



(4337-15)

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

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Court of Indian Offenses Serving the Kewa Pueblo (previously listed as the Pueblo of Santo Domingo)

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Waiver of Certain Parts of 25 CFR part 11.

SUMMARY: This notice follows the action establishing a Court of Indian Offenses (also known as a CFR Court) for the Kewa Pueblo (previously listed as the Pueblo of Santo Domingo). It provides notice that the application of certain sections of the regulations for the Court of Indian Offenses serving the Kewa Pueblo have been waived to allow the Bureau of Indian Affairs (BIA) to unilaterally establish a CFR court. It also allows the Assistant Secretary – Indian Affairs to appoint a magistrate without the need for confirmation by the Tribal governing body.

DATES: The waiver took effect on October 7, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action – Indian Affairs, (202) 273-4680; elizabeth.appel@bia.gov.

SUPPLEMENTARY INFORMATION:

Courts of Indian Offenses operate in those areas of Indian country where Tribes retain jurisdiction over Indians that is exclusive of State jurisdiction but where Tribal courts have not

been established to fully exercise that jurisdiction. The current Traditional Court System of the Kewa Pueblo is unable to provide minimum protections for due process as set forth in 25 U.S.C. 1302(a). To ensure the administration of justice on the Pueblo, BIA has taken steps to establish a Court of Indian Offenses to protect the rights of individuals and ensure public safety. Therefore, the Secretary determined, in his discretion, that it is necessary to waive 25 CFR 11.104(a) and 25 CFR 11.201(a) on the Kewa Pueblo to ensure that the BIA can establish and operate a Court of Indian Offenses immediately.

Section 11.104(a) provides that 25 CFR 11 applies to Tribes listed under § 11.100 until either BIA and the Tribe enter into a contract or compact for the Tribe to provide judicial services, or until the Tribe has put into effect a law-and-order code that meets certain requirements.

Section 11.201(a) provides that the Assistant Secretary – Indian Affairs appoints a magistrate subject to confirmation by a majority vote of the Tribal governing bodies.

The waiver allows BIA to unilaterally establish a CFR court and allows the Assistant Secretary – Indian Affairs to appoint a magistrate without the need for confirmation by the Tribal governing body.

Dated: February 4, 2020.

Tara Sweeney,

Assistant Secretary — Indian Affairs.

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