and 211(a) of the Advisers Act [15 U.S.C. 80b–6a and 80b–11(a)].

List of Subjects in 17 CFR Part 275

Investment advisers, Reporting and recordkeeping requirements.

Text of Rule Amendment

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows.

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

■ 1. The authority citation for Part 275 continues to read in part as follows:

Authority: 15 U.S.C. 80b–2(a)(11)(G), 80b–2(a)(11)(H), 80b–2(a)(17), 80b–3, 80b–4, 80b–4a, 80b–6(4), 80b–6a, and 80b–11, unless otherwise noted.

* * * * *

§ 275.206(3)–3T [Amended]

■ 2. In § 275.206(3)–3T, amend paragraph (d) by removing the words ''December 31, 2014'' and adding in their place ''December 31, 2016.''

By the Commission.

Dated: December 17, 2014.

Brent J. Fields,

Secretary.

[FR Doc. 2014–29975 Filed 12–22–14; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 316

[Docket No. FDA–2011–N–0583]

Policy on Orphan-Drug Exclusivity; Clarification

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification; clarification on policy.

SUMMARY: The Food and Drug Administration (FDA) is publishing this document to clarify its policy regarding certain aspects of orphan-drug exclusivity. This document is being published because of a recent court decision interpreting provisions of the Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Orphan Drug Act.

DATES: Effective December 23, 2014.

FOR FURTHER INFORMATION CONTACT: Gayatri R. Rao, Office of Orphan Products Development, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5271, Silver Spring, MD 20993, 301–796–8660.

SUPPLEMENTARY INFORMATION:

I. Background

After a designated orphan drug is approved, section 527 of the FD&C Act (21 U.S.C. 360cc) generally prohibits the Food and Drug Administration (FDA or the Agency) from approving another such drug for the same disease for 7 years. Regulations interpreting this provision were proposed in 1991 (January 29, 1991, 56 FR 3338) and made final in 1992 (December 29, 1992, 57 FR 62076). In 2011, FDA issued a proposed rule (October 19, 2011, 76 FR 64868) to amend these regulations to clarify certain regulatory language and propose areas of minor improvement regarding orphan-drug designation and orphan-drug exclusivity; these were finalized in 2013 (June 12, 2013, 78 FR 35117). These regulations are codified under part 316 (21 CFR part 316).

FDA has interpreted section 527 of the FD&C Act and its regulations such that the Agency will not recognize orphan-drug exclusivity for a drug when it has previously approved the same drug for the same use or indication in a rare disease or condition. §§ 316.3(b)(12); 316.31(a). A drug will not be considered the same as a previously approved drug if, at the time of approval, the sponsor has provided evidence that its drug is ''clinically superior'' to the previously approved drug, that is, the drug is more effective, safer, or makes a major contribution to patient care. § 316.3(b)(3). Accordingly, the sponsor of an orphan-designated drug that is the same as a previously approved drug, as defined in § 316.3(b)(14), is required to demonstrate that its drug is clinically superior to the previously approved drug in order for its drug to be eligible for orphan-drug exclusivity upon approval.

The Agency's interpretation of section 527 of the FD&C Act has been the subject of legal action in *Depomed* v. *HHS et al.*, Civil Action No. 12–1592 (KBJ) (D.D.C. September 5, 2014). Depomed has not demonstrated that GRALISE (gabapentin) is clinically superior to a previously approved drug, Pfizer's NEURONTIN (gabapentin). Accordingly, under the relevant regulations, GRALISE is the same drug as NEURONTIN, because it contains the same active moiety (gabapentin), was approved for the same use (post-herpetic neuralgia), and was not demonstrated to be clinically superior to NEURONTIN. Nevertheless, the *Depomed* court held that FDA must recognize orphan-drug exclusivity for GRALISE for the treatment of post-herpetic neuralgia. Following the *Depomed* decision, under the court's order, FDA recognized orphan-drug exclusivity for GRALISE for the treatment of post-herpetic neuralgia.

II. Orphan-Drug Exclusivity

In consideration of any uncertainty created by the court's decision in *Depomed,* the Agency is issuing this statement. It is the Agency's position that, given the limited terms of the court's decision to GRALISE, FDA intends to continue to apply its existing regulations in part 316 to orphan-drug exclusivity matters. FDA interprets section 527 of the FD&C Act and its regulations (both the older regulations that still apply to original requests for designation made on or before August 12, 2013, as well as the current regulations) to require the sponsor of a designated drug that is the ''same'' as a previously approved drug to demonstrate that its drug is ''clinically superior'' to that drug upon approval in order for the subsequently approved drug to be eligible for orphan-drug exclusivity.

Dated: December 17, 2014.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–29920 Filed 12–22–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 151

[K00103 14/15 A3A10; 134D0102DR–DS5A300000–DR.5A311.IA000115]

RIN 1076–AF23

Land Acquisitions in the State of Alaska

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: This rule deletes a provision in the Department of the Interior's land-into-trust regulations that excludes from the scope of the regulations, with one exception, land acquisitions in trust in the State of Alaska.

DATES: This rule is effective January 22, 2015.

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

SUPPLEMENTARY INFORMATION:

I. Executive Summary of Rule

Section 5 of the Indian Reorganization Act (IRA), as amended, authorizes the Secretary of the Interior (Secretary) to acquire land in trust for individual Indians and Indian tribes in the continental United States and Alaska. 25 U.S.C. 465; 25 U.S.C. 473a. For several decades, the Department's regulations at 25 CFR part 151, which establish the process for taking land into trust, have included a provision stating that the regulations in part 151 do not cover the acquisition of land in trust status in the State of Alaska, except acquisitions for the Metlakatla Indian Community of the Annette Island Reserve or its members (the ''Alaska Exception''). 25 CFR 151.1. This rule deletes the Alaska Exception, thereby allowing applications for land to be taken into trust in Alaska to proceed under the part 151 regulations. The Department retains its usual discretion to grant or deny land-into-trust applications and makes its decisions on a case-by-case basis in accordance with the requirements of part 151 and the IRA.

