Elizabeth Appel
Office of Regulatory Affairs and Collaborative Action
United States Department of the Interior
1849 C Street, NW
MS 4141
Washington, DC 20240

RE: **Revisions to Federal Acknowledgment Regulations**

Dear Mrs. Appel;

After reading and discussing the proposed changes, we have decided that the changes typed in blue ink are the ones that would best serve the American Indians. There needs to be an increased transparency of the regulations, and written in easier and clearer language.

Thank you for taking this challenge problem and attempting to help the non federal recognized tribes.

Sincerely,
Elbert B. McCarley Sr.,
Star Clan, Lower Creek Muscogee Tribe East
Census No. MEZ 1104-994

Attachment

CC: File

§ 83.1 Definitions

Page 1

Autonomous means the exercise of political influence or authority independent of the control of any other Indian governing entity. Autonomous must be understood in the context of the history, geography, culture and social organization of the petitioning group.

Autonomous means the exercise of political influence independent of the control of any other Indian governing entity. Autonomous must be understood in the context of the history, geography, culture and social organization of the petitioning group, with the inclusion of the local history.

Community means any group of people which can demonstrate that consistent interactions and significant social relationships exist within its membership and that its members are differentiated from and identified as distinct from nonmembers. Community must be understood in the context of the history, geography, culture and social organization of the group. [NOTE: This draft also incorporates the definition into criteria at § 83.7(b)].

Community means a social, religious, occupational, or other group sharing common characteristics or interests and perceived or perceiving itself as distinct in some respect from the nonmembers. Community must be understood in the context of the history, geography, culture and social organization of the group. The people in the community must show interactions and social relationships exist within said community. This is the definition that should be used in the § 83.7(b).

Continental United States means the contiguous 48 states and Alaska.

Continental United States means the contiguous 48 states, Alaska, Hawaii and American territories.

Continuously or *continuous* means extending from first sustained contact with non-Indians throughout the group's history1934 to the present substantially without interruption. [NOTE: This draft also incorporates the definition into criteria at § 83.7(b) and (c)].

This definition should take into consideration of the local, regional history. In the southern United States the American Indians, Afro Americans and Jewish races dealt with the following issues: Jim Crowe's laws, Ku-Klux Klan, segregation laws. Virginia's tribes do not have the genealogical records needed to prove their continued, uninterrupted existence—a requirement for federal recognition. Their genealogical records were destroyed during the first half of the twentieth century by officials enforcing Virginia's Racial Integrity Act of 1924. The Act

declared that only "white" and "colored" people existed in Virginia. In addition, birth records for Native Americans were changed to indicate individuals were "colored" instead of American Indian, effectively eliminating all documentary evidence of Indians within the state. Consequently, even those tribes that have inhabited Virginia's Indian reservations for nearly 400 years have little chance of becoming recognized in the foreseeable future. The Racial Integrity Act of 1924, was also was used in Alabama, and other southern states.

Page 2§ 83.1 Definitions

Historically, *historical* or *history* means dating from first sustained contact with non-Indians. What does the first sustained contact mean? Majority of the time history is recorded as a specific name of a group of American Indian e.g. Creek, Cherokee, Apache or a village e.g. Coweta, Hitchiti, and Okmulgee.

Indian group or *group* means any Indian or Alaska Native aggregation within the continental United States that the Secretary of the Interior does not acknowledge to be an Indian tribe.

Indian group or *group* means any Indian or Alaska Native aggregation within the continental United States, Alaska, Hawaii and United States territories that the Secretary of the Interior does not acknowledge to be an Indian tribe.

Informed party means any person or organization, other than an interested party, who requests an opportunity to submit comments or evidence or to be kept informed of general actions regarding a specific petitioner.

Informed party means any person or organization, other than an interested party, who requests an opportunity to submit comments or evidence or to be kept informed of general actions regarding a specific petitioner. The petition group shall be given the contact information regarding an informed party.

Interested party means any person, organization or other entity, who can establish a legal, factual or property interest in an acknowledgment determination and who requests an opportunity to submit comments or evidence or to be kept informed of general actions regarding a specific petitioner. ``Interested party" includes the governor and attorney general of the state in which a petitioner is located, and may include, but is not limited to, local governmental units, and any recognized Indian tribes and unrecognized Indian groups that might be affected by an acknowledgment determination.

Interested party means any person, organization or other entity, who can establish a legal, factual or property interest in an acknowledgment determination and who requests an opportunity to submit comments or evidence or to be kept informed of general actions regarding a specific petitioner. ``Interested party" includes the governor and attorney general of the state in

which a petitioner is located, and may include, but is not limited to, local governmental units, and any recognized Indian tribes and unrecognized Indian groups that might be affected by an acknowledgment determination. The petition group shall be given the contact information regarding an interested party. All comments will be provided by the Bureau of Indian Affairs to the petitioning group that any interested party submits.

Page 3§ 83.1 Definitions

Political influence or authority means a tribal council, leadership, internal process or other mechanism which the group has used as a means of influencing or controlling the behavior of its members in significant respects, and/or making decisions for the group which substantially affect its members, and/or representing the group in dealing with outsiders in matters of consequence. This process is to be understood in the context of the history, culture and social organization of the group. [NOTE: This draft also incorporates this definition into criteria at § 83.7(c)].

Political influence or authority means the ability of a tribal council, leadership, internal process or other mechanism to shape and control the political behavior of others and to lead and guide their behavior in the direction desired by the power. Political power is the capacity of the tribal council, leadership, internal process or other mechanism to influence, condition, mold, and control human behavior for the accomplishment of political objectives. Also, the tribal council, leadership, internal process or other mechanism representing the group possess the power of dealing with outsiders in matters of consequence. This process is to be understood in the context of the history, culture and social organization of the group. [NOTE: This draft also incorporates this definition into criteria at § 83.7(c)].

Sustained contact means the period of earliest sustained non-Indian settlement and/or governmental presence in the local area in which the historical tribe or tribes from which the petitioner descends was located historically.

Majority of the time history is recorded as a specific name of a group of American Indian e.g. Creek, Cherokee, Apache, etc or a village e.g. Coweta, Hitchiti, and Okmulgee, etc.

Sustained contact means the period of earliest sustained non-Indian settlement and/or governmental presence in the local area in which a tribe or specific group is named and the petitioner descends from.

§ 83.3 Scope.

Page 4

(c) Associations, organizations, corporations or groups of any character that have been formed in recent times may not be acknowledged under these regulations. The fact that a group that meets the criteria in § 83.7 (ab) through (g) has recently incorporated or otherwise formalized its existing autonomous political process will be viewed as a change in form and have no bearing on the Assistant Secretary's final Department's decision.

(c) Associations, organizations, corporations or groups of any character that have been formed since 1986 may not be acknowledged under these regulations. The fact that a group that meets the criteria in § 83.7 (ab) through (g) has recently incorporated or otherwise formalized its existing autonomous political process will be viewed as a change in form and have no bearing on the Assistant Secretary's final Department's decision.

(d) Splinter groups, political factions, communities or groups of any character that separate from the main body of a currently acknowledged tribe may not be acknowledged under these regulations. However, groupsa group that can establish clearly that they have it has functioned throughout history from 1934 until the present as an autonomous tribal entity may be acknowledged under this part, even though they have been regarded by some as part of or have been associated in some manner with an acknowledged North American Indian tribe.

(d) Splinter groups, political factions, communities or groups of any character that separate from the main body of a currently federal or state acknowledged tribe may not be acknowledged under these regulations.

(e) Further, groups which are, or the members of which are, subject to congressional legislation terminating or forbidding the Federal relationship may not be acknowledged under this part.

(f) Finally, groupsGroups that previously petitioned and were denied Federal acknowledgment under these regulations or under previous regulations in part 83 of this title, may not be acknowledged under these regulations., except as provided in section § 83.10(r). This includes reorganized or reconstituted petitioners previously denied, or splinter groups, spin-offs, or component groups of any type that were once part of petitioners previously denied.

(f) Finally, Groups that previously petitioned and were denied Federal acknowledgment under these regulations or under previous regulations in part 83 of this title, may be-acknowledged under these regulations; those have maintained their tribal identity. Therefore, the petitioning groups may reapply for federal recognition. Splinter groups, spin offs, or component groups of any type that were once part of petitioners previously denied may not reapply.

§ 83.4 Filing a letter of intent.documented petition.

(a) Any Indian group in the continental United States that believes it should be acknowledged as an Indian tribe and that it can satisfy the criteria in § 83.7this part may submit a letter of intentdocumented petition under this part.

§ 83.4 Filing a letter of documented petition.

(a) Any Indian group in the continental United States or territories that believes it should be acknowledged as an Indian tribe, village, pueblo and that it can satisfy the criteria in § 83.7this part may submit a letter of petition under this part.

§ 83.5 Duties of the Department.

Page 5

(a) The Department shall publish in the Federal Register, no less frequently than every three yearsby January 30 each year, a list of all Indian tribes entitled to receive services from the Bureau by virtue of their status as Indian tribes. The list may be published more frequently, if the Assistant Secretary deems it necessary.

(a)The Department shall publish in the Federal Register, no less frequently than every year by January 30 each year a list of all Indian tribes entitled to receive services from the Bureau by virtue of their status as Indian tribes. The list may be published more frequently, as a tribe is acknowledged by the Assistant Secretary.

(b) ~~The Assistant Secretary~~ OFA shall ~~make available revised and expandedmaintain~~ guidelines for the preparation of documented petitions by September 23, 1994. These guidelines ~~will inelude an explanation of the criteria and other provisions of the regulations, a discussion of the types of evidence which may be used to demonstrate particular criteria or other provisions of the regulations, and~~ general suggestions ~~and guidelines~~ on how and where to conduct research. The guidelines may be supplemented or updated as necessary. The ~~Department's~~OFA's example of a documented petition format, while preferable, shall not preclude the use of any other format.

(b)OFA shall maintain guidelines for the preparation of documented petitions and be published annually by October 1. These guidelines will have forms available to complete along with samples of how to complete the application. These forms, guidelines, sample will be maintained on the OFA website. Also there will be a web tutorial on how to complete the forms and where to conduct research. The guidelines may be supplemented or updated as necessary.

(c) The ~~Department~~OFA shall, upon request, provide petitioners with suggestions and advice regarding preparation of the documented petition. The ~~Department~~OFA shall not be responsible for the actual research on behalf of the petitioner.

(c)The OFA shall, upon written request, provide petitioners with suggestions and advice regarding preparation of the documented petition. The OFA shall not be responsible for the actual research on behalf of the petitioner. This shall be done within 45 business days of receiving the request. All request and responses shall be sent through certified. U. S. mail.

