

**LEGISLATIVE AND REGULATORY UPDATE
MARCH 2006 – DECEMBER 2006**

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I. LEGISLATIVE UPDATE

Technical Amendment to Alaska Native Claims Settlement Act; P.L. 109-179; March 13, 2006

The Act is intended to facilitate shareholder consideration of proposals to make Settlement Common Stock under the Alaska Native Claims Settlement Act available to missed enrollees, eligible elders, and eligible persons born after December 18, 1971.

Native American Technical Corrections Act of 2006; P.L. 109-221; May 12, 2006

This Act makes technical corrections to laws pertaining to Native Americans.

Puyallup Indian Tribe Land Claims Settlement; P.L. 109-224; May 18, 2006

This Act directs the Secretary of Interior to take several parcels of land into trust for the benefit of the Puyallup Indian Tribe.

Veterans' Housing Opportunity and Benefits Improvement Act; P.L. 109-233; June 15, 2006

The Act extends housing, insurance, outreach, and benefits programs administered by the Secretary of Veterans' Affairs. The Act amends certain provisions regarding direct housing loans to Native American veterans and treats certain non-Native American veterans as Native American veterans where a tribal organization permits a non-Native American veteran to hold, possess, or purchase a meaningful interest in a lot or dwelling on trust lands, provided that such a purchase is made with the proceeds of a loan and is made jointly with a Native American spouse of the non-Native American veteran.

Adam Walsh Child Protection and Safety Act of 2006; P.L. 109-248; July 27, 2006

This Act contained seven Titles designed to protect children from sexual abuse and exploitation. Title I of the Act mandates that each jurisdiction establish a sex-offender registry and adhere to certain notification requirements. Under Title I, tribes may elect to enforce the registration and notification provisions of the Act or to delegate those functions to another jurisdiction. *Tribes must elect to assume jurisdiction under this act by July 27, 2007 or jurisdiction will automatically vest with the state over sex offender registration in Indian Country.*

YouthBuild Transfer Act; P.L. 109-281; September 22, 2006

This Act is aimed at assisting disadvantaged youth in obtaining the education and skills necessary to gain employment. The Act also authorizes grants for the implementation of its provisions. Tribes are listed among the entities eligible to receive such grants.

Pueblo de San Ildefonso Claims Settlement Act; P.L. 109-286; September 27, 2006

The Act extinguishes the claims of the Pueblo de San Ildefonso to certain lands by authorizing the Pueblo to acquire certain lands in the Santa Fe National Forest, to be held in trust. The Act also authorizes the Secretary of Agriculture to convey certain other lands for market value consideration.

Child and Family Services Improvement Act; P.L. 109-288; September 28, 2006

This Act amends Part B of Title IV of the Social Security Act by reauthorizing certain child welfare programs and to direct authorized funding to support caseworker visits for foster children and services for children affected by methamphetamine or other substance abuse. The Act authorizes grants to “regional partnerships” to further the purposes of its provisions. Tribes may be a party to such partnerships, but may not partner exclusively with tribal child welfare agencies or a consortia of such agencies.

Department of Defense Appropriations Act, 2007; P.L. 109-289; September 29, 2006

This Act appropriates funds to the Department of Defense for FY 2007. Section 8030 of the Act permits the Secretary of the Air Force to convey excess relocatable housing units located at Grand Forks and Minot Air Force Bases, without regard to Indian tribes in North Dakota, South Dakota, Montana and Minnesota.

Great Lakes Fish and Wildlife Restoration Act; P.L. 109-326; October 11, 2006

This Act amends the Great Lakes Fish and Wildlife Restoration Act of 1990. The Act is designed to facilitate the development of plans that restore fish and wildlife resources in the Great Lakes Basin. The Act requires the Director to consult and cooperate with tribal leaders in the development of these plans and establishes a Proposal Review Committee, comprised of representatives of Tribes and States, to review proposed plans to restore fish and wildlife resources.

Salt Cedar and Russian Olive Control Demonstration Act; P.L. 109-320; October 11, 2006

The Act requires the Secretary of Interior to implement a program to assess the extent of infestation of the western United States by Salt Cedar and Russian Olive Trees, and to

demonstrate solutions for their long-term management. The Act also requires the Secretary to collaborate with tribes in implementing these programs.

Older Americans Act Amendments; P.L. 109-365; October 17, 2006

The Act authorizes appropriations for programs under the Older Americans Act of 1995 from FY 2007 to FY 2011. The Act's funding formula ensures that no state will receive less funding for programs under its provisions than it did in FY 2000; additionally, the Act authorizes grants for demonstration projects to enhance local transportation resources for older individuals. Tribes, and tribal consortia, are eligible to receive such grants. Finally, the Act authorizes increased funding for the Native Americans Caregiver Support Program.

Esther Martinez Native American Languages Preservation Act; P.L. 109-394; December 14, 2006

The Act authorizes funding for Native American language nests, which are site-based educational programs providing instruction and child care through the use of a Native American language and provide classes for parents, or guardians, of students in those nests. The act also authorizes funding for Native American language survival schools and Native American language restoration programs.

