



DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 150

[201A2100DD, AAKC001030, A0A501010.999900]

RIN 1076-AF56

Indian Land Title and Records

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is proposing a rule to modernize the current regulations governing the Land Title and Records Office (LTRO). The LTRO maintains title documents for land held in trust or restricted status for individual Indians and Tribes (Indian land). This proposed rule would replace outdated provisions and allow for more widespread efficiencies by reflecting current practices, while creating a framework for future LTRO operations.

DATES: Please submit written comments by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If you wish to comment on the information collection requirements in this proposed rule, please note that the Office of Management and Budget (OMB) is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after publication of this proposed rule in the Federal Register. Therefore, comments should be submitted to OMB by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. See the SUPPLEMENTARY INFORMATION section of this rulemaking for dates of Tribal consultation sessions.

ADDRESSES: You may send comments, identified by RIN number 1076-AF56 by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for sending comments.
- Email: consultation@bia.gov. Include RIN number 1076-AF56 in the subject line of the message.
- Mail or Hand-Delivery/Courier: Office of Regulatory Affairs & Collaborative Action – Indian Affairs (RACA), U.S. Department of the Interior, 1849 C Street, NW, Mail Stop 4660, Washington, DC 20240.

All submissions received must include the Regulatory Information Number (RIN) for this rulemaking (RIN 1076-AF56). All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Comments on the Paperwork Reduction Act information collections contained in this document are separate from comments on the substance of the rulemaking. Send your comments and suggestions on the information collection requirements to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or OIRA_Submission@omb.eop.gov (email). Please provide a copy of your comments to consultation@bia.gov.

We cannot ensure that comments received after the close of the comment period (see DATES) will be included in the docket for this rulemaking and considered.

Comments sent to an address other than those listed above will not be included in the docket for this rulemaking.

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

SUPPLEMENTARY INFORMATION:

- I. Background and Summary of Proposed Rule
- II. Tribal Consultation
- III. Procedural Requirements
 - A. Regulatory Planning and Review (E.O. 12866 and E.O. 13563)
 - B. Regulatory Flexibility Act

- C. Small Business Regulatory Enforcement Fairness Act
- D. Unfunded Mandates Reform Act
- E. Takings (E.O. 12630)
- F. Federalism (E.O. 13132)
- G. Civil Justice Reform (E.O. 12988)
- H. Consultation with Indian Tribes (E.O. 13175)
- I. Paperwork Reduction Act
- J. National Environmental Policy Act
- K. Effects on the Energy Supply (E.O. 13211)
- L. Clarity of this Regulation
- M. Public Availability of Comments

I. Background & Summary of Proposed Rule

The LTRO maintains title documents for land that the United States holds in trust or restricted status for individual Indians or Tribes (Indian land), roughly similar to how counties and other localities maintain title documents for fee land within their jurisdictions. Several Acts authorize BIA maintenance of these title records. *See, e.g.*, 25 U.S.C. 5, 9; 64 Stat. 1262; 34 Stat. 137; 35 Stat. 312; and 38 Stat. 582, 598.

The LTRO has several physical offices throughout the country. These LTRO offices are the successors to the “title plants” that were established by regulation in 1965 to serve what were then BIA “area offices.” *See* 30 FR 11676 (September 11, 1965). Updates to the regulations in 1981 defined the role of the LTRO and assigned each LTRO office a geographic service area, containing certain BIA area offices or Tribal reservations. *See* 46 FR 47537 (September 29, 1981), later redesignated at 47 FR 13327 (March 30, 1982).

The regulations finalized in 1981 are still in place (though redesignated from 25 CFR part 120 to 25 CFR part 150). Now, 40 years later, BIA “area offices” are BIA Regions, and the LTRO maintains title documents primarily through an electronic system: the Trust Asset Accounting Management System (TAAMS). Each LTRO office records land title documents that are primarily within its designated geographic area; however, it is BIA’s vision that, eventually, all title documents will be electronically stored and accessible to LTRO offices regardless of geographic area.

The proposed rule modernizes the LTRO regulations to provide a framework for continued operations and future electronic maintenance of most title documents. This approach will more efficiently address title-related actions that support Indian land transactions (such as a title examination to take land into trust) by allowing workloads to be shifted among LTRO offices to promptly address each request and prevent the risk of any backlogs. The proposed rule continues to provide that each LTRO office is primarily responsible for certain geographic areas, but rather than specifying those LTRO offices in the proposed rule, it instead points to a webpage where BIA can keep the list accurately updated.

