

best professional judgment of the planning team and the comments received on the Draft CCP/EA. We believe this management alternative will be the most effective one to contribute to the purposes for which the refuge was established and to the mission of the National Wildlife Refuge System. Implementation of the goals, objectives, and strategies in the CCP will allow us to manage the refuge for migratory birds, with special emphasis on waterfowl (especially northern pintails and mottled ducks); native flora and fauna; and rare and endangered species and habitat types. The refuge will provide opportunities for research by serving as a demonstration area and outdoor laboratory for those studying the ecology of southwest Louisiana wetlands. It will encourage appropriate and compatible wildlife-dependent recreation, such as hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation.

**Authority:** This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105-57.

Dated: April 12, 2007.

**Cynthia K. Dohner,**

*Acting Regional Director.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Model Tribal Probate Code, Guidance for Submission of Tribal Probate Codes Under 25 U.S.C. Section 2205

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Indian Affairs (BIA) is announcing the availability of a Model Tribal Probate Code with comments entitled "Model Tribal Probate Code." BIA issues notices to inform tribes, Indians, and other interested persons about important policies, procedures, and related decisions, and these notices serve to provide guidance to tribes and BIA personnel. This notice provides guidance to tribes considering the creation and adoption of a Tribal Probate Code containing provisions applicable to trust and restricted property and includes a copy of the "Model Probate Code with Comments."

**FOR FURTHER INFORMATION CONTACT:** Eufrona Snyder, Office of Trust Services, Bureau of Indian Affairs,

Department of the Interior, 1849 C Street, NW., Mailstop 4620-MIB, Washington, DC 20240; telephone number: (202) 208-5831; fax number: (202) 208-2549.

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### *a. Does This Action Apply to Me?*

This action is directed to federally recognized tribes and the public in general. Since other persons may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

###### *b. How Can I Get Copies of This Document and Other Related Information?*

Please contact the person listed under **FOR FURTHER INFORMATION CONTACT** who will arrange for a copy to be sent to you.

###### *c. Is There a Comment Period for This Notice and to Whom Do I Send Comments?*

The comment period for the "Model Tribal Probate Code with Comments" will open on the date of publication of this notice and last for twenty (20) days. Comments can be directed to the person listed under **FOR FURTHER INFORMATION CONTACT**.

##### II. What Guidance Does This Notice Provide?

The Model Tribal Probate Code is intended to serve as suggested guidelines for Tribes considering the creation and adoption of a Tribal Probate Code containing provisions applicable to trust and restricted property. The Model Tribal Probate Code is not binding on tribes and is not a rulemaking. The Model Tribal Probate Code sets forth the Bureau of Indian Affairs (BIA) policy and interpretation of the American Indian Probate Reform Act of 2004 (AIPRA) as it relates to the creation and approval of Tribal Probate Codes. After the Department reviewed several Tribal Probate Codes that contained provisions contrary to AIPRA, the Department of the Interior (Department) decided to draft a Model Tribal Probate Code. The Department may revise the Model Tribal Code from time to time based on further experience.

The underlying purposes and policies of this code are: (1) To clarify the provisions of the American Indian Probate Reform Act of 2004 (AIPRA) relating to the creation and adoption of

Tribal Probate Codes under 25 U.S.C. 2205; (2) to promote an efficient system for Tribes to determine the descent and distribution of the decedent's trust and non trust estates; (3) to facilitate use and enforcement of Tribal Probate Codes.

The Model Tribal Probate Code is only intended to address trust and restricted lands. The Department does not have jurisdiction over non trust or non restricted assets. Those provisions are within the sole authority of the Tribe, subject to its constitution. Tribes may have provisions for non trust assets that greatly differ from those provisions concerning trust assets. The Department recommends that Tribal Probate Codes delineate which provisions apply to trust and non trust assets.

##### III. Does This Notice Contain Binding Requirements?

No, the Model Tribal Probate Code is intended to serve as suggested guidance for Tribes formulating Tribal Probate Codes that contain provisions applicable to trust and restricted assets.

Dated: July 31, 2007.

**Carl J. Artman,**

*Assistant Secretary—Indian Affairs.*

#### MODEL TRIBAL PROBATE CODE (With comments and suggested guidelines)

##### Table of Contents

#### ARTICLE I. GENERAL PROVISIONS, DEFINITIONS AND PROBATE JURISDICTION

##### PART 1. GENERAL PROVISIONS

Section  
1-100 Evidence of Death or Status.

