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INDIAN LAW ALERT
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The Department of the Interior announced today its proposed reform of federal surface leasing regulations for American Indian lands held in trust by the United States. The new leasing regulation will apply to residential, commercial and renewal energy development on Indian lands. The DOI's press release, which includes a link to the proposed rule, a chart that compares the existing and proposed regulation and a Q&A document on the proposed regulation is at the following link:

<http://turtletalk.files.wordpress.com/2011/01/tribal-leasing-release.pdf>

The proposed regulation is the most comprehensive reform of federal regulations governing leasing of Indian lands since the existing regulations were adopted in 1961. According to the Department of the Interior, the revised regulation modifies the Bureau of Indian Affairs' process for approving surface leases is intended to "bring greater transparency, efficiency and workability to the Bureau of Indian Affairs' approval process."

While it is not clear whether the proposed regulation will achieve its intended result, it is very clear that the new regulatory framework will affect how business is done in Indian country for lenders and lessees of Indian land.

Publication of the proposed regulation in the November 29, 2011 Federal Register will kick off a 60-day public comment period. Given the potential impact of the new regulation, if you have occasion to enter into leases of Indian lands or take leases as collateral for loans or other credit transactions, I recommend that you take advantage of the opportunity to comment on the proposed regulation during the next 60 days. Let me know if you need assistance preparing your comments.

