

regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA’s authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency’s authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would amend Class E airspace at Bedford County Airport, Bedford, PA.

This proposal would be subject to an environmental analysis in accordance with FAA Order 1050.1E, “Environmental Impacts: Policies and Procedures” prior to any FAA final regulatory action.

#### **Lists of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

#### **The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

#### **PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS**

- 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

##### **§ 71.1 [Amended]**

- 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, effective September 15, 2012, is amended as follows:

*Paragraph 6005. Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.*

\* \* \* \* \*

#### **AEA PA E5 Bedford, PA [Amended]**

Bedford County Airport, PA  
(Lat. 40°05′10″ N., long. 78°30′49″ W.)

That airspace extending upward from 700 feet above the surface within a 12.5-mile radius of Bedford County Airport.

Issued in College Park, Georgia, on May 21, 2013.

**Jackson Allen,**

*Acting Manager, Operations Support Group,  
Eastern Service Center, Air Traffic  
Organization.*

[FR Doc. 2013–12707 Filed 5–28–13; 8:45 am]

**BILLING CODE 4910–13–P**

## **DEPARTMENT OF THE INTERIOR**

### **Bureau of Indian Affairs**

#### **25 CFR Part 151**

**[K00103 12/13 A3A10; 134D0102DR–DS5A300000–DR.5A311.IA000113; Docket ID: BIA–2013–0005]**

**RIN 1076–AF15**

#### **Land Acquisitions: Appeals of Land Acquisition Decisions**

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule revises a section of regulations governing decisions by the Secretary to approve or deny applications to acquire land in trust under this part. This rule is appropriate to address changes in the applicability of the Quiet Title Act as interpreted by a recent United States Supreme Court decision. This rule revises a regulatory provision the Department added in 1996 to ensure that interested parties had the opportunity to timely seek judicial review of decisions when available under the Administrative Procedure Act. The Department had determined the provision was necessary because, consistent with Federal court decisions at the time, once the Secretary acquired title, the Quiet Title Act precluded judicial review of the Secretary’s decision to take the land into trust. The Supreme Court has since held that the Quiet Title Act does not preclude timely Administrative Procedure Act challenges to agency decisions to acquire land in trust unless the aggrieved party claims an ownership interest in the property at issue. This rule revises the regulation to reflect this change in the law and to make other

revisions to codify the current process for issuing decisions approving or denying requests to acquire land in trust under this part. It also broadens and clarifies the notice of decisions to acquire land in trust under this part, including broadening notice of any right to file an administrative appeal.

**DATES:** Comments on this rule must be received by July 29, 2013.

**ADDRESSES:** You may submit comments by any of the following methods:

- Federal rulemaking portal:* <http://www.regulations.gov>. The rule is listed under the agency name “Bureau of Indian Affairs.” The rule has been assigned Docket ID: BIA–2013–0005.
- E-Mail:* [consultation@bia.gov](mailto:consultation@bia.gov). Include the number 1076–AF15 in the subject line of the message.
- Mail:* Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action, U.S. Department of the Interior, 1849 C Street NW. Include the number 1076–AF15 in the submission.
- Hand Delivery:* Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action, U.S. Department of the Interior, 1849 C Street NW. Include the number 1076–AF15 in the submission.

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, Acting Director, Office of Regulatory Affairs & Collaborative Action, (202) 273–4680; [elizabeth.appel@bia.gov](mailto:elizabeth.appel@bia.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Executive Summary of Rule**

Section 5 of the Indian Reorganization Act (IRA) (25 U.S.C. 465) authorizes the Secretary of the Interior to acquire land in trust for individual Indians and Indian tribes. The Department of the Interior’s regulations at 25 CFR part 151 implement this statutory provision, as well as other statutes authorizing the acquisition of land in trust for individual Indians and Indian tribes. In 1996, the Department revised part 151 by procedural rulemaking. That procedural rule added a paragraph (b) to § 151.12, which established a 30-day waiting period following publication of notice in the **Federal Register** or in a newspaper of general circulation serving the affected area announcing the final agency determination to take the subject

