PART 302—17 RELOCATION INCOME TAX (RIT) ALLOWANCE

■ 1. The authority citation for 41 CFR part 302–17 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971–1975 Comp., p. 586.

Appendix A to Part 302–17 [Amended]

■ 2. Amend Appendix A to part 302–17, in the table, in the first row, in the fourth column, by inserting ''/qualifying widows and widowers'' after ''Married filing jointly''.

Appendix B to Part 302–17 [Amended]

■ 3. Amend Appendix B to part 302–17, in the introductory paragraph, in the last sentence, by inserting '', at *http://tax.cchgroup.com*'' after ''CCH Inc.''.

Appendix C to Part 302–17 [Amended]

■ 4. Amend Appendix C to part 302–17, in the introductory paragraph before the table, in the last sentence, by inserting ''2000'' after ''1999''.

■ 5. Amend Appendix C to part 302–17, in the table, in the first row, in the fourth column, by inserting ''/qualifying widows and widowers'' after ''Married filing jointly''.

Dated: March 17, 2005.

Peggy DeProspero,

Director, Travel Management Policy Division.

[FR Doc. 05–5709 Filed 3–22–05; 8:45 am]

BILLING CODE 6820–14–S

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1600

[WO–350–2520–24 1A]

RIN 1004–AD 57

Land Use Planning

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Final rule.

SUMMARY: This final rule modifies the BLM's planning regulations with three objectives. It defines cooperating agency and cooperating agency status. It clarifies the responsibility of managers to offer this status to qualified agencies and governments, and to respond to requests for this status. Finally, it makes clear the role of cooperating agencies in the various steps of BLM's planning process.

The rule is necessary to emphasize the importance of working with Federal and state agencies and local and tribal governments through cooperating agency relationships in developing, amending, and revising the Bureau's resource management plans. BLM's current planning regulations do not mention the cooperating agency relationship.

DATES: This final rule is effective on April 22, 2005.

FOR FURTHER INFORMATION CONTACT: Robert Winthrop at (202) 785–6597 or Mark Lambert at (202) 452–7763. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose
II. Response to Comments
III. Procedural Matters

I. Background and Purpose

Why Is BLM Implementing This Rule?

BLM's policy emphasizes the importance of working with Federal and state agencies and local and tribal governments to develop the Bureau's resource management plans. BLM's current planning regulations do not mention the cooperating agency relationship, an important tool for working with other agencies and governments. This final rule:

- Defines cooperating agency and cooperating agency status;
- Clarifies the responsibility of managers to offer this status to qualified agencies and governments, and to respond to requests for this status; and
- Formally establishes the role of cooperating agencies in the various steps of BLM's planning process.

This final rule does not make any substantive changes in the public participation requirements found at § 1610.2. This rule directs BLM to provide the public with meaningful opportunities to participate in the preparation of plans, amendments, and related guidance. The collaboration between BLM and cooperating agencies envisioned by this final rule is in addition to existing requirements to engage the public in the planning process.

Because cooperating agencies are government agencies, meetings between BLM and agencies that hold cooperating agency status would not normally be subject to the requirements of the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix 1. This is because section 204(b) of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, provides that FACA does not apply to meetings held exclusively between Federal officials and officers of state, local, and tribal governments.

BLM made other minor changes not directly related to cooperating agencies that update our planning regulations to reflect our current organizational structure. BLM was reorganized in many district and area jurisdictions. We now use the term ''field office'' in referencing these jurisdictions. Therefore, resource management plan boundaries do not typically follow the previous ''resource area'' boundaries and managers of these new jurisdictions have assumed the title of Field Manager. These organizational adjustments are reflected in this final rule.

Section by Section Discussion

Section 1601.0–4 Responsibilities

The changes for this section are editorial, and do not affect the substance of this rule. This section remains as proposed.

Section 1601.0–5 Definitions

We amended this section by adding definitions of ''eligible cooperating agency'' and ''cooperating agency.'' The definition of cooperating agency makes clear that an agency becomes a cooperating agency only after it has entered into a written agreement with BLM. In the proposed rule, we used the terms ''cooperating agency'' and ''cooperating agency status.'' We changed these terms in the final rule to improve clarity. We also revised subsection (d) (defining eligible cooperating agency) in the final rule by imposing uniform eligibility criteria for tribes, states, and local governments to become cooperating agencies. Please see the Responses to Comments discussion for an explanation of the changes.

