Proposed rule to remove federal roadblocks to economic development, restore greater control to tribal governments

Media Contact: Adam Fetcher, DOI, (202) 208-6416 | Nedra Darling, OPA-IA Phone: 202-219-4152
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WASHINGTON – Secretary of the Interior Ken Salazar and Assistant Secretary for Indian Affairs Larry Echo Hawk today announced a sweeping reform of federal surface leasing regulations for American Indian lands that will streamline the approval process for home ownership, expedite economic development and spur renewable energy development in Indian Country.

The proposed rule would modify regulations governing the Bureau of Indian Affairs' process for approving the lease of surface acres on lands the federal government holds in trust for tribes and individuals. As trustee, Interior is responsible for managing approximately 56 million surface acres in Indian Country.

"The proposed changes are the most comprehensive reforms of Indian land leasing regulations in more than 50 years and will have a real impact for individuals and families who want to own a home or build a business," said Secretary Salazar. "This reform underscores President Obama's commitment to empower Indian nations and strengthen their economies by expanding opportunities for individual landowners and tribal governments -- generating investment, new jobs and revenues."

"At its core, this reform is about good government and supporting self-determination for Indian Nations," said Assistant Secretary Echo Hawk. "The revised regulations will bring greater transparency, efficiency and workability to the Bureau of Indian Affairs approval process, and will provide tribal communities and individuals certainty and flexibility when it comes to decisions on the use of their land."

The existing regulations, adopted in 1961, take an antiquated, "one-size fits all" approach to processing all surface leases. Under the current system, which lacks a defined process or deadlines, it is not uncommon for a simple mortgage application to languish for several years waiting approval from the federal government.

The proposed reform identifies specific processes – with enforceable timelines - through which the Bureau of Indian Affairs (BIA) must review leases. The regulation establishes separate, simplified processes for residential, business, and renewable energy development, so that, for example, a lease for a single family home is distinguished from a large solar energy project.

The proposed rule provides a 30 day-limit for the BIA to issue decisions on residential leases, subleases, and mortgages. For commercial or industrial development, the BIA would have 60- days to review leases and subleases. If the BIA does not complete its review of subleases in this timeframe, those agreements will automatically go into effect.

Other proposed changes would eliminate the requirement for BIA approval of permits for short-term activities on Indian lands, such as parades; and requires the BIA to approve leases unless it finds a compelling reason to disapprove. Under the new rule, the BIA would defer to the tribe's negotiated value for a lease of tribal land and would not require additional, costly appraisals.

"The proposed regulation incorporates numerous changes requested by tribal leaders during extensive consultations this past year and better meets the goals of facilitating and expediting the leasing process for trust lands," said Principal Deputy Assistant for Indian Affairs Del Laverdure.

During the initial consultation period more than 2,300 comments were received from more than 70 tribes as well as several federal agencies, including HUD, USDA and the IRS. The publication of the proposed rule in tomorrow's *Federal Registe*r kicks off a 60-day public comment period with additional, soon-to-be-announced tribal meetings. The BIA regulatory drafting workgroup is expected to review the comments and publish the final rule in 2012.

Comments and recommendations may be submitted during the tribal consultation meetings, by email at consultation@bia.gov, or by U.S. Postal Service, overnight carrier or hand-delivery to: Del Laverdure, Principal Deputy Assistant Secretary-Indian Affairs, U.S. Department of the Interior, 1849 C St., N.W., MS-4141-MIB, Washington, D.C. 20240.

For a Q & A document on the proposed rule, click HERE.

For a comparison of existing and proposed regulations, click HERE.

For the proposed rule, click HERE.