(d) Any notice which by the terms of these regulations must be published in the Federal Register, shall also be mailed to the petitioner, the governor of the state where the group is located, and to other interested parties.

(d) Any notice which by the terms of these regulations must be published in the Federal Register shall also be mailed to the petitioner, the governor of the state where the group is located, and to other interested parties. The petitioner shall be notified of all interested parties with contact information.

§ 83.6 General provisions for the documented petition.

Page 6

(a) The documented petition may be in any readable form, not to exceed **XX** pages, that contains detailed, specific evidence in support of a request to the ~~Secretary~~Department to acknowledge tribal existence.

(a) The documented petition must be typed not to exceed 100 pages using Times New Romans with a font size 12, for the main body, sections must be in bold, underlined, using Times New Romans with a font size 14, with a one inch margins. This is excluding supporting documentations. This document will contain detailed, specific evidence in support of a request for acknowledgment as a tribe.

(b) The documented petition must include a:
(1) A certification, signed and dated by members of the group's governing body, stating that it is the group's official documented petition.;
(2) An official membership list, separately certified by the group's governing body, of all known current members of the group, including each member's full name (including maiden name), date of birth, and current residential address;
(3) A copy of each available former list of members based on the group's own defined criteria and a statement describing the circumstances surrounding the preparation of the current list and, insofar as possible, the circumstances surrounding the preparation of former lists;
(4) Thorough explanations and supporting documents in support of meeting the requirements for an expedited favorable finding or, in the absence of such evidence, thorough explanations and supporting documents in support of meeting all the mandatory criteria, except criterion (g).

(i) The Department may accept evidence the petitioner volunteers in support of criterion (g), but the petitioner is not required to provide any evidence for criterion (g).
(ii) The Department will determine whether the petitioner meets criterion (g).

(b) The documented petition must include:
(1) A certification, signed and dated by members of the group's governing body, stating that it is the group's official documented petition.
(2) An official membership list, separately certified by the group's governing body, of all known current members of the group, including each member's full name (including maiden name), date of birth, and current residential and mailing address. Each person must sign a statement that he/she is not a member of another federal or unrecognized tribe. If a child a parent may sign the statement. If a person is ruled to be incompetent then the power of attorney may sign this statement with proper documentation showing that he/she has power of attorney.
(3) A copy of each available former list of members based on the group's own defined criteria and a statement describing the circumstances surrounding the preparation of the current list and, insofar as possible, the circumstances surrounding the preparation of former lists;
(4) Thorough explanations and supporting documents in support of meeting the requirements for an expedited favorable finding or, in the absence of such evidence, thorough explanations and supporting documents in support of meeting all the mandatory criteria, except criterion (g). A tribe should be expedited with the following: state recognized and has the same or similar criteria as OFA. Own their own land and is recorded in the tribe's name, owns a tribal owned business, assist tribal families with various social programs, educational assistance.
(i) The Department may accept evidence the petitioner volunteers in support of criterion (g), but the petitioner is not required to provide any evidence for criterion (g).
(ii) The Department will determine whether the petitioner meets criterion (g).

Page 6

(c) A In order for tribal existence to be acknowledged, a petitioner must satisfy all of:
(1) Meet the mandatory criteria in paragraphs (ad), (e), (f), and (g) of § 83.7 and one of the expedited favorable criteria in § 83.10(g)(3); or
(2) If neither of the expedited favorable criteria are met, meet all the mandatory criteria in paragraphs (b) through (g) of § 83.7 in order for tribal existence to be acknowledged. Therefore, the documented petition must include thorough explanations and supporting documentation in response to all of the criteria. The definitions in § 83.1 are an integral part of the regulations, and the criteria should be read carefully together with these definitions.; or
(3) Establish previous Federal acknowledgment and meet the criteria in § 83.8.

(c) A In order for tribal existence to be acknowledged a petitioner must:
(1) Meet4 of the mandatory criteria in paragraphs (ad), (e), (f), and (g) of § 83.7 and one of the expedited favorable criteria as follows state recognized by a state with similar or same criteria as OFA, owns land in the tribe's name and recorded in the local county courthouse, owns a tribal business.
(2) If neither of the expedited favorable criteria is met, meet all the mandatory criteria in paragraphs (b) through (g) of § 83.7 in order for tribal existence to be acknowledged. Therefore, the documented petition must include thorough explanations and supporting documentation in response to all of the criteria. The definitions in § 83.1 are an integral part of the regulations, and the criteria should be read carefully together with these definitions. or
The mandatory criteria are as follows:
At least **40** percent of the petitioning group comprises a distinct community and has existed as a community from historical times1986 until the present. Without a period greater than 20 years of interruption. Distinct community means a group of people with consistent interactions and significant social relationships within its membership and whose members are differentiated from and identified as distinct from nonmembers. Distinct community must be understood in the context of the history, geography, culture and social organization of the group.
(i) A 40 % of marriage within the group, and/or, as may be culturally required, patterned out-marriages with other Indian populations.
(ii) Significant social relationships connecting individual members.
(iii) Significant rates of informal social interaction which exist broadly among the members of a group.
(iv) A significant degree of shared or cooperative labor or other economic activity among the membership.
(v) Evidence of strong patterns of discrimination or other social distinctions by non-members.
(vi) Shared sacred or secular ritual activity encompassing most of the group.
(vii) Cultural patterns shared among a significant portion of the group that is different from those of the non-Indian populations with whom it interacts. These patterns must function as more than a symbolic identification of the group as Indian. They may include, but are not limited to, language, kinship organization, or religious beliefs and practices system or ceremonies.
(viii) The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.
(ix) A demonstration of historical political influence under the criterion in § 83.7(c) shall be evidence for demonstrating historical community for that same time period.

(d) A petitioner ~~may~~will be denied acknowledgment if the evidence available ~~demonstrates that it does not meet one or more criteria. A petitioner may also be denied if there~~ is insufficient ~~evidence~~to show that it meets the requirements for an expedited favorable finding, one or more of the criteria.mandatory criteria, orand the criteria applicable to petitioners that establish previous Federal acknowledgment.
(1) A criterion shall be considered met if the available evidence establishes:
(i) A preponderance of the evidence supports the validity of the facts claimed when viewed in the light most favorable to the petitioner; and
(ii) The facts establish a reasonable likelihood of the validity of the facts relating to that the criterion. is met.
(2) Conclusive proof of the facts relating to a criterion shall not be required in order for the criterion to be considered met.

d) A petitioner may be denied acknowledgment if the evidence available-is insufficient evidence to show that it meets the requirements for an expedited favorable finding, four of of the mandatory criteria, or one or more of the expedite criteria applicable to petitioners that establish previous Federal acknowledgment.
(1) A criterion shall be considered met if the available evidence establishes:
(i) A preponderance of the evidence supports the validity of the facts claimed when viewed in the light most favorable to the petitioner. Preponderance the meaning is somewhat subjective.
(ii) The facts establish a reasonable likelihood of the validity of the facts relating to that the criterion is met.

(2) Conclusive proof of the facts relating to a criterion shall not be required in order for the criterion to be considered met.

(e) Evaluation of petitions shall take into account historical situations and time periods for which evidence is demonstrably limited or not available. The limitations inherent in demonstrating the historical existence of community and political influence or authority shall also be taken into account. Existence of community and political influence or authority shall be demonstrated on a substantially continuous basis, but this demonstration does not require meeting these criteria at every point in time. Fluctuations in tribal activity during various years shall not in themselves be a cause for denial of acknowledgment under these criteria. [NOTE: This draft also incorporates this concept into criteria at § 83.7(b)(3) and (c)(4)].

There are no needed changes for this section.

Pages 7 -11

§ 83.7 Mandatory criteria for Federal acknowledgment.

The mandatory criteria are:
(a) [Deleted]. ~~The petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900. Evidence that the group's character as an Indian entity has from time to time been denied shall not be considered to be conclusive evidence that this criterion has not been met. Evidence to be relied upon in determining a group's Indian identity may include one or a combination of the following, as well as other evidence of identification by other than the petitioner itself or its members.~~
~~(1) Identification as an Indian entity by Federal authorities.~~
~~(2) Relationships with State governments based on identification of the group as Indian.~~
~~(3) Dealings with a county, parish, or other local government in a relationship based on the group's Indian identity.~~
~~(4) Identification as an Indian entity by anthropologists, historians, and/or other scholars.~~
~~(5) Identification as an Indian entity in newspapers and books.~~
~~(6) Identification as an Indian entity in relationships with Indian tribes or with national, regional, or state Indian organizations.~~

(a) Should remain deleted.

(b) ~~A predominant portion~~At least **XX** percent of the petitioning group comprises a distinct community and has existed as a community from ~~historical times~~1934 until the present. without substantial interruption. Distinct community means a group of people with consistent interactions and significant social relationships within its membership and whose members are differentiated from and identified as distinct from nonmembers. Distinct community must be understood in the context of the history, geography, culture and social organization of the group. Substantial interruption is determined on a case-by-case basis considering the history and circumstances of the petitioning group.

(1) This criterion may be demonstrated by some combination of the following evidence and/or other evidence that the petitioner meets the definition of community set forth in § 83.1:
(i) Significant rates of marriage within the group, and/or, as may be culturally required, patterned out-marriages with other Indian populations.
(ii) Significant social relationships connecting individual members.
(iii) Significant rates of informal social interaction which exist broadly among the members of a group.
(iv) A significant degree of shared or cooperative labor or other economic activity among the membership.
(v) Evidence of strong patterns of discrimination or other social distinctions by non-members.
(vi) Shared sacred or secular ritual activity encompassing most of the group.

(vii) Cultural patterns shared among a significant portion of the group that are different from those of the non-Indian populations with whom it interacts. These patterns must function as more than a symbolic identification of the group as Indian. They may include, but are not limited to, language, kinship organization, or religious beliefs and practieessystem, or ceremonies.
(viii) The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.
(ix) A demonstration of historical political influence under the criterion in § 83.7(c) shall be evidence for demonstrating historical community for that same time period.

(b) At least **40** percent of the petitioning group comprises a distinct community and has existed as a community from1986, including the regional history until the present. The petitioning tribal community had an interruption greater than 50 years. Distinct community means a social, religious, occupational, or other group sharing common characteristics or interests and perceived or perceiving itself as distinct in some respect from the nonmembers. Community must be understood in the context of the history, geography, culture and social organization of the group. The people in the community must show interactions and social relationships exist within said community. A group of people with consistent interactions and significant social relationships within its membership and whose members are differentiated from and identified as distinct from nonmembers. Distinct community must be understood in the context of the history, geography, culture and social organization of the group. Substantial interruption is determined on a case-by-case basis considering the history and circumstances of the petitioning group.

