25 USC CHAPTER 14, SUBCHAPTER LXXXIV: PASKENTA BAND OF NOMLAKI INDIANS OF CALIFORNIA

From Title 25—INDIANS
CHAPTER 14—MISCELLANEOUS

SUBCHAPTER LXXXIV—PASKENTA BAND OF NOMLAKI INDIANS OF CALIFORNIA

§1300m. Definitions

For purposes of this subchapter:

(1) The term "Tribe" means the Paskenta Band of Nomlaki Indians of the Paskenta Rancheria of California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Interim Council" means the governing body of the Tribe specified in section 1300m–5 of this title.

(4) The term "member" means an individual who meets the membership criteria under section 1300m–4(b) of this title.

(5) The term "State" means the State of California.

(6) The term "reservation" means those lands acquired and held in trust by the Secretary for the benefit of the Tribe pursuant to section 1300m–3 of this title.

(7) The term "service area" means the counties of Tehama and Glenn, in the State of California.

(Pub. L. 103–454, title III, §302, Nov. 2, 1994, 108 Stat. 4793.)

Short Title

Section 301 of title III of Pub. L. 103–454 provided that: "This title [enacting this subchapter] may be cited as the 'Paskenta Band Restoration Act'."

§1300m–1. Restoration of Federal recognition, rights, and privileges

(a) Federal recognition

Federal recognition is hereby extended to the Tribe. Except as otherwise provided in this subchapter, all laws and regulations of general application to Indians and nations, tribes, or bands of Indians that are not inconsistent with any specific provision of this subchapter shall be applicable to the Tribe and its members.

(b) Restoration of rights and privileges

Except as provided in subsection (d) of this section, all rights and privileges of the Tribe and its members under any Federal treaty, Executive order, agreement, or statute, or under any other authority which were diminished or lost under the Act of August 18, 1958 (Public Law 85–671; 72 Stat. 619), are hereby restored and the provisions of such Act shall be inapplicable to the Tribe and its members after November 2, 1994.

(c) Federal services and benefits

Without regard to the existence of a reservation, the Tribe and its members shall be eligible, on and after November 2, 1994, for all Federal services and benefits furnished to federally recognized Indian tribes or their members. In the case of Federal services available to members of federally recognized Indian tribes residing on a reservation, members of the Tribe residing in the Tribe's service area shall be deemed to be residing on a reservation.

(d) Hunting, fishing, trapping, and water rights

Nothing in this subchapter shall expand, reduce, or affect in any manner any hunting, fishing, trapping, gathering, or water right of the Tribe and its members.

(e) Indian Reorganization Act applicability

The Act of June 18, 1934 (25 U.S.C. 461 et seq.), shall be applicable to the Tribe and its members.

(f) Certain rights not altered

Except as specifically provided in this subchapter, nothing in this subchapter shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

(Pub. L. 103–454, title III, §303, Nov. 2, 1994, 108 Stat. 4793.)

References in Text

Act of August 18, 1958, referred to in subsec. (b), is Pub. L. 85–671, Aug. 18, 1958, 72 Stat. 619, which is not classified to the Code.

Act of June 18, 1934, referred to in subsec. (e), popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§1300m–2. Economic development

(a) Plan for economic development

The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe with respect to establishing a plan for economic development for the Tribe;

(2) in accordance with this section and not later than two years after the adoption of a tribal constitution as provided in section 1300m–6 of this title, develop such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe, submit such plan to the Congress.

(b) Restrictions

Any proposed transfer of real property contained in the plan developed by the Secretary under subsection (a) of this section shall be consistent with the requirements of section 1300m–3 of this title.

(Pub. L. 103–454, title III, §304, Nov. 2, 1994, 108 Stat. 4794.)

§1300m–3. Transfer of land to be held in trust

(a) Lands to be taken in trust

The Secretary shall accept any real property located in Tehama County, California, for the benefit of the Tribe if conveyed or otherwise transferred to the Secretary if, at the time of such conveyance or transfer, there are no adverse legal claims to such property, including outstanding liens, mortgages, or taxes owned. The Secretary may accept any additional acreage in the Tribe's service area pursuant to the authority of the Secretary under the Act of June 18, 1934 (25 U.S.C. 461 et seq.).

(b) Lands to be part of reservation

Subject to the conditions imposed by this section, any real property conveyed or transferred under this section shall be taken in the name of the United States in trust for the Tribe and shall be part of the Tribe's reservation.