II. Background and Legislative Authority

In 1934, Congress enacted the IRA to ''establish machinery whereby Indian tribes would be able to assume a greater degree of self-government, both politically and economically.'' *Morton* v. *Mancari,* 417 U.S. 535, 542 (1974). Section 5 of the IRA, described as the ''capstone'' of the land-related provisions in the IRA, authorizes the Secretary, in her discretion, to acquire land in trust for Indian tribes and individual Indians. 25 U.S.C. 465; *Cohen's Handbook on Federal Indian Law* section 15.07[1][a], at 1030 (2012 ed.). In 1936, Congress expressly extended Section 5 and other provisions of the IRA to the Territory of Alaska. Act of May 1, 1936, Public Law 74–538, section 1, 49 Stat. 1250 (codified at 25 U.S.C. 473a).

Thirty-five years later, in 1971, Congress enacted the Alaska Native Claims Settlement Act (ANCSA), Public Law 92–203, 85 Stat. 688 (codified as amended at 43 U.S.C. 1601 *et seq.*), ''a comprehensive statute designed to settle all land claims by Alaska Natives.'' *Alaska* v. *Native Village of Venetie Tribal Government,* 522 U.S. 520, 523 (1998). The Act revoked all but one of the existing Native reserves, repealed the authority for new allotment applications, and set forth a broad declaration of policy to settle land claims. *See* 43 U.S.C. 1618(a), 1617(d), and 1601(b). However, the statutory text of ANCSA did not expressly revoke the Secretary's authority, under Section 5 of the IRA as extended by the 1936 amendment, to take land into trust in Alaska.

Following the passage of ANCSA, the Department reexamined the Secretary's authority to use Section 5 of the IRA to acquire land in trust for Alaska Natives. In a memorandum issued on September 15, 1978, a former Associate Solicitor—Indian Affairs reviewed the question of whether ANCSA precludes the Secretary from acquiring trust lands in Alaska. ''Trust Land for the Natives of Venetie and Arctic Village,'' Memorandum to Assistant Secretary 6—Indian Affairs from Associate Solicitor—Indian Affairs, Thomas W. Fredericks, at 1 (Sept. 15, 1978) (hereinafter ''Fredericks Memorandum''). The Fredericks Memorandum, which relied on the declaration of policy enumerated in ANCSA, concluded that it would be an abuse of discretion for the Secretary to acquire lands in trust in Alaska. In 1980, the Department promulgated the Part 151 regulations, including the Alaska Exception, which states that ''[t]hese regulations do not cover the acquisition of land in trust status in the State of Alaska, except acquisitions for the Metlakatla Indian Community of the Annette Island Reserve or it members.'' 25 CFR 151.1. The Alaska Exception has remained the focus of public criticism and internal deliberation since its creation.

In early 2001, the Solicitor for the Department rescinded the Fredericks Memorandum, after considering comments and legal arguments submitted by Alaska Native governments and groups, the State of Alaska, and leaders of the Alaska State legislature. *See* ''Rescinding the September 15, 1978, Opinion of the Associate Solicitor for Indian Affairs entitled 'Trust Land for the Natives of Venetie and Arctic Village,' '' Memorandum to Assistant Secretary—Indian Affairs from Solicitor John D. Leshy, at 1 (Jan. 16, 2001). The Solicitor concluded that ''there is substantial doubt about the validity of the conclusion reached in the 1978 Opinion'' and observed that ''[t]he failure of Congress to repeal [Section 5 of the IRA as extended to Alaska] when it was repealing others affecting Indian status in Alaska . . . raises a serious question as to whether the authority to take land into trust in Alaska still exists.'' *Id.* at 1.

On the same day, the Department issued final rules amending the Part 151 regulations and promulgated a rule nearly identical to the Alaska Exception, which continued the ban on the acquisition of land in Alaska. 66 FR 3452, 3454 (Jan. 16, 2001). The Department stated that the amended regulation ''ought to remain in place for a period of three years during which time the Department will consider the legal and policy issues involved in determining whether the Department ought to remove the prohibition on taking Alaska lands into trust.'' *Id.* However, later that year, the Department withdrew the revised rule without comment, leaving in place the original Alaska exception in the regulations that prevented the government from acquiring land into trust in Alaska. 66 FR 56608, 56609 (Nov. 9, 2001).

A number of recent developments, including a pending lawsuit, caused the Department to look carefully at this issue again. *See Akiachak Native Cmty* v. *Salazar,* 935 F. Supp. 2d 195 (D.D.C. 2013). Most significantly, the Indian Law and Order Commission, formed by Congress to investigate criminal justice systems in Indian Country, brought to light the shocking and dire state of public safety in Alaska Native communities and made specific recommendations to address these challenges. Indian Law and Order Commission, ''A Roadmap For Making Native America Safer: Report to the President and Congress of the United States,'' at 33–61 (November 2013). The Commission's report expressly acknowledged that ''a number of strong arguments can be made that [Alaska fee] land may be taken into trust and treated as Indian country'' and ''[n]othing in ANCSA expressly barred the treatment of former [Alaska] reservation and other Tribal fee lands as Indian country.'' *Id.* at 45, 52. Moreover, the Commission recommended allowing these lands to be placed in trust for Alaska Natives. *See id.* at 51–55. Similarly, the Secretarial Commission on Indian Trust Administration and Reform was established by former Secretary of the Interior Ken Salazar to evaluate the existing management and administration of the trust administration system, as well as review all aspects of the federal-tribal relationship. U.S. Dep't of the Interior, ''Report of the Commission on Indian Trust Administration and Reform,'' at 1 (Dec. 10, 2013). This Commission endorsed the earlier findings and likewise recommended allowing Alaska Native tribes to put tribally owned fee simple land into trust. *Id.* at 65–67.

In light of these urgent policy recommendations, the Department has carefully reexamined the legal basis for the Secretary's discretionary authority

to take land into trust in Alaska under Section 5 of the IRA (25 U.S.C. 465). In particular, we have reviewed the statutory text of ANCSA and other Federal laws and have concluded that this authority was never extinguished. Congress explicitly granted the Secretary authority to take land into trust in Alaska under the IRA and its amending legislation. *See* 25 U.S.C. 465, 25 U.S.C. 473a. Although Congress, through the enactment of ANCSA and other laws, repealed other statutory provisions relevant to Alaska Native lands, it has not passed any legislation that revokes the Secretary's authority to make trust land acquisitions in Alaska, as codified in 25 U.S.C. 473a and 25 U.S.C. 465. ANCSA left these provisions and the Secretary's resulting land-into-trust authority in Alaska intact. *See* Memorandum from Hilary C. Tompkins, Solicitor, to Kevin Washburn, Assistant Secretary—Indian Affairs (April 29, 2014). Thus, the Secretary retains discretionary authority to take land into trust in Alaska under Section 5 of the IRA. Moreover, the Department's policy is that there should not be different classes of federally recognized tribes.

