

DEPARTMENT OF THE INTERIOR**Bureau of Indian Affairs****25 CFR Part 256**

RIN 1076-AE31

Housing Improvement Program**AGENCY:** Bureau of Indian Affairs, Interior.**ACTION:** Final rule; technical amendments.

SUMMARY: This document contains technical amendments to the Housing Improvement Program final regulations that were published in the **Federal Register** on March 2, 1998. These regulations define the terms and conditions under which assistance is given to Indians under the Housing Improvement Program. These amendments revise terminology to make the rule consistent. They also add several clarifications.

DATES: The amendments are effective December 20, 2002.

FOR FURTHER INFORMATION CONTACT: June Henkel, Chief, Division of Housing Assistance, Bureau of Indian Affairs, 1849 C Street NW., MS-4660-MIB, Washington, DC 20240; Telephone (202) 208-3667.

SUPPLEMENTARY INFORMATION: The final regulations in 25 CFR part 256 contain several technical errors. The errors include incorrect cross-references, incorrect terminology, omission of clarifying cross-references and terminology, and omission of grid lines in tables. None of these corrections will affect the substance of any provision in 25 CFR part 256. For example, we are deleting "house" and replacing it with "dwelling" for consistency with other parts of the rule; we are deleting the word "improvements" and replacing it with the word "renovation", which is the same term used in the description of Category B assistance (the term "improvements" more typically refers to cosmetic work, such as the addition of a deck, *etc.*); and we are replacing "building code standards" with "standard housing condition" to clarify that the assistance provided under the program is made one-time, not piecemeal, and is to bring the entire dwelling to "standard" at the time of the one-time assistance.

Reasons for Publishing a Final Rule

The Department has determined that the public notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b), do not apply to this rule. As allowed by 5

U.S.C. 553(b)(B), we find that public comment on the revisions made by this rule is unnecessary and contrary to the public interest. Because the changes made by this rule clarify requirements of the Housing Improvement program and because they do not make substantive changes to the provisions of the program, public comment is unnecessary. Since clearer requirements will make it easier for applicants to obtain assistance, delaying implementation by publishing a proposed rule is contrary to the public interest.

The Department further concludes that this rule should be effective immediately because it relieves possible restrictions on the efficient and necessary distribution of HIP funds to qualified applicants. Delaying the effective date of this rule would deny the public the benefit of clearer and less burdensome requirements that make it easier to apply for benefits under the program. For these reasons, this rule meets the requirements of 5 U.S.C. 553(d)(3) and can therefore become effective immediately upon publication.

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, of State, local, or tribal governments or communities. This program is a small, individual Indian program and has minimal effect on tribes; the budget is far less than \$100 million and therefore does not have a significant effect on the economy.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This rule is meant to cover the poorest of the poor who have no other resources for assistance; it is not inconsistent with nor does it interfere with any other agency actions.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or rights or obligations of their recipients. Because it is the aid of last resort, it does not affect other entitlements, grants, loans, or change the rights of recipients.

(4) This rule does not raise novel legal or policy issues. This program has been functioning for a number of years with no significant changes in policy.

Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Indian tribes are not considered small entities; the small amount of funding received from the program is used to improve the condition of individuals and families.

Small Business Regulatory Enforcement Fairness Act

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

(a) Does not have an annual effect on the economy of \$100 million or more. The program is much smaller than \$100 million and does not affect the economy; it provides funds for the provision of repairs and renovation assistance to individuals and families living in substandard housing conditions.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The program has limited funds which are spread throughout Indian country and thus causes no significant impacts.

(c) Does not have significant adverse effect on competition, employment, investments, productivity, innovation, or the ability of the U.S. based enterprises to compete with foreign-based enterprises. This program operates only within the U.S. and therefore does not compete with any foreign-based enterprises.

Unfunded Mandates Act

This rule does not impose an unfunded mandate on State, local, or tribal government or the private sector. Tribes decide whether they have the capability to perform the activities required to provide housing assistance to eligible applicants residing within their approved tribal service area, and is in compliance with the provisions of the Unfunded Mandates Act of 1995.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. The program provides services to improve existing housing or to provide replacement or new housing. The program does not have an adverse effect on tribes, tribal members or individual Indians or families. A takings implication assessment is not required.

Federalism (Executive Order 12612)

In accordance with Executive Order 12612, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The federal government provides program services to individuals at their request; or funds to tribes under Pub. L. 93-638 contracts or annual funding agreements for the provision of services to individuals and families. A Federalism Assessment is not required.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of section 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act of 1995

This rule requires an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is required. An OMB form 83-I was been reviewed by the department and sent to OMB for approval. The OMB Control Number assigned is 1076-0084 with an expiration date of October 31, 2004. These minor changes to the rule do not affect the information collection. We will not sponsor or collect, and a person need not respond to, a request for information if the valid OMB Control Number is not displayed. Comments concerning this collection may be directed to the BIA Information Collection Clearance Officer, 1849 C Street NW., MailStop 4613 MIB, Washington, DC 20240.