land into trust. Paragraph (b) was intended to ensure that interested parties had the opportunity to seek judicial review under the Administrative Procedure Act (APA) (5 U.S.C. 704) before the Secretary acquired title to land in trust. *See* 61 FR 18082 (Apr. 24, 1996). The Department had determined such rule was necessary because, at that time, prevailing Federal court decisions found that the Quiet Title Act (QTA), 28 U.S.C. 2409a, precluded judicial review of the decision after the United States acquired title. *See, e.g., Neighbors for Rational Dev., Inc. v. Norton*, 379 F.3d 956 (10th Cir. 2004); *Metro Water Dist. of S. Cal. v. United States*, 830 F.2d 139 (9th Cir. 1987); *Florida Dep't of Bus. Regulation v. Dep't of the Interior*, 768 F.2d 1248 (11th Cir. 1985).

The legal landscape changed, however, on June 18, 2012, when the Supreme Court issued its decision in *Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians v. Patchak*, 132 S. Ct. 2199 (2012). In that decision, the Supreme Court held that the QTA is not a bar to APA challenges to the Secretary's decision to acquire land in trust after the United States acquires title to the property unless the aggrieved party asserts an ownership interest in the land as the basis for the challenge. Following *Patchak*, the 1996 procedural rule establishing a 30-day waiting period before taking land into trust to allow for APA review is no longer needed because, if judicial review under the APA is not precluded on some other basis, such as standing, timeliness, or a failure to exhaust administrative remedies, judicial review of the Secretary's decision is available under the APA even after the Secretary has acquired title to the property.

This rule effectively repeals the 1996 procedural provision by revising section 151.12 to:

- Clarify the process depending upon whether the Assistant Secretary—Indian Affairs or a Bureau of Indian Affairs official issues the decision;

- Clarify how decisions under this part become final for the Department;

- Ensure public notice of a BIA official decision to acquire land into trust:

- All interested parties who have made themselves known in writing to the BIA official, as well as State and local governments having regulatory jurisdiction over the land to be acquired, must receive actual notice of the decision and the right to file an administrative appeal, if any;

- All parties who have not made themselves known in writing to the BIA official will receive notice of the

decision and right to appeal, if any, through publication in a newspaper of general circulation serving the affected area.

- Make other changes to reflect more accurately the process for issuing approval and denial decisions under this part.

## II. Background on Challenges to Land-Into-Trust Decisions

A decision to acquire land in trust may be issued by the Assistant Secretary—Indian Affairs (AS-IA) or by the BIA Director or other BIA official with delegated authority to issue the decision. The means and timelines for challenging the decision differ depending on whether the decision is issued by the AS-IA or whether the decision is issued by a BIA official.

- If the AS-IA issues the decision under this part, then the decision is a “final agency determination,” and the decision is final for the Department. *See* 25 CFR 2.6(c). Decisions made by the AS-IA are not subject to administrative review by the Interior Board of Indian Appeals (IBIA).

- If a BIA official decides to acquire land in trust, such decision is not yet a “final agency determination” because interested parties may appeal the decision under the administrative review process set forth in 25 CFR part 2. Under part 2, interested parties have a 30-day period in which to file an appeal of the BIA official's decision. *See* 25 CFR 2.9. If no appeal is filed within the 30-day administrative appeal period, then the BIA official's decision becomes final for the Department. If an administrative appeal of a BIA official's decision is timely filed and effective with the IBIA, then only after the IBIA issues a final decision affirming the BIA official's decision does such decision become final for the Department.

- Once a decision is final for the Department, it is subject to judicial review under the APA, as available. APA challenges must be brought within the six year statute-of-limitations period applicable to the APA. *See* 28 U.S.C. 2401(a).

## III. Detailed Explanation of Rule

This rule revises § 151.12 to remove procedural requirements that are no longer necessary in light of the *Patchak* Supreme Court decision and to increase transparency by better articulating the process for issuing decisions to acquire land in trust under this part. Specifically, this rule deletes the 30-day waiting period for implementation of decisions to acquire land in trust after such decisions are final for the Department, and broadens and clarifies

notice of decisions issued by BIA officials to acquire land in trust under this part and the right, if any, of interested parties to appeal such decisions pursuant to part 2 of this title.

