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 proposed rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

#### E. Takings (E.O. 12630)

This proposed rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. A takings implication assessment is not required.

#### F. Federalism (E.O. 13132)

Under the criteria in section 1 of Executive Order 13132, this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

#### G. Civil Justice Reform (E.O. 12988)

This proposed rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

### H. Consultation With Indian Tribes (E.O. 13175)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this proposed rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have identified substantial direct effects on federally recognized Indian tribes that will result from this rulemaking. Tribes may be substantially and directly affected by this rulemaking because it allows for the submission of appraisals for transactions involving Indian property without Departmental review and approval. As such, the Department is consulting with tribes on this proposed rule as part of the consultation sessions addressing ITARA.

#### I. Paperwork Reduction Act

This proposed rule contains an information collection that requires approval by OMB. The Department is seeking approval of a new information collection and a revision to an existing regulation, as follows.

*OMB Control Number:* 1076—NEW.

*Title:* Appraisals & Valuations of Indian Property, 43 CFR 100.

*Brief Description of Collection:* The Department is proposing to establish minimum qualifications for appraisers of Indian property that require the submission of the appraiser's qualifications to the Department for verification. Submission of the appraisal or valuation itself is already authorized by other OMB Control Numbers under the associated 43 CFR or 25 CFR part (for example, the submission of appraisals for leasing of Indian land is included in the lease information collection authorized by OMB Control Number 1076-0181).

*Type of Review:* New collection.

*Respondents:* Individuals and Private Sector.

*Obligation to Respond:* To Obtain or Retain a Benefit

*Number of Respondents:* 155.

*Number of Responses:* 465.

*Frequency of Response:* 3 per year, on average.

*Estimated Time per Response:* One hour.

*Estimated Total Annual Hour Burden:* 465 hours.

*Estimated Total Annual Non-Hour Cost Burden:* \$0.

A Federal agency may not conduct or sponsor, and you are not required to

respond to, a collection of information unless the form or regulation requesting the information displays a currently valid OMB Control Number.

#### J. National Environmental Policy Act

This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because this is an administrative and procedural regulation. (For further information see 43 CFR 46.210(i)). We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

#### K. Effects on the Energy Supply (E.O. 13211)

This proposed rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

#### L. Clarity of This Regulation

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- a. Be logically organized;
- b. Use the active voice to address readers directly;
- c. Use clear language rather than jargon;
- d. Be divided into short sections and sentences; and
- e. Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you believe lists or tables would be useful, etc.

#### M. Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we

cannot guarantee that we will be able to do so.

#### List of Subjects in 43 CFR Part 100

Indians, Indians—claims, Indians—lands, Mineral resources.

■ For the reasons given in the preamble, the Department of the Interior proposes to amend 43 CFR subtitle A, to add part 100 to read as follows:

#### Title 43—Public Lands; Interior

##### Subtitle A—Office of the Secretary of the Interior

##### Department of the Interior

#### PART 100—APPRAISALS AND VALUATIONS OF INDIAN PROPERTY

##### Subpart A—General Provisions

Sec.

- 100.100 What terms should I know for this part?
- 100.101 What is the purpose of this part?
- 100.102 Does this part apply to me?
- 100.103 How does the Paperwork Reduction Act affect this part?

##### Subpart B—Appraiser Qualifications

- 100.200 What are the minimum qualifications for qualified appraisers?
- 100.201 Does a qualified appraiser have authority to conduct appraisals or valuations of any type of Indian property?
- 100.202 Will the Secretary verify the appraiser's qualifications?
- 100.203 What must the tribe or individual Indian submit to the Secretary for verification of the appraiser's qualifications?
- 100.204 When must the tribe or individual Indian submit a package for Secretarial verification of appraiser qualifications?

##### Subpart C—Appraisals and Valuations

- 100.300 Must I submit an appraisal or valuation to the Department?
- 100.301 Will the Department review and approve by appraisal or valuation?
- 100.302 May I request Departmental review of an appraisal even if a qualified appraiser completed the appraisal or valuation?
- 100.303 What happens if the Indian tribe or individual Indian does not agree with the submitted appraisal or valuation?

**Authority:** 5 U.S.C. 301; Pub. L. 114–178.

##### Subpart A—General Provisions

#### § 100.100 What terms I should know for this part?

*Appraisal* means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

*Appraiser* means one who is expected to perform an appraisal or valuation competently and in a manner that is independent, impartial, and objective.

