

For the reasons set forth in the preamble, the Department proposes to amend 25 CFR 151 as follows:

1. Revise Part 151 of Title 25 of the Code of Federal Regulations to read as follows:

PART 151—LAND ACQUISITION

Subpart A—Purpose, Definitions, General

Sec.

- 151.1 What is the purpose of this part?
- 151.2 What terms do I need to know?
- 151.3 To what types of trust acquisitions does this part apply?

Subpart B—Discretionary Acquisitions

Sec.

- 151.4 Under what circumstances will the Secretary acquire land into trust for an individual Indian?
- 151.5 Will the Secretary acquire land in trust for a tribe?
- 151.6 What special procedure will the Secretary use to acquire undivided fractional interests?
- 151.7 What information must a tribe provide in support of an application for an on-reservation trust acquisition?
- 151.8 What information must a tribe provide in support of an application for an off-reservation trust acquisition?
- 151.9 Who will the Secretary notify when it receives a Request for Trust Acquisition?
- 151.10 What will the Secretary's notice of a Request for Trust Acquisition contain?
- 151.11 When must I provide comments in response to the Secretary's notice?
- 151.12 What should my comments include?
- 151.13 How will the applicant obtain the comments?
- 151.14 Can members of the public review the Request for Trust Acquisition?
- 151.15 When will the Secretary begin its consideration of a trust acquisition request by a tribe?
- 151.16 When does the Secretary issue its final decision?
- 151.17 What criteria will the Secretary use to evaluate a trust acquisition request for on-reservation lands?
- 151.18 What criteria will the Secretary use to evaluate a trust acquisition request for off-reservation lands?
- 151.19 How does the Secretary proceed after making a decision on a trust acquisition request?
- 151.20 Are there special requirements for gaming or gaming-related trust acquisitions?
- 151.21 When does land attain trust status?

Subpart C—Mandatory Acquisitions

Sec.

151.22 What information must I provide in a request to process a mandatory trust acquisition?

151.23 How will the Secretary process a request for mandatory trust acquisition?

151.24 What action will the Secretary take when the determination that an acquisition is mandatory becomes final?

Subpart D--False Statements, Record Keeping, Information Collection

Sec.

151.25 What is the penalty for making false statements in connection with a trust acquisition request?

151.26 What records associated with this part does the United States own?

151.27 What records associated with this part does a tribe own?

151.28 How must a record associated with this part be preserved?

Authority:

R.S. 161: [5 U.S.C. 301](#). Interpret or apply 46 Stat. 1106, as amended; 46 Stat. 1471, as amended; 48 Stat. 985, as amended; 49 Stat. 1967, as amended, 53 Stat. 1129; 63 Stat. 605; 69 Stat. 392, as amended; 70 Stat. 290, as amended; 70 Stat. 626; 75 Stat. 505; 77 Stat. 349; 78 Stat. 389; 78 Stat. 747; 82 Stat. 174, as amended, 82 Stat. 884; 84 Stat. 120; 84 Stat. 1874; 86 Stat. 216; 86 Stat. 530; 86 Stat. 744; 88 Stat. 78; 88 Stat. 81; 88 Stat. 1716; 88 Stat. 2203; 88 Stat. 2207; [25 U.S.C. 2](#), 9, 409a, 450h, 451, 464, 465, 487, 488, 489, 501, 502, 573, 574, 576, 608, 608a, 610, 610a, 622, 624, 640d–10, 1466, 1495, and other authorizing acts.

Subpart A--Purpose, Definitions, General

§ 151.1 What is the purpose of this part?

The purpose of this part is to describe the authorities, policies, and procedures that the Secretary uses to decide whether to acquire title to an interest in land in the name of the United States to be held in trust for the benefit of an individual Indian or a tribe.

§ 151.2 What terms do I need to know?

Alienation means a conveyance or transfer of title to property by an individual Indian or a tribe.

BIA means the Bureau of Indian Affairs within the Department of the Interior.

Contiguous means two parcels of land having a common boundary line. For example, it includes parcels divided by non-navigable waters or a public road or right-of-way. Contiguous does not include corner contiguity, when parcels of land only have angle points in common.

Discretionary acquisitions means those trust acquisitions that Congress has authorized, but not required the Secretary to accept.