### A. Deleting the 30-Day Waiting Period

The current rule at § 151.12 states that the Secretary of the Interior shall review all requests and shall promptly notify the applicant in writing of his decision. The Secretary may request any additional information or justification he considers necessary to enable him to reach a decision. If the Secretary determines that the request should be denied, he shall advise the applicant of that fact and the reasons therefor in writing and notify him of the right to appeal pursuant to 25 CFR part 2. Following completion of the Title Examination provided in § 151.13 and the exhaustion of any administrative remedies, the Secretary shall publish in the **Federal Register**, or in a newspaper of general circulation serving the affected area a notice of his/her decision to take land into trust under this part. The notice will state that a final agency determination to take land in trust has been made and that the Secretary shall acquire title in the name of the United States no sooner than 30 days after the notice is published.

As noted above, paragraph (b) was added in 1996 to add, after decisions to acquire land in trust became final for the Department, a 30-day waiting period before the Secretary could acquire title to the property to allow parties to seek judicial review of the Secretary's decision under the APA. *See* 61 FR 18082 (Apr. 24, 1996). The stated reason for adding this waiting period was because the United States' position at the time was that the QTA precluded judicial review of the Secretary's decision after the United States acquired title to the land at issue. *Id.* The Supreme Court has since held that the QTA itself is not a bar to judicial review under the APA unless the aggrieved party asserts an ownership interest in the property. Following the *Patchak* decision, this 30-day waiting period is now unnecessary because parties may seek, to the extent it is available, judicial review of the Secretary's decision under the APA even after the land is acquired by the United States in trust. Accordingly, the proposed rule provides that the Secretary shall, on or promptly after the decision to acquire land in trust is final for the Department, complete the trust acquisition pursuant to 25 CFR 151.14 after fulfilling the requirements of 25 CFR 151.13 and any other Departmental requirements.

The *Patchak* decision is consistent with federal court cases that preceded the decision holding that the QTA bars judicial review by aggrieved parties seeking to quiet title to the property in themselves. Because no change in the law has occurred in connection with these parties, the proposed rule makes no changes to such parties' rights under this part. Consistent with the Department's prior practice, the Department will continue to conduct an exhaustive title examination process in connection with decisions to acquire land in trust under this part. This process identifies adverse landowners prior to the decision so that their interests are addressed before the Secretary issues a decision on the application. Therefore, the changes proposed by this rule should have no effect on the rights of these parties.

*B. Requiring Notification of Known and Unknown Interested Parties of the Decision and Administrative Appeal Rights*

Under existing regulations, BIA officials who issue decisions under this part are required to provide known interested parties with written notice of such decisions. See 25 CFR 2.7(a). The proposed rule requires interested parties, as that term is currently defined in the part 2 regulations, to make themselves known to the BIA official in writing in order to require the BIA official to provide this written notice to them. For example, a party that submits written comments to the BIA official in connection with a pending application has made itself "known" to the BIA official and will be provided written notice of the decision when issued. If a BIA official's decision is subject to administrative review by another BIA official, parties must make themselves

known in writing at each stage of administrative review. For example, a party that makes itself known in writing to a BIA Superintendent with the delegated authority to issue decisions under this part must also make itself known to the BIA Regional Director if the BIA Superintendent's decision has been appealed to the Regional Director by another party. Notifications of decisions issued by BIA officials will continue to include information concerning administrative appeal rights, consistent with 25 CFR 2.7. Please note, however, that inclusion of such information in the notice of decision does not confer upon the recipient a right to a decision on the merits of their claims. The right to a decision on the merits of a BIA official's decision is still subject to standing, timeliness, and other requirements limiting IBIA review of BIA officials' decisions.