We are also adding a definition for Field Manager. The purpose of the definition is to update the regulations to reflect BLM's current organizational structure. In many cases, BLM has moved away from having district offices and subordinate area offices. BLM now has field offices that we formerly called area offices or district offices. However, in some instances, we maintain a district office with subordinate field offices. Therefore, to avoid having to use the term ''District Manager and/or Field Manager'' we are defining Field Manager to include both positions.

Section 1610.1 Resource Management Planning Guidance

The changes for this section are editorial, and do not affect the substance of this rule. This section remains as proposed.

Section 1610.2 Public Participation

The changes for this section are editorial, and do not affect the substance of this rule. This section remains as proposed.

Section 1610.3–1 Coordination of Planning Efforts

The changes to this section provide direction that explicitly requires State Directors and Field Managers to utilize the cooperating agency relationship in their efforts to coordinate with other Federal and state agencies and local and tribal governments, where possible and appropriate. We include language instructing State Directors and Field Managers to invite eligible Federal agencies, state and local governments, and federally recognized Indian tribes to participate as cooperating agencies in the development, amendment, and revision of resource management plans. New language requires Field Managers to consider requests for cooperating agency status from other Federal agencies, state and local governments, and federally recognized Indian tribes, and to inform the State Director if the Field Manager denies the request. These changes provide a more consistent approach to the use of cooperating agencies by the BLM. Other changes for this section are editorial, and do not affect the substance of this rule. This section remains as proposed with the exception of two minor edits: we replaced the term ''tribal governments'' with ''federally recognized Indian tribes'' in two places to be consistent with other changes made to the rule (*see* the Responses to Comments discussion for an explanation of the changes), and substituted ''eligible'' for ''qualifying'' in subsection (b).

Section 1610.4–1 Identification of Issues

We revised this section to instruct Field Managers to collaborate with cooperating agencies throughout the scoping process. Other changes for this section are editorial, and do not affect the substance of this rule. Other than a minor word change (deleting ''participating'' from ''participating cooperating agencies''), this section remains as proposed.

Section 1610.4–2 Development of Planning Criteria

We revised the first sentence of this section expressly to include cooperating agencies among those the BLM will coordinate with in developing planning criteria for resource management plans and revisions. This section remains as proposed with one exception: We deleted ''participating'' from ''participating cooperating agencies.''

Section 1610.4–3 Inventory Data and Information Collection

We revised the first sentence of this section to instruct Field Managers to collaborate with cooperating agencies in arranging for the collection of data and information. Other changes for this section are editorial, and do not affect the substance of this rule. Other than a minor word change (deleting ''participating'' from ''participating cooperating agencies''), this section remains as proposed.

Section 1610.4–4 Analysis of the Management Situation

We revised the first sentence of this section to instruct Field Managers to collaborate with cooperating agencies in preparing the analysis of the management situation. Other than a minor word change (deleting ''participating'' from ''participating cooperating agencies''), this section remains as proposed.

Section 1610.4–5 Formulation of Alternatives

We revised the first sentence of this section to instruct BLM to collaborate with cooperating agencies in formulating alternatives. We also emphasized that the decision to designate alternatives for further development and analysis remains the exclusive responsibility of the BLM. Other than a minor word change (deleting ''participating'' from ''participating cooperating agencies''), this section remains as proposed.

Section 1610.4–6 Estimation of Effects of Alternatives

We revised this section to instruct Field Managers to collaborate with cooperating agencies in analyzing and displaying the effects of implementing each alternative. Other changes for this section are editorial, and do not affect the substance of this rule. Other than a minor word change (deleting ''participating'' from ''participating cooperating agencies''), this section remains as proposed.

Section 1610.4–7 Selection of Preferred Alternative

In the final rule, we changed the title of the section, and in the first sentence deleted ''participating'' from ''participating cooperating agencies.'' Please see the Responses to Comments discussion for an explanation of this change. The first sentence instructs Field Managers to collaborate with cooperating agencies in evaluating the alternatives and identifying a preferred alternative. We rewrote the second sentence to clarify terminology. The second sentence emphasizes that the decision to select a preferred alternative remains the exclusive responsibility of the BLM. Other changes for this section are editorial, and do not affect the substance of this rule.

