

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Wytwornia Sprzetu Komunikacyjnego PZL-Mielec: Applies to Models M18 and M18A (Dromader) [Serial Numbers 1Z00-101 through 1Z021-07] airplanes, certificated in any category.

Compliance: Required within the next 50 hours time-in-service (TIS) after the effective date of this AD and thereafter at intervals of 500 hours TIS until the aileron hinge is replaced with improved parts, unless already accomplished.

To prevent failure of the aileron control system, accomplish the following:

(a) Visually inspect with a 5x magnifying glass, or with fluorescent penetrant or magnetic crack detection methods, as appropriate, all aileron control system hinges for cracks and deformation in accordance with the instructions in PZL-Mielec, Mandatory Engineering Bulletin (MEB) No. K/02.132/89, approved September 7, 1989; Revised April 4, 1990.

(1) If cracks or damage are found on any aileron hinge, prior to further flight remove the aileron and replace the aileron hinge with an aileron hinge having Engineering Change Notice (ECN) 9183 or ECN 9187, incorporated in accordance with the MEB referenced in paragraph (a) of this AD.

(2) If no cracks or damage are found to any aileron hinge, repeat the above inspection every 500 hours TIS until all aileron hinges are replaced with an aileron having ECN 9183 or ECN 9187, incorporated in accordance with the MEB referenced in paragraph (a) of this AD.

(b) The airplane may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An alternate method of compliance or adjustment of the initial or repetitive compliance times, which provides an equivalent level of safety, may be approved by the Manager, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B-1000 Brussels, Belgium; Telephone (322) 513.38.30 extension 2710/2711; Facsimile (322) 230.05.34.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the

Manager, Brussels Aircraft Certification Office.

All persons affected by this directive may obtain copies of the document referred to herein upon request to Wytwornia Sprzetu Komunikacyjnego PZL-Mielec 39-301 Mielec, Poland; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on October 17, 1990.

Issued in Kansas City, Missouri, on August 31, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate,
Aircraft Certification Service.

[FR Doc. 90-21877 Filed 9-13-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-CE-17-AD; Amdt. 39-6722]

Airworthiness Directives; Wytwornia Sprzetu Komunikacyjnego PZL-Mielec Models M18 and M18A (Dromader) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Wytwornia Sprzetu Komunikacyjnego PZL-Mielec Models M18 and M18A airplanes. This action requires replacement of the push-pull cables for the engine throttle and propeller governor with SKEWO cables. The manufacturer has advised that several cases of push-pull cable failures have occurred in service. The actions specified in this AD will preclude loss of pilot control of critical engine functions.

EFFECTIVE DATE: October 17, 1990.

ADDRESSES: PZL-Mielec Mandatory Engineering Bulletin (MEB) No. K/02.127/89, dated February 1990, applicable to this AD, may be obtained from Wytwornia Sprzetu Komunikacyjnego PZL-Mielec 39-301 Mielec, Poland. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Richard F. Yotter, Aerospace Engineer, Aircraft Certification Service, 601 E. 12th Street, Kansas City, Missouri 64106; Telephone (816) 426-6932, or Mr. Carl Mittag, Aerospace Engineer, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B-1000, Brussels, Belgium; Telephone 322 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD requiring the replacement of push-pull cables for the engine throttle and propeller governor with SKEWO cables on certain Wytwornia Sprzetu Komunikacyjnego PZL-Mielec Models M18 and M18A (Dromader) airplanes was published in the Federal Register on June 4, 1990 (55 FR 22806). The proposal resulted from several cases of powerplant control failures being reported to the manufacturer on PZL-Mielec Models M18 and M18A airplanes. Consequently, PZL-Mielec issued PZL-Mielec MEB K/02.127/89, dated February 1990, which specifies replacement of certain engine push-pull controls with improved parts.

The Central Administration of Civil Aviation (CACA), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in Poland, classified this MEB and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes.

On airplanes operated under Polish registration, this action has the same effect as an AD on airplanes, certificated for operation in the United States. The FAA relies upon the certification of the CACA, combined with FAA review of pertinent documentation, in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design, certificated for operation in the United States.

The FAA examined the available information related to the issuance of PZL-Mielec MEB K/02.127/89, dated February 1990, and the mandatory classification of this MEB by the CACA, and concluded that the condition addressed by PZL-Mielec MEB No. K/02.127/89, dated February 1990, was an unsafe condition that may exist on other airplanes of this type, certificated for operation in the United States. Accordingly, the FAA proposed an amendment to part 39 of the Federal Aviation Regulations to include an AD on this subject.

Interested parties were afforded an opportunity to comment on the proposal. No comments were received on the proposal, therefore, the proposal is adopted as proposed except for minor editorial corrections.