The proposed rule also addresses changes that have evolved over the past 40 years that have removed requirements for Secretarial approval of certain title documents in support of Tribal self-governance and self-determination (e.g., individual leases under approved Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act regulations) by clarifying that these documents must still be recorded in the LTRO because the documents affect who is authorized to use Indian land.

The proposed rule would also make more transparent the LTRO's role as a support office to BIA and, with respect to title-related matters related to probate, the Office of Hearings and Appeals (OHA). Generally, the Realty staff in BIA are the primary liaison to the LTRO, as the Realty staff are responsible for processing land transactions requested by Indian and Tribal landowners. Similarly, the proposed rule would clarify the LTRO's role with respect to any defects to title: the LTRO provides a notation of the defect in the record of title, but the originating office is responsible for providing the LTRO with a corrected title document for the LTRO to record.

Finally, the proposed rule would allow the BIA Director to delegate recording responsibilities to another office for certain transactions on an as-needed basis. This

provision provides flexibility to facilitate future electronic recording capabilities for efficiency.

The following table shows changes from the current regulation to the proposed rule.

Current 25 CFR §	Proposed 25 CFR §	Description of Changes
150.1 Purpose and scope.	150.1 What is the purpose of this part?	Provides more general description of responsibilities (e.g., to account for other types of reports beyond land title status reports that LTRO provides)
150.2 Definitions	150.2 What terms do I need to know?	<p>Alphabetizes terms.</p> <p>Adds definitions for “certify,” “certified copy,” “Certifying Officer,” “defect” or “title defect,” “I” or “you” (for plain language purposes), “Office of Hearings and Appeals (OHA),” “Probate Inventory Report,” “record of title,” “Region,” and “title.”</p> <p>Deletes definitions of “Administrative Law Judge,” “Commissioner,” “land,” and “Superintendent.”</p> <p>Revises definition of “Agency” to clarify that contracting and compacting Tribes are included.</p> <p>Revises definition of “Indian land” to limit to trust or restricted land only, in accordance with other regulatory definitions, while moving provisions regarding other categories of land to proposed § 150.201(c).</p> <p>Revises definition of “recording” to move substantive statement as to the significance of recording a document to the body of the regulation at proposed § 150.101.</p> <p>Revises definition of “title document” to provide examples.</p> <p>Revises definition of “title examination” to add detail.</p> <p>Revises definition of “Tribe” to cite the List Act of 1994.</p>
---	150.3 May Tribes administer this part on	New section to address that Tribes may compact or contract for LTRO functions under Tribal self-governance and self-determination compacts and contracts.

	LTRO's behalf?	
---	150.101 What is the purpose of the record of title?	New section to address the significance of recording a document in the record of title.
150.3 Maintenance of land records and title documents.	150.102 Who maintains the record of title?	No substantive change.
---	150.103 What services does the LTRO perform to maintain the record of title?	New section to provide a list of services that the LTRO performs.
---	150.104 How does the LTRO maintain the record of title?	New section to address that the LTRO primarily maintains the record of title electronically.
150.4 Locations and service areas for land titles and records offices.	150.105 Are certain LTRO offices responsible for certain geographic areas?	Revises to provide flexibility to allow for workload sharing across LTRO offices while noting LTRO offices have primary responsibility for certain geographic areas. Replaces the list of addresses for each LTRO office with a webpage for a more frequently updated list of each LTRO office's area of primary geographic area.
150.5 Other Bureau offices with title service responsibility.	---	Deleted because this section is no longer necessary.
150.6 Recordation of title documents.	150.201 What is recorded in the record of title?	Removes language assuming hard copy transmission of documents. Adds language to account for the need to record certain documents that are not subject to Secretarial approval. Adds that LTRO offices may also maintain documents demonstrating the rights of use, occupancy, and/or benefit of certain Tribes to non-Indian land and certain documents related to Indian land that are not title documents.