Temporary Conveyance of Water Rights to Dry Prairie Rural Water Association, Inc.; P.L. 109-410; December 18, 2006

The Act authorizes the Assiniboine and Sioux Tribes of the Fort Peck Reservation in Montana to enter into a lease or temporary conveyance of water rights under the Fort Peck-Montana Compact.

United States-Mexico Transboundary Aquifer Assessment Act; P.L. 109-448; December 22, 2006

This Act requires the Secretary of Interior to establish a program to assess, model, and map priority transboundary aquifers. In the process of assessing such aquifers, the Secretary of Interior is required by the Act to consult with any affected tribes.

II. REGULATORY UPDATE

71 FR 10831 – Livestock Assistance Program; Commodity Credit Corporation; March 3, 2006

Correcting Amendment: The correcting amendment modified the final regulations published for the Livestock Assistance program and American Indian Livestock Feed Program. The regulations were clarified to state that all eligible cattle must be intended for food use.

71 FR 11576 – Census Advisory Committee; Bureau of the Census; March 8, 2006

Notice: The Bureau of the Census provided notice that it had renewed its Advisory Committee on the American Indian and Alaska Native Population.

71 FR 12280-01 – Leases and Permits; Bureau of Indian Affairs; March 10, 2006

CFR Correction: This action modified sections 622 and 623 of Title 25 of the Code of Federal Regulations regarding BIA emergency action in the event of threatened immediate harm to leased premises and holdover tenants.

71 FR 12988 – Regulatory and Administrative Waivers for Public and Indian Housing Programs; Department of Housing and Urban Development; March 13, 2006

Notice: HUD issued notice to tribes that its Public and Indian Housing (PIH) administrators in the Hurricane Wilma disaster area may defer or suspend compliance with the regulations or other administrative requirements for an initial period of 12 months (or such other period specified by the notice).

71 FR 15338 – Technical Amendments to American Indian Trust Fund Management Reform Act; Office of the Special Trustee for American Indians; March 28, 2006

Final Rule: The Office of the Special Trustee revised its regulations to update references to agency names, addresses and position titles.

71 FR 15718 – Guidelines for Award of Monitoring Initiative Funds; Environmental Protection Agency; March 29, 2006

Notice: The EPA issued notice of its guidelines describing the formula necessary for the agency to allot Clean Water Act, Section 106 water pollution control program grant funds. To be eligible to receive funds under the Clean Water Act, tribes must apply by preparing a workplan that details planned actions for carrying out both components of the monitoring initiative: implementation of comprehensive monitoring strategies and collaboration on statistically-valid surveys of the nation's waters. For FY 2007, the EPA has allotted \$528,506 for distribution among the tribes for implementation of monitoring strategies. Tribes may also receive an additional \$8,000 for each sampling site within their boundaries, for purposes of conducting surveys.

71 FR 16500 – Native American Graves Protection and Repatriation Act Regulations; Department of the Interior; April 3, 2006

Correcting Amendment: The NAGPRA Regulations were amended to reflect a proper reference to Subparts B and C of Part 10. The amendment also replaces the words "Departmental Consulting Archeologist" with "Manager, National NAGPRA Program" in subparts B and C of Part 10.

71 FR 17131-01 – Rate Adjustments for Indian Irrigation Programs; Bureau of Indian Affairs; April 5, 2006

Notice: The BIA provided notice that it had adjusted the irrigation assessment rates at several of our irrigation facilities for operation and maintenance

71 FR 20006 – Freedom of Information Act Procedures; National Indian Gaming Commission; April 19, 2006

Final Rule: The National Indian Gaming Commission (NIGC) amended its rules regarding compliance with the Freedom of Information Act (FOIA). The amended rules address public reading rooms for information subject to FOIA, and the availability of electronic copies of documents. Documents created on or after November 1, 1996 will be made available via the NIGC website. The rule also addresses agency backlogs of request, a change in fees, and preservation of records. The amendment is aimed at bringing the NIGC in compliance with FOIA, as amended.

71 FR 27385 – Minimum Internal Control Standards; National Indian Gaming Commission; May 11, 2006

Final Rule Revision: The NIGC's rule regarding Minimum Internal Control Standards (MICS) was amended following the receipt of public comments. The rule required tribal gaming regulatory authorities (TGRA) to establish and implement tribal internal control standards that equal or exceed the standards set forth in the rule by September 8, 2006. The NIGC's purpose in revising the rule was to reflect changes in tribal gaming technology and methods.

71 FR 43788 – Indian Child Welfare Act; Bureau of Indian Affairs; August 2, 2006

Notice: The BIA published a list of the names and addresses of each tribe's designated agent for purposes of "notice" under the Indian Child Welfare Act.