Changing Titles

Throughout part 1600, we changed our reference to position titles. We replaced the title of District Manager and Area Manager with the term Field Manager to reflect the current BLM organization.

II. Responses to Comments

In this portion of the Supplementary Information, we summarize the comments received, and then discuss those sections of the proposed rule addressed by comments. If we do not discuss a particular section or paragraph, it means that no public comments addressed the provision.

The public comment period for 43 CFR part 1600 ended on September 20, 2004. BLM received 14 comments from agencies, organizations, and individuals. Eleven of the comments supported the proposed rule change, though often suggesting modifications. Several comments emphasized the importance of including state and local governments in the planning process. One comment suggested that other Federal land management agencies should adopt similar policies. Another comment objected to the proposed rule because of the Bureau's policies regarding the management of wild horses; this comment is outside the scope of land use planning or cooperating agency relationships and this rule.

A number of comments suggested how BLM should work with cooperating agencies. These suggestions include:

- BLM should notify potential cooperating agencies early in the planning process;
- The cooperating agency relationship should be formalized through memoranda of understanding (MOUs);
- Cooperating agencies should be involved in identifying planning issues;
- Cooperating agencies should be involved in selecting contractors for plan preparation;
- BLM should be more consistent in the application of cooperating agency provisions, including the conditions under which cooperating agencies may use consultants to represent them in its planning process;

• BLM should ensure that current plan language and proposed changes are depicted in a single document throughout the planning process;
• BLM should respond to all written suggestions and comments from cooperating agencies throughout the planning process; and
• BLM managers should be directly involved in the planning process.

We agree with many of these suggestions, but believe they are more appropriate for BLM's internal guidance rather than its regulations. The Planning, Assessment, and Community Support Group is preparing a desk guide for field offices on working effectively with cooperating agencies. We will consider these comments in preparing the guide. In addition, several points these comments raised, including the importance of the Field Manager's involvement and the need to establish the cooperating agency relationship through a written memorandum of understanding, are addressed in recent BLM guidance: Instruction Memorandum 2004–231, The Scope of Collaboration in the Cooperating Agency Relationship.

Three comments urged BLM to ensure that all planning efforts included an adequate assessment of local social and economic conditions and impacts. We agree. The Land Use Planning Handbook (H–1601–1) is under revision and will include specific direction for field office staff to work with state, local, and tribal planning partners as well as the public in identifying socio-economic issues, sources of data, and methods of analysis (Planning Handbook, Appendix D, Sec. III.A). In addition, every field office preparing a resource management plan is required to conduct an economic strategies workshop to bring together local government officials, community leaders, and BLM staff to review regional conditions and trends, identify local economic and social goals, and seek opportunities for advancing them through collaboration in plans and policies (Planning Handbook, Appendix D, Sec. III.B).

Two comments urged the BLM to incorporate the suggested rule change language into its Land Use Planning Handbook. Language in the Handbook concerning cooperating agencies will be consistent with this final rule.

In the remainder of this section we address those comments that suggested changes in specific provisions of the proposed regulations.

Section 1601.0–5 Definitions

In reviewing the proposed rule for consistency with its regulations and guidance, the Council on Environmental Quality (CEQ) indicated that use of the term ''participating'' (as in the phrase ''participating cooperating agencies'') may lead to confusion with unrelated policy proposals involving the National Environmental Policy Act (NEPA) process. To correct this, we modified the term defined at subsection (d) from ''cooperating agency'' to ''eligible cooperating agency,'' and at subsection (e) from ''cooperating agency status'' to ''cooperating agency.'' As a result ''cooperating agency'' now refers unambiguously to a governmental entity that meets the requirements identified in subsection (d) and has entered into a written agreement establishing its cooperating agency status with the BLM as required by subsection (e). This allowed us to strike the word ''participating'' from §§ 1610.4–1, 1610.4–2, 1610.4–3, 1610.4–4, 1610.4–5, 1610.4–6, and 1610.4–7. We also made other minor changes to subsection (e) for clarity.