Pursuant to this discretionary authority, the Department earlier proposed a rule removing the Alaska Exception. *See* 79 FR 24648 (May 1, 2014). After considering the comments to the proposed rule, discussed below, the Department has decided to eliminate the final sentence in 25 CFR 151.1, which provides in relevant part that ''[t]hese regulations do not cover the acquisition of land in trust status in the State of Alaska, except acquisitions for the Metlakatla Indian Community of the Annette island Reserve or its members.'' With this rule, the Department does not seek to undo or contravene the settlement codified in ANCSA. Deletion of the Alaska Exception merely confirms the Department's existing statutory authority to take land into trust in Alaska. Any particular trust acquisition would occur only after full consideration of the land acquisition statutory and regulatory factors.

III. Comments on the Proposed Rule and the Department's Responses

We received 105 written comment submissions and held three tribal consultation sessions in Anchorage, Alaska, Washington, DC, and by teleconference.[1] Most comments either strongly supported or strongly opposed the rule. More than half of the commenters, including those who provided oral comments, affirmed their support for the rule. In fact, many stated that the rule is ''long overdue.'' Fewer than half of the commenters (but including the State of Alaska) opposed the Department's taking land into trust in Alaska. A few commenters did not express either support or opposition, but instead requested additional time and consultation. Other comments objected to the taking of any land in trust for any Indian tribes, described specific or hypothetical situations rather than the proposed rule, or were otherwise outside the scope of this rulemaking. The following discussion summarizes and responds to the comments received.

1. Legal Basis for Removal or Retention of the Alaska Exception

a. ANCSA

According to several commenters, removal of the Alaska Exception would contravene the Alaska Native Claims Settlement Act (ANCSA). They assert that ANCSA was Congress's deliberate attempt to extinguish aboriginal land rights and provide Alaska with a solution different from, and more economically viable than, the reservation system in the lower 48 States. Many commenters highlight specific language in ANCSA stating that the law did not establish a reservation system or trusteeship. A few commenters stated that the Supreme Court's decision in *Alaska* v. *Native Village of Venetie Tribal Government,* 522 U.S. 520, 523 (1998), which held that ANCSA lands conveyed in fee to an Alaska Native village from two Alaska Native corporations were not ''Indian country,'' was consistent with the intent of ANCSA.

Furthermore, many commenters emphasize the fact that an overwhelming majority of Alaska Native delegates supported the enactment of ANCSA. They note that Congress transferred millions of dollars and millions of acres of land to the Alaska Native corporations created by ANCSA in exchange for extinguishing all claims of aboriginal right, title, use, or occupancy of land or water in Alaska. A commenter stated that to change the regulations now would compromise the benefits and protections due the State as a settling party to ANCSA, including the preservation of State jurisdiction over ANSCA lands. The commenter believes that retaining the Alaska Exception is required because the State provided public funds and ceded land selection priorities to which it was entitled under the Alaska Statehood Act.

Other commenters state that there is no basis in law or policy for retaining the Alaska Exception. They point to a lack of express Congressional intent, in ANCSA and in other federal statutes, to either revoke the Secretary's authority under the IRA to take land into trust in Alaska or deny IRA benefits to Alaska tribes.

Response: The Department disagrees that removal of the Alaska Exception is contrary to ANCSA. It is important to remember that Alaska Native land and history did not commence with ANCSA, and that ANCSA did not terminate Alaska Native tribal governments. As discussed above, while ANCSA revoked existing reservations in Alaska and established a separate statutory scheme in Alaska for the settlement of land claims, it did not repeal the Secretary's authority to take land into trust in Alaska under the IRA. There is nothing precluding the settlement codified in ANCSA and the Department's land-into-trust authority under the IRA from co-existing in Alaska. The Department agrees that the IRA provides legal authority for the removal of the Alaska Exception. In sum, notwithstanding support for the original enactment of ANCSA from various entities, Congress left intact the Secretary's authority pursuant to the IRA to take land into trust in Alaska, and the two statutory schemes can co-exist.

b. Categorical bar applicable to Alaska

Several commenters stated that the removal of the Alaska Exception would remedy a discriminatory application of the IRA under the current regulations, ''so the privileges and immunities accorded Indian tribes in the Lower 48 are no longer withheld from Indian tribes in Alaska.'' Many of these commenters cited the analysis of the judge in the *Akiachak* case as support for removal. *See Akiachak Native Cmty.* v. *Salazar,* 935 F. Supp. 2d 195 (D.D.C. 2013). These commenters stated that the Alaska Exception unduly limits tribal sovereignty and has resulted in high unemployment, poor public safety, substandard education and substandard healthcare for Alaska Natives. *See* Indian Law and Order Comm'n, ''A Roadmap For Making Native America Safer: Report to the President and Congress of the United States,'' at 33–61 (Nov. 2013). Other commenters claim that the removal of the Alaska exception will unnecessarily create tension between races and between urban and rural residents, instead of striving to make a State of one people.

Response: This rule would remove a categorical obstacle to implementation of the IRA in Alaska, in a manner

[1] In the tribal consultation session held in Washington, DC on June 26, 2014, the Department did not receive any comments or inquiries.

similar to the administration of the IRA in the lower 48 States. The U.S. Government has a longstanding trust relationship with federally recognized Indian tribes and individual Indian beneficiaries. *See* August 20, 2014 Secretarial Order 3335, ''Reaffirmation of the Federal Trust Responsibility to Federally Recognized Indian Tribes and Individual Indian Beneficiaries.'' The Secretary's authority to acquire lands in trust for Indian tribes and individual Indians can be critical to carrying out the Federal trust responsibility. In addition, the Department's policy is that there should not be different classes of federally recognized tribes. In that regard, the Department has advocated for Congressional legislation clarifying that all federally recognized tribes may seek to place land into trust pursuant to the Indian Reorganization Act of 1934. See *e.g.* May 7, 2014 Testimony of Kevin Washburn, Assistant Secretary—Indian Affairs, United States Department of the Interior before the Senate Committee on Indian Affairs on S. 2188. After reviewing the comments in light of post-ANCSA Indian legislation and the findings of two blue-ribbon commissions, the Secretary has concluded that the blanket exclusion of Alaska tribes from its land into trust program is not warranted. Because there may be circumstances in which the exercise of trust acquisition authority is warranted and is consistent with both ANCSA and the United States' trust relationship with tribes, the Department has concluded that retention of the Alaska Exception is not appropriate. This rule gives Alaska Native tribes the option of applying to have fee land taken into trust through the same procedures as Indian tribes elsewhere in the United States, provided that all land acquisition requirements have been fulfilled.

c. Timing of the Rule

Several commenters stated that the rule is premature because the *Akiachak* decision issued by the U.S. District Court for the District of Columbia is currently on appeal or being used for political purposes.

