

submit copies of the funding agreements at least 90 days before the proposed effective date to the appropriate committees of the Congress and to each tribe that is served by the BIA agency that is serving the tribe that is a party to the funding agreement. Initial negotiations with a tribe located in an area and/or agency which has not previously been involved with self-governance negotiations, will take approximately 3 months from start to finish. Since agreements for tribes on an October 1 to September 30 fiscal year need to be signed and submitted by July 1, new participating tribes would need to be selected by April 1 to allow sufficient time for negotiations. Publication of this interim rule without prior opportunity for public comment is necessary to complete the above procedures in a timely fashion. Therefore, pursuant to 5 U.S.C. 553(b)(3)(B), good cause is found that notice and public comment procedures are impracticable, and pursuant to 5 U.S.C. 553(d), good cause exists to make the rule effective immediately.

Background

The Tribal Self-Governance Program is designed to promote self determination by allowing tribes to assume more control of programs operated by the Department of the Interior through negotiated agreements. The new law allows for negotiations to be conducted for programs operated by the Bureau of Indian Affairs (BIA) and for programs operated by other bureaus and offices within the Department that are available to Indians or where there is an historical, cultural, or geographic connection to an Indian tribe.

At the time of this announcement, 29 compacts have been signed under the provisions of the Demonstration Project. In addition to these 29 tribal entities, the newly enacted Tribal Self-Governance Act of 1994, Public Law 103-413, authorizes the Secretary to negotiate with up to 20 new tribes per year. Congress has also provided guidance concerning the handling of signatory tribes in Alaskan consortiums. If they are eligible to negotiate on their own and choose to do so, they should not be counted as part of the 20 new tribes.

Purpose of Rule

This interim rule identifies the procedures and criteria that the Office of Self-Governance will use in establishing the priority listing of the additional participating tribes under the Tribal Self-Governance Act of 1994. While this interim rule may be changed at a later date by the rulemaking established

pursuant to the Act, the Act stipulates that the lack of promulgated regulations will not limit its effect. This rule will take immediate effect to allow the application and selection process for the upcoming year to begin.

The Secretary's decision on the actual number of tribes that will enter negotiations will be made at a later date. Being on the list will not guarantee that a tribe will actually be provided the opportunity to negotiate in any given year; however, it does mean that a tribe will not be passed over for a tribe farther down on the list or an unlisted tribe with the exception of tribes that are already in the negotiations process. For example, if the Department determines that 20 tribes will be afforded the opportunity to negotiate self-governance agreements in 1996, the first 20 tribes on the list would be notified and negotiations would be scheduled. The tribe numbered 21 on the list would become number one on the list for 1997 or might enter negotiations in 1996 if one of the first 20 dropped out.

The Department is adopting this rule before beginning the negotiated rulemaking process as required by Congress to establish definitive rules for the total self-governance program. This interim rule governing the selection process and criteria will be subject to negotiation and amendment by the negotiated rulemaking committee. The committee will use any comments received following the publication of this interim rule in negotiating the final rule. Furthermore, the portion of the rule governing selection will be subject to additional comment once the proposed regulations recommended by the negotiated rulemaking committee are published in the **Federal Register**. The final published rule will supersede this interim rule.

A. E.O. 12612

The Department has determined that this interim rule does not have significant federalism effects.

B. E.O. 12630

In accordance with Executive Order 12630, the Department had determined that this rule does not have significant takings implications.

C. E.O. 12778

The Department has certified to the Office of Management and Budget that this interim rule meets the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

D. E.O. 12866

This interim rule is not a significant regulatory action under Executive Order

12866, and therefore will not be reviewed by the Office of Management and Budget.

E. Regulatory Flexibility Act Statement

This interim rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

F. NEPA Statement

The Department has determined that this interim rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

G. Information Collection Statement

The information collection requirements contained in this interim rule are included in current collections 1076-0090, 0091, 0096, 1030 and OMB circulars A-102, A-110, and SF-424.

H. Authorship Statement

The primary author of this document is Verner V. Duus, Office of Self-Governance.

List of Subjects in Part 1001

Indians, Native Americans.

For the reasons set forth in the preamble, a new chapter VI consisting at this time of part 1001 is added to Title 25 of the Code of Federal Regulations as follows:

CHAPTER VI—OFFICE OF THE ASSISTANT SECRETARY—INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

PART 1001—SELF-GOVERNANCE PROGRAM

Sec.

- 1001.1 Purpose.
- 1001.2 Applicant eligibility.
- 1001.3 Priority ranking for negotiations.
- 1001.4 Application review and approval.
- 1001.5 Application review and selection process for negotiations for funding agreements.
- 1001.6 Submitting applications.

Authority: 25 U.S.C. 450 note, 458aa-458gg.

§ 1001.1 Purpose.

The purpose of this rule is to establish the process for tribes to apply for entry into the Self-Governance program and to establish the selection criteria by which the Department will identify eligible tribes and select tribes to begin the negotiations process.

§ 1001.2 Applicant eligibility.

Any tribe or consortium of tribes seeking inclusion in the applicant pool