The FAA has determined that this regulation involves 60 airplanes at an approximate \$700 cost to replace the engine throttle and propeller governor

push-pull cable for each airplane. The total cost is estimated to be \$42,000. The cost of compliance with the proposed AD is so small that the expense of compliance will not have a significant financial impact on any small entities operating these airplanes. Also, the FAA has determined that most airplanes operated in this country comply with PZL-Mielec MEB No. K/02.127/89.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Wytwornia Sprzetu Komunikacyjnego PZL-Mielec: Applies to Models M18 and M18A (Dromader) (Serial Numbers 1Z001-01 through 1Z021-20) airplanes, certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent failure of the engine push-pull cables and loss of engine control, accomplish the following:

(a) Remove the engine throttle control and the propeller governor push-pull control and replace those cables in accordance with the instructions and part numbers referenced in PZL-Mielec Mandatory Engineering Bulletin No. K/02.127/89, dated February 1990.

(b) The airplane may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An alternate method of compliance or adjustment of the compliance time, which provides an equivalent level of safety, may be approved by the Manager, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B-1000 Brussels, Belgium; Telephone 322-513.38.30 extension 2710/2711.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

All persons affected by this directive may obtain copies of the document referred to herein upon request to Wytwornia Sprzetu Komunikacyjnego PZL-Mielec 39-301 Mielec, Poland; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on October 17, 1990.

Issued in Kansas City, Missouri, on August 31, 1990.

Barry D. Clements,

*Manager, Small Airplane Directorate,
Aircraft Certification Service.*

[FR Doc. 90-21678 Filed 9-13-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 74

[Docket No. 82C-0399]

Listing of Color Additives for Coloring Contact Lenses; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of July 6, 1990, for the final rule that amended the color additive regulations to provide for the safe use of D&C Red No. 17 to color contact lenses.

DATES: Effective date confirmed: July 6, 1990.

FOR FURTHER INFORMATION CONTACT: Thomas C. Brown, Center for Food Safety and Applied Nutrition (HFF-335),

Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 5, 1990 (55 FR 22895), FDA amended 21 CFR part 74 of the color additive regulations by adding a new regulation 21 CFR 74.3230 to provide for the use of D&C Red No. 17 for coloring contact lenses.

FDA gave interested persons until July 5, 1990, to file objections or requests for a hearing on the amendment. The agency received no objections or requests for a hearing. Therefore, FDA concludes that the final rule published in the Federal Register of June 5, 1990, should be confirmed.

List of Subjects in 21 CFR Part 74

Color additives, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sections 201, 401, 402, 403, 409, 501, 502, 505, 601, 602, 701, 706 (21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 376)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no objections or requests for a hearing were filed in response to the June 5, 1990, final rule. Accordingly, the amendment promulgated thereby became effective July 6, 1990.

Dated: September 7, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-21692 Filed 9-13-90; 8:45 am]

BILLING CODE 4160-01-M

THE OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

25 CFR Part 700

New Lands Grazing Regulations

AGENCY: Office of Navajo and Hopi Indian Relocation.

ACTION: Interim final rule with comment period.

SUMMARY: These rules amend grazing regulations for the lands which have been acquired pursuant to Public Law 96-305 for the use of Navajo families required to relocate under Public Law 93-531. The rule reflects changes in statutory authority and policy which resulted from the passage of Public Law 100-666.

DATES: Interim final rule effective September 14, 1990. Comments on this rule must be submitted on or before October 29, 1990.

ADDRESSES: Comments may be mailed to the Executive Director, Office of Navajo and Hopi Indian Relocation, P.O. Box KK, Flagstaff, Arizona 86002.

FOR FURTHER INFORMATION CONTACT: Norman Lowe (Range Supervisor) or Paul Tessler (Attorney), Office of Navajo and Hopi Indian Relocation, at (602) 779-2721.

SUPPLEMENTARY INFORMATION: On June 24, 1986, the Navajo and Hopi Indian Relocation Commission published grazing regulations for lands which were acquired for the use of Navajo families who are required to relocate pursuant to Public Law 99-331 (25 U.S.C. 640d).

The supplementary information published with the regulation stated in part "25 U.S.C. 640d-10(h) of Public Law 96-305 provides that the lands that have been acquired for resettlement purposes shall be administered by the Commission until relocation is complete. The 1986 Interior Appropriations Bill (Pub. L. 99-190) provided construction funds to the Bureau of Indian Affairs for the purpose of building replacement homes on the resettlement lands. The Commission and the BIA have been working closely together to plan for the actual resettlement of those families who are physically residing on the Hopi Partitioned Lands to the New Lands. The grazing regulations which are the subject of this rule have been developed jointly by the BIA and the Commission pursuant to the Secretary's authority to protect Indian lands against waste and the Commission's authority to administer the New Lands. Under 25 U.S.C. 640d-11(i), the Commission is authorized to call upon any department to assist in the completion of the relocation program. Since the BIA has an established grazing program and available personnel to administer grazing the Commission has called upon the BIA to assist in this effort." (Federal Register, Vol. 51, No. 121 at p. 22933).

