25 Main St
South Grafton, MA 01560
774-317-9138
office@nipmucnation.org

September 17, 2013

Elizabeth Appel
Office of Regulatory Affairs & Collaborative Action
U.S. Department of the Interior
1849 C Street, NW - MS 4141
Washington, DC 20240

Dear Ms. Appel,

The Nipmuc Nation is a state-recognized tribe in the Commonwealth of Massachusetts. We occupy the Hassanamesit Reservation in Massachusetts, the only land continuously occupied by Native people in the Commonwealth. As a Nation, we have had substantial experience with the process of federal acknowledgment. On April 22, 1980, our sachem Zara CiscoeBrough submitted a Letter of Intent beginning our ongoing battle to establish government-to-government relations with the United States.

In January of 2001, we received a Proposed Positive Finding signed by then Assistant Secretary- Indian Affairs Kevin Gover. Within days, that positive finding was placed 'on hold' by the newly sworn-in Bush Administration. On October 1, 2001, a proposed negative finding for the Nipmuc Nation was published in the Federal Register and a Final Determination Against Federal Acknowledgment was published on June 25, 2004. Our subsequent appeals were halted in January 2008.

The Traditional Government of the Nipmuc Nation does applaud and support the Assistant Secretary's efforts to pay heed to multiple critics of the federal acknowledgment process. We agree that the current process is flawed and does not favor or support Native peoples. Outlined below are our specific suggestions and comments regarding the proposed changes in the acknowledgment process and the preliminary discussion draft.

83.4
We are in favor of eliminating the Letter of Intent which will improve the process by getting rid of an unnecessary step.

83.5, 83.6
We do not think that a standard form for petitions would be the right fit for everyone. It would be too restrictive. There should not be any page limits imposed. Content over quantity should be the focus.

83.6 (d)
“Preponderance of the evidence” and “reasonable likelihood” should be defined for the reader in a footnote, as they are legal terms applying to the review and application of evidence and a clearer understanding will help petitions understand the evaluation process and make it more transparent.

83.6 (e)
“time periods for which evidence is limited or not available” -

A clearer definition of “time periods” and how many years or decades are allowed to exist where “evidence is limited or not available” should be provided. A clearer definition will alleviate perceptions that the review process by OFA can be uneven or capricious and document a fair and equal process for all tribes being evaluated - making it more transparent.

83.6 (g)
“Any suitable evidence” is a very vague term. Can examples or a definition be provided to offer guidance to petitioners, as it is with “distinct community”?

83.7
We are in favor of Adjustment in Criteria but would like more objective criteria that can be quantifiable and not subject to differences in interpretation, i.e. “significant”.

83.7 (a)
We agree with the deletion of part (a). External identification of a petition as an Indian group is arbitrary and depends upon an individual or organization's personal ideals, influences and prejudices.

83.7 (b) & (c)
We agree with the use of the date 1934 (Indian Reorganization Act). We would include the reasoning behind using this date and remove all references to historic or historical tribes.

Again, vague meaning to the terms “consistent” and “significant” - is the BIA looking for specific time periods to be met? If so, that should be made clearer to petitioners. Or is this also evaluated on a case-by-case basis, as “substantial interruption” is? If so, that should be stated. “Significant” is a very vague and ambiguous term and does not help petitioners understand the precise type of evidence sought by the BIA to demonstrate “community”.

83.7 (e)
While the rest of the revised regulations use 1934 as a benchmark, section (e) continues to use “historical Indian tribe(s),” indicating that a different time frame is used to determine genealogy. This does not seem congruent with the rest of the revisions in the regulations.

83.10 (f)
We are in favor of the Expedited Negative finding so that tribes are not waiting for years or decades only to receive a negative finding in the end.

83.10 (g)
We are in favor of Expedited Favorable Finding

83.10 (l)-(r)
We support this measure - “A petitioner that has been denied Federal Acknowledgment under previous regulations may re-petition if it proves by a preponderance of evidence that change from the previous version to new version of regulations warrants reversal of the final determination.”

Respectfully Submitted,

The Traditional Government of the Nipmuc Nation
Cheryll Toney Holley, Chief, Nipmuc Nation
Walter Vickers, Chief Emeritus, Nipmuc Nation
The Elders Council of the Nipmuc Nation, Sydney Schuyler, Chairperson