National Environment Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the

quality of human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951) and 512 DM we have evaluated the potential effects on Federally recognized Indian Tribes and have determined that there are no potential effects. These technical amendments only serve to correct and clarify the existing rule.

Consultation and Coordination With Indian Tribal Governments

In accordance with the President's Executive Order 13175, "Consultation and Coordination With Indian Tribal Governments" (65 FR 67249), we have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects. The number of eligible applicants and their associated housing need costs far exceeds the amount of funding available for this program; there are no potential effects on federally recognized tribes, only eligible applicants as funds are made available starting with the neediest of the needy in each region until the available funds are exhausted.

List of Subjects in 25 CFR Part 256

Housing—home improvement, Indians—housing.

Dated: October 8, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

Accordingly, 25 CFR part 256 is amended as set forth below.

PART 256—HOUSING IMPROVEMENT PROGRAM

1. The authority citation for part 256 continues to read as follows:

Authority: 25 U.S.C. 13

2. Make the following amendments to § 256.2:

A. Remove the definition of *Area Director*.

B. Add in alphabetical order the following definition:

Regional Director means the officer in charge of a Bureau of Indian Affairs regional office or his/her authorized delegate.

C. Remove the definition of the term "Bureau" and add in its place the following definition:

BIA means the Bureau of Indian Affairs in the Department of the Interior.

3. Revise § 256.5 to read as follows:

§ 256.5 What is the Housing Improvement Program?

The Housing Improvement Program is a safety-net program that provides grants for the cost of services to repair, renovate, replace, or provide housing. The program provides grants to the neediest of the needy Indian families who:

(a) Live in substandard housing or are without housing; and

(b) Have no other resource for assistance.

§ 256.7 What housing services are available under the Housing Improvement Program?

4. In § 256.7, revise the table to read as follows:

* * * * *

Type of assistance	What it provides	Where to find information
Category A	Up to \$2,500 in safety or sanitation repairs to the dwelling in which you live, which will remain substandard. Can be provided more than once, but for not more than one dwelling and the total assistance cannot exceed \$2,500.	§ 256.8
Category B	Up to \$35,000 in repairs and renovation, which will bring your dwelling to Standard Housing condition, as defined in § 256.2. Can only be provided once.	§ 256.9
Category C	A modest dwelling that meets the criteria in § 256.11; and the definition of Standard Housing in § 256.2; and whose costs are determined by and limited to the criteria in 256.17(b). can only be provided once.	§ 256.10 & § 256.11.

5. In § 256.8 (b), remove the word "house" and add, in its place, "dwelling".

6. In § 256.9:

A. Remove the word "house" wherever it appears, and add, in its place, "dwelling".

B. In paragraph (b), after the word "must," add the words "occupy the dwelling and must".

C. In paragraph (c), remove the word "improvements" and add, in its place, "renovation"; and remove the words "make the house meet applicable building code standards" and add in

their place, “bring the dwelling to standard housing condition.”

D. In paragraph (d) after the word “repairs” add the words “and renovation”.

E. In paragraph (d)(2), after the word “repairs” add the words “and renovation”.

7. In § 256.10, revise the table in paragraph (a) to read as follows:

§ 256.10 When do I qualify for category C assistance?

(a) * * *

You qualify for Category C assistance if * * *	And * * *	And * * *
You own the dwelling in which you are living.	The dwelling cannot be brought up to applicable building code standards and to standard housing condition for \$35,000 or less.	The dwelling cannot be brought up to applicable building code standards and to standard housing condition for \$35,000 or less. The land has adequate ingress and egress rights and economical access to utilities. The land has adequate ingress and egress rights and economical access to utilities.
You lease the dwelling in which you are living.	Your leasehold is undivided and for not less than 25 years at the time that you receive assistance.	
You do not own a dwelling	You own land that is suitable for housing	
You do not own a dwelling	You have a leasehold on land that is suitable for housing and the leasehold is undivided and for not less than 25 years at the time you receive assistance.	

* * *

8. In § 256.10:

A. Remove the word “house” wherever it appears and add in its place the word “dwelling.”

B. In paragraph (b), add the word “grant” after the word “written.”

9. Revise § 256.11 and the section heading to read as follows:

§ 256.11 What are the occupancy and square footage standards for a dwelling provided with Category C assistance?

A modest dwelling provided with Category C assistance will meet the standards in the following table.

Number of occupants	Number of bedrooms	Total dwelling square footage ¹ (maximum)
1–3	² 2	900
4–6	² 3	1050
7 or more	² 4	³ 1350

¹ Total living space; does not include hallways or modest-sized bathrooms or closets.

² Determined by the servicing housing office, based on composition of family.

³ Adequate for all but the very largest families.

10. In § 256.13:

A. In paragraph (a), remove the words “and a Privacy Act Statement”.

B. In paragraph (b), remove the words “and a Privacy Act Statement”.

C. In paragraph (c), in the first sentence, remove the words “application and signed Privacy Act Statement” and add, in their place, “and signed application”.