Response: The district court's judgment in *Akiachak* is consistent with the conclusion we reach but is not the basis for the Department's decision to eliminate the Alaska Exception. We have independently concluded that there is no legal impediment to taking land into trust in Alaska, and there are sound policy reasons for giving Alaska tribes the opportunity to petition to take land into trust. Two blue-ribbon commissions composed of experts outside the federal government recently recommended deletion of the exception. These commissions discussed some of the reasons, and there are several others. The purpose of this rule is also grounded in the implementation of the Secretary's IRA authority. This rule represents an affirmative resolution to a longstanding controversy and internal discussions over whether the Secretary has authority to take land into trust in Alaska and whether the Secretary should, as a matter of policy, consider taking Native land in Alaska in trust.

2. Effects of Removing the Alaska Exception

a. On Alaska Native Tribes, in General

Commenters in support of the rule claimed that the rule would help Alaska Native tribes. On the other hand, commenters opposed to the rule argued that the rule would not help, and may possibly harm, Alaska Native tribes. Several Alaska Native tribes provided their own experiences of living in isolation and poverty. They shared how taxation by the boroughs and a lack of trust land hinders their ability to exercise essential governmental functions. Commenters expressed the view that the rule would help Alaska Native tribes for the reasons listed below.

- The government's acquisition of land into trust on behalf of tribes in the rest of the United States has succeeded in allowing tribes to reconsolidate and preserve homelands;
- The rule would offer Alaska Native tribes the opportunity to reap certain benefits of having land taken into trust, and would:
  - Allow Alaska Native tribes to regulate and protect their traditional land bases in Alaska and potentially obtain tax income to support the exercise of essential governmental functions, such as providing infrastructure and human services;
  - Improve Alaska Native tribes' ability to maintain their cultural integrity, including language preservation, religion, traditional Native foods, and other aspects of tribal identity and sovereignty;
  - Provide a path to home ownership for individual tribal members and protection against predatory lending and foreclosures;
  - Enhance the government-to-government relationship between Alaska Native tribes and the U.S. Government;
  - Promote and strengthen tribal self-governance and self-determination, which are closely associated with sovereignty over and management of tribal lands;
  - Allow Alaska Native tribes to develop and implement effective co-management arrangements for subsistence and access to resources that could help stabilize communities;
  - Allow tribal members, rather than corporation shareholders, to guide development to take more useful forms and improve standards of living for all tribal members;
  - Allow for the eligibility of Federal programs that are currently restricted to trust lands, such as opportunities for economic development, housing, and environmental and cultural resource protection;
  - Allow for healthier, safer, and more successful Native communities through the ability to exercise a sovereign right of self-government; and
  - Advance the policy goals established by Congress in the IRA, eight decades ago, of protecting tribal lands and advancing tribal self-determination.

Other commenters stated that the rule would not help, or may even harm, Alaska Native tribes for the following stated reasons:

- The reservation system in the lower 48 has been unsuccessful, encourages isolation, stifles economic development (*e.g.,* by providing no financial collateral to potential investors), has been an obstacle to tribal self-governance and control of land, and has resulted in deplorable health and crime conditions;
- The ANCSA corporate model has been successful. It better provides for self-sufficiency of Alaska Native tribes and Alaska's overall economy than a reservation system would;
- Allowing land to be taken into trust to advance social and economic development is unnecessary and would be detrimental to the State of Alaska; and
- Taking land into trust in Alaska:
  - May have negative impacts on regional and village corporations that are currently providing beneficial opportunities for Alaska Natives;
  - Will not have a unifying effect or produce a cohesive land base to further tribal self-determination, because the only lands eligible to be taken into trust in many villages are scattered tracts; and
  - Will encourage dependency on the government.

One commenter further asked how taking land in trust in Alaska will benefit the State of Alaska and Alaskans in general (beyond Alaska Native tribes).

Response: While the potential benefits and drawbacks of taking any given property already owned by the tribe into trust may depend upon specific circumstances, Alaska Native tribes and individuals have the right to decide for

themselves whether to apply to have their land taken into trust. This rule will merely allow Alaska Native tribes the option to decide whether to apply to have land taken into trust. The Secretary reviews each individual application to take land into trust in accordance with the applicable statutory and regulatory criteria, including any jurisdictional problems, potential conflicts of land use, and the impact of removing a parcel from the tax rolls. In addition, the acquisition of land in trust in Alaska could foster economic development, enhance the ability of Alaska Native tribes to provide services to their members, and give additional tools to Alaska Native communities to address serious issues, such as child welfare, public health and safety, poverty, and shortages of adequate housing, on a local level independent of the State of Alaska. As a result, the final rule may at some point benefit the larger community in the State of Alaska as a whole, not only Alaska Natives. Finally, Alaska Native Corporations are an integral and important part of the landscape of native life in Alaska. The views of Alaska Native Corporations have been carefully considered in this initiative, and will be considered in the context of any particular application for trust acquisition. As a general matter, taking land into trust for Alaska Native tribes is unlikely to have a negative effect on Alaska Native Corporations, as these entities will continue to exist and hold lands separately from Alaska Native tribes.