(2) A petitioner shall be considered to have provided sufficient evidence ~~of~~to demonstrate community at a given point in time if evidence is provided to demonstrate any one of the following:
(i) More than ~~50~~**XX** percent of the members reside in a geographical area exclusively or almost exclusively composed of members of the group, and the balance of the group maintains consistent interaction with some members of the community;
(ii) At least ~~50~~**XX** percent of the marriages in the group are between members of the group;
(iii) At least ~~50~~**XX** percent of the group members maintain distinct cultural patterns such as, but not limited to, language, kinship organization, or religious beliefs and practieessystem, or ceremonies;

(2) A petitioner shall be considered to have provided sufficient evidence to demonstrate community at a given point in time if evidence is provided to demonstrate any one of the following:
(i) More than 40 percent of the members reside in a geographical area exclusively or almost exclusively composed of members of the group, and the balance of the group maintains consistent interaction with some members of the community;
(ii) At least 40 percent of the marriages in the group are between members of the group;

(iii) At least 40 percent of the group members maintain distinct cultural patterns such as, but not limited to, language, kinship organization, or religious beliefs and practices system, or ceremonies;

(iv) There are distinct community social institutions encompassing most of the members, such as kinship organizations, formal or informal economic cooperation, or religious organizations; or

(v) The group has met the criterion in § 83.7(c) using evidence described in § 83.7(c)(2).

(3) The limitations inherent in demonstrating the existence as an Indian distinct community that has existed since 1934 without substantial interruption shall be taken into account. Petitioners may provide information and background for time periods prior to 1934, but the information and background will be considered only to the extent relevant to an analysis of the group from 1934 to the present. [NOTE: This paragraph is repeated from § 83.6(e)].

(3) The limitations inherent in demonstrating the existence as an Indian distinct community that has existed since 1986 without interruption greater than 50 years shall be taken into account. Petitioners may provide information and background for time periods prior to 1986, but the

information and background will be considered only to the extent relevant to an analysis of the group from 1986 to the present. [NOTE: This paragraph is repeated from § 83.6(e)].

(c) The petitioner has maintained political influence or authority over its members as an autonomous entityIndian group from historical times1934 until the present without substantial interruption. Political influence or authority means a tribal council, leadership, internal process or other mechanism which the group has used as a means of influencing or controlling the behavior of its members in significant respects, and/or making decisions for the group which substantially affect its members, and/or representing the group in dealing with outsiders in matters of consequence. This process is to be understood in the context of the history, culture and social organization of the group. Substantial interruption is determined on a case-by-case basis considering the history and circumstances of the petitioning group.
(c) The petitioner has maintained political influence over its members as an autonomous Indian group from 1986 considering the local history as relating to American Indians until the present without substantial interruption. *Political influence or authority* means the ability of a tribal council, leadership, internal process or other mechanism to shape and control the political behavior of others and to lead and guide their behavior in the direction desired by the power. Political power is the capacity of the tribal council, leadership, internal process or other mechanism to influence, condition, mold, and control human behavior for the accomplishment of political objectives. Also, the tribal council, leadership, internal process or other mechanism representing the group possess the power of dealing with outsiders in matters of consequence. This process is to be understood in the context of the history, culture and social organization of the group.

(1) This criterion may be demonstrated by some combination of the evidence listed below and or by other evidence that the petitioner meets the definition of political influence or authority in § 83.1.
(i) The group is able to mobilize significant numbers of members and significant resources from its members for group purposes.
(ii) Most of the membership considers issues acted upon or actions taken by group leaders or governing bodies to be of importance.
(iii) There is widespread knowledge, communication and involvement in political processes by most of the group's members.
(iv) The group meets the criterion in § 83.7(b) at more than a minimal level.
(v) There are internal conflicts which show controversy over valued group goals, properties, policies, processes and/or decisions.

(2) A petitioning group shall be considered to have provided sufficient evidence to demonstrate the exercise of political influence or authority at a given point in time by demonstrating that group leaders and/or other mechanisms exist or existed which:
(i) Allocate group resources such as land, residence rights and the like on a consistent basis;
(ii) Settle disputes between members or subgroups by mediation or other means on a regular basis;
(iii) Exert strong influence on the behavior of individual members, such as the establishment or maintenance of norms and the enforcement of sanctions to direct or control behavior;
(iv) Organize or influence economic subsistence activities among the members, including shared or cooperative labor.; or
(v) Show a continuous line of group leaders and a means of selection or acquiescence by a majority of the group's members.

(2) A petitioning group shall be considered to have provided sufficient evidence to demonstrate the exercise of political influence or authority at a given point in time by demonstrating that group leaders and/or other mechanisms existed which:
(i) Allocate group resources such as land, residence rights and the like on a consistent basis.
(ii) Settle disputes between members or subgroups by mediation or other means on a regular basis;
(iii) Exert strong influence on the behavior of individual members, such as the establishment or maintenance of norms and the enforcement of sanctions to direct or control behavior;
(iv) Organize or influence economic subsistence activities among the members, including shared or cooperative labor;
(v) Show a continuous line of group leaders and a means of selection or acquiescence by a majority of the group's members.

(3) A group that has met the requirements in paragraph 83.7(b)(2) at a given point in time shall be considered to have provided sufficient evidence to meet this criterion at that point in time.

(4) The limitations inherent in demonstrating the existence of political influence or authority that has existed since 1934 without substantial interruption shall be taken into account. Petitioners may provide information and background for time periods prior to 1934, but the information and background will be considered only to the extent relevant to an analysis of the group from 1934 to the present. [NOTE: This paragraph is repeated from § 83.6(e)].

(4) The limitations inherent in demonstrating the existence of political influence or authority that has existed since 1986 depending on the local history where the tribe is located without substantial interruption shall be taken into account. Petitioners may provide information and background for time periods prior to 1986, but the information and background will be considered only to the extent relevant to an analysis of the group from 1986 to the present. [NOTE: This paragraph is repeated from § 83.6(e)].

(d) A copy of the group's present governing document including its membership criteria. In the absence of a written document, the petitioner must provide a statement describing in full its membership criteria and current governing procedures.

(e) TheAt least **XX** percent of the petitioner's membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity.
(1) Evidence acceptable to the Secretary which can be used for this purpose includes but is not limited to:
(i) Rolls prepared by the Secretary on a descendancy basis for purposes of distributing claims money, providing allotments, or other purposes;
(ii) State, Federal, or other official records or evidence identifying present members or ancestors of present members as being descendants of a historical tribe or tribes that combined and functioned as a single autonomous political entity.
(iii) Church, school, and other similar enrollment records identifying present members or ancestors of present members as being descendants of a historical tribe or tribes that combined and functioned as a single autonomous political entity.
(iv) Affidavits of recognition by tribal elders, leaders, or the tribal governing body identifying present members or ancestors of present members as being descendants of a historical tribe or tribes that combined and functioned as a single autonomous political entity.
(d) A copy of the group's present governing document including its membership criteria. In the absence of a written document, the petitioner must provide a statement describing in full its membership criteria and current governing procedures.

(e) At least **40** percent of the petitioner's membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes from the region the tribe is located which combined and functioned as a single autonomous political entity. History recordings usually recorded tribe as Creek, Cherokee, and Apache or by name of villages.
(1) Evidence acceptable to the Secretary which can be used for this purpose includes but is not limited to:
(i) Rolls prepared by the Secretary on a descendancy basis for purposes of distributing claims money, providing allotments, or other purposes;
(ii) State, Federal, or other official records or evidence identifying present members or ancestors of present members as being descendants of a historical tribe or tribes that combined and functioned as a single autonomous political entity.
(iii) Church, school, and other similar enrollment records identifying present members or ancestors of present members as being descendants of a historical tribe or tribes that combined and functioned as a single autonomous political entity.
(iv) Affidavits of recognition by tribal elders, leaders, or the tribal governing body identifying present members or ancestors of present members as being descendants of a historical tribe or tribes that combined and functioned as a single autonomous political entity.

(v) Historians' and anthropologists' conclusions drawn from historical records, and historical records created by historians and anthropologists. The historians and anthropologist cannot be a member of petitioning tribe, member of a Federal recognized tribe nor have performed work for another tribe, OFA (BAR), as an employee, or consultant.

(2) The petitioner must provide an official membership list, separately certified by the group's governing body, of all known current members of the group. This list must include each member's full name (including maiden name), date of birth, and current residential address. The petitioner must also provide a copy of each available former list of members based on the group's own defined criteria, as well as a statement describing the circumstances surrounding the preparation of the current list and, insofar as possible, the circumstances surrounding the preparation of former lists.
(f) The membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe. However, under certain conditions a petitioning group may be acknowledged even if its membership is composed principally of persons whose names have appeared on rolls of, or who have been otherwise associated with, an acknowledged Indian tribe. The conditions are that the group must establish that ~~it has functioned throughout history until the present as a separate and autonomous Indian tribal entity that its members do not maintain a bilateral political relationship with the acknowledged tribe,~~ and that its members have provided written confirmation of their membership in the petitioning group.:
(1) It has functioned from 1934 until the present as a separate and autonomous Indian tribal entity;
(2) Its members do not maintain a bilateral political relationship with the acknowledged tribe; and

(3) Its members have provided written confirmation of their membership in the petitioning group.

(2) The petitioner must provide an official membership list, separately certified by the group's governing body, of all known current members of the group. This list must include each member's full name (including maiden name), date of birth, and current residential and mailing address. The petitioner must also provide a copy of each available former list of members based on the group's own defined criteria, as well as a statement describing the circumstances surrounding the preparation of the current list and, insofar as possible, the circumstances surrounding the preparation of former lists.
(f) The membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe. However, under certain conditions a petitioning group may be acknowledged even if its membership is composed principally of persons whose names have appeared on rolls of, or who have been otherwise associated with, an acknowledged Indian tribe. The conditions are that the group must establish that its members have provided written confirmation of their membership in the petitioning group:
(1) It has functioned from 1986 (depending on the local history where the tribe is located without substantial interruption shall be taken into account), until the present as a separate and autonomous Indian tribal entity;
(2) Its members do not maintain a bilateral political relationship with the acknowledged tribe; and
(3) Its members have provided written confirmation of their membership in the petitioning group.

(g) Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship. The Department must determine whether the petitioner meets this criterion, and the petitioner is not required to submit evidence to meet it.
This section does not require any changes.

Pages 11 -12

§ 83.8 Previous Federal acknowledgment.

(a) Unambiguous previous Federal acknowledgment is acceptable evidence of the tribal character of a petitioner to the date of the last such previous acknowledgment. If a petitioner provides substantial evidence of unambiguous previous Federal acknowledgment, the petitioner will then only be required to demonstrate that it meets the requirements of § 83.7 to the extent required by this section.

