

(c) When positive protective devices are necessary, these devices shall be paid for on a unit pay basis, unless doing so would create a conflict with innovative contracting approaches such as design-build or some performance based contracts where the contractor is paid to assume a certain risk allocation, and payment is generally made on a lump sum basis. Application of specific positive protective devices shall be in accordance with chapter 9 of the AASHTO Roadside Design Guide.

§ 630.1108 Intrusion Countermeasures.

(a) In situations where the provision of positive protective measures is not adequate, possible or practical, appropriate consideration should be given to the use of intrusion countermeasures to reduce the risk of motorized traffic intrusion into the work space. These countermeasures are not mutually exclusive and should be considered in combination as appropriate. A wide range of motorized traffic intrusion countermeasures should be considered including, but not limited to:

- (1) Effective, credible signing;
- (2) Variable message signs;
- (3) Arrow boards;
- (4) Warning flags and lights on signs;
- (5) Longitudinal and lateral buffer space;
- (6) Trained flaggers and spotters;
- (7) Enhanced flagger station setups;
- (8) Intrusion alarms;
- (9) Rumble strips;
- (10) Pace or pilot vehicle;
- (11) High quality work zone pavement markings and removal of misleading markings;
- (12) Channelizing device spacing reduction;
- (13) Longitudinal channelizing barricades;
- (14) Work zone speed limit reduction;
- (15) Law enforcement;
- (16) Automated speed enforcement (where permitted by State/local laws);
- (17) Drone radar;
- (18) Worker and work vehicle/equipment visibility; and
- (19) Worker training.

(b) Among the intrusion countermeasures, uniformed law enforcement presence in work zones is generally recognized as an element that enhances safety. The presence of a uniformed law enforcement officer and marked law enforcement vehicle in view of the motorized traffic on a highway project can affect driver behavior, helping to maintain appropriate speeds and increase driver awareness through the work zone. Conditions that should be considered in determining the need for uniformed law

enforcement presence in work zones include, but are not limited to, the following:

- (1) Operations occurring on high speed, high volume facilities where workers on foot are exposed to traffic;
 - (2) Operations, including temporary traffic control device set-up and removal, that occur closely adjacent to traffic without positive protection;
 - (3) Operations that require temporary or frequent shifts in traffic patterns;
 - (4) Night operations that may cause special concerns;
 - (5) Locations where traffic conditions and crash history indicate substantial problems may be encountered during the project;
 - (6) Operations that require brief closure of all lanes in one or both directions;
 - (7) Operations where traffic queuing is expected; and
 - (8) Other work sites where traffic conditions present a high risk for workers and the traveling public.
- (c) Each agency, in cooperation with the FHWA, shall develop a policy addressing the use of uniformed law enforcement on operations occurring on Federal-aid highways. The policy shall address the following:

- (1) Law enforcement involvement during major project planning and development;
 - (2) Situations where uniformed law enforcement officers are recommended;
 - (3) Duties/expectations of the officers (and how they differ according to different situations);
 - (4) Active enforcement versus presence;
 - (5) Appropriate work zone safety and mobility training for the officers, consistent with the training requirements in 23 CFR 630.1008(d);
 - (6) Communications and chain of command; and
 - (7) Officer pay
- (d) Uniformed law enforcement officers shall not be used in lieu of temporary traffic control devices required by the Part 6 of the MUTCD. Costs associated with the provision of uniformed law enforcement to help protect workers and maintain safe and efficient travel through highway work zones are eligible for Federal-aid participation. Federal-aid eligibility excludes law enforcement activities that would normally be expected in and around highway problem areas requiring management of traffic. Payment for the services of uniformed law enforcement in work zones may be included as part of the project budget, or be accommodated as part of an agency-level program budget. Payment for the use of uniformed law

enforcement included as part of the project budget shall be on a unit pay basis. The process for establishing an agency-level program budget shall include:

- (1) Appropriate consideration of anticipated projects to estimate budget needs; and
- (2) Contingency provisions to address identified needs should the budget prove insufficient.

§ 630.1110 Installation and Maintenance of Temporary Traffic Control Devices.

To help ensure that the integrity of the temporary traffic control is sustained after implementation, each agency shall develop and implement quality standards to help maintain the quality and adequacy of the temporary traffic control devices for the duration of the project. Agencies may choose to adopt quality standards such as those developed by the American Traffic Safety Services Association (ATSSA).¹ A level of inspection necessary to assure compliance with the quality standards shall be provided.

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Parts 15, 18, 150, 152, and 179

Office of the Secretary

43 CFR Parts 4 and 30

RIN 1076-AE59

Indian Trust Management Reform

AGENCY: Bureau of Indian Affairs, Office of the Secretary, Interior.

ACTION: Notice of reopening of comment period for proposed rule.

SUMMARY: On August 8, 2006, the Bureau of Indian Affairs (BIA) and the Office of the Secretary proposed to amend several of their regulations related to Indian trust management (see 71 FR 45173). The purpose of the amendments is to further fulfill the Secretary's fiduciary responsibilities to federally recognized tribes and individual Indians and to meet the Indian trust management policies in the

¹ The American Traffic Safety Services Association's (ATSSA) Quality Guidelines for Work Zone Traffic Control Devices uses photos and written descriptions to help judge when a traffic control device has outlived its usefulness. These guidelines are available for purchase from ATSSA through the following URL: http://www.atssa.com/store/bc_item_detail.jsp?productId=1.

