

SUBCHAPTER C—PROBATE

PART 15—PROBATE OF INDIAN ESTATES, EXCEPT FOR MEMBERS OF THE FIVE CIVILIZED TRIBES

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CROSS REFERENCE: For special rules applying to proceedings in Indian Probate (Determination of Heirs and Approval of Wills, Except for Members of the Five Civilized Tribes and Osage Indians), including hearings and appeals within the jurisdiction of the Office of Hearings and Appeals, see Title 43, Code of

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Federal Regulations, Part 4, Subpart D; Funds of deceased Indians other than the Five Civilized Tribes, see Title 25 Code of Federal Regulations, Part 115.

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Subpart A—Introduction

§ 15.1 What is the purpose of this part?

This part contains the procedures that the Secretary follows to initiate the probate of the trust estate of a deceased individual Indian who owned trust or restricted property. This part tells you how to file the necessary documents to probate the trust estate. This part also describes how probates will be processed by the BIA, and how probates may be sent to the OHA for disposition.

§ 15.2 What terms do I need to know?

ALJ means an administrative law judge or other employee of the Department of the Interior's Office of Hearings and Appeals (OHA) upon whom authority has been conferred by the Secretary to conduct hearings in accordance with 43 CFR Part 4 Subpart D.

BIA means the Bureau of Indian Affairs within the Department of the Interior.

IIM account means Individual Indian Money Account.

LTRO means the Land Titles and Records Office within the BIA.

OHA means the Hearings Division, Office of Hearings and Appeals, Department of the Interior.

OTFM means the Office of Trust Funds Management, within the Office of the Special Trustee for American Indians, Department of the Interior, or its authorized representative.

Agency means the agency office or any other designated office in the BIA having jurisdiction over trust or restricted property and money. This term also means any office of a tribe which has contracted or compacted the BIA probate function under 25 U.S.C. § 450f or 25 U.S.C. § 458cc.

Attorney decision maker means an attorney with the BIA, who reviews a probate package, determines heirs, approves wills and beneficiaries of the will, determines creditors claims, and issues a written decision.

Beneficiary means any individual who receives trust or restricted property or money in a decedent's will.

Day means a calendar day, unless otherwise stated.

Decedent means a person who is deceased.

Deciding official means the official with the delegated authority to make a decision on a probate matter, and may include a BIA regional director, agency superintendent, field representative, or attorney decision maker (BIA deciding official); or an OHA ALJ or other OHA designated official (OHA deciding official).

Decision/order means a written document issued by the deciding official determining heirs, approving wills and beneficiaries of the will, approving creditors claims, and ordering distribution of property and money.

Domicile means the legal residence of the person.

Estate means the trust cash assets, restricted or trust lands owned by the decedent at the time of his death.

Form OHA-7 means a form issued by the OHA which lists data for heirship and family history, and provides information on any wills, trust and restricted property, adoptions, names and addresses of all interested parties.

Heir means any individual who receives trust or restricted property or money from a decedent in an intestate proceeding.

IIM account means funds held in an individual Indian monies account by the OTFM or a tribe performing this function under a contract or compact.

Interested parties means any probable or actual heir, any beneficiary under a will, any party asserting a claim against a deceased Indian's estate, and any tribe having a statutory option to purchase the trust or restricted property interest of a decedent.

Intestate means the decedent died without a will.

Minor means an individual that has not reached age of majority as defined by the applicable tribal or state law.

Probate means the legal process by which applicable tribal law, state law, or federal law that affects the distribution of the decedent's estate is applied to: (1) determine the heirs; (2) approve wills and beneficiaries; and (3) transfer

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any funds held in trust by the Secretary for a decedent to the heirs, beneficiaries, or other persons or entities entitled by law.

Probate clerk means a BIA or tribal employee who is responsible for processing a probate package.

Probate specialist means the BIA or tribal employee who is trained in Indian probate matters.

Restricted land means land the title to which is held by an individual Indian or a tribe and which can only be alienated or encumbered by the owner with the approval of the Secretary because of limitations contained in the conveyance instrument pursuant to federal law.

