

**SUMMARY:** TSA invites public comment on a currently approved public information collection requirement abstracted below that will be submitted to OMB for renewal in compliance with the Paperwork Reduction Act.

**DATES:** Send your comments by April 4, 2005.

**ADDRESSES:** Comments may be mailed or delivered to Katrina Wawer, Information Collection Specialist, Office of Transportation Security Policy, TSA-9, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202-4220.

**FOR FURTHER INFORMATION CONTACT:** Katrina Wawer at the above address or by telephone at 571-227-1995.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless it displays a valid OMB control number. Therefore, in preparation for submission to renew clearance of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

1652-0002, *Airport Security*, 49 CFR part 1542. The Federal Aviation Administration (FAA) initially required this collection under 14 CFR part 107 (now 49 CFR part 1542) and cleared under OMB control number 2120-0656. The responsibility for the collection has been transferred to TSA from FAA and assigned OMB control number 1652-0002. Part 1542, *Airport Security*, implements the provisions of the Aviation Security Improvement Act and the Aviation and Transportation Security Act, as amended, that relates to the security of persons and property at airports operating in commercial air transportation. TSA is seeking renewal of this information collection because airport security programs are needed to ensure protection of persons and property in air transportation against acts of terrorism, to ensure passenger

screening procedures are effective, and that information is available to comply with Congressional reporting requirements. The affected public is an estimated 445 regulated airport operators. The current estimated annual burden is 509,203 hours annually.

Issued in Arlington, Virginia January 28, 2005.

**Lisa S. Dean,**  
*Privacy Officer.*

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**BILLING CODE 4910-62-P**

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

#### Tribal Consultation on Proposed Self-Determination and Self-Governance Funding Agreement Language on Fiduciary Trust Records Management

**AGENCY:** Office of the Secretary, Interior.

**ACTION:** Notice of tribal consultation meeting.

**SUMMARY:** This notice announces three consultation meetings that will be held to obtain oral and written comments concerning (1) a proposed policy on fiduciary trust records management for Self-Determination (Title I) and Self-Governance (Title IV) Tribes/Consortia; and (2) proposed language to be negotiated as part of the 2006 Title I and Title IV funding agreements regarding fiduciary trust records management. These meetings support the Department of the Interior's (Department's) administrative policy on tribal consultation by encouraging maximum direct participation of representatives of tribal governments, tribal organizations and other interested persons on important Departmental issues and processes.

In developing the proposed policy and language, the Department had pre-scoping telephone conversations with tribal leaders and staff; held a scoping meeting as part of a 2-day conference on Indian trust records management; formed a Tribal Fiduciary Trust Records Management Workgroup; held four workgroup meetings; transmitted a tribal leader letter soliciting comments on the proposed policy language to be presented for consultation; and engaged in discussions with tribal leaders and staff at the Fall Self-Governance Conference. The proposed policy and language incorporates many valuable comments received to date. The upcoming consultation will provide another opportunity for Indian tribes and interested parties to comment on proposed federal policy and funding

agreement language regarding fiduciary trust records management for Title I and Title IV Tribes/Consortia.

Once final decisions are made regarding the policy and the funding agreement language, guidance will be provided to the Director, Bureau of Indian Affairs and the Director, Office of Self-Governance and Self-Determination regarding language to be negotiated as part of the 2006 Title I and Title IV funding agreements regarding fiduciary trust records management.

**DATES:** The following three consultation meetings will be held:

1. March 2, 2005, 9 a.m. to 1 p.m., Portland, Oregon.

2. March 3, 2005, 9 a.m. to 1 p.m., Phoenix, Arizona.

3. March 9, 2005, 9 a.m. to 1 p.m., Nashville, Tennessee.

Written comments should be postmarked or faxed no later than March 11, 2005.

