



TRIBAL REGULATORY COMMISSION

TRC 2016-01

BOARD RESOLUTION TO APPROVE AND ISSUE NOTICE OF PROPOSED RULEMAKING ACTIONS FOR TITLE 33 – TERO REGULATIONS REGARDING REGISTRATION CATEGORIES

WHEREAS, the Tribal Council enacted Title 33 (Tribal Employment Rights) on March 27, 1988 which was subsequently repealed and replaced in its entirety on March 17, 2009 to establish an administrative function within Tribal Government to oversee provisions of Indian preference, fair employment, right to work, and complaints and enforcement for employment-related issues;

WHEREAS, Section 33-2-2 enumerates the powers and duties of the TERO Commission is to “[e]stablish rules, regulations, and policies governing all activities of the Commission and TERO Office consistent with this Title and Tribal law...”;

WHEREAS, as a part of the restructuring of Tribal Government, the Tribal Regulatory Commission was established on May 7, 2015 by TCO 2015-12 and is now and hereafter delegated with the regulatory oversight under Section 51-1-3 to “promulgate and enforce rules and regulations for employment rights issues” and “manage and monitor the activities of the TERO Office consistent with Title 33”;

WHEREAS, the Tribal Regulatory Commission also has delegated authority under 51-2-3(b) to “[i]mplement, administer, and enforce all of the specific powers and duties delegated to it herein and as set forth in Title 33 (Tribal Employment Rights)”;

WHEREAS, the Tribal Regulatory Commission desires to assist the TERO Office with amending TERO Regulations to primarily revise the registration categories for TERO-certified businesses in construction and non-construction areas and is authorized pursuant to Title 33 to establish new registration categories in TERO Regulations as follows;

- The TERO Office also has authority under 33-2-5(a) as a part of the Powers and Duties of the TERO Office to “[e]stablish procedures, forms and internal policies necessary to carry out the purposes of this Title”; and
- Section 33-2-6 (Certification of Businesses), under subpart (c), states “[t]he TERO Office shall be responsible for establishing categories of business areas for products and/or services”;

WHEREAS, in accordance with Section 51-2-4(a), the Commission is required to issue a notice of proposed rulemaking action and to provide thirty (30) days' notice; and

WHEREAS, in accordance with Section 51-2-4(c) and (d) the Commission is required to receive written comments and hold a public hearing on any regulations promulgated.

NOW THEREFORE BE IT RESOLVED that the Commission hereby approves and issues the following Notice of Proposed Rulemaking Action:

**NOTICE OF PROPOSED RULEMAKING ACTION REGARDING THE
REGISTRATION OF TERO-CERTIFIED BUSINESSES**

Purpose: The Tribal Regulatory Commission needs to promulgate TERO Regulations to include, but not limited to, to revise the registration categories into three available types which include commercial construction, residential construction, and vendor goods and/or services; provide opportunity for a Certified Business to register in additional categories during the certification period; clarify that a Business Applicant is not certified until a registration category is assigned; revise distribution of Certified Business List to coincide with new Tribal Government structure.

Summary: The proposed regulations, among other things, are detailed and established as follows:

- 1) Generally, throughout the regulations, Applicant and Certified Business is reviewed and changed accordingly,
- 2) Chapter 1 is amended as follows:
 - Section 33.1.2.01 is revised to change the definition and title of "Applicant" to "Business Applicant" to clarify the amended definition of "Business Applicant", which removes two words "and registration".
 - Certified Business is added as a definition under Section 33.1.2.02 as it has a distinct meaning and is capitalized throughout regulations where it applies.
 - The remainder of the section is renumbered.
- 3) Chapter 2 is amended as follows:
 - Section 33.2.1 is amended to establish that a Business Applicant is not considered certified until a registration category has been assigned.
 - Section 33.2.1.03 deleted quarterly certification deadlines to allow Business Applicant to become certified anytime during the year.

