

Dated: May 24, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

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## 25 CFR Part 150

RIN 1076-AD43

### Land Records and Title Documents

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The purpose of this rulemaking action is to revise the Land Records and Title Documents regulations. This rule was identified for reinvention under the National Performance Review. It is written in plain English to make the rule easier to read and understand for Indian landowners and Bureau realty staff.

**DATES:** Comments by interested parties must be in writing and we must receive them before August 2, 1996.

**ADDRESSES:** You must mail or hand carry your comments to Terrance Virden, Acting Director, Office of Trust Responsibilities, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, N.W., MS 4513 MIB, Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** Alice Harwood, Acting Chief, Division of Real Estate Services, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, N.W., MS 4510 MIB, Washington, D.C. 20240.

**SUPPLEMENTARY INFORMATION:** We are publishing this proposed rule by the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Our policy is to give the public an opportunity to participate in the rule making process by submitting written comments regarding proposed rules. We will consider all comments received during the public comment period. We will determine necessary revisions and issue the final rule. Please refer to this preamble's **ADDRESSES** section for where you must submit your written comments on this proposed rule.

We certify to the Office of Management and Budget (OMB) that these proposed regulations meet the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

This is not a significant rule under Executive Order 12866 and does not require review by the Office of Management and Budget.

This rule imposes no unfunded mandates on any governmental or private entity and is in compliance with the provisions of the Unfunded Mandates of 1995.

The information collection requirements in this part do not require approval by OMB under 44 U.S.C. 3501 et seq.

We determined this proposed rule:

(a) Will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);

(b) Does not constitute a major Federal action significantly affecting the human environment, and no detailed statement is needed under the Environmental Policy Act of 1969;

(c) Does not have significant takings implications in accordance with Executive Order 12630; and

(d) Does not have significant federalism effects.

This rule was written by Quentin M. Jones, Division of Real Estate Services.

List of Subjects in 25 CFR Part 150

Indians-lands.

For the reasons set out in the preamble, we propose to revise Part 150 of Title 25 of the Code of Federal Regulations, as follows:

### PART 150—LAND RECORDS AND TITLE DOCUMENTS

Sec.

150.1 Definitions.

150.2 Purpose.

150.3 Why do we keep land title records?

150.4 What documents must be submitted for recording and who can submit them?

150.5 What are the responsibilities of the Land Titles and Records Offices?

150.6 Where are the Land Titles and Records Offices?

150.7 What other offices have title service responsibilities?

150.8 What if errors are discovered during the recording process?

150.9 When do I need a record of a land title?

150.10 How do I get a copy of a certified land title record, title status map, or a copy of a title document?

150.11 What are the restrictions for access to land records, title documents, and title reports?

150.12 What is a land status map and who prepares it?

Authority: Act of June 30, 1834 (4 Stat. 738; 25 U.S.C. 9). Act of July 26, 1892 (27 Stat. 272; 25 U.S.C. 5). Reorganization Plan No. 3 of 1950 approved June 20, 1949 (64 Stat. 1262). (The Act of April 26, 1906 (34 Stat. 137); the Act of May 27, 1908 (35 Stat. 312); and the Act of August 1, 1914 (38 Stat. 582, 598) deal specifically with land records of the Five Civilized Tribes.)

### § 150.1 Definitions.

*Administrative Law Judge* means an employee of the Office of Hearings and Appeals, Department of the Interior, who has authority to probate the trust or restricted estates of deceased Indians.

*Agency* means an Indian Agency or other field unit of the Bureau of Indian Affairs having Indian land under its immediate jurisdiction.

*Bureau* means the Bureau of Indian Affairs.

*Commissioner* means the Commissioner of Indian Affairs or authorized representative.

*Indian land* means all lands held in trust by the United States for individual Indians or tribes, or all lands, titles to which are held by individual Indians or tribes, subject to Federal restrictions against alienation or encumbrance, or all lands which are subject to the rights of use, occupancy and/or benefit of certain tribes. For purposes of this part, the term Indian land also includes land for which the title is held in fee status by Indian tribes, and U.S. Government-owned land under Bureau jurisdiction.

