maintenance of anesthesia in nonfood animals.

EFFECTIVE DATE: May 22, 1981.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: Fort Dodge Laboratories, Inc., Fort Dodge, IA 50501, filed an original NADA (11–886) for Halsan, a halothane inhalation anesthetic for animals, which became effective July 17, 1959. In 1963 Ayerst Laboratories filed an NADA (14–170) for Fluothane, an identical halothane inhalation anesthetic for animals, relying upon data in NADA 11–886 through a letter of authorization from Fort Dodge. NADA 14–170 was approved November 21, 1963. Subsequently, Fort Dodge discontinued making the drug. Approval of NADA 11–886 was withdrawn Sept. 30, 1971 (36 FR 19179, No. 124). The application was converted into a master file and incorporated into NADA 14–170 by reference. On August 27, 1980, Ayerst Laboratories filed a supplement providing for the change of sponsor of NADA 14–170 (Fluothane) to Fort Dodge Laboratories. In addition, Fort Dodge submitted a supplement providing for revised labeling for use of the halothane inhalation anesthetic in animals for the induction and maintenance of anesthesia. NADA 14–170 is considered a pre-1962 approval that had not been reviewed by the National Academy of Sciences/National Research Council, Drug Efficacy Study Group. FDA reviewed the information supporting use of halothane and concluded it is effective for induction and maintenance of anesthesia in non-food animals. NADA's for similar products for these uses need not include effectiveness data as specified by 21 CFR 514.111 but may require bioequivalence and safety information.

The firm submitted a supplemental application providing revised labeling, scientific references, and a freedom of information summary. The supplemental NADA is approved and the animal drug regulations are amended to reflect the approval.

Approval of this supplement limits use of the drug to nonfood animals; the recommended dose range has been broadened to more accurately reflect new information available from scientific references; and a precautionary statement has been added to the labeling to assure that the drug is used only in an adequately ventilated environment. Therefore the safety and effectiveness of the product will be enhanced by approval of this supplemental NADA (see 42 FR 64367; December 23, 1977).

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action currently does not require an environmental assessment nor an environmental impact statement. Available scientific literature indicates lack of adequate ventilation while using halothane anesthesia may cause potential adverse effects in operating room personnel from traces of halothane gases.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i)82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 529 is amended by adding new § 529.1115, to read as follows:

§ 529.1115 Halothane.

(a) *Specifications.* The drug is a colorless, odorless, nonflammable, nonexplosive, heavy liquid containing 0.01 percent thymol as a preservative.

(b) *Sponsor.* See 000856 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* Two to 5 percent of inhaled atmosphere for induction of anesthesia; 0.5 to 2 percent for maintenance of anesthesia.[1]

(2) *Indications for use.* For nonfood animals for the induction and maintenance of anesthesia.[1]

(3) *Limitations.* Administered by inhalation. May be administered with either oxygen or a mixture of oxygen and nitrous oxide. Place drug vaporizer between the gas supply and breathing bag to prevent overdosage. Not recommended for obstetrical anesthesia except when uterine relaxation is required. Do not use in pregnant animals; information on possible adverse effects on fetal development is not available. Operating rooms should have adequate ventilation to prevent accumulation of anesthetic gases. Not for use in animals intended for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.[1]

Effective date. May 22, 1981.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 15, 1981.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 81–15145 Filed 5–21–81; 8:45 am]

BILLING CODE 4110–03–M

[1] These conditions have been reviewed by FDA and found effective. NADA's for similar products for these conditions of use need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

25 CFR Part 700

Commissions Operations and Relocation Procedures; Application for Life Estate Leases

AGENCY: Navajo and Hopi Indian Relocation Commission.

ACTION: Notice of extension of time for filing applications for Life Estate Leases.

SUMMARY: On October 10, 1980 a final rule was published in the **Federal Register** (45 FR 67338) which required applications for life estate leases to be filed on or before April 1, 1981. Under Pub. L. 96–305, Section 30, the Commission has the authority to extend the filing date for life estate leases up to an additional 180 days. The Commission has determined it is necessary to grant an extension from April 1, 1981 to July 1, 1981. The purpose of this notice is to inform the public that the date for filing applications for life estate leases pursuant to 25 CFR 700.17(a) has been extended from April 1, 1981 to July 1, 1981.

DATE: The date for filing applications has been extended to July 1, 1981.

FOR FURTHER INFORMATION CONTACT: William G. Lavell, General Counsel, Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, Arizona 86002, Telephone 602–779–3311, Extension 1378, FTS: 261–1378.

Roger Lewis,

Chairman.

May 14, 1981.

[FR Doc. 81–15447 Filed 5–21–81; 8:45 am]

BILLING CODE 4310–HB–M

25 CFR Part 700

Commissions Operations and Relocation Procedures; Discretionary Funds

AGENCY: Navajo and Hopi Indian Relocation Commission.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking establishes Subpart N, Discretionary Funds, to 25 CFR Part 700. Subpart N provides procedures for the submission, review and approval, and administration of applications for financial assistance from the Discretionary Fund established by Pub. L. 93–531 as amended (25 U.S.C. 640d–25). The purpose of the Discretionary Fund is to provide financial assistance to activities which will facilitate and expedite the relocation and resettlement of individuals under the Act and ease the hardship incurred by these individuals. the rule lists States, local governments, the Navajo and Hopi Tribes, tribal chapters, profit and nonprofit organizations, and individuals as eligible to apply for financial assistance under this subpart and describes the requirements which applicants must meet to be eligible for financial assistance.

EFFECTIVE DATE: May 22, 1981.

FOR FURTHER INFORMATION CONTACT: Paul M. Tessler, CFR Liaison Officer, Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, Arizona 86002, Telephone No.: (602) 779–3311, Extension 1376, FTS: 261–1376.

SUPPLEMENTARY INFORMATION:

The principal author is William G. Lavell, General Counsel, Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, Arizona 86002.

