summary of relevant comments we received, if any, and responses to them. We will also include an explanation of how we will apply the new rule.

Regulatory Procedures
Executive Order 12866, as Supplemented by Executive Order 13563

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Therefore, no regulatory impact analysis is required.

Regulatory Flexibility Act

The Board certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

This Proposed Rule imposes no reporting or recordkeeping requirements subject to OMB clearance.

List of Subjects in 20 CFR Part 295

Railroad retirement.

For the reasons set out in the preamble, the Railroad Retirement Board proposes to amend title 20, chapter II, subchapter B, part 295 of the Code of Federal Regulations as follows:

PART 295—PAYMENTS PURSUANT TO COURT DECREE OR COURT-APPROVED SETTLEMENT

1. The authority citation for part 295 continues to read as follows:

Authority: 45 U.S.C. 231f; 45 U.S.C. 231m.

§ 295.5 [Amended]

2. Amend § 295.5 to revise paragraph (d) to read as follows:

§ 295.5 Limitations.

* * * * *

(d) Payees. Payment of an amount awarded to a spouse or former spouse by a court decree or property settlement will be made only to the spouse or former spouse except where the Board determines that another person shall be recognized to act on behalf of the spouse or former spouse as provided in Part 266 of the chapter, relating to incompetence. Payment will not be made to the heirs, legatees, creditors or assignees of a spouse or former spouse, except that where an amount is payable to a spouse or former spouse pursuant to this part, but is unpaid at the death of that spouse or former spouse, the unpaid amount may be paid in accordance with § 234.31 of this chapter, pertaining to employee annuities unpaid at death.

* * * * *

Dated: December 6, 2016.
By Authority of the Board.

Martha P. Rico,
Secretary to the Board.

[FR Doc. 2016–29496 Filed 12–8–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 140

[178A2100DD/AACK001030/ A0A501010.999900 253G]

RIN 1076–AF30

Traders With Indians

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Advance notice of proposed rulemaking; solicitation of comments.

SUMMARY: The Department of the Interior (Department) is considering whether to propose an administrative rule that would comprehensively update 25 CFR part 140 (Licensed Indian Traders) in an effort to modernize the implementation of the Indian Trader statutes consistent with the Federal policies of Tribal self-determination and self-governance. The current regulations were promulgated in 1957 and have not been comprehensively updated since 1965. The purpose of this advance notice of proposed rulemaking (ANPRM) is to solicit public comments on whether and how the Department should update 25 CFR part 140, including how the Indian Trader regulations might be updated to govern who trades on Indian land and how the regulations can better promote Tribal self-determination regarding trade on Indian lands. In this ANPRM, the Department also announces dates and locations for Tribal consultations and public meetings to consider this issue.

DATES: Comments must be submitted on or before April 10, 2017.

ADDRESSES: You may submit comments by any of the following methods:

Federal rulemaking portal: http://www.regulations.gov. The rule is listed under the agency name “Bureau of Indian Affairs.” The rule has been assigned Docket ID: BIA–2016–0007.


Please see the SUPPLEMENTARY INFORMATION section of this document for information on Tribal consultation sessions.

FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, Director, Office of Regulatory Affairs and Collaborative Action, Office of the Assistant Secretary—Indian Affairs; telephone (202) 273–4680, elizabeth.appel@bia.gov.

SUPPLEMENTARY INFORMATION:

Public Comment

The Department is considering whether to propose an administrative rule that would comprehensively update 25 CFR part 140 (Licensed Indian Traders) in an effort to modernize the implementation of the Indian Trader statutes consistent with the Federal policies of Tribal self-determination and self-governance. We are interested in hearing from federally recognized Tribes. We also welcome comments and information from states and their agencies and from the public.

To be most useful, we will try to inform decisions on the content of a potential administrative rule, comments should:

—Be specific;
—Be substantive;
—Explain the reasoning behind the comments; and
—Address the issues outlined in the ANPRM.