*Indian* means:

(1) Any person who is a member of any Indian tribe, is eligible to become a member of any Indian tribe, or is an owner as of October 27, 2004, of a trust or restricted interest in land;

(2) Any person meeting the definition of Indian under the Indian Reorganization Act (25 U.S.C. 479) and the regulations promulgated thereunder; or

(3) With respect to the inheritance and ownership of trust or restricted land in the State of California under 25 U.S.C. 2206, any person described in paragraph (1) or (2) of this definition or any person who owns a trust or restricted interest in a parcel of such land in that State.

*Indian property* means trust property or restricted property.

*Indian tribe* means an Indian tribe under section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a).

*Land Buy-Back Program for Tribal Nations* means the program implementing the land consolidation provisions of the settlement agreement in *Cobell v. Salazar*, No. 1:96CV01285–JR (D.D.C.), as confirmed by Congress in the Claims Resolution Act of 2010 (Pub. L. 111–291).

*Qualified appraiser* means an appraiser that is authorized to prepare an appraisal or valuation of Indian property because he or she meets the minimum qualifications of this part.

*Qualifications statement* means a written overview of an appraiser's education, professional history and job qualifications, providing an indication of an appraiser's competency to perform specific types of assignments. The qualifications may include information regarding education (degrees and educational institutions or programs); professional affiliations, designations, certifications, and licenses; work experience (including companies or organizations, the dates of employment, job titles and duties, and any service as an expert witness); awards and publications; types of properties appraised; types of appraisal and valuation assignments; and clients.

*Restricted property* means lands, natural resources, or other assets owned by Indian tribes or individual Indians that can only be alienated or encumbered with the approval of the United States because of limitations contained in the conveyance instrument, or limitations in Federal law.

*Secretary* means the Secretary of the Interior or an authorized representative.

*Trust property* means lands, natural resources, or other assets held by the United States in trust for Indian tribes or individual Indians.

*Us/we/our* means the single bureau, agency, or entity within the Department of the Interior that administers appraisals and valuations of Indian property.

*Valuation* means all other valuation methods or a market analysis, such as a general description of market trends, values, or benchmarks, prepared by a qualified appraiser.

#### **§ 100.101 What is the purpose of this part?**

This part describes the minimum qualifications for appraisers, employed by or under contract with an Indian tribe or individual Indian, to become qualified appraisers who may prepare an appraisal or valuation of Indian property that will be accepted by the Department without further review or approval.

#### **§ 100.102 Does this part apply to me?**

This part applies to anyone preparing or relying upon an appraisal or valuation of Indian property.

#### **§ 100.103 How does the Paperwork Reduction Act affect this part?**

The collections of information contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned OMB Control Number 1076–NEW. Response is required to obtain a benefit.

### **Subpart B—Appraiser Qualifications**

#### **§ 100.200 What are the minimum qualifications for qualified appraisers?**

(a) An appraiser must meet the following minimum qualifications to be a qualified appraiser under this part:

(1) The appraiser must hold a current Certified General Appraiser license in the State in which the property appraised or valued is located;

(2) The appraiser must be in good standing with the appraiser regulatory agency of the State in which the property appraised or valued is located; and

(3) The appraiser must comply with the Uniform Standards of Professional Appraisal Practice (USPAP) rules and provisions applicable to appraisers (including but not limited to Competency requirements applicable to the type of property being appraised or valued and Ethics requirements). This includes competency in timber and mineral valuations if applicable to the subject property.

#### **§ 100.201 Does a qualified appraiser have the authority to conduct appraisals or valuations of any type of Indian property?**

All qualified appraisers of Indian property must meet the Competency requirements of USPAP for the type of property being appraised or valued. Competency can be demonstrated by previous completed assignments on the type of properties being appraised, additional education or training in specific property types, or membership and/or professional designation by a related professional appraisal association or group.

#### **§ 100.202 Will the Secretary verify the appraiser's qualifications?**

The Secretary will verify the appraiser's qualifications to determine whether the appraiser meets the requirements of § 100.200.

#### **§ 100.203 What must the tribe or individual Indian submit to the Secretary for a verification of the appraiser's qualifications?**

The tribe or individual Indian must submit the following with the appraisal or valuation:

(a) A copy of the appraiser's current Certified General Appraiser license;

(b) A copy of the appraiser's qualifications statement;

(c) The appraiser's self-certification that the appraiser meets the criteria in § 100.200; and

(d) If the property contains natural resource elements that contribute to the value of the property, such as timber or minerals, a list of the appraiser's additional qualifications for the specific type of property being valued in the appraisal report.

#### **§ 100.204 When must the tribe or individual Indian submit a package for Secretarial verification of appraiser qualifications?**

The tribe or individual Indian must submit the package of appraiser qualifications to the Secretary with the appraisal or valuation.

