Federal funds for noise insulation of private residences as an interior noise abatement measure. Member(s) of Congress had suggested that the noise insulation of private residences be added to the listing of abatement measures, which may routinely be considered whenever a traffic noise impact occurs. Such consideration would not require the occurrence of a severe traffic noise impact. However, such consideration could require that all other measures be evaluated and be determined not to be reasonable and feasible before the noise insulation of private residences could be considered. As with all elements of highway traffic noise analysis and abatement, consideration for the noise insulation of private residences should be applied uniformly and consistently on a statewide basis.

The FHWA sought comments on the following questions:

1. Should the FHWA revise its noise regulation to allow Federal participation in the noise insulation of private residences whenever a traffic noise impact occurs, not only when a severe traffic noise impact occurs?

2. Should the FHWA revise its noise regulation to routinely allow Federal participation in the noise insulation of private residences, i.e., add it to the listing of abatement measures which may be included in ''Type I'' and ''Type II'' projects, or should Federal participation in the noise insulation of private residences be allowed only after all the other listed abatement measures have been determined not to be reasonable and feasible?

3. Should the FHWA revise its noise regulation to address the noise insulation of private residences in a manner, which is, different from that discussed in the first two questions? If so, how?

Comments Received in Response to the ANPRM

The agency received comments on the proposed revision from one member of Congress, two Federal agencies, one metropolitan planning organization, one insulation contractor, and 15 State departments of transportation (DOT).

The member of Congress supported making a regulatory change to allow private home insulation where ''conventional exterior noise barriers are found to be impractical or excessively expensive.'' This would increase a State DOT's flexibility to participate in alternative noise abatement projects and would provide noise abatement in many instances where it would not be provided under existing FHWA regulations.

The Department of Housing and Urban Development recommended a ''total, multi-modal noise package'' be considered for noise effects and mitigation.

The U.S. Environmental Protection Agency encouraged the provision of more flexibility in the use of noise insulation for private residences, i.e., noise insulation should be available for consideration in all situations.

The metropolitan planning organization supported a regulatory revision to allow greater flexibility in using Federal funds for the noise insulation of private homes.

The insulation contractor strongly supported a revision to routinely provide noise insulation.

One State department of transportation commented that the FHWA's noise regulations should be re-crafted to allow Federal participation in any reasonable and feasible noise abatement methodology, provided specific performance criteria have been satisfied.

The other 14 State DOTs voiced opposition to the proposed regulatory change, indicating the proposed regulatory change will result in the following: (1) A substantial increase in the cost and complexity of the noise abatement program (one State DOT estimated its average annual noise mitigation cost would increase from $1.9 million to $30.6 million, approximately doubling the annual expenditure for all planning, analysis, design, and construction related to all environmental disciplines); (2) a dramatic increase in the amount of time and effort invested to complete noise studies/final abatement designs, with the potential for causing significant and costly project delays; (3) inequities in the noise abatement program, since the costs associated with insulating private residences would vary greatly (this could increase the potential for discrimination complaints); (4) unnecessary additional burdens for States (since building insulation cannot be accurately modeled, its cost would have to be estimated on a house-by-house basis and its application would be far too difficult to manage in a reasonable and cost effective manner); (5) no provision of benefits for the exterior areas of residences; (6) legal concerns related to maintenance of the home insulation and the consideration of future homeowner remodeling/changes; (7) a tremendous administrative burden, since extensive, comprehensive contractual agreements would be required among all involved parties, e.g., State DOTs, consultants, contractors, local government officials, and homeowners, to minimize the possibility of litigation; and (8) unnecessary complications of a noise abatement program that has been easily understood and accepted by the public for an extended period of time. The same 14 State DOTs indicated that the current regulatory guidance is adequate and appropriate and that the noise insulation of private residences should remain a ''technique of last resort.''