b. Public Safety in Alaska Native Communities

Several commenters pointed to the 2013 report of the Indian Law and Order Commission, a bi-partisan commission established by Congress to investigate criminal justice systems in Indian Country. The Report described in detail certain public safety issues facing Alaska Native communities, such as high rates of domestic abuse, sexual violence, suicide, death from alcohol abuse, and child maltreatment, which disproportionately affect Native Alaskan women and children. *See* Indian Law and Order Comm'n, ''A Roadmap For Making Native America Safer: Report to the President and Congress of the United States,'' (Nov. 2013). As these commenters stated, many of the Alaska Native villages are remote and inaccessible by road, with limited or no law enforcement or access to substance abuse services. These commenters agreed with the Report's conclusion that allowing lands to be placed in trust could be an important component of addressing the lack of law enforcement capacity in Alaska Native villages and increasing the ability of Alaska Native tribes to combat what has become a dire public safety crisis in some villages. *See, Id.* at 45, 52–3. Commenters stated that the creation of trust lands in Alaska would provide a jurisdictional underpinning for tribes to implement a better functioning criminal justice system tailored to their communities' needs. Some commenters also believed that the existence of trust lands in Alaska would enhance tribal courts' ability to resolve conflicts in culturally relevant ways (through tribal courts and sentencing circles, for example), while affording tribal governments the ability to partner with the State more effectively and thereby create safer communities. A few commenters noted that the current State criminal justice system in Alaska Native communities is not effective, even with public safety officers in villages, and that tribal governments are in the best position to improve upon this system.

Although no commenters disputed the Report's descriptions of the public safety challenges faced by Alaska Native communities, a few commenters disputed the Report's conclusion that taking land into trust could help address these challenges. These commenters stated that the State of Alaska has prioritized partnering with tribes and Alaska Native communities in order to address public safety challenges with more effective tools than taking land into trust. The commenters stated that there are other mechanisms for tribes to obtain federal funding and federal law enforcement resources.

Response: The acute public safety problems in Alaska Native communities, which were thoroughly described in the 2013 Indian Law and Order Commission report, warrant making every practicable solution available to Alaska Native tribes. This rule will allow each Alaska Native tribe the opportunity to decide for itself whether applying to take certain lands into trust would provide the most effective tools and mechanisms to address public safety challenges in its community. Tribal governments are best positioned to assess the needs of their own communities, as well as identify workable solutions to address those needs. The opportunity to apply for acceptance of land into trust will therefore expand the range of possibilities available to Alaska Native tribes, and could provide them with much-needed additional tools to engender safer communities. Moreover, it will not have an effect on the ability of the State of Alaska to continue using its own authority under Public Law 280 to exert jurisdiction over natives and non-natives alike, even if lands are actually taken into trust. The rule simply increases the potential for a tribal government to address public safety, which would increase the government resources that could be focused on these crucially important issues.

c. Resource Management in Alaska

Several commenters, including conservation and sportsmen organizations, opposed the rule on the basis that it could negatively affect resource management, including fish and game management, on Alaska lands. Specifically, these commenters asserted that the State of Alaska alone has the legal right to manage Alaska's fish and wildlife under ANCSA and the common use principle in Alaska's State Constitution. The commenters claim that taking land into trust in Alaska would not only destroy the well-functioning, uniform State management of these public resources, but also negate settled agreements and the work Alaska Native corporations have accomplished to integrate Native lands within an overall management scheme. Several commenters stated that this rule would result in complicated jurisdictional issues by splintering fish and game management among over 200 tribes and 11 regional Native corporations, while imposing a management regime that would cause confusion, duplication of positions, and additional costs. Likewise, several commenters stated that this rule would make sound conservation of fish and wildlife in Alaska virtually impossible, because major species traverse thousands of miles and cannot be effectively managed by piecemeal laws and efforts.

Response: In evaluating any request to have land taken into trust in Alaska, the Department will consider, among other factors, any jurisdictional problems and potential conflicts of land use that may arise. Even assuming that particular lands are taken into trust and that fish and wildlife on those lands were placed under the authority of a tribal regulator, the State, federal and tribal regulatory authorities can work to identify ways to cooperate and collaborate in support of shared resource management goals, as they have in the 48 contiguous states.

d. Jurisdictional Balances

A few commenters opposed the rule because they believe that the rule would disrupt the ''intricate jurisdictional and land ownership balances'' established through the Alaska Statehood Act and ANCSA, instead creating ''confusing

patches of jurisdiction.'' In particular, the Attorney General of the State of Alaska stated that as a consequence of this rule, any trust land would be subject to concurrent state and tribal criminal jurisdiction, therefore creating confusion and subjecting nonmember residents to tribal laws and a tribal system in which they have no ability to participate. Commenters stated that a change to tribal jurisdiction over trust lands in Alaska could result in blocked access to rights and property, impede infrastructure development, hurt government resources, raise the tax burden for others due to loss of tax revenue, undermine essential State and local regulation, and compromise the ability of State and local governments to manage public resources, provide services, and ensure public safety. On the other hand, other commenters asserted that taking land into trust in Alaska would present fewer issues than in many other States.

Lastly, some commenters inquired as to the circumstances in which lands placed in trust in Alaska will be considered ''Indian country'' for civil and criminal matters. They also asked if ''Indian country'' would include former ANCSA lands that are placed in trust.

Response: The Department emphasizes that such jurisdictional issues will be considered during the process preceding any decision to take land into trust. Indeed, the Part 151 regulations implementing the IRA require the Secretary to consider jurisdictional problems and possible conflicts of land use when determining whether to approve any given application for land into trust. *See* 25 CFR 151.10 and 151.11. Such issues will be considered by the Department on a case-by-case basis with respect to each application for land into trust. In fact, the Supreme Court of the United States has recognized the Part 151 regulations as being sensitive to inter-jurisdictional concerns. *See City of Sherrill, N.Y.* v. *Oneida Indian Nation of New York,* 544 U.S. 197, 220–21 (2005) (quoting 25 CFR 151.10(f)). If an application for ANCSA or other lands owned by a tribe meets the statutory and regulatory criteria, the land could be taken into trust.