---	150.202 Must I check with any other governmental office to find title documents for Indian land?	New section to specify that in some instances, due diligence may require examination of other records of title for Indian land.
---	150.203 Who may submit a title document for recording?	Clarifies the role of the LTRO as a service office for BIA Agencies, Regions, and OHA, who act as the primary liaison to Indian and Tribal landowners.
---	150.204 Who records title documents?	Clarifies that the BIA Director may delegate the recording function to other Agency offices by documenting the delegation and types of transactions to which it applies in the Indian Affairs Manual.
---	150.205 What are the minimum requirements for recording a title document?	New section to clarify what must be included in a title document that is approved by the Secretary and what must be included in title documents that are deemed approved.
150.7 Curative action to correct title defects.	150.206 What actions will LTRO take if it discovers a title defect?	Revises to provide that LTRO offices will no longer complete administrative modifications; rather they will put a notation in the record of title and contact the originating office for correction.
150.8 Title status reports.	---	Incorporated into proposed § 150.302.
150.9 Land status maps.	---	Incorporated into proposed § 150.302.
150.10 Certification of land records and title documents.	150.301 How does LTRO certify copies of title documents?	Revised for plain language.
---	150.302 What reports does the LTRO provide?	Lists the universe of reports that the LTRO may provide for Indian land.
150.11 Disclosure of land records, title documents, and title reports.	150.303 Who may request and receive copies of title documents in the record of title or reports from LTRO without filing	Revises to include the categories of persons/entities that may obtain information under current laws including the American Indian Probate Reform Act of 2004, 25 U.S.C. 2204.

	a Freedom of Information Act request?	
---	150.304 Where do I request copies of title documents or reports from LTRO?	New section to clarify that the BIA Agency or Region is the liaison to the LTRO.
---	150.305 What information must I provide when requesting copies of title documents and reports?	New section to list what information BIA will require in order to identify the land for which a report is being requested.
---	150.306 Will I be charged a fee for obtaining copies of records?	New section to provide that the LTRO may charge fees in accordance with the Freedom of Information Act fee schedule, but will not charge fees to Indian or Tribal landowners.
---	150.401 Who owns the records associated with this part?	New section to clarify what records are Federal records as opposed to Tribal records in cases where a Tribe has contracted or compacted for LTRO functions.
---	150.402 How must records associated with this part be preserved?	New section regarding preservation requirements for Federal records.
---	150.403 How does the Paperwork Reduction Act affect this part?	New section required because the regulation imposes an information collection by requiring individuals to provide certain information in order to obtain copies of records.

II. Tribal Consultation

The Department is hosting the following consultation sessions on this proposed rule:

Date	Time	Location
Tuesday, January 12, 2021	2 p.m. – 4 p.m. Eastern Time	Teleconference: 888-606-8412

		Passcode: “DOI” (Operator will answer)
Thursday, January 14, 2021	2 p.m. – 4 p.m. Eastern Time	Teleconference: 888-606-8412 Passcode: “DOI” (Operator will answer)

III. Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this proposed rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation’s regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

B. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The proposed rule addresses how Indian land title and records are maintained.

C. Small Business Regulatory Enforcement Fairness Act

This proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This proposed rule:

- (a) Will not have an annual effect on the economy of \$100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises.

D. Unfunded Mandates Reform Act

This proposed rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than \$100 million per year. The proposed rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.) is not required.

E. Takings (E.O. 12630)

This proposed rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. A takings implication assessment is not required.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of Executive Order 13132, this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

G. Civil Justice Reform (E.O. 12988)

This proposed rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

H. Consultation with Indian Tribes (E.O. 13175)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this proposed rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that Tribal consultation is appropriate because the rule addresses maintenance of land held in trust or restricted status for Tribes. Tribes are invited to join the Tribal consultation sessions listed in Section II of this preamble, above.

I. Paperwork Reduction Act

This proposed rule contains new information collections. All information collections require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The Department is seeking approval of a new information collection, as follows.

Brief Description of Collection: The Bureau of Indian Affairs (BIA) Land Title and Records Office (LTRO) maintains title documents for land that the United States holds in trust or restricted status for individual Indians or Tribes (Indian land), much like counties and other localities maintain title documents for fee land within their jurisdictions. Individuals or entities that are requesting information regarding title documents – either for property they own or for property they seek to lease or encumber – must provide certain information to the LTRO in order for LTRO to accurately identify the property for which they are seeking information. LTRO uses the information provided by individuals or entities in order to identify the property so that they can retrieve the appropriate title documents and produce reports for that property. The

collection of information is found in § 150.305, which provides that anyone requesting title documents or reports must provide certain information, such as the name of the reservation where the land is located and the tract number or legal description.

