information would be exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552.

Seciton 151.11(d) Ordinances

Comment: Commenters suggested that the scope of the proposed rule be narrowed to better reflect its apparent purpose (to protect the health, safety, and welfare of the general public); specifically, ti was suggested that the rule be made applicable only to acquisitions for commercial development purposes (or, alternatively, that it be made inapplicable to acquisitions for housing purposes).

Commenters criticized the proposed rule on the grounds that the ''comparability'' standard is too vague, and the incorporation of *all* local ordinances too broad. Individual commenters specifically asked whether the proposed rule would:

(1) mandate absolute compliance with local ordinances, or merely ''a documented effort'' to adopt *similar* standards (as suggested in the preamble to the proposed rules);

(2) require that tribes also adopt comparable implementation processes and enforcement capabilities, or modify their adopted ordinances in order to comply with local ordinances; and

(3) allow tribes to adopt higher standards than the relevant local governing bodies, or freely modify adopted ordinances to accommodate changes in land use. Individual commenters suggested that the rule cover only those ordinances which pertain to land use or construction, or those which are identified by local government through consultation.

Response: It is anticipated that the consultation process described in Section 25 CFR 151.11(d) of this Part will result in the negotiation of agreements between tribes and local government, relative to regulatory issues which pertain to public health, safety, and welfare. Where such agreements do not result, and jurisdictional issues remain unresolved, it will be left to the Secretary's discretion to balance the potential benefits to be derived by the acquiring tribe against the potential harm to the general public. (It should also be noted that lands which are acquired with federal funds may be subject to certain federal standards.) The deletion of the proposed 25 CFR 151.11(d) is also based on the criticisms set forth in the comments, i.e., that the proposed rule would be shortsighted, overly cumbersome, and largely unenforceable.

Comment: Commenters expressed concern that the delimiting language in the proposed rule would allow local government to tax off-reservation trust lands and the activities conducted thereon.

Response: It should be noted that the only taxation issues to be *directly* considered in the consultation process are those which relate to a proposed acquisition's potential impacts on real property taxes or special assessments. (Other tax impacts may also be considered, if they will curtail the local government's ability to provide *specific* community services.)

Comment: Commenters indicated that the proposed rule would contradict other federal policies supporting tribal sovereignty and self-determination. It was noted that local ordinances may reflect political considerations wholly unrelated to concerns about public health and safety. It was suggested that the rule flatly provide that the lands to be acquired would be subject to state regulatory jurisdiction. Commenters questioned whether the local ordinances would have to be formally adopted prior to the completion of the acquisition process.

Response: It should be noted that current law suggests that (in the absence of cooperative agreements) tribal, federal, and state/local jurisdiction over off-reservation trust lands will be mixed, depending on the activities and parties to be regulated. The proposed 25 CFR 151.11(d) has been deleted.

Section 151.11(e) Notice and Consultation

The proposed 25 CFR 151.11(e) will be re-designated as 25 CFR 151.11(d).

Comment: The provision which requires that ''affected state and local governments'' be notified of all proposed off-reservation acquisitions, and given thirty days in which to provide written comments, was criticized as being both too vague in its reference to ''affected'' governments and too restrictive in its definition of the comment period. Commenters suggested that the proposed rule be clarified to ensure that neighboring jurisdictions would be given an opportunity to comment, and another suggested that the rule specify which state and local offices would be contacted.

Response: Based on the BIA's past experience with its informal consultation procedures, the 30-day response time set forth in the proposed 25 CFR 151.11(e) (re-designated 151.11(d)) has been retained in the new rule.

Relative to these revisions, it should be noted that (1) the narrower definition of the ''notified party'' will generally mean city or county officials, but will also recognize the wide variation in the designations and functions of ''local governments,'' as well as the fact that many such governments operate as administrative agents for the states (especially in rural settings); (2) the burden of obtaining additional information from state officials, neighboring jurisdictions, or other units of local governments (including special function districts, public authorities, or higher political subdivisions) will rest with the local officials who are directly notified by the BIA; and (3) the BIA notices will identify the land to be acquired and the acquiring tribe (as has been done under the informal notice and comment procedures), as well as the tribe's proposed use (which has generally not been identified in the past).

Comment: Provisions which would require tribes to consult with opposing local governments were objected to on the ground that it would undermine tribal sovereignty by granting state and local governments an effective veto power over tribal acquisitions. Commenters acknowledged that some consultation process would be essential to the tribes' implementation of a government-to-government relationship, others said that such a process would be marred by racial bias and discrimination.

Response: It should be noted that tribal governmental authority over land will generally not attach until the Secretary accepts title to this land in trust status. It should also be noted that the new 25 CFR 151.11(d) will not create a veto power, and that objections which are not made in good faith (or which are clearly biased) will be discounted in the decision-making process.

As for the assertion that the case precedent for the BIA's informal consultation procedures has been overruled, it should be noted that the preamble to the original 25 CFR 120a (now 25 CFR 151) cited the need for a uniform policy as the basis for its issuance; it should also be noted that (while the case cited by the commenter held that local governments are not entitled to formal notification as a matter of due process) the preamble to the proposed rules indicated that the notice requirement set forth in the proposed 25 CFR 151.11(e) (re-designated 151.11(d)) would be based primarily on principles of federalism.

Comment: Other commenters recommended that the comment period be extended, and requested that additional supplemental information be furnished with the notifications. Others suggested, however, that certain proposals would be unduly