(a) Unambiguous previous Federal acknowledgment is acceptable evidence of the tribal character of a petitioner to the date of the last such previous acknowledgment. If a petitioner provides substantial evidence of previous Federal acknowledgment, such as signing treaty by one of the ancestors the petitioner will then only be required to demonstrate that it meets the requirements of § 83.7 to the extent required by this section.

(b) A determination of the adequacy of the evidence of previous Federal action acknowledging tribal status shall be made during the technical assistance review of the documented petition conducted pursuant to § 83.10(b). If a petition is awaiting active consideration at the time of adoption of these regulations, this review will be conducted while the petition is under active consideration unless the petitioner requests in writing that this review be made in advance. There is no need for changes in this section.

(b) A determination of the adequacy of the evidence of previous Federal action acknowledging tribal status shall be made during the technical assistance review of the documented petition conducted pursuant to § 83.10(b). If a petition is awaiting active consideration at the time of adoption of these regulations, this review will be conducted while the petition is under active consideration unless the petitioner requests in writing that this review be made in advance. There is no need for changes in this section.

(c) Evidence to demonstrate previous Federal acknowledgment includes, but is not limited to:
(1) Evidence that the group has had treaty relations with the United States.
(2) Evidence that the group has been denominated a tribe by act of Congress or Executive Order.

(c) Evidence to demonstrate previous Federal acknowledgment includes, but is not limited to:
(1) Evidence that the group has had treaty relations with the United States. An ancestor that the group comes from could be a signature on the treaty.
(2) Evidence that the group has been denominated a tribe by act of Congress or Executive Order
(3) Evidence that the group has been treated by the Federal Government as having collective rights in tribal lands or funds.

(3) Evidence that the group has been treated by the Federal Government as having collective rights in tribal lands or funds. This could involve class action lawsuits e.g. Keepseagle Farmers and Ranchers Lawsuits, Docket claims. Etc.

(d) To be acknowledged, a petitioner that can demonstrate previous Federal acknowledgment must show that:

(1) The group meets the requirements of the criterion in § 83.7(a), except that such identification shall be demonstrated since the point of last Federal acknowledgment. The group must further have been identified by such sources as the same tribal entity that was previously acknowledged or as a portion that has evolved from that entity.

(1) The group meets the requirements of the criterion in § 83.7(a), except that such identification shall be demonstrated since the point of last Federal acknowledgment. The group must further have been identified by such sources as the same tribal group that was previously acknowledged or as a portion that has evolved from that group. Historical recordings usually recorded tribes as a large group Creek, Cherokee or Apache, etc or name of a village.

(1) The group meets the criteria in paragraphs (d), (e), (f), and (g) of § 83.7, although the group is not required to produce evidence in support of (g);

There is no changes need for (1).
(2) The group meets the requirements of the criterion in § 83.7(b) to demonstrate that it comprises a distinct community as defined in § 83.7(b) at present. However, it need not provide evidence to demonstrate existence as a community historically.; and

(2) The group meets the requirements of the criterion in § 83.7(b) to demonstrate that it comprises a distinct community at present. Distinct community *means* a social, religious, occupational, or other group sharing common characteristics or interests and perceived or perceiving itself as distinct in some respect from the nonmembers. Community must be understood in the context of the history, geography, culture and social organization of the group. The people in the community must show interactions and social relationships exist within said community. This is the definition that should be used in the
§ 83.7(b).
However, it need not provide evidence to demonstrate existence as a community historically; and

(3) The group meets the requirements of the criterion in § 83.7(ccb) to demonstrate that political influence or authority is exercised within the group at present. Sufficient evidence to meet the criterion in § 83.7(c) from the point of last Federal acknowledgment to the present may be provided by demonstration of substantially continuous historical identification, by authoritative, knowledgeable external sources, of leaders and/or a governing body who exercise political influence or authority, together with demonstration of one form of evidence listed in § 83.7(c).
(4) The group meets the requirements of the criteria in paragraphs 83.7 (d) through (g).
(5) If a petitioner which has demonstrated previous Federal acknowledgment cannot meet the requirements in paragraphs (d) (1) and (3), the petitioner may demonstrate alternatively that it meets the requirements of the criteria in § 83.7 (a) through (c) from last Federal acknowledgment until the present.

There is no need to make changes to (3-5).

Page12

§ 83.9 Notice of receipt of a petition.

(a) Within 30 days after receiving a letter of intent, or a documented petition if a letter of intent has not previously been received and noticed, the Assistant Secretary, OFA shall acknowledge such receipt in writing and shall have published within 60 days in the Federal Register a notice of such receipt. This notice must include the name, location, and mailing address of the petitioner and such other information as will identify the entity submitting the letter of intent or documented petition and the date it was received. This notice shall also serve to announce the opportunity for interested parties and informed parties to submit factual or legal arguments in support of or in opposition to the petitioner's request for acknowledgment and/or to request to be kept informed of all general actions affecting the petition. The notice shall also indicate where a copy of the letter of intent and the documented petition may be examined.

(a) Within 30 business days after receiving a documented petition the Assistant Secretary shall acknowledge such receipt in writing and shall have published within 60 business days in the Federal Register a notice of such receipt. This notice must include the name, location, and mailing address of the petitioner and such other information as will identify the entity submitting the documented petition and the date it was received. This notice shall also serve to announce the opportunity for interested parties and informed parties to submit factual or legal arguments in support of or in opposition to the petitioner's request for acknowledgment and/or to request to be kept informed of all general actions affecting the petition. The notice shall also indicate where a copy of the documented petition may be examined.

(b) The Assistant SecretaryOFA shall notify, in writing, the governor and attorney general of the state in which a petitioner is located. The Assistant SecretaryOFA shall also notify any recognized tribe and any other petitioner which appears to have a historical or present

relationship with the petitioner or which may otherwise be considered to have a potential interest in the acknowledgment determination.
(b) The Assistant Secretary shall notify, in writing, the governor and attorney general of the state in which a petitioner is located. The Assistant Secretary shall also notify any recognized tribe and any other petitioner which appears to have a historical or present relationship with the petitioner or which may otherwise be considered to have a potential interest in the acknowledgment determination. The Assistant Secretary shall also notify the petitioning tribe of all interested parties and informed parties with their contact information.

(c) The Assistant SecretaryOFA shall also publish the notice of receipt of the letter of intent, or documented petition if a letter of intent has not been previously received, in a major newspaper or newspapers of general circulation in the town or city nearest to the petitioner. The notice will include all of the information in paragraph (a) of this section.

(c) The Assistant Secretary shall also publish the notice of receipt of the documented petition if a in a major newspaper or newspapers of general circulation in the town or city nearest to the petitioner. The notice will include all of the information in paragraph (a) of this section. This shall be done within 60 business days.

Pages 12- 19

§ 83.10 Processing of the documented petition.

(a) Upon receipt of a documented petition, the Assistant Secretary shall cause a review to be conducted to determine whether the petitioner is entitled to be acknowledged as an Indian tribe. The (a) OFA's review shall include consideration of the documented petition and the factual statements contained therein. The Assistant Secretary as well as consideration of interested parties' and informed parties' factual or legal arguments in support of or in opposition to the petitioner's request for acknowledgment. OFA may also initiate other research for any purpose relative to analyzing the documented petition and obtaining additional information about the petitioner's status. The Assistant SecretaryOFA may likewise consider any evidence which may be submitted by interested parties or informed parties.

(a) Upon receipt of a documented petition, the Assistant Secretary shall cause a review to be conducted to determine whether the petitioner is entitled to be acknowledged as an Indian tribe. This review will occur within 180 business days. The (a) OFA's review shall include consideration of the documented petition and the factual statements contained therein. The Assistant Secretary as well as consideration of interested parties' and informed parties' factual or legal arguments in support of or in opposition to the petitioner's request for acknowledgment. The interested and informed parties' information must be documented with name of source and location, and be verified by OFA. All information, documentation, field notes will be provided to the petitioning group by OFA within 60 business days of reviewing. The petitioning group has 180 business days to respond to the documentation, information provided by interested or informed parties. The Assistant Secretary may likewise consider any evidence if factual which may be submitted by interested parties or informed parties. Interested or informed parties should not interfere with a positive finding.

(b) Technical Assistance Review. Prior to active consideration of the documented petition, the Assistant SecretaryOFA shall conduct a preliminary review of the petition for purposes of technical assistance.
(1) This technical assistance review does not constitute the Assistant Secretary'sOFA 's review to determine if the petitioner is entitled to be acknowledgedmeets the criteria for acknowledgement as an Indian tribe. It is a preliminary review for the purpose of providing the petitioner an opportunity to supplement or revise the documented petition prior to active consideration. Insofar as possible, technical assistance reviews under this paragraph will be conducted in the order of receipt of documented petitions. However, technical assistance reviews will not have priority over active consideration of documented petitions.

(2) After the technical assistance review, the Assistant SecretaryOFA shall notify the petitioner by letter of any obvious deficiencies or significant omissions apparent in the documented petition and provide the petitioner with an opportunity to withdraw the documented petition for further work or to submit additional information and/or clarification.
(3) If a petitioner's documented petition claims previous Federal acknowledgment and/or includes evidence of previous Federal acknowledgment, the technical assistance review will also include a review to determine whether that evidence is sufficient to meet the requirements of previous Federal acknowledgment as defined in § 83.1.

(b) Technical Assistance Review. Prior to active consideration of the documented petition, the OFA shall conduct a preliminary review of the petition for purposes of technical assistance. This review will be done within 180 business days of the receipt the documented petition.
(1) This technical assistance review does not constitute the OFA 's review to determine if the petitioner is entitled to be acknowledged meets the criteria for acknowledgement as an Indian tribe. It is a preliminary review for the purpose of providing the petitioner an opportunity to supplement or revise the documented petition prior to active consideration.
(2) After the technical assistance review, the OFA shall notify the petitioner by letter of any obvious deficiencies or significant omissions apparent in the documented petition and provide the petitioner with an opportunity to withdraw the documented petition for further work or to submit additional information and/or clarification. This written review will be conducted with 60 business days after completion of the technical review process.
(3) If a petitioner's documented petition claims previous Federal acknowledgment and/or includes evidence of previous Federal acknowledgment, the technical assistance review will also include a review to determine whether that evidence is sufficient to meet the requirements of previous Federal acknowledgment as defined in § 83.1. This review will occur within 180 days of receipt of documented petition.
(4) The petitioning group will be assigned a liaison to advise the petitioning group on appropriate actions to take to clarify deficits in petition. All correspondence will be done through certified United States Mail or email with verification of reading.
(c) Petitioners have the option of responding in part or in full to the technical assistance review letter or of requesting, in writing, that ~~the Assistant Secretary~~OFA proceed with the active consideration of the documented petition using the materials already submitted.
(1) If the petitioner requests that the materials submitted in response to the technical assistance review letter be again reviewed for adequacy~~, the Assistant Secretary~~OFA will provide the additional review. However, this additional review will not be automatic and will be conducted only at the request of the petitioner.
(2) If the assertion of previous Federal acknowledgment under § 83.8 cannot be substantiated during the technical assistance review, the petitioner must respond by providing additional evidence. A petitioner claiming previous Federal acknowledgment who fails to respond to a technical assistance review letter under this paragraph, or whose response fails to establish the claim, shall have its documented petition considered on the same basis as documented petitions submitted by groups not claiming previous Federal acknowledgment. Petitioners that fail to demonstrate previous Federal acknowledgment after a review of materials submitted in response to the technical assistance review shall

be so notified. Such petitioners may submit additional materials concerning previous acknowledgment during the course of active consideration.

