



APALACHICOLA BAND OF CREEK INDIANS
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Bureau of Indian Affairs
Office of Regulatory Affairs
1849 C. Street, NW
Washington, DC 20240

Subject: Review of Proposed Draft Changes to the Federal Acknowledgement Rules

The Apalachicola Band of Creek Indians, Elder Council respectfully submit the following recommended revisions to the draft proposed changes to the Federal Acknowledgement Rules.

A. Definitions and meanings:

1. Keep the **Letter of Intent** in the process to gather information for budget forecasting and reports to Congress. This information is useful in comparative analysis of applicants that file intent versus those who do not file apply but do not submit a Documented Petition.
2. Revise **Petitioner** definition: A **Petitioner** is any non-federal applicant that has submitted a Letter of Intent to file a fully Documented Petition within 180 days (six months) from date of the Intent letter.
3. Revise **Documented Petition**: A Documented Petition is the certified, unambiguous exposition of detailed arguments with all mandated, supporting evidence meeting federal criteria in for an expedited finding in § 83.8 proving prior federal acknowledgment.
4. **History and Historical** definitions of proofs must include exact, federally accepted sources. Historically there have been disagreements among Indian experts, anthropologists, and paleoanthropologists and others concerning a definition of first **sustained contact between Indians and other non-Indians. This question is a geographical and time wise mystery. We recommend reconsideration re using these terms given they are outmoded by the proposed change in baseline to 1934.**
5. Discard term “group” vs tribe when defining federal and non federal Indian status. Use of group to define non federal Indians has resulted in hostility and creation of a two tier class system within the

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US Indian Population. Federal language in public documents must always strive for unity and never become a source of same race on race discontent. Consider the following amendments:

A Federal Indian Tribe is any Indian or Alaska Native tribe, band, pueblo, village, or community within the United States **that meets all federal Indian laws, policies, and mandates** for US Recognition as a Federal Indian Tribe.

A Non-Federal Indian Tribe is any Alaska Native tribe, band, pueblo, village, or community within the United States that **does not currently meet all federal Indian laws, policies, and mandates** as a Federal Indian Tribe.

6 Standardize definitions for **Members** of a non-federal Indian tribe and federal tribe uniform following # 5 above..

Member of a non-federal Indian tribe means an individual who consents to be listed as a member and is recognized as a member of a non-federal Indian tribe according to the membership criteria of that non-federal tribe.

Member of a federal Indian tribe means an individual who meets membership requirements of federal Indian tribe as set forth in the tribe's governing documents or, (2) an individual who is collectively recognized as a member by the federal tribe's governing body, and who has consistently maintained tribal relations with the federal tribe or, (3) if membership rolls are kept, the individual's name is listed on the federal tribe's membership roles.

7. Revise definitions for **Informed party and Interested Party**:

Informed Party means any person or organization requesting an opportunity to submit comments or evidence or to be kept informed of general actions regarding a specific petitioner.

Interested Party means any person, organization or other entity able to establish a legal, factual or propriety interest in an acknowledgment determination that submits a formal, written request on official letterhead requesting an opportunity to submit comments, evidence, or to be kept informed of general actions regarding a specific petitioner.

Note: Ensure the federal release of private information submitted by a Petitioner is not a unilateral Decision and could be determined a violation of confidentiality. Be mindful that until designated federal Indian tribe, Petitioners are beyond the jurisdiction of Indian Law and Constitutional protections may prohibit release of information without a signed agreement between the Petitioner and the Department of Interior.

8. Revise proposed definition for Previous federal acknowledgment:

Previous Federal Acknowledgment means an action of the Federal government that unambiguously identifies an Indian tribe as a federally recognized, political entity entitled to government-to-government relationship with the United States.

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9. **Regional Offices** means : Twelve BIA sub-office agencies located in the heart of Indian country providing services to federally recognized tribes and individual Indians and Alaska Natives directly or through contacts in the areas of natural resources, agriculture, fish and wildlife, and real estate services.
10. Revise **Tribal relations** to clarify if “individual” means member of a federal tribe as opposed to “any person regardless of membership or legal affiliation with a federal tribe.
11. Revise **Tribal Roll** to mean a list of tribal members, federal or non federal who have given their consent to be listed on federal or non federal tribal rolls and whom the tribe has determined meets the membership requirements set forth in tribal governing documents.