With regard to notice to unknown interested parties, the revised rule requires that, where the AS-IA issues the decision, a notice of such decision will be published in the **Federal Register**. When a BIA official issues a decision, a notice of such decision and a statement of the right to an administrative appeal will be published in a newspaper of general circulation addressing the affected area. The newspaper notice will contain the same statement that is included in the written notice of decision provided to known interested parties regarding the right to appeal, if any. The time for unknown interested parties to file a notice of appeal begins to run upon first publication of such newspaper notice.

Lastly, the proposed rule also clarifies regulatory notice requirements to require the BIA official to notify, by mail or personal delivery, State and local governments having regulatory

jurisdiction over the land to be acquired and any right to appeal.

Consistent with 25 CFR 2.7(b), in the event the BIA official fails to notify parties entitled to written notice of the decision, such failure does not affect the validity of the decision; instead, the time for filing a notice of appeal of the decision will not begin to run for such parties until written notice has been provided.

*C. Exhaustion of Administrative Remedies*

When a BIA official issues the decision to acquire land in trust, administrative remedies are available (as set forth in 25 CFR part 2) and interested parties must first exhaust them before seeking judicial review under the APA. Under 25 CFR part 2, interested parties have a specific time period to appeal the BIA's decision to acquire land in trust to the IBIA. Currently, that time period is 30 days. If interested parties who have received written notice or notice by newspaper publication fail to appeal within that timeframe, such parties are precluded from seeking any judicial review available under the APA because they failed to exhaust administrative remedies.

When the AS-IA issues decisions to acquire land in trust under this part there are no administrative remedies to exhaust; such decisions are final for the Department.

*D. Summary of All Revisions to 151.12*

Other changes to § 151.12 are designed to increase transparency and better reflect the current process for approving and denying requests to take land into trust. The following table details all revisions this proposed rule would make to § 151.12.

Current 25 CFR §	Current provision	Proposed 25 CFR §	Description of change	Reason for change
151.12(a) ....	"The Secretary shall review all requests and shall promptly notify the applicant in writing of his decision."	151.12(a) .....	Moves provision regarding promptly notifying the applicant in writing of the decision to (c) and (d).	The revised version describes the process of the Assistant Secretary issuing a decision in paragraph (c), and the process of a BIA official issuing a decision in paragraph (d)
151.12(a) ....	"The Secretary may request any additional information or justification he considers necessary to enable him to reach a decision."	151.12(a) .....	No substantive change .....	N/A.