Encumbrance means a limitation on the title of property, such as a claim, lien, easement, charge, or restriction of any kind.

Fee simple land means land over which the owner has unconditional power of disposition.

Governing tribe means the tribe having governmental jurisdiction over the land being acquired.

Individual Indian means:

(1) Any person who is a member of any Indian tribe, is eligible to become a member of any Indian tribe, or is an owner, as of October 27, 2004, of a trust or restricted interest in land;

(2) Any person meeting the definition of Indian under section 19 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. § 479) and the regulations promulgated there under; and

(3) With respect to the inheritance and ownership of trust or restricted land in the State of California pursuant to section ___ of the Act of ____ (___ Stat. __; 25 U.S.C. § 2206), any person described in subparagraph (1) or (2) or any person who owns a trust or restricted interest in a parcel of such land in that State.

Land means real property or any interest therein, as defined by the statute that authorizes the land acquisition.

Legislative transfer of title means the direct transfer of title to a specific tract of land into trust status for the benefit of an individual Indian or Indian tribe by Congress through legislation.

Mandatory acquisitions means those trust acquisitions that Congress has required the Secretary to accept if certain specified conditions over which the Secretary has no control are met. (Example: A statute instructs the Secretary to acquire title to land located within specified counties in trust whenever a specified tribe requests and there are no adverse legal claims.) The BIA, after consultation with the Solicitor, will determine on a case-by-case basis whether the statute cited as authority for the acquisition is mandatory acquisition authority.

On-reservation means, for purposes of this part, the trust acquisition is:

- (1) Located within the exterior boundaries of the tribe's reservation;
- (2) The initial acquisition of land for a tribe that does not have a reservation or trust land; or
- (3) Contiguous to the reservation only if the tribe's reservation has no fee land within the boundaries of its reservation or if the reservation only consists of scattered tracts of land in trust.

Off-reservation means any parcel not within the exterior boundaries of a reservation as defined in these regulations.

Reservation means, for purposes of this part, that area of land which has been set aside or which has been acknowledged as having been set aside by the United States for

the use of the tribe, the exterior boundaries of which are more particularly defined in a final treaty, Federal agreement, Executive or secretarial order, Executive or secretarial proclamation, United States patent, Federal statute, or final judicial or administrative determination, provided that:

(1) In the State of Oklahoma, reservation means that area of land constituting the former reservation or treaty area of the tribe also including the boundary of the Five Civilized Tribes in Oklahoma immediately prior to statehood. Former reservation or treaty area means lands that are within the jurisdictional area of an Oklahoma Indian tribe immediately prior to statehood of Oklahoma or are within the boundaries of the last reservation or treaty area established by final treaty, Federal agreement, Executive or secretarial order, Executive or secretarial proclamation, United States patent, Federal statute, or final judicial or administrative determination; and

(2) For Pueblo Indian tribes in the State of New Mexico, reservation means lands within the exterior boundaries of lands granted or confirmed to or acquired by the Pueblo as reported by the Pueblo Lands Board under section 2 of the Act of June 7, 1924, ch. 331, 43 Stat. 636, notwithstanding any finding of extinguishment of title, plus any other lands reserved, set aside, or held in trust by the United States for the use of the Pueblo or its members.

Restricted fee land means land the title to which is held by an individual Indian or a tribe and which can only be alienated or encumbered by the owner with the approval of the Secretary because of limitations in the conveyance instrument pursuant to federal law.

Secretary/we/our means the Secretary of the Interior or an authorized representative.

Tribes means any Indian tribe, nation, band, pueblo, town, community, rancheria, colony, or other group of Indians, which is recognized by the Secretary as eligible for the special programs and services provided by the Bureau of Indian Affairs, and listed in the Federal

Register under Public Law 103-454, act of Nov. 2, 1994 (108 Stat. 4791; 25 U.S.C. § 479a). For purposes of acquisitions made under the authority of 25 U.S.C. § 488 and 489, or other statutory authority that specifically authorizes trust acquisitions for such corporations, *tribe* also means a corporation chartered under section 17 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. § 477) or section 3 of the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. § 503).

Trust acquisition means the act or process by which the Secretary acquires title to any interest in land to be held in trust by the United States on behalf of an individual Indian or a tribe.