(c) Petitioners have the option of responding in part or in full to the technical assistance review letter or of requesting, in writing, that the OFA proceed with the active consideration of the documented petition using the materials already submitted. The Petitioners must respond in 45 business days that they will be or will not be responding to the technical review. If the petitioning group decides to respond to the technical review they have 365 business days to respond from the date the request to respond is received by OFA.
(1) If the petitioner requests that the materials submitted in response to the technical assistance review letter be again reviewed for adequacy, OFA will provide the additional review. However, this additional review will not be automatic and will be conducted only at the request of the petitioner. This review will occur within 180 business days from the date the additional review request was received.

(2) If the assertion of previous Federal acknowledgment under § 83.8 cannot be substantiated during the technical assistance review, the petitioner must respond by providing additional evidence. This response must be done within 365 business days. A petitioner claiming previous Federal acknowledgment who fails to respond to a technical assistance review letter under this paragraph, or whose response fails to establish the claim, shall have its documented petition considered on the same basis as documented petitions submitted by groups not claiming previous Federal acknowledgment. Petitioners that fail to demonstrate previous Federal acknowledgment after a review of materials submitted in response to the technical assistance review shall be so notified. Such petitioners may submit additional materials concerning previous acknowledgment during the course of active consideration. The additional materials must be sent within 180 business days from receiving notification that the petitioning group failed to prove previous federal recognition.

(d) The petitioner and interested parties shall be notified when the documented petition comes under active consideration.
(1) They shall also be provided with the name, office address, and telephone number of the staff member with primary administrative responsibility for the petition; the names of the researchers conducting the evaluation of the petition; and the name of their supervisor.
(2) The petitioner shall be notified of any substantive comment on its petition received prior to the beginning of active consideration or during the preparation of the proposed finding, and shall be provided an opportunity to respond to such comments.

(d) The petitioner and interested parties shall be notified when the documented petition comes under active consideration, within 45 business days prior to active consideration.
(1) They shall also be provided with the name, office address, and telephone number of the staff member with primary administrative responsibility for the petition; the names of the researchers conducting the evaluation of the petition; and the name of their supervisor. The researchers for genealogy must be a certified genealogist in American Indian

Genealogy, The Historian, and anthropologist shall have a background in the region that is being researched. The research team shall not have done any work in the region for another tribe, a member of a tribe in the region, or worked for a federal recognized tribe as an employee, volunteer or consultant.
(2) The petitioner shall be notified of any substantive comment on its petition received 90 business days prior to the beginning of active consideration or during the preparation of the proposed finding, and shall be provided an opportunity to respond to such comments. The petitioning group will have 180 business days to respond to the any substantive comments.

(~~g~~e) Once active consideration of the documented petition has begun, ~~the Assistant Secretary~~OFA shall continue the review and publish unless the petitioner withdraws or OFA suspends consideration.

(ge) Once active consideration of the documented petition has begun, the OFA shall continue the review and publish unless the petitioner withdraws or OFA suspends consideration. This will occur within 545 business days.

(1) At any time before OFA publishes the proposed findings and a final determination in the Federal Register pursuant to these regulations, notwithstanding any requests by, the petitioner or interested parties ~~to~~may withdraw its petition and OFA will cease consideration. The Assistant Secretary of the petition until such time as the petition is resubmitted, but such petition will be placed at the bottom of the numbered register of documented petitions upon re-submission and may not regain its initial priority number.

(1) At any time before OFA publishes the proposed findings and a final determination in the Federal Register pursuant to these regulations, notwithstanding any requests by, the petitioner may withdraw its petition and OFA will cease consideration. The Assistant Secretary will cease review of the petition until such time as the petition is resubmitted, but such petition will be placed at the bottom of the numbered register of documented petitions upon re-submission and may not regain its initial priority number.

(2) OFA has the discretion, however, to suspend active consideration of a documented petition, either conditionally or for a stated period of time, upon a showing to the petitioner that there are technical problems with the documented petition or administrative problems that temporarily preclude continuing active consideration. The Assistant Secretary shall also consider requests by petitioners for suspension of consideration and has the discretion to grant such requests for good cause. Upon resolution of the technical or administrative problems that are the basis for the suspension, the documented petition will have priority on the numbered register of documented petitions insofar as possible. The Assistant Secretary

(2) OFA has the discretion, however, to suspend active consideration of a documented petition, either conditionally or for a stated period of time, upon a showing to the

petitioner that there are technical problems with the documented petition or administrative problems that temporarily preclude continuing active consideration. The Assistant Secretary shall also consider requests by petitioners for suspension of consideration and has the discretion to grant such requests for good cause. Upon resolution of the technical or administrative problems that are the basis for the suspension, the documented petition will have priority on the numbered register of documented petitions insofar as possible. The Assistant Secretary

(2) OFA has the discretion, however, to suspend active consideration of a documented petition, either conditionally or for a stated period of time, upon a showing to the petitioner that there are technical problems with the documented petition or administrative problems that temporarily preclude continuing active consideration. The Assistant Secretary shall also suspend the review of a petition if requested by a petitioning group leadership and the request shows just cause for suspension of consideration and has the discretion to grant such requests for good cause. Upon resolution of the technical or administrative problems that are the basis for the suspension, the documented petition will have priority on the numbered register of documented petitions insofar as possible.

(3) OFA shall notify the petitioner and interested parties when active consideration of The documented petition is resumed. The timetables in succeeding paragraphs shall begin anew upon the resumption of active consideration.

(h)f) Expedited Negative Finding. Upon beginning active consideration, OFA shall investigate whether the group meets the mandatory criteria in paragraphs (e), (f) or (g) of § 83.7.
(1) If this review finds that that the group does not meet the mandatory criteria in paragraphs (e), (f) or (g) of § 83.7, a full consideration of the documented petition under the remaining mandatory criteria will not be undertaken. Rather, OFA shall instead decline to acknowledge that the petitioner is an Indian tribe and publish a proposed finding to that effect in the Federal Register. The periods for receipt of comments on the proposed finding from petitioners, interested parties and informed parties, for consideration of comments received, and for publication of a final determination regarding the petitioner's status shall follow the timetables established in paragraphs (i) through (n) of this section.
(2) If the review finds that the group meets the mandatory criteria in paragraphs (e), (f) or (g) of § 83.7, and petitioners assert that they qualify for an expedited favorable review, OFA will proceed to the expedited favorable review under paragraph (g) of this section.
(3) If the review finds that the group meets the mandatory criteria in paragraphs (e), (f) or (g) of § 83.7, and the petitioners do not assert that they qualify for an expedited favorable review, OFA will conduct a full evaluation of the documented petition under the remaining mandatory criteria.

(h) (f) Expedited Negative Finding. Upon beginning active consideration, OFA shall investigate whether the group meets the mandatory criteria in paragraphs (e), (f) or (g) of § 83.7.

(1) If this review finds that that the group does not meet the mandatory criteria in paragraphs (e), (f) or (g) of § 83.7, a full consideration of the documented petition under

the remaining mandatory criteria will not be undertaken. Rather, OFA shall instead decline to acknowledge that the petitioner is an Indian tribe and publish a proposed finding to that effect in the Federal Register. The periods for receipt of comments on the proposed finding from petitioners, interested parties and informed parties, for consideration of comments received, and for publication of a final determination regarding the petitioner's status shall be 90 business days.
(2) If the review finds that the group meets the mandatory criteria in paragraphs (e), (f) or (g) of § 83.7, and petitioners assert that they qualify for an expedited favorable review, OFA will proceed to the expedited favorable review under paragraph (g) of this section. The petitioning group has 60 business days to respond.
(3) If the review finds that the group meets the mandatory criteria in paragraphs (e), (f) or (g) of § 83.7, and the petitioners do not assert that they qualify for an expedited favorable review, within 60 business days. OFA will conduct a full evaluation of the documented petition under the remaining mandatory criteria.

(g) Expedited Favorable Finding. If the petitioner meets the mandatory criteria at paragraphs (e), (f), and (g) of § 83.7 and the petitioner asserts that it is eligible for an expedited favorable finding, OFA will next conduct an expedited favorable review. If the petitioner provides the information required by criterion (d) of § 83.7 and meets either of the criteria in paragraph (3) of this section, OFA will issue an expedited favorable proposed finding in the Federal Register summarizing its findings.
(g) Expedited Favorable Finding. If the petitioner meets the mandatory criteria at paragraphs (e), (f), and (g) of § 83.7 and the petitioner asserts that it is eligible for an expedited favorable finding, OFA will next conduct an expedited favorable review. If the petitioner provides the information required by criterion (d) of § 83.7 and meets either of the criteria in paragraph (3) of this section, OFA will issue an expedited favorable proposed finding in the Federal Register summarizing its findings. This will be done within 90 business days.

(1) The periods for receipt of comments on the proposed finding from petitioners, interested parties and informed parties, for consideration of comments received, and for publication of a final determination regarding the petitioner's status shall follow the timetables established in paragraphs (i) through (n) of this section.
(2) If the petitioner does not meet either of the criteria in paragraph (3) or provide the information required by criterion (d) of § 83.7, OFA will undertake a full evaluation of the documented petition under the mandatory criteria.
(3) The expedited favorable criteria are:
(i) The petitioner has maintained since 1934 a reservation recognized by the State and continues to hold a reservation recognized by the State; or
(ii) The United States has held land for the group at any point in time since 1934

(1) The periods for receipt of comments on the proposed finding from petitioners, interested parties and informed parties, for consideration of comments received, and for publication of a final determination regarding the petitioner's status shall follow the

timetables established in paragraphs (i) through (n) of this section.
(2) If the petitioner does not meet either of the criteria in paragraph (3) or provide the information required by criterion (d) of § 83.7, OFA will undertake a full evaluation of the documented petition under the mandatory criteria.
(3) The expedited favorable criteria are:
(i) The petitioner has maintained a reservation recognized by the State or is owned by the tribe and is recorded in the name of the tribe at the local courthouse, owns a tribal business or is state recognized by a state that has criteria same or similar to OFA.
(ii) The United States has held land for the group at any point in time since 1986.