Secretary means the Secretary of the Interior or an authorized representative.

Superintendent or Field Representative means an authorized representative of the Secretary of the Interior who is the officer in charge of a BIA agency or field office.

Testate means the decedent executed a will before his death.

Trust cash assets means the funds held in an IIM account.

Trust land means the land, or an interest therein, for which the United States holds fee title in trust for the benefit of an individual Indian.

Vendor or Creditor means any individual or company who submits a claim for payment from a decedent's estate.

We/Us means either an official of the BIA or a tribe performing probate functions under a BIA contract or compact.

Will means a written testamentary document, including any properly executed written changes, called codicils, which was signed by the decedent and was attested by two disinterested adult witnesses, that states who will receive the decedent's trust or restricted property.

You/I means an interested party, as defined herein, with an interest in the decedent's estate unless a specific section says otherwise.

§ 15.3 Will the Secretary probate all the property in Indian estates?

(a) No. We will probate only the trust or restricted property in the estate of an Indian decedent.

(b) We will not probate:

(1) Real or personal property in an estate of an Indian decedent that is not trust or restricted property;

(2) Restricted property derived from allotments in the estates of members of the Five Civilized Tribes (Cherokee, Choctaw, Chickasaw, Creek and Seminole) in Oklahoma; and

(3) Restricted interests derived from allotments made to Osage Indians in Oklahoma (Osage Nation) and Osage headright interests.

(c) We will probate the estate of a deceased member of the Five Civilized Tribes or Osage Nation who owns an interest in land derived from an individual Indian other than the Five Civilized Tribes or Osage Nation.

§ 15.4 How does the probate process work?

The basic steps of the probate process are:

(a) We find out about a person's death (see subpart B for details);

(b) We prepare a probate package which includes documents that you send us (see subpart C for details);

(c) We refer the completed probate package to a deciding official in the BIA or the OHA (see subpart D for details);

(d) The deciding official decides how to distribute the property and/or funds deposited in an IIM account (see subparts D and E for details).

Subpart B—Starting the Probate Process

§ 15.101 How do I begin the BIA probate process?

As soon as possible you should contact the nearest BIA agency or regional office where the decedent was enrolled to inform us of the decedent's death. You must provide a certified copy of the death certificate, if one exists. If a death certificate does not exist, you may provide one or more of the following:

(a) A copy of the obituary notice from a local newspaper; or

(b) Any other document that we accept that verifies the death, such as a church record or a court record; and

(c) An affidavit of death prepared by the tribe with whom the decedent was

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associated or someone who knows about the decedent's death that supports the information in paragraph (a) or (b) of this section.

§ 15.102 May I notify the BIA of a death if I am not related to the decedent?

Yes. You do not need to be related to the decedent in order to notify us of the death. You can be a friend, neighbor, or any other interested party.

§ 15.103 When should the BIA be notified of a death?

There is no deadline for notifying us of a death. However, you should notify us of a death as soon as possible after the person dies.

§ 15.104 What other documents does the BIA need to process a probate package?

(a) You should provide us with the following documents and information before we can begin to process the probate package.

- (1) Social Security number of the decedent;
- (2) The birth certificate or other record of birth of the decedent;
- (3) All death records including those listed in § 15.101;
- (4) A list of known creditors against the estate and their addresses;
- (5) Current names and addresses of potential heirs and beneficiaries;
- (6) Any statements renouncing an interest in the estate;
- (7) Documents from a court of competent jurisdiction, including but not limited to:
 - (i) All marriage licenses of the decedent;
 - (ii) All divorce decrees of the decedent;
 - (iii) Adoption and guardianship records relevant to the decedent;
 - (iv) Any sworn statements regarding the decedent's family, including any statements of paternity or maternity;
 - (v) Any name changes; and
 - (vi) Order requiring payment of child support;
- (8) All original or certified copies of wills and codicils, and any revocations; and
- (9) Any additional documents you provide or that we request.

(b) You must inform us if any of the documents or information identified in this part are not available.