##### PART 2. DEFINITIONS

Section  
1-200 General Definitions.

##### PART 3. SCOPE, JURISDICTION AND COURTS

Section  
1-300 Subject Matter Jurisdiction.  
1-301 Application of Tribal Probate Codes.  
1-302 Appeals.

##### PART 4. REQUIREMENTS FOR TRIBAL PROBATE CODES

Section  
1-400 Submission of Tribal Probate Code to the Secretary of the Interior.

#### ARTICLE II. INTESACY

##### PART 1. INTESATE SUCCESSION

Section  
2-100 Intestate Estate.  
2-101 Share of Surviving Spouse.  
2-102 Intestate Succession.  
2-103 Intestate Descent of Small Fractional Interests in Land.  
2-104 Right of Representation.  
2-105 Requirement that Heir Survive Decedent for 120 Hours.

## ARTICLE III. WILLS AND TESTAMENTARY DISPOSITION

### PART 1. WILLS

#### Section

- 3-100 Who May Make a Will.  
3-101 Requirements for Wills.

### PART 2. TESTAMENTARY DISPOSITION

#### Section

- 3-200 General Devise of an Interest in Trust or Restricted Land.  
3-201 Rules of Interpretation.  
3-202 Devise of Trust or Restricted Land as a Life Estate or in Fee.  
3-203 Invalid Devisees and Wills.  
3-204 Presumption of Joint-Tenancy.

## ARTICLE IV. MISCELLANEOUS

### PART 1

#### Section

- 4-100 Amendments to Tribal Probate Codes.

### Model Tribal Probate Code

#### Comment—Model Tribal Probate Code

The Model Tribal Probate Code is intended to serve as suggested guidelines for Tribes considering the creation and adoption of a Tribal Probate Code containing provisions applicable to trust and restricted property. The Model Tribal Probate Code is not binding on Tribes and is not a rulemaking. The Model Tribal Probate Code sets forth the Bureau of Indian Affairs (BIA) policy and interpretation of the American Indian Probate Reform Act of 2004 (AIPRA) as it relates to the creation and approval of Tribal Probate Codes. After the Department reviewed several Tribal Probate Codes that contained provisions contrary to AIPRA; the Department decided to draft a Model Tribal Probate Code. The Department may revise the Model Tribal Code from time to time based on further experience.

The underlying purposes and policies of this Code are: (1) To simplify and clarify the provisions of the American Indian Probate Reform Act of 2004 (AIRPA) relating to the creation and adoption of Tribal Probate Codes under 25 U.S.C. 2205; (2) to promote an efficient system for Tribes to determine the descent and distribution of the decedent's trust and non trust estates; and (3) to facilitate use and enforcement of Tribal Probate Codes.

This Model Tribal Probate Code is only intended to address trust and restricted lands. The Department does not have jurisdiction over non trust or non restricted assets. Those provisions are within the sole authority of the Tribe, subject to its constitution. Tribes may have provisions for non trust assets that greatly differ from those for trust assets. The Department recommends

delineating which provisions apply to trust and non trust assets. Any tribe that elects not to adopt the model code must ensure that its own code complies with AIPRA and accompanying DOI regulations.

## ARTICLE I. GENERAL PROVISIONS, DEFINITIONS AND PROBATE JURISDICTION

### PART 1. GENERAL PROVISIONS

#### Section

- 1-100 Evidence of Death.

#### Section 1-100 Evidence of Death.

In addition to the rules of evidence in courts of general jurisdiction, the following rules relating to a determination of death apply:

- (a) A certified copy of a death certificate is required to probate the estate of a trust or restricted landowner.  
(b) An individual whose death is not established under the preceding paragraphs who is absent for a continuous period of *not less than* six years, during which he has not been in contact with those who knew him, is presumed to be dead.

#### COMMENT—SECTION 1-100

Paragraph (a) mandates that Tribes must require a certified death certificate for probate of a trust or restricted estate. The requirement in 25 CFR 15.101 may not be changed.

Paragraph (b) allows Tribes to establish an alternate time period for a rebuttable presumption of death (other than the 6 years established in the proposed 43 CFR 30.124). Note that the language reads "not less than." Tribes may increase the time period for the rebuttable presumption of death, but may not shorten the proposed regulatory time period.