Subsection (d): Eligible Cooperating Agency [formerly: Cooperating Agency]. For a tribe to become a cooperating agency the CEQ regulations require that there be effects on its reservation (40 CFR 1508.5). In the proposed rule, we included this language, but added a second option, allowing tribes to qualify when potential effects occur ''on ceded public land with reserved treaty rights.'' In the final rule we reorganized this section altogether to provide consistent criteria for tribes, states, and local governments.

One comment recommended changing the criteria for tribal eligibility because the proposed rule would restrict tribal participation as a cooperating agency to situations where activities authorized through a resource management plan may affect reservation lands or those lands outside reservation boundaries in which tribes had rights reserved through treaties. Thus, the comment explained that the proposed rule would exclude almost all federally recognized Alaskan native groups because their reservations were dissolved by the Alaska Native Claims Settlement Act (43 U.S.C. 1618(a)). The comment proposed that we recast the criteria for tribal eligibility in terms of effects (a) in ''Indian Country'' (a term defined in federal statute as lands within the boundaries of a reservation, dependent Indian communities, or Indian allotments (see 18 U.S.C. 1151)), or (b) ''outside of Indian country where federally-recognized tribes have recognized rights and interests protected by treaty, statute, judicial decisions or other authorities.''

We agree that BLM's use of cooperating agency status should apply consistently to all federally recognized Indian tribes, which the proposed rule did not achieve. In reconsidering the rationale for federally recognized Indian tribes to participate as cooperating agencies, we also concluded that there was no justification to impose different eligibility criteria for tribes than for state and local governments. By applying the criteria used for state and local governments to federally recognized Indian tribes, and deleting any requirement to demonstrate potential effects on particular tribal lands or resources, both inconsistencies are removed. All federally recognized Indian tribes are potentially eligible, whether or not they possess reservations. In the final rule we use the following language at § 1601.0–5(d):

(1) A Federal agency other than a lead agency that is qualified * * * by virtue of its jurisdiction by law as defined in 40 CFR 1508.15, or special expertise as defined in 40 CFR 1508.26; or

(2) A federally recognized Indian tribe, a state agency, or a local government agency with similar qualifications.

This has the merit of assessing tribal qualifications on the same basis we use for other government entities: primarily for expertise regarding the physical, biological, or socio-economic conditions of the planning area and its environs.

Separate from the cooperating agency relationship, federal agencies have a responsibility to consult with federally recognized Indian tribes on a government-to-government basis. In a planning context, BLM may also have specific statutory obligations, such as the tribal consultation requirement established through the National Historic Preservation Act (36 CFR 800.2(c)(2)). The cooperating agency relationship will complement such formal consultation efforts.

Subsection (e): Cooperating Agency [formerly: Cooperating Agency Status]. One comment suggested that eligible entities seeking cooperating agency status should have the right to waive the requirement of a written agreement with BLM. We disagree. An essential element of a productive relationship between BLM and its cooperating agencies is that each party has a common understanding of its roles and responsibilities throughout a planning process. A written agreement provides this common understanding. The requirement is reasonable, will benefit agency relationships, and should not prove burdensome for BLM or its cooperating agency partners.

Section 1610.2 Public Participation

Two comments proposed that when a new or revised resource management plan is prepared, the existing, approved plan and any amendments be made available on the Internet (at proposed § 1610.2(g)). This suggestion is more appropriate for internal BLM guidance than regulation. The revised Land Use Planning Handbook will encourage use of the Internet to communicate with our publics about land use planning activities (Appendix A (II), Appendix G–1 (8)), though it does not require Internet posting of approved plans.

Section 1610.3–1 Coordination of Planning Efforts

In subsection (b) we replaced ''qualifying Federal agencies'' with ''eligible Federal agencies,'' to make the wording consistent with the revised definition at § 1601.0–5 (d).

Several comments addressed the degree of discretion the proposed rule would give Field Managers. One comment suggested that to ensure that the planning team does not become unnecessarily large and cumbersome, the invitation to cooperating agencies should be at the discretion of the Field Manager rather than obligatory for all qualifying Federal agencies and state, local, and tribal governments (at proposed § 1610.3–1(b)). In contrast, one comment stated that the phrase ''where possible and appropriate'' as applied to collaboration with cooperating agencies was unnecessarily discretionary (at proposed § 1610.3–1(a)(5)). Two comments suggested that it was inappropriate to include the option for a Field Manager to deny a request for cooperating agency status when the requesting agency is qualified by ''special expertise'' as defined at 40 CFR 1508.26 (at § 1610.3–1(b)).