§ 15.105 Will the BIA wait to begin the probate process until it is notified of the decedent's death?

No. We may find out about the death of a person without being notified by an interested party. If we do, and if the decedent meets the criteria in § 15.3, we will initiate the process to collect the necessary documentation. You should not assume that we will find out about a death. To assure timely distribution of the estate, you should notify us as provided in § 15.101.

§ 15.106 Can I get emergency assistance for funeral services from the decedent's IIM account?

(a) If you are responsible for making the funeral arrangements on behalf of the family of a decedent who had an IIM account and you have an immediate need to pay for funeral arrangements prior to burial, you may make a request to the BIA for up to \$1,000 from the decedent's IIM account if the decedent's IIM account has more than \$2,500 in the account at the date of death.

(b) You must apply for this assistance and submit to the BIA an original itemized estimate of the cost of the service to be rendered and the identification of the service provider.

(c) We may approve reasonable costs up to \$1,000 that are necessary for the burial services, taking into consideration the total amount in the account, the number of probable heirs or beneficiaries of whom we are aware, the amount of any claims against the account of which we are aware, and any other relevant factor.

(d) We will make payments directly to the providers of the services.

§ 15.107 Who prepares an Indian probate package?

The probate specialist or probate clerk at the agency or tribe where the decedent is an enrolled member will prepare the probate package in consultation with the probable heirs or beneficiaries who can be located.

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§ 15.108 What agency prepares the probate package if the decedent was not an enrolled member of a tribe or is a member of more than one tribe?

(a) If the decedent was not an enrolled member of a tribe, but owns interests in trust or restricted property, the agency that has jurisdiction over the tribe with the strongest association with the decedent will prepare the probate package, unless otherwise provided by federal law.

(b) If the decedent was is a member of more than one tribe, the agency that has jurisdiction over the tribe with the strongest association with the decedent will prepare the probate package, unless otherwise provided by federal law.

§ 15.109 Can a probable heir or beneficiary give up his/her interest in trust or restricted lands or trust funds?

Unless otherwise provided by federal law or a tribal inheritance code approved by the Secretary, you must file a statement renouncing your interest with the BIA or the OHA before the deciding official issues an order.

(a) If you are a non-Indian and 21 years or older, you may give up all or part of your interest by submitting a notarized statement in which you renounce your interest in the estate.

(b) If you are an Indian and 21 years or older and you wish to give up all or part of your interest in the estate, we must refer your request to the OHA in accordance with 43 CFR 4.208.

Subpart C—Preparing the Probate Package

§ 15.201 What will the BIA do with the documents that I provide?

Once we receive the documents that you provide us under § 15.105, the probate specialist or probate clerk will:

(a) Use the documents to prepare a probate package; and

(b) Consult with you and any other sources to obtain any additional information needed for a complete package.

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§ 15.202 What must the complete probate package contain?

The complete probate package must contain all of the following:

(a) A certified copy of the death certificate, if one exists, or some other reliable evidence of death as required by § 15.101;

(b) A completed Form OHA-7, “Data for Heirship Findings and Family History,” certified by the BIA;

(c) A certified inventory of trust or restricted real property;

(d) A statement describing all income generating activity;

(e) A copy of the decedent’s IIM account ledger showing:

(1) The balance of the account at the date of death; and

(2) The balance of the account at the date of probate package submission;

(f) All original or certified copies of wills, codicils and any revocations of wills or codicils;

(g) Any statements renouncing interest that have been submitted to the agency;

(h) Claims of creditors against the estate;

(i) All documentation of payment of claims paid prior to probate proceeding;

(j) All other documents required in § 15.105;

(k) Tribal options to purchase interests of a decedent;

(l) Affidavit of the probate clerk or probate specialist that all efforts to locate the probable heirs and beneficiaries have been exhausted; and

(m) Any other documentation that may be required at the time of probate proceedings.

§ 15.203 What happens after the BIA prepares the probate package?

Within 30 days after all the documents required by § 15.105 and § 15.202 are received, a probate specialist will review the probate package and determine who will be the appropriate deciding official.