**ADDRESSES:** The meeting locations are:

1. Portland—Red Lion Portland Convention Center, 1021 NE. Grand Avenue, Portland, Oregon; telephone: (503) 235-2100.

2. Phoenix—Hilton Phoenix Airport, 2435 South 47th Street, Phoenix, Arizona; telephone: (480) 894-1600.

3. Nashville—DoubleTree Hotel Nashville—Downtown, 315 4th Avenue North, Nashville, Tennessee; telephone: (615) 747-8200.

Written comments may be mailed to William A. Sinclair, Director, Office of Self-Governance and Self-Determination, Mail Stop 4618-MIB, 1849 C Street, NW., U.S. Department of the Interior, Washington, DC 20240. Postmark must be no later than March 11, 2005. Comments may also be faxed to William A. Sinclair at (202) 219-1404 no later than March 11, 2005.

**FOR FURTHER INFORMATION CONTACT:** William A. Sinclair, Director, Office of Self-Governance and Self-Determination, Mail Stop 4618-MIB, 1849 C Street, NW., U.S. Department of the Interior, Washington, DC 20240; telephone: (202) 219-0244

**SUPPLEMENTARY INFORMATION:** The purpose of these consultation meetings is to provide Indian Tribes/Consortia and other interested parties with opportunities to consult on the proposed Department's policy on fiduciary trust records management regarding Title I and Title IV Tribes/Consortia and on proposed language to be negotiated as part of the 2006 Title I and Title IV funding agreements regarding fiduciary trust records management. The policy and language are being formulated to assure fulfillment of the United States' trust

responsibility (1) to protect and preserve fiduciary trust records for tribal and individual Indian trust assets and (2) to confirm protection and beneficial use of Indian trust assets given the United States' trust responsibility for the trust assets being managed by Tribes/Consortia under Title I/Title IV funding agreements.

The proposed Department's Policy on Fiduciary Trust Records Management for Title I and Title IV Tribes/Consortia follows:

*Preamble:* The purpose of this fiduciary trust records policy is to create a partnership regarding fiduciary trust records management between Title I and Title IV Tribes/Consortia and the U.S. Department of the Interior (Department) so that Tribes/Consortia can continue to carry out their inherent governmental responsibilities and so that the Secretary of the Interior (Secretary) can fully discharge her responsibility as the trustee-delegate. This policy recognizes that Title I and Title IV Tribes/Consortia, as sovereign governments, are responsible for enhancing and protecting tribal resources to support the well being of their constituents and for fulfilling the requirements of their Title I and Title IV funding agreements.

This policy recognizes that the Department has delegated non-inherent federal trust activities to Tribes and will assist, coordinate with and support Tribes/Consortia as both governments carry out this policy.

*Policy Statement:* The Secretary of the Interior (Secretary) must preserve, protect and manage all fiduciary trust records for the tribal and individual Indian trust assets that the Department manages as defined in footnote 2 on the decision flow chart. When Tribes/Consortia assume a fiduciary trust program, service, function or activity, or portion thereof, under Title I or Title IV funding agreements, they too must preserve, protect and manage all fiduciary trust records (as defined in footnote 2 on the decision flow chart), regardless of the source of funds used to generate the fiduciary trust records. This policy does not add any record keeping requirements on Tribes/Consortia. Except for the information that Tribes/Consortia must maintain pursuant to statutes and regulations, Tribes/Consortia are allowed to create those records they deem necessary to implement the trust programs assumed under Title I or Title IV funding agreements. These tribally created or