We believe that the rule provides an appropriate balance. While the intent of the rule is to ensure that other government entities have early and consistent involvement in BLM's planning efforts, the rule also recognizes that the question of whether a potential cooperating agency has ''special expertise'' relative to a given planning effort must be judged on a case-by-case basis by the Field Manager. As noted in the proposed rule and this final rule, the State Director may overrule a Field Manager's denial of a request for cooperating agency status (at section 1610.3–1(b)).

Two comments suggested that the language of §§ 1610.3–1(a)(1) and (2), which requires BLM managers to consider the plans of other Federal agencies, state and local governments, and tribes, be modified to require consideration of programs and policies. Sections 1610.3–2(a) through (d) currently require BLM managers to seek consistency with the plans, policies, and programs of other government entities. We believe those requirements are sufficient to meet the intent of these comments.

Section 1610.3–2 Consistency Requirements

Two comments proposed that the provision for a Governor's consistency review of BLM's resource management plans, described in the existing regulations at § 1610.3–2(e), be expanded to include comparable reviews by affected local and tribal governments. Because we did not propose changes to this section of the planning regulations, these suggestions fall outside the scope of the proposed rule. The Planning, Assessment, and Community Support Group may propose additional changes to BLM's planning regulations in the future. If we do so, we will consider these suggestions.

Section 1610.4–7 Selection of Preferred Alternative

One comment urged us to clarify the language concerning development of the preferred alternative, suggesting that it was confusing to use ''identification'' to describe both collaboration with cooperating agencies and the final decision reserved to BLM. We agree. The current planning regulations use ''select,'' as does the planning handbook. The last sentence of this section of the final rule reads: ''Nonetheless, the decision to *select* a preferred alternative remains the exclusive responsibility of the BLM'' (emphasis added). Therefore, we also changed the title of § 1610.4–7 from ''Identification of preferred alternative'' to ''Selection of preferred alternative.''

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

This rule is not a significant regulatory action and is not subject to review by the Office of Management and Budget under Executive Order 12866. The effect of the rule is limited to governmental entities, and merely clarifies within BLM's planning regulations the criteria for cooperating agency relationships, and their application to BLM's planning process. BLM does not have to assess the potential costs and benefits of the rule under section 6(a)(3) of that order because it does not result in economic impacts of $100 million or more per year, does not propose any novel policy changes, does not cause any significant sectoral impacts, and does not conflict with any other regulations.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act. The effect of the rule is limited to governmental entities, and merely clarifies within BLM's planning regulations the criteria for cooperating agency relationships, and their application to BLM's planning process. While state agencies and local and tribal governments may incur some expense in participating as cooperating agencies in BLM planning processes, their participation is voluntary. Moreover, this rule does not alter their opportunities to participate as cooperating agencies, which is already provided for in the Council on Environmental Quality (40 CFR 1500 *et seq.*) regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule does not have an annual effect on the economy of $100 million or more. It will not cause an increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions. While state agencies and local and tribal governments may entail some expense in participating as cooperating agencies in BLM planning processes, their participation is voluntary. This rule does not alter their opportunities to participate as cooperating agencies. The rule 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.

Unfunded Mandates Reform Act

BLM has determined that this rule is not significant under the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 532, because it will not result in state,

local, and tribal government, or private sector expenditures of $100 million or more in any one year. This rule will not significantly or uniquely affect small governments. Therefore, BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*).

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

The rule does not represent a government action capable of interfering with constitutionally protected property rights. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The rule would not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The rule only codifies existing policy that allows states and local government to participate in land use planning with BLM and neither adds nor removes these entities from a decision-making role. Therefore, BLM has determined that this rule does not have sufficient Federalism implications to warrant BLM preparation of a Federalism Assessment.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

The rule will have ''tribal implications'' as defined in Section 1(a), in that it will enlarge the opportunities for tribal participation as cooperating agencies in BLM's planning process. The rule will not impose substantial direct compliance costs on Indian tribal governments nor will it preempt tribal law. Therefore, neither formal consultation with tribal officials nor preparation of a tribal summary impact statement is required. Tribal governments are sovereign dependent nations, standing in a government-to-government relationship with the U.S. government; this provides the primary basis for consultation with Federal agencies.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Office of the Solicitor has determined that this rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation does not contain any information collection requirements.