Since the publication of the regulation, there have been significant changes to Public Law 93-531 as amended. On November 16, 1988, Public Law 100-666, the "Navajo and Hopi Indian Relocation Amendments of 1988" was signed into law. Among other things, Public Law 100-666 created the Office of Navajo and Hopi Indian Relocation under the direction of the Commissioner on Navajo and Hopi Relocation. The law also transferred to the Commissioner, on January 31, 1989, all powers and duties of the Bureau of Indian Affairs derived from Public Law 99-190 (99 Stat. at 1236) that related to the relocation of members of the Navajo Tribe from lands partitioned to the Hopi Tribe, and all funds appropriated for activities relating

to such relocation pursuant to Public Law 99-190, provided that such funds are to be used by the Commissioner for the purpose for which such funds were appropriated to the Bureau of Indian Affairs. Public Law 100-666 also expanded the population for whose benefit the New Lands can be used by providing that the lands shall be used "solely for the benefit of Navajo families residing on the Hopi partitioned lands as of the date of enactment of this Act" (enacted December 22, 1974).

Finally, Public Law 100-666 bolstered the Commissioner's authority to administer the New Lands by providing "That the sole authority for final planning decisions regarding the development of lands acquired pursuant to this Act shall rest with the Commissioner until such time as the Commissioner has discharged his statutory responsibility under this Act". With the Bureau of Indian Affairs having a minimal role in relocation activities, the Commissioner has sole administrative authority over the New Lands.

Since the publication and implementation of the current grazing regulations, 100 families have been relocated to New Lands Range Clusters. Of these, 30 have received grazing permits for a total of 1,865 sheep units yearlong (SUYL) or 466 animal units (AU).

The Commissioner has reviewed and analyzed the grazing activities which have been going on pursuant to the current regulations. Range conditions, and permit levels, and grazing conditions have been monitored to determine if the current regulations needed revision. This review has led to the following determinations:

1. The priority system for allocation of grazing privileges, under current regulation, is not workable and is best replaced with a list of qualified applicants.

2. Basing grazing permit size on the 1975 Project Officers' Livestock Inventory as done under current regulations allows such small permits as to result in continued economic and management problems on the New Lands. These small and irregular sized permits challenge effective involvement of permittees in management, and make it difficult for the Office to determine when a unit's livestock carrying capacity is filled. Basing permit size on a ratio of qualified applicants to the animal units of grazing capacity on the New Lands allows a base permit of 80 sheep units yearlong. Grazing permits will be issued to permittees on a range unit until the stocking capacity of that

unit is filled, at which time the unit will be closed to any additional permittees.

3. Effective Range Management Plan grazing systems must allow for increases in the stocking rate, to achieve uniform grazing distribution, and as an incentive to permittees in practicing conservation management. Issuance of 80 sheep unit yearlong base grazing permits, determined conservatively at 65% of range livestock carrying capacity, will allow the Commission to issue each permittee an additional temporary, seasonal grazing permit to stock the range at full capacity when all permittees sign and follow a rotation grazing system plan providing conservation management. The 80 SUYL term permits may be increased as monitoring validates a higher long term stocking rate for a range unit under conservation management.

4. To demonstrate continued, active involvement in the common management of each range unit, maintenance of a permanent residency and active livestock grazing on the range unit is needed to maintain a New Lands grazing permit.

The Commissioner has also established the following goals for the New Lands range program; 1. To resettle those Navajos residing on the Hopi-Partitioned Lands, 2. To preserve the forage, the land and the water resources on the New Lands, 3. To provide grazing permits large enough to substantially contribute to the support of a family, and 4. To provide incentives to ensure conscientious range management.

Redesignation of Sections

To provide a clear presentation of these regulations, in the logical order presented by the grazing regulations of other Federal agencies, the organization of the outline of the regulations is amended as follows:

Section 700.709 "Carrying capacities" is redesignated as § 700.717 and renamed "Stocking rate" to correspond to the definitions section of the regulations.

Section 700.711 "Grazing privileges" is redesignated as § 700.709.

Section 700.715 "Tenure of grazing" is redesignated as § 700.713.

Section 700.717 "Livestock trespass" is redesignated as § 700.725.

Section 700.719 "Control of livestock disease and parasites" is redesignated as § 700.723.

Section 700.721 "Impoundment and disposal of unauthorized livestock" is redesignated as § 700.727.

Section 700.722 "Grazing Associations" is added.

Section 700.723 "Range management plans" is redesignated as § 700.721.

Section 700.725 "Assignment, modification, and cancellation of grazing permits" is redesignated as § 700.715.

Section 700.727 "Establishment of grazing fees" is redesignated as § 700.719.

Revision of Sections

The major change made in these regulations is changing the allocation of grazing permits procedure to establish a base grazing permit of 80 sheep units for all permit holders on the New Lands. This change establishes the total number of permits available on the New Lands as 162. This allows the Office to provide an incentive program, as required in the range management plan section of the regulations, by issuing seasonal permits to permittees above the conservatively set 80 SUYL for conservation management practices which improve the land, while allowing higher stocking rates on the range. This also allows closing range units to further permittee entry when the stocking capacity is reached at 80 sheep units per permittee; thus allowing the Office to better schedule the settlement of future range units by qualified applicants.

Section 700.701 Definitions

In subsection (b) the figure of 250,000 acres is changed to 215,000 acres to indicate the true acreage of the five ranches purchased as part of the new Lands acquisition.

A new subsection (c) adds the definition of *Commissioner* to define the Office and responsibility of the Commissioner.

