

# KENTUCKY NATIVE AMERICAN HERITAGE COMMISSION

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Office of Regulatory Affairs & Collaborative Action  
Indian Affairs  
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Ladies and Gentlemen:

We are responding to the proposed revision of TITLE 25—Indians PART 83 PROCEDURES FOR ESTABLISHING THAT AN AMERICAN INDIAN GROUP EXISTS AS A TRIBE as provided for in the June letter to Tribal Leaders.

Our comments are as follow:

83.7 Mandatory Criteria.....(b)

What does XX mean? 20 percent or as yet an undetermined percent?

83.7 (2) (i),(ii),(iii)

Again is the XX to be interpreted as 20 or as an as yet undetermined amount. Since the line through number is in the Arabic numerals 50 in each instance we interpret the XX to mean as yet undetermined.

83.7. ( c ) Petitioner has maintained authority or influence over its members as an autonomous Indian group since 1934.....

This one section does a great dis-service to all American Indian Peoples in the Southeastern United States east of the Mississippi River. As noted by Historian Theda Perdue, President of the Southern Historical Association in her remarks in Baltimore October 28, 2011, “The Legacy of Jim Crow for Southern Native American Cultural Heritage and Identity”, the American Indian Removal of the 1830’s and beyond continues to reverberate in Southern states. In far too many instances American Indians were the Same as Black Americans and the Jim Crow Laws were severe in regard to the position of Black Americans until the Civil Rights uprising in the 1960’s.

Not all American Indians were removed from the South and some who were removed walked back. The Federal government cared only about who walked out, not who walked back. As a result there were and are a fairly significant number of non-federally or state acknowledged American Indians in all Southern states. The stereotypical myths indicate that all American Indians pre-contact were black or very dark. This conception persists to the present. Therefore, all dark skinned American Indians in the southeast experienced the same persecution as the Black members of those states. The lighter skinned could pass for white all-be-it poor white for the most part. As recently as the late 1940’s and 1950’s American Indian kids were treated exactly as

Black kids in regards to riding school buses and being permitted other city amenities. As recently as the 2000's some Southern cities were railroading acknowledged American Indians out of their city by burning crosses in their yards and shooting into their property.

As a result of discrimination and very real fear that they would be removed from their homes and lose their jobs and their families American Indians in the Southeastern part of the United States were not about to reveal their true identity and form into groups to be easily removed and lose all they had even though they were heavily discriminated against.

As a result of recent efforts to reach the American Indians in the Southeast and the natural desire of the American Indian to relate to their own peoples and to resume their cultural identity and to preserve that culture the Southeastern American Indians are coming together in small groups and some larger groups. Even should these groups be able to show their American Indian descent this particular piece of legislation denies them due process. Therefore, Southeastern American Indians once more feel the effects of removal in all its bitterness and long for the Federal and state governments to recognize them as who they really are.

83.7. (e) Is the XX to mean 20 percent or some as yet undefined number

38.10 (m) We do not believe that if the Federal Government affirmatively acknowledges a group as an American Indian group or tribe the Governor and State Attorney of any state or any Federally recognized Tribe should have the right to challenge and deny that decision.

83.11 has been totally removed from the previously passed legislation. It is our belief that any negative acknowledgement should have the means whereby the effected party(s) can submit additional information for further review.

Respectfully;

Helen Danser, Chair