(a) If the decedent’s estate contains only trust cash assets of a value less than \$5,000 not including any interest that may have accrued after the death of the decedent, the probate package may be processed in accordance with § 15.206 and may be referred to a BIA

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deciding official subject to the provisions in § 15.205.

(b) All other probate cases will be referred to a BIA attorney decision maker or an OHA deciding official subject to the provisions in § 15.205.

(c) We will notify all interested parties of:

(1) The right of the probable heirs or beneficiaries to request a formal hearing before an ALJ;

(2) The identification of the probable legal heirs; or

(3) The submission of an original or certified copy of a will or revocation and listed beneficiaries;

(4) Any known claims against the estate; and (5) The address of the designated office where the probate package has been sent.

(d) If the deciding official is at the BIA and you have not requested a formal hearing before an ALJ, the probate specialist will send the probate package to the BIA deciding official within 30 days after the date the probate specialists mailed the notice to you.

(e) If the deciding official is at the OHA, then we will send the probate package to the OHA deciding official and notify the probable heirs that they may ask the OHA for an in-person hearing at a site convenient to most of the parties, a video conference or teleconference hearing (if available), or a decision based on documents in the probate package.

(f) On the same day that the probate specialist has determined who will be the designated deciding official, we will notify you of this determination by certified mail, return receipt requested.

§ 15.204 After the probate package has been sent to a BIA deciding official, may I still request a formal hearing with an ALJ?

Yes, you may request a formal hearing before an ALJ at any time up until the date the BIA deciding official renders a decision.

§ 15.205 When will the BIA refer a probate to the OHA?

We will refer a probate to the OHA under § 15.203(d) if the probate specialist determines that a referral is appropriate. In determining whether to refer a probate to the OHA, the probate

specialist will consider all of the criteria listed below:

(a) *Problems with the will.* The probate specialist will refer the probate package to the OHA if it appears that the will:

(1) Is likely to be contested;

(2) Is complex or ambiguous; or

(3) Is of questionable validity.

(b) *Contested claims.* The probate specialist will refer the probate package to the OHA if you:

(1) Contest a creditor claim; or

(2) Contest a claim made by a family member.

(c) *Other problems.* The probate specialist will refer the probate package to the OHA if it appears there are:

(1) Questions about family relationships;

(2) Conflict in prior probate orders;

(3) Problems with the evidence;

(4) Questions about adoption of an heir;

(5) Questions involving paternity;

(6) Presumptions of death;

(7) Rights of minor heirs that might be jeopardized;

(8) Disclaimers of interests by Indian probable heirs or beneficiaries;

(9) Determinations of escheat under 43 CFR § 4.205;

(10) Challenges to the jurisdiction of any court that issued an order that has been used as a supporting document; or

(11) Questions concerning the decedent's domicile.

(d) *Approval of settlement agreements.* The probate specialist will refer the case to the OHA if there is a settlement agreement between heirs or beneficiaries as to the disposition of the estate.

§ 15.206 Is there a summary process for distributing an estate with only trust cash assets?

Yes. Unless otherwise provided by federal law or a tribal inheritance code approved by the Secretary, a decedent's estate that contains only trust cash assets of a value less than \$5,000 not including any interest that may have accrued after the death of the decedent, may be summarily processed by a BIA deciding official.

(a) Within 30 days after notice under § 15.203 has been sent, the probable heirs may request a formal hearing before an ALJ to determine the proper

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distribution of the trust cash assets. Upon notice of a request for a formal hearing, the probate specialist will forward the probate package to the appropriate ALJ within five days.

(b) Within 60 days after notice under § 15.203 has been sent and if the probable heirs have not requested a formal hearing with an ALJ, the BIA deciding official to whom the probate has been referred will assemble the probable heirs and hold an informal hearing to determine the distribution of the trust cash assets.

(c) Within 30 days after the informal hearing, the BIA deciding official will prepare an order in accordance with § 15.302 through § 15.311.

(d) Any interested party may appeal a summary distribution decision in accordance with subpart E of this part.