In subsection (g) the definition of *range management plan* is amended to mean a land use plan, instead of a range plan, to define what a range plan is.

In subsection (h) the definition of *stocking rate* is amended to say stocking rate is determined by the Commissioner, instead of the Secretary, in line with the authority of these regulations.

Section 700.703 Authority

The first sentence stating the authority of the Secretary is removed, as these regulations are under the authority of the Commissioner on Navajo and Hopi Indian Relocation.

Section 700.709 Carrying Capacities

(Redesignated § 700.717 and renamed *Stocking rate*)

This section is renamed to match the definition in § 700.701. Stocking rate is the proper term to denote authorized grazing levels. "Area Director" is replaced with "Commissioner" to reflect

the management authority of these regulations.

Section 700.711 Grazing Privileges

(Redesignated § 700.709)

This section is removed and replaced with a list of eligible permittees which is available at the Office of Navajo and Hopi Indian Relocation in Flagstaff. Individuals are eligible to be included on this list if they have not yet received relocation benefits under Public Law 93-531 and; (1) have a current HPL grazing permit, or (2) have had an HPL grazing permit issued in their name since 1980, or (3) being a current, full-time HPL resident and being able to show documentation of a past grazing permit issued in their name for a grazing area which is now on the HPL.

Section 700.711 is removed and replaced in whole because: Under subsection (a)(i), physical residency on July 8, 1980 could not be verified; under subsection (a)(iii) the sheep units determined by the 1975 Project Officers' Livestock Inventory do not provide an economic permit level for many of the permittees, and there is no clear means for the Office to close range units in the interest of incentive management, unless standard size permits are issued; also the three priority system of permit allocation, subsection (a)(iii)(1-3), is removed because it has not worked in practice. People move when the many stages of preparation are complete, and it is not the position of the Commissioner to have people who are ready to move wait until their priority class for a grazing permit comes available. All those on the Commissioner's list are eligible to move when ready.

Section 700.713 Grazing Permits

(Redesignated § 700.711)

This section is further clarified to insure better permit regulation. In line with the authority of these regulations, grazing permits are authorized by the Commissioner. Subsection (b) is added to insure permit holders and recipients of transferred permits, will be resident adults who will be able to cooperate with the other permittees in managing livestock under the required range management plans. Subsection (c) is added to stipulate that base permits will be issued for 80 SUYL. This is to give all permittees a substantial size permit and given them equal responsibility in management. Subsection (d) is added to provide the needed flexibility in livestock permitting to meet the needs of the individual range unit management plans. The base permit of 80 SUYL is based on conservative stocking under continuous yearlong grazing. As these

regulations require management for the preservation of forage, soil, and water resources, and require that a range management plan be developed for each range unit, including management incentives, there must be provisions for additional livestock permitting to current permit holders. This new subsection provides for the issuance of temporary permits, for up to one year, to fill the permitted carrying capacity of a range unit according to the requirements of the range management plan. Range monitoring, as required in the range management plan, will ensure proper stocking levels for the continued issuance of the temporary seasonal permits until such time as range use monitoring documents the proper level of increase in term permits based on actual management.

Section 700.715 Tenure of Grazing

(Redesignated § 700.713)

Reference to an October 31st to October 30th annual grazing season is removed, as there is no basis for a set grazing season on the New Lands, and replaced with "Permits will be issued to terminate on October 31, of the fifth year following the date of initial issuance". The sentence on amendments to grazing permits resulting from amendments to the grazing regulations becoming effective on the next October 31 is removed as the October 31 date is only relevant to 5 year permit termination and reissuance. The wording of the amendment will indicate the required timing for implementation.

The sentence "a grazing permit may be passed on through inheritance" is removed and wording is added to explain the procedure for designating an heir. A permit is a privilege given by the Commissioner. Grazing use of the land is not to be tied up in probate proceedings.

Section 700.717 Livestock Trespass

(Redesignated § 700.725)

This section has been reordered to list the prohibited actions before the penalties, and "Area Director" has been replaced with "Commissioner" to reflect the authority of these regulations. Subsection (b) is removed as this prohibited act is already included under subsection (a). Subsection (c) is redesignated subsection (b) and wording changed to clarify that grazing on an area specifically rested from grazing according to the range unit management plan is prohibited.

Section 700.721 Impoundment and Disposal of Unauthorized Livestock

(Redesignated § 700.727)

The practical administrative procedure of allowing written notice and a ten day period for the Commissioner to settle the trespass before written notice of intent to impound is issued is added to this section. This procedure is preferred on communal lands, often requiring the need for group meetings to resolve issues. "Area Director" has been replaced with "Commissioner" to reflect the authority of these regulations.

Section 700.722 *Grazing Associations*

This section is added to outline the procedure for the voluntary formation of range unit livestock grazing associations. Grazing associations are the widely accepted means for cooperative management of communally managed lands. Inclusion of this section is to show the Commissioner's support for responsible local management, and to specify a clear and orderly procedure for association formation, recognition by the Office, and cooperative management.

