

[4337-15]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

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Requests for Administrative Acknowledgment of Federal Indian Tribes

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Policy guidance.

SUMMARY: This policy guidance establishes the Department’s intent to make determinations to acknowledge Federal Indian tribes within the contiguous 48 states only in accordance with the regulations established for that purpose at 25 CFR part 83. This notice directs any unrecognized group requesting that the Department acknowledge it as an Indian tribe, through reaffirmation or any other alternative basis, to petition under 25 CFR 83 unless an alternate process is established by rulemaking following the effective date of this policy guidance.

DATES: This policy guidance is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action – Indian Affairs, (202) 273-4680; elizabeth.appel@bia.gov.

SUPPLEMENTARY INFORMATION:

Prior to the establishment of the regulatory process for establishing that an American Indian group exists as an Indian tribe in 1978 (“the Part 83 process”), the Department used an informal process for the Federal acknowledgment of Indian tribes. The Part 83 regulations formalized the process by which the Department reviewed requests and the criteria required of

groups to obtain Federal acknowledgment. The Department has resolved over 50 petitions using the Part 83 process.

However, even after the promulgation of the Part 83 regulations in 1978, there have been a range of requests by unrecognized groups to use other administrative processes to obtain Federal acknowledgment. The Department has utilized those processes in limited circumstances. For example, the Department has “reaffirmed” some tribes and reorganized some half-blood communities as tribes under the Indian Reorganization Act (IRA).

Over the past couple of years, the Department has undertaken a comprehensive review and evaluation of the process and criteria by which it federally acknowledges Indian tribes under 25 CFR part 83. As part of that review of the proposed revisions to Part 83, we also received comments related to the other administrative processes that have occasionally been used by the Department for acknowledgment. For example, the Eastern Band of Cherokee Indians and Stand Up for California requested that the Department utilize only the Part 83 process to acknowledge tribes.

We recognize the concerns expressed in comments about the use of administrative approaches for acknowledgment other than Part 83. Having worked hard to make the Part 83 process more transparent, timely and efficient, while maintaining Part 83’s fairness, rigor, and integrity, the Department has decided that, in light of these reforms to improve the Part 83 process, that process should be the only method utilized by the Department to acknowledge an Indian tribe in the contiguous 48 states.¹ The Department has determined that it will no longer accept requests for acknowledgement outside the Part 83 process. Rather, the Department

¹ With regard to Alaska, under 25 U.S.C. 473a, Congress has specifically provided: “that groups of Indians in Alaska not recognized prior to May 1, 1936, as bands or tribes, but having a common bond of occupation, or association, or residence within a well-defined neighborhood, community, or rural district, may organize to adopt constitutions and bylaws and to receive charters of incorporation and Federal loans under sections 470, 476, and 477 of this title.”

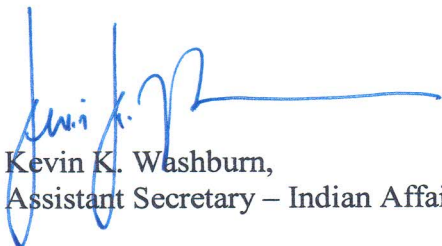
intends to rely on the newly reformed Part 83 process as the sole administrative avenue for acknowledgment as a tribe.

Of course, the basis for the policy shift being announced today is the Department's reform and improvement of the Part 83 process. The recently revised Part 83 regulations promote fairness, integrity, efficiency and flexibility. No group should be denied access to other mechanisms if the only administrative avenue available to them is widely considered "broken." Thus, this policy guidance is contingent on the Department's ability to implement Part 83, as reformed. If in the future the newly reformed Part 83 process is not in effect and being implemented, this policy guidance is deemed rescinded.

To conclude, any group within the contiguous 48 states seeking Federal acknowledgment as an Indian tribe administratively must petition under 25 CFR 83 from this date forward. The decision to use only the recently reformed Part 83 process from this point forward does not affect the validity of any determination made prior to the institution of this policy guidance; while the Department exercised its discretionary authority to use those methods of acknowledgment in the past, it no longer will.

Dated:

JUN 26 2015



Kevin K. Washburn,
Assistant Secretary – Indian Affairs.