For the purpose of this ANPRM, we are seeking input solely on questions related to a potential administrative rule on whether and how the Department of the Interior should update 25 CFR part 140, including how the Indian Trader regulations might be updated to govern who trades on Indian land in a manner more consistent with Tribal self-governance and self-determination.

We are seeking comments solely on the following questions:

1. Should the Federal government address trade occurring in Indian Country through an updated 25 CFR part 140, and why?

2. Are there certain components of the existing rule that should be kept, and if so, why?

3. How can revisions to the existing rule ensure that persons who conduct trade are reputable and that there are mechanisms in place to address traders who violate Federal or Tribal law?

4. How do Tribes currently regulate trade in Indian Country and how might
revisions to 25 CFR part 140 help Tribes regulate trade in Indian Country?
5. What types of trade should be regulated and what type of trader should be subject to regulation?
6. How might revisions to the regulations promote economic viability and sustainability in Indian Country?
7. What services do Tribes currently provide to individuals or entities doing business in Indian Country and what role do tax revenues play in providing those services?

In addition to receiving comments through the Federal eRulemaking Portal, U.S. mail, courier services, and hand delivery (see ADDRESSES section above), we will conduct a series of in-person consultations with federally recognized Tribes, as listed below.

Before including your address, phone number, email address, or other personal information in your comment—please be aware that your comment may be made publically available at any time. While you may ask in your comment that we withhold your personal identifying information from public review, we cannot guarantee we will be able to do so.

Tribal Consultations

The Department of the Interior will be hosting consultation sessions with Indian Tribes on this ANPRM. We will accept both oral and written communications at these consultation sessions.

The following table lists dates and tentative locations for the consultations. Specifics on the venue for each location will be provided in a subsequent Federal Register notice.

<table>
<thead>
<tr>
<th>Date</th>
<th>Time (local time zone)</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Thursday, February 23, 2017</td>
<td>8:30 a.m.–12:00 p.m</td>
<td>Seattle area.</td>
</tr>
<tr>
<td>Tuesday, February 28, 2017</td>
<td>8:30 a.m.–12:00 p.m</td>
<td>Southeastern U.S.</td>
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<tr>
<td>Thursday, March 2, 2017</td>
<td>8:30 a.m.–12:00 p.m</td>
<td>Southern California.</td>
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<tr>
<td>Tuesday, March 7, 2017</td>
<td>8:30 a.m.–12:00 p.m</td>
<td>Billings, Montana.</td>
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<td>Thursday, March 9, 2017</td>
<td>8:30 a.m.–12:00 p.m</td>
<td>Rapid City, South Dakota.</td>
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<td>Tuesday, March 14, 2017</td>
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<td>Prior Lake, Minnesota.</td>
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<tr>
<td>Thursday, March 16, 2017</td>
<td>8:30 a.m.–12:00 p.m</td>
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Background

The Department is considering whether to propose a rule that would comprehensively update 25 CFR part 140 (Licensed Indian Traders) to modernize the implementation of the Indian Trader statutes consistent with the Federal policies of Tribal self-government and self-determination. The current Indian Trader regulations were promulgated in 1957, revised in 1965, and modified in 1984 in a piecemeal fashion. The current regulations largely reflect policies that ignore Tribal self-determination and the growth of Tribal economies. Congress granted the Department broad and comprehensive authority to regulate trade in Indian Country by determining the proper persons to be “Indian traders.” See 25 U.S.C. 261 et seq.; see also 25 U.S.C. 9. The Department would seek to implement these responsibilities in a manner that reflects the current Nation-to-Nation relationship with Tribes should the Department propose a rule that updates 25 CFR part 140. The Department recognizes that many Tribes have enacted comprehensive laws concerning economic activity occurring on Tribal lands and that Tribal courts often retain jurisdiction over Indian traders. This ANPRM solicits information regarding current Tribal regulatory activity over trade occurring within Indian Country.