Section 700.723 *Range Management Plans*

(Redesignated § 700.721)

In line with the authority of these regulations the Commissioner will approve all management plans, and develop them in cooperation with individual range unit permittees. A new subsection (e) "Range monitoring schedule" is added to reflect the vital need for monitoring for range plans to accomplish intended long-range goals.

Section 700.725 *Assignment, Modification, and Cancellation of Grazing Permits*

(Redesignated § 700.715)

Section (a) has been changed to indicate assignment, sub-permitting, or transfer is done by written consent and written notification. A new subsection (b) is added to specify that temporary grazing permits are transferred with the term permit. A new subsection (c) is added to provide for passing of a grazing permit by a permittee to a designated heir who meets requirements for holding a permit. A new subsection (d) is added to specify that permits must be transferred in whole to a single transferee, thus ensuring against permits becoming too small for economic return or responsible management.

Section 700.727 *Establishment of Grazing Fees*

(Redesignated § 700.719)

Most of this section, explaining the procedure for collection and use of fees, is removed as it is not under the authority of these regulations to

determine the BIA or Navajo Tribe's management of such funds.

Section 700.729 *Amendments*

The sentence on amendments becoming effective on the next October 31 is removed as the October 31 date is only relevant to 5 year permit termination and reissuance. The wording of the new amendment will indicate the required timing for implementation.

Preamble

The primary author of this document is Norman S. Lowe, Range Supervisor, Office of Navajo and Hopi Indian Relocation, Flagstaff, Arizona.

It has been determined that this final rule is not a major rule as that term is defined in Executive Order 12291, because it will have a limited economic impact on a small number of people, and does not require a regulatory analysis. It has been determined that the final rule will not have significant economic impact on a substantial number of small entities with the meaning of Regulatory Flexibility Act, 5 U.S.C., 601 *et seq.*

This rule does not constitute a major federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969.

This rule does not contain information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

These regulations are being published as an Interim Final Rule because of the timeframe involved in the movement of eligible individuals to the New Lands. Although the Commission's originally constructed deadline of July 7, 1986 for the completion of relocation passed, there is considerable urgency to continue to move at least those individuals who are physically residing on the HPL as soon as possible. The majority of those families are dependent in some fashion on grazing and must be assured that a grazing permit will be issued prior to their moving to the New Lands. It is, therefore, necessary for these regulations to become effective immediately so that grazing permits can be issued to those families.

List of Subjects in 25 CFR Part 700

Administrative practice and procedure, Conflict of interest, Freedom of Information, Grant program—Indians, Indian-claims, Privacy, Real property acquisition, Relocation assistance, New lands administration.

PART 700—[AMENDED]

Accordingly, the Commission is amending 25 CFR part 700.

Subpart Q is revised to read as follows:

Subpart Q—New Lands Grazing
 700.701 Definitions.
 700.703 Authority.
 700.707 Regulations; scope.
 700.709 Grazing privileges.
 700.711 Grazing permits.
 700.713 Tenure of grazing permits.
 700.715 Assignment, modification, and cancellation of grazing permits.
 700.717 Stocking rate.
 700.719 Establishment of grazing fees.
 700.721 Range management plans.
 700.722 Grazing Associations.
 700.723 Control of livestock disease and parasites.
 700.725 Livestock trespass.
 700.727 Impoundment and disposal of unauthorized livestock.
 700.729 Amendments.

Subpart Q—New Lands Grazing

§ 700.701 Definitions.

(a) *Act* means Public Law 93-531 (88 Stat. 1712, 25 U.S.C. 640 *et seq.*) as amended by Public Law 96-305 and Public Law 100-666.

(b) *New lands* means the land acquired for the use of relocatees under the authority of Public Laws 96-305, 25 U.S.C. 640d-10. These lands include the 215,000 acres of lands acquired by the Navajo and Hopi Indian Relocation Commission and added to the Navajo Reservation and 150,000 acres of private lands previously owned by the Navajo Nation in fee and taken in trust by the United States pursuant to 25 U.S.C. 640d-10.

(c) *Commissioner* means the Commissioner of The Office of Navajo and Hopi Indian Relocation in Flagstaff, AZ. Reference to approval or other action by the Commissioner will also include approval or other action by another Federal Officer under delegated authority from the Commissioner.

(d) *Secretary* means the Secretary of the Interior. Reference to approval or other action by the Secretary will also include approval or other action by another Federal officer under delegated authority from the Secretary.

(e) *Tribe* means the Navajo Nation.

(f) *Range unit* means a tract of range land designated as a management unit for administration of grazing.

(g) *Range management plan* means a land use plan for a specific range unit that will provide for a sustained forage production consistent with soil, watershed, wildlife and other values.

(h) *Stocking rate* means the authorized stocking rate by range unit as determined by the Commissioner. The

stocking rate shall be based on forage production, range utilization, land management applications being applied, and range improvements in place to achieve uniformity of grazing under sustained yield management principles.

(i) *Grazing permit* means a revocable privilege granted in writing, limited to entering on and utilizing forage by domestic livestock on a specified tract of land. The term as used herein shall include written authorization issued to enable the crossing or trailing of domestic livestock across specified tracts or range.

