NEWS

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INTERIOR DEPARTMENT TO STREAMLINE POLICIES FOR TAKING LAND INTO TRUST FOR INDIANS

The Department of the Interior is proposing to amend the federal regulations used in determining whether to take land into trust on behalf of Indians. The proposed amendments will be published in the Federal Register on Monday, April 12. Their publication will open up a 90-day period of public comment.

Historically, tribal ownership of lands set aside as Indian reservations was seriously eroded by the federal government's allotment policies in the late 19th Century. Recognizing that loss of tribal lands had resulted in serious degradation of the social welfare and economic opportunity for Indian people, Congress in 1934 authorized the Secretary of the Interior to take land in trust for the benefit of Indians. Since that time, however, only approximately eight percent of the lands lost through allotment have been re-acquired. The overwhelming majority of applications to take land in trust are for lands located within the boundaries of Indian reservations and involve small parcels of land, on average about 30 acres.

Federal regulations governing the process by which the Secretary of the Interior decides whether to take land into trust for Indians were first published in 1980 (25 C.F.R. Part 151). The Department now proposes to amend the Part 151 regulations to provide tribes and their non-Indian neighbors with a clearer understanding of how the Department reviews requests to take land into trust.

"In restructuring the regulations, we believe that the decision-making process will better reflect the present-day needs and concerns of Indian tribes and surrounding non-Indian communities," Secretary of the Interior Bruce Babbitt said.

The proposed revisions underscore clear differences in policy regarding the need to re-acquire land in trust on reservations versus trust land off reservation.

- ***On reservation:*** The policy of the Department is to assist tribes in the re-acquisition of land within reservation boundaries. To accomplish this, the process by which land may be returned to trust status has been streamlined and there is a strong presumption established in favor of the applicant.
- ***Off reservation:*** The Department is committed to addressing the impact on non-Indian communities affected by proposed acquisitions of off-reservations lands. Jurisdictional, economic, zoning and other related concerns must be adequately resolved within an application to take off reservation land into trust under the new proposed regulations before the Department considered acting favorably on the request.

In addition, the proposed regulations clarify how the Department will address a number of more specialized issues related to taking land into trust. For example, the proposed amendments to Part 151 delineate the procedure by which the Department will process "mandatory acceptances of title." Mandatory acceptances of title are trust acquisitions where Congress, by explicit direction in statute, requires the Secretary to take lands into trust for Indians through the administrative process.

Finally, the proposed regulations address the unique difficulties encountered by tribes that do not have a reservation. New provisions are included that set out a process using Tribal Land Acquisition Areas approved by the Secretary to give tribes without reservations access to same policy benefits within the new regulations for on reservation trust acquisitions.

After the regulations are published, Assistant Secretary for Indian Affairs Kevin Gover plans a series of regional meetings with tribes and other outreach opportunities during the public comment period. Information on his activities can be obtained through Nedra Darling in the Bureau of Indian Affairs at 202/219-4150.

Informational materials on the proposed regulations are available on the Department of the Interior's and the Bureau of Indian Affairs' web sites.

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