D. In paragraph (g)(1), remove the word “patent”.

11. In § 256.14:

A. In paragraph (a), in the last sentence, remove the word “complete” and add, in its place, “return”; and remove the word “eligible” and add, in its place, “considered”.

B. In paragraph (b)(2), revise the table to read as follows:

(b) * * *

(2) * * *

Factor	Ranking factor and definition	Ranking description	Point descriptors
1	Annual Household Income: Must include income of all persons counted in Factors 2, 3, 4. Income includes earned income, royalties, and one-time income.	Income/125% FPG ¹ (% of 125% FPG) ¹	Points (maximum=40):
		0–25 26–50 51–75 76–100 101–125	40 30 20 10 0
2	Aged Persons: For the benefit of persons age 55 or older, and Must be living in the dwelling.	Years of Age:	Points:
		Less than 55	0
		55 and older	1 point per year of age over 54
3	Disabled Individual: Any one (1) disabled person living in the dwelling. (The percentage of disability must be based on the average (mean) of the percentage of disabilities identified from two sources (A+B) of statements of conditions which may include a physician's certification, Social Security or Veterans Affairs determination, or similar determination).	% of Disability—(A% + B%/2):	Points (Maximum=20):
		100%	20
		or	
		Less than 100%	10
4	Dependent Children: Must be under the age of 18 or such other age established for purposes of parental support by tribal or state law (if any). Must live in the dwelling and not be married.	Dependent Child—(Number of Children):	Points (Maximum = 5):

Factor	Ranking factor and definition	Ranking description	Point descriptors
		1	0
		2	1
		3	2
		4	3
		5	4
		6 or more	5

¹ FPG means Federal Poverty Guidelines.

* * * * *

C. In paragraph (e), in the second sentence, remove the word “area” and add, in its place, “regional”.

12. In § 256.15, revise the section heading to read as follows:

§ 256.15 How long will I have to wait for repair, renovation, or replacement of my dwelling?

13. In § 256.17:

A. Remove the words “improvements or repairs” wherever they appear and add, in their place, “repairs or renovation”.

B. In paragraph (c), in the last sentence, remove the word “home” and add, in its place, “dwelling”.

C. In paragraph (d), remove the words “improvement, repair” and add, in their place, “repairs, renovation”.

D. In paragraph (d)(1), in the second sentence, remove the citation “§ 256.7” and add, in its place, “§ 256.11”.

14. In § 256.19, remove the words “improvements, repairs” and add, in their place, the words “repairs, renovation”.

15. In § 256.23, revise the section heading to read as follows:

§ 256.23 How will I be advised that the repair, renovation or replacement of my dwelling has been completed?

16. Remove § 256.24.

17. Redesignate §§ 256.25 through 256.29 as follows:

Old section	New section
256.25	256.24
256.26	256.25
256.27	256.26
256.28	256.27
256.29	256.28

[FR Doc. 02–31985 Filed 12–19–02; 8:45 am]

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF–486; Re: Notice No. 948]

RIN 1512–AC71

Capay Valley Viticultural Area (99R–449P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: This Treasury decision establishes the Capay Valley viticultural area in northwest Yolo County, California. The Capay Valley viticultural area covers approximately 150 square miles or about 102,400 acres. Approximately 25 acres are currently planted to wine grapes.

EFFECTIVE DATE: February 18, 2003.

FOR FURTHER INFORMATION CONTACT: Kristy Colón, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226; telephone 202–927–8210.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

What Is ATF’s Authority To Establish a Viticultural Area?

The Federal Alcohol Administration Act (FAA Act) at 27 U.S.C. 205(e) requires that alcohol beverage labels provide the consumer with adequate information regarding a product’s identity and prohibits the use of deceptive information on such labels. The FAA Act also authorizes the Bureau of Alcohol, Tobacco and Firearms (ATF) to issue regulations to carry out the Act’s provisions.

Regulations in 27 CFR part 4, Labeling and Advertising of Wine, allow the establishment of definitive viticultural areas. The regulations allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. A list of approved viticultural areas is contained in 27 CFR part 9, American Viticultural Areas.

What Is the Definition of an American Viticultural Area?

Section 4.25(e)(1), title 27 CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Viticultural features such as soil, climate, elevation, and topography distinguish it from surrounding areas.

What Is Required To Establish a Viticultural Area?

Section 4.25a(e)(2), title 27 CFR, outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. *The petition must include:*

- Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;
- Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;
- Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;
- A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and
- A copy of the appropriate U.S.G.S. map(s) with the boundaries prominently marked.

Rulemaking Proceeding

Capay Valley Petition

ATF received a petition from Tom Frederick and Pam Welch of Capay Valley Vineyards proposing to establish the “Capay Valley” viticultural area in northwestern Yolo County, California. The valley has several wine grape growers, including one who recently received awards for his wines. This viticultural area covers approximately 150 square miles, or about 102,400 acres. Approximately 25 acres are currently planted to wine grapes.