Additionally, the Department recognizes that dual taxation on Tribal lands can undermine the Federal policies supporting Tribal economic development, self-determination, and strong Tribal governments. Dual taxation of traders and activities conducted by traders and purchasers can impede a Tribe’s ability to attract investment to Indian lands where such investment and participation are critical to the vitality of Tribal economies.

Tribal communities continue to struggle with unmet needs, such as in their schools and housing, as well as economic development, to name a few. Moreover, beyond the operation of their governments, Tribes continually pursue funding for infrastructure, roads, dams, irrigation systems and water delivery. Thus, the Department solicits information under this ANPRM about how revisions to the regulations could promote economic viability and sustainability in Indian Country.

Description of the Information Requested

We are particularly interested in receiving comments on the following questions relating to revisions of the 25 CFR part 140 we may develop concerning trade occurring in Indian Country:

1. Should the Federal government address trade occurring in Indian Country through an updated 25 CFR part 140, and why?

   We are seeking views on whether there is a need in Indian Country for the Federal government to revise 25 CFR part 140. As mentioned, Congress granted the Department broad authority to regulate trade in Indian Country. Specifically, under 25 U.S.C. 261, Power to appoint traders with Indians, the Department of the Interior (previously the Commissioner of Indian Affairs) has authority to make rules specifying the kind and quantity of goods that may be sold to Indians and the prices at which such goods shall be sold. Under 25 U.S.C. 262, Persons permitted to trade with Indians, the Department has the authority to establish rules and regulations governing trade on Indian reservations for the protection of the Indians.

   The Department acknowledges the comprehensive Federal regulation of Indian traders in some areas of Indian Country, but also notes that many Tribes currently regulate trade occurring within their jurisdictions under Tribal laws and authority, often without Federal involvement. The Department also acknowledges its trust responsibility to Tribes and solicits information on whether there is a need for updated regulations addressing a modern approach to the Federal role concerning trade occurring in Indian Country.

2. Are there certain components of the existing rule that should be kept, and if so, why?

   Should the Department conclude that there is a need for revisions to the existing rule, the Department seeks comments as to which parts, if any, of the existing rule should be kept. For instance, where the Department has issued licenses, should there be a grandfathering clause for currently valid licenses that the Department has issued under part 140?

   Alternatively, if commenters believe there is a need to update 25 CFR part 140, and that no components of the existing rule should be kept, the
The Department has received numerous proposals from various Tribes pertaining to Indian Trader regulation. Many of these proposals suggest that trade regulated under part 140 should include not only commercial activities, but also mineral and energy development and any form of natural-resources extraction or agriculture. Currently, section 140.5(a)(1) of the existing rule has the following definitions:

(5) Contract means any agreement made or under negotiation with any Indian for the purchase, transportation or delivery of goods or supplies.

(6) Trading means buying, selling, bartering, renting, leasing, permitting and any other transaction involving the acquisition of property or services.

(7) Commercial trading means any trading transaction where an employee engages in the business of buying or selling services or items which he/she is trading.

The Department seeks comments on whether the definitions of contract, trading, and commercial trading should be revised, or struck in their entirety, and why.

Additionally, the current definitions do not define the type of trader conducting business with an Indian Tribe. The draft proposals the Department has received recommend that the revised rule apply to any person conducting trade in Indian Country, including non-Indians. The Department solicits comments on whether an updated part 140 should define who the rule would apply to and whether or not this definition should broadly include any person conducting trade within Indian Country.

6. How might revisions to the regulations promote economic viability and sustainability in Indian Country?

The Department is interested in receiving feedback on how revisions to the trade regulations could facilitate economic activity in Indian country and tribal economic self-sufficiency.

7. What services do Tribes currently provide to individuals or entities doing business in Indian Country and what role do tax revenues play in providing such services?

The Department recognizes that Tribes provide a range of services to Indians and non-Indians doing business within their Indian Country. The Department seeks comments identifying the types of services offered, such as law enforcement, food sanitation and health inspections, transportation and other infrastructure, etc. The Department also seeks information on whether and to what extent Tribes are able to rely on tax revenues to provide such services.