### PART 2. DEFINITIONS

#### Section

- 1-200 General Definitions.

#### COMMENT—PART 2

See 25 U.S.C. 2201. These suggested definitions relate to trust and restricted property. A Tribe may have different definitions for their non trust assets. For clarity, the BIA suggests delineating which definitions and provisions apply to trust and non trust property in the Tribal Probate Code.

#### Section 1-200 General Definitions.

For purposes of this Code—  
BIA means the Bureau of Indian Affairs within the Department of the Interior.

Child includes any formally adopted child.

Consolidation agreement means a written agreement under the provisions

of 25 U.S.C. 2206(e) or 25 U.S.C. 2206(j)(9), by which a decedent's heirs and devisees consolidate interests in trust or restricted land, entered during the probate process, approved by the judge, and implemented by the probate order.

Decedent means a person who is deceased.

Department or DOI means the Department of the Interior.

Devise means a gift of property by will. Also, to give a gift of property by will.

Devisee means a person or entity that receives property under a will.

Eligible heirs means, for purposes of Article 2 Part 1 (25 U.S.C. 2206), any of a decedent's children, grandchildren, great grandchildren, full siblings, half siblings by blood, and parents who are—

- (a) Indian; or  
(b) Lineal descendants within two degrees of consanguinity of an Indian; or

(c) Owners of a trust or restricted interest in a parcel of land for purposes of inheriting by descent, renunciation, or consolidation agreement under Article 2 Part 1 of this code or 25 U.S.C. 2206, another trust or restricted interest in such parcel from the decedent.

Estate means the land and personalty owned by the decedent at the time of death.

Heir means any individual or entity eligible to receive land and personalty from a decedent in an intestate proceeding.

Heirs of the first or second degree means parents, children, grandchildren, grandparents, brothers and sisters of a decedent.

Indian means—

(a) Any person who is a member of a federally recognized Indian tribe, is eligible to become a member of any Indian tribe, or is an owner (as of October 27, 2004) of an interest in trust or restricted land;

(b) Any person meeting the definition of Indian under 25 U.S.C. 479; and the regulations promulgated thereunder; and

(c) With respect to the inheritance and ownership of trust or restricted land in the State of California under 25 U.S.C. 2206, any person described in subparagraph (a) or (b) of this definition or any person who owns a trust or restricted interest in a parcel of land in that State.

Indian Tribe or Tribe means any Indian tribe, band, group, pueblo, or community for which or for the members of which the United States holds lands in trust.

Intestate means the decedent died without a valid will.

*Land* means any real property and includes within its meaning for purposes of this Code improvements permanently affixed to real property.

*Minor* means an individual who has not reached the age of majority as defined by the applicable law. For all trust and restricted property, the age of majority is 18 years of age. See 25 U.S.C. 373.

*Probate* means the legal process by which applicable tribal, Federal, or State law that affects the distribution of a decedent's estate is applied to:

- (a) Determine the heirs;
- (b) Determine the validity of wills and determine devisees;
- (c) Determine whether claims against the estate will be paid from trust funds; and
- (d) Order the transfer of any trust or restricted land or trust personalty to the heirs, devisees, or other persons or entities entitled by law to receive the funds or land.

*Purchase option at probate* refers to the process by which eligible purchasers can purchase a decedent's interest during the probate proceeding.

*Restricted property* means real property, the title to which is held by an Indian but which cannot be alienated or encumbered without the consent of the Secretary. For the purposes of probate proceedings, restricted property is treated as if it were trust property.

*Secretary* means the Secretary of the Interior or an authorized representative. The authorized representative of the Secretary for the performance of probate functions is BIA. The authorized representative of the Secretary for adjudication of probate for trust and restricted interests is OHA.

*Testate* means that the decedent executed a valid will.

*Testator* means a person who has executed a valid will.

*Trust personalty* means all funds and securities of any kind that are held in trust in an individual Indian money account (IIM account) or otherwise owned in trust by the United States for the benefit of an individual Indian.

*Trust property* means real or personal property, or an interest therein, for which the United States holds the title to the property in trust for the benefit of an individual Indian or tribe.

*Will* means a written document executed with the required formalities and intended to facilitate the passage of the testator's property upon death.

*Without regard to waste* means, with respect to a life estate interest in land, that the holder of such estate is entitled to the receipt of all income, including bonuses and royalties, from such land to the exclusion of the remainderman.