### **Subpart C—Appraisals and Valuations**

#### **§ 100.300 Must I submit an appraisal or valuation to the Department?**

Appraisals and valuations must be submitted to us for transactions requiring Secretarial approval under titles 25 and 43 of the CFR.

#### **§ 100.301 Will the Department review and approve my appraisal or valuation?**

(a) The Department will not review the appraisal or valuation of Indian property and the appraisal or valuation will be considered final as long as:

(1) The submission acknowledges the intent of the Indian tribe or individual

Indian to waive Departmental review and approval;

(2) The appraisal or valuation was completed by a qualified appraiser meeting the requirements of this part; and

(3) No owner of any interest in the Indian property objects to use of the appraisal or valuation without Departmental review and approval.

(b) The Department must review and approve the appraisal or valuation if:

(1) Any of the criteria in paragraph (a) of this section are not met; or

(2) The appraisal or valuation was submitted for:

(i) Purchase at probate under 43 CFR 30;

(ii) The Land Buy-Back Program for Tribal Nations; or

(iii) Specific legislation requiring the Department to review and approve an appraisal or valuation.

**§ 100.302 May I request Departmental review of an appraisal even if a qualified appraiser completed the appraisal or valuation?**

If you do not specifically request waiver of Departmental review and approval under § 100.300(a)(1), the Department will review the appraisal or valuation.

**§ 100.303 What happens if the Indian tribe or individual Indian does not agree with the submitted appraisal or valuation?**

If the Indian tribe or individual Indian does not agree with the submitted appraisal or valuation, the Indian tribe or individual Indian may request that the Department perform an appraisal or valuation instead of relying on the submitted appraisal or valuation.

Dated: September 7, 2016.

**Michael L. Connor,**  
Deputy Secretary.

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

[Docket No. FWS-R3-ES-2015-0112; 4500030113]

**RIN 1018-BB66**

**Endangered and Threatened Wildlife and Plants; Endangered Species Status for Rusty Patched Bumble Bee**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a

12-month finding on a petition to list the rusty patched bumble bee (*Bombus affinis*) as endangered or threatened under the Endangered Species Act, as amended (Act). After review of the best available scientific and commercial information, we find that listing the rusty patched bumble bee is warranted. Accordingly, we propose to list the rusty patched bumble bee, a species that occurs in the eastern and midwestern United States and Ontario, Canada, as an endangered species under the Endangered Species Act (Act). If we finalize this rule as proposed, it would extend the Act's protections to this species. The effect of this regulation will be to add this species to the List of Endangered and Threatened Wildlife.

**DATES:** We will accept comments received or postmarked on or before November 21, 2016. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by November 7, 2016.

**ADDRESSES:** You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter FWS-R3-ES-2015-0112, which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on "Comment Now!"

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS-R3-ES-2015-0112; U.S. Fish and Wildlife Service Headquarters, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041-3803.

We request that you send comments only by the methods described above. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see *Public Comments* below for more information).

**FOR FURTHER INFORMATION CONTACT:** Peter Fasbender, Field Supervisor, U.S. Fish and Wildlife Service, Twin Cities Ecological Services Field Office, 4101 American Blvd. E., Bloomington, MN 55425, by telephone 952-252-0092, extension 210. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

**SUPPLEMENTARY INFORMATION:**

**Executive Summary**

*Why we need to publish a proposed rule.* Under the Act, if a species is determined to be an endangered or threatened species throughout all or a significant portion of its range, we are required to promptly publish a proposal in the **Federal Register** and make a determination on our proposal within 1 year. Critical habitat shall be designated, to the maximum extent prudent and determinable, for any species determined to be an endangered or threatened species under the Act. Listing a species as an endangered or threatened species and designations and revisions of critical habitat can only be completed by issuing a rule. This rulemaking will propose the listing of the rusty patched bumble bee (*Bombus affinis*) as an endangered species.

*The basis for our action.* Under the Act, we can determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence. While the exact cause of the species' decline is uncertain, the primary causes attributed to the decline include habitat loss and degradation, pathogens, pesticides, and small population dynamics.

*We will seek peer review.* We sought comments on the species status assessment (SSA) from independent specialists to ensure that our analysis was based on scientifically sound data, assumptions, and analyses. We will also invite these peer reviewers to comment on our listing proposal. Because we will consider all comments and information received during the comment period, our final determinations may differ from this proposal.

An SSA team prepared an SSA report for the rusty patched bumble bee. The SSA team was composed of U.S. Fish and Wildlife Service biologists, in consultation with other species experts. The SSA represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the rusty patched bumble bee. The SSA underwent independent peer review by 15 scientists with expertise in bumble bee biology, habitat management, and stressors (factors negatively affecting the