Trust land means land or an interest therein that the United States holds in trust for the benefit of an individual Indian or a tribe. For purposes of this part, trust land includes restricted fee land.

Undivided fractional interest means an unpartitioned partial interest in the entire property. (*Example:* If you own an undivided 1/4 interest in 160 acres, you do not own 40 acres. You own 1/4 interest in the whole 160 acres because your 1/4 interest has not been divided out or partitioned from the whole 160 acres.)

You/I means the reader of this regulation.

§ 151.3 To what types of trust acquisitions does this part apply?

(a) Except as provided in paragraphs (b) and (c) of this section, this part applies to all trust acquisitions.

(b) This part does not apply to the following transactions:

- (1) Trust-to-trust (see Part 152 Subpart C);
- (2) Restricted-fee to restricted-fee (see Part 152 Subpart C);
- (3) Transfer of title to trust and restricted land directed by a probate order
- (4) Legislative transfer of title into trust status;
- (5) Exchanges or partitions (see Subpart ***); or
- (6) Transfers between Federal agencies.

(c) The Secretary will not acquire title to land in trust in the State of Alaska, except for the Metlakatla Indian Community of the Annette Island Reserve of Alaska or its members.

Subpart B--Discretionary Acquisitions

§ 151.4 Under what circumstances will the Secretary acquire land into trust for an individual Indian?

We will not acquire title to land in trust for individuals except in the following circumstances:

(a) On-reservation, where the United States already holds an undivided fractional interest in land in trust for an individual Indian, it may acquire in trust additional undivided fractional interests in the same parcel on behalf of the same individual or for another individual Indian;

(b) Trust-to-trust transactions (see Subpart ***); and

(c) Exchanges (see Subpart ***).

§ 151.5 Will the Secretary acquire land in trust for a tribe?

Yes. As is more fully explained in this part, we may acquire for a tribe:

(a) An on-reservation undivided fractional interest pursuant to § 151.6, including undivided fractional interests purchased by the Indian Land Consolidation Program with revenue generated from liens imposed by 25 U.S.C. Section 2214;

(b) Any other on-reservation interest pursuant to § 151.7. This includes a trust acquisition on a reservation that is occupied by two or more tribes and the acquisition is for one of these tribes; and

(c) Any off-reservation interest pursuant to § 151.8. If the interest is within the boundaries of another tribe's reservation, we will acquire the interest only if the other tribe consents.

§ 151.6 What special procedure will the Secretary use to acquire undivided fractional interests?

Consistent with §§ 151.4 and 151.5, we will use a special procedure to acquire undivided fractional interests on behalf of an individual Indian or a tribe.

(a) The applicant will only need to provide the following information:

(1) Applicant's authorization:

(A) If the applicant is an Indian tribe, a tribal resolution requesting trust status; or

(B) If the applicant is an individual Indian, a signed letter requesting trust status.

(2) Proof that another undivided interest in the parcel is already held in trust:

(A) For on-reservation trust acquisitions, the applicant must demonstrate that any other undivided interest in the parcel to be acquired is already held in trust status; or

(B) For off-reservation trust acquisitions, the applicant must demonstrate that an undivided fractional interest in the parcel to be acquired is already held in trust status for the applicant.

(3) Title evidence that meets the Standards for the Preparation of Title Evidence in Land Acquisitions by the United States, issued by the U.S. Department of Justice. (Copies of the standards are available from the U.S. Department of Justice, Environmental and Natural Resources Division, Land Acquisition Section, 601 D Street, Washington, DC 20004.)

(b) After receipt of the information required by paragraph (a) of this section, the Secretary will make a final determination that the acquisition meets the necessary criteria and will publish in the Federal Register or a newspaper of general circulation serving the affected area a notice of the decision to take the interest into trust. The notice will state that the Secretary has made a final decision to take the interest into trust and that he or she will acquire title in the name of the United States no sooner than 30 days after the notice is published to allow Federal court review.

(c) After sufficient opportunity for judicial review has been provided, the Secretary will acquire trust title to the undivided interest in land by executing or accepting an appropriate instrument of conveyance. If we determine to acquire trust title to land in a case before all judicial remedies have been exhausted, the party(ies)

opposing the acquisition will be given at least five days notice before the Secretary takes any further action to acquire trust title.

§ 151.7 What information must a tribe provide in support of an application for an on-reservation trust acquisition?