(j) *Animal unit (AU)* means one adult cow with unweaned calf by her side or equivalent thereof based on comparative forage consumption. Accepted conversion factors are: Sheep and Goats—one ewe, doe, buck, or ram equals 0.25 A.U.; Horses and Mules—one horse, mule, donkey or burro equals 1.25 A.U.

(k) *Sheep unit* means one ewe with lamb at side or a doe goat with kid.

(l) *S.U.Y.L.* means one sheep unit grazed yearlong.

(m) *HPL* means the area partitioned to the Hopi Tribe pursuant to Public Law 93-531 known as the Hopi Partitioned Land.

§ 700.703 Authority.

It is within the authority of the Commissioner on Navajo and Hopi Indian Relocation Commission to administer the New Lands added to the Navajo Reservation pursuant to 25 U.S.C. 6-10(d)-10.

§ 700.705 Objectives.

It is the purpose of the regulations in this part to aid the Navajo Indians in achievement of the following objectives:

(a) The preservation of the forage, the land, and the water resources on the New Lands.

(b) The resettlement of Navajo Indians physically residing on the Hopi Partitioned Lands to the New Lands.

§ 700.707 Regulations; scope.

The grazing regulations in this part apply to the New Lands within the boundaries of the Navajo Reservation held in trust by the United States for the Navajo Tribe which lands were added to the Navajo Reservation pursuant to 25 U.S.C. 640(d)-10. 25 CFR parts 166 and 167 are not applicable to the New Lands.

§ 700.709 Grazing privileges.

A list of permittees eligible to receive grazing permits is kept at the Office of Navajo and Hopi Indian Relocation in Flagstaff, Arizona. This list is composed of individuals eligible for New Lands grazing permits who:

(a) have a current HPL grazing permit, or have had an HPL permit issued since 1980, or are current HPL residents and can show documentation of a past grazing permit issued in their name for grazing on an area now on the HPL, and

(b) who have not received relocation benefits under Public Law 93-531, and who relocate from the HPL on to a New Lands range unit.

§ 700.711 Grazing permits.

(a) All livestock grazed on the New Lands must be covered by a grazing permit authorized and issued by the Commissioner on Navajo and Hopi Indian Relocation.

(b) Permit holders must:

(1) be enrolled Navajo Tribal members,

(2) be over 18 years of age,

(3) maintain a permanent residency on the New Lands Range Unit of permit issue, and

(4) own livestock which graze on the range unit of permit issue.

(c) Permits will be issued for a base size of 80 SUYL (20 AU), and may not be divided or transferred for less than 80 SUYL.

(d)(1) Temporary seasonal grazing permits for periods not to exceed one year may be issued to permittees:

(i) To use extra forage made available under rotation grazing management as regulated by a range unit management plan,

(ii) To use forage created by unusually favorable climatic conditions,

(iii) To allow use of range while term permits are held in suspension under § 700.715(d).

(2) These temporary permits may be reissued prior to termination provided:

(i) The permittee is managing grazing in compliance with grazing regulations,

(ii) Livestock grazing is in compliance with the cooperative range unit range management plan, and

(iii) Forage is available on the range to sustain the livestock authorized under the temporary unit.

§ 700.713 Tenure of grazing permits.

All active regular grazing permits shall be for five years and shall be automatically reissued for another five year period provided the permittee is not in violation of §§ 700.711, 700.715, 700.719, 700.723, and 700.725 of the regulations. Permits will initially be issued with an ending date of October 31 of the fifth year following the date of initial issuance.

Amendments to these regulations extending or limiting the tenure of grazing permits are applicable and become a condition of all previously granted permits.

§ 700.715 Assignment, modification, and cancellation of grazing permits.

(a) Grazing permits may be assigned, sub-permitted, or transferred with the written consent of the contracting parties. The Commissioner will issue a new permit provided the transferee meets qualifications under § 700.711(b).

(b) Temporary permits issued under § 700.711(d) are directly tied to the term permit and may be transferred with the term permit if the transferee signs the range unit management plan which provides the management for continuation of the temporary grazing permit. Temporary permits will not be transferred and shall cease to exist, if the term permit transferee does not sign the management plan agreeing to practice conservation management.

(c) Grazing permits may be assigned for transfer, though a notarized document, to an heir who meets the qualifications for a grazing permit under § 700.711.

(d) Grazing permits must be transferred in whole to a single transferee, the transferor relinquishing all grazing privileges at the time of transfer.

(e) The Commissioner may revoke or withdraw all or any part of a grazing permit by cancellation or modification on 30 days' written notice for violation of the permit or of the management plan, non-payment of grazing fees, violation of these regulations, or because of the termination of the trust status of the permitted land.

§ 700.717 Stocking rate.

The Commissioner will determine livestock carrying capacity for each range unit and set the stocking rate and adjust that rate as conditions warrant.

§ 700.719 Establishment of grazing fees.

The Commissioner may establish a minimum acceptable grazing fee per SUYL.

§ 700.721 Range management plans.

The Commissioner or his designee and the permittees of each Range unit will meet as a group and develop a range management plan for the common use of the range unit. The plan will include but not be limited to the following:

(a) Goals for improving vegetative productivity.