Indian Land Consolidation Act (ILCA), as amended by the American Indian Probate Reform Act of 2004 (AIPRA). These amendments address Indian trust management issues in the areas of probate, probate hearings and appeals, tribal probate codes, life estates and future interests in Indian land, the Indian land title of record, and conveyances of trust or restricted land. There is also an "Application for Consolidation by Sale" form that is associated with one of these amendments.

This notice reopens the comment period for an additional 60 days to January 2, 2007. The BIA and Office of Secretary are reopening the comment period for an additional 60 days to ensure that all interested parties, including tribes and individual Indians, have the opportunity to review the proposed rule and prepare their comments.

DATES: The comment period for the proposed rule published on August 8, 2006 (71 FR 45173) is extended to January 2, 2007.

ADDRESSES: You may submit comments, identified by the number 1076-AE59, by any of the following methods:

- Federal rulemaking portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Web site at www.doirustregs.com.
- E-mail:* Michele_F_Singer@ios.doi.gov. Include the number 1076-AE59 in the subject line of the message.
- Fax:* (202) 208-5320. Include the number 1076-AE59 in the subject line of the message.
- Mail:* U.S. Department of the Interior, 1849 C Street, NW., Mail Stop 4141, Washington, DC 20240.
- Hand delivery:* Michele Singer, U.S. Department of the Interior, 1849 C Street, NW., Washington, DC 20240.

Comments on the information collection burdens, including comments on or requests for copies of the "Application for Consolidation by Sale" form, are separate from those on the substance of the rule. Send comments on the information collection burdens to: Interior Desk Officer 1076-AE59, Office of Management and Budget, e-mail: oira_docket@omb.eop.gov; or 202/395-6566 (fax). Please also send a copy of your comments to BIA at the location specified under the heading **ADDRESSES**.

FOR FURTHER INFORMATION CONTACT: Michele Singer, Counselor to the Assistant Secretary—Indian Affairs, Department of the Interior, 1849 C Street, NW., Mail Stop 4141, Washington, DC 20240, telephone (202) 273-4680.

SUPPLEMENTARY INFORMATION: In developing the final rule, the Department will consider all comments received before January 2, 2007. Therefore, if you submitted comments at any time before January 2, 2007, you do not need to resubmit them.

In addition to making plain language revisions, the amendments revise the regulations to:

- *Incorporate AIPRA changes to probate:* AIPRA created a uniform probate code to standardize intestate succession rules for trust and restricted property. The uniform probate code reinforces tribal sovereignty by eliminating the application of state laws in the probate of trust and restricted assets while deferring to approved tribal probate codes. AIPRA also established new mechanisms for consolidating fractionated interests at probate and through sale of highly fractionated tracts. The proposed amendments to probate regulations would implement AIPRA's provisions by requiring the additional information needed to determine heirs and devisees to be included in the probate file, and by establishing the procedures for directional disclaimers, purchases at probate and consolidation agreements. These regulations continue to refer all probate cases to OHA. The amendments streamline the OHA process by shortening deadlines to more reasonable time periods. Amendments to life estate provisions reflect AIPRA's change in the valuation of a life estate to be "without regard to waste" and base the valuation on the four-year average Single Life Factor used by the U.S. Internal Revenue Service in Table S of the 7520 rate schedule, without regard to gender.

- *Promote consolidation (reduce fractionation) of interests:* Allotments owned by Indians have become increasingly fractionated with the probate of each generation, resulting in the division of the allotment into smaller and smaller interests. These amendments meet the policy expressed by Congress to reduce fractionation (i.e., the exponential increase in the number of ownership interests in a given parcel of land) of tribal and individual Indian interests in trust and restricted property through the use of several tools. These tools include the opportunities for tribes to establish a tribal land consolidation plan; purchase interests in land within their respective jurisdictions when offered for negotiated sale, gift, or exchange; make a tribal tract purchase (i.e., obtain fractionated interests of non-consenting trust and restricted owners under certain circumstances); and unify ownership and consolidate interests in a tract through partition. The

amendments allow both tribes and individual Indians to obtain highly fractionated interests through a new mechanism, created by AIPRA: consolidation by sale (called "partition of highly fractionated lands" in AIPRA). Additionally, the new AIPRA mechanisms being incorporated in probate regulations will offer opportunities to reduce fractionation through the distribution of probate property.

- *Improve service to beneficiaries:* Amendments to the Land Titles and Records Office (LTRO) regulations will update and standardize LTRO title practices and recordation to ensure the Secretary is able to accurately track and record accounting of trust and restricted interest owners, allowing the Secretary to better serve the beneficiaries. Amendments to the probate process are aimed at facilitating the process to reduce the probate backlog and better serve beneficiaries. By clarifying the requirements and processes for probate, approval of tribal probate codes, obtaining LTRO services and products, and conveying trust and restricted property, the Department of the Interior improves communication and transparency, allowing better service to beneficiaries.

Authority: Regulatory amendments to these parts are proposed under the general authority of the American Indian Trust Fund Management Reform Act of 1994, 25 U.S.C. 4021 *et seq.*, and the Indian Land Consolidation Act of 2000, as amended by the American Indian Probate Reform Act of 2004, 25 U.S.C. 2201 *et seq.*

Dated: October 13, 2006.

Michael D. Olsen,
Principal Deputy Assistant Secretary—Indian Affairs.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2006-0564, FRL-8236-9]

Approval and Promulgation of Air Quality Implementation Plans; Utah; Revisions to the Utah Administrative Code; Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Utah on February 7, 2006. These changes to the Utah Administrative Code revise