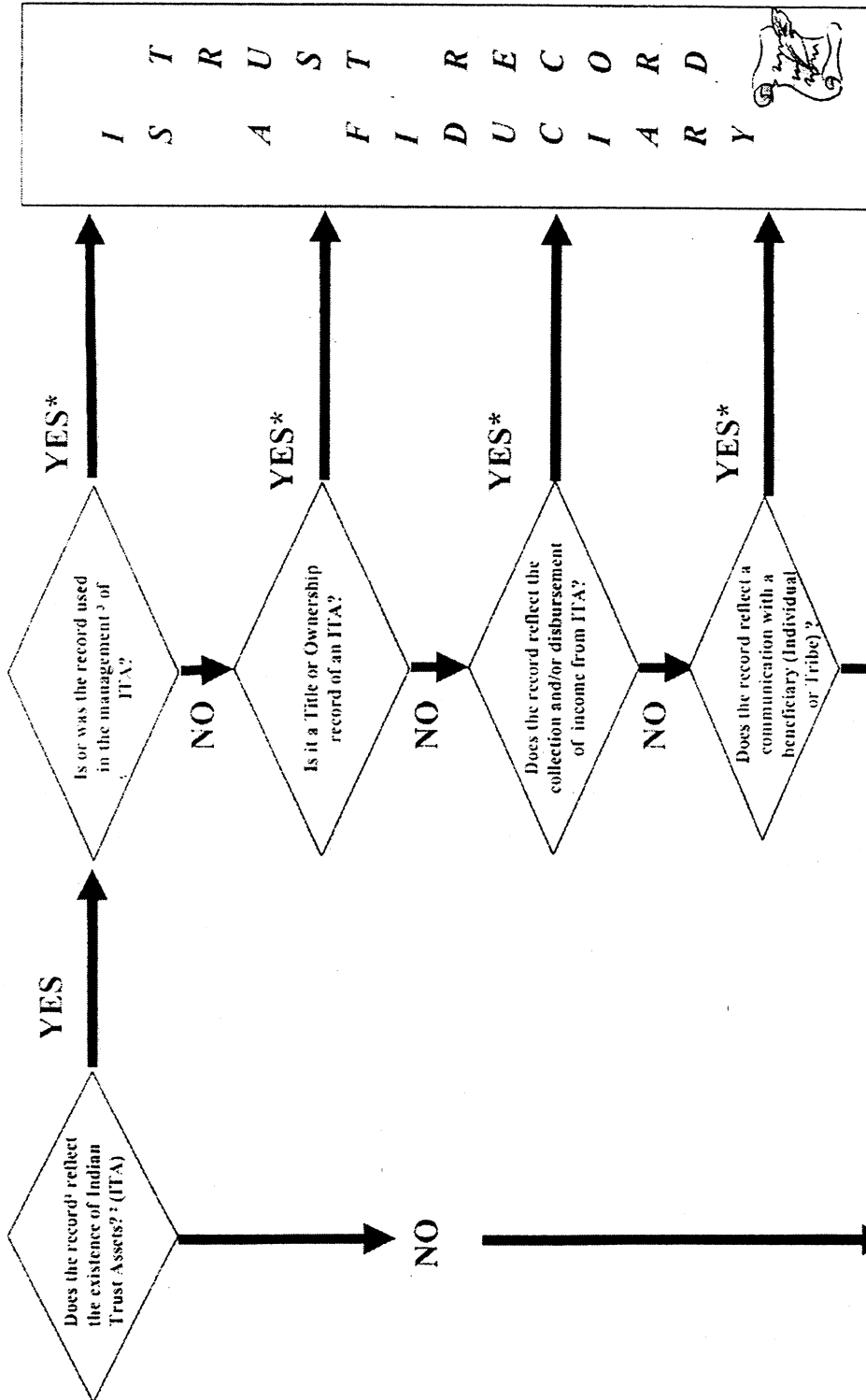
maintained fiduciary trust records are permanent records and shall not be destroyed. With the exception of those fiduciary trust records submitted to the Secretary as part of a trust transaction decision, such records remain in the legal custody of the Tribe/Consortium and are not subject to the Freedom of Information Act (FOIA). The American Indian Records Repository (AIRR) in Lenexa, Kansas, is available to store all fiduciary trust records, including those from a Tribe/Consortium that no longer wishes to store its fiduciary trust records onsite or near the reservation. These records, when housed in the AIRR, will remain in the Tribe's/Consortium's legal custody.