#### COMMENT—SECTION 1–200

See 25 U.S.C. 2201. Tribes may change certain definitions to suit their specific needs. Tribes may alter or add definitions for “spouse” or “child” to incorporate tribal customs or laws. The definitions for “child” and “spouse” must be consistent with the definitions of those terms in the Tribe's family law codes if applicable. All definitions must be consistent with Federal law. Certain definitions may not be changed; these definitions include but are not limited to: “Indian”, “consolidation agreements”, “land”, “purchase option at probate,” and “without regard to waste.”

Tribes do not have to use all of the definitions listed in the Model Tribal Probate Code. Additional definitions are acceptable.

### PART 3. SCOPE, JURISDICTION AND COURTS

Section	
1–300	Subject Matter Jurisdiction.
1–301	Application of Tribal Probate Codes.
1–302	Appeals.

#### COMMENT—PART 3

See 25 U.S.C. 2205. Territorial Application.

Notwithstanding any other provision of law, any Indian tribe may adopt a Tribal Probate Code to govern descent and distribution of trust or restricted lands that are—

- (a) Located within that Indian tribe's reservation; or
- (b) Otherwise subject to the jurisdiction of that Indian tribe.

Section 1–300 Subject Matter Jurisdiction.

(a) The Department of the Interior.  
(1) The Department of the Interior has exclusive jurisdiction over the adjudication of probate estates for owners of trust or restricted property. This function may not be delegated through a compact or contract.

(2) The Department of the Interior has exclusive jurisdiction in the preparation of probate packages. This function may be performed by a Tribe through a compact or contract.

(b) Tribal Courts. To the extent permitted by its Tribal constitution, and other applicable Federal and State laws, the Tribal Probate Court has jurisdiction over all non-trust subject matter relating to:

- (1) Estates of decedents, including construction of wills, determination of heirs, successors of decedents, and estates of protected persons;
- (2) Protection of minors and incapacitated persons; and

(3) Trusts that are not under the exclusive jurisdiction of the Department of Interior.

#### COMMENT—SECTION 1–300

See 25 U.S.C. 2205. The Constitution of a Tribe does not supersede AIPRA or other Federal law. The Department is not required to follow Tribal law timelines for review of codes. A Tribe may not determine a different enactment date for their tribal probate code with regard to trust and restricted property.

Section 1–301 Application of Tribal Probate Code.

When probating an estate, the Department will apply an approved Tribal Probate Code for all trust and restricted estates, subject to the jurisdiction of that Tribal Probate Code.

#### COMMENT—SECTION 1–301

See 25 U.S.C. 2205. AIPRA will be applied by the Department of Interior to determine the distribution of trust personalty in all trust and restricted estates.

In instances where the approved Tribal Probate Code is silent on an issue in a particular estate, the Department will apply AIPRA or other controlling applicable law.

Section 1–302 Appeals.

Application for appellate review, including the right to appellate review, will be governed by 43 CFR Part 4 Subpart D for all trust or restricted property estates.

#### COMMENT—SECTION 1–302

See 43 CFR Part 4. Tribes may not change the timelines for applications of *de novo* review, reopening, or rehearing.

### PART 4. REQUIREMENTS FOR TRIBAL PROBATE CODES

Section	
1–400	Submission of Tribal Probate Code to the Secretary of Interior.

1–400 Submission of Tribal Probate Code to the Secretary of Interior.

Tribal Probate Codes and Tribal Probate Code amendments containing provisions on trust and restricted lands must be submitted to the Secretary of the Interior for approval.

#### COMMENT—SECTION 1–400

See 25 U.S.C. 2205. If the Secretary disapproves a Tribal Probate Code, or an amendment to the a code, the Secretary shall include a written explanation of the reasons for the disapproval in the notice of disapproval to the Indian Tribe.

### Consistency with Federal Law and Policies

(a) *The Tribal Probate Code must be consistent with Federal law and promote the policies set forth in section 102 of the Indian Land Consolidation Act Amendments of 2000. Those policies are to:*

(1) Prevent further fractionation of trust allotments;

(2) Consolidate fractional interests and ownership of those interests into usable parcels;

(3) Consolidate fractional interests in a manner that enhances tribal sovereignty;

(4) Promote Tribal self sufficiency and self determination;

(5) Reverse the effects of the allotment policy on Indian tribes.

