

For the reasons stated in the preamble, the Department proposes to amend part 150 in Title 25 of the Code of Federal Regulations as follows:

1. Revise Part 150 of Title 25 of the Code of Federal Regulations to read as follows:

**PART 150 -- INDIAN LAND RECORD OF TITLE**

**Subpart A –Purpose, Definitions and Public Information**

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- 150.1 What is the purpose of this part?
- 150.2 What terms do I need to know?
- 150.3 What is the policy for disclosing land and title information from the Indian Land Record of Title?
- 150.4 Do I need to make a request under the Freedom of Information Act to obtain information from the Indian Land Record of Title?
- 150.5 Do you have to be an Indian or a Tribe to obtain products or services from the Land Titles and Records Office?

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- 150.101 Is there an official record for Indian Land?
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### **Subpart D – Services and Products of the Land Titles and Records Office**

Sec.

- 150.301 How do I order services and products from the Land Titles and Records Office?
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- 150.303 What if I don't have the needed information?
- 150.303 What if I don't have the needed information?
- 150.304 What certified products does the Land Titles and Records Office produce?
- 150.305 Does BIA charge fees for any of the services provided by, or products produced by, the Land Titles and Records Office?
- 150.306 Who must pay fees assessed by the Land Titles and Records Office?
- 150.307 Is there a fee schedule?
- 150.308 Can the fee schedule be modified?
- 150.309 How do I pay the fee?
- 150.310 Do I contact the Land Titles and Records Office to determine the exact or an estimate of the amount of the fee for a service or product?
- 150.311 When do I pay the fee?
- 150.312 Are there any exceptions to paying the fee for the service or the product requested from the Land Titles and Records Office?
- 150.313 What are the exceptions to paying the fee?
- 150.314 Will I be charged a fee if the Land Titles and Records Office is unable to locate the information because I do not have a legal description?
- 150.315 Will my fee be refunded if the Land Titles and Records Office decides that the requested information or copy of the image of the instrument is protected or privileged?
- 150.316 What will the Land Titles and Records Office do if the instrument contains information that is privileged or protected?
- 150.317 If I find an error or omission in a product or service that the Land Titles and Records Office prepares, what do I do?
- 150.318 What does the Land Titles and Records Office do after I send a written statement of error or omission?

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). (Act of April 26, 1906 (34 Stat. 137); Act of May 27, 1908 (35 Stat. 312); Act of August 1, 1914 (38 Stat. 582, 598) deals specifically with land records of the Five Civilized Tribes. Act of February 14, 1920 (41 Stat. 415) amended March 1, 1933 (47

Stat. 1417; 25 U.S.C. § 413); 5 U.S.C. § 552a; and 31 U.S.C. § 9701.

Source: 46 FR 47537, Sept. 29, 1981, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

Cross-Reference: For further regulations pertaining to proceedings in Indian probate, see 43 CFR part 4, subpart D and 25 CFR part 15.

## **Subpart A –Purpose, Definitions and Public Information**

### §150.1 What is the purpose of this part?

The purpose of this part is to describe the authorities, policies, and procedures we use for:

- (a) recording instruments that affect title to Indian land;
- (b) maintaining copies of title instruments;
- (c) maintaining the Indian Land Record of Title;
- (d) certifying title instruments of Indian land;
- (e) examining and determining title status;
- (f) preparing reports on the title of Indian land; and
- (g) designating the Indian Land Record of Title as the official record for instruments that affect title to Indian land.

### § 150.2 What terms do I need to know?

- (a) BIA means the United States Department of the Interior Bureau of Indian Affairs.
- (b) Certified product or service means a product or service that has been authenticated as an official product or service of a government agency based upon a review of the information in the Indian Land Record of Title.
- (c) Constructive notice means information or knowledge of a fact imputed by law

to a person even if such person has no actual knowledge of the fact.

