

for re-issuing permits and allocating permits within each range unit.

Subpart F, "Modifying A Permit," describes how permits may be transferred, assigned or modified.

Subpart G, "Permit Violations," sets forth the procedures for the investigation, notification and processing of permit violations. This section also describes the process by which mediation can be used in the event of a permit violation.

Subpart H, "Trespass," describes the process for trespass notification, enforcement, actions and penalties, damages and costs. This subpart is substantially similar to the general grazing regulations, 25 CFR, part 166, subpart I, and is consistent with AIARMA.

Subpart I, "Concurrence/Appeals/Amendments," sets forth the procedures for the Navajo Nation to provide concurrence to BIA under this part. This subpart also states that decisions made by BIA under this part may be appealed, and that decisions made by the Navajo Nation under this part may be appealed to the appropriate hearing body of the Navajo Nation.

#### Procedural Requirements

##### A. Regulatory Planning and Review (Executive Order 12866)

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Office of Management and Budget (OMB) must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles in the Executive Order.

This proposed rule describes how BIA will administer grazing permits on trust land. Thus, the impact of the rule is confined to the Federal Government and individual Indian and the Navajo Nation, and does not impose a

compliance burden on the economy generally. Accordingly, it has been determined that this rule is not a "significant regulatory action" under any of the preceding criteria.

##### B. Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., as amended, whenever an agency is required to publish a notice of rule making for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (e.g., small businesses, small organizations, and small government jurisdictions). Indian tribes are not considered to be small entities for purposes of the Act and, consequently, no regulatory flexibility analysis has been done.

This proposed implementation guidance does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises because it concerns only the Navajo Nation. Accordingly, this proposed regulation will not have an economic impact on a substantial number of small entities, and, therefore, no regulatory flexibility analysis has been prepared.

##### C. Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996

Under 5 U.S.C. 804(2), SBREFA, a rule is major if OMB finds that it results in (1) An annual effect on the economy of \$100 million or more; (2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

This proposed rule is not a major rule as defined by Section 804 of the SBREFA. This rule is uniquely confined to the Federal Government, individual Indians and the Navajo Nation, thus, it will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. This proposed rule provides regulatory guidance for grazing permits on trust lands owned by individual Indians and the Navajo Nation.

##### D. Unfunded Mandates Reform Act

The proposed implementation guidance would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Public Law 104-4, March 22, 1995, 109 Stat. 48). This proposed rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (2 U.S.C. 1532). The impact of this proposed rule is confined to grazing permits on land held in trust for the Navajo Nation. Accordingly, this proposed rule will not result in the expenditure of \$100 million or more in any one year.

##### E. Takings Implication Assessment (Executive Order 12630)

This proposed implementation guidance does not have significant "takings" implications. Policies that have taking implications do not include actions affecting properties that are held in trust by the United States. The NPL grazing regulations provide specific regulatory guidance on trust lands.

##### F. Energy Effects (Executive Order 13211)

On May 18, 2001, the President issued Executive Order 13211 which speaks to regulations that significantly affect energy supply, distribution, and use. The Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed rule is restricted to 25 CFR 161, Navajo Partitioned Lands Grazing Permits on lands held in trust for individual Indians and tribes. Mineral development on lands held in trust for individual Indians and the Navajo Nation are regulated under the Indian Mineral Development Act. Regulations for mineral development are provided under a separate part in 25 CFR 211, 212 and 225. This proposed implementation guidance is not expected to significantly affect energy supplies, distribution, or use. Therefore, no Statement of Energy Effects has been prepared.

##### G. Federalism (Executive Order 12612)

This proposed implementation guidance 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. While this proposed rule will impact tribal governments, there is no federalism impact on the trust relationship or balance of power between the United States government and the various tribal governments affected by this rulemaking. Therefore, in accordance with Executive Order 13132, it is