



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

DEC 18 2020

Dear Tribal Leader:

Several updates to regulations administered by the Office of the Assistant Secretary – Indian Affairs (AS-IA) are under consideration for revisions. Some of these regulatory updates have already been proposed in the Federal Register, while others are just under consideration or otherwise require some discussion. For your convenience, I am combining them all into one letter.

1. Indian Land Title and Records – Proposed Rule

On December 11, 2020, Indian Affairs published a proposed rule to update its Indian Land Record of Title regulations (85 FR 79965), available at this link: <https://www.govinfo.gov/content/pkg/FR-2020-12-11/pdf/2020-26721.pdf>.

The rule would modernize the current regulations governing the Land Title and Records Office (LTRO). The LTRO maintains title documents for land held in trust or restricted status for individual Indians and Tribes (Indian land). The proposed rule would replace outdated provisions and allow for more widespread efficiencies by reflecting current practices, while creating a framework for future LTRO operations. As announced in the Federal Register, Tribal consultation sessions to discuss the proposed rule are scheduled for the following dates and times.

Consultation session – Indian Land Title and Records:

Date	Time (Eastern Time)	Call-In Number	Passcode
Tuesday, January 12, 2021	2 p.m. – 4 p.m.	(888) 606-8412	DOI*
Thursday, January 14, 2021	2 p.m. – 4 p.m.	(888) 606-8412	DOI*

*An operator will answer.

Written input:

- Email: consultation@bia.gov

Point of contact:

- Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, elizabeth.appel@bia.gov, (202) 273-4680

Comment deadline:

- February 9, 2021

2. Tribal Transportation Program (TTP) Access Road Mileage Limitation

In a separate letter, dated December 15, 2020, I invited you to consult on the mileage limitation for access roads under the Tribal Transportation Program's current regulations. I am providing you the information for those consultation sessions again for your convenience here.

Consultation session – Access Road 15-Mile Limitation:

Consultation for:	Date	Time (Eastern Time)	Call-in Number	Passcode
Tribes in the Lower 48	Friday, January 15, 2021	2 p.m. – 4 p.m.	(888) 606-8412	DOI*
Alaska Tribes	Friday, January 15, 2021	4:30 p.m. – 6:30 p.m.	(800) 857-9676	DOI*
Alaska Tribes	Tuesday, January 19, 2021	4 p.m. – 6 p.m.	(800) 857-9676	DOI*

*An operator will answer.

Written input:

- Email: consultation@bia.gov

Point of contact:

- Mr. Matthew Kelly, Counselor to the Assistant Secretary – Indian Affairs, matthew.kelly@bia.gov, (202) 208-4319

Comment deadline:

- None at this point.

3. American Indian Probate Regulations – Proposed Rule

The Department of the Interior (Department) is proposing to update regulations governing probate of property that the United States holds in trust or restricted status for American Indians. Since the regulations were last revised in 2008, the Department identified opportunities for improving the probate process. These proposed revisions would allow the Office of Hearings and Appeals (OHA) to adjudicate probate cases more efficiently by, among other things, establishing an expedited process for small, funds-only estates, reorganizing the purchase-at-probate process so that estates may be closed more quickly, streamlining notice to co-owners who are potential heirs while adding electronic notice to all by website posting, and more clearly specifying which reasons justify reopening of closed probate estates. The proposed revisions would also enhance OHA's processing by adding certainty as to how estates should be distributed when certain circumstances arise that are not addressed in the statute.

The proposed rule is currently at the Federal Register for publication. Tribal consultation sessions have been scheduled for the following dates and times.

Consultation session – American Indian Probate Regulations:

Date	Time (Eastern Time)	Call-In Number	Passcode
Tuesday, February 9, 2021	2 p.m. – 5 p.m.	(800) 369-3356	8182564

There will also be a public session for individuals who may be interested in the rule on Thursday, February 11, 2021, at 2 p.m., call-in number (888) 790-3548, passcode 6643062.

Written input:

- Email: consultation@bia.gov

Point of contact:

- Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, elizabeth.appel@bia.gov, (202) 273-4680

Comment deadline:

- Deadline will be no sooner than March 1, 2021. The specific deadline will be announced in the Federal Register publication of the proposed rule.

4. Federal Acknowledgment Re-Petitioning

Regulations establishing the process and criteria for how the Department administratively acknowledges of Indian Tribes were updated in 2015. *See* 25 CFR part 83. As part of that rulemaking, the Department decided not to allow groups that had previously petitioned for, but denied, Federal acknowledgment the opportunity to re-petition. Since that time, two Federal district courts ruled that the Department’s explanation for its decision to ban re-petitioning was insufficient as a matter of law under the Administrative Procedure Act. The Department is taking this opportunity consult on whether it should reconsider its prior decision to ban re-petitioning. The Department is not considering other substantive updates to the regulation beyond potentially addressing re-petitioning.

Consultation session – Federal Acknowledgment:

- A session is being planned to occur during National Congress of American Indians (NCAI) Executive Council Winter Session, the week of February 22, 2021. The specific date and location, when available, will be posted on the following website: <https://www.bia.gov/as-ia/raca/regulations-and-other-documents-in-development>

Written input:

- Email: consultation@bia.gov

Point of contact:

- Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, elizabeth.appel@bia.gov, (202) 273-4680

Comment deadline:

- Wednesday, March 31, 2021

5. Indian Trader Regulations

Indian Affairs hosted 16 separate consultation and listening sessions in 2017 regarding whether, and how, to revise 25 CFR 140, Licensed Indian Traders. The input we received focused on using the Indian Trader regulations as a vehicle for prohibiting dual taxation in Indian Country, but the Department has identified obstacles to this approach. This listening session is intended to close out the Department's consideration of using Indian Trader regulations as a vehicle for prohibiting dual taxation and will allow Tribes the opportunity to inform the Department as to whether it should reconsider Indian Trader regulations at some future date.

Listening session – Indian Trader Regulations:

Date	Time (Eastern Time)	Call-In Number	Passcode
Tuesday, March 16, 2021	2 p.m. – 4 p.m.	(800) 369-1122	5906233
Thursday, March 18, 2021	2 p.m. – 4 p.m.	(800) 857-5055	6951606

Written input:

- Email: consultation@bia.gov

Point of contact:

- Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, elizabeth.appel@bia.gov, (202) 273-4680

Comment deadline:

- Wednesday, March 31, 2021

Other proposed and developing regulatory actions that are forthcoming include new regulations implementing the newly enacted Native American Business Incubator Program Act and a request for nominations to the negotiated rulemaking committee to update Tribal self-governance regulations to implement the PROGRESS for Indian Tribes Act.

While these topics include discussions that will extend beyond my tenure as AS-IA, each of these topics will benefit from consultation with you, as the new Administration develops its plan of action for a regulatory agenda.

Sincerely,



Tara Sweeney
Assistant Secretary – Indian Affairs