- (d) Federal government means the government of the United States.
- (e) Federal government land means that land owned by the United States and under the jurisdiction of BIA.
- (f) Government offices mean the Federal, state, county and municipal government.
- (g) ILCA means the Indian Land Consolidation Act, as amended, 25 U.S.C. §§ 2201 et seq.
- (h) Indian land means land in trust status or restricted status, or certain Federal government land that is under the jurisdiction of the Bureau. Trust or restricted status means title to the property is held by the United States in trust for the benefit of a tribe or individual Indian or the state of ownership of the property is fee simple subject to Federal restrictions on alienation or encumbrance.
- (i) Indian Land Record of Title means the record established by Congress under the Act of July 26, 1892, 27 Stat.272; 25 U.S.C. § 5, to make and maintain a record of title instruments for Indian land.
- (j) Interest, when used with respect to Indian land, means a share or right in the land.
- (k) Instrument means a formal or legal document in writing, including, but not limited to, a contract, deed, will, bond, judicial and administrative order, lease, and easement, including a map, survey or plat.
- (l) Land means real estate.

- (m) Land Status Map means a graphic representation of the findings for legal land description, ownership, and encumbrance or ownership, for a particular tract of Indian land, at a specific time and date, as determined in the title examination and certified by the Land Titles and Records Office.
- (n) Land Titles and Records Office means the office within BIA that is responsible for maintaining the Indian Land Record of Title by recording, providing custody, and certifying title instruments in the custody of the Land Titles and Records Office, and for examining and determining the completeness and accuracy of the record of land title, certifying the findings of examination, and reporting the status of title to Indian trust and restricted lands.
- (o) Probate Inventory Report means a report on the assets of the estate of an Indian as determined in the title examination and certified by the Land Titles and Records Office.
- (p) Recording means the entry of the information from an instrument into the Indian Land Record of Title. Recording an instrument in the Indian Land Record of Title gives constructive notice of the instrument's existence.
- (q) Secretary means the Secretary of the Interior, or an authorized representative.
- (r) Title means the vested right or evidence of the vested right of ownership of land.
- (s) Title examination means a review and evaluation by the Land Titles and Records Office of the information in the Indian Record of Title for a particular tract of Indian land and a finding that such information is complete, accurate

and current.

- (t) Title instrument means any instrument that affects the title to Indian land that the law and regulations require to be approved.
- (u) Tribe means those entities listed on the list of Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs published pursuant to 25 CFR § 83.5.
- (v) Title Status Report means a summary statement of the findings of legal land description, ownership, and encumbrance for a particular tract of Indian land, at a specific time and date, as determined in the title examination and as certified by the Land Titles and Records Office.
- (w) United States means the United States of America.
- (x) You/I means the person reading this regulation.

§150.3 What is the policy for disclosing land and title information from the Indian Land Record of Title?

You may access, inspect and copy the information in the Indian Land Record of Title, including information on the location of the land, history or record ownership, current record ownership, and documents related thereto, except where such information is subject to the Privacy Act, 5 U.S.C. § 552a, Freedom of Information Act, 5 U.S.C. § 552, or other law or policy restricting access to such records.

§150.4 Do I need to make a request under the Freedom of Information Act to obtain information from the Indian Land Record of Title?

No. You do not need to make a request under the Freedom of Information Act. You may submit a request for information to any location of the Land Titles and

Records Office or Bureau as provided in Subpart D of this Part.

§150.5 Do you have to be an Indian or a Tribe to obtain products or services from the Land Titles and Records Office?

No. Anyone may receive products and services offered by the Land Titles and Records Office.

**Subpart B – The Indian Land Record of Title Designation as the Official Record of Indian Land**

§150.101 Is there an official record for Indian Land?

Yes. The Indian Land Record of Title is the official record of title instruments affecting Indian land that require approval by the Secretary or other federal official.

§150.102 Must all title instruments affecting Indian land be recorded in the Indian Land Record of Title?

Yes. When the Land Titles and Records Office records a title instrument in the Indian Land Record of Title, the public receives constructive notice that the title instrument exists.