A tribe must provide the following in support of an application for an on-reservation trust acquisition:

- (a) Request for Trust Acquisition, using the approved form;
- (b) A tribal resolution requesting trust status;
- (c) A legal description of the land to be acquired that, if applicable, meets the Department of the Interior Indian Trust Lands Boundary Standards;
- (d) A map depicting the general location of the land in relation to the reservation and relevant state and local government boundaries, and, if the acquisition is for gaming or gaming-related purposes, a standard topographic quadrangle map of the land in the Primary Series of Topographic Quadrangle Maps (topographic maps may be ordered from the United States Geological Survey by calling 1-888-ASK-USGS);
- (e) A citation to the Federal statute that authorizes the United States to acquire title to the land in trust and any limitations contained in that authority;
- (f) An explanation of the need for the land and how the land will be used including how it will facilitate tribal self-determination, economic development, Indian housing, land consolidation, cultural resources protection, or natural resources protection;
- (g) If a fractional interest is being acquired, the title status of the other interests (if any interest is already in trust, see § 151.6);

(h) Title evidence that meets the Standards for the Preparation of Title Evidence in Land Acquisitions by the United States, issued by the U. S. Department of Justice (copies of the standards are available from the U.S. Department of Justice and BIA);

(i) Documentation that the Secretary needs in order to comply with 516 DM 10, National Environmental Policy Act (NEPA) Revised Implementing Procedures, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and applicable regulations of the Council on Environmental Quality (40 CFR § 1500.1 et seq.) and 602 DM 2, Land Acquisitions: Hazardous Substances Determinations, including a record of consultation with appropriate authorities regarding environmental, fish and wildlife, threatened and endangered species, water quality, wetlands, air quality, transportation, cultural resources, historic resources, hazardous waste, and toxic material issues (copies of these directives are available from the Department of the Interior, Bureau of Indian Affairs, 1849 C Street, N.W., Mail Stop: 4513-MIB, Washington, DC 20240); and

(j) Any additional information we request.

§ 151.8 What information must a tribe provide in support of an application for an off-reservation trust acquisition?

A tribe must provide the following in support of an application for an off-reservation trust acquisition:

(a) All of the information required in § 151.7;

(b) An explanation of why the applicant's present land base is not appropriate or adequate for the activity contemplated in the application;

(c) An explanation of how the trust acquisition will benefit the applicant's economic and/or social conditions. If the trust acquisition is for economic development purposes, the applicant must demonstrate the extent to which:

- (1) Its tribal members can reasonably commute for employment;
- (2) The trust acquisition will provide a product or service that will be beneficial to its tribal members; and
- (3) The trust acquisition will contribute to preservation of the reservation community and identity.

(d) A description of how the applicant will use the land. This description must include an explanation of:

- (1) The past uses of the land;
- (2) The present use of the land;
- (3) The proposed use of the land;
- (4) The tribe's cultural or historical interest in the land;
- (5) The objectives the tribe hopes to attain; and
- (6) If the trust acquisition is for housing:
 - (i) The projected number of units to be built; and
 - (ii) The number of tribal members who will benefit.

(e) If the trust acquisition is for business purposes, the applicant must provide a business plan that specifies the anticipated economic benefits of the proposed use.

(f) As complete a description as is possible of the following:

- (1) The distance of the land from the boundaries of the applicant's reservation;

- (2) The distance of the land from the BIA's nearest agency or regional office;
- (3) The location of roads and rights-of-way that provide access to the land;

and

- (4) The location of land in relation to the applicant's other trust lands.

(g) A description of the effect on the state and its political subdivisions of removing the land from tax rolls. The applicant must describe any measures it will take to reduce these effects. The description of effects must include an explanation of:

- (1) The amount of annual taxes currently assessed by the local government(s);
- (2) The amount of revenue received from special assessments by the local government(s), if any;
- (3) The amount of tax revenue from mineral production paid to the local government(s), if any; and
- (4) The ability of the local government(s) to provide services for the land.

(h) A description of any jurisdictional and land use issues that might arise. The description must address each of the following issues:

- (1) Zoning, including:
 - (A) The current zoning of the land;
 - (B) Any conflicts between current zoning and the proposed use;
 - (C) Any tribal zoning ordinances or land use management plan currently in

place; and

- (D) Whether the land is in a flood area or flood control area.