The Department's position has been that land held in trust by the United States on behalf of a federally recognized Indian tribe is ''Indian country.'' As a legal matter, an Alaska tribe possessing trust lands would be able to exercise jurisdiction over such land consistent with the manner in which Indian tribes exercise authority over trust lands located in the rest of the country. Because Alaska is a ''Public Law 280'' State (as included by Public Law 85–615), Alaska state courts would also generally continue to possess jurisdiction over most crimes and most civil disputes occurring in Indian Country in Alaska.

e. Split Estates

Several Alaska Native regional corporations that provided comments expressed concern that their ability to develop their subsurface estate could be affected if the surface estate owned by a tribe is acquired into trust by the United States. Specifically, they assert that in addition to obtaining the consent of village corporations, regional corporations would have to coordinate with tribal entities and the Federal government, and that there could be a ''taking'' of the subsurface rights if access to mineral development is denied. These commenters emphasized that the access of these corporations to their mineral estate is critical to the success of their economic development efforts. Several stated that their consent should be required for any applications for land into trust, in which they own the subsurface estate. They also asserted that the rule should include a mechanism to resolve disagreements between the subsurface and surface owners. A tribal commenter stated that in Oklahoma and other parts of Indian country, so-called ''split estates'' (where there are different owners of the surface and subsurface estates) are routinely part of fee-to-trust transactions.

Response: The statutory scheme in ANCSA allows for the split ownership of surface and subsurface rights in Alaska; the implementation of Section 5 of the IRA in Alaska would not impact this split ownership, but would instead allow tribes to apply to place any of their ownership rights (acquired through voluntary transactions) into trust. The Department has processed and approved land-into-trust applications from Indian tribes involving split estates under the Part 151 regulations in other parts of the United States. In a number of cases, the Department has acquired a surface estate into trust at the request of a petitioning tribe that owned the surface estate.

In the circumstances posed by the commenters, if the regional corporation or another party owns the subsurface estate, the rights to that subsurface estate are not affected by the acquisition of the surface estate into trust. It is well-settled under the law that a mineral estate remains dominant, and a subsurface owner has a right of reasonable access to the minerals below. *See, e.g., Del Rio Drilling Programs* v. *United States,* 35 Fed. Cl. 186 (1996). In such circumstances, the surface owner's estate is subservient to the owner of the mineral estate. This right would be preserved even if the surface estate is taken into trust. Meanwhile, Title XI of the Alaska National Interest Lands Conservation Act (ANILCA) guarantees access to inholdings, which would include a subsurface estate. *See* 16 U.S.C. 3170. Of course, the Department would encourage any surface owners and subsurface owners in Alaska to enter into surface use agreements regarding such access.

Moreover, in the spirit of the Department's consultation policy with Alaska Native Corporations and the extensive notice provisions in Part 151, the Department will be interested in hearing the views of the corporations as to any application for land into trust before the Department on which corporations wish to comment.

f. Public Easements

Commenters asked whether taking land into trust would affect existing easements and rights-of-way across the land, as well as the ability to obtain future easements and rights-of-way.

Response: Land is regularly taken into trust by the Department subject to existing easements and rights-of-way. Once the land is in trust, anyone seeking a new easement or right-of-way across trust land would have to comply with 25 CFR part 169.

g. ANCSA and ANCSA's Revenue-Sharing Provisions

One Alaska Native corporation suggested clarifying how the rule impacts ANCSA's provisions requiring revenue-sharing among regional corporations, village corporations, and at-large shareholders.

Response: This rule will not have a direct effect on the ANCSA revenue-sharing provisions. Taking land into trust does not necessarily change the revenue-sharing arrangements, and this would be one of many factors considered in the Department's review of applications under Part 151.

3. Applicability of the Rule

Several commenters suggested that certain land owned by Alaska Native corporations under ANCSA, land in ''selection'' status (not yet conveyed), or land designated and limited by ANCSA, should not be eligible to be taken into trust by virtue of being part of the settlement and as necessary to preserve Alaska Native corporations' ability to meet their statutory obligations. A few other commenters stated that no ANCSA lands should be excluded if a tribe acquires them. Another commenter

questioned whether former reservation land that the tribe acquired in fee would be eligible to be taken into trust.

Response: An Alaska Native tribe or individual possessing fee title to any alienable land, including ANCSA lands, may apply to have that land taken into trust by the United States. The Department considers trust applications on a case-by-case basis in compliance with its regulations at 25 CFR part 151. Land selected under ANCSA, but not yet conveyed, is not eligible for being taken into trust since it is not owned by the tribe.

4. Implementation of the Rule

a. General Questions on Part 151

A few commenters had general questions regarding the process for taking land into trust. Some asked whether land may be acquired in trust for Alaska Native individuals, in addition to Alaska Native tribes.

Response: The process, requirements, and criteria governing the acquisition of land in trust are outlined in 25 CFR part 151 and the Fee-to-Trust Handbook, which is available at *www.bia.gov.* The rule makes the land-into-trust process available to both Alaska Native tribes and Alaska Native individuals; however, separate restrictions and requirements apply to each. *See* 25 CFR 151.3 and 151.10(d).

b. Effect of Land Being Taken Into Trust

A commenter asked multiple questions regarding the effect of land being taken into trust and the trust relationship, including whether BIA approval is needed for projects on trust land, and whether trust land may be proclaimed as an Indian reservation in Alaska.

Response: Once land is held in trust by the United States, BIA approval is generally necessary whenever a third party (or someone other than the Indian or tribal landowner) seeks to obtain an interest in the land. For example, to obtain a right-of-way on trust land, an applicant must follow the procedures and requirements for obtaining BIA approval as set forth in 25 CFR 169. This rule does not address whether trust lands in Alaska may be proclaimed an Indian reservation under the IRA. *See* 25 U.S.C. 467.

c. BIA Implementation of the Rule

Several tribes requested that, if the rule is implemented, applications to take land into trust in Alaska be expedited considering Alaska Natives have been denied the right for many decades. Others questioned whether BIA has the resources to handle an influx of these applications.

Response: This Department's policy is to process trust applications as expeditiously as possible.

A few commenters had questions about the types of State and local services that the Department would provide (*e.g.,* education, title records, road building) if land were taken into trust in Alaska. They asked whether BIA has, or will have, the resources to support newly acquired trust land, without diluting current services.

Response: The Department will review inquiries about services provided to a tribe requesting land in trust on a case-by-case basis. Furthermore, when reviewing applications to take land into trust under 25 CFR 151, the Department considers ''whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.'' 25 CFR 151.11(g).