§150.103 Do I have to check with any other governmental office to find title instruments to Indian Land?

No. Although other governmental offices may also have information regarding Indian land, you can rely upon the Indian Land Record of Title as the source of all

recorded title instruments except those affecting land of the Five Civilized Tribes and Osage Tribe.

**Subpart C – Land Title and Records Office Procedures and Requirements to  
Record Instruments in the Indian Land Record of Title**

§150.201 Who maintains the Indian Land Record of Title?

The Land Titles and Records Office is the office within BIA responsible for maintaining the Indian Land Record of Title. It records title instruments affecting Indian land, certifies copies of images of the instruments in the custody of the Land Titles and Records Office, examines the record and certifies the findings of examinations, and provides other services and products based upon the information in the record.

§150.202 Where is the Land Titles and Records Office located?

The Land Titles and Records Office has locations throughout the United States. You may contact any Bureau office for the current contact information.

§150.203 Who submits the title instruments for recording?

BIA submits most of the title instruments to the Land Titles and Records Office. Other government offices may also submit instruments to the Land Titles and Records Office. These offices most often include the Bureaus and Offices within the Department of the Interior.

§ 150.204 What steps does the Land Titles and Records Office take with the instruments that it receives?

The Land Titles and Records Office reviews the instrument to ensure that it satisfies the minimum requirements for recording. If so, the Land Titles and Records Office makes a true and correct image of the instrument, enters the information contained in the instrument affecting the status of title into the Indian Land Record of Title, and returns the original instrument.

§ 150.205 What does the Land Titles and Records Office do if the instrument does not meet the minimum requirements?

If the instrument does not satisfy the minimum requirements, the Land Titles and Records Office returns the instrument with an explanation why the instrument was rejected for recording.

§150.206 What are the minimum requirements for recording a title instrument?

The minimum requirements for recording an instrument include a legal description of the Indian land; the signatures of the parties to the instrument; a proper acknowledgment of the signatures of the parties; the proper approval by a Federal official, and the approval date and authority of the Federal official. Owner-managed leases entered into in accordance with 25 CFR 162 must be recorded to be effective.

§150.207 What happens if the Land Titles and Records Office discovers a defect or error in the title instrument after it has been recorded?

If the Land Titles and Records Office discovers the error after the instrument is

recorded, the Land Titles and Records Office will notify the submitting person of the error and make a notation in the Indian Land Record of Title that an error exists. Once the interested parties correct the error and submit an instrument evidencing the correction to the Land Titles and Records Office, the Land Titles and Records Office shall record the instrument in the Indian Land Record of Title. In any subsequent title examination, the Land Titles and Records Office will rely upon the corrected instrument to determine the title status of the Indian land.

§150.208 What happens if the Land Titles and Records Office discovers a defect or error in a final probate record after it has been recorded?

The Land Titles and Records Office shall issue administrative corrections to correct probate errors that are clerical in nature and which do not affect vested property rights or involve questions of due process. The Land Titles and Records Office will distribute copies of administrative corrections to the appropriate deciding official as defined in the probate regulations.

§150.209 What happens if the defect or error in a final probate record is not clerical in nature?

The Land Titles and Records Office shall notify the appropriate deciding official as defined in the probate regulations and make a notation in the Indian Land Record of Title that an error exists. Once the deciding official corrects the error and submits an instrument evidencing the correction to the Land Titles and Records Office, the Land Titles and Records Office shall record the instrument in the Indian Land Record of Title. In any subsequent title examination, the Land Titles and Records Office will rely upon

the corrected instrument to determine the title status of the Indian land.

§150.210 What instruments qualify for recording with the Land Titles and Records Office?

Only title instruments qualify for recording in the Indian Land Record of Title. Title instruments include, but are not limited to, leases, deeds, judicial and administrative orders, rights of way, deeds of trust, mortgages or other encumbrances of Indian land.

§150.211 Who are the Federal officials who approve title instruments?

Most of the designated Federal officials who approve title instruments, when required, are officials of BIA. Other Federal officials may be from the Department of the Interior or other Federal government offices.