A proposed rulemaking on this subject was published in the **Federal Register** on February 20, 1981 (46 FR 13237–13241). Comments were invited for a period ending March 23, 1981. Comments were timely received from two different sources which will be discussed below. Generally, it should be noted that the publication of the proposed rules contained errors in references to the various sections of the rule. These have been corrected. Also certain typographical errors and omissions have been corrected in this publication.

Review of Comments

1. Suggestion was made that § 700.457(d) be amended to include the allowance of 100% funding by using sources other than federal, such as tribal funding. Section 700.457(a) provides that discretionary funds may be used to match or pay not to exceed 30% of any grant received from the federal government, states or local government, tribal government or chapter or private organizations. Section 700.457(d) is merely meant to point out that 70% of the funding can be received from other federal sources. Therefore, no change was made in the proposed rule since the proposed rules as drafted already answer the concern of the comment.

2. It was suggested that farm operations not be excluded from the definition of business in § 700.453(c) since this is the main livelihood of the people to be relocated. This suggestion was acted upon and the term farm operation was deleted from the definition.

3. Suggestion was made that § 700.479 be clarified to indicate what review of decisions concerning applications would be granted and that some review should be provided. Pursuant to this suggestion, § 700.479 has been amended by adding a section (d) which explains the procedure for requesting a review of such a decision.

4. Several comments were received objecting to specific wording in certain sections, and suggesting changed wording. The following are examples: Section 700.451 that the term "expedite" be removed and that the word "facilitate" be used in lieu thereof; § 700.457(a)—that the word "significantly" be removed; § 700.459—that it be removed entirely as not being needed since it appeared that there was a preoccupation with "innovative energies or other technologies". Section 700.451 has been amended to read "facilitate and expedite" since this is the language of the statute. Section 700.457(a) has not been changed since the term "significantly' is used in the statute. Section 700.459 has been left in since it deals with the second form of assistance which can be granted. The phrase "innovative energies and other technologies" are taken directly from the statute.

5. Suggestion was made that § 700.459(a) be amended by deleting the words "directly and solely". This suggestion has been acted upon and the words have been removed.

6. Suggestion was made that the examples of priorities listed in § 700.461(b) and (c) are not needed since the Commission will publish its actual priorities. This suggestion has been acted upon and § 700.461(b) and (c) have been removed.

7. Comment was made that the 5% limitation on expenses relating to the administration discretionary fund while admirable, may not be realistic. Suggestion was made that this percentage be increased. This suggestion cannot be acted upon since the 5% limitation is statutory.

As of the date of publication of this final rule the Office of Management and Budget has not approved the information collection requirements related to these regulations. Notice of such approval will be published at a later date.

Accordingly, Part 700 of Title 25 of the Code of Federal Regulations is amended in its final form by adding regulations designated as Subpart N—Discretionary Funds, to read as follows:

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Subpart N—Discretionary Funds

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§ 700.451 Purpose.

The purpose of this subpart is to establish procedures for the submission, review and approval, and administration of applications for financial assistance from the discretionary fund established by Pub. L. 93–531, as amended.

The purpose of the discretionary fund is to provide financial assistance to activities which will facilitate and expedite the relocation and resettlement of individuals under the Act and ease the hardship incurred by these individuals.

§ 700.453 Definitions.

(a) Act means Pub. L. 93–531 (88 Stat. 1712, 25 USC 640d), as amended.

(b) Applicant means with respect to this subpart, any applicant as defined under § 700.457(c) or § 700.459(b).

(c) Business means any lawful activity, except a nonprofit organization, that is—

(i) Conducted primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or

marketing of products, commodities, and/or any other personal property; or

(ii) Conducted primarily for the sale of services to the public.

(b) Commissioners means the three Commissioners of the Navajo and Hopi Indian Relocation Commission.

(e) In-kind contribution means a noncash contribution as described in attachment F of OMB Circular A-102.

(f) Local government means a local unit of government including specifically a county, municipality, city, town, township, local public authority, special district, council of governments, and other regional or interstate entity, or any agency or instrumentality of a local government.

(g) Nonprofit organization means a corporation, partnership, individual, or other public or private entity that is engaged in a lawful business, professional, or instructional activity on a nonprofit basis and that has established its nonprofit status under applicable Federal, State, or Tribal law.

(h) Related facilities means any building or structure normally found in a community and includes but is not limited to water, sewer and electrical lines, community centers, health centers and clinics, roads, and business establishments.

(i) Services means activities relating to human development including, but not limited to, educational and job training, mental health counseling, health care, and technical assistance in business administration, agriculture, and home economics.

(j) Tribe means the Navajo Tribe or the Hopi Tribe.

(k) Tribal subdivision means a Navajo Chapter or a Hopi Village.

§ 700.455 Financial assistance.

(a) The Commission may provide financial assistance to applicants eligible under this subpart from funds available for any fiscal year.

(b) To obtain financial assistance, an applicant shall submit an application in accordance with § 700.463.

(c) The Commission may make funding decisions throughout the year as applications are approved. The Commission shall, to the extent possible, make funds available throughout the year for approved applications. Based upon the merit of applications received under this subpart, the Commission shall determine how funds available under this subpart shall be apportioned among the activities described in § 700.457 and § 700.459.

§ 700.457 Assistance to match or pay 30% of grants, contracts or other expenditures.

(a) The purpose of applications for financial assistance under this section shall be to aid individuals subject to relocation under the Act and to assist the host communities, towns, cities, or other entities in adjusting to and meeting the needs of the relocatees. For this purpose, the discretionary fund may be used to match or pay not to exceed 30% (thirty percent) of any grant, contract, or other expenditure of the Federal Government, State or local government, tribal government or chapter, or private organization for the benefit of the Navajo or Hopi Tribe, if the Commission determines that such grant, contract, or expenditure would significantly assist the Commission in carrying out its responsibilities or assist either tribe in meeting the burdens imposed by this Act.