(2) Public services, including:

(A) Who currently provides law enforcement, fire protection, and emergency medical services for the land and who will provide those services if the land is acquired in trust status;

(B) An analysis of whether the existing law enforcement, fire protection, and emergency medical services are adequate for the proposed use and to meet applicable standards; and

(C) Any additional resources required to provide law enforcement, fire protection, and emergency medical services adequate for the proposed use and to meet applicable standards, and how those resources will be funded.

(3) Transportation, including:

(A) An analysis of increased traffic anticipated from the proposed use;

(B) An analysis of whether the existing transportation infrastructure is adequate to handle any anticipated increase in traffic caused by the proposed use in accordance with applicable standards; and

(C) Any improvements required to provide transportation infrastructure adequate for the proposed use and to meet applicable standards, and how those improvements will be funded.

(4) Utilities, including:

(A) Who currently supplies water, sewage, solid waste, and energy services for the land and who will do so if the land is acquired in trust status;

(B) An analysis of whether the existing water (and water rights if applicable), sewage, solid waste, and energy services are adequate for the proposed use and to meet applicable standards; and

(C) Any improvements required to provide water, sewage, solid waste, and energy services adequate for the proposed use and to meet applicable standards, and how those improvements will be funded.

(i) Any voluntary commitments or cooperative agreements entered into by the applicant that are intended to address jurisdictional and land use conflicts;

(j) Any provisions made by the applicant to compensate the state or local governments for revenue lost because of the removal of the land from the tax rolls (including any increases in Title IX funding from the Indian Education Act or Impact Aid funding);

(k) Any claims or assertions of jurisdiction over the land by any other Indian tribe; and

(l) Any additional information we request.

§ 151.9 Who will the Secretary notify when it receives a Request for Trust Acquisition?

(a) Upon receipt of a Request for Trust Acquisition, we will notify the appropriate state, county, parish, and municipal governments having regulatory jurisdiction over the land and will invite their comments. The governmental entities receiving direct notice are responsible for forwarding the notice to other state and local governmental entities that may be interested in the trust acquisition (*e.g.*, school boards, utility districts, fire districts, etc.). Our notice will be sent by certified mail, return receipt requested.

§ 151.10 What will the Secretary's notice of a Request for Trust Acquisition contain?

The notice will contain a copy of the applicant's Request for Trust Acquisition form, together with the following information:

- (a) The name of the applicant;
- (b) A description of the lands proposed to be acquired in trust; and
- (c) The proposed use of the land.

§ 151.11 When must I provide comments in response to the Secretary's notice?

Comments in response to our notice must be postmarked within 60 days from the date our notice was postmarked for on-reservation acquisitions, or within 90 days from the date our notice was postmarked for off-reservation acquisitions.

§ 151.12 What should my comments include?

Comments should provide information regarding impacts on state and local governments such as:

- (a) Civil, criminal, and regulatory jurisdiction;
- (b) Real property taxes and special assessments; and
- (c) Provision of governmental services.

§ 151.13 How will the applicant obtain the comments?

After the comment period has ended, we will send to the applicant copies of all comments received on the trust acquisition request. We will give the applicant a reasonable time in which to reply to the comments.

§ 151.14 Can members of the public review the Request for Trust Acquisition?

Subject to restrictions on disclosure required by the Freedom of Information Act (5 U.S.C. § 552), the Privacy Act (5 U.S.C. § 552a), and the Trade Secrets Act (18 U.S.C.

§ 1905), the Request for Trust Acquisition and all supporting documents will be available for review at the local BIA agency or regional office having administrative jurisdiction over the land.

§ 151.15 When will the Secretary begin its consideration of a trust acquisition request by a tribe?

We will begin consideration of a trust acquisition request by a tribe after we receive all of the following information:

- (a) The applicant's completed Request for Trust Acquisition form and all information required by § 151.7 and/or § 151.8, as applicable;
- (b) A Phase I Environmental Site Assessment in compliance with 602 DM 2, Land Acquisitions: Hazardous Substances Determinations;
- (c) A review in compliance with NEPA and documentation demonstrating compliance with other applicable Federal environmental and cultural and historical resources laws;
- (d) A preliminary opinion of title and a draft conveyance instrument using the approved form;
- (e) If applicable, a boundary assurance certificate made pursuant to the Department of the Interior Indian Trust Lands Boundary Standards;
- (f) The comments received in response to the notice issued pursuant to § 151.9 and any responses to the comments;
- (g) A statement from the applicant that any existing rights of way, easements, or encumbrances will not interfere with applicant's proposed use of the land;

(h) Compliance with any other legal requirements such as the Indian Gaming Regulatory Act; and

(i) Any additional information that the we have requested pursuant to §§ 151.7(j) or 151.8(k).

