

**(4) Trust land**

The term “trust land” means land, the title to which is held by the United States in trust for the benefit of an Indian tribe or individual.

**(5) Restricted land**

The term “restricted land” means any land, the title to which is held in the name of an Indian or Indian tribe subject to restrictions by the United States against alienation.

(Pub. L. 106-568, title VII, § 703, Dec. 27, 2000, 114 Stat. 2913.)

**§ 1041b. Federal recognition, trust relationship, and program eligibility****(a) Federal recognition**

The Federal recognition of the Tribe and the trust relationship between the United States and the Tribe are hereby reaffirmed. Except as otherwise provided in this subchapter, the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 501 et seq.) (commonly known as the “Oklahoma Indian Welfare Act”), and all laws and rules of law of the United States of general application to Indians, Indian tribes, or Indian reservations which are not inconsistent with this subchapter shall apply to the Tribe, and to its members and lands. The Tribe is hereby recognized as an independent tribal entity, separate from the Cherokee Nation or any other Indian tribe.

**(b) Program eligibility****(1) In general**

Subject to the provisions of this subsection, the Tribe and its members are eligible for all special programs and services provided by the United States to Indians because of their status as Indians.

**(2) Continuation of benefits**

Except as provided in paragraph (3), the members of the Tribe who are residing on land recognized by the Secretary to be within the Cherokee Nation and eligible for Federal program services or benefits through the Cherokee Nation shall receive such services or benefits through the Cherokee Nation.

**(3) Administration by Tribe**

The Tribe shall be eligible to apply for and administer the special programs and services provided by the United States to Indians because of their status as Indians, including such programs and services within land recognized by the Secretary to be within the Cherokee Nation, in accordance with applicable laws and regulations to the same extent that the Cherokee Nation is eligible to apply for and administer programs and services, but only—

(A) if the Cherokee Nation consents to the operation by the Tribe of federally funded programs and services;

(B) if the benefits of such programs or services are to be provided to members of the Tribe in areas recognized by the Secretary to be under the jurisdiction of the Tribe and outside of land recognized by the Secretary to be within the Cherokee Nation, so long as those members are not receiving such programs or services from another Indian tribe; or

(C) if under applicable provisions of Federal law, the Cherokee Nation is not eligible to apply for and administer such programs or services.

**(4) Duplication of services not allowed**

The Tribe shall not be eligible to apply for or administer any Federal programs or services on behalf of Indians<sup>1</sup> recipients if such recipients are receiving or are eligible to receive the same federally funded programs or services from the Cherokee Nation.

**(5) Cooperative agreements**

Nothing in this section shall restrict the Tribe and the Cherokee Nation from entering into cooperative agreements to provide such programs or services and such funding agreements shall be honored by Federal agencies, unless otherwise prohibited by law.

(Pub. L. 106-568, title VII, § 704, Dec. 27, 2000, 114 Stat. 2914.)

## REFERENCES IN TEXT

The Oklahoma Indian Welfare Act, referred to in subsec. (a), is act June 26, 1936, ch. 831, 49 Stat. 1967, as amended, also popularly known as the Oklahoma Welfare Act, which is classified generally to subchapter VIII (§501 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 501 of this title and Tables.

**§ 1041c. Establishment of a tribal roll****(a) Approval of base roll**

Not later than 180 days after December 27, 2000, the Tribe shall submit to the Secretary for approval its base membership roll, which shall include only individuals who are not members of any other federally recognized Indian tribe or who have relinquished membership in such tribe and are eligible for membership under subsection (b) of this section.

**(b) Base roll eligibility**

An individual is eligible for enrollment on the base membership roll of the Tribe if that individual—

(1) is on, or eligible to be on, the membership roll of Cherokee Shawnees maintained by the Tribe prior to December 27, 2000, which is separate from the membership roll of the Cherokee Nation; or

(2) is a lineal descendant of any person—

(A) who was issued a restricted fee patent to land pursuant to Article 2 of the Treaty of May 10, 1854, between the United States and the Tribe (10 Stat. 1053); or

(B) whose name was included on the 1871 Register of names of those members of the Tribe who moved to, and located in, the Cherokee Nation in Indian Territory pursuant to the Agreement entered into by and between the Tribe and the Cherokee Nation on June 7, 1869.

**(c) Future membership**

Future membership in the Tribe shall be as determined under the eligibility requirements set out in subsection (b)(2) of this section or under such future membership ordinance as the Tribe may adopt.

<sup>1</sup> So in original. Probably should be “Indian”.

(Pub. L. 106-568, title VII, § 705, Dec. 27, 2000, 114 Stat. 2915.)