(b) Incentives for carrying out the goals.

(c) Stocking rate.

(d) Grazing plan and schedule.

(e) Range monitoring schedule.

(f) Wildlife management.

(g) Needs assessment for range and livestock improvements.

(h) Scheduling for operation and maintenance of existing range improvements.

§ 700.722 Grazing associations.

(a) The Commissioner may recognize, cooperate with, and assist range unit livestock associations in the management of livestock and range resources:

(b) These associations will provide the means for the members to:

(1) Jointly manage their permitted livestock and the range resources.

(2) Meet jointly with the Office of Navajo and Hopi Indian Relocation range staff to discuss and formulate range management plans.

(3) Express their wishes through designated officers or committees.

(4) Share costs for handling livestock, construction of range improvements, fence and livestock facilities maintenance, and other land or livestock improvement projects agreed on.

(5) Formulate association special rules needed to assure proper cooperation and resource management.

(c) The requirements for receiving recognition by the Commissioner are:

(1) The members of the association must constitute a majority of the grazing permittees on the range unit involved.

(2) The officers of the association must be elected by a majority of the association members or of a quorum as specified by the association's constitution and bylaws.

(3) The officers other than secretary and treasurer must be grazing permittees on the range unit involved.

(4) The association's activities must be governed by a constitution and bylaws acceptable to the Commissioner and signed by him.

(5) The association's constitution and bylaws must recognize conservation management goals and the need to follow a range unit management plan.

(d) The Commissioner may withdraw his recognition of the association whenever:

(1) The majority of the grazing permittees request that the association be dissolved.

(2) The association becomes inactive, and does not meet in annual or special meetings during a consecutive 2-year period.

(e) A recognized association may hold a grazing permit to benefit its members according to the rules of the association constitution and bylaws. All association's livestock will be run under an association brand properly registered with the Navajo Tribe.

(f) Associations may acquire permits from consenting permittees on the range unit in accordance with § 700.711, and may assign, subpermit, or transfer these permittees on the range unit in accordance with § 700.711, and may assign, such permit, or transfer these permits in accordance with § 700.715.

§ 700.723 Control of Livestock Disease and Parasites.

Whenever livestock within the New Lands become infected with contagious or infectious disease or parasites or have been exposed thereto, such livestock must be treated and the movement thereof restricted in accordance with applicable laws.

§ 700.725 Livestock trespass.

The following acts are prohibited:

(a) The grazing of livestock upon, or driving of livestock across any of the New Lands without a current approved grazing or crossing permit;

(b) The grazing of livestock upon an area specifically rested from the grazing of livestock according to the range unit Range Management Plan;

(c) The grazing of livestock upon any land withdrawn from use for grazing to protect it from damage, after receipt of appropriate notice from the Commissioner; and

(d) The grazing of livestock in excess of those numbers authorized on the livestock grazing permit approved by the Commissioner.

The owner of any livestock grazing in trespass on the New Lands is liable to a civil penalty of \$1 per head per day for each animal in trespass, together with the replacement value of the forage consumed and a reasonable value for damages to property injured or destroyed. The Commissioner may take appropriate action to collect all such penalties and damages and seek injunctive relief when appropriate. All payments for such penalties and damages shall be paid to the Commissioner for use as a range improvement fund.

§ 700.727 Impoundment and disposal of unauthorized livestock.

Unauthorized livestock within any range unit of the New Lands which are not removed therefrom within the periods prescribed by the regulation will be impounded and disposed of by the Commissioner as provided herein.

(a) When the Commissioner determines that unauthorized livestock use is occurring and has definite knowledge of the kind of unauthorized livestock, and knows the name and address of the owners, the owner shall be given written notice and a ten day

period shall be allowed for the Commissioner to solve the unauthorized use without penalty to the owner of the livestock. If after this 10 day period said unauthorized use is not resolved, such livestock may be impounded any time after five days after written notice of intent to impound unauthorized livestock is mailed by certified mail or personally delivered to such owners or their agent.

(b) When the Commissioner determines that unauthorized livestock use is occurring but does not have complete knowledge of the number and class of livestock or if the name and address of the owner thereof are unknown, such livestock may be impounded anytime after 15 days after the date a General Notice of intent to impound unauthorized livestock is first published in a local newspaper, posted at the nearest chapter house, and in one or more local trading posts.

(c) Unauthorized livestock on the New Lands which are owned by persons given notice under paragraph (a) of this section, and any unauthorized livestock in areas for which notice has been posted and published under paragraph (b) of this section, will be impounded without further notice anytime within the twelve month period immediately following the effective date of the notice.

(d) Following the impoundment of unauthorized livestock, a notice of sale of impounded livestock or unauthorized livestock will be published in a local newspaper, posted at the nearest chapter house, and in one or more local trading posts. The notice will describe the livestock and specify the date, time, and place of sale. The date set shall be at least 5 days after the publication and posting of such notice.

(e) The owners or their agent may redeem the livestock anytime before the time set for the sale by submitting proof of ownership and paying for all expenses incurred in gathering, impounding, and feeding or pasturing the livestock and any trespass fees and/or damages caused by the animals.