(b) An "other expenditure" under this subsection is defined as cooperative agreements, direct provision of services, or in-kind contributions. The Commission may match or pay not to exceed 30% (thirty percent) of an other expenditure through a grant, contract, or cooperative agreement.

(c) Eligible applicants under this section for a grant, contract, or cooperative agreement are defined as States, local government, the Navajo and Hopi Tribes, tribal chapters or villages and profit and nonprofit organizations.

(d) Total Federal financial assistance under this section may reach 100% (one hundred percent) if the applicant receives 70% (seventy percent) Federal funding from Federal agencies other than the Commission.

(e) When another Federal agency is a primary source of financial assistance for an applicant, the Commission may, pursuant to an interagency agreement, transfer funds to the primary Federal agency providing financial assistance to the applicant.

(f) The Commission may, pursuant to an interagency agreement, transfer not to exceed 10% (ten percent) of the funds available under this subpart to another Federal agency directly assisting relocatees if such agency's activities would accomplish the purpose of paragraph (a). Financial assistance transferred to accomplish an eligible activity under paragraph (a) may not exceed the funding limitation of paragraph (a).

(g) An applicant may apply for financial assistance under this section in accordance with the funding limitations described in paragraph (a) for the purpose of undertaking a technical feasibility study of a construction project or any major project with a total funding of over $200,000 (two hundred thousand dollars) or any dollar amount which the Commission may prescribe at some future time.

§ 700.459 Assistance for demonstration projects and for provision of related facilities and services.

(a) The purpose of applications for financial assistance under this section shall be to aid individuals subject to relocation under the Act. For this purpose, the discretionary fund may be used by the Commission to engage or participate either directly through Federal activities, or by cooperative agreement, grant, or contract in demonstration efforts to employ innovative energy or other technologies in providing housing and related facilities and services in the relocation and resettlement of individuals under this Act.

(b) Applicants eligible under this section to receive grants, cooperative agreements or contracts are: states, local governments, the Navajo and Hopi Tribes, tribal chapters, profit and nonprofit organizations, and individuals.

(c) The Navajo or Hopi Tribe may submit a single application to accomplish several of the activities described in § 700.457(a) and § 700.459(a).

(d) Applicants for assistance under this section may receive up to 100% (one hundred percent) project or program funding from the Commission, however, the Commission may specify in the list of priorities published pursuant to § 700.461 if applications for certain types of programs or projects under this section require matching funding from the applicant.

(e) Activities described in § 700.457(a) and § 700.459(a) may be provided by the Commission through in-house activities which receive financial assistance under this section.

(f) The Commission may, pursuant to an interagency agreement, transfer not to exceed 10% (ten percent) of the funds available under this subpart to another Federal agency directly assisting relocatees, if such agency's activities would accomplish the purpose of § 700.457(a) and § 700.459(a).

(g) An applicant may apply for financial assistance under this section for the purpose of undertaking a technical feasibility study of a construction project, or any major project with a total planned funding of over $200,000, (two hundred thousand dollars) or any dollar amount which the Commission may prescribe at some future time.

§ 700.461 Application priorities.

(a) The Commission shall prioritize those types of applications for financial assistance under this subpart which would most effectively achieve the purposes of § 700.457(a) or § 700.459(a). In developing a list of priorities, the Commission shall—

(1) solicit views from interested groups on which types of projects would most assist persons subject to relocation;

(2) publish the list annually in the Federal Register;

(3) review and if necessary, revise the list at least annually or as needed following the procedures described in paragraph (1) and publish the revision in the Federal Register.

§ 700.463 Requirements for applications.

(a) Brief letters of inquiry are encouraged for all applicants except for a State, local government (exclusive of an institution of higher education or a hospital), or the Navajo or Hopi Tribe which submits an application for a grant or cooperative agreement meeting the conditions described in OMB Circular A–102, attachment M, which requires a preapplication for a construction, land acquisition, and land development project or program for which the need for total Federal funding exceeds $100,000 (one hundred thousand dollars). A letter or inquiry shall contain—

(1) the name and address of the applicant;

(2) budget information;

(3) a brief narrative describing how the program or project will meet the purpose of § 700.457(a) or § 700.459(a).

(b) The Commissioner shall review each letter of inquiry to determine if the preapplication conforms to the purpose of § 700.457(a) or § 700.459(a) and may, in writing, invite each applicant submitting an acceptable preapplication to submit an application.

(c) Application for financial assistance for a project or program may be submitted on an ongoing basis after publication of the final regulations for this subpart. An original and 5 (five) copies of each application must be submitted to the Commission. An application shall contain—

(1) the name and address of the applicant;

(2) budget information, including where appropriate, the source and amount of other Federal and all non-Federal contributions to the proposed or actual project or programs; and

(3) the following for applications under § 700.457—

(i) a narrative statement which shall include an explanation of how the application would aid relocatees and assist the host communities, towns, cities, or other entities in adjusting to and meeting the needs of relocatees;

(ii) documentation that the applicant has fulfilled all of the requirements of any Federal agency, State or local government, tribal government or chapter, or private organization from which financial assistance is also requested;

(4) for applications under § 700.459, an explanation of how the application would aid relocatees and a thorough description of either the demonstration effort in housing or the related facilities and services which the proposed project or program would provide; and

(5) the requirements described in § 700.465, as applicable.

(d) The format of the preapplication or application may be selected by the applicant except that an applicant covered by OMB circular A–102 or A–110 as described in § 700.477 (a) and (b) shall use such forms as the Commission may prescribe in conformity with these circulars.

§ 700.465 Technical feasibility.