*Land* means real property or any interests therein.

*Land Titles and Records Office* means offices within the Bureau of Indian Affairs with the Federal responsibility to record, provide custody, and maintain records that affect titles to Indian lands, to examine and evaluate titles, and to provide title status reports.

*Manager* means the officer in charge of a Land Titles and Records Office.

*Recordation* or *recording* means the acceptance of a title document by the appropriate Land Titles and Records Office. The purpose of recording is to provide evidence of a transaction, event, or happening that affects land titles to preserve a record of the title, to give constructive notice of the ownership, change of ownership, and the existence of encumbrances to the land.

*Secretary* means the Secretary of the Interior or authorized representative.

*Superintendent* means the designated officer in charge of an Agency.

*Title document* means any document that affects the title to or encumbers Indian land and is required to be recorded by regulation or Bureau policy.

*Title examination* means an examination and evaluation by a qualified title examiner for the completeness and accuracy of title documents.

*Title status report* means a report issued after a title examination which shows the proper legal description of a tract of Indian land; current ownership, including any applicable conditions, exceptions, restrictions, or encumbrances on record; and whether

the land is in unrestricted, restricted, trust, or other status as indicated by the records in a Land Titles and Records Office.

*Tribe* means a tribe, band, nation, community, rancheria, colony, pueblo or other federally recognized group of Indians.

#### **§ 150.2 Purpose.**

This part contains the authorities, policy, and procedures governing the recording, custody, maintenance, use, and certification of title documents, and the issuance of title status reports for Indian land.

#### **§ 150.3 Why do we keep land title records?**

(a) We are required to make and keep a record of every deed or document showing:

(1) Who has rights and interests in Indian land;

(2) The extent or amount of the rights and interests; and

(3) Where the Indian land is located.

(b) If you are an Indian land owner you may be required to provide copies of documents showing title to the land for approval of land use activity or its financing.

#### **§ 150.4 What documents must be submitted for recording, and who can submit them?**

(a) *Title documents other than probate records.* If we approve or execute a deed or other conveyance of an interest in land executed by an Indian, his heirs, representatives, or assigns, which may require the approval of the President of the United States or the Secretary of the Interior, we must submit the original, a signed duplicate, or a certified copy for recording.

(b) *Probate records.* Under 43 CFR part 4, Subpart D, Administrative Law Judges must submit the original record of Indian probate decisions and copies of petitions for rehearing, reopening, and other appeals to the appropriate Land Titles and Records Office.

#### **§ 150.5 What are the responsibilities of the Land Titles and Records Offices?**

In addition to our record keeping responsibility, we:

(a) Certify copies or make reproductions of title documents which can be admitted into evidence the same as the original. The fees for certified copies are established by a uniform fee schedule that is published in 43 CFR part 2, Appendix A.

(b) Produce title status reports, real property inventories for probate proceedings, and title status maps.

#### **§ 150.6 Where are the Land Titles and Records Offices?**

Location	BIA jurisdictional areas served
Aberdeen, South Dakota. Albuquerque, New Mexico. Anadarko, Oklahoma.	Aberdeen and Minneapolis. Albuquerque, Navajo, and Phoenix. Anadarko, and Miami Agency in Muskogee.
Billings, Montana .... Portland, Oregon ....	Billings. Portland.

#### **§ 150.7 What other offices have title service responsibilities?**

(a) Muskogee Area Office is the office of record and performs limited title functions for all Indian land of the Five Civilized Tribes.

(b) The Juneau Area Office has title service responsibility for the Juneau area.

(c) The Cherokee Agency has title service responsibility for the Eastern Cherokee Reservation.

(d) The Eastern Area Office is the office of record and provides title service responsibility for Indian land located under its jurisdiction.

(e) The Sacramento Area Office has title service responsibility for Indian land located under its jurisdiction.