The Secretary shall have reasonable access to the fiduciary trust records maintained by the Tribe/Consortium. The Secretary shall give reasonable oral or written advance request for access. Access shall include visual inspection and the production of copies as necessary and shall not include the involuntary removal of the records.

*Decision Flow Chart:* The flow diagram entitled "Is it a fiduciary trust record?" follows:

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# Is it a Fiduciary Trust Record – P.L. 93-638?



- Notes:
- (1) Records include all documentary materials, regardless of physical form or characteristics, made or received by a Tribe in carrying out a fiduciary trust program, service, function or activity, or portion thereof.
  - (2) "Indian Trust Assets" (ITA) refer to lands, natural resources, monies or other assets held in trust at a particular time by the Federal Government for a Tribe, Alaskan natives, or that are or were at a particular time restricted against alienation, for individual Indians.
  - (3) For the purpose of defining fiduciary trust records, management includes actions that influence, affect, govern or control ITA.
- \* When in doubt whether a record is a fiduciary trust record, err on the side of caution and treat the record as a fiduciary trust record.

9/27/04-Draft

The following language is proposed to be negotiated as part of the 2006 Title I and Title IV funding agreements regarding fiduciary trust records management:

The Tribe/Consortium and Secretary agree to implement the Policy on Fiduciary Trust Records Management for Title I and Title IV Tribes/Consortia by working cooperatively in records creation, maintenance and disposition and training activities.

The Tribe/Consortium agrees to:

(a) Preserve, protect and manage all fiduciary trust records, as defined in the Secretary of Interior's Policy on Fiduciary Trust Records Management for Title I and Title IV Tribes/Consortia created and maintained by Tribes/Consortia during their management of trust programs in their Title I/Title IV agreements;

(b) Make available to the Secretary all fiduciary trust records maintained by the Tribe/Consortium, provided that the Secretary gives reasonable oral or written advance request to the Tribe/Consortium. Access shall include visual inspection and the production of copies as necessary and shall not include the involuntary removal of the records; and

(c) Store and permanently retain all inactive fiduciary trust records at the Tribe/Consortium or allow such records to be removed and stored at the American Indian Records Repository (AIRR) in Lenexa, Kansas at no cost to the Tribe/Consortium.

The Secretary agrees to:

(a) Allow the Tribe/Consortium to determine what records it maintains to implement the trust program assumed under a Title I or Title IV agreement except it must maintain the information required by statute and regulation;

(b) Store all inactive fiduciary trust records at AIRR at no cost to the Tribe/Consortium when the Tribe/Consortium no longer wishes to keep the records. Further, the Tribe/Consortium will retain legal custody and determine access to these records;

(c) Work with the Tribe/Consortium on a tribal storage and retrieval system for fiduciary trust records stored at AIRR; and

(d) Provide technical and financial assistance for Tribes/Consortia in preserving, protecting and managing their fiduciary trust records from available funds appropriated for this purpose.

Dated: January 26, 2005.

**Abraham E. Haspel,**

*Assistant Deputy Secretary—Office of the Secretary.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Endangered and Threatened Wildlife and Plants; 5-Year Review of Lesser Long-nosed Bat, Black-capped Vireo, Yuma Clapper Rail, Pima Pineapple Cactus, Gypsum Wild-Buckwheat, Mesa Verde Cactus, and Zuni Fleabane

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of review.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) announces a 5-year review of the lesser long-nosed bat (*Leptonycteris curasoae yerbabuena*), the black-capped vireo (*Vireo atricapilla*), the Yuma clapper rail (*Rallus longirostris yumanensis*), Pima pineapple cactus (*Coryphantha sheeri* var. *robustispina*), gypsum wild-buckwheat (*Erigonum gypsophilum*), Mesa Verde cactus (*Sclerocactus mesae-verde*), and Zuni fleabane (*Erigeron rhizomatus*) under the Endangered Species Act of 1973 (Act). The purpose of reviews conducted under this section of the Act is to ensure that the classification of species as threatened or endangered on the List of Endangered and Threatened Wildlife and Plants (50 CFR 17.12) is accurate. The 5-year review is an assessment of the best scientific and commercial data available at the time of the review.

