

Background on 43 CFR Part 50: Procedures for Reestablishing a Formal Government-to-Government Relationship with the Native Hawaiian Community

- On Tuesday, September 29, the Department of the Interior announced that it would issue a proposed rule, “Procedures to Reestablish a Government-to-Government Relationship with the Native Hawaiian Community.”
- The proposed rule is a historic step forward in the reconciliation process that began in 1993, when Congress offered an apology to Native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii.
- The proposed rule follows extensive outreach and meetings with the Native Hawaiian community as part of the Advance Notice of Proposed Rulemaking (ANPRM).
- Published in 2014, the ANPRM posed a series of questions related to whether the Secretary of the Interior should propose an administrative rule that would facilitate the reestablishment of a government-to-government relationship with the Native Hawaiian community.
- The ANPRM comment period resulted in over 5,000 written comments and over 40 hours of oral testimony. An overwhelming majority of commenters urged the Department to move forward with a federal rule to reestablish a government-to-government relationship.
- Reestablishing a government-to-government relationship would allow the United States to more effectively implement the special political and trust relationship that Congress established with the Native Hawaiian community through enacting more than 150 statutes benefiting them, including the Native Hawaiian Education Act and the Native Hawaiian Health Care Act.
- Years of advocacy by the Hawaiian congressional delegation, State leadership, and the Native Hawaiian community built the foundation for the proposed rule, which creates a pathway for the reorganized Native Hawaiian government to reestablish a government-to-government relationship with the United States.
- The proposed rule establishes an administrative procedure and criteria that the Secretary would apply if the Native Hawaiian community forms a unified government that then seeks a formal government-to-government relationship with the United States.
- The decision to reorganize a Native Hawaiian government and to establish a formal government-to-government relationship is a decision for the Native Hawaiian community; the proposed rule does not attempt to reorganize a Native Hawaiian government or dictate the form or structure of that government.
- The United States has a longstanding policy of supporting self-determination and self-governance for Native people. Yet the benefits of the government-to-government relationship that the United States has with federally recognized Indian tribes have long been denied Native Hawaiians, one of the nation’s largest indigenous communities.
- Native Hawaiians, if they form a unified government, could choose to seek a government-to-government relationship with the United States and significantly benefit from that relationship.
- A government-to-government relationship provides Native governments enhanced economic development, greater flexibility to preserve their distinct cultures and traditions, and special status under federal law that enables them to, for example, exercise true powers of self-government over issues directly impacting their people: membership, family law, contractual disputes, and other government affairs.