National Environmental Policy Act of 1969

BLM has determined that this rule is categorically excluded from environmental review under section 102(2)(c) of the National Environmental Policy Act (NEPA). Under the Department of the Interior Manual 516 DM, Chapter 2, Appendix 1, § 1.10, this rule qualifies as a categorical exclusion because it is procedural in nature and because its environmental effect is too broad, speculative or conjectural to analyze. Furthermore, the rule does not meet any of the 10 criteria for exceptions to the categorical exclusions listed in 516 DM, Chapter 2, Appendix 2.

Under Council on Environmental Quality regulations (40 CFR 1508.4) and the environmental policies and procedures of the Department of the Interior, the term ''categorical exclusions'' means a category of actions that do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

Endangered Species Act of 1973

The final rule will have no effect on listed or proposed species or on designated or proposed critical habitat under the Endangered Species Act (16 U.S.C. 1531–1544). Nothing in the final rule changes existing planning processes and procedures that ensure the protection of such species and habitat. Therefore consultation under Section 7 of the Endangered Species Act is not required. Further compliance with the Endangered Species Act will occur when resource management plans are developed, revised, or amended.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

In accordance with Executive Order 13211, BLM has determined that the rule will not have substantial direct effects on the energy supply, distribution or use, including a shortfall in supply or price increase.

The principal authors of this final rulemaking are Robert Winthrop and Mark Lambert, of BLM's Planning, Assessment, and Community Support Group, assisted by Kelly Odom, of BLM's Regulatory Affairs Group and Amy Sosin of the Department of the Interior, Office of the Solicitor.

Lists of Subjects at 43 CFR Part 1600

Administrative practice and procedures, Environmental impact statements, Indians, Intergovernmental relations, Public lands.

Dated: January 6, 2005.

Rebecca W. Watson,

Assistant Secretary, Land and Minerals Management.

■ For reasons set forth in the preamble and under the authority of the FLPMA (43 U.S.C. 1740), BLM amends part 1600 of Title 43 of the Code of Federal Regulations as set forth below:

PART 1600—PLANNING, PROGRAMMING, BUDGETING

■ 1. The authority citation for part 1600 continues to read as follows:

Authority: 43 U.S.C. 1711–1712.

■ 2. Amend § 1601.0–4 by revising paragraphs (b) and (c) to read as follows:

§ 1601.0–4 Responsibilities.

* * * * *

(b) State Directors will provide quality control and supervisory review, including plan approval, for plans and related environmental impact statements and provide additional guidance, as necessary, for use by Field Managers. State Directors will file draft and final environmental impact statements associated with resource management plans and amendments.

(c) Field Managers will prepare resource management plans, amendments, revisions and related environmental impact statements. State Directors must approve these documents.

■ 3. Amend § 1601.0–5 by redesignating paragraphs (d) through (k) as paragraphs (g) through (n) respectively, by adding in a newly designated paragraph (m) ''or field office'' following the word ''area'' in the first sentence and by adding new paragraphs (d), (e), and (f) to read as follows:

§ 1601.0–5 Definitions.

* * * * *

(d) *Eligible cooperating agency* means:

(1) A Federal agency other than a lead agency that is qualified to participate in the development of environmental impact statements as provided in 40 CFR 1501.6 and 1508.5 or, as necessary, other environmental documents that BLM prepares, by virtue of its

jurisdiction by law as defined in 40 CFR 1508.15, or special expertise as defined in 40 CFR 1508.26; or

(2) A federally recognized Indian tribe, a state agency, or a local government agency with similar qualifications.

(e) Cooperating agency means an eligible governmental entity that has entered into a written agreement with the BLM establishing cooperating agency status in the planning and NEPA processes. BLM and the cooperating agency will work together under the terms of the agreement. Cooperating agencies will participate in the various steps of BLM's planning process as feasible, given the constraints of their resources and expertise.

(f) Field Manager means a BLM employee with the title ''Field Manager'' or ''District Manager.''

* * * * *

§ 1610.1 [Amended]

■ 4. Amend § 1610.1 by inserting after ''resource areas'' wherever it appears, the term ''or field office.''