Analysis

The agency proposal considered allowing Federal participation in the routine noise insulation of private residences whenever a traffic noise impact occurs. After review of the comments submitted in response to that proposal, it has become apparent that, while increasing the flexibility in providing noise abatement, routinely allowing Federal participation in the noise insulation of private residences would place an unacceptable additional burden on State DOTs and add an unacceptably high cost to the Federal-aid highway program that was not previously anticipated. The additional burden to States would include a tremendous increase in the resources needed to address the administrative, legal, and technical elements of providing noise abatement in private residences. The fifteen-fold increase in annual noise abatement costs estimated by one State DOT is an example of the unacceptable increase in Federal-aid highway program costs.

Conclusion

For the reasons stated above, the FHWA is terminating this rulemaking action and closing the docket.

Authority: 23 U.S.C. 109(h) and (i); 42 U.S.C. 4331, 4332; and 49 CFR 1.48(b).

Issued on: March 18, 2002.

Mary E. Peters,

Federal Highway Administrator.

[FR Doc. 02–7165 Filed 3–25–02; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 21

RIN 1076–AD98

Arrangement With States, Territories, or Other Agencies for Relief of Distress and Social Welfare of Indians

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs (BIA) proposes to remove regulations on Arrangement with States, Territories, or other agencies for relief of distress and social welfare of Indians. The program governed by this rule is now administered under regulations in Contracts under the Indian Self-Determination and Education Assistance Act. Eliminating this rule will remove any confusion regarding the process for providing certain social services to the tribes.

DATES: Written comments must be submitted on or before May 28, 2002.

ADDRESSES: You may submit your comments on the proposed rule by mail or by hand-delivery to Larry Blair, Chief, Human Services Division, Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, MS–4660–MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Larry Blair at (202) 208–2479.

SUPPLEMENTARY INFORMATION: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 2 and 9. The Secretary has delegated this authority to the Assistant Secretary—Indian Affairs under Part 209 Departmental Manual, Chapter 8.1A, and by memorandum dated January 25, 1994, from Chief of Staff, Department of Interior, to Assistant Secretaries and Heads of Bureaus and Offices.

Background

A proposed rule was published in the **Federal Register** on July 1, 1996 (61 FR 33876), to revise the existing regulation in order to improve its clarity and understanding to the public through the use of Plain English. No comments were received on the July 1, 1996, publication. Due to questions raised by the Solicitor's Office on the impact that this proposed rule could have on the Office of Indian Education Programs, the rule was not finalized. Also, 25 CFR part 21 is no longer necessary because this program now falls under the regulations in 25 CFR part 900, which implement the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638, 88 Stat. 2203, 25 U.S.C. 450 *et seq.*, as amended). We therefore propose the removal of this part to clarify that tribal governments have total responsibility for operating social service programs.

Finally, this rule has never been used by the Office of Tribal Services, and used only once by the Office of Indian Education Programs. It has never been funded as a viable program.

Regulatory Planning and Review (Executive Order 12866)

This rule was reviewed by the Office of Management and Budget, and determined not to be a significant regulatory action under Executive Order 12866. This rule has not had an effect of $100 million or more on the economy, nor has it adversely or materially affected the economy, productivity, competition, jobs, the environment, public health or safety, of State, local, or tribal governments or communities. The removal of this rule will also not create any serious inconsistency or otherwise interfere with an action taken or planned by another agency. The removal of this rule removes the apparent inconsistency with the Self-Determination and Education Assistance Act, as amended. This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or rights or obligations of their recipients. 25 CFR part 21 deals with the negotiation, execution and planning of social service contracts yet, it has never been funded or used by the social services programs. This rule does not raise novel legal or policy issues because it has been replaced by a law more responsive to the needs of the tribes.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) This rule involves the negotiation, execution and planning of social service contracts, between the Federal Government and State or local governments, and does not have an effect upon the regulation of small business, organizations or grant jurisdiction over small governments. State and local governments will not be negatively impacted with the elimination of this rule because it has never been funded. They also are free to apply for grants under the Johnson-O'Malley Act providing no tribe or tribal entities are interested in applying.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804 (2), the Small Business Regulatory Enforcement Fairness Act. This rule provides guidance for social services contracting and has no effect on the costs or prices in local communities. This rule does not have significant adverse effect on competition, employment, investments, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises. This rule does not affect local enterprises and has never been used for operation of social service programs under this part.