Subpart D—Probate Processing, Claims and Distributions

§ 15.301 What does an attorney decision maker do with the probate package?

(a) Upon receipt of the probate package, the attorney decision maker reviews the probate package and determines whether there are issues of fact or law of the case that indicate that the probate package should be referred to the OHA. If any issues of fact or law that require a hearing are apparent from the review of the case, the attorney decision maker will refer the probate package to the appropriate ALJ within five days.

(b) Within 30 days after notice under § 15.203 has been sent, the probable heirs may request a formal hearing before an ALJ to determine the distribution of the estate. Within five days of the receipt of notice of a request for a formal hearing, the attorney decision maker will forward the probate package to the appropriate ALJ.

(c) Within 120 days after the notice under § 15.203 has been sent and if the probable heirs have not requested a formal hearing with an ALJ, the attorney decision maker will assemble the probable heirs and hold an informal hearing to determine the distribution of the estate.

(d) Within 60 days after the informal hearing, the attorney decision maker

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will issue an written order in accordance with § 15.310.

§ 15.302 What law is used by the deciding official to determine the distribution of the trust estate?

Unless otherwise provided by federal law or a tribal inheritance code approved by the Secretary, the law of the state where the decedent was domiciled will determine the distribution of the estate.

§ 15.303 If the decedent owed me money, how do I file a claim against the estate?

(a) If you wish to make a claim against the estate of a decedent, you must submit to us an original and two copies of an itemized statement of the debt showing the amount of the original debt and the remaining balance on the date of the decedent's death.

(b) The itemized statement must state whether you have filed a claim against the decedent's non-trust assets.

(c) We must receive your claim within 60 days from the date the BIA receives the verification of the decedent's death in § 15.101 to be included as part of the probate package.

§ 15.304 How does the BIA deciding official determine if a claim will be allowed and paid?

(a) The BIA deciding official may direct the payment of some or all of the debts of the decedent after reviewing the probate package in accordance with the standards provided at 43 CFR 4.250 (c) through (g), and no claim prohibited by 43 CFR 4.250 will be paid.

(b) No claim will be paid from trust or restricted assets where the BIA deciding official is aware that the decedent's non-trust estate may be available to pay the claim.

§ 15.305 What claims will be paid first?

(a) The first claims to be paid, referred to as priority claims, are paid in order of priority. The priority claims are:

- (1) Funeral expenses (including the cemetery marker);
- (2) Medical expenses for the last illness;
- (3) Nursing home or other care facility expenses;
- (4) A claim of an Indian tribe;

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(5) A claim reduced to judgment by a court of competent jurisdiction.

(b) After payment of the priority claims, the BIA deciding official may authorize all remaining claims, referred to as general claims.

§ 15.306 Can the BIA deciding official reduce the amount of claims?

The BIA deciding official has the discretion to decide that part or all of an otherwise valid claim is unreasonable, reduce the claim to a reasonable amount, or disallow the claim in its entirety.

(a) If a claim is reduced, the BIA deciding official will order payment only of the reduced amount.

(b) The BIA deciding official may reduce or disallow both priority claims and general claims.

§ 15.307 What if there is not enough money in the decedent's IIM account to pay all claims?

(a) If there is not enough money in the IIM account to pay all claims, the BIA deciding official will order payment of the priority claims first in the order identified in § 15.305.

(b) If there is not enough in the IIM account to pay the priority claims, the BIA deciding official may order payment of the priority claims on a pro rata (reduced) basis.

(c) If less than \$1,000 remains in the IIM account after payment of priority claims is ordered, the general claims may be ordered paid on a pro rata basis or disallowed in their entirety.

§ 15.308 Will the BIA use future income to pay claims?

No. The unpaid balance of any claims will not be enforceable against the estate after the estate is closed.

§ 15.309 Will the BIA deciding official authorize payment of interest or penalties accruing after the date of death?

No. Interest or penalties charged against either priority or general claims after date of death will not be paid.

§ 15.310 When will the BIA deciding official issue a decision on the probate?