Title: Requests for Indian Land Title and Records Information.

OMB Control Number: 1076–NEW.

Form Number: None.

Type of Review: Existing collection in use without an OMB Control Number.

Respondents/Affected Public: Individuals, Private Sector, Government.

Total Estimated Number of Annual Respondents: 36.

Total Estimated Number of Annual Responses: 36.

Estimated Completion Time per Response: 0.5 hours.

Total Estimated Number of Annual Burden Hours: 19 hours (consisting of 10 hours for private sector respondents, 3 hours for individual respondents – rounded up from 2.5 hours, and 6 hours for government respondents – rounded up from 5.5 hours).

Respondents' Obligation: Required to obtain a benefit.

Frequency of Response: Occasionally.

Total Estimated Annual Non-Hour Burden Cost: \$500.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of this information collection, including:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this rulemaking to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function. Please provide a copy of your comments to consultation@bia.gov. Please reference OMB Control Number 1076-NEW in the subject line of your comments.

J. National Environmental Policy Act

This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the environmental effects of this proposed rule are too speculative to lend themselves to meaningful analysis and will later be subject to the NEPA process, unless covered by a categorical exclusion. (For further information see 43 CFR 46.210(i)). We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

K. Effects on the Energy Supply (E.O. 13211)

This proposed rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

L. Clarity of this Regulation

We are required by Executive Orders 12866 and 12988 and by the Presidential

Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- a. Be logically organized;
- b. Use the active voice to address readers directly;
- c. Use clear language rather than jargon;
- d. Be divided into short sections and sentences; and
- e. Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the “**ADDRESSES**” section. To better help us revise the rulemaking, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you believe lists or tables would be useful, etc.

M. Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

List of Subjects in 25 CFR Part 150

Indians-lands.

For the reasons given in the preamble, the Department of the Interior proposes to amend 25 CFR chapter I, subchapter H by revising part 150 to read as follows:

PART 150-RECORD OF TITLE TO INDIAN LAND

Subpart A – Purpose and Definitions

- Sec.
- | | |
|-------|-----------------------------------|
| 150.1 | What is the purpose of this part? |
| 150.2 | What terms do I need to know? |

150.3 May tribes administer this part on LTRO's behalf?

Subpart B – Record of Title to Indian Land

- 150.101 What is the purpose of the record of title?
- 150.102 Who maintains the record of title?
- 150.103 What services does the LTRO perform to maintain the record of title?
- 150.104 How does the LTRO maintain the record of title?
- 150.105 Are certain LTRO offices responsible for certain geographic areas?

Subpart C – Procedures and Requirements to Record Documents

- 150.201 What is recorded in the record of title?
- 150.202 Must I check with any other governmental office to find title documents for Indian land?
- 150.203 Who may submit a title document for recording?
- 150.204 Who records title documents?
- 150.205 What are the minimum requirements for recording a title document?
- 150.206 What actions will the LTRO take if it discovers a title defect?

Subpart D – Disclosure of Title Documents and Reports

- 150.301 How does LTRO certify copies of title documents?
- 150.302 What reports does LTRO provide?
- 150.303 Who may request and receive copies of title documents in the record of title or reports from LTRO without filing a Freedom of Information Act request?
- 150.304 Where do I request copies of title documents and reports from LTRO?
- 150.305 What information must I provide when requesting title documents or reports?
- 150.306 Will I be charged a fee for obtaining copies of records?

Subpart E– Records

- 150.401 Who owns the records associated with this part?
- 150.402 How must records associated with this part be preserved?
- 150.403 How does the Paperwork Reduction Act affect this part?

Authority: 5 U.S.C. 301; 5 U.S.C. 552a; 25 U.S.C. 2; 25 U.S.C. 5; 25 U.S.C. 7; 25 U.S.C. 9; 25 U.S.C. 14b; 25 U.S.C. 25; 25 U.S.C. 199; 25 U.S.C. 343; 25 U.S.C. 355; 25 U.S.C. 413; 25 U.S.C. 2201 et. seq.; 44 U.S.C. 2901 et. seq.; 44 U.S.C. 3101 et. seq.; and 44 U.S.C. 3301 et. seq.

Subpart A – Purpose and Definitions

§ 150.1 What is the purpose of this part?