(h) The order of consideration of documented petitions for which OFA is undertaking a full evaluation under all the mandatory criteria shall be determined by either the date OFA determines that the petitioner will not receive an expedited negative finding or the date OFA determines the petitioner is not eligible for an expedited positive finding, if the petitioner asserts the latter. OFA shall establish and maintain a numbered register of documented petitions awaiting a full evaluation under all the mandatory criteria by OFA. OFA shall also maintain a numbered register of any prior letters of intent or incomplete petitions based on the original date of filing with the Bureau. In the event that two or more documented petitions receive priority of the same date, the register of any prior letters of intent or incomplete petitions shall determine the order of consideration by OFA.

(h) The order of consideration of documented petitions for which OFA is undertaking a full evaluation under all the mandatory criteria shall be determined by either the date OFA determines that the petitioner will not receive an expedited negative finding or the date OFA determines the petitioner is not eligible for an expedited positive finding, if the petitioner asserts the latter. OFA shall establish and maintain a numbered register of documented petitions awaiting a full evaluation under all the mandatory criteria by OFA. OFA shall also maintain a numbered register of any prior letters of intent or incomplete petitions based on the original date of filing with the Bureau. In the event that two or more documented petitions receive priority of the same date, the register of any prior letters of intent or incomplete petitions shall determine the order of consideration by OFA. The full review must occur within 545 business days.

(i) Within six months after notifying the petitioner that active consideration of the documented petition has begun pursuant to paragraph (d), if OFA has determined the petition meets the criteria for an expedited negative finding or an expedited favorable finding, OFA shall publish proposed findings on the expedited criteria, not to exceed **XX** pages, in the Federal Register. OFA may not extend that period. Within one year after notifying the petitioner that active consideration of the documented petition has begun, the Assistant Secretary pursuant to paragraph (d), OFA shall publish proposed findings on all the mandatory criteria, not to exceed **XX** pages, in the Federal Register. The Assistant SecretaryOFA has the discretion to extend that

period up to an additional 180 days. The petitioner and interested parties shall be notified of the time extension. In addition to the proposed findings, the Assistant SecretaryOFA shall prepare a report. not to exceed **XX** pages, summarizing the evidence, reasoning, and analyses that are the basis for the proposed decision finding. Copies of the report shall be provided to [OHA or ASIA?].
the petitioner, interested parties, and informed parties and made available to others upon written request.

(i) Within 180 business days after notifying the petitioner that active consideration of the documented petition has begun pursuant to paragraph (d), if OFA has determined the petition meets the criteria for an expedited negative finding or an expedited favorable finding, OFA shall publish proposed findings on the expedited criteria, not to exceed **50** pages, in the Federal Register, within 60 business days.
OFA may not extend that period. Within 545 business days after notifying the petitioner that active consideration of the documented petition has begun, the Assistant Secretary pursuant to paragraph (d), OFA shall publish proposed findings on all the mandatory criteria, not to exceed **50** pages, in the Federal Register. The Assistant Secretary has the discretion to extend that period up to an additional 180 business days. The petitioner and interested parties shall be notified of the time extension. In addition to the proposed findings, OFA shall prepare a report, not to exceed **50** pages, summarizing the evidence, reasoning, and analyses that are the basis for the proposed decision. Copies of the report shall be provided to ASIA, the petitioner, interested parties, and informed parties and made available to others upon written request.

(in) Upon publication of the proposed findings, the petitioner or any individual or organization wishing to challenge or support the proposed findings shall have 180 days to submit arguments, not to exceed **XX** pages, and evidence to the Assistant Secretary [OHA or AS-IA?] to rebut or support the proposed finding.
(1) The period for comment on a proposed finding may be extended for up to an additional 180 days at the Assistant Secretary's [OHA or AS-IA?]'s discretion upon a finding of good cause. The petitioner and interested parties shall be notified of the time extension. Interested and informed parties who submit arguments and evidence to the Assistant Secretary must provide copies of their submissions to the petitioner.
(2) Interested and informed parties who submit arguments and evidence to [OHA or ASIA?] must provide copies of their submissions to the petitioner.

(i) (j) Upon publication of the proposed findings, the petitioner or any individual or organization wishing to challenge or support the proposed findings shall have 180 business days to submit arguments, not to exceed **200** pages, and evidence to the Assistant Secretary to rebut or support the proposed finding.
(1) The period for comment on a proposed finding may be extended for up to an additional 180 business days at the Assistant Secretary's discretion upon a finding of good cause. The petitioner and interested parties shall be notified of the time extension. Interested and informed parties who submit arguments and evidence to the

Assistant Secretary. The Assistant Secretary or designee shall provide copies of their submissions to the petitioner. The Assistant Secretary or designee has 30 business days to provide comments and documentation to the petitioning group.
(2) Interested and informed parties who submit arguments and evidence to [OHA or ASIA?] must provide copies of their submissions to the petitioner. The Assistant Secretary or designee will make sure that these copies are provided to the petitioning group. The Assistant Secretary shall provide copies of their submissions to the petitioner, if interested or informed parties did not provide copies to the petitioning group. The Assistant Secretary or designee has 30 business days to provide comments and documentation to the petitioning group.

(j)(1) During the response period, the Assistant SecretaryOFA shall provide technical advice concerning the factual basis for the proposed finding, the reasoning used in preparing it, and suggestions regarding the preparation of materials in response to the proposed finding. The Assistant SecretaryOFA shall make available to the petitioner in a timely fashion any records used for the proposed finding not already held by the petitioner, to the extent allowable by

Federal law, to assist the petitioner in challenging or supporting the proposed finding and preparing for any requested hearing.
(2) In addition, the Assistant Secretary shall, if requested by the petitioner or any interested party, hold a formal meeting for the purpose of inquiring into the reasoning, analyses, and factual bases for the proposed finding. The proceedings of this meeting shall be on the record. The meeting record shall be available to any participating party and become part of the record considered by the Assistant Secretary
(l in reaching a final determination.
(j)(1) During the response period, OFA shall provide technical advice concerning the factual basis for the proposed finding, the reasoning used in preparing it, and suggestions regarding the preparation of materials in response to the proposed finding. OFA shall make available to the petitioner in a timely any records used for the proposed finding not already held by the petitioner, to the extent allowable by Federal law, to assist the petitioner in challenging or supporting the proposed finding and preparing for any requested hearing. These records shall be made available within 60 business days.
(2) In addition, the Assistant Secretary shall, if requested by the petitioner or any interested party, hold a formal meeting for the purpose of inquiring into the reasoning, analyses, and factual bases for the proposed finding. The proceedings of this meeting shall be on the record. The meeting record shall be available to any participating party and become part of the record considered by the Assistant Secretary in reaching a final determination. This meeting shall be held in the county that the petitioning group office is located.
(k) The petitioner shall have a minimum of 60 days to respond to any submissions by interested and informed parties during the response period. with arguments, not to exceed **XX** pages, and evidence. This may be extended at the Assistant Secretary's[OHA or AS-IA?]'s discretion if warranted by the extent and nature of the comments. The petitioner and interested parties shall be notified by letter of any extension. No further comments from interested or informed parties will be accepted after the end of the regular response period.
(lm) At the end of the period for comment on a proposed finding, the Assistant Secretary shall

consult with[OHA or AS-IA?] will automatically issue a final determination acknowledging the petitioner and interested parties to determineas an equitable timeframe for consideration of writtenIndian tribe if the following are met:
(1) The proposed finding is positive, and
(2) [OHA or AS-IA?] does not receive timely arguments and evidence submitted duringchallenging the responseproposed finding from the State or local government where the petitioner's office is located or from any federally recognized Indian tribe within the State.
(n) If the conditions of paragraph (m) are not met at the end of the period. for comment on a proposed finding, [OHA or AS-IA?] shall make its final determination by considering all the evidence in the petition record, including any evidence that arises from a hearing, if requested.
petitioner or from commenting parties to support or supplement their comments on a proposed finding. The Assistant Secretary[OHA or AS-IA?] may also conductrequire such additional research as is necessary to evaluate and supplement the record. In either case, the additional materials will become part of the petition record
The petitioner and interested parties shall be notified of the date such consideration begins.
(1) Unsolicited comments submitted after the close of the response period established in § 83.10(i) and § 83.10(k),) will not be considered in preparation of a final determination.
The Assistant Secretary[OHA or AS-IA?] has the discretion during the preparation of the proposed finding, however, to request additional explanations and information from the

(k) The petitioner shall have a minimum of 90 business days to respond to any submissions by interested and informed parties during the response period. with arguments, not to exceed **300** pages and evidence. This may be extended at the Assistant Secretary's' discretion if warranted by the extent and nature of the comments. The petitioner and interested parties shall be notified by letter of any extension. No further comments from interested or informed parties will be accepted after the end of the regular response period.
(lm) At the end of the period for comment on a proposed finding, the Assistant Secretary shall consult with OFA will automatically issue a final determination acknowledging the petitioner and interested parties to determine as an equitable timeframe for consideration of written Indian tribe if the following are met:
(1) The proposed finding is positive, and
(2) The OFA or Assistant Secretary does not receive timely arguments and evidence submitted during challenging the response proposed finding from the State or local government where the petitioner's office is located or from any federally recognized Indian tribe within the State. Interested or informed parties should not delay a positive finding for federal recognition.
(n) If the conditions of paragraph (m) are not met at the end of the period for comment on a proposed finding, [OHA or AS-IA?] shall make its final determination by considering all the evidence in the petition record, including any evidence that arises from a hearing, if requested. This shall be done within 180 business days.
The petitioner and interested parties shall be notified of the date such consideration begins.
(1) Unsolicited comments submitted after the close of the response period established in § 83.10(i) and § 83.10(k), will not be considered in preparation of a final determination.
The Assistant Secretary has the discretion during the preparation of the

proposed finding, however, to request additional explanations and information from the petitioner or from commenting parties to support or supplement their comments on a proposed finding. The Assistant Secretary[OHA or AS-IA?] may also require such additional research as is necessary to evaluate and supplement the record. In either case, the additional materials will become part of the petition record. The petitioning group will receive a certified copy of all documents, comments, petition field notes, interviews, hearing if requested. Associated with the petitioning group within 90 business days if a positive outcome. If the decision is an unfavorable the Assistant Secretary or designee has 30 business days to send a certified copy of all documents , comments, petition field notes, interviews, hearing if requested associated with the petitioning group petition.
(2) [OHA or AS-IA?] shall, if requested by the petitioner or any interested party, hold a hearing on the reasoning, analyses, and factual bases for the proposed finding, comments, and responses. The proceedings of this hearing shall be on the record. The hearing record shall be available to any participating party and become part of the record considered by [OHA or AS-IA?] in reaching a final determination.
(2) After consideration of the(i) [OHA or AS-IA?] may require testimony from OFA staff involved in preparing the proposed finding. Any such testimony shall be subject to cross-examination by the petitioner.
(ii) The petitioner may provide such evidence at the hearing as the petitioner considers appropriate.
(3) After [OHA or AS-IA?] holds the hearing, if any, and considers written arguments and evidence rebutting or supporting the proposed finding and the petitioner's response to the comments of interested parties and informed parties, the Assistant Secretary[OHA or AS-IA?] shall make a final determination regarding the petitioner's status. A summary of this determination shall be published in the Federal Register within 60 days from the date on which the consideration of the written arguments and evidence rebutting or supporting the proposed finding begins.
(3) The Assistant Secretary(4) [OHA or AS-IA?] has the discretion to extend the period for the preparation of a final determination if warranted by the extent and nature of evidence and arguments received during the response period. The petitioner and interested parties shall be notified of the time extension.
(45) The final determination will become effective 90 days from publication unless a request for reconsideration is filed pursuant to § 83.11.

