authorized or required will result in a taking of property without just compensation within the meaning of the Fifth Amendment to the United States Constitution.

Three commenters recommended broadening the definition of tribal lands to apply to allotments held in trust for Indian tribes or individuals, regardless of whether the allotments are inside or outside the boundaries of an Indian reservation. This suggestion is inconsistent with the Act's definition of tribal lands. One commenter stated that the reference to 18 U.S.C. 1151 in §10.2 (d)(2)(ii) (renumbered § 10.2 (f)(2)(ii)) does not clarify the nature of dependent Indian community. Dependent Indian communities, as defined in 18 U.S.C. 1151 (b), include those Indian communities under Federal protection that were neither "reserved" formally, nor designated specifically as a reservation. Cohen, in The Field of Indian Law (1982:38) concludes that "it is apparent that Indian reservations and dependent Indian communities are not two distinct definitions of place but rather definitions which largely overlap. All Indian reservations are also dependent Indian communities unless they are uninhabited." In addition to Indian reservations, dependent Indian communities also include patented parcels of land and rights-of-way within residential Indian communities under Federal protection. One commenter recommend joining $\S 10.2$ (d)(2)(i), (ii), and (iii) (renumbered § 10.2 (f)(2)(i), (ii), and (iii)) with "or" at the end of the first two lines. This change has been made.

Nine commenters recommended changes to the definition of aboriginal lands in $\S10.2$ (c)(3). Four commenters challenged use of Indian Claims Commission judgements to determine aboriginal territories. One commenter recommended using Native American origin stories and anthropological evidence instead. A second commenter recommended that the limits of aboriginal territory must come directly from the Indian tribe itself. A third commenter recommended expanding the definition to include all ceded lands and all lands traditionally used by an Indian tribe, regardless of whether there may have been overlapping usage by neighboring Indian tribes. The Indian Claims Commission was established in 1949 specifically to adjudicate tribal land claims against the United States. Over 200 cases were settled between 1949 and 1978 when the Commission was terminated. Since 1978, Indian land claims have been adjudicated by the United States Court of Claims. The Commission and the Court have considered a wide range of information,

including oral history and anthropological evidence, in reaching their decisions. Section 3 (a)(1)(C) of the Act specifically gives Indian tribes the right to claim human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal land that is recognized by a final judgement of the Indian Claims Commission or United States Court of Claims as part of their aboriginal land. The drafters consider the final judgements of the Indian Claims Commission a valuable tool for identifying area occupied aboriginally by a present-day Indian tribe. Other sources of information regarding aboriginal occupation should also be consulted. The definition has been deleted from the rule.

One commenter questioned whether provisions of the Act regarding intentional excavation or inadvertent discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony apply to all aboriginal lands, or just to that portion of an Indian tribe's aboriginal territory that is now in Federal ownership or control. These regulations apply to claims for human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal lands. One commenter requested reference information for final judgements by the Court of Claims. One commenter stated that the map of aboriginal lands included with the final report of the Indian Claims Commission is out of print, out of date, and difficult to use as neither counties nor detailed geographic indicators are provided. The United States Geological Survey has recently republished the 1978 map. Efforts are underway to update the map to include land claims settled since 1978. One commenter inquired about the status of Indian tribes that have filed a land claim for a particular area, but for which a court judgement or ruling from the court has been made. An Indian tribe's status to make a claim under the Act based upon aboriginal occupation of an area is recognized when a favorable court judgement or ruling has been made. However, this situation will only affect the disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated intentionally or discovered inadvertently on Federal land where no lineal descendants or culturally affiliated Indian tribe has made a claim.

Subsection 10.2 (g) includes definitions of procedures required to carry out these regulations. Two

commenters asked for clarification of the difference between the items included on the summary in $\S 10.2$ (e)(1) (renumbered $\S 10.2$ (g)(1)) and the items on the inventory in § 10.2 (e)(2) (renumbered § 10.2 (g)(2)). Summaries are written general descriptions of collections or portions of collections that may contain unassociated funerary objects, sacred objects, and objects of cultural patrimony. Inventories are item-by-item descriptions of human remains and associated funerary objects. The distinction between the documents reflects not only their subject matter, but also their detail (brief overview vs. itemby-item list), and place within the process. Summaries represent an initial exchange of information prior to consultation while inventories are documents completed in consultation with Indian tribe officials and representing a decision by the museum official or Federal agency official about the cultural affiliation of human remains and associated funerary objects.

One commenter recommended including a definition of "repatriation" in the regulations. The rules of statutory construction require interpreting undefined terms according to their common meaning. Repatriation means the return of someone or something to its nation of origin.

One commenter recommended inclusion of a definition for "appropriate care and treatment" of human remains, funerary objects, sacred objects, or objects of cultural patrimony. The appropriateness of particular types of care and treatment will necessarily depend on the nature of the particular human remains, funerary objects, sacred objects, or objects of cultural patrimony under consideration and the concerns of any lineal descendants or affiliated Indian tribes or Native Hawaiian organizations.

Three commenters recommended changes to the definition of intentional excavation in 10.2 (e)(3) (renumbered §10.2 (g)(3)). One commenter recommended deleting the word "planned" from the definition to embrace all kinds of archeological removal, whether planned or occasioned by an encounter with human remains, funerary objects, sacred objects, or objects of cultural patrimony during construction or land use. One commenter recommended expanding the definition to include intentional excavations on private lands. One commenter recommended replacing the definition with "means intentional removal for the purposes of discovery, study, or removal of such items" from section 3 (c) of the statute. These