Unless required by a non-Commission source of financial assistance, completed plans and specifications are not required in an application for construction, technology, or another engineering project, however, an application for a construction, technology or another engineering project shall;

(a) include sufficient information to determine the nature and scope of the project, its probable useful life, and a reasonable estimate of cost;

(b) fully show that the applicant will follow design and performance criteria which conform to professionally recognized standards and which adequately define the technical capability of the project to serve current and foreseeable needs; and

(c) justify any evidence or use of unorthodox design.

§ 700.467 Construction costs.

Construction costs and costs relating to construction such as machinery and equipment, architect/engineer services, and administrative services may be allowable as determined by the Commission.

§ 700.469 Unallowable program and project costs.

Costs for program or project operating expenses are not allowable except in the following cases—

(a) an application for an annual contract for services under § 700.457 or § 700.459 may include necessary operating expenses; and

(b) an application for a demonstration effort under § 700.459 may include costs relating to the operation of the demonstration.

§ 700.471 Review and approval.

(a) Upon receipt of an application for financial assistance under this subpart, members of the Commission staff shall begin a preliminary review of the application with the intent of submitting a recommendation to the Commissioners of whether to accept or deny the application. The Commission staff shall inform the applicant in writing and before its recommendation to the Commissioners, of any special problems or impediments which may result in a recommendation for disapproval; may offer any available technical assistance required to overcome such problems or impediments; and solicit the applicants written response.

(b) The Commission staff may solicit comments on an application from technical specialists, community groups and others, when such advice is needed to fully evaluate the application.

(c) The Commission staff shall forward the application with their recommendation to the Commissioners. The Commissioner shall review each application. Applications may be approved if the Commissioners determine that—

(1) the application meets the requirements of this subpart;

(2) the application meets the intent of the Act;

(3) the application fully demonstrates that it will expedite the relocation and resettlement of individuals under the Act and ease the hardship incurred by these individuals or by the Tribes;

(4) the application is compatible with the list of priorities published in the Federal Register; and

(5) the applicant can carry out the activities described in the application and can maintain proper financial controls on the activities for which financial assistance is requested.

(6) funds are available.

§ 700.473 Administrative expenditures of the Commission.

The Commission may use funds in an amount not to exceed 5 percent of the funds authorized under this subpart for expenses relating to the administration of the discretionary fund including—

(a) personnel, whose time is expended directly in support of such administration;

(b) supplies which are expended directly in support of such administration;

(c) contracts, where the work performed is directly related to such administration;

(d) printing, directly in support of such administration; and

(e) travel, directly related to such administration.

§ 700.475 Reports.

Reports shall be furnished by any recipient of financial assistance under this subpart, in such manner as may be required by the Commission.

§ 700.477 Administration of financial assistance and recordkeeping requirements.

(a) A State or local government [except an institution of higher education or a hospital since they are governed by paragraph (b)], or the Navajo or Hopi Tribe receiving a grant or cooperative agreement under this subpart shall comply with applicable law including the following requirements—

(1) Office of Management and Budget Circular A–102, entitled "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments" including attachment C describing recordkeeping requirements; and

(2) Federal Management Circular 74–4 (34 CFR 255), entitled "Cost Principles Applicable to Grants and Contracts with State and Local Governments."

(b) A nonprofit organization, institution of higher education, or hospital receiving a grant or cooperative agreement under this subpart shall comply with applicable law including the following requirements—

(1) Office of Management and Budget Circular A–110, entitled "Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations" including attachment C describing recordkeeping requirements; and

(2) Office of Management and Budget Circular A–122, entitled "Cost Principles for Nonprofit Organizations."

(c) A profit organization receiving a grant or cooperative agreement under this subpart shall comply with applicable law including Federal Procurement Regulations (41 CFR Subpart 1–15.2) for determining the reasonableness, allowability, and allocability of costs.

(d) A profit organization, tribal chapter, or individual receiving a grant or cooperative agreement under this subpart shall—

(1) follow sound and proper procedures for the administration of the financial assistance including any procedures established by the Commission; and

(2) retain records as required by the Commission.

(e) A State, local government, the Navajo or Hopi Tribe, a tribal chapter or an individual receiving a contract under this subpart shall comply with applicable law including Federal Procurement Regulations (41 CFR Parts 1–1 through 1–30). Recordkeeping requirements for contracts are described in §§ 1–3.814–2, 1–7.103–3, 1–7.103–18, 1–7.603–20, and 1–7.603–7 of the Federal Procurement Regulations.

(f) A State, local government, profit or nonprofit organization, or an individual residing off the Navajo or Hopi reservation applying for a grant or cooperative agreement under this subpart shall comply with Office of Management and Budget Circular A–95, entitled "Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects" unless exempted under Part I, section 8.b. of this circular.

(g) Recipients of financial assistance under this subpart shall comply with other procedures which the Commission may from time to time prescribe for the administration of financial assistance provided under this subpart.

§ 700.479 Administrative review.

(a) If the Commissioners intend to deny an application for financial assistance submitted under this subpart, the Commissioners shall give notice to the applicant.

(b) If the Commissioners determine that implementation of an application approved according to §700.471 fails to meet the requirements of this subpart, the Commissioners shall give notice to the recipient of their intent to terminate or suspend financial assistance to the recipient.

(c) The Commission shall issue such notice in written form sent by registered mail, return receipt requested, which notice shall include a statement of the reasons for the findings referred to in paragraph (a) or (b) of this section, and an explanation whether any amendments or actions would result in compliance with the regulation.

(d) Any person whom application is denied under paragraph (a) of this Section or whose approved financial assistance is terminated or suspended under paragraph (b) of this Section may request a review of such action by the Commission. Such request for review shall be in writing and must be mailed or delivered to the Commission not later than thirty (30) days after receipt of the notice from the Commission by the applicant. Such request for review shall state the reasons for the request and shall include any additional matters not before the Commission which the applicant deems appropriate. The Commission may grant or deny a review at its discretion and shall inform the applicant of its decision in writing.

