

Union Calendar No. 419

109TH CONGRESS
2^D SESSION

H. R. 512

[Report No. 109-694]

To require the prompt review by the Secretary of the Interior of the long-standing petitions for Federal recognition of certain Indian tribes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 2005

Mr. POMBO introduced the following bill; which was referred to the Committee on Resources

SEPTEMBER 28, 2006

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To require the prompt review by the Secretary of the Interior of the longstanding petitions for Federal recognition of certain Indian tribes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. PROMPT CONSIDERATION OF CERTAIN PETI-**
2 **TIONS REQUESTING FEDERAL RECOGNITION**
3 **AS AN INDIAN TRIBE.**

4 (a) TIME PERIOD FOR PROPOSED FINDING.—Not
5 later than 6 months after the date of the enactment of
6 this Act, the Secretary shall publish a proposed finding
7 with respect to the petition for Federal recognition of each
8 eligible tribe consistent with part 83 of title 25, Code of
9 Federal Regulations.

10 (b) TIME PERIOD FOR FINAL DETERMINATION.—
11 Not later than one year after the date of the enactment
12 of this Act, the Secretary shall publish a final determina-
13 tion with respect to the petition for Federal recognition
14 of each eligible tribe.

15 (c) NOTIFICATION; OPT IN.—

16 (1) NOTIFICATION OF TRIBES.—Not later than
17 45 days after the date of the enactment of this Act,
18 the Secretary shall notify, in writing, all potentially
19 eligible tribes that they may opt into the expedited
20 procedure for proposed findings and final determina-
21 tions under this Act and of the provisions of para-
22 graph (2).

23 (2) OPT IN.—If, not later than 90 days after
24 the date of the enactment of this Act, a potentially
25 eligible tribe notifies the Secretary, in writing, that
26 the potentially eligible tribe elects to opt into the ex-

1 pedited procedures under this Act, the potentially el-
2 igible tribe shall be considered an eligible tribe for
3 the purposes of this Act. Potentially eligible tribes
4 shall not be considered eligible tribes for the pur-
5 poses of this Act if notification is not made by the
6 potentially eligible tribe in accordance with this
7 paragraph.

8 (d) NUMBER OF MEMBERS NOT A FACTOR.—The
9 number of persons listed on the membership roll contained
10 in a petition for Federal recognition of an eligible tribe
11 shall not be taken into account in considering the petition,
12 except that the Secretary may review the eligibility of indi-
13 vidual members or groups listed in a petition in accord-
14 ance with the provisions of part 83 of title 25, Code of
15 Federal Regulations.

16 (e) EFFECT OF FAILURE TO COMPLY.—If the Sec-
17 retary fails to publish a proposed finding required by sub-
18 section (a) or a final determination required by subsection
19 (b) by the end of the time period required for the proposed
20 finding or final determination by such subsections, the rel-
21 evant eligible tribe may seek in the appropriate United
22 States district court a determination by the court of
23 whether the eligible tribe should be recognized as an In-
24 dian tribe in accordance with the criteria specified in sec-
25 tion 83.7 of title 25, Code of Federal Regulations. In any

1 such action, the court shall treat such failure by the Sec-
2 retary as final agency action.

3 (f) REVIEW OF ADVERSE DECISION.—If the final de-
4 termination required by subsection (b) refuses to recognize
5 the eligible tribe as an Indian tribe, the eligible tribe may
6 seek, during the one-year period beginning on the date on
7 which the final determination is published, a review of the
8 determination in the appropriate United States district
9 court, notwithstanding the availability of other adminis-
10 trative remedies.

11 (g) CONSIDERATION OF OTHER PETITIONS.—Until
12 the Secretary has published a proposed finding with re-
13 spect to the petition of each eligible tribe as required
14 under subsection (a), no other petition for recognition as
15 an Indian tribe may be processed except those listed as
16 having a status of “Active” or “In Post-Final Decision
17 Appeal Process” by the Department of the Interior on
18 July 1, 2004.

19 (h) NO CHANGE IN CRITERIA.—Nothing in this Act
20 shall be construed to change the criteria established by
21 the Department of the Interior to determine whether or
22 not a petitioner meets the requirements to be a federally
23 recognized tribe.

24 (i) DEFINITIONS.—For the purposes of this Act, the
25 following definitions apply:

1 (1) ELIGIBLE TRIBE.—The term “eligible
2 tribe” means a tribe that—

3 (A) has made an initial application for rec-
4 ognition as an Indian tribe to the Department
5 of the Interior before October 17, 1988;

6 (B) is listed as having a status of “Ready,
7 Waiting for Active Consideration” by the De-
8 partment of the Interior on July 1, 2004; and

9 (C) not later than 90 days after the date
10 of the enactment of this Act, notifies the Sec-
11 retary, in writing, that it opts to have its peti-
12 tion for recognition as an Indian tribe consid-
13 ered under the expedited procedure for pro-
14 posed findings and final determinations under
15 this Act.

16 (2) POTENTIALLY ELIGIBLE TRIBE.—The term
17 “potentially eligible tribe” means a tribe that—

18 (A) has made an initial application for rec-
19 ognition as an Indian tribe to the Department
20 of the Interior before October 17, 1988;

21 (B) is listed as having a status of “Ready,
22 Waiting for Active Consideration” by the De-
23 partment of the Interior on July 1, 2004; and

24 (C) has not notified the Secretary, in writ-
25 ing, whether or not it opts to have its petition

1 for recognition as an Indian tribe considered
2 under the expedited procedure for proposed
3 findings and final determinations under this
4 Act.

5 (3) SECRETARY.—The term “Secretary” means
6 the Secretary of the Interior, or a designee of the
7 Secretary.

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