(f) The Central office in Washington, D.C., provides title services for all other Indian land not shown above, including the land of the Absentee Wyandottes.

#### **§ 150.8 What if errors are discovered during the recording process?**

When errors are discovered, we will:

(a) Notify the originating office if an error is traced to a defective title document, other than a probate record; and

(b) Initiate corrective action for errors discovered in probate records, as follows:

(1) Issue an administrative modification to include any Indian land omitted from the inventory if the property is located in the same state and takes the same line of descent as the original probate decision. Authority is delegated to the Commissioner by 43 CFR 4.272 to make these modifications except on Indian reservations covered by special Inheritance Acts (43 CFR 4.300);

(2) Send copies of administrative modifications to the appropriate Administrative Law Judge, agencies with jurisdiction over the Indian land, and to all persons who share in the estate;

(3) Notify the Superintendent when other types of probate errors require corrective action by Administrative Law Judges;

(4) Issue administrative corrections to correct probate errors which are clerical in nature and which do not affect vested property rights or involve questions of due process; and

(5) Send copies of administrative corrections to the appropriate Administrative Law Judge and agency.

#### **§ 150.9 When do I need a record of a land title?**

When you:

(a) Are required by state, tribal or federal law to show ownership or interest;

(b) Wish to make contracts or agreements requiring a showing of ownership or interest;

(c) Wish to respond to a request that you show proof of rights and interests in Indian land; or

(d) Wish to make a will or gift to include Indian land.

#### **§ 150.10 How do I get a copy of a certified land title record, title status map, or copy of a title document?**

You must submit a written request to a Bureau agency or area office. That office will issue a written request, clearly identifying the tract of land, to the appropriate Land Titles and Records Office.

#### **§ 150.11 What are the restrictions for access to land records, title documents, and title reports?**

(a) We allow access to land records and title documents unless access is restricted by the Privacy Act, 5 U.S.C. 552a, Freedom of Information Act, 5 U.S.C. 552, or other law restricting access. Unless authorized, monetary considerations on leases of tribal land will not be disclosed.

(b) If information concerns individuals and is protected by the Privacy Act, we will not release it without their permission.

#### **§ 150.12 What is a land status map and who prepares it?**

Land status maps reflect the individual tracts, tract numbers, and current status of the tract. The Land Titles and Records Offices prepare and maintain maps of all reservations and similar land areas within their jurisdictions. Base maps are prepared from plats of official survey made by the General Land Office and the Bureau of Land Management. These base maps show prominent physical features, sections, townships, and range lines and are used to prepare land status maps. The office also prepares other special maps, such as plats and townsite maps.

Dated: May 22, 1996.  
 Ada E. Deer,  
*Assistant Secretary—Indian Affairs.*  
 [FR Doc. 96-13732 Filed 5-31-96; 8:45 am]  
 BILLING CODE 4310-02-P

## 25 CFR Part 166

RIN 1076-AD04

### General Agriculture and Range Regulations

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The purpose of this rule making action is to revise and rename the General Grazing Regulations to include provisions of the American Indian Agricultural Resource Management Act (AIARMA) enacted December 3, 1993. The American Indian Agricultural Resource Management Act reaffirmed many aspects of the existing Indian agriculture program and established new program direction for agriculture trespass, management planning, and agriculture education assistance.

**DATES:** Comments must be submitted on or before October 1, 1996.

**ADDRESSES:** Mail comments to: Mr. Mark Bradford, Bureau of Indian Affairs, Division of Land and Water, 1849 C Street, N.W., Mail Stop 4559 MIB, Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mark Bradford, Bureau of Indian Affairs, Division of Land and Water, telephone (202) 208-3598.

**SUPPLEMENTARY INFORMATION:** The proposed rule was developed with the participation of the affected Indian and Alaska Native public. Bureau of Indian Affairs (BIA) and tribal representatives formed four work groups (Leasing, Trespass, Education and, Management Plans) and a steering committee. The work groups first met in March 1994. We distributed three thousand copies of the first draft of the regulations for comment on April 29, 1994. The first draft did not provide for a consolidation of the permitting provisions in 25 CFR Parts 162 and 166.