(Pub. L. 96–305, 94 Stat. 929, 25 U.S.C. 640–d)

Roger Lewis,

Chairman, Navajo and Hopi Indian Relocation Commission.

[FR Doc. 81–15341 Filed 5–21–81; 8:45 am]

BILLING CODE 4310–HB–M

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25 CFR Part 700

Commissions Operations and Relocation Procedures; Establishment of Additional Final Rules Regarding Life Estates

AGENCY: Navajo and Hopi Indian Relocation Commission.

ACTION: Final rule.

SUMMARY: On October 10, 1980 the Commission issued a final rule governing the application for Life Estate Leases by members of the Navajo and Hopi Tribes who are subject to relocation. These regulations set forth application procedures as required by the Navajo and Hopi Indian Relocation Amendments Act of 1980, (Amendments Act). The Commission is here establishing further procedures concerning the determination of disability, the grouping and granting of applications for Life Estate Leases, the establishment of boundaries of Life Estate Leases, residency on Life Estate Leases, access to Life Estate Leases, and the execution of Life Estate Leases. These regulations also are required by the Amendments Act.

EFFECTIVE DATE: May 22, 1981.

FOR FURTHER INFORMATION CONTACT: Paul M. Tessler, CFR Liaison Officer, Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, Arizona 86002, Telephone No.: (602) 779–3311, Extension 1376, FTS: 261–1376.

SUPPLEMENTARY INFORMATION:

The principal author is William G. Lavell, General Counsel, Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, Arizona 86002.

On November 20, 1980, there was published in the **Federal Register** (45 FR, P. 76710) a notice of proposed additional regulations regarding the awarding of Life Estate Leases to members of the Navajo and Hopi Tribes who are subject to relocation. Interested persons were given until December 22, 1980, to submit comments regarding the proposed rule. In addition a public hearing was held on

December 6, 1980, at Rocky Ridge Boarding School, Rocky Ridge, Arizona.

Discussion of Comments

A number of comments were received by the Commission both at the public hearing and in writing. After due consideration, the following suggestions were incorporated in the final rule.

1. Section 700.341 was changed in several regards as follows:

A. The term "family members" was changed to read "grandchildren and their descendants" since the thrust of the regulation is to allow for visitation by grandchildren.

B. That such grandchildren are those who are not minor dependents of the life tenant was clarified.

C. The age was raised from seventeen to eighteen.

D. Clarification was made that the restrictions upon visitation would not apply to any visits that did not extend overnight. Those visits are unlimited.

2. Section 700.343(g) was expanded to include a listing of typical improvements that might be located on a Life Estate Lease.

3. Section 700.343(i) was amended to indicate that either the life tenant or his surviving spouse could relinquish the Life Estate at any time and receive relocation benefits

4. Section 700.343(k) (xi) was added to set forth the tenure of a Life Estate as established in the statute.

5. Section 700.343(l) was added to provide that no livestock shall be allowed in the lease area until the perimeter of the lease area is fenced.

In considering many of the comments received, the Commission felt that some of the matters suggested were already covered by the regulations. In others it was apparent that the actions suggested were more properly within the purview of the Secretary of the Interior (Secretary) under the Amendments Act. Some examples of these are as follows:

1. It was suggested that road services to Life Estate Leases and twenty-four hour access should be guaranteed in the Commission's regulations. It was further suggested that the Commission, by its regulations, provide for the piping in of water to the Life Estate premises or provide for access to water and, further, that access to wood and coal be guaranteed to the life tenant by regulation of the Commission.

Section 3 of the Amendments Act makes it the responsibility of the Secretary to protect the rights of individuals awaiting relocation and also the rights of life tenants. Since this specific authority was given to the Secretary and since the Commission will cease to exist after its single function of providing relocation has been completed, it is more appropriate for the Secretary to provide the assurances requested.

2. It was suggested that Navajo medicinemen should be used to determine disability.

Section 700.333(d) provides that, in making its determination as to disability, the Commission shall consider the report of the rating physician and such other matters as the Commission deems relevant. In discussing this comment, the Commission noted that if an applicant wished to submit the results of an examination by a medicineman to the rating physician or to the Commission that such submission would be given consideration along with the other matters submitted.

3. A suggestion was made that Section 700.339 be amended to include the traditions of the appropriate Tribe as one of the criteria for determining who is necessarily present for the care of a life tenant. Section 700.339(b)(5) presently provides that in determining who is necessarily present for the care of life tenants, the Commission can consider any other factors deemed relevant by the Commission. In discussing this suggestion, the Commission noted that it could certainly consider the traditions of the appropriate Tribe in making this determination. This same comment would apply to an additional suggestion along this line to the effect that clan members and medicinemen should be included in the list of people eligible to care for life estate holders.

4. Suggestion was made that provision be made in the Commission regulations that the Department of the Interior provide sufficient feed for livestock on the Life Estate. Section 30(e) of the Amendments Act provides that the Secretary, under existing authority, shall make available to Life Estate tenants such assistance during that tenure as may be necessary to enable such tenant to feed livestock at an adequate nutritional level. This is a statutory requirement which the Secretary may wish to implement by further regulations.

5. A suggestion was made that each Life Estate premises should include land suitable for farming. Section 30(e) of the Amendments Act provides that a Life Estate may be used by a life tenant to feed not to exceed 25 sheep units per year, or equivalent livestock. Section 30(j) provides that nothing in the Amendments Act or any other law is to be construed to prevent a life tenant from making reasonable improvements on the Life Estate which are related to the residency and agricultural purposes of the life tenancy. The Commission concluded that while it was reasonable to assume that a person could have some agricultural activity on the Life Estate premises, there is nothing in the Amendments Act requiring that land suitable for that purpose be included in each Life Estate Lease. Whether or not lands suitable for farming are included will depend on the nature of the lands surrounding the homesite.