§150.212 Does the Land Titles and Records Office maintain the original title instruments?

No. The Land Titles and Records Office returns the original instrument to the submitter.

§150.213 May I obtain a copy of the title instrument from the Land Titles and Records Office?

Yes. If the Land Titles and Records Office has recorded the information from the title instrument in the Indian Land Record of Title and has made a copy of the title instrument, you may obtain a copy of the title instrument, subject to Freedom of Information Act and the Privacy Act considerations as described in Section 150.3.

§150.214 Is there any benefit of obtaining a certified copy of the title instrument from the Land Titles and Records Office?

Yes. If the Land Titles and Records Office certifies a copy of the title instrument, you may use the certified copy in court or elsewhere, the same as the original instrument.

**Subpart D – Services and Products of the Land Titles and Records Office**

§150.301 How do I order services and products from the Land Titles and Records Office?

You may submit your written request to any location of the Land Titles and Records Office.

§150.302 What do I need to include in my request for services or products?

You must include either a legal description of the land, the identification number of the tract, or the identification number of an owner of the tract.

§150.303 What if I don't have the needed information?

You may submit other information that the Land Titles and Records Office may use to identify an owner or the tract of land, including but not limited to: name and tribal affiliation of an owner, the recording number of the instrument, or an allotment number.

§150.304 What certified products does the Land Titles and Records Office produce?

The Land Titles and Records Office produces and certifies Title Status Reports, Probate Inventory Reports, and Land Status Maps.

§150.305 Does BIA charge fees for any of the services provided by, or products produced by, the Land Titles and Records Office?

Yes. BIA charges fees for certain services and products provided by the Land Titles and Records Office.

§150.306 Who must pay fees assessed by the Land Titles and Records Office?

All persons who receive services and products from the Land Titles and Records Office will be assessed a fee, except as provided in 150.313.

§150.307 Is there a fee schedule?

Yes. The fee schedule is as follows:

<b>Non-Probate Products and Services</b>	<b>Amount</b>
Recording instruments (other than maps)	\$10.00 up to 5 pages
Recording each additional page to instrument	\$2.00, total cost of recording not to exceed \$30.00
Stamping each duplicate copy of instrument (other than maps)	\$1.00 per instrument
Recording each additional page to combined instrument (other than maps) incorporated into one form	\$2.00 per page
Recording instruments (other than maps) which exceed 8 1/2" x 11"	\$4.00 per page
Recording instruments (other than maps) with character size other than 10" to 12"	\$5.00 per page
Indexing the first 10 names	No cost
Indexing for each additional group of 10 names or portion thereof (other than probate)	\$10.00
Recording and indexing judicial notices and decrees other than probate	\$5.00 per page or \$5.00 per indexing
Recording or filing and indexing each map as separate instrument	\$15.00 per page
Recording or filing and indexing each additional page of a map recorded as separate instrument over 8 1/2" x 11"	\$3.00 per page
Recording or filing and indexing each map as exhibit to instrument that is over 8 1/2" x 11"	\$10.00 per page
Recording or filing and indexing each additional page of a map recorded as exhibit to instrument	\$2.00 per page
Title examination	\$30 per hour with a minimum of \$90
Certification of a Title Status Report, Probate Inventory Report or Land Status Map (requires Title examination and is a fee in addition any fees charged for such service)	\$10 per certification
Creating Surface Land Status LTM Plat Book (by reservation)	\$30 per hour with a minimum fee of \$90
Create Land Status Map	\$30 per map