5. Further Revisions, Consultations, and Public Notice and Comment

Several commenters stated that additional revisions to Part 151 and additional consultations and/or public notice and comment are necessary to address Alaska-specific issues and potential impacts. A few commenters stated that the Department should engage in an educational effort after the rule is finalized to avoid conflict within Alaska communities. Several commenters stated that the current land-into-trust process in Part 151 should be revised. Among the suggestions were requests to revise the process to: (1) Allow neighboring jurisdictions and the public to comment on trust acquisitions (*e.g.,* individuals and entities affected by public access over easements, those with hunting and fishing rights, and those with mining claims); (2) allow governments to comment on impacts other than just jurisdictional, taxation, and special assessment issues, as currently allowed in Part 151; (3) provide more than a 30-day period in which to comment, given a potential flood of applications from over 200 Alaska tribes; and (4) address how ANCSA lands could be protected from alienation, adverse possession, taxes and certain judgments during the interim period of time between the transfer of Alaska Native corporation land to a tribe and the acquisition of land into trust status.

Response: Many of the concerns expressed in these comments are already addressed by the current land-into-trust process. For example, depending on what type of review is conducted under the National Environmental Policy Act (NEPA), members of the public may comment on the environmental impacts of a given trust acquisition application, including neighboring jurisdictions and those affected by public access easements. In addition, governments with regulatory jurisdiction over any land to be acquired in trust can and do comment on any of the applicable factors enumerated in sections 151.10 or 151.11. *See County of Sauk, WI* v. *U.S. Dep't of the Interior,* 45 IBIA 201, 207–08 (2007). With regard to the 30-day period in which to comment, the BIA will consider requests for extensions on a case-by-case basis. If ANCSA lands are conveyed to a Native Alaskan tribe or individual, they are in no greater danger of being alienated or otherwise exposed to risks than any other parcel of property would be. If Interior encounters issues unique to Alaska that are not addressed through the existing process as it processes applications, it will consider appropriate actions to address those issues at that time.

Some commenters also stated that if the Alaska Exception is removed, the current criteria considered by BIA in reviewing fee-to-trust acquisitions should be revised to add specific criteria tailored to Alaska. Among the suggestions for revisions to the current regulatory criteria were: (1) Clarification as to whether land in Alaska will be treated as ''off-reservation'' in light of the fact that only one tribe has a reservation in Alaska or clarification as to whether former reservations will be considered; (2) clarification of how BIA will treat the distance from the boundaries of an Alaska Native tribe's reservation; (3) new criteria to require the Department to consider fully any effect on the ownership and governance by regional and village corporations; (4) new criteria to consider the history of ownership of the parcel; (5) new criteria to consider whether there are competing claims to the parcel (including State-owned rights-of-way); and (6) new criteria to consider whether trust status will affect residents who are not tribal members.

Other commenters stated that there should not be any special provisions uniquely applicable to Alaska.

Response: The Department's existing criteria already explicitly take into account many of the concerns listed above, and others may naturally arise and can be considered in the context of the existing criteria. Given that the existing process uses a fact-intensive, case-by-case approach, the Department has concluded that the current fee-to-trust process, as set forth in Part 151, can be made applicable to Alaska. For example, applications by Alaska Native

tribes without reservations, regardless of whether or not they previously had reservations, will be reviewed as landless tribes and examined under the ''off-reservation'' criteria in the regulations. Regional and village corporations may submit comments during the application review process. Any State-owned right-of-way would continue to exist, even after parcel is transferred to the United States in trust status. Likewise, any easements created by Section 17(b) of ANCSA, which cross ANCSA corporation lands held by the United States to ensure access by the public to publicly owned lands and major waterways, would be preserved in the event that a trust acquisition application is approved. *See* 85 Stat. 708. *See also* 43 CFR 2650.4–7.

A few commenters submitted requests to extend comment period for the proposed rule beyond the extended comment deadline of July 30, 2014.

Response: The Department retained the extended deadline of July 30, after having determined that the 90-day public notice and comment period provided sufficient time for public review and input.

6. Miscellaneous

a. NEPA

One commenter stated that the Department should have prepared an environmental assessment or environmental impact statement under the NEPA for this rulemaking, given the potential impacts to state and local taxing authorities and management of resources.

Response: The final rule does not constitute a major Federal action significantly affecting the quality of the human environment. The Department has established a categorical exclusion for ''regulations . . . whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case.'' 43 CFR 46.210(i). The environmental and other effects of this rulemaking are merely speculative and are not identifiable at this point. The final rule, by itself, does not guarantee that land will be taken into trust in Alaska, and does not transfer the title of any specific parcel of land. The rule simply allows for Alaska Native tribes to avail themselves of the Department's authority under the IRA governing the acquisition of land into trust; however, NEPA review is applicable for each of the Department's decisions to acquire land into trust on behalf of a tribe. The Department will consider and comply with any NEPA obligations in the context of a specific fee-to-trust transaction. *See* Bureau of Indian Affairs National Environmental Policy Act Guidebook Section 3.1 (2012). As a result, the issues like those raised by the commenter will be considered in the context of each application.

b. Federalism

The State of Alaska Attorney General and Alaska CACFA claim that the Department failed to consult with the State as required by EO 13132. They asserted that such consultation is required, because the rule would have substantial impacts on the State and its relationship with Federal and tribal governments, as well as the distribution of governmental authority throughout the States.

Response: The State has the opportunity and right to participate during the Department's review of individual applications to take land into trust in Alaska, as permitted by Part 151. Whether EO 13132 applies to taking land into trust in Alaska is best considered during the consideration of a particular parcel of land. As this rule does not take any specific land into trust in Alaska, the potential effects on certain matters addressed in EO 13132 are currently speculative.

IV. Determination To Remove the Alaska Exception

Having reviewed and considered the foregoing comments, the majority of which supported the proposed rule, we have determined that removal of the Alaska Exception is supported by both legal and public policy considerations. As many of the commenters noted, there are a number of benefits that can result from having land taken into trust. In enacting the IRA, Congress recognized that the acquisition of land into trust status on behalf of Indian tribes can assist in furthering tribal self-determination and self-governance. By providing a physical space where tribal governments may exercise sovereign powers to provide for their citizens, trust land can help promote tribal self-governance and self-determination. The goals of tribal self-governance and self-determination are equally as important to Alaska Native tribes as they are to tribes in the rest of the United States. This rule removes the categorical ban and provides for the Department to make a case-by-case determination on whether to take any given property in Alaska into trust. Those case-by-case determinations include consideration of important environmental effects and other impacts under NEPA, as well as consideration of the statutory and applicable regulatory criteria. The Secretary will retain full discretion to evaluate and determine whether to approve any particular trust application in Alaska.