This part describes the BIA repository of title documents for Indian land and responsibilities for recording title documents, maintaining the repository, and providing reports on title to Indian land.

§ 150.2 What terms do I need to know?

Agency means the BIA agency or field office with jurisdiction over a particular tract of Indian land or another BIA office through delegation and documentation of responsibilities in the Indian Affairs Manual. This term also means any Tribe acting on behalf of the Secretary or BIA under a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 *et seq.*).

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

Certify for the purposes of certifying Title Status Reports, probate inventory reports, title status maps, and findings of title examinations means that an LTRO Certifying Officer has determined that the report, map, or examination of land title status is complete, correct, and current, based on the record of title.

Certified copy means a copy of a title document that is a true and correct copy of the title document as recorded in the record of title and evidenced by an official seal.

Certifying Officer means the LTRO Manager or another properly authorized or delegated Federal official who certifies the status of title to Indian lands or copies of title documents.

Defect or title defect means an error contained within, or created by, a title document that makes the title to Indian land uncertain.

I or you means the person to whom these regulations directly apply.

Indian land means land, or an interest therein, that is:

(1) Held in trust by the United States for one or more individual Indians or Tribes; or

(2) Owned by one or more individual Indians or Tribes and can only be alienated or encumbered by the owner with the approval of the Secretary because of restrictions or limitations in the conveyance instrument or in Federal law.

LTRO means the Land Title and Records Office within the BIA, which is responsible for recording title documents, maintaining the record of title, and providing certified copies of title documents and reports. The term LTRO, as used herein, includes any Tribe acting on behalf of the Secretary or BIA under § 150.3.

Manager is the designated officer in charge of a LTRO office or his or her designated representative.

OHA means the Office of Hearings and Appeals within the Department of the Interior.

Probate Inventory Report means a report of Indian land owned by an individual Indian at the time of his or her death.

Record of title means the BIA's repository of title documents for Indian land.

Recording is the acceptance of a title document and entry into the record of title of a title document by LTRO. An official LTRO stamp affixed to the title document provides evidence that the title document has been recorded.

Region means a BIA regional office.

Secretary means the Secretary of the Interior or his or her authorized representative.

Title means ownership of Indian land.

Title examination means a review and evaluation by the LTRO of: (1) title documents submitted to it for recording, and (2) the status of title for a particular tract of Indian land based on the record of title, and a finding, certified by the LTRO Manager, that title is complete, correct, current, and without defect, or identifies defects that must be corrected.

Title document means any document that affects the title to or encumbers Indian land, including but not limited to conveyances, probate orders, encumbrances (such as

mortgages, liens, permits, covenants, leases, easements, rights-of-way), plats, cadastral surveys, and other surveys.

Title Status Report means a report issued after a title examination that shows the proper legal description of a tract of Indian land; current ownership, including any applicable conditions, exceptions, restrictions or encumbrances of record; and whether interests in the land are in unrestricted, restricted, trust, and/or other status as indicated by the record of title in the LTRO.

Tribe means an Indian Tribe under section 102 of the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 5129(a).

§ 150.3 May Tribes administer this part on LTRO's behalf?

A Tribe may contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 *et seq.*) to administer on LTRO's behalf any portion of this part that is not an inherently Federal function.

Subpart B –Record of Title to Indian Land

§ 150.101 What is the purpose of the record of title?

The record of title provides the BIA with a record of title documents to Indian land and provides the public (including but not limited to future purchasers, creditors, and other interested parties) with constructive notice that the title documents exist.

§ 150.102 Who maintains the record of title?

The LTRO is designated as the office responsible for maintaining the record of title.

§ 150.103 What services does the LTRO perform to maintain the record of title?

The LTRO is responsible for performing the following services to maintain the record of title:

- (a) Recording title documents submitted by an Agency, Region, or OHA;
- (b) Providing certified copies of the title documents in the record of title;

- (c) Examining the record of title and certifying the findings of title examinations;
- (d) Providing and certifying Title Status Reports;
- (e) Preparing, maintaining, and providing land status maps;
- (f) Providing and certifying probate inventory reports; and
- (g) Providing other services and reports based upon the information in the record of title.

§ 150.104 How does the LTRO maintain the record of title?

The LTRO maintains the record of title electronically in a system of record. However, certain title documents may exist only as physical copies and not electronically.