■ 5. Amend § 1610.2 by revising the first sentence of paragraph (c) and revising paragraph (g) to read as follows:

§ 1610.2 Public participation.

* * * * *

(c) When BLM starts to prepare, amend, or revise resource management plans we will begin the process by publishing a notice in the **Federal Register** and appropriate local media, including newspapers of general circulation in the state and field office area. The Field Manager may also decide if it is appropriate to publish a notice in media in adjoining States.

* * *

* * * * *

(g) BLM will make copies of an approved resource management plan and amendments reasonably available for public review. Upon request, we will make single copies available to the public during the public participation process. After BLM approves a plan, amendment, or revision we may charge a fee for additional copies. We will also have copies available for public review at the:

(1) State Office that has jurisdiction over the lands,

(2) Field Office that prepared the plan; and

(3) District Office, if any, having jurisdiction over the Field Office that prepared the plan.

* * * * *

■ 6. Amend § 1610.3–1 by:

■ a. Revising paragraph (a);

■ b. Redesignating existing paragraphs (b), (c), (d), (e), and (f) as (c), (d), (e), (f), and (g), respectively;

■ c. Revising newly designated paragraph (g); and

■ d. Adding a new paragraph (b) to read as follows:

§ 1610.3–1 Coordination of planning efforts.

(a) In addition to the public involvement prescribed by § 1610.2, the following coordination is to be accomplished with other Federal agencies, state and local governments, and federally recognized Indian tribes. The objectives of the coordination are for the State Directors and Field Managers to:

(1) Keep apprised of non-Bureau of Land Management plans;

(2) Assure that BLM considers those plans that are germane in the development of resource management plans for public lands;

(3) Assist in resolving, to the extent practicable, inconsistencies between Federal and non-Federal government plans;

(4) Provide for meaningful public involvement of other Federal agencies, State and local government officials, both elected and appointed, and federally recognized Indian tribes, in the development of resource management plans, including early public notice of final decisions that may have a significant impact on non-Federal lands; and

(5) Where possible and appropriate, develop resource management plans collaboratively with cooperating agencies.

(b) When developing or revising resource management plans, BLM State Directors and Field Managers will invite eligible Federal agencies, state and local governments, and federally recognized Indian tribes to participate as cooperating agencies. The same requirement applies when BLM amends resource management plans through an environmental impact statement. State Directors and Field Managers will consider any requests of other Federal agencies, state and local governments, and federally recognized Indian tribes for cooperating agency status. Field Managers who deny such requests will inform the State Director of the denial. The State Director will determine if the denial is appropriate.

* * * * *

(g) When an advisory council has been formed under section 309 of the Federal Land Policy and Management Act of 1976 for the area addressed in a resource management plan or plan amendment, BLM will inform that council, seek its views, and consider them throughout the planning process.

■ 7. Amend § 1610.4–1 by revising the second sentence to read as follows:

§ 1610.4–1 Identification of issues.

The Field Manager, in collaboration with any cooperating agencies, will analyze those suggestions and other available data, such as records of resource conditions, trends, needs, and problems, and select topics and determine the issues to be addressed during the planning process.* * *

■ 8. Revise § 1610.4–2 to read as follows:

§ 1610.4–2 Development of planning criteria.

(a) The Field Manager will prepare criteria to guide development of the resource management plan or revision, to ensure:

(1) It is tailored to the issues previously identified; and

(2) That BLM avoids unnecessary data collection and analyses.

(b) Planning criteria will generally be based upon applicable law, Director and State Director guidance, the results of public participation, and coordination with any cooperating agencies and other Federal agencies, State and local governments, and federally recognized Indian tribes.

(c) BLM will make proposed planning criteria, including any significant changes, available for public comment prior to being approved by the Field Manager for use in the planning process.

(d) BLM may change planning criteria as planning proceeds if we determine that public suggestions or study and assessment findings make such changes desirable.

■ 9. Amend § 1610.4–3 by removing the paragraph designation and revising the first sentence to read as follows:

§ 1610.4–3 Inventory data and information collection.

The Field Manager, in collaboration with any cooperating agencies, will arrange for resource, environmental, social, economic and institutional data and information to be collected, or assembled if already available. * * *

■ 10. Amend § 1610.4–4 by revising the first sentence of the introductory text to read as follows:

§ 1610.4–4 Analysis of the management situation.