(2) The Assistant Secretary shall, if requested by the petitioner or any interested party, hold a hearing on the reasoning, analyses, and factual bases for the proposed finding, comments, and responses. The proceedings of this hearing shall be on the record. The hearing record shall be available to any participating party and become part of the record considered by [OHA or AS-IA?] in reaching a final determination. This hearing shall be held in the county that the petitioning tribe is located.
(2) After consideration of the (i) [OHA or AS-IA?] may require testimony from OFA staff involved in preparing the proposed finding. Any such testimony shall be subject to cross-examination by the petitioner.
(ii) The petitioner may provide such evidence at the hearing as the petitioner considers appropriate.

(3) After [OHA or AS-IA?] holds the hearing, if any, and considers written arguments and evidence rebutting or supporting the proposed finding and the petitioner's response to the comments of interested parties and informed parties, the Assistant Secretary [OHA or AS-IA?] shall make a final determination regarding the petitioner's status. A summary of this determination shall be published in the Federal Register within 60 Business days from the date on which the consideration of the written arguments and evidence rebutting or supporting the proposed finding begins.
(3) The Assistant Secretary (4) [OHA or AS-IA?] has the discretion to extend the period for the preparation of a final determination if warranted by the extent and nature of evidence and arguments received during the response period. The petitioner and interested parties shall be notified of the time extension.
(45) The final determination will become effective 90 business days from publication unless a request for reconsideration is filed pursuant to § 83.11.
(m) The Assistant Secretaryo) [OHA or AS-IA?] shall acknowledgeissue a final determination acknowledging the existence of the petitioner as an Indian tribe when it is determined[OHA or AS-IA?] finds that the group satisfies all of meets the mandatory criteria in paragraphs (d), (e), (f), and (g) of § 83.7 and one of the expedited favorable criteria in § 83.7. The Assistant Secretary10(g)(3); meets all the mandatory criteria in paragraphs (b) through (g) of § 83.7; or establishes previous Federal acknowledgment and meets the criteria in § 83.8. [OHA or AS-IA?] shall declineissue a final determination declining to acknowledge that a petitioner is an Indian tribe if it fails to satisfywhen [OHA or AS-IA?] finds that the group does not meet any one of the criteria in § 83.7.of the above. The Assistant Secretary is bound by an acknowledgment determination by [OHA or AS-IA?].

(m) The Assistant Secretary shall acknowledge a final determination acknowledging the existence of the petitioner as an Indian tribe when it is determined OHA finds that the group satisfies the mandatory criteria in paragraphs (d), (e), (f), and (g) of § 83.7 and one of the expedited favorable criteria in § 83.7. The Assistant Secretary10 (g) (3); meets all the mandatory criteria in paragraphs (b) through (g) of § 83.7; or establishes previous Federal acknowledgment and meets the criteria in § 83.8. The Assistant Secretary shall decline a final determination to acknowledge that a petitioner is an Indian tribe if it fails to meet 4 of the criteria or one of the expedite criteria in § 83.7.of the above. The Assistant Secretary is bound by an acknowledgment determination by the Assistant Secretary.

(p) If the Assistant Secretary [OHA or AS-IA?] declines to acknowledge that a petitioner is an Indian tribe, [OHA or AS-IA?] shall inform the petitioner shall be informed of alternatives, if any, to acknowledgment under these procedures. These alternatives may include other means through which the petitioning group may achieve the status of an acknowledged Indian tribe or through which any of its members may become eligible for services and benefits from the Department as Indians, or become members of an acknowledged Indian tribe.

(p) If the Assistant Secretary declines to acknowledge that a petitioner is an Indian tribe, the Assistant Secretary shall inform the petitioner shall be informed of alternatives, if any, to acknowledgment under these procedures. These alternatives may include other means through which the petitioning group may achieve the status of an acknowledged Indian tribe or through which any of its members may become eligible for services and benefits from the Department as Indians, or become members of an acknowledged Indian tribe.

(o) Theq) [OHA or AS-IA?]'s determination to acknowledge or decline to acknowledge that the petitioner is an Indian tribe shall be final for the Department.

(o) The Assistant Secretary's determination to acknowledge or decline to acknowledge that the petitioner is an Indian tribe shall be final for the Department.
(pr) A petitioner that has petitioned under this part or under the acknowledgment regulations previously effective and that has been denied Federal acknowledgment may not re-petition under this part. The term ``to OFA under this part unless its request for re-petitioning proves, by a preponderance of the evidence, that a change from the previous version of the regulations to the current version of the regulations warrants reversal of the final determination. The term "petitioner" here includes previously denied petitioners that have reorganized or been renamed or that are wholly or primarily portions of groups that have previously been denied under these or previous acknowledgment regulations. [OHA or AS-IA?]'sOFA's decision whether to allow repetitioning shall be final for the Department.

(pr) A petitioner that has maintained its identity that has petitioned under this part or under the acknowledgment regulations previously effective and that has been denied Federal acknowledgment may re-petition under this part.

Pages 19 -22

§ 83.11 ~~Independent review, reconsideration and final action.~~ [Deleted.]

~~(a)(1) Upon publication of the Assistant Secretary's determination in the Federal Register, the petitioner or any interested party may file a request for reconsideration with the Interior Board of Indian Appeals. Petitioners which choose under § 83.3(g) to be considered under previously effective acknowledgment regulations may nonetheless request reconsideration under this section.~~
~~(2) A petitioner's or interested party's request for reconsideration must be received by the Board no later than 90 days after the date of publication of the Assistant Secretary's determination in the Federal Register. If no request for reconsideration has been received, the Assistant Secretary's decision shall be final for the Department 90 days after publication of the final determination in the Federal Register.~~
~~(b) The petitioner's or interested party's request for reconsideration shall contain a detailed statement of the grounds for the request, and shall include any new evidence to be considered.~~
~~(1) The detailed statement of grounds for reconsideration filed by a petitioner or interested parties shall be considered the appellant's opening brief provided for in 43 CFR~~

4.311(a).

~~(2) The party or parties requesting the reconsideration shall mail copies of the request to the petitioner and all other interested parties.~~

~~(c)(1) The Board shall dismiss a request for reconsideration that is not filed by the deadline specified in paragraph (a) of this section.~~

~~(2) If a petitioner's or interested party's request for reconsideration is filed on time, the Board shall determine, within 120 days after publication of the Assistant Secretary's final determination in the Federal Register, whether the request alleges any of the grounds in paragraph (d) of this section and shall notify the petitioner and interested parties of this determination.~~

~~(d) The Board shall have the authority to review all requests for reconsideration that are timely and that allege any of the following:~~

~~(1) That there is new evidence that could affect the determination; or~~

~~(2) That a substantial portion of the evidence relied upon in the Assistant Secretary's determination was unreliable or was of little probative value; or~~

~~(3) That petitioner's or the Bureau's research appears inadequate or incomplete in some material respect; or~~

~~(4) That there are reasonable alternative interpretations, not previously considered, of the evidence used for the final determination, that would substantially affect the determination that the petitioner meets or does not meet one or more of the criteria in § 83.7 (a) through (g).~~

~~(e) The Board shall have administrative authority to review determinations of the Assistant Secretary made pursuant to § 83.10(m) to the extent authorized by this section.~~

~~(1) The regulations at 43 CFR 4.310-4.318 and 4.331-4.340 shall apply to proceedings before the Board except when they are inconsistent with these regulations.~~

~~(2) The Board may establish such procedures as it deems appropriate to provide a full and fair evaluation of a request for reconsideration under this section to the extent they are not inconsistent with these regulations.~~

~~(3) The Board, at its discretion, may request experts not associated with the Bureau, the petitioner, or interested parties to provide comments, recommendations, or technical advice concerning the determination, the administrative record, or materials filed by the petitioner or interested parties. The Board may also request, at its discretion, comments or technical assistance from the Assistant Secretary concerning the final determination or, pursuant to paragraph (e)(8) of this section, the record used for the determination.~~

~~(4) Pursuant to 43 CFR 4.337(a), the Board may require, at its discretion, a hearing conducted by an administrative law judge of the Office of Hearings and Appeals if the Board determines that further inquiry is necessary to resolve a genuine issue of material fact or to otherwise augment the record before it concerning the grounds for reconsideration.~~

~~(5) The detailed statement of grounds for reconsideration filed by a petitioner or interested parties pursuant to paragraph (b)(1) of this section shall be considered the appellant's opening brief provided for in 43 CFR 4.311(a).~~

~~(6) An appellant's reply to an opposing party's answer brief, provided for in 43 CFR 4.311(b), shall not apply to proceedings under this section, except that a petitioner shall have the opportunity to reply to an answer brief filed by any party that opposes a petitioner's request for reconsideration.~~

~~(7) The opportunity for reconsideration of a Board decision provided for in 43 CFR 4.315 shall not apply to proceedings under this section.~~

~~(8) For purposes of review by the Board, the administrative record shall consist of all appropriate documents in the Branch of Acknowledgment and Research relevant to the determination involved in the request for reconsideration. The Assistant Secretary shall designate and transmit to the Board copies of critical documents central to the portions of the determination under a request for reconsideration. The Branch of Acknowledgment and Research shall retain custody of the remainder of the administrative record, to which the Board shall have unrestricted access.~~

~~(9) The Board shall affirm the Assistant Secretary's determination if the Board finds that the petitioner or interested party has failed to establish, by a preponderance of the evidence, at least one of the grounds under paragraphs (d)(1)--(d)(4) of this section.~~