Within 60 days after an informal hearing has been held, the BIA deciding official will issue a written decision/order in accordance with § 15.311. Upon receipt of the decision/order, the BIA deciding official will send all interested parties a copy of the decision/order.

§ 15.311 What is in the written decision/order of the BIA deciding official?

The BIA deciding official issues a written decision/order that:

(1) In intestate cases: Lists the names, relationship to the decedent, and shares of the heirs; provides citations to the law of descent and distribution; or the fact that the decedent died leaving no legal heirs;

(2) In testate cases: approves or disapproves a will; interprets provisions of the approved will; provides the names and relationship of the beneficiaries to the decedent; describes the property each beneficiary is to receive;

(3) Allows or disallows claims against the estate; orders the amount of payment for all approved claims;

(4) States whether the heirs or beneficiaries are Indian or non-Indian;

(5) Determines any rights of dower, curtesy or homestead which may constitute a burden upon the interest of the heirs;

(6) Attaches a certified copy of the inventory of trust or restricted lands, if any; and

(7) Advises all interested parties of their appeal rights in accordance with subpart E of this part.

§ 15.312 What happens after the decision is made?

We will not pay claims, transfer title to land, or distribute trust cash assets for 75 days after the decision/order is mailed to the interested parties. After 75 days and if no appeal has been filed, the following actions will take place:

(a) The LTRO will change its land title records for the trust and restricted property in accordance with the decision/order; and

(b) The OTFM will pay claims and distribute the IIM account in accordance with the decision/order.

Subpart E—Appeals

§ 15.401 May I appeal the decision of the BIA deciding official?

You have a right to appeal the decision made by the BIA deciding official if you are an interested party and are affected by the probate decision.

§ 15.402 How do I file an appeal of the decision/order?

(a) To file an appeal of the decision/order, you may send or deliver a signed, written statement to the BIA deciding official where the probate package was sent that contains:

- (1) The name of the decedent;
- (2) A description of your relationship to the decedent;
- (3) An explanation of why you are appealing; and
- (4) Any errors you believe the BIA deciding official made.

(b) Within ten days from the receipt of the appeal, the BIA deciding official will notify all other interested parties of the appeal and forward the case to the appropriate ALJ.

§ 15.403 How long do I have to file an appeal?

(a) You must send or deliver your written appeal within 60 days of the date that appears on the decision mailed to you. If you mail your appeal, it must be postmarked within 60 days of the date of the decision.

(b) If the 60-day appeal period is missed, you still have a right to file a written statement with the BIA deciding official asking to have the decision changed for one or more of the following reasons:

- (1) You did not receive notice of the probate;
- (2) You have obtained new evidence or information after the decision was made; or
- (3) You have evidence that was known at the time of the probate proceeding but was not included in the probate package.

(c) After we have received your request, we will forward it to the appropriate ALJ within ten days for action in accordance with 43 CFR Part 4, Subpart D.

§ 15.404 What will happen to the estate if an appeal is filed?

The BIA deciding official will refer your appeal to the appropriate ALJ in the same manner provided under 43 CFR §4.210. Until the appeal has been resolved, the BIA will not distribute any of the decedent’s property or modify the land title records and the OTFM will not pay claims or distribute any funds in the decedent’s IIM account.

§ 15.405 How does the ALJ review a decision issued by a BIA deciding official?

The ALJ will conduct a *de novo* review; that is, conduct a formal hearing on the merits of the case.

Subpart F—Information and Records

§ 15.501 If I have a question about a probate that has been assigned to a BIA deciding official, may I contact the deciding official directly?

In order to avoid off-the-record communications with the BIA deciding official about your specific case that might be interpreted as an attempt to influence final decision on the probate case, you should direct your questions to the BIA deciding official’s clerk or the probate specialist or probate clerk who prepared your probate package.

§ 15.502 How can I find out the status of a probate?

You may request information about the status of an Indian probate from any BIA agency or regional office.

§ 15.503 Who owns the records associated with this part?