(f) Livestock erroneously impounded shall be returned to the rightful owner, and all expenses accruing thereto shall be waived.

(g) If the livestock are not redeemed before the time fixed for their sale, they shall be sold at public sale to the highest bidder. When livestock are sold pursuant to this regulation, the Commissioner shall furnish the buyer a bill of sale or other written instrument evidencing the sale.

(h) The proceeds of any sale of impounded livestock shall be applied as follows:

(1) To the payment of all expenses incurred by the United States in gathering, impounding, and feeding or pasturing the livestock;

(2) Trespass penalties assessed pursuant to § 700.725 shall be paid to a separate account to be administered by the Commissioner for use as a range improvement fund for the New Lands;

(3) Any remaining amount shall be paid over to the owner of said livestock upon his submitting proof of ownership.

Any proceeds remaining after payment of the first and second items noted above not claimed within one year from the date of sale, will be credited to the United States.

§ 700.729 Amendments.

These regulations may be amended or superseded as needed.

Dated: September 7, 1990.

Carl J. Kunasek,

Commissioner on Navajo and Hopi Indian Relocation.

[FR Doc. 90-21666 Filed 9-13-90; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 35a

Temporary Employment Tax Regulations Under the Interest and Dividend Tax Compliance Act of 1983

CFR Correction

In title 26 of the Code of Federal Regulations, parts 30 to 39, revised as of April 1, 1990, in § 35a.3406-1 the old text of paragraph (f) was inadvertently printed. The old text beginning with the first complete paragraph in column one, line 9, on page 339, and ending with column one, line 17, on page 341 should be removed.

BILLING CODE 1505-01-D

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Procedural Rules

AGENCY: National Labor Relations Board.

ACTION: Final rules.

SUMMARY: The National Labor Relations Board is revising its rules that govern service of papers by parties to permit,

under certain circumstances, transmissions of documents to the Agency's facsimile machines. The revisions are being adopted in order to accommodate the use by parties of this rapidly growing form of technology while taking into account the limited number of facsimile machine presently available throughout the Agency. The intended effect of the revisions is to establish some measure of uniformity in the practices for accepting facsimile transmissions.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, 1717 Pennsylvania Avenue NW., room 701, Washington, DC 20570, Telephone: (202) 254-9430.

SUPPLEMENTARY INFORMATION: The National Labor Relations Board recognizes that the use of facsimile systems is becoming more prevalent in both the private and public sectors. Yet, at the present time, the Board has no rule setting forth the circumstances under which it will accept facsimile transmissions from parties. Therefore, determinations whether to accept particular documents that have been transmitted by a facsimile system have been made on a case-by-case basis by the receiving office.

The Board is revising § 102.114 of its rules in order to establish some measure of uniformity in the practices for accepting facsimile transmissions while taking into account the limited number of facsimile machines presently available throughout the Agency. The overall approach is to permit facsimile transmissions of requests for extensions of time, prohibit facsimile transmissions of most other formal documents, and permit facsimile transmissions of all other documents subject to advance approval, in each instance, by the receiving office.

The title of § 102.114 is changed to include specific reference to the subject of facsimile transmissions. Subsections (a) and (b) of § 102.114, dealing generally with service of papers and proof of service, are retained without modification. Subsections (c), (d), and (e) of this section are new.

Subsections (c) and (d) of § 102.114 set forth the documents that will or will not be permitted to be filed by facsimile transmission, and the procedures to be followed in filing documents by facsimile and in securing permission to file those documents whose receipt is left to the discretion of the receiving office.

Subsection (e) of § 102.114 sets forth the requirements for service of copies on other parties when a document is served

upon the Board by facsimile transmission.

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the NLRB certifies that this rule will not have a significant impact on a substantial number of small businesses.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Labor management relations.

Accordingly, 29 CFR part 102 is amended as follows:

1. The authority citation for 29 CFR part 102 continues to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117(c) also issued under section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)). Sections 102.143 through 102.155 also issued under section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

2. Section 102.114 is revised to read as follows:

§ 102.114 Service of papers by parties; proof of service; filing and serving documents and papers by facsimile transmission.

(a) Service of papers by a party on the other parties shall be made by registered mail, or by certified mail, or in any manner provided for the service of papers in a civil action by the law of the State in which the hearing is pending. Except for charges, petitions, exceptions, briefs, and other papers for which a time for both filing and response has been otherwise established, service on all parties shall be made in the same manner as that utilized in filing the paper with the Board, or in a more expeditious manner; however, when filing with the Board is accomplished by personal service the other parties shall be promptly notified of such action by telephone, followed by service of a copy by mail or telegraph. When service is made by registered mail, or by certified mail, the return post office receipt shall be proof of service. When service is made in any manner provided by the law of a State, proof of service shall be made in accordance with such law. Failure to comply with the requirements of this section relating to timeliness of service on other parties shall be a basis for either:

(1) A rejection of the document or
(2) withholding or reconsidering any ruling on the subject matter raised by the document until after service has been made and the served party has had reasonable opportunity to respond.

(b) The person or party serving the papers or process on other parties in