~~(10) The Board shall vacate the Assistant Secretary's determination and remand it to the Assistant Secretary for further work and reconsideration if the Board finds that the petitioner or an interested party has established, by a preponderance of the evidence, one or more of the grounds under paragraphs (d)(1)--(d)(4) of this section.~~

~~(f)(1) The Board, in addition to making its determination to affirm or remand, shall describe in its decision any grounds for reconsideration other than those in paragraphs (d)(1)--(d)(4) of this section alleged by a petitioner's or interested party's request for reconsideration.~~

~~(2) If the Board affirms the Assistant Secretary's decision under § 83.11(e)(9) but finds that the petitioner or interested parties have alleged other grounds for reconsideration, the Board shall send the requests for reconsideration to the Secretary. The Secretary shall have the discretion to request that the Assistant Secretary reconsider the final determination on those grounds.~~

~~(3) The Secretary, in reviewing the Assistant Secretary's decision, may review any information available, whether formally part of the record or not. Where the Secretary's review relies upon information that is not formally part of the record, the Secretary shall insert the information relied upon into the record, together with an identification of its source and nature.~~

~~(4) Where the Board has sent the Secretary a request for reconsideration under paragraph (f)(2), the petitioner and interested parties shall have 30 days from receiving notice of the Board's decision to submit comments to the Secretary. Where materials are submitted to the Secretary opposing a petitioner's request for reconsideration, the interested party shall provide copies to the petitioner and the petitioner shall have 15 days from their receipt of the information to file a response with the Secretary.~~

~~(5) The Secretary shall make a determination whether to request a reconsideration of the Assistant Secretary's determination within 60 days of receipt of all comments and shall notify all parties of the decision.~~

~~(g)(1) The Assistant Secretary shall issue a reconsidered determination within 120 days of receipt of the Board's decision to remand a determination or the Secretary's request for reconsideration.~~

~~(2) The Assistant Secretary's reconsideration shall address all grounds determined to be valid grounds for reconsideration in a remand by the Board, other grounds described by the Board pursuant to paragraph (f)(1), and all grounds specified in any Secretarial request. The Assistant Secretary's reconsideration may address any issues and evidence consistent with the Board's decision or the Secretary's request.~~
~~(h)(1) If the Board finds that no petitioner's or interested party's request for reconsideration is timely, the Assistant Secretary's determination shall become effective and final for the Department 120 days from the publication of the final determination in the Federal Register.~~
~~(2) If the Secretary declines to request reconsideration under paragraph (f)(2) of this section, the Assistant Secretary's decision shall become effective and final for the Department as of the date of notification to all parties of the Secretary's decision.~~
~~(3) If a determination is reconsidered by the Assistant Secretary because of action by the Board remanding a decision or because the Secretary has requested reconsideration, the reconsidered determination shall be final and effective upon publication of the notice of this reconsidered determination in the Federal Register.~~

§ 83.11 Independent review, reconsideration and final action.

(a)(1) Upon publication of the Assistant Secretary's determination in the Federal Register, the petitioner or any interested party may file a request for reconsideration with the Interior Board of Indian Appeals; this must occur within 90 business days. Petitioners which choose under § 83.3(g) to be considered under previously effective acknowledgment regulations may nonetheless request reconsideration under this section.
(2) A petitioner's or interested party's request for reconsideration must be received by the Board no later than 90 business days after the date of publication of the Assistant Secretary's determination in the Federal Register. If no request for reconsideration has been received, the Assistant Secretary's decision shall be final for the Department 90 business days after publication of the final determination in the Federal Register.
(b) The petitioner's or interested party's request for reconsideration shall contain a detailed statement of the grounds for the request, and shall include any new evidence to be considered.
(1) The detailed statement of grounds for reconsideration filed by a petitioner or interested parties shall be considered the appellant's opening brief provided for in 43 CFR 4.311(a).
(2) The party or parties requesting the reconsideration shall mail copies of the request to the petitioner and all other interested parties through certified United States Mail.
(c)(1) The Board shall dismiss a request for reconsideration that is not filed by the deadline specified in paragraph (a) of this section.
(2) If a petitioner's or interested party's request for reconsideration is filed on time, the Board shall determine, within 120 business days after receiving the request of the Assistant Secretary's final determination in the Federal Register, whether the request alleges any of the grounds in paragraph (d) of this section and shall notify the petitioner and interested parties of this determination.
(d) The Board shall have the authority to review all requests for reconsideration that are timely and that allege any of the following:

(1) That there is new evidence that could affect the determination; or
(2) That a substantial portion of the evidence relied upon in the Assistant Secretary's determination was unreliable or was of little probative value; or
(3) That petitioner's or the Bureau's research appears inadequate or incomplete in some material respect; or
(4) That there are reasonable alternative interpretations, not previously considered, of the evidence used for the final determination, that would substantially affect the determination that the petitioner meets or does not meet one or more of the criteria in § 83.7 (a) through (g).
(e) The Board shall have administrative authority to review determinations of the Assistant Secretary made pursuant to § 83.10(m) to the extent authorized by this section.
(1) The regulations at 43 CFR 4.310-4.318 and 4.331-4.340 shall apply to proceedings before the Board except when they are inconsistent with these regulations.
(2) The Board may establish such procedures as it deems appropriate to provide a full and fair evaluation of a request for reconsideration under this section to the extent they are not inconsistent with these regulations.
(3) The Board, at its discretion, may request experts not associated with the Bureau, the petitioner or interested parties to provide comments, recommendations, or technical advice concerning the determination, the administrative record, or materials filed by the petitioner or interested parties. The experts cannot be a member of a federal recognized tribe in the state that the petitioning group is located, been an employee, volunteer, and consultant for OFA (BAR), or a Federal recognized tribe in the region. The regions are as follows: Northeast, East, Southeast, South, Southwest, West, Northwest, Plains, Midwest, Alaska, Hawaii, and Pacific Islands, Puerto Rico. The Board may also request, at its discretion, comments or technical assistance from the Assistant Secretary concerning the final determination or, pursuant to paragraph (e) (8) of this section, the record used for the determination.
(4) Pursuant to 43 CFR 4.337(a), the Board may require, at its discretion, a hearing conducted by an administrative law judge of the Office of Hearings and Appeals if the Board determines that further inquiry is necessary to resolve a genuine issue of material fact or to otherwise augment the record before it concerning the grounds for reconsideration.
(5) The detailed statement of grounds for reconsideration filed by a petitioner or interested parties pursuant to paragraph (b) (1) of this section shall be considered the appellant's opening brief provided for in 43 CFR 4.311(a).
(6) An appellant's reply to an opposing party's answer brief, provided for in 43 CFR 4.311(b), shall not apply to proceedings under this section, except that a petitioner shall have the opportunity to reply to an answer brief filed by any party that opposes a petitioner's request for reconsideration.
(7) The opportunity for reconsideration of a Board decision provided for in 43 CFR 4.315 shall not apply to proceedings under this section.
(8) For purposes of review by the Board, the administrative record shall consist of all appropriate documents in the Branch of Acknowledgment and Research relevant to the determination involved in the request for reconsideration. The Assistant Secretary shall designate and transmit to the Board copies of critical documents central to the portions of the determination under a request for reconsideration. The Branch of Acknowledgment

and Research shall retain custody of the remainder of the administrative record, to which the Board shall have unrestricted access.
(9) The Board shall affirm the Assistant Secretary's determination if the Board finds that the petitioner or interested party has failed to establish, by a preponderance of the evidence, at least one of the grounds under paragraphs (d) (1)--(d) (4) of this section.
(10) The Board shall vacate the Assistant Secretary's determination and remand it to the Assistant Secretary for further work and reconsideration if the Board finds that the petitioner or an interested party has established, by a preponderance of the evidence, one or more of the grounds under paragraphs (d) (1)--(d) (4) of this section.
(f)(1) The Board, in addition to making its determination to affirm or remand, shall describe in its decision any grounds for reconsideration other than those in paragraphs (d) (1)--(d) (4) of this section alleged by a petitioner's or interested party's request for reconsideration.
(2) If the Board affirms the Assistant Secretary's decision under § 83.11(e) (9) but finds that the petitioner or interested parties have alleged other grounds for reconsideration, the Board shall send the requests for reconsideration to the Secretary. The Secretary shall have the discretion to request that the Assistant Secretary reconsider the final determination on those grounds.
(3) The Secretary, in reviewing the Assistant Secretary's decision, may review any information available, whether formally part of the record or not. Where the Secretary's review relies upon information that is not formally part of the record, the Secretary shall insert the information relied upon into the record, together with an identification of its source and nature.
(4) Where the Board has sent the Secretary a request for reconsideration under paragraph (f)(2), the petitioner and interested parties shall have 30 business days from receiving notice of the Board's decision to submit comments to the Secretary. Where materials are submitted to the Secretary opposing a petitioner's request for reconsideration, the interested party shall provide copies to the petitioner and the petitioner shall have 15 business days from their receipt of the information to file a response with the Secretary.
(5) The Secretary shall make a determination whether to request a reconsideration of the Assistant Secretary's determination within 60 business days of receipt of all comments and shall notify all parties of the decision.
(g)(1) The Assistant Secretary shall issue a reconsidered determination within 120 business days of receipt of the Board's decision to remand a determination or the Secretary's request for reconsideration.
(2) The Assistant Secretary's reconsideration shall address all grounds determined to be valid grounds for reconsideration in a remand by the Board, other grounds described by the Board pursuant to paragraph (f) (1), and all grounds specified in any Secretarial request. The Assistant Secretary's reconsideration may address any issues and evidence consistent with the Board's decision or the Secretary's request.
(h)(1) If the Board finds that no petitioner's or interested party's request for reconsideration is timely, the Assistant Secretary's determination shall become effective and final for the Department 120 business days from the publication of the final determination in the Federal Register.

(2) If the Secretary declines to request reconsideration under paragraph (f) (2) of this section, the Assistant Secretary's decision shall become effective and final for the Department as of the date of notification to all parties of the Secretary's decision.
(3) If a determination is reconsidered by the Assistant Secretary because of action by the Board remanding a decision or because the Secretary has requested reconsideration, the reconsidered determination shall be final and effective upon publication of the notice of this reconsidered determination in the Federal Register.

The petitioning group that is denied federal recognition shall seek federal recognition through

1. United States Court System
2. Congressional
3. Executive Order

The OFA team needs to have clear direction with evaluation criteria that will be used to determine if the petitioning tribe meets the criteria for federal recognition. The evaluation criteria and evidence must not be changed from petitioning group; it must stay the same. The petitioning tribe must receive a copy of the evaluation criteria. There needs to be a committee of both federal and non federal American Indians to observe the evaluation teams and make sure that they are following the set criteria guidelines for evaluating the petitions.