*Tribal Probate Codes must be consistent with Federal law. Federal law includes the Department's regulations. The proposed regulations for Indian trust and restricted estates can be found at 25 CFR Part 15, 25 CFR Part 18, 25 CFR Part 179, 43 CFR Part 30, and 43 CFR Part 4. Current probate regulations may be found at 25 CFR Part 15 and 43 CFR Part 4.*

## ARTICLE II. INTESTACY

### PART 1. INTESTATE SUCCESSION

#### Section

- 2-100 Intestate Estate.
- 2-101 Share of Surviving Spouse.
- 2-102 Intestate Succession.
- 2-103 Intestate Descent of Small Fractional Interests in Land.
- 2-104 Right of Representation.
- 2-105 Requirement that Heir Survive Decedent for 120 Hours.

#### Section 2-100 Intestate Estate.

*Rules of descent.* Any trust or restricted interest in land that is not disposed of by a valid will shall descend according to

- (a) Sections 2-101 through 2-103; and
- (b) Other applicable Federal law.

#### COMMENT—SECTION 2-100

*See 25 U.S.C. 2206.*

#### Section 2-101 Share of Surviving Spouse.

(a) If there is a surviving spouse of the decedent, the spouse shall receive a life estate, without regard to waste, in the trust or restricted lands of the decedent.

(b) If there is a surviving spouse of the decedent, the spouse shall receive the appropriate trust personalty as outlined in AIPRA. 25 U.S.C. 2206(a)(2).

(c) The remainder of the estate shall pass as set forth in Section 2-102 and 2-103.

#### COMMENT—SECTION 2-101

*See 25 U.S.C. 2206.*

#### Section 2-102 Intestate Succession.

Where there is no surviving spouse of the decedent, or there is a remainder interest pursuant to section 2-101, the trust or restricted estate or such remainder shall, subject to sections 2-100 and section 2-103, pass as follows:

(a) To those of the decedent's children who are eligible heirs in equal shares (or if one or more of such children do not survive the decedent, the children of any such deceased child who are eligible heirs, by right of representation, but only if such children of the deceased child survive the decedent).

(b) If the property does not pass under paragraph (a) of this section, to those of the decedent's surviving great-grandchildren who are eligible heirs, in equal shares.

(c) If the property does not pass under paragraph (a) or (b) of this section, to the decedent's surviving parent who is an eligible heir, and if both parents survive the decedent and are both eligible heirs, to both parents in equal shares.

(d) If the property does not pass under paragraph (a), (b), or (c) of this section, to those of the decedent's surviving siblings who are eligible heirs, in equal shares.

(e) If the property does not pass under paragraph (a), (b), (c), or (d) of this section, to the Indian tribe. Except that notwithstanding paragraph (e), an Indian co-owner (including the Indian tribe referred to in paragraph (e)) of a parcel of trust or restricted land may acquire an interest that would otherwise descend under that paragraph by paying into the estate of the decedent, before the close of the probate of the estate, the fair market value of the interest in the land; if more than one Indian co-owner offers to pay for such interest, the highest bidder shall acquire the interest.

#### COMMENT—SECTION 2-102

*See 25 U.S.C. 2206. Tribal Probate Codes may include rules of intestate succession and other tribal probate provisions that are consistent with Federal law and promote the policies of the 2000 ILCA amendments. 25 CFR 2205(a)(2)(A)(B). Tribes may not change the provisions of AIPRA regarding consolidation agreements, purchase option at probate, or determination of valuation methods.*

*Further, in intestate cases, the life estate of a surviving spouse must be "without regard to waste."*

#### Section 2-103 Intestate Descent of Small Fractional Interests in Land.

Notwithstanding the sections relating to intestacy and testamentary disposition, and subject to any

applicable Federal law, any trust or restricted interest in land in the decedent's estate that is not disposed of by a valid will; and represents less than 5 percent of the entire undivided ownership of the parcel of land of which such interest is a part, as evidenced by the decedent's estate inventory at the time of the heirship determination, shall descend in accordance with paragraphs (a) and (b).

(a) Surviving spouse. If there is a surviving spouse, and such spouse was residing on a parcel of trust or restricted land representing less than 5 percent of the entire undivided ownership of the parcel of land of which such interest is a part at the time of the decedent's death, the spouse shall receive a life estate without regard to waste in the decedent's trust or restricted interest in only such parcel, and the remainder interest in that parcel shall pass in accordance with the single heir rule.