(a) Records are the property of the United States if they:

- (1) Are made or received by a tribe or tribal organization in the conduct of a federal trust function under this part, including the operation of a trust program pursuant to Public Law 93–638 as amended; and
- (2) Evidence the organization, functions, policies, decisions, procedures, operations, or other activities undertaken in the performance of a federal trust function under this part.

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(b) Records not covered by paragraph (a) of this section that are made or received by a tribe or tribal organization in the conduct of business with the Department of the Interior under this part are the property of the tribe.

§ 15.504 How must records associated with this part be preserved?

(a) Any organization, including tribes and tribal organizations, that have records identified in § 15.503(a) must preserve the records in accordance with approved Departmental records retention procedures under the Federal Records Act, 44 U.S.C. Chapters 29, 31 and 33. These records and related records management practices and safeguards required under the Federal Records Act are subject to inspection by the Secretary and the Archivist of the United States.

(b) A tribe or tribal organization should preserve the records identified in § 15.503(b) for the period of time authorized by the Archivist of the United States for similar Department of the Interior records in accordance with 44 U.S.C. Chapter 33. If a tribe or tribal organization does not preserve records associated with its conduct of business with the Department of the Interior under this part, the tribe or tribal organization may be prevented from being able to adequately document essential transactions or furnish information necessary to protect its legal and financial rights or those of persons directly affected by its activities.

PART 16—ESTATES OF INDIANS OF THE FIVE CIVILIZED TRIBES

Sec.

- 16.1 Definitions.
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AUTHORITY: 5 U.S.C. 301 (Interprets or applies Act of Apr. 26, 1906, ch. 1876, 34 Stat. 137,

see 25 U.S.C. 355nt (1970); Act of May 27, 1908, ch. 199, 35 Stat. 312, see 25 U.S.C. 355nt (1970); Act of June 14, 1918, ch. 101, 40 Stat. 606, 25 U.S.C. 355, 375 (1970); Act of Apr. 12, 1926, ch. 115, 44 Stat. 239, see 25 U.S.C. 355nt (1970); Act of June 26, 1936, ch. 831, 49 Stat. 1967, 25 U.S.C. 501-509 (1970); Act of Aug. 4, 1947, ch. 458, 61 Stat. 731, 25 U.S.C. 502 (1970) and see 25 U.S.C. 355nt (1970); Act of Aug. 12, 1953, ch. 409, 67 Stat. 558, 25 U.S.C. 375c (1970) and see 25 U.S.C. 355nt (1970); Act of Aug. 11, 1955, ch. 786, 69 Stat. 666, see 25 U.S.C. 355nt (1970); Act of Aug. 29, 1967, Pub. L. 90-76, 81 Stat. 177, 25 U.S.C. 786-788 (1970); and Act of May 7, 1970, Pub. L. 91-240, 84 Stat. 203, 25 U.S.C. 375d (1970)).

SOURCE: 37 FR 7082, Apr. 8, 1972, unless otherwise noted.

§ 16.1 Definitions.

(a) The term *Secretary* means the Secretary of the Interior and his authorized representatives.

(b) The term *Bureau* means the Bureau of Indian Affairs, acting through the Commissioner of Indian Affairs and his authorized representatives, including field officials who are responsible for matters affecting properties in which a restricted interest is owned by an Indian of the Five Civilized Tribes.

(c) The term *Field Solicitor* means the Regional Solicitor, Southwest Region, Page Belcher Federal Building, P.O. Box 3156, Tulsa, Oklahoma 74101.

(d) The term *Indian of the Five Civilized Tribes* means an individual who is either an enrolled member of the Cherokee, Chickasaw, Choctaw, Creek, or Seminole Tribes of Oklahoma, or a descendant of an enrolled member thereof.

(e) The term *restricted interest* means an interest owned in real or personal property subject to restraints upon alienation imposed either by Federal statute or by administrative action authorized by Federal statute. Although this term includes property subject to restraints which may be removed by administrative action, its use in this part refers primarily to property subject to restraints which State courts have jurisdiction to remove in proceedings such as those specified in § 16.2.

[37 FR 7082, Apr. 8, 1972, as amended at 50 FR 12529, Mar. 29, 1985]