6. Suggestion was made that the customs of the appropriate Tribe should be used as a criteria for determining disability. In addition it was suggested that Social Security Administration criteria referenced in the proposed regulations are not totally applicable. As noted above, § 700.333(d)(iv) provides that in making its determination as to disability, the Commission may consider such other matters as it deems relevant. In discussing this suggestion, the Commission noted that the customs of the particular Tribe could certainly be considered under this section. Concerning the applicability of Social Security Administration regulations, § 700.333(c)(iii) provides, in part, that these regulations will be applied to the extent that such procedures and standards are appropriate to this examination and rating. This places discretion in the physician to determine which parts are applicable and which are not. Since we are dealing with a limited number of Life Estate Leases and a one time program, the Commission deemed that this would be an appropriate way to handle the matter rather than attempt to establish exhaustive regulations dealing only with this subject matter.

7. Suggestion was made that the size of each Life Estate be limited to the needs of the particular life tenant and the proposed use be based on some formula basis. The Commission concluded that the prima facie size to be considered would be 90 acres and that any adjustments would be made more in terms of configuration rather than proposed use.

8. Suggestion was made that the grazing of livestock be permitted only on those Life Estate Leases where the tenant had a demonstrated ability to care for livestock. The Commission considered this restriction not in conformance with the wording or intent of the Amendments Act.

9. Suggestion was made that a new section be included in the regulations which would provide for enforcement of the various terms of Life Estate Leases and, in extreme cases, for termination of such lease. The Commission noted that

the tenure of the Lease is established by statute and that according to such statute it can be terminated only by death or relinquishment. Concerning enforcement of the terms of the lease, it was noted that either the Commission, or the Secretary after the Commission ceases to exist, could enforce such terms in a court of competent jurisdiction.

10. A number of suggestions were aimed at the configuration of the Life Estate Lease premises, such as the boundaries of the Lease should be configured so as to minimize fencing, that it be consistent with tribal land use plans, and so forth. The Commission noted that Section 700.339 already provides for consultation with the Tribe upon whose land a Life Estate Lease will be located prior to establishment of the configuration of the Life Estate Lease and that such consultation could cover the various items suggested in this regard.

All of the comments and suggestions received have not necessarily been discussed herein in detail. The decision of the Commission to proceed to finalize the regulations as contained herein was based upon the considerations noted above and upon the provisions of Pub. L. 93-531 and the Amendments Act.

As of the date of publication of this final rule the Office of Management and Budget has not yet approved the information collection requirements related to these regulations. Notice of such approval will be published at a later date.

Accordingly, Part 700 of Title 25 of the Code of Federal Regulations is amended in its final form by adding regulations now designated as Subpart M—Life Estate Leases. For purposes of clarity, § 700.17, Application for life estate leases, published on October 10, 1980 as a final rule (45 FR No. 199, p. 67338) is re-designated as § 700.331 and republished at this time. Sections 700.17 (c), (d), (e), (f), (g) and (h) of the proposed rule are re-designated as §§ 700.333 through 700.343 and published here in final form. The present sections in Part 700 remain in effect until a complete revision is published.

Subpart M—Life Estate Leases

Sec.

700.331 Application for Life Estate Leases.
700.333 Determination of disability.
700.335 Grouping and granting of applications for Life Estate Leases.
700.337 Establishment of boundaries of Life Estate Leases.
700.339 Residency on Life Estate Leases.
700.341 Access to Life Estate Leases.
700.343 Life Estate Leases.

§ 700.331 Application for Life Estate Leases.

The following standards and procedures shall govern the application for Life Estate Leases:

(a) *Filing of application.* Applications for Life Estate Leases shall be filed at the Commission's office in Flagstaff, AZ, not later than July 1, 1981, unless extended for good cause. Application should be made on an approved Commission form known as "Application for Life Estate Lease" and should contain the following information:

(1) Name, address, birthdate, social security number, census number, spouse, and date of marriage, if married. The head of household who applies for a Life Estate Lease shall be known as the "applicant".

(2) Applicant's Quad Map location in the Former Joint Use Area.

(3) Information listing any other places of Applicant's residence since December 22, 1974.

(4) Name, birthdate, census number, and social security number, if any, of the applicant's minor dependent children.

(5) A statement by the applicant setting forth the nature of the applicant's disability, if any.

(6) Applications should be accompanied, wherever possible, with documentation such as Birth Certificates, Baptismal Records, Tribal Records, Family Census Cards, Marriage Certificates, Tax Returns, and such other documentation required by the Commission.

(b) *Extensions of Time for Filing of Applications for Life Estate Leases.* Extensions of time for filing of applications for Life Estate Leases shall be governed by the following procedures:

(1) The Commission shall, on a case-by-case basis, determine whether good cause exists to warrent a time extension for the receipt of applications.

(2) Initial Commission determinations concerning the time extension for receipt of applications shall be made by the Certification Officer. Any extensions granted shall be in writing and shall state the length of the extensions and the reasons therefore.

(3) In no event shall an extension be granted for more than eighty-nine (89) days after July 1, 1981.

(4) In the event an extension of time is denied or an application is refused for filing, the Certification Officer shall state the reasons therefore and such determination shall be communicated to the applicant by certified letter or in person by Commission staff.

(5) All persons aggrieved by initial Commission determination may have a hearing to present evidence and argument concerning the determination. Such hearings shall be requested and governed by the Commission's Hearings and Administrative Review Procedures contained in § 700.8 of the Commission's Operations and Relocation Procedures.

(6) For purpose of this subsection, "good cause" shall be defined as follows:

(i) Lack of actual notice.

(ii) Lack of transportation or physical incapacity preventing timely filing.

(iii) Acts of God.

(iv) Such other facts or reasons deemed sufficient in the discretion of the Commission.

§ 700.333 Determination of disability.