§ 151.16 When does the Secretary issue its final decision?

After we receive all of the information required in § 151.15 we will:

(a) Notify the applicant, in writing, that we have received all of the information required in § 151.10; and

(b) Issue a final decision on the trust acquisition request within 120 working days.

§ 151.17 What criteria will the Secretary use to evaluate a trust acquisition request for on-reservation lands?

(a) We will consider the information provided by the applicant and will apply the following criteria to evaluate an on-reservation trust acquisition request:

(1) Whether the trust acquisition facilitates tribal self-determination, economic development, Indian housing, land consolidation, cultural resources protection, or natural resources protection;

(2) Impacts on the environment;

(3) Impacts on the local government; and

(4) The additional administrative burden the Department would assume as a result of the trust acquisition;

(b) If we find that the trust acquisition does not create a significant additional administrative burden on the Department and it facilitates at least one of the criteria in

paragraph (a)(1) of this section, we will approve the trust acquisition unless the record shows by clear and demonstrable evidence that the trust acquisition will result in significant negative impact to the environment or to the local government.

§ 151.18 What criteria will the Secretary use to evaluate a trust acquisition request for off-reservation lands?

(a) We will consider the information provided by the tribe and will apply the following criteria to evaluate an off-reservation trust acquisition request:

- (1) To what extent the trust acquisition facilitates tribal self-determination, economic development, Indian housing, land consolidation, cultural resource protection, or natural resources protection;
- (2) Impacts on the environment;
- (3) Impacts on the local government;
- (4) Impacts on the local community;
- (5) The additional administrative burden the Department would assume as a result of the trust acquisition;
- (6) The ability of tribal members reasonably to commute for employment, if applicable;
- (7) On-reservation benefits from the trust acquisition; and
- (8) The distance of the trust acquisition from the tribe's reservation.

(b) We will approve the trust acquisition only if:

- (1) The trust acquisition is necessary to facilitate tribal self-determination, economic development, Indian housing, land consolidation, cultural resource protection, or natural resources protection;

(2) The finding in paragraph (b)(1) of this section outweighs any demonstrable harm to the environment, local government, and local community.

As the distance between the tribe's reservation and the land to be acquired increases, the tribe's justification of anticipated benefits from the acquisition will be subject to greater scrutiny and the concerns raised by the state and local governments and local community will be given greater weight; and

(3) The trust acquisition does not create a significant additional administrative burden on the Department.

(c) Notwithstanding the determination in paragraph (b)(2) of this section, the BIA will not approve a trust acquisition if it finds that the trust acquisition will result in:

- (1) Significant negative impact to the environment;
- (2) Significant negative impact to the local government; or
- (3) Significant negative impact to the local community.

§ 151.19 How does the Secretary proceed after making a decision on a Trust Acquisition Request?

(a) We will send the applicant and governmental entities that were given direct notice of the Request of Trust Acquisition under § 151.9(a) a certified letter describing the decision to accept or deny a request and will also send a copy of the decision letter to everyone who submitted written comments on the request. The letter will explain that the decision is appealable in accordance with part 2 of this title.

(b) If our decision is to deny the request, we will take no further action.

(c) If our decision is to approve the request, after the exhaustion of administrative remedies, we will:

(1) Publish in the Federal Register, or in a newspaper of general circulation serving the affected area, a notice of the decision to acquire title to land in trust under this part. The notice will state that the Secretary has made a final decision to acquire title to land in trust and that he or she will acquire title in the name of the United States no sooner than 30 days after the notice is published to allow Federal court review; and

(2) After sufficient opportunity for judicial review has been provided, acquire trust title to the land by executing or accepting an appropriate instrument of conveyance. If the Secretary decides to acquire trust title to land in a case before all judicial remedies have been exhausted, the party(ies) opposing the acquisition will be given at least five days notice before the Secretary takes any action.