(b) Single heir rule. Where there is no life estate created for a surviving spouse or there is a remainder interest under that paragraph, the trust or restricted interest or remainder interest that is subject to this Part shall descend, in trust or restricted status, to—

(1) The decedent's surviving child, but only if such child is an eligible heir; and if two or more surviving children are eligible heirs, then to the oldest of such children;

(2) If the interest does not pass under subparagraph (1) of this section, the decedent's surviving grandchild, but only if such grandchild is an eligible heir; and if two or more surviving grandchildren are eligible heirs, then to the oldest of such grandchildren;

(3) If the interest does not pass under subparagraph (1) or (2) of this section, the decedent's surviving great grandchild, but only if such great grandchild is an eligible heir; and if two or more surviving great grandchildren are eligible heirs, then to the oldest of such great grandchildren;

(4) If the interest does not pass under subparagraph (1), (2), or (3) of this section, then to the Indian tribe.

#### COMMENT—SECTION 2-103

*See 25 U.S.C. 2206. A Tribe may adopt a rule of intestate descent applicable to the single heir rule that differs from the order of descent set forth in AIPRA. The Secretary shall apply such rule to the intestate interest in distributing the decedent's estate but only if—*

*(a) A copy of the tribal rule is delivered to the official designated by the Secretary to receive copies of tribal rules for the purposes of this paragraph;*

(b) The tribal rule provides for the intestate inheritance of such interest by no more than 1 heir, so that the interest does not further fractionate;

(c) The tribal rule does not apply to any interest disposed of by a valid will;

(d) The decedent died on or after the effective date of the Tribal Probate Code; and

(e) The Secretary does not make a determination within 90 days after a copy of the tribal rule is delivered pursuant to item (a) that the rule would be unreasonably difficult to administer or does not conform with the requirements in item (b) or (c).

#### Section 2-104 Right of Representation.

If, under this Article, all or any part of the estate of a decedent is to pass to children of a deceased child by right of representation, that part is to be divided into as many equal shares as there are living children of the decedent and pre-deceased children who left issue who survive the decedent. Each living child of the decedent, if any, shall receive one share, and the share of each pre-deceased child shall be divided equally among the pre-deceased child's children.

#### COMMENT—SECTION 2-104

See 25 U.S.C. 2206. AIPRA sets forth a detailed and specific scheme for the right of representation and therefore may not be modified in a Tribal Probate Code. Right of representation does not refer to the single heir rule.

#### Section 2-105 Requirement That Heir Survive Decedent for 120 Hours.

In the case of intestate succession under this Article, if an individual fails to survive the decedent by at least 120 hours, as established by clear and convincing evidence—

(a) The individual shall be deemed to have predeceased the decedent for the purpose of intestate succession; and

(b) The heirs of the decedent shall be determined in accordance with this Article.

#### COMMENT—SECTION 2-105

See 25 U.S.C. 2206. AIPRA sets forth a detailed and specific scheme for the requirement that an heir survive the decedent for 120 hours and therefore may not be modified in a Tribal Probate Code.

## ARTICLE III. WILLS AND TESTAMENTARY DISPOSITION

### PART 1. WILLS

#### Section

3-100 Who May Make a Will.

3-101 Requirements for Wills.

#### Section 3-100 Who May Make a Will.

Any person 18 years of age or over and of testamentary capacity, who has any right, title, or interest in trust or restricted land or trust personalty, may dispose of trust or restricted land or trust personalty by will.

#### COMMENT—SECTION 3-100

See 25 U.S.C. 2206. A Tribe may elect a different age of majority for non trust land and personalty.

A Tribe may also want to include emancipated minors in this section for non-trust or restricted property.

#### Section 3-101 Requirements for Wills.

A will must be executed and dated in writing and attested by two disinterested adult witnesses.

#### COMMENT

See 25 CFR Part 15. The Department requires this criteria for wills devising trust or restricted property.

## PART 2. TESTAMENTARY DISPOSITION

#### Section

3-200 General Devise of an Interest in Trust or Restricted Land.

3-201 Rules of Interpretation.

3-202 Devise of Trust or Restricted Land as a Life Estate or Fee.

3-203 Invalid Devisees and Wills.

3-204 Presumption of Joint Tenancy.