B. Review of Eligibility Rules

12. PAGE 3, part (a) of § 83.3: (a) Recommended change for this item are listed below: Any non-federal Indian tribe in the United States that believes it should be federally acknowledged as an Indian tribe and is able to satisfy the criteria may submit a letter of intent followed by a documented petition under provisions of this section.

13. Page 3, § 83.3 (d) add a federal definition for “Splinter group.” While a common label for BIA and OFA, it has no significant meaning to petitions or potential applicants. Recommended change below:

(d) Petitioners and members that have separated from a currently federal recognized tribe may be considered under these regulations if they can clearly establish autonomous functioning as a tribe from 1934 to the present.

14. Revise § 83.3 (e) for clarity of meaning for terms, “section” “part”, “regulation”, or “rule”.
(e) Petitioners for federal acknowledgment or their members that subject to congressional legislation terminating or forbidding federal recognition, may only be considered for acknowledgement as provided in 83.3(e).

(f). Former petitioners and members whose application for federal acknowledgment has been denied may re-petition only under § 83.3 (g).

(g) Petitioners and members with Documented Petitions that:

(1) Have not reached active consideration as of the effective date of these revised regulations must proceed under revised regulations.

(2) Are under active consideration, including those that have received a proposed finding, as of the effective date of revised regulations may choose to complete their petitioning process or file a new documented petition under these regulations. The choice of process must be made within sixty days after publication of a final rule. The option choice applies to any petition for which a determination is not final and effective as of the effective date of publication of the final regulations.

C. Recommendation for changes under §83.6

1. (a) Do not limit number of pages making up a complete documented petition when a requirement for references and thorough application of “ample evidence” suggests a mountain of impossible-to-know paper. This is not a helpful or practical requirement for predominantly lay researchers.
2. As an item to the documented petition if a timeline is a requirement.
3. (b) (4). A petitioner must meet all mandatory criteria with a thorough exposition of explanations and supporting documents. Item (g) should be removed as it is a departmental requirement as to whether a certified, Documented Petition meets federal mandatory criteria.

D. Recommendation for changes under §83.7 Mandatory Criteria

1. **Note: Criterion (a) has been deleted and becomes b. Failure to make follow up with renumbering will throw the organization numbering off.**
2. (b) (1) and all sub parts give suggested proofs which are archaic and in no way address the assimilation of American Indian individuals and families over the many years since the 1830 Indian Removal law was enacted. Suggestions should mirror the proposed 1934 post DAWES base period that renders the current expectations for behavior obsolete. Sons and daughters now enjoy parenting from biological fathers and uncles still pay a happy but minor role with nieces and nephews.

Permissive child rearing is alive and well as is the individual preference to speak their own mind rather than a designated speaker. Christians more so than traditional adapts us to the US population acceptance of serial marriages over polygamy and miniscule numbers of cousin marriages. Bottom line is this section needs to reflect contemporary sophistication of American Indians. We further recommend consultation with Professional Native American Anthropologists, Social Scientist, Educators, and Mental Health Professionals when developing a new set of “federally acceptable standards” for Indian behaviors.

3. (b) Eliminate all requirements for Petitioners to present statistical percentages based on population size over the years. This goes beyond the ability of most small and economically deprived non-federal tribes seeking federal recognized status. It is rare to find Petitioners who live on reservations unless land is purchased by an economically well off tribe. Indian History contained in the American State Papers show clearly that even the American Government political or military were never able to establish statistically sound facts about American Indians prior to 1934.

Non- federal tribes living in rural or sub urban areas of the country have little control over what happens to their populations during economic downturns. Thus, landless non federal tribes have scant control over whether members remain in close proximity. No leader in these circumstances would restrain any member from moving to a place where he or she could feed and provide for family. We believe that the age of shared work and joint effort

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for family and tribe survival died with the Indian removal and death of the Agrarian period in America. Certainly since 1934 followed by WW II American made Families in America become more geared to self-help. The advent of the Social Security safety net in the early 1930's replaced family /community shared help with an alternative giant feeding machine known as Public Welfare and Food Stamps. Grandmother now goes on welfare instead of going to the poor farm.

On behalf of the undersigned named Apalachicola Elder Council membership, we end this review with a respectful request for consideration of our comments and suggestions for change. Thank you for the opportunity to consider the proposed changes and the opportunity to respond.

Very truly,

Mary Sixwomen Blount, Tribal Administrator, Family Health Officer

On behalf of the Elder Council, Apalachicola Band of Creek Indians

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