Unfunded Mandates Act of 1995

This rule imposes no unfunded mandates on any State, local, or tribal government or private entities and is in compliance with the provisions of the Unfunded Mandates Act of 1995. This rule, if funded and used, would provide the funds needed in the contract to perform the services.

Takings (Executive Order 12630)

The Department has determined that this rule does not have significant ''takings'' implications, or pertain to ''taking'' of private property interests, nor does it affect private property.

This rule involves the negotiation, execution and planning of social service contracts, and does not deal with private property, or trusts. This rule does not affect property rights protected by the Constitution and does not pose a risk of compensable taking.

Federalism (Executive Order 12612)

The Department has determined that this rule does not have significant Federalism effects because it pertains solely to Federal-tribal relations and will not interfere with the roles, rights and responsibilities of states.

Civil Justice Reform (Executive Order 12988)

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

Paperwork Reduction Act of 1995

This rule has been examined under the Paper Reduction Act of 1995. Information collection was necessary for 25 CFR part 21 to identify how contract funds were to be used, and to measure contractors' performance and plans for future performance. Since its inception, 25 CFR part 21 has never been used by the social service program, and thus the information collections approved for contract funding or performances were allowed to expire, unused.

National Environment Policy Act

The Department has determined that this rule does not constitute a major Federal action significantly affecting the quality of human environment and that no detailed statement is required under the National Environmental Policy Act of 1969.

Consultation and Coordination with Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Public Comment Solicitation

If you wish to comment on this rule, you may send your comments by mail or hand-deliver them to the person listed in the **ADDRESSES** section of this document. Our practice is to make comments, including names and home addresses of respondents available for public review during regular business hours, Monday through Friday, 9:00 a.m. to 4:00 p.m. EST, excluding Federal holidays. Individual respondents may request that we withhold their home address from the rulemaking record. We will honor the request to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or business, available for public inspection in their entirety.

List of Subjects in 25 CFR Part 21

Indians, Indian-welfare contracts.

For the reasons stated in the preamble and under the authority of 25 U.S.C. 9, the Bureau of Indian Affairs proposes to remove 25 CFR part 21 from Chapter I of Title 25 of the Code of Federal Regulations.

Dated: March 14, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–7208 Filed 3–25–02; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05–02–004]

RIN 2115–AE46

Special Local Regulations for Marine Events; St. Mary's River, St. Mary's City, MD

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish permanent special local regulations for the St. Mary's Seahawk Sprint, a marine event held on the waters of the St. Mary's River, St. Mary's City, Maryland. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the St. Mary's River during the event.

DATES: Comments and related material must reach the Coast Guard on or before June 24, 2002.

ADDRESSES: You may mail comments and related material to Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, hand-deliver them to Room 119 at the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays, or fax them to (757) 398–6203. The Operations Oversight Branch, Auxiliary and Recreational Boating Safety Section, Fifth Coast Guard District, maintains the public docket for this rulemaking. Comments and materials received from the public as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: S. L. Phillips, Project Manager, Auxiliary and Recreational Boating Safety Section, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–02–004), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the address listed under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

St. Mary's College of Maryland annually sponsors the St. Mary's Seahawk Sprint, a rowing regatta conducted during the second weekend in April. The St. Mary's Seahawk Sprint consists of intercollegiate crew rowing teams racing along a 2000-meter course on the waters of the St. Mary's River. A fleet of spectator vessels traditionally gathers near the event site to view the competition. To provide for the safety of event participants, spectators and transiting vessels, the Coast Guard proposes to restrict vessel movement in the event area during the crew races.

Discussion of Proposed Rule

The Coast Guard proposes to establish a permanent regulated area on specified waters of the St. Mary's River. The proposed special local regulations will be in effect annually from 7 a.m. to 4 p.m. on the second Saturday in April. The effect will be to restrict general navigation in the regulated area during the event. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel will be allowed to enter or remain in the regulated area. The Patrol Commander will allow non-participating vessels to transit the regulated area between races, when it is safe to do so. The proposed regulated area is needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not