As explained in the responses to comments above, concerns with regard to resource management and jurisdictional issues are considered in the NEPA and Part 151 review process on a case-by-case basis for each land-into-trust application. The potential complexities mentioned by several commenters with regard to split estates, public easements, and ANCSA lands do not warrant maintaining the regulation's categorical ban on taking land into trust in Alaska.

Both legal and public policy considerations therefore support the removal of the categorical exclusion of Alaska from the regulations implementing the Secretary's land-into-trust authority under Section 5 of the IRA.

V. 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 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 U.S.-based enterprises to compete with foreign-based enterprises because the rule is limited to 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 E.O. 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 E.O. 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. The State has the opportunity and right to participate during the Department's review of individual applications to take land into trust in Alaska, as permitted by Part 151.

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

This rule complies with the requirements of E.O. 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,'' E.O. 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. The Department held consultation sessions to discuss the proposed rule in Anchorage, Alaska on June 9, 2014, by teleconference on June 18, 2014, and in Washington, DC on June 26, 2014. As noted above, the Department did not receive any comments at the consultation session in Washington, DC.

I. Paperwork Reduction Act

OMB Control Number: 1076–0100.

Title: Acquisition of Trust Land, 25 CFR 151.

Brief Description of Collection: This information collection requires tribes and individual Indians seeking to have land taken into trust status to provide certain information. No specific form is used but respondents supply information so that the Secretary may make an evaluation and determination in accordance with established Federal factors, rules, and policies.

Type of Review: Revision of currently approved collection.

Respondents: Indian tribes and individuals.

Number of Respondents: 1,060 on average (each year) (an increase of 60 respondents per year).

Number of Responses: 1,060 on average (each year) (an increase of 60 responses per year).

Frequency of Response: On occasion.

Estimated Time per Response: (See table below).

Estimated Total Annual Hour Burden: 74,400 hours (an increase of 6,600 hours).

Citation 25 CFR 151	Information	Average number of hours	Average number per year	Estimated annual burden hours	Estimated increase in burden hours
151.9, 151.10 (On-Res), and 151.13	Application	50	850	42,500	0
	Documentation for NEPA—tribe and individual furnish documentation.	40	120	4,800	0
	Documentation for NEPA—Tiering	20	200	4,000	0
151.9, 151.11 (Off-Res), and 151.13	Application	70	210	14,700	4,200
	Documentation for NEPA—tribe provides documentation.	40	210	8,400	2,400

OMB Control No. 1076–0100 currently authorizes the collections of information contained in 25 CFR part 151. The annual burden hours for applicants (tribal governments applying to have land taken into trust) will increase by approximately 6,600 hours because of the increase in potential applications as a result of this rule.

J. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment because these are ''regulations . . . whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case.'' 43 CFR 46.210(j). This rule does not guarantee that land will be acquired in trust in Alaska, it merely opens the door to the process to Alaska tribes and individual Indians in Alaska. Individual trust acquisitions in Alaska pursuant to the Part 151 regulations constitute major Federal actions requiring NEPA compliance. Bureau of Indian Affairs National Environmental Policy Act Guidebook Section 3.1 (2012). No extraordinary circumstances exist that would require greater NEPA review.

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

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

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, amends 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 § 151.1 to read as follows:

§ 151.1 Purpose and scope.

These regulations set forth the authorities, policy, and procedures governing the acquisition of land by the United States in trust status for individual Indians and tribes. Acquisition of land by individual Indians and tribes in fee simple status is not covered by these regulations even though such land may, by operation of law, be held in restricted status following acquisition. Acquisition of land in trust status by inheritance or escheat is not covered by these regulations.

Dated: December 18, 2014.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2014–30099 Filed 12–22–14; 8:45 am]

BILLING CODE 4310–6W–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Standards Improvement Project—Phase III

CFR Correction

In Title 29 of the Code of Federal Regulations, Part 1900 to § 1910.999, revised as of July 1, 2014, in § 1910.36, on page 151, revise the Note to paragraph (b), and on page 152, revise the Note to paragraph (f), to read as follows:

§ 1910.36 Design and construction requirements for exit routes.

* * * * *

(b) * * *

Note to paragraph (b) of this section: For assistance in determining the number of exit routes necessary for your workplace, consult NFPA 101–2009, Life Safety Code, or IFC–2009, International Fire Code (incorporated by reference, see § 1910.6).

* * * * *

(f) * * *

Note to paragraph (f) of this section: Information regarding the ''Occupant load'' is located in NFPA 101–2009, Life Safety Code, and in IFC–2009, International Fire Code (incorporated by reference, see § 1910.6).

* * * * *

[FR Doc. 2014–30196 Filed 12–22–14; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0993]

RIN 1625–AA00

Safety Zones Within the Captain of the Port New Orleans Zone, Louisiana

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing two temporary safety zones for two fireworks display events within the Captain of the Port (COTP) New Orleans Zone. This action is necessary to protect persons and vessels from potential safety hazards associated with these events. Entry into these zones is prohibited unless specifically authorized by the Captain of the Port New Orleans or a designated representative.

DATES: This rule is effective without actual notice from December 23, 2014 until January 1, 2015. For the purposes of enforcement, actual notice will be used from December 6, 2014, until December 23, 2014.

This rule will be enforced from 9:00 p.m. to 9:30 p.m. on December 6, 2014 and from 11:45 p.m. on New Year's Eve, December 31, 2014 to 12:30 a.m. on January 1, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0993]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander (LCDR) James Gatz, Sector New Orleans, at (504) 365–2281 or *James.C.Gatz@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
LMR Lower Mississippi River
MM Mile Marker
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

There are two separate marine events addressed by this temporary regulation. (1) The Plaquemines Parish Fair & Orange Festival is an annually occurring event, but the sponsor did not apply for a marine event permit for the prior year's event and the event appears to have no regulatory history. (2) The Madisonville New Year's Eve event is also an annually occurring event, but the sponsor did not apply for a marine event permit for the prior year's event, and the event appears to have no regulatory history. Upon full review of the details of each of each of these events, the Coast Guard determined that additional safety measures are necessary.

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because as scheduled, the displays would take place before the full NPRM process could be completed. Because of the dangers presented by aerial barge based