Current 25 CFR §	Current provision	Proposed 25 CFR §	Description of change	Reason for change
151.12(a) .....	“If the Secretary determines that the request should be denied, he shall advise the applicant of that fact and the reasons therefor in writing and notify him of the right to appeal pursuant to part 2 of this title.”	151.12(b) .....	States generally that the Secretary’s decision will be in writing and state the reasons for the decision, so this requirement applies regardless of whether the decision was an approval or denial. Moves the provision regarding notification of appeal rights to (d)(1) (denial decision by BIA official) and (d)(2)(ii) and (d)(2)(iii) (approval decision by BIA official).	This addition reflects current practice, whereby the decision and basis for the decision are in writing for the record. Clarifies that only decisions from BIA officials may be appealed under part 2. Decisions by the Assistant Secretary are final for the Department.
151.12(b) .....	“Following completion of the Title Examination provided in § 151.13 of this part . . .”	152.12(c) & (d) .....	The requirement for a title examination has been moved to (c)(2)(iii) and (d)(2)(iv)(B).	The revised version places the requirement for title examination in paragraphs relating to an approval decision by the Assistant Secretary and an approval decision by the BIA official.
151.12(b) .....	“. . . and the exhaustion of any administrative remedies . . .”	152.12(d) .....	The requirement for exhaustion of administrative remedies has been moved to (d), which is applicable only to decisions issued by a BIA official.	Clarifies that only decisions from BIA officials may be appealed under part 2. Decisions by the Assistant Secretary are final for the Department.
151.12(b) .....	“. . . the Secretary shall publish in the <b>Federal Register</b> , or in a newspaper of general circulation serving the affected area a notice of his/her decision to take land into trust under this part.”	151.12(c)(2)(ii) & (d)(2).	The requirement to publish in the <b>Federal Register</b> has been moved to (c)(2)(ii) (decisions by the Assistant Secretary). The requirement to publish in a newspaper has been moved to (d)(2)(iii) (decisions by a BIA official) and clarifies that any appeal period begins to run upon first publication. Also adds a requirement for actual notice to known interested parties and State and local governments with jurisdiction over the land to be acquired of a BIA official’s decision to take land into trust.	The addition of the requirement for actual notice to known interested parties and State and local governments with jurisdiction is to ensure that all known interested parties receive the notice necessary for the administrative appeal period to begin to run. This supplements 25 CFR 2.7 by providing that, for unknown interested parties, the time for appeal begins to run upon publication in the newspaper. This exception is necessary because notice by mail or personal service is not possible for parties not known to the BIA official.
151.12(b) .....	“The notice will state that a final agency determination to take land in trust has been made and . . .”	151.12(c) .....	States that a decision issued by the Assistant Secretary is final for the Department.	The current rule’s statement that the decision is a “final agency determination” does not reflect those cases where the decision is made by a BIA official, which is not a “final agency determination” at the time of issuance and may be appealed through the Department’s administrative appeals process.
151.12(b) .....	“. . . that the Secretary shall acquire title in the name of the United States no sooner than 30 days after the notice is published.”	151.12(c)(2)(iii) & (d)(2)(iv).	Deletes statement that the Secretary will acquire title no sooner than 30 days after the notice is published. Instead, provides that the Assistant Secretary will “promptly” acquire land into trust at (c)(2)(iii) and that the BIA official will “promptly” acquire land into trust when the decision is final, after the administrative appeal period expires or the appeal is decided or dismissed.	Deleting the 30-day waiting period means the decision to take land into trust may now be implemented as soon as such decision becomes final. This is true regardless of how the decision becomes final for the Department, whether because the Assistant Secretary issues the decision, the BIA issues a final decision affirming the BIA official’s decision, or following expiration of the administrative appeal period for which no administrative appeals are filed.

Upon finalization of the rule, revisions to the Fee-to-Trust Handbook will be made to comport with the new notice procedures in this rule, including the addition of broader notice requirements of decisions issued by Bureau officials.

#### IV. Procedural Requirements

##### A. Regulatory Planning and Review (E.O. 12866 and 13563)

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 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 rule in a manner consistent with these requirements. This rule is also part of the Department's commitment under the Executive Order to reduce the number and burden of regulations and provide greater notice and clarity to the public.

##### B. Regulatory Flexibility Act

The Department of the Interior certifies that this rule 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.*).

##### C. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. It will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year. The rule's requirements will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Nor will this rule 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 because the rule is limited to appeals of acquisitions of Indian land.

##### D. Unfunded Mandates Reform Act

This 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 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)

Under the criteria in Executive Order 12630, this rule does not affect individual property rights protected by the Fifth Amendment nor does it involve a compensable "taking." A takings implication assessment is therefore not required.

##### F. Federalism (E.O. 13132)

Under the criteria in Executive Order 13132, this rule has no substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule ensures notification to State and local governments of a BIA official's decision to take land into trust and the right to administratively appeal such decision.

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

This rule complies with the requirements of Executive Order 12988. Specifically, this rule has been reviewed to eliminate errors and ambiguity and written to minimize litigation; and is written in clear language and contains clear legal standards.

##### H. Consultation With Indian Tribes (E.O. 13175)

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments," Executive Order 13175 (59 FR 22951, November 6, 2000), and 512 DM 2, we have evaluated the potential effects on federally recognized Indian tribes and Indian trust assets. During development of the rule, the Department discussed the rule with tribal representatives and will engage in further consultation as it reviews public comments.

##### I. Paperwork Reduction Act

This rule does not contain any information collections requiring approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*

##### J. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment because it is of an administrative, technical, and procedural nature.

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

This 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 "COMMENTS" section. To better help us revise the rule, 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, email 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 151

Indians—lands.