**DATES:** To allow adequate time to conduct this review, information submitted for our consideration must be received on or before May 3, 2005. However, we will continue to accept new information about any listed species at any time.

**ADDRESSES:** Information submitted on these species should be sent to the U.S. Fish and Wildlife Service at the following addresses. Information received in response to this notice of review will be available for public inspection by appointment, during normal business hours, at the same addresses.

Information regarding the lesser long-nosed bat, Yuma clapper rail, and Pima pineapple cactus should be sent to the Field Supervisor, Attention 5-year Review, U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021.

Information regarding the black-capped vireo should be sent to the Field Supervisor, Attention 5-year Review, U.S. Fish and Wildlife Service, Ecological Services, 711 Stadium Drive, Suite 252, Arlington, TX 76011.

Information regarding gypsum wild-buckwheat, Mesa verde cactus, and Zuni fleabane should be sent to the Field Supervisor, Attention 5-year Review, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, 2105 Osuna Road NE, Albuquerque, NM 87113.

**FOR FURTHER INFORMATION CONTACT:** For the lesser long-nosed bat, contact Scott Richardson at the U.S. Fish and Wildlife Service Arizona Ecological Services Tucson Sub-Office, 201 North Bonita, Suite 141, Tucson, AZ 84745, 520-670-6150 x 242, [scott\\_richardson@fws.gov](mailto:scott_richardson@fws.gov). For the Pima pineapple cactus, contact Mima Falk at Tucson Sub-Office address above, 520-670-6150 x 225, [mima\\_falk@fws.gov](mailto:mima_falk@fws.gov). For the black-capped vireo, contact Omar Bocanegra at the U.S. Fish and Wildlife Service, Ecological Services Field Office, 711 Stadium Drive, Arlington, TX 76011, 817-277-1100, [omar\\_bocanegra@fws.gov](mailto:omar_bocanegra@fws.gov). For the Yuma clapper rail, contact Lesley Fitzpatrick at the U.S. Fish and Wildlife Service Arizona Ecological Services Field Office, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ, 85021, 602-242-0210 x 236, [lesley\\_fitzpatrick@fws.gov](mailto:lesley_fitzpatrick@fws.gov). For the gypsum wild-buckwheat, Mesa Verde cactus, and Zuni fleabane, contact Nancy Baczek at the New Mexico Ecological Services Field Office, 2105 Osuna Road, NE, Albuquerque, NM 87113, 505-761-4711, [nancy\\_baczek@fws.gov](mailto:nancy_baczek@fws.gov).

#### SUPPLEMENTARY INFORMATION:

##### Why Is a 5-Year Review Conducted?

Section 4(c)(2)(A) of the Act (16 U.S.C. 1531 *et seq.*) requires that we conduct a review of listed species at least once every 5 years. We are then, under section 4(c)(2)(B) and the provisions of subsections (a) and (b), to determine, on the basis of such a review, whether or not any species should be removed from the List of Endangered and Threatened Wildlife and Plants (delisted), or reclassified from endangered to threatened (downlisted), or from threatened to endangered (uplisted). The 5-year review is an assessment of the best scientific and commercial data available at the time of the review. Therefore, we are requesting submission of any new information (best scientific and commercial data) on the following species since their original listings as either endangered (lesser long-nosed bat, black-capped vireo, Yuma clapper rail, and Pima pineapple cactus) or threatened (gypsum wild-buckwheat, Mesa Verde cactus, and Zuni fleabane).