(Pub. L. 103–454, title III, §305, Nov. 2, 1994, 108 Stat. 4794.)

References in Text

Act of June 18, 1934, referred to in subsec. (a), popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

Section Referred to in Other Sections

This section is referred to in sections 1300m, 1300m–2 of this title.

§1300m–4. Membership rolls

(a) Compilation of tribal membership roll

Within one year after November 2, 1994, the Secretary shall, after consultation with the Tribe, compile a membership roll of the Tribe.

(b) Criteria for membership

(1) Until a tribal constitution is adopted pursuant to section 1300m–6 of this title, an individual shall be placed on the membership roll if such individual is living, is not an enrolled member of another federally recognized Indian tribe, is of Nomlaki Indian ancestry, and if—

(A) such individual's name was listed on the Paskenta Indian Rancheria distribution roll compiled on February 26, 1959, by the Bureau of Indian Affairs and approved by the Secretary of the Interior on July 7, 1959, pursuant to Public Law 85–671;

(B) such individual was not listed on the Paskenta Indian Rancheria distribution list, but met the requirements that had to be met to be listed on the Paskenta Indian Rancheria list;

(C) such individual is identified as an Indian from Paskenta in any of the official or unofficial rolls of Indians prepared by the Bureau of Indian Affairs; or

(D) such individual is a lineal descendant of an individual, living or dead, identified in subparagraph (A), (B), or (C).

(2) After adoption of a tribal constitution pursuant to section 1300m–6 of this title, such tribal constitution shall govern membership in the Tribe.

(c) Conclusive proof of Paskenta Indian ancestry

For the purpose of subsection (b) of this section, the Secretary shall accept any available evidence establishing Paskenta Indian ancestry. The Secretary shall accept as conclusive evidence of Paskenta Indian ancestry, information contained in the census of the Indians in and near Paskenta, prepared by Special Indian Agent John J. Terrell, in any other roll or census of Paskenta Indians prepared by the Bureau of Indian Affairs, and in the Paskenta Indian Rancheria distribution list, compiled by the Bureau of Indian Affairs on February 26, 1959.

(Pub. L. 103–454, title III, §306, Nov. 2, 1994, 108 Stat. 4794.)

References in Text

Public Law 85–671, referred to in subsec. (b)(1)(A), is Pub. L. 85–671, Aug. 18, 1958, 72 Stat. 619, which is not classified to the Code.

Section Referred to in Other Sections

This section is referred to in sections 1300m, 1300m–5, 1300m–6 of this title.

§1300m–5. Interim government

Until a new tribal constitution and bylaws are adopted and become effective under section 1300m–6 of this title, the Tribe's governing body shall be an Interim Council. The initial membership of the Interim Council shall consist of the members of the Tribal Council of the Tribe on November 2, 1994, and the Interim Council shall continue to operate in the manner prescribed for the Tribal Council under the tribal constitution adopted December 18, 1993. Any new members filling vacancies on the Interim Council shall meet the membership criteria set forth in section 1300m–4(b) of this title and be elected in the same manner as are Tribal Council members under the tribal constitution adopted December 18, 1993.

(Pub. L. 103–454, title III, §307, Nov. 2, 1994, 108 Stat. 4795.)

Section Referred to in Other Sections

This section is referred to in section 1300m of this title.

§1300m–6. Tribal constitution

(a) Election; time and procedure

Upon the completion of the tribal membership roll under section 1300m–4(a) of this title and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election for the purpose of adopting a constitution and bylaws for the Tribe. The election shall be held according to section 476 of this title, except that absentee balloting shall be permitted regardless of voter residence.

(b) Election of tribal officials; procedures

Not later than 120 days after the Tribe adopts a constitution and bylaws under subsection (a) of this section, the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in such tribal constitution. Such election shall be conducted according to the procedures specified in subsection (a) of this section except to the extent that such procedures conflict with the tribal constitution.

(Pub. L. 103–454, title III, §308, Nov. 2, 1994, 108 Stat. 4795.)

Section Referred to in Other Sections

This section is referred to in sections 1300m–2, 1300m–4, 1300m–5 of this title.

§1300m–7. General provision

The Secretary may promulgate such regulations as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 103–454, title III, §309, Nov. 2, 1994, 108 Stat. 4796.)