- Section 33.2.4 was amended to reflect a heading that identifies Special Rules for Broker, Manufacturing Companies, and Mentorship Applicants.
 - Section 33.2.5 was reassigned to Brokers to establish that a Business Applicant under this section must follow special rules for Indian Preference certification.
 - Section 33.2.6 was reassigned to add Manufacturing Companies to establish that a Business Applicant under this section must follow special rules for Indian Preference certification.
 - Section 33.2.7 for Mentorships was renumbered and it also established that a Business Applicant under this section must follow special rules for Indian Preference certification.
- 4) Chapter 3 is amended as follows:
- The new revisions in Chapter 3 will be used by the TERO Office to register construction (commercial and residential) and vendor businesses in categories related to their business area for goods and/or services.
 - Section 33.3.1 is revised overall and expanded to include three general types of business registration categories: 1) Commercial Construction; 2) Residential Construction; and 3) Vendor Goods and/or Services.
 - Section 33.3.1.01 provides a general overview of how registration categories are established and how other state licensure requirements will be evaluated during the certification process. This section also defines all three registration categories and the specific licensure or certification requirements/limitations.
 - Section 33.3.1.03 revised to allow a Certified Business to be registered in additional registration categories during the certification period.
 - Section 33.3.4 heading was retitled to show the distinct categories for Commercial Construction and which specific categories apply to monetary licensure limitation.
 - Section 33.3.15 added as a new registration category for Residential Construction with certification requirements and monetary limitations established.
 - Section 33.3.16 heading was retitled from Categories under Non-Construction Goods and/or Services to Vendor Goods and/or Services and four (4) individual categories were clarified.
- 5) Chapter 4 is amended as follows:
- Section 33-4-1 amended to include quarterly timelines for the distribution of the Certified Business List.
 - Section 33.4.2 amended to update the contact list for distribution of the Certified Business List based on Tribal Government restructuring.
 - Section 33.4.3 amended to clarify interim notification will be provided when additional registration categories are approved.

The exact language of the proposed regulations is attached.

Comments: The deadline for written comments shall be 9:00 a.m. on Monday, August 29, 2016. Written comments shall be mailed to 5811 Jack Springs Road, Atmore, AL 36502 or emailed to cwhite@pci-nsn.gov.

Hearing: A public meeting to address the comments shall be held on Wednesday, August 31, 2016 at 9:00 a.m. in the Tribal Council Chambers in Building 500.

BE IT FURTHER RESOLVED, that per this Notice of Proposed Rulemaking Action, the Commission shall:

- 1) Provide this Notice of Proposed Rulemaking Action to the Tribal Council and post this Notice at Tribal offices in accordance with Section §§51-2-4(a) and (b);
- 2) Receive written comments at the Tribal Regulatory Division Office in accordance with §51-2-4(c) at the designated address of 5811 Jack Springs Road, Atmore, AL 36502 or by email to cwhite@pci-nsn.gov by 9:00 a.m. on Thursday, August 29, 2016;
- 3) Hold a hearing on Wednesday, August 31, 2016 at 9:00 a.m. in the Tribal Council Chambers to address all comments received in accordance with §51-2-4(d); and
- 4) Provide final Regulations in writing to the Tribal Council in accordance with §51-2-4(e).

APPROVAL

I, the Board Chairman of the Tribal Employment Rights Commission, hereby affix my signature to this Board Resolution authorizing it to become official on this 26th day of July, 2016.

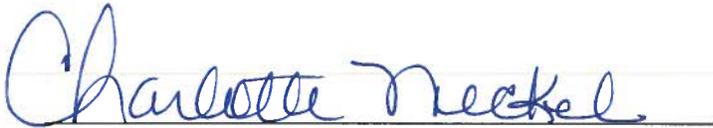


Cornelia Miller, Chairman
Tribal Regulatory Commission

CERTIFICATION

I, the Secretary of the Tribal Regulatory Commission, certify that the following is a true and accurate reflection of the decision made by an official meeting of the Board, with six (6) members present and voting on the 26th day of July, 2016, and the vote of the Board members is reflected in the following tally:

Cornelia Miller, Board Chairman	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> ABS
Wayne Colbert, Board Vice-Chairman	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> ABS
Charlotte Meckel, Board Secretary	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> ABS
Linda Brooks, Board Treasurer	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> ABS
William "Joey" Selzer, At-Large	<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> ABS
Patrick Strickland, At-Large	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> ABS
Sherrell Hendrickson, At-Large	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> ABS



Charlotte Meckel, Secretary
Tribal Regulatory Commission