#### Section 3-200 General Devise of an Interest in Trust or Restricted Land.

Subject to any applicable Federal law relating to the devise or descent of trust or restricted land, the owner of a trust or restricted interest in land may devise such interest to—

(a) Any lineal descendant of the testator;

(b) Any person who owns a pre-existing undivided trust or restricted interest in the same parcel of land;

(c) The Tribe with jurisdiction over the interest in land; or

(d) Any Indian; in trust or restricted status.

#### COMMENT—SECTION 3-200

See 25 U.S.C. 2206.

#### Section 3-201 Rules of Interpretation.

Any devise of a trust or restricted interest in land pursuant to section 3-200 to an Indian or the Tribe shall be deemed to be a devise of the interest in trust or restricted status. Any devise of a trust or restricted interest in land to a person who is only eligible to be a devisee under paragraph (a) or (b) of section 3-200 shall be presumed to be a devise of the interest in trust or restricted status unless language in such

devise clearly evidences an intent on the part of the testator that the interest is to pass as a life estate or fee interest in accordance with section 3-202.

#### COMMENT—SECTION 3-201

See 25 U.S.C. 2206.

#### Section 3-202 Devise of Trust or Restricted Land as a Life Estate or in Fee.

Except as provided for under any applicable Federal law, any trust or restricted interest in land that is not devised in accordance with section 3-200 may be devised only—

(a) As a life estate to any person, with the remainder being devised only in accordance with section 3-200 or 3-201; or

(b) Except as provided in subparagraph 3-201, as a fee interest without Federal restrictions against alienation to any person who is not eligible to be a devisee under paragraph (d) of section 3-200.

#### COMMENT—SECTION 3-202

See 25 U.S.C. 2206.

#### Section 3-203 Invalid Devisees and Wills.

(a) Land. Any trust or restricted interest in land that is not devised in accordance with the above sections or that is not disposed of by a valid will shall descend in accordance with the applicable law of intestate succession as provided for in ARTICLE II Section 2-102 and 2-103.

(b) Personalty. Any trust personalty that is not disposed of by a valid will shall descend in accordance with the applicable law of intestate succession as provided for in AIPRA.

#### COMMENT—SECTION 3-203

See 25 U.S.C. 2206. Prohibited Devise; Exceptions

(a) The Tribal Probate Code must allow the devise of an interest to:

(1) An Indian lineal descendant of the original allottee; and

(2) An Indian who is not a member of the Indian tribe with jurisdiction over the interest in the land;

(b) The Code may restrict the ability of the devisees listed in (a) to inherit so long as the code allows:

(1) Those devisees to renounce their interests to the eligible devisees as defined by the tribal code;

(2) A devisee who is the spouse or lineal descendant of the testator to reserve a life estate without regard to waste; and

(3) For the payment of fair market value as determined by the Department on the date of the decedent's death.

*Section 3-204 Joint Tenancy; Right of Survivorship.*

(a) Presumption of joint tenancy. If a testator devises trust or restricted interests in the same parcel of land to more than one person, in the absence of clear and express language in the devise stating that the interest is to pass to the devisees as tenants in common, the devise shall be presumed to create a joint tenancy with the right of survivorship in the interests involved.

(b) Exception. Paragraph (a) shall not apply to any devise of an interest in trust or restricted land where the will in which such devise is made was executed prior to June 20, 2006 (the date that is 1 year after the date on which the Secretary publishes the certification required by section 8(a)(4) of the American Indian Probate Reform Act of 2004). (25 USCS 2201 note).

*COMMENT—SECTION 3-204*

See 25 U.S.C. 2206. A Tribe may not alter the presumption of joint tenancy.

**ARTICLE IV. MISCELLANEOUS****PART I**

## Section

4-100 Amendments to the Tribal Probate Code.

*Section 4-100 Amendments to the Tribal Probate Code.*

Amendments to the Tribal Probate Code are permitted if they are consistent with AIPRA and the Department of the Interior's regulations. Amendments to a Tribal Probate Code must be approved by the Department.

*COMMENT—SECTION 4-100*

See 25 U.S.C. 2205.

