

## SUBCHAPTER F—TRIBAL GOVERNMENT

### PART 61—PREPARATION OF ROLLS OF INDIANS

Sec.

- 61.1 Definitions.
- 61.2 Purpose.
- 61.3 Information collection.
- 61.4 Qualifications for enrollment and the deadline for filing application forms.
- 61.5 Notices.
- 61.6 Application forms.
- 61.7 Filing of application forms.
- 61.8 Verification forms.
- 61.9 Burden of proof.
- 61.10 Review of applications by tribal authorities.
- 61.11 Action by the Director or Superintendent.
- 61.12 Appeals.
- 61.13 Decision of the Assistant Secretary on appeals.
- 61.14 Preparation, certification and approval of the roll.
- 61.15 Special instructions.

AUTHORITY: 5 U.S.C. 301; 25 U.S.C. 2 and 9, 1300d-3(b), 1300d-26, 1401 *et seq.*

SOURCE: 50 FR 46430, Nov. 8, 1985, unless otherwise noted.

#### § 61.1 Definitions.

As used in these regulations:

*Act* means any act of Congress authorizing or directing the Secretary to prepare a roll of a specific tribe, band, or group of Indians.

*Adopted person* means a person whose natural parents' parental rights have been given to others to exercise by court order.

*Approved roll* means a roll of Indians approved by the Secretary.

*Assistant Secretary* means the Assistant Secretary of the Interior for Indian Affairs or an authorized representative acting under delegated authority.

*Basic roll* means the specified allotment, annuity, census or other roll designated in the Act or Plan as the basis upon which a new roll is to be compiled.

*Commissioner* means the Commissioner of Indian Affairs or an authorized representative acting under delegated authority.

*Descendant(s)* means those persons who are the issue of the ancestor through whom enrollment rights are

claimed; namely, the children, grandchildren, etc. It does not include collateral relatives such as brothers, sisters, nieces, nephews, cousins, etc. or adopted children, grandchildren, etc.

*Director* means the Area Director of the Bureau of Indian Affairs area office which has administrative jurisdiction over the local field office responsible for administering the affairs of the tribe, band, or group for which a roll is being prepared or an authorized representative acting under delegated authority.

*Enrollee(s)* means persons who have met specific requirements for enrollment and whose names appear on a particular roll of Indians.

*Lineal ancestor* means an ancestor, living or deceased, who is related to a person by direct ascent; namely, the parent, grandparent, etc. It does not include collateral relatives such as brothers, sisters, aunts, uncles, etc., or adopted parents, grandparents, etc.

*Living* means born on or before and alive on the date specified.

*Plan* means any effective plan prepared under the provisions of the Act of October 19, 1973, Pub. L. 93-134, 87 Stat. 466, as amended, which authorizes and directs the Secretary to prepare a roll of a specific tribe, band, or group of Indians.

*Secretary* means the Secretary of Interior or an authorized representative acting under delegated authority.

*Sponsor* means any person who files an application for enrollment or appeal on behalf of another person.

*Staff Officer* means the Enrollment Officer or other person authorized to prepare the roll.

*Superintendent* means the official or other designated representative of the Bureau of Indian Affairs in charge of the field office which has immediate administrative responsibility for the affairs of the tribe, band, or group for which a roll is being prepared.

*Tribal Committee* means the body of a federally recognized tribal entity vested with final authority to act on enrollment matters.

*Tribal Governing Document* means the written organizational statement governing the tribe, band, or group of Indians and/or any valid document, enrollment ordinance, or resolution enacted thereunder.

**§ 61.2 Purpose.**

The regulations in this part 61 are to govern the compilation of rolls of Indians by the Secretary of the Interior pursuant to statutory authority. The regulations are not to apply in the compilation of tribal membership rolls where the responsibility for the preparation and maintenance of such rolls rests with the tribes.

**§ 61.3 Information collection.**

The Office of Management and Budget has informed the Department of the Interior that the information collection requirements contained in § 61.4 need not be reviewed by them under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

**§ 61.4 Qualifications for enrollment and the deadline for filing application forms.**

(a) The qualifications which must be met to establish eligibility for enrollment and the deadline for filing application forms will be included in this part 61 by appropriate amendments to this section; *except that*, when an Act or Plan states the qualifications for enrollment and the deadline for filing application forms and specifies that the regulations contained in this part 61 will apply, amendment to this section will not be required for the procedures contained in this part 61 to govern the preparation of the roll; *provided further*, the provisions contained in this part 61 that were in effect when the regulations were amended to include paragraphs (r), (s), (w), (x), (y), and (z) shall control the preparation of the rolls under paragraphs (r), (s), (w), (x), (y), and (z) of this section.

(b) *Pembina Band of Chippewa Indians.* (1) Pursuant to section 7(a) of the Act of December 31, 1982, Pub. L. 97-403, 96 Stat. 2022, a roll is to be prepared and used as the basis for the distribution of an apportioned share of judgment funds awarded the Pembina Chippewa Indians in dockets numbered 113, 191, 221 and

246 of the Court of Claims of all persons who:

- (i) Are of at least ¼ degree Pembina Chippewa blood;
- (ii) Are citizens of the United States;
- (iii) Were living on December 31, 1982;
- (iv) Are not members of the Red Lake Band of Chippewa Indians, the Turtle Mountain Band of Chippewa Indians, the Chippewa Cree Tribe of the Rocky Boy's Reservation, or Minnesota Chippewa Tribe, or the Little Shell Band of Chippewa Indians of Montana; *and*
- (v) Are enrolled or are lineal descendants of persons enrolled:

(A) As Pembina descendants under the provisions of the Act of July 29, 1971 (85 Stat. 158), for the disposition of the 1863 Pembina Award, or

(B) On the McCumber roll of the Turtle Mountain Indians of 1892, or

(C) On the Davis roll of the Turtle Mountain Indians of 1904; or

(D) As Chippewa on the tentative roll of the Rocky Boy Indians of May 30, 1917, or the McLaughlin census report of the Rocky Boy Indians of July 7, 1917, or the Roe Cloud Roll of Landless Indians of Montana; *or*

(vi) Are able to establish Pembina ancestry on the basis of any other rolls or records acceptable to the Secretary.

(2) Application forms for eligibility must be filed with the Superintendent, Turtle Mountain Agency, Bureau of Indian Affairs, Belcourt, North Dakota 58316, by March 10, 1986. Application forms filed after that date will be rejected for failure to file on time regardless of whether the applicant otherwise meets the qualifications for eligibility.

(3) Each application for enrollment as a member of any of the tribes specified in paragraph (b)(1)(iv) of this section, except the Red Lake Band of Chippewa Indians, which may be rejected by the tribes shall be reviewed by the Superintendent to determine whether the applicant meets the qualifications for eligibility as a descendant of the Pembina Band of Chippewas under paragraph (b)(1) of this section. Each rejection notice shall contain a statement to the effect that the application is being given such review.

(c) *Cherokee Band of Shawnee Indians.* (1) Pursuant to section 5 of the Act of December 20, 1982, Pub. L. 97-372, 96 Stat. 1815, a roll is to be prepared and