PRELIMINARY DRAFT  
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Creating customized maps	\$40 per hour with a minimum fee of \$80
Photographic copy of any instrument	\$1.00 for first page
Each ADDITIONAL copy	\$1.00 per page
Photographic copy of any page exceeding 11"x18"	\$1.50 per page
Each ADDITIONAL page	\$1.50 per page
Copy of plats	\$2.00 per page
Copies of bluelines of plats	\$3.00 per page
Copies of mylars of plats	\$15.00 per page
Copies of instruments certified under seal	\$5.00 per instrument up to 5 pages
Each additional page of copies of instruments certified under seal	\$1.00 per page
Computer printout	\$1.00 per page
Copies of information on CD in addition to hourly fee for searching, retrieving, and formatting information	\$200.00
Microfiche	\$50 per roll
Telefaxing	\$.80 per page
Search, retrieval and formatting for information by staff	\$30 per hour with a minimum fee of \$150
Hourly fee to access records, including printing time	\$25 per hour with a minimum fee of \$25
Mailing out of copies	\$1.00 per instrument
Receipt of filing by mail, handling fee	\$5.00 per filing
Customized service or product	To be determined on case by case basis
<b>Probate Products and Services</b>	<b>Amount</b>
Record original probate	\$2.00
Indexing tract of land described in judicial and administrative order per tract	\$2.00 per tract
Index heirs of land described in judicial and administrative order per heir per tract	\$1.00 per heir
Create Probate Inventory Report	No cost

§150.308 Can the fee schedule be modified?

Yes.

§150.309 How do I pay the fee?

You may pay the fee by certified check or money order.

§150.310 Do I contact the Land Titles and Records Office to determine the exact or an estimate of the amount of the fee for a service or product?

Yes. The Land Titles and Records Office will provide this information to you.

§150.311 When do I pay the fee?

You pay the entire fee, or minimum fee if the fee is an hourly rate, when you request the service or the product from the Land Titles and Records Office. When the Land Titles and Records Office delivers the service or the product to you, you will pay any remaining amount according to the hourly rate. For products and services related to a probate proceeding, you pay the fee by the date the probate order becomes final.

§150.312 Are there any exceptions to paying the fee for the service or the product requested from the Land Titles and Records Office?

Yes. The Land Titles and Records Office will grant an exception under the following circumstances:

(a) If you are an individual Indian and are recording a transaction that reduces the number of owners of undivided interest in a tract of Indian land.

(b) If you are an individual Indian and are recording an instrument to transfer your undivided interest in Indian land to a tribe.

(c) If you are a tribe and recording a transaction that will consolidate the ownership interests of a tract of Indian land.

(d) If you are an agency or office within the Department of the Interior or the Department of Justice.

(e) None of the above exceptions apply to products and services provided in

connection with a probate proceeding.

§150.313 Will I be charged a fee if the Land Titles and Records Office is unable to locate the information because I do not have a legal description?

Yes. You will be charged a minimum fee even if the Land Titles and Records Office is unable to provide the service or the product, unless the Land Titles and Records Office grants an exception under Section 150.312..

§150.314 Will my fee be refunded if the Land Titles and Records Office decides that the requested information or copy of the image of the instrument is protected or privileged?

Yes. The Land Titles and Records Office shall refund your fee for any information that cannot be delivered to you because of the Privacy Act, 5 U.S.C. § 552a or other law or policy restricting access to such records.

§150.315 What will the Land Titles and Records Office do if the instrument contains information that is privileged or protected?

The Lands Titles and Records Office will redact the information that is protected under the Privacy Act, or cannot be provided to you because of 5 U.S.C. § 552a or other law or policy restricting access to such records and provide you with the remaining information or altered copy of the image of the instrument.

§150.316 If I find an error or omission in a product or service that the Land Titles and Records Office prepares, what do I do?

You may submit a written description of the error or omission with any supporting documentation, to the Land Titles and Records Office.

§150.317 What does the Land Titles and Records Office do after I send a written

statement of error or omission?

The Land Titles and Records Office will conduct an investigation. If the Land Titles and Records Office determines that there is an error or omission in the product or service, it will correct the product or service. If there is an error or omission in the information in the Indian Land Record of Title, it will correct the error or omission based upon the image or original copy of the title instrument from which it obtained the information. If there is an error or omission in the title instrument, it will follow those procedures set forth in §§150.207- 150.209.

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