**§ 1041d. Organization of the Tribe; tribal constitution**

**(a) Existing constitution and governing body**

The existing constitution and bylaws of the Cherokee Shawnee and the officers and members of the Shawnee Tribal Business Committee, as constituted on December 27, 2000, are hereby recognized respectively as the governing documents and governing body of the Tribe.

**(b) Constitution**

Notwithstanding subsection (a) of this section, the Tribe shall have a right to reorganize its tribal government pursuant to section 503 of this title.

(Pub. L. 106-568, title VII, § 706, Dec. 27, 2000, 114 Stat. 2915.)

**§ 1041e. Tribal land**

**(a) Land acquisition**

The Tribe shall be eligible to have land acquired in trust for its benefit pursuant to section 465 of this title and section 501 of this title.

**(b) Restriction**

No land recognized by the Secretary to be within the Cherokee Nation or any other Indian tribe may be taken into trust for the benefit of the Tribe under this section without the consent of the Cherokee Nation or such other tribe, respectively.

(Pub. L. 106-568, title VII, § 707, Dec. 27, 2000, 114 Stat. 2915; Pub. L. 109-59, title X, § 10213, Aug. 10, 2005, 119 Stat. 1939.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-59 struck out “(1) In general” before “The Tribe” and heading and text of par. (2). Text read as follows: “Notwithstanding any other provision of law but subject to subsection (b) of this section, if the Tribe transfers any land within the boundaries of the State of Oklahoma to the Secretary, the Secretary shall take such land into trust for the benefit of the Tribe.”

**§ 1041f. Jurisdiction**

**(a) In general**

The Tribe shall have jurisdiction over trust land and restricted land of the Tribe and its members to the same extent that the Cherokee Nation has jurisdiction over land recognized by the Secretary to be within the Cherokee Nation and its members, but only if such land—

(1) is not recognized by the Secretary to be within the jurisdiction of another federally recognized tribe; or

(2) has been placed in trust or restricted status with the consent of the federally recognized tribe within whose jurisdiction the Secretary recognizes the land to be, and only to the extent that the Tribe's jurisdiction has been agreed to by that host tribe.

**(b) Rule of construction**

Nothing in this subchapter shall be construed to diminish or otherwise limit the jurisdiction of any Indian tribe that is federally recognized

on the day before December 27, 2000, over trust land, restricted land, or other forms of Indian country of that Indian tribe on such date.

(Pub. L. 106-568, title VII, § 708, Dec. 27, 2000, 114 Stat. 2916.)

**§ 1041g. Individual Indian land**

Nothing in this subchapter shall be construed to affect the restrictions against alienation of any individual Indian's land and those restrictions shall continue in force and effect.

(Pub. L. 106-568, title VII, § 709, Dec. 27, 2000, 114 Stat. 2916.)

**§ 1041h. Treaties not affected**

No provision of this subchapter shall be construed to constitute an amendment, modification, or interpretation of any treaty to which a tribe referred to in this subchapter is a party nor to any right secured to such a tribe or to any other tribe by any treaty.

(Pub. L. 106-568, title VII, § 710, Dec. 27, 2000, 114 Stat. 2916.)

SUBCHAPTER L—TILLAMOOK AND NEHALEM BANDS OF THE TILLAMOOK INDIANS: DISTRIBUTION OF JUDGMENT FUND

**§ 1051. Membership roll; preparation; eligibility for enrollment; filing of applications; finality of Secretary's decision**

The Secretary of the Interior shall prepare a roll of all persons who meet both of the following requirements for eligibility: (1) They were born on or prior to and living on August 30, 1964; and (2) their name or the name of an ancestor through whom they claim eligibility appears either on the census roll of the Naalem (Nehalem) Band of Tillamook Indians dated January 28, 1898, or on the annuity payment roll of the Tillamook Band of Tillamook Indians prepared in 1914 under the provisions of the Act of August 24, 1912 (37 Stat. L., 519-535). Applications for enrollment must be filed with the area director of the Bureau of Indian Affairs, Portland, Oregon, within six months after August 30, 1964, on forms prescribed for that purpose. The determination of the Secretary regarding the eligibility for enrollment of an applicant shall be final.

(Pub. L. 88-506, § 1, Aug. 30, 1964, 78 Stat. 639.)

REFERENCES IN TEXT

Act of August 24, 1912, referred to in text, is act Aug. 24, 1912, ch. 388, 37 Stat. 519-534. Provisions of the act relating to the annuity payment roll of the Tillamook Band of the Tillamook Indians were not classified to the Code.

**§ 1052. Distribution of funds; pro rata basis**

The Secretary is authorized and directed to withdraw the funds on deposit in the Treasury of the United States to the credit of the Nehalem and Tillamook Bands of Indians that were appropriated by the Act of May 17, 1963 (77 Stat. 43), in satisfaction of a judgment obtained by the bands in the Indian Claims Commission against the United States in Docket Numbered