71 FR 46471-01 – Tribal Strategy: Solid Waste Disposal Act; Environmental Protection Agency; August 14, 2006

Notice: The EPA issued a strategy for implementing the underground storage tank program in Indian Country and made the strategy available on EPA's Web site

71 FR 57995 – Final Determination; Bureau of Indian Affairs; October 2, 2006

Notice: The BIA provided notice of its determination that the Burt Lake Band of Ottawa and Chippewa Indians does not satisfy all seven criteria for acknowledgment as an Indian tribe. The BIA determined that "half of [the Burt Lake Band's] members only rarely if ever participate in activities with other [tribal] members," and thus, that the Burt Lake Band doesn't comprise a distinct political community, as required by the criteria for acknowledgment. The BIA also determined that the Burt Lake Band failed to present

sufficient evidence of identifications of leaders or of a governing body of the petitioning group by authoritative, knowledgeable external sources on a substantially continuous basis since 1917. Finally, the BIA determined that, because only 68 percent of its members descend from the historical Cheboygan band, the BLB petitioner does not meet the requirements for acknowledgment.

71 FR 58234 – Migratory Bird Hunting Regulations for 2006-07 Late Season; Fish and Wildlife Service; October 2, 2006

Final Rule: The Fish and Wildlife Service issued special rules for late-season migratory bird hunting for certain tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands. The rule constitutes recognition of tribal authority to regulate such hunting under established guidelines. Those guidelines include possibilities for: (1) on-reservation hunting by both tribal members and nonmembers with hunting by nontribal members on some reservations taking place with federal frameworks, but on dates different from those selected by the surrounding states; (2) on-reservation hunting by tribal members only, outside of federal frameworks for season dates and length, and for daily bag and possession limits; and (3) off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with flexibility in daily bag and possession limits.

71 FR 60852 – Announcement of the Delegation of Partial Administrative Authority; Environmental Protection Agency; October 17, 2006

Delegation of Authority: Region 10 of the EPA entered into a Partial Delegation of Administrative Authority with the Confederated Tribes of the Umatilla Indian Reservation to carry out certain activities associated with administration of the Federal Implementation Plan for the Umatilla Indian Reservation.

71 FR 62441 – Guidelines for Awarding Base Grants; Environmental Protection Agency; October 25, 2006

Notice: The EPA published its national guidelines for the award of base grants and its Request for Proposals for the award of supplemental funding, in the form of competitive grants under the Clean Water Act section 319(h) nonpoint source grants to Indian tribes.

71 FR 63347 – Proclamation of Certain Lands as Reservation; Bureau of Indian Affairs; October 30, 2006

Notice: The BIA provided notice that the Principal Deputy Assistant Secretary for Indian Affairs proclaimed approximately 55.84 acres as the Snoqualmie Indian Reservation in Washington.

71 FR 66432-01 – Definition of Indian Tribe for Payment Eligibility and Payment Limitation; Commodity Credit Corporation; November 15, 2006

Final Rule: This rule defines "Indian tribe" consistent with the definition used by the United States Department of the Interior, Bureau of Indian Affairs (BIA), and other rules utilized by Commodity Credit Corporation, FSA and the Natural Resources Conservation Service (NRCS) in their programs

71 FR 74933-01 – Land Acquisitions, Jicarilla Apache Tribe; Bureau of Indian Affairs; December 13, 2006

Notice: The Associate Deputy Secretary of Interior issued a final determination to take approximately 31,777 acres of land into trust for the Jicarilla Apache Tribe of New Mexico.

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¹ On February 15, 2007, the Bureau of Indian Affairs announced that it had reaffirmed the Mashpee Wampanoag's status as a sovereign tribal nation. Citations were unavailable at the time of publication of this update.

71 FR 75576 – Alaska Native Claims Selection; Bureau of Land Management; December 15, 2006

Notice of decision on approving lands for conveyance: The Bureau of Land Management (BLM) provided notice that it had approved lands for conveyance pursuant to the Alaska Native Claims Settlement Act to the Bethel Native Corporation, approximately 30 miles east of the Native village of Tuluksak.

71 FR 75981 – Zuni Indian Tribe Water Rights Settlement Act of 2003; Secretary of the Interior, December 19, 2006

Notice of Statement of Findings in accordance with P.L. 108-34: The Secretary of the Interior published notice of the statement of findings, pursuant to Section 9 of the Zuni Indian Tribe Water Rights Settlement Act, causing the waiver and release of certain claims.

71 FR 76600 – Change of Address; Indian Health Service; December 21, 2006

Final Rule: The Indian Health Service (HIS) revised its regulations governing contracts under the Indian Self-Determination and Education Assistance Act to reflect the consolidation of the Interior Board of Contract Appeals into the Civilian Board of Contract Appeals (CBCA). All references to the Interior Board of Contract Appeals, and its address, have been stricken. In its place will appear “Civilian Board of Contract Appeals (CBCA)” at “1800 M Street, NW, 6th Floor, Washington, D.C. 20036.”

71 FR 77060 – Energy Policy Act Draft Report; Bureau of Indian Affairs; December 22, 2006

Notice: The Bureau of Indian Affairs provided notice that the Department of Interior and the Department of Energy had conducted a joint study of issues related to energy rights of way on tribal lands and had submitted its draft report to Congress on the findings of the study.

71 FR 77789 – Tribal Self-Governance Program; Bureau of Indian Affairs; December 27, 2006

Notice of application deadline: The Office of Self Governance announced that tribes and consortia have until March 1, 2007 to submit completed applications for participation in the tribal self-governance program in FY 2008, or Calendar Year 2008.