§ 151.20 Are there special requirements for gaming or gaming-related trust acquisitions?

Yes. Trust acquisition applications for gaming or gaming-related purposes must comply with the requirements of the Indian Gaming Regulatory Act (IGRA). In addition, § 151.16(b) does not apply to gaming and gaming-related trust acquisitions and the BIA will not make a decision pursuant to §§ 151.17 or 151.18 until all the requirements of IGRA have been met.

§ 151.21 When does land attain trust status?

After we have published a notice of intent to acquire the land in trust pursuant to § 151.14, the time period for appeal has run, and all title objections have been cleared, we will accept or issue the appropriate instrument of conveyance. Only after these steps have been completed will the land attain trust status. The approved deed will then be recorded in the county where the land is located, a final policy of title insurance will be

obtained, a final title opinion will be issued, and we will record the deed in the appropriate BIA Land Titles and Records Office under part 150 of this chapter.

Subpart C--Mandatory Acquisitions

§ 151.22 What information must I provide in a request to process a mandatory trust acquisition?

To demonstrate that we are mandated by legislation to acquire trust title to a specific tract of land, the applicant must submit the following documentation:

- (a) A citation to the statutory authority that directs the Secretary to place the land in trust, and any limitations contained in that authority;
- (b) Title evidence or an abstract of title that meets the *Standards for the Preparation of Title Evidence in Land Acquisitions by the United States*, issued by the U.S. Department of Justice (copies are available from the U.S. Department of Justice and BIA);
- (c) A Phase I Environmental Site Assessment in compliance with 602 DM 2, *Land Acquisition: Hazardous Substances Determinations*; and
- (d) Any additional information that we may request.

§ 151.23 How will Secretary process a request for mandatory trust acquisition?

Based on the information provided in section 151.22 and after legal review, we will make a determination whether the trust acquisition is mandatory. Our determination will be sent to the tribe and the state, county, parish, and municipal governments having regulatory jurisdiction. This determination may be appealed pursuant to requirements set forth in part 2 of this title.

§ 151.24 What action will the Secretary take when the determination that an acquisition is mandatory becomes final?

When a determination that an acquisition is mandatory becomes final, we will publish our determination along with a notice of intent to acquire title to the land in trust in the Federal Register or in a newspaper of general circulation serving the affected area in accordance with § 151.19.

Subpart D--False Statements, Record Keeping, Information Collection

§ 151.25 What is the penalty for making false statements in connection with a trust acquisition request?

Anyone who knowingly and willfully makes a false statement in connection with a trust acquisition request may be subject to criminal prosecution under the False Statements Accountability Act of 1996, *18 U.S.C. § 1001*.

§ 151.26 What records associated with this part does the United States own?

Records associated with this part 151 are the property of the United States if they:

- (a) Are made or received by a tribe or tribal organization in the conduct of a federal trust function under this part, including the operation of a trust program; and
- (b) Evidence the organization, functions, policies, decisions, procedures, operations, or other activities undertaken in the performance of a federal trust function under this part.

§ 151.27 What records associated with this part does a tribe own?

Records not covered by section 151.27 that are made or received by a tribe or tribal organization in the conduct of business with the Department of the Interior under this part are the property of the tribe.

§ 151.28 How must a record associated with this part be preserved?

(a) Any organization, including tribes and tribal organizations, that have records owned by the United States must preserve the records in accordance with approved Departmental records retention procedures under the Federal Records Act, *44 U.S.C. chapters 29, 31, and 33*. These records and related records management practices and safeguards required under the Federal Records Act are subject to inspection by the Secretary and the Archivist of the United States.

(b) A tribe or tribal organization should preserve the records owned by the tribe for the period of time authorized by the Archivist of the United States for similar Department of the Interior records in accordance with *44 U.S.C. chapter 33*. If a tribe or tribal organization does not preserve records associated with its conduct of business with the Department of the Interior under this part, it may prevent the tribe or tribal organization from being able to adequately document essential transactions or furnish information necessary to protect its legal and financial rights or those of persons directly affected by its activities.

Subpart E--Trust-to-Trust Acquisitions

See Part 152 Subpart ***

Subpart F--Exchanges

See Part 152 Subpart B