The Commission shall determine disability pursuant to the following:

(a) An applicant shall be considered to be disabled if he/she is unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months. A physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

(b) Each applicant who claims entitlement to a life estate lease by virture of a disability shall be examined by a physician selected by the Commission or one selected by the applicant and approved by the Commission. The reasonable costs of such examinations shall be paid by the Commission. The examining physician shall submit a report of his/her examination to the rating physician who shall be a physician selected by the Commission. The rating physician shall submit to the Commission a report stating his/her opinion as to whether or not the applicant is a least 50% (fifty percent) disabled and if so, the percent of disability. In addition, the rating physician shall state in his/her report the conditions or conditions of the applicant upon which the rating is based.

(c) In performing examinations and in making ratings, the physician shall follow the procedures and adopt the standards set forth in Subpart I—Determination of Disability or Blindness, of the Social Security Administration, contained in Title 20, Code of Federal Regulations, §§ 416.901 through 416.985, including the Appendices, etc., to the

extent that such procedures and standards are appropriate to this examination and rating.

(d) In making its determination as to the disability and the percentage thereof of an applicant who claims disability, the Commission shall consider the report of the rating physician and such other matters as the Commission deems relevant.

§ 700.335 Grouping and granting of applications for Life Estate Leases.

Upon receipt of applications filed pursuant to this Section, the Commission shall group and award life estate leases in the following manner:

(a) Applicants who are determined to be at least 50% (fifty percent) disabled as certified by a physician approved by the Commission. Such applicants shall be ranked in the order of the severity of their disability.

(b) Applicants who are not at least 50% (fifty percent) disabled shall be ranked in order of their age with the oldest listed first and the youngest listed last; provided that, if any applicant physically resides in Quarter Quad Numbers 78 NW, 77NE, 55SW, or 54 SE, as designated on the Quarter Quad Maps of the Former Joint Use Area prepared by the Bureau of Indian Affairs Field Administrative Office, such applicant shall be given priority over another applicant of equal age.

(c) Applicants who did not, as of December 22, 1974, and continuously thereafter, maintain a separate place of abode and actually remain domiciled on Hopi Partitioned Lands, and who, but for this subsecton would be required to relocate, shall be rejected by the Commission.

(d) Applicants who were not at least forty-nine (49) years of age on December 22, 1974, *or* are not at least 50% (fifty percent) disabled shall also be rejected by the Commission.

(e) The Commission shall award life estate leases to not more than one hundred and twenty (120) Navajo applicants with first priority being given to applicants listed pursuant to § 700.335(a) and the next priority being given to applicants listed pursuant to § 700.335(b), in order of such listing.

(f) The Commission shall award life estate leases to not more than ten (10) Hopi applicants with first priority being given to applicants listed pursuant to § 700.335(a) and the next priority being given to applicants listed pursuant to § 700.335(b) in order of such listing except that the portion of § 700.335(b) concerning residency in Quarter Quad Numbers 78 NW, 77NE, 77NW, 55 SW, 54SE, etc., shall not apply to Hopi applicants.

§ 700.337 Establishment of boundaries of Life Estate Leases.

(a) Prior to the issuance of a life estate lease, the Commission shall, after consultation with the Tribe upon whose land the life estate lease will be located, establish the actual configuration, shape and boundaries of the land area of the life estate lease. The present residence of the life tenant shall be within the boundaries of the life estate lease and the area of the life estate lease shall not exceed ninety (90) acres.

(b) The following factors will be considered in establishing the configuration, shape, and boundaries of a life estate lease:

(1) the location of the present residence of the applicant and the traditional land use area associated with such residence.

(2) the topography and soil conditions of the land in the immediate vicinity of the applicant's present residence.

(3) the location of the nearest source of water.

(4) the proximity of roads.

(5) such other factors may be necessary or appropriate.

§ 700.339 Residency on Life Estate Leases.

(a) No person may reside on a life estate lease other than the life tenant, his or her spouse, and minor dependents and such persons who are necessarily present, as determined by the Commission, to provide for the care of the life tenant.

(b) In determining who is necessarily present for the care of the life tenant, the Commission shall consider the following criteria:

(1) the age of the life tenant.

(2) the nature and extent of the life tenant's disability, if any.

(3) the location of the life estate lease, including but not limited to, the following factors:

(i) topography,

(ii) proximity to water,

(iii) proximity to fuel,

(iv) proximity to shopping and medical services, and

(v) any other factors deemed relevant to the Commission.

(4) The nature and extent of care to be provided to a disabled life tenant.

(5) Any other factors deemed relevant by the Commission.

(c) In the event it becomes necessary to change the identity of the person(s) or number of persons identified as necessarily present for the care of the life tenant, the life tenant shall make such request for change to the Commission. The Commission, upon review of the request, may grant an amended life estate lease to reflect the requested change.

§ 700.341 Access to Life Estate Leases.

(a) Family members and other persons may enter upon the life estate lease premises for the purpose of visiting the life estate lease residents so long as such visit does not exceed thirty (30) consecutive days in any one visit or ninety (90) days total of all visits within any lease year, except that grandchildren and their descendants who are not minor dependents of the life tenant and who have not attained the age of 18 (eighteen) years may visit for ninety (90) consecutive days in any lease year, the first of which shall commence on the date of issuance of the life estate lease. There shall be no limitation on visits which do not extend overnight.

(b) Visitors and residents shall use the existing road systems and access rights of way when traveling to and from life estate lease premises.

§ 700.343 Life Estate Leases.

The Commission shall execute a life estate lease to each applicant to whom a life estate lease is granted, which lease shall contain the following:

(a) the names of the persons entitled to reside on the life estate lease which shall be the life tenant, his or her spouse, and minor dependents and/or such persons who are necessarily present to provide for the care of life tenant.

(b) a description of the exterior boundaries of the land included in said lease.