For the reasons stated in the preamble, the Department of the Interior, Bureau of Indian Affairs,

proposes to amend part 151 in Title 25 of the Code of Federal Regulations as follows:

## PART 151—LAND ACQUISITIONS

■ 1. The authority citation for part 151 continues to read as follows:

**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.

■ 2. Revise § 151.12 to read as follows:

### § 151.12 Action on requests.

(a) The Secretary shall review each request and may request any additional information or justification deemed necessary to reach a decision.

(b) The Secretary's decision to approve or deny a request shall be in writing and state the reasons for the decision.

(c) Decisions made by the Assistant Secretary—Indian Affairs are final agency actions under the Administrative Procedure Act (5 U.S.C. 704) upon issuance.

(1) If the Assistant Secretary denies the request, the Assistant Secretary shall promptly provide the applicant with the decision.

(2) If the Assistant Secretary approves the request, the Assistant Secretary shall:

(i) Promptly provide the applicant with the decision;

(ii) Publish in the **Federal Register** a notice of the decision to acquire land in trust under this part; and

(iii) Promptly acquire the land in trust under § 151.14 on or after the date such decision is issued and upon fulfillment of the requirements of § 151.13 and any other Departmental requirements.

(d) Decisions made by a Bureau of Indian Affairs official are not final for the Department under part 2 of this title until administrative remedies are exhausted or until the time for filing a notice of appeal has expired and no appeal was filed.

(1) If the official denies the request, the official shall promptly provide the applicant with the decision and notification of any right to file an administrative appeal under part 2 of this title.

(2) If the official approves the request, the official shall:

(i) Promptly provide the applicant with the decision;

(ii) Provide written notice of the decision by mail or personal delivery to

(A) Interested parties who have made themselves known, in writing, to the official who made the decision; and

(B) The State and local governments having regulatory jurisdiction over the land to be acquired. The notices sent pursuant to paragraphs (d)(2)(ii)(A)–(B) of this section shall also inform the addressee of the right, if any, to file an administrative appeal of such decision pursuant to part 2 of this title;

(iii) Publish a notice in a newspaper of general circulation serving the affected area of the decision to acquire land in trust under this part and any right of other interested parties to file an administrative appeal under part 2 of this title. For purposes of calculating the appeal period, the date of first publication of the notice shall be deemed the date of receipt of the decision for interested parties who did not make themselves known, in writing, to the official who made the decision;

(iv) Take the following actions to finalize the trust acquisition:

(A) If no administrative appeal is filed, the BIA official will promptly take the land into trust under § 151.14 after expiration of the time for filing a notice of appeal and after fulfilling the requirements of § 151.13 and any other Departmental requirements.

(B) If an administrative appeal is filed, the BIA official will take the land into trust under § 151.14 promptly following an IBIA decision affirming the decision, or dismissing the appeal, and after fulfilling the requirements of § 151.13 and any other Departmental requirements.

Dated: May 23, 2013.

**Kevin K. Washburn,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 2013–12708 Filed 5–24–13; 11:15 am]

**BILLING CODE 4310–6W–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2013–0391]

RIN 1625–AA00

### Safety Zone, Temporary Change for Recurring Fifth Coast Guard District Fireworks Displays, Middle River, Baltimore County, MD

**AGENCY:** Coast Guard, DHS.

### **ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Coast Guard is proposing a temporary change to the enforcement periods and regulated areas of safety zone regulations for a recurring fireworks display within the Fifth Coast Guard District. This regulation applies to a recurring fireworks display event that take place in Baltimore County, MD. Safety zone regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Middle River during the event.

**DATES:** Comments and related material must be received by the Coast Guard on or before June 28, 2013.

**ADDRESSES:** You may submit comments identified by docket number using any one of the following methods:

(1) *Federal eRulemaking Portal:*

<http://www.regulations.gov>.

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Mr. Ronald Houck, Sector Baltimore Waterways Management Division, Coast Guard; telephone 410–576–2674, email

[Ronald.L.Houck@uscg.mil](mailto:Ronald.L.Houck@uscg.mil). If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

### **SUPPLEMENTARY INFORMATION:**

#### **Table of Acronyms**

DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of Proposed Rulemaking

#### **A. Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include