We conducted five formal hearings throughout the nation. The second draft was distributed for comment on June 28, 1994. The second draft included a cross-references summary sheet which showed how most of the permitting provisions in the existing Part 166 would be incorporated in Subpart D of the proposed Part 162, but it did not include the text of the proposed Subpart D. Input from these meetings and

feedback from initial drafts were considered and addressed in this proposed rule.

The AIARMA was enacted on December 3, 1993 (107 Stat. 2011, 25 U.S.C. 3701 et seq.), and amended on November 2, 1994 (108 Stat. 4572). Section 102(a) of the AIARMA requires that all "land management activities"—defined in Section 4(12)(D) to include the "administration and supervision of agricultural leasing and permitting activities, including a determination of proper land use, \* \* \* appraisal, advertisement, negotiation, contract preparation, collecting, recording, and distributing lease rental receipts"—conform to agricultural resource management plans, integrated resource management plans, and all tribal laws and ordinances. Section 102(b) requires that we recognize and enforce all tribal laws and ordinances which regulate land use or pertain to Indian agricultural land, and provide notice of such laws and ordinances to individuals or groups "undertaking activities" on any affected land. Section 102(c) authorizes—but does not require—waivers of federal regulations or administrative policies which conflict with an agricultural resource management plan or a tribal law. Please note, Sections 102 (a)–(c) expressly provide for the recognition of only those tribal laws which do not conflict with federal law or our trust responsibility.

Sections 105(b) (1)–(4) allows tribes to supersede our rules and regulations on preferences, bonding, and the leasing or permitting of heirship land, but Section 105(c)(3) allows individual landowners to exempt their land from these *specific* types of tribal actions where the owners of at least a 50% interest in such land object in writing.

This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by 208 DM 8.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments on the proposed rule to the location identified in the addresses section of this document.

This document has been reviewed under Executive Order 12866 and is not a significant rule requiring Office of Management and Budget review. It will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The Department of the Interior has determined that this proposed rule does not constitute a major Federal action

significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969. This proposed rule was compiled by four workgroups comprised of BIA and tribal representatives.

The information collection requirements contained in this part do not require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

#### List of Subjects in 25 CFR Part 166

Agriculture, Agricultural products, Education, Grazing lands, and Indian lands.

For the reasons set out in the preamble, part 166 of title 25 of the Code of Federal Regulations is proposed to be revised as follows.

### PART 166—GENERAL AGRICULTURE AND RANGE REGULATIONS

#### Subpart A—General Provisions

Sec.

- 166.1 Definitions.
- 166.2 Information collection.
- 166.3 What activities are regulated by this part?
- 166.4 What is BIA's Indian agriculture policy?
- 166.5 When will the BIA recognize tribal laws?
- 166.6 How is Indian agricultural land managed?

#### Subpart B—Indian Agricultural Land Trespass

- 166.20 What is our trespass policy?
- 166.21 How do tribes get concurrent civil jurisdiction?
- 166.22 What is agricultural trespass?
- 166.23 How are trespassers notified?
- 166.24 What actions are taken against trespassers?
- 166.25 What are the penalties, damages, and costs payable by trespassers?
- 166.26 How are the proceeds from trespass distributed?
- 166.27 What happens if you do not settle a civil trespass case?
- 166.28 How can you appeal our decisions?

#### Subpart C—Agriculture Education, Education Assistance, Recruitment and Training

- 166.30 How are the Indian agriculture education programs operated?
- 166.31 How can you become an agriculture intern?
- 166.32 How can you become an agriculture cooperative education student?
- 166.33 How can you get an agriculture scholarship?
- 166.34 What is agriculture education outreach?
- 166.35 Who can get assistance for postgraduate studies?
- 166.36 What can happen if we recruit you after graduation?