compromised by the release of additional information, and another indicated that the case precedent for the BIA's existing (non-regulatory) notice requirement had been overruled.

Response: 25 CFR 151.11(d) has been revised to (1) *generally* identify the local government to be notified as the ''lowest political subdivision having jurisdiction over the land to be acquired''; and (2) codify certain informal procedures (relative to the solicitation of specific information and the presumption of no impact when a response is not received within thirty days) which have been implemented by BIA since 1980.

Comment: Commenters addressed those provisions within the proposed rule which would describe the consultation process. (Where a state or local government formally opposes a proposed acquisition, or ''raises concerns'' relative thereto, the rule would require that the acquiring tribe ''consult with them and attempt to resolve any conflicts including, but not limited to, issues concerning taxation, zoning and jurisdiction''; the proposed rule would also permit the tribe to submit documentation of its discussions with state or local governments, whether the formal consultation process is triggered or not.) It was suggested that the consultation process should be triggered only by good faith objections, rather than mere ''concerns,'' and that the proposed rule be clarified to reflect that a tribe's burden would be met by a mere good faith *attempt* at resolution. Where differences remain unresolved after consultation, it was suggested that state and local governments should be allowed to submit their own documentation of consultation efforts. Another suggested that a formal dispute resolution process be incorporated in the proposed rule, and a (non-BIA) federal official recommended that the BIA assume a mediation role.

It was also recommended that the consultation process be terminated at the end of a specific time period. Other commenters said that the process should be made: (1) applicable to court-ordered acquisitions not otherwise subject to 25 CFR 151.10 or 151.11 of this Part; (2) inapplicable to acquisitions of off-reservation lands which have been designated in land consolidation plans approved pursuant to ILCA; and (3) consistent with provisions in the Federal Land Policy and Management Act (FLPMA) which require state approval.

Response: With respect to the comments which suggested that the rule provide for arbitration or mediation where differences remain unresolved after consultation, it should again be noted that such cases 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). With respect to the comments which suggested that the consultation process be made applicable to court-ordered acquisitions, it should again be noted that the introductory paragraph to 25 CFR 151.11 of this Part will *expressly* exempt such ''legally mandated'' acquisitions. With respect to the comment which suggested that the new rule be made inapplicable to acquisitions of off-reservation lands which have been designated in approved land consolidation plans, it should again be noted such lands will be treated as other off-reservation lands (and thus subject to 25 CFR 151.11) pending the promulgation of further rulemaking. With respect to the comment which suggested that the consultation process be made consistent with the Federal Land Policy and Management Act (FLPMA), it should be noted that Congress has clearly distinguished conveyances of public lands (which are subject to consultation, under FLPMA) for acquisitions on behalf of sovereign tribes (which are not subject to any statutory consultation requirements).

Section 151.11(e) Delegations of Authority and Appealability

Comment: Commenters objected to those provisions within the proposed 25 CFR 151.11(e) (re-designated 151.11(d)) which indicate that the Assistant Secretary-Indian Affairs would issue the above-described notifications of proposed off-reservation acquisitions. It was suggested that the authority to issue such notices and ultimately approve the acquisitions should be delegated to the BIA's agency or area office level, in order to comply with ongoing efforts to reorganize the BIA and decentralize its critical functions. One commenter questioned whether the proposed rule was meant to separate the local BIA staff from the entire acquisition process (where off-reservation lands are to be acquired), and whether the ''final decision'' to be made by the Assistant Secretary would be appealable. It was suggested that the proposed rule specifically provide that the Assistant Secretary's decision would be appealable to the Interior Board of Indian Appeals.

Response: All references to the ''Assistant Secretary—Indian Affairs'' in the proposed 25 CFR 151.11(e) (re-designated 151.11(d)) will be changed to ''Secretary'', as indicated above, and the final sentence in the proposed 25 CFR 151.11(e) (re-designated 151.11(d)) will be deleted.

This change will ensure that all actions will be taken by an authorized official, since 25 CFR 151.2(a) of this Part will define ''Secretary'' to mean ''the Secretary of the Interior or authorized representative.'' It is anticipated that local BIA officials will continue to notify local governments of proposed off-reservation acquisitions, but that the authority to approve certain acquisitions may continue to be held by the Assistant Secretary—Indian Affairs or the BIA Area Directors. It is also anticipated that the recommendations of the intertribal group which recently reported on the possible reorganization of the BIA will be considered in determining which offices should have the ultimate approval authority.

In response to the comments which questioned whether decisions on off-reservation acquisition requests would be appealable, the final sentence in the proposed 25 CFR 151.11(e) (re-designated 151.11(d)) has been deleted. This change is needed to ensure that such decisions will be appealable if they are made below the Assistant Secretary—Indian Affairs' level. If the authority to make such decisions is held by the Assistant Secretary—Indian Affairs, the decision would be ''final'' for the Department of the Interior and therefore not appealable.

Section 151.12 Off-reservation Acquisitions for Gaming

In response to the comments received, it has been determined by the Bureau of Indian Affairs that the proposed section 151.12 of this part will not be adopted and a new part will be added to the 25 CFR pertaining to off-reservation acquisitions for gaming.

List of Subjects in 25 CFR Part 151

Indians—lands, Reporting and recordkeeping requirements.

For reasons set out in the preamble, Part 151 of Title 25, Chapter I of the Code of Federal Regulations is amended as set forth below.

PART 151—LAND ACQUISITIONS (NONGAMING)

1. The authority citation for Part 151 is revised to include 25 U.S.C. 2 and 9 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;