The Field Manager, in collaboration with any cooperating agencies, will analyze the inventory data and other information available to determine the ability of the resource area to respond to

identified issues and opportunities. * * *

* * * * *

■ 11. Amend § 1610.4–5 by revising the first sentence to read as follows:

§ 1610.4–5 Formulation of alternatives.

At the direction of the Field Manager, in collaboration with any cooperating agencies, BLM will consider all reasonable resource management alternatives and develop several complete alternatives for detailed study. Nonetheless, the decision to designate alternatives for further development and analysis remains the exclusive responsibility of the BLM. * * *

■ 12. Amend § 1610.4–6 by revising the first sentence to read as follows:

§ 1610.4–6 Estimation of effects of alternatives.

The Field Manager, in collaboration with any cooperating agencies, will estimate and display the physical, biological, economic, and social effects of implementing each alternative considered in detail. * * *

■ 13. Amend § 1610.4–7 by revising the section heading and revising the first two sentences to read as follows:

§ 1610.4–7 Selection of preferred alternatives.

The Field Manager, in collaboration with any cooperating agencies, will evaluate the alternatives, estimate their effects according to the planning criteria, and identify a preferred alternative that best meets Director and State Director guidance. Nonetheless, the decision to select a preferred alternative remains the exclusive responsibility of the BLM. * * *

■ 14. In addition to the amendments set forth above, in 43 CFR part 1600, in the table below, for each section indicated in the left column, remove the title indicated in the middle column from wherever it appears in the section, and add the title indicated in the right column.

§§ 1601.0–5, 1610.1, 1610.2, 1610.3–1, 1610.3–2, 1610.4–8, 1610.4–9, 1610.5–1, 1610.5–3, 1610.5–5, 1610.5–7, 1610.7–1, and 1610.8 [Amended]

Section	Remove	Add
1601.0–5	District and Area Managers	Field Managers.
1610.1	District and Area Manager	Field Manager.
1610.2	District Manager	Field Manager.
1610.3–1	District or Area Manager	Field Manager.
1610.3–2	District and Area Managers	Field Managers.
1610.4–8	District Manager	Field Manager.
1610.4–9	District Manager	Field Manager.
1610.5–1	District Manager	Field Manager.
1610.5–3	District and Area Manager	Field Manager.
1610.5–5	District Manager	Field Manager.
1610.5–7	District and Area Manager	Field Manager.
1610.7–1	District Manager	Field Manager.
1610.8	District or Area Manager	Field Manager.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 94–129; FCC 04–214]

Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: In this document, the Commission addresses issues raised in petitions for reconsideration regarding the implementation of the subscriber carrier selection changes provisions of the Telecommunications Act of 1996 (1996 Act) which addresses policies and rules concerning unauthorized changes of consumers' long distance carriers.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: David Marks or Nancy Stevenson, Consumer & Governmental Affairs Bureau at (202) 418–2512.

SUPPLEMENTARY INFORMATION: On March 17, 2003, the Commission released a *Third Order on Reconsideration* published at 68 FR 19152, April 18, 2003; that amended rules implementing section 258 of the Communications Act of 1934 as amended by the Telecommunications Act of 1996. This is a summary of the Commission's Fifth Order on Reconsideration (*Reconsideration Order*), FCC 04–214, adopted September 3, 2004, and released November 24, 2004, addressing issues raised in petitions for reconsideration of the *Third Order on Reconsideration*.

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, it does not contain any new or modified ''information collection burdens for small business concerns with fewer than 25 employees'', pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c) (4).

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). This *Reconsideration Order* can also be downloaded in Word and Portable Document Format (PDF) at *http://www.fcc.gov/cgb/policy/slamming.html*.

Synopsis

The Commission's rules implementing section 258 were promulgated through a series of orders. In the *Second Report and Order*, published at 64 FR 7746, February 16, 1999, the Commission sought to eliminate the profits associated with slamming by broadening the scope of its carrier change rules and adopting, among other things, more rigorous slamming liability and carrier change verification measures. When the Commission released the *Second Report and Order*, it recognized that additional revisions to the slamming rules could further improve the preferred carrier change process and prevent unauthorized changes. Therefore, concurrent with the release of the *Second Report and Order*, the Commission issued a Further Notice of