[FR Doc. E7-19103 Filed 9-25-07; 8:45 am]

BILLING CODE 4310-W7-P

**DEPARTMENT OF THE INTERIOR****Bureau of Land Management**

[WY-957-07-1420-BJ-TRST]

**Notice of Filing of Plats of Survey, Nebraska**

**ACTION:** Notice of filing of plats of survey, Nebraska.

**AGENCY:** Bureau of Land Management, Interior.

**SUMMARY:** The Bureau of Land Management (BLM) is scheduled to file the plats of survey of the lands described below thirty (30) calendar days from the date of this publication in the BLM Wyoming State Office, Cheyenne, Wyoming.

**FOR FURTHER INFORMATION CONTACT:**

Bureau of Land Management, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003.

**SUPPLEMENTARY INFORMATION:** This survey was executed at the request of the Bureau of Indian Affairs and is necessary for the management of these lands. The lands surveyed are:

The plat and field notes representing the dependent resurvey of portions of the boundary between the States of Kansas and Nebraska, the east boundary, the subdivisional lines, the subdivision of section 36 and the 1927 adjusted record meanders of the right bank of the Missouri River, and the survey of a portion of the subdivision of section 36 and the metes-and-bounds survey of a portion of the as-built westerly right-of-way of Nebraska State Highway No. 7 in section 36, Township 1 North, Range 18 East, and the dependent resurvey of a portion of the boundary between the States of Kansas and Nebraska and the 1927 adjusted record meander of the right bank of the Missouri River in section 31, and the metes-and-bounds survey of a portion of the as-built westerly right-of-way of Nebraska State Highway No. 7 in section 31, Township 1 North, Range 19 East, Sixth Principal Meridian, Nebraska, was accepted August 27, 2007.

Copies of the preceding described plat and field notes are available to the public at a cost of \$1.10 per page.

Dated: September 20, 2007.

**John P. Lee,**

*Chief Cadastral Surveyor, Division of Support Services.*

[FR Doc. E7-18946 Filed 9-25-07; 8:45 am]

BILLING CODE 4467-22-P

**DEPARTMENT OF THE INTERIOR****National Park Service****Notice of Meetings for the National Park Service (NPS) Subsistence Resource Commission (SRC) Program Within the Alaska Region**

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of meetings for the National Park Service (NPS) Subsistence Resource Commission (SRC) program within the Alaska Region.

**SUMMARY:** The NPS announces the joint SRC meeting schedule for the following areas: Cape Krusenstern National Monument and Kobuk Valley National Park. The purpose of this joint meeting is to discuss NPS subsistence management issues and continue work on subsistence hunting program recommendations. This joint meeting is

open to the public and will have time allocated for public testimony. The public is welcome to present written or oral comments. The meeting will be recorded and a summary will be available upon request from the Superintendent for public inspection approximately six weeks after each meeting. The NPS SRC program is authorized under Title VIII, section 808 of the Alaska National Interest Lands Conservation Act, (Pub. L. 96-487), to operate in accordance with the provisions of the Federal Advisory Committee Act.

**DATES:** The Cape Krusenstern National Monument SRC and Kobuk Valley National Park SRC joint meeting will be held on Wednesday, October 3, 2007 and Thursday, October 4, 2007, from 9 a.m. to 5 p.m., Alaska Standard Time. The meeting may end early if all business is finished.

*Location:* U.S. Fish and Wildlife Service, Conference Room, Kotzebue, AK, telephone: (907) 442-3799.

**FOR FURTHER INFORMATION CONTACT:**

Willie Goodwin, Subsistence Manager, telephone: (907) 442-3890, or Ken Adkisson, Subsistence Manager, telephone: (907) 433-6104 at Western Arctic National Parklands National Park Service, P.O. Box 1029, Kotzebue, AK 99752.

**SUPPLEMENTARY INFORMATION:** SRC meeting location and dates may need to be changed based on weather or local circumstances. If the meeting dates and location are changed, notice of the new meeting will be announced on local radio stations and published in local newspapers.

The agenda for the joint meeting includes the following:

1. Call to order (SRC Chairs).
2. SRC Roll Call and Confirmation of Quorums.
3. SRC Chairs and Superintendent's Welcome and Introductions.
4. Review and Approve Agenda.
5. Status of SRC Membership.
6. SRC Member Reports.
7. Superintendent and NPS Staff Reports.
8. Federal Subsistence Board Update.
9. State of Alaska Board Actions Update.
10. New Business.
11. Agency and Public Comments.
12. SRC Work Session.
13. Set time and place of next SRC meeting.
14. Adjournment.