§ 150.105 Are certain LTRO offices responsible for certain geographic areas?

Staff at each LTRO office will have primary responsibility to maintain the record of title for Indian land under that LTRO office's assigned geographic area, based on BIA Region, Tribal reservation, or otherwise, as prescribed by BIA through internal procedures. BIA will keep an updated list of each LTRO office's assigned geographic area of responsibility on www.bia.gov/bia/ots/dltr. LTRO offices may assist in maintaining the record of title for Indian land not under their assigned geographic area as needed.

Subpart C – Procedures and Requirements to Record Documents

§ 150.201 What is recorded in the record of title?

(a) All title documents for Indian land must be recorded in the record of title, regardless of whether the document reflects a transaction that required Secretarial approval. For example, the following do not require Secretarial approval, but are title documents required to be recorded:

- (1) Service line agreements must be recorded under 25 CFR 169.56;

(2) Individual leases under approved Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Tribal regulations must be recorded under the Indian Affairs Manual (IAM) at 52 IAM 13;

(3) Individual leases, business agreements, and rights-of-way under Tribal Energy Resource Agreements approved by the Secretary under 25 CFR part 224 must be recorded;

(4) Leases between a Tribe and a Tribal energy development organization under 25 CFR 224 must be recorded;

(5) Leases of Tribal land by a 25 U.S.C. 477 corporate entity under its charter to a third party for a period not to exceed 25 years must be recorded under 25 CFR 162.006(b)(3)(i); and

(6) Subleasehold mortgages under 25 CFR 162.009 must be recorded.

(b) The requirement in paragraph (a) of this section does not eliminate or supersede any Federal statute or regulation requiring the recording of title documents for Indian land in other records of title, including title documents for Indian land within the jurisdiction of the Five Civilized Tribes or the Osage Nation.

(c) LTRO may also record:

(1) Documents that demonstrate the rights of use, occupancy, and/or benefit of certain Tribes to U.S. Government land or other non-Indian lands; and

(2) Certain documents regarding Indian lands that are not title documents.

§ 150.202 Must I check with any other governmental office to find title documents for Indian land?

In certain circumstances, due diligence may require examination of other Federal, State, and local records of title.

§ 150.203 Who may submit a title document for recording?

Only an Agency, Region, or OHA may submit title documents to the LTRO for recording. All other government offices and individuals must submit title documents to the Agency, Region, or OHA, as appropriate, for that Agency, Region, or OHA to submit to the LTRO.

§ 150.204 Who records title documents?

The LTRO is the designated office to record title documents. The BIA Director may delegate the authority to record title documents to another BIA office by documenting the delegation and the types of transactions to which it applies in the Indian Affairs Manual.

§ 150.205 What are the minimum requirements for recording a title document?

(a) A title document must include the following information to be recorded in the record of title, except as provided in paragraph (b) of this section:

- (1) A legal description of the Indian land and, if required, the tract number;
 - (2) The signatures of the parties to the document;
 - (3) Proper notarization or other acknowledgment of the signatures of the parties, if applicable;
 - (4) Signature and citation to the authority of the approving official, if applicable;
- and
- (5) Approval date.

(b) If the title document reflects a transaction that was deemed approved under a statute or regulation providing that a transaction is deemed approved after a certain period of time without Secretarial action to approve or deny, then, at a minimum, the title document must include the following items:

- (1) A legal description of the Indian land and, if required, the tract number;
- (2) The signatures of the parties to the document;

(3) Proper acknowledgement or authentication of the signatures of the parties, if applicable; and

(4) A citation to the statutory or regulatory authority for the transaction to be deemed approved.

§ 150.206 What actions will the LTRO take if it discovers a title defect?

(a) If the LTRO discovers that a title document omits one or more of the items required for recording by § 150.205(a) or (b), then the LTRO will notify the originating office to request correction. Once the omission is corrected, the LTRO will record the title document.

(b) If the LTRO discovers there is an error in one or more of the items required for recording by § 150.205(a) or (b), then the LTRO will record the title document with a notation on title and notify the originating office to request correction. Once the error is corrected, the LTRO will record the corrected title document and remove the notation.

(c) If the LTRO discovers a title defect during a title examination, the LTRO will notify the originating office of the defect, request correction, and make a notation in the record of title. Once the defect is corrected, the LTRO will record the corrected title document or other legal instruments to correct the title document and remove the notation.