(c) the term of the life estate lease which shall end either upon voluntary relinquishment or upon the death of the life tenant or his/her spouse, whichever occurs last.

(d) that the life tenant may feed not to exceed twenty-five (25) sheep units per year or equivalent livestock on the life estate lease premises.

(e) that no person may reside on a life estate lease other than the life tenant, his or her spouse, and minor dependents, and/or such persons who are necessarily present to provide for the care of the life tenant.

(f) that the Secretary of Interior shall pay, pursuant to 25 U.S.C. 640–d (28)(i), Pub. L. 96–305 section 30(i), on an annual basis, the fair market rental value of such life estate lease to the tribe to whom the lands leased were partitioned. Rental payments shall be made within thirty (30) days of the execution date of the life estate lease.

(g) that the life tenant may make reasonable improvements on the life

estate lease which are related to the residence and agricultural purposes of the life tenancy as determined by the Commission. Such improvements:

(1) May include the renovation or replacement of existing dwelling structures and privies or outhouses so as to improve their utility, safety or level of modern utilities or amenities, but

(2) Shall not increase the number, size, or capacity of dwelling structures on the leased area except with the express written approval of the Commission based upon a showing of actual need, or to reasonably accommodate a resident care provider for whom there is not adequate existing residential capacity.

(3) May include not more than one shed or barn to be used in connection with livestock and/or agricultural activities permitted.

(4) May include one ceremonial hogan and one traditional ramada type structure.

(5) May include a garden of reasonable size.

(6) May include such other improvements as the Commission finds to be reasonable under the circumstances of each lease.

(h) That no person may visit on a life estate lease for more than thirty (30) consecutive days in any one visit or ninety (90) days total of all visits within any lease year the first of which shall commence on the date of issuance of the life estate lease, except that grandchildren and their descendants who are not minor dependents of the life tenant and who have not attained the age of eighteen (18) years may visit for ninety (90) consecutive days in any lease year. There shall be no limitation on visits which do not extend overnight.

(i) That said life tenant or his or her surviving spouse may relinquish said life estate lease at any time and may receive relocation benefits from the Secretary at the time of relinquishment as provided in 25 U.S.C. 640–d 28 (h), (Pub. L. 96–305, section 30(h)).

(j) The purposes for which the life estate lease may be used.

(k) The life estate tenure shall end by voluntary relinquishment, or at the death of the life tenant or the death of his or her spouse, whichever occurs last, all as provided in 25 U.S.C. 640–d 28(g) (Pub. L. 96–305, section 30(g)).

(l) No livestock shall be allowed in the lease area until the perimeter of the lease area is fenced.

(m) Such other terms and conditions deemed necessary or appropriate by the Commission.

(Sec. 30(b), (Pub. L. 96–305, 94 Stat. 929, 25 U.S.C. 640–d)

Roger Lewis,

Chairman, Navajo and Hopi Indian Relocation Commission.

[FR Doc. 81–15448 Filed 5–21–81; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–5–FRL 1821–8]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) today announces final rulemaking on Michigan's Part D Plan to attain the total suspended particulate (TSP) ambient air quality standards in its TSP nonattainment area containing iron and steel sources.

USEPA published a notice of proposed rulemaking on the portion of the State TSP control strategy specifically relating to iron and steel sources on September 9, 1980 (45 FR 59329). After review of the State's response and public comments, USEPA takes final rulemaking action to approve, disapprove or conditionally approve specific regulatory proposals, and to conditionally approve the State's overall control strategy for the nonattainment area containing iron and steel sources.

EFFECTIVE DATE: This final action is effective June 22, 1981.

ADDRESSES: Copies of the State Implementation Plan (SIP) revision submitted by Michigan, public comments on the Notice of proposed rulemaking and USEPA's evaluation and response to comments are available for inspection at the following addresses:

U.S. Environmental Protection Agency, Region V, Air Enforcement Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460.

Copies of the submittal are also available at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Carol Wilmowski, U.S. Environmental Protection Agency, Air Enforcement Branch, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone: (312) 886–4254.

SUPPLEMENTARY INFORMATION:

A. Background

On March 3, 1978 (43 FR 8962), and October 5, 1978 (43 FR 45993), pursuant to the requirements of section 107 of the Act, USEPA designated certain areas in each state as not meeting the National Ambient Air Quality Standards for total suspended particulates (TSP), sulfur dioxide (SO_2), carbon monoxide (CO), ozone (O_3), or nitrogen dioxide (NO^2).

Part D of the Act, which was added by the 1977 amendments, requires each state to revise its SIP to meet specific requirements for areas designated as nonattainment. These SIP revisions must: (1) demonstrate attainment of the primary National Ambient Air Quality Standards as expeditiously as practicable, but not later than December 31, 1982; and, (2) in the interim provide reasonable further progress toward attainment through the application of reasonably available control technology (RACT) to existing sources. Under certain conditions, the date may be extended to December 31, 1987, for ozone and/or carbon monoxide. The requirements for an approvable SIP are described in a **Federal Register** notice published April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979 notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182). In addition, USEPA proposed rulemaking on November 27, 1979 (44 FR 67675) to clarify existing Federal regulations related to state or local discretionary authority to carry out provisions of a SIP.

On April 25, 1979, the State of Michigan submitted a portion of its revised SIP to USEPA to satisfy the requirements of Part D. This submittal included the State proposed control strategy to attain the TSP standards in areas designated nonattainment for that pollutant. USEPA published a notice of proposed rulemaking (NPR) on many of the proposed revisions on August 13, 1979 (44 FR 47350). On May 6, 1980, USEPA conditionally approved Michigan's control strategy for TSP nonattainment areas except for the area containing iron and steel sources (45 FR 29790). The August 13, 1979 NPR did not discuss or solicit public comment on the State's strategy for controlling particulate emissions from iron and steel sources. Consequently, USEPA did not