

§ 18.1

18.307 May a tribe appeal approval or disapproval of a single heir rule?

Subpart E—Information and Records

18.401 How does the Paperwork Reduction Act affect this part?

AUTHORITY: 5 U.S.C. 301; 25 U.S.C. 2, 9, 372–74, 410, 2201 *et seq.*; 44 U.S.C. 3101 *et seq.*; 25 CFR part 15; 43 CFR part 4.

SOURCE: 73 FR 67283, Nov. 13, 2008, unless otherwise noted.

Subpart A—General Provisions

§ 18.1 What is the purpose of this part?

This part establishes the Department's policies and procedures for reviewing and approving or disapproving tribal probate codes, amendments, and single heir rules that contain provisions regarding the descent and distribution of trust and restricted lands.

§ 18.2 What definitions do I need to know?

Act means the Indian Land Consolidation Act and its amendments, including the American Indian Probate Reform Act of 2004 (AIPRA), Public Law 108–374, as codified at 25 U.S.C. 2201 *et seq.*

Day means a calendar day.

Decedent means a person who is deceased.

Department means the Department of the Interior.

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

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

Indian means, for the purposes of the Act:

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

(2) Any person meeting the definition of Indian under 25 U.S.C. 479; or

(3) 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 paragraph (1) or (2) of this definition or any person who owns a trust or restricted interest in a parcel of such land in that State.

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Intestate means that the decedent died without a will.

OHA means the Office of Hearings and Appeals within the Department of the Interior.

Restricted lands means real property, the title to which is held by an Indian but which cannot be alienated or encumbered without the Secretary's consent. For the purpose of probate proceedings, restricted lands are treated as if they were trust lands. Except as the law may provide otherwise, the term "restricted lands" as used in this part does not include the restricted lands of the Five Civilized Tribes of Oklahoma or the Osage Nation.

Testator means a person who has executed a will.

Trust lands means real property, or an interest therein, the title to which is held in trust by the United States for the benefit of an individual Indian or tribe.

Trust personalty means all tangible personal property, funds, and securities of any kind that are held in trust in an IIM account or otherwise supervised by the Secretary.

We or *us* means the Secretary or an authorized representative of the Secretary.

Subpart B—Approval of Tribal Probate Codes

§ 18.101 May a tribe create and adopt its own tribal probate code?

Yes. A tribe may create and adopt a tribal probate code.

§ 18.102 When must a tribe submit its tribal probate code to the Department for approval?

The tribe must submit its probate code to the Department for approval if the tribal probate code contains provisions regarding the descent and distribution of trust and restricted lands.

§ 18.103 Which provisions within a tribal probate code require the Department's approval?

Only those tribal probate code provisions regarding the descent and distribution of trust and restricted lands require the Department's approval.