(d) If the defect is contained in a probate record, the LTRO will notify the Agency or Region to initiate corrective action with the OHA.

Subpart D – Disclosure of Title Documents and Reports

§ 150.301 How does the LTRO certify copies of title documents?

The Certifying Officer certifies copies of title documents in the record of title by affixing an official seal to the copy of the title document. The official seal attests that the certified copy is a true and correct copy of the recorded title document.

§ 150.302 What reports does the LTRO provide?

The LTRO provides the following types of reports for Indian land to those persons or entities authorized to receive such information:

- (a) Certified reports, including a Title Status Report, Land Status Map, and, as part of the probate record, the Probate Inventory Report; and
- (b) Uncertified reports or other reports based upon the information in the record of title.

§ 150.303 Who may request and receive copies of title documents in the record of title or reports from the LTRO without filing a Freedom of Information Act request?

The following individuals and entities may request and receive copies of title documents in the record of title or reports for Indian land from the LTRO without filing a Freedom of Information Act request to the extent that disclosure would not violate the Privacy Act or other law restricting access to such records, for example, 25 U.S.C. 2216(e):

- (a) Owners of an interest in Indian land (or their legally authorized representative) may request copies of title documents in the record of title or reports for the Indian land in which they own an interest;
- (b) The Tribe with jurisdiction over the Indian land may request title documents or reports for Indian land subject to the Tribe's jurisdiction; and
- (c) Any person (or their legally authorized representative) or entity who is leasing, using, or consolidating Indian land or is applying to lease, use, or consolidate Indian land may request title documents or reports for such Indian land.

§ 150.304 Where do I request copies of title documents or reports from the LTRO?

You may request LTRO information, such as copies of title documents or reports, at any Region or Agency office with access to the record of title, regardless of geographic

location. If the Region or Agency office does not have access to the title documents or the ability to generate the reports requested, it will refer the request to the office with access to the title documents or ability to generate the reports requested.

§ 150.305 What information must I provide when requesting copies of title documents and reports?

(a) Except as provided in paragraph (b) of this section, to request title documents or reports, you must provide only one of the following items of information:

(1) If you are inquiring about your own interest in the tract, then your name and date of birth, or identification number; or

(2) The name of the reservation where the land is located and either the tract number or legal description; or

(3) The Agency name and either the tract number or legal description; or

(4) A legal description of the tract; or

(5) A title document number pertaining to the tract; or

(6) The allotment number including the Tribe or land area code; or

(7) The name of the original allottee.

(b) Individuals and entities described in § 150.303(c) must also provide documents showing that they are entitled to the information they are requesting from the LTRO because they are leasing, using, or consolidating Indian land or the interests in Indian land, or because they are applying to lease, use, or consolidate Indian land or the interests in Indian land.

§ 150.306 Will I be charged a fee for obtaining copies of records?

(a) The LTRO may charge a fee to any of the parties listed in § 150.303(b) and (c) for each copy of recorded title documents, Title Status Reports, and land status maps to cover the costs in reviewing, preparing, or processing the documents.

(b) The fee will be at the rate established by 43 CFR part 2, Appendix A.

(c) The LTRO may waive all or part of these fees, at its discretion.

(d) Paid fees are non-refundable.

Subpart E—Records

§ 150.401 Who owns the records associated with this part?

(a) The records associated with this part are the property of the United States if they:

(1) Are made or received by the Secretary or a Tribe or Tribal organization in the conduct of a Federal trust function under 25 U.S.C. 5301 *et seq.*, including the operation of a trust program; and

(2) Evidence the organization, functions, policies, decisions, procedures, operations, or other activities undertaken in the performance of a Federal trust function under this part.

(b) Records not covered by paragraph (a) of this section 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.

§ 150.402 How must records associated with this part be preserved?

(a) Tribes, Tribal organizations, and any other organization that make or receives records described in § 150.401(a) 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 identified in § 150.401(b) 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.

§ 150.403 How does the Paperwork Reduction Act affect this part?

The information collections contained in this part have been approved by the Office of Management and Budget under 44 U.S.C 3301 *et seq.* and assigned OMB Control Number 1076-. Response is required to obtain a benefit. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless the form or regulation containing the collection of information has a currently valid OMB Control Number.

Tara Sweeney,
Assistant Secretary – Indian Affairs.

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