Indian Affairs - Office of Public Affairs

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The Department of the Interior is proposing amendments in the Federal regulations that govern elections to adopt or amend tribal constitutions for tribes organized under the Indian Reorganization Act of 1934. Proposals also are being made to standardize procedures under which some 97 Indian tribes may petition the Secretary of the Interior or the Commissioner of Indian Affairs to authorize elections to amend their tribal constitutions.

The proposed new rules would revise Part 52, Title 25, Code of Federal Regulations and add a new Part 53. They have been published in the Federal Register as proposed rule making and interested parties are urged to comment.

The change affecting Part 52 concerns a provision of the Indian Reorganization Act, under which many Indian tribes have organized their constitutional governments. The Act provides that at least 30 percent of the persons entitled to vote must participate in constitutional elections called by the Secretary or the Commissioner if such elections are to be considered valid.

In the past, the 30 percent was based on voting lists comprised of all tribal members 21 years of age or over. As tribal members continue to move away from reservations for employment or education, it has become more difficult, and in some cases impossible, to achieve 30 percent participation. This has worked a hardship on tribal members, both on and off the reservation, who take an active interest in tribal government, according to the Bureau of Indian Affairs.

The proposed revision would require eligible voters to register before they become entitled to vote and would base the 30 percent determination upon the total number of those registered, rather than a list of adult tribal members. Also, procedures for filing absentee ballots would become simpler, substituting a certification form subscribed before two witnesses for the previous requirement of an oath taken in the presence of a notary public or other official qualified to administer oaths.

The amendment is intended to make voting in constitutional elections simpler and more equitable, BIA officials said, and may also increase Indian participation in local, State and national elections by familiarizing Indians with voter registration procedure.

The addition of a new Part 53, Title 25 CFR is designed to clarify and. standardize procedures to be followed by tribal members who have the right to petition the Secretary or the Commissioner to call a special election to amend a tribal constitution. In the past there has been no all-encompassing procedure for preparing and processing the petitions and inconsistencies and misunderstandings have resulted. The proposed new regulations would establish such rules as the format for petitions; procedures for their filing; and the manner of determining their validity.