

Appendix D: Session Materials (matrices of possible changes)

Crosswalk for Land Regulations Facilitated Workshop
 Leases and Permits (Focus on just agricultural in this session)

<u>Old Regulation</u>	<u>Possible Changes</u>	<u>New Issues/Ideas – to be filled in at workshop</u>
Complex Language	Plain Language, easier to read and understand	
Can seem government focused	Focus on Tribe and landowners, especially looking at impact on compacted and contracted Tribes	
Lease Requirements	Look at timelines; what is required to make simpler and less burdensome	
Payment Requirement	Fair Market Rental; how we calculate; Form of payments and to whom are payments made? Assessing late payments and penalties	
Bonding and Insurance	What lessee must provide; is a bond required, and if so what kind of bond?	
Lease Approval	Documents required are clearly identified; Step by step process; Effective date of lease	
Lease Administration	How to make modifications to leases in clear steps and what approval and timelines will be followed	
Lease Compliance and Enforcement	What expectations of enforcement? Will Tribal law be enforced? Funding for lease compliance realistic?	

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Crosswalk for Land Regulations Facilitated Workshop
Grazing Permits

<u>Old Regulation</u>	<u>Possible Changes</u>	<u>New Issues/Ideas – to be filled in at workshop</u>
Tribal Policies and Laws Pertaining to Permits	Review on how will impact Self-Governance Tribes, 638 and direct service tribes	
Grazing Permit Requirements	Requirements of permits, how can we improve or streamline process	
Land and Operations Management	Land management and how we look at managing lands today and how far to implement in a regulation Conservation Practices	
Grazing Rental Rates, Payments, and Late Payments	Review of grazing rate calculations; Look at tribal versus individual owned land and grazing rates	
Bonding and Insurance Requirements	Look at bonding requirements and how we can improve; are they needed?	
Grazing Permit Violations	Does the regulation adequately cover violations today? Cancellation permits	
Subpart I was Trespass, now Trespass is potentially considered for its own proposed rule	Agriculture Education, Recruitment and Training could be added in its place, a possible section to help recruit applicants to work in agricultural education programs	

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Crosswalk for Land Regulations Facilitated Workshop
Rights of Way (ROW)

<u>Old Regulation</u>	<u>Possible Changes</u>	<u>New Issues/Ideas – to be filled in at workshop</u>
Complex language	Plain language	
Drafted in 1969	Updated to reflect new technologies and laws	
Types of ROW's granted more traditional, i.e. railroad	Include newer technologies such as broadband lines, fiber optics, etc	
Surveys	Use of newer technologies to survey land, such as geo-spatial	
Consent	Tribal and Individual landowner consent streamlined and requirements clearer	
Fair Market Value (FMV)	US Government assistance in establishing FMV; use of appraisal standards	
Approval and renewal of ROW	Concise steps in approval and renewal process	
Assignments of ROW's	Step by step assignment procedures and notification to landowners and/or Tribe	
Service Line Agreements	Look at requirements and best methods to assist landowners	

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Crosswalk for Land Regulations Facilitated Workshop
Trespass

<u>Old Regulation</u>	<u>Possible Changes by creation of Trespass Regulation</u>	<u>New Issues/Ideas – to be filled in at workshop</u>
Trespass Regulation currently not its own regulation	<p>Define Trespass and Trespass Policy</p> <p>Notification of Trespass; how can we improve?</p> <p>Separate Agriculture and Forestry Sections</p> <p>How long will a written trespass notice remain in effect?</p> <p>Under what circumstances may an alleged trespasser not be pursued pursuant to new rule?</p> <p>What are the civil penalties and damages payable by the trespasser?</p> <p>Determine the value of the civil penalties and damages payable by the trespasser</p> <p>Actions BIA takes against trespassers</p> <p>Appeal rights</p> <p>What happens after my unauthorized personal property is seized?</p> <p>Sales of property or Redemption</p>	

Timeline for Proposed Land Trust Regulations

- 2004 Notice of Proposed Rulemaking for Residential and Business Leases was published.
- 2005 The Department of the Interior (DOI) and Assistant Secretary- Indian Affairs (ASIA) designated staff and resources for the review and redrafting of regulations that impact Indian Country. The office now known as Office of Regulatory Affairs and Collaborative Action (RACA) was established.
- 2006-2007 Internal discussions were initiated between RACA and Bureau of Indian Affairs (BIA) subject matter experts on revamping Indian Land regulations. Identified regulations for review were Grazing, Leasing, Rights of Way and the possible creation of a separate Trespass regulation. Several working sessions were held.
- 2008 Internal workgroups continued to review and make suggestions to the identified (4) four regulations. The DOI Solicitor's Office began to work on the project and provided legal analysis.
- 2009 In order to broaden scope of reviewing regulations with Tribal and non-federal partners, the idea for facilitated workshops in Indian Country was discussed as an option to open discussion and have a collaborative approach. The ASIA identified the Business Leasing portion of the leasing regulations be prioritized.
- 2010 Business Leasing portion of the Leasing Regulations was drafted.
- 2011 Tribal Consultation and comment was done on Business Leasing. The remaining regulations -Grazing, Leasing, Rights of Way and the possible creation of a separate Trespass regulation- are now highlighted, and facilitated workshops are planned for August and September. The purpose of the sessions is to include BIA employees, Tribal employees and non-federal partners on issues of concern in the current regulations and offer possible solutions for new regulations. After the sessions are completed, a thorough review of comments and suggestions from facilitated workshops will be incorporated into the drafts of new proposed regulations for Grazing, Leasing, Rights of Way and possibly a new Trespass regulation.
- 2012 Proposed regulations will be made available for comment, and Tribal Consultation will occur.