Beaumont, Tex. (1–4–74); No. 3075, Silsbee, Tex.

Moyer's Cigar Store, variety-department store; 100 South Ninth Street, Reading, Pa.; 3–6–74.

G. C. Murphy Co., variety-department stores: No. 315, Corry, Pa., 3–15–74; No. 325, Harrisburg, Pa., 3–15–74; No. 808, Pittsburgh, Pa., 3–14–74.

Neisner Bros., Inc., variety-department store; No. 109, Detroit, Mich.; 3–19–74.

Newberry's, variety-department store; No. 27, Coatesville, Pa.; 2–28–74.

Nicholas Drug Store, drugstore; 123 West Third Street, Grand Island, Nebr.; 2–27–74.

Northern Farmers Co-Op Society, variety-department store; Cook, Minn.; 2–28–74.

Oak Plaza Pharmacy, drugstore; Oak Plaza Shopping Center, Fayetteville, Ark.; 2–21–74.

The Outlet Co., Inc., apparel stores, 3–14–74: Gardendale Plaza Shopping Center, Gardendale, Ala.; 1535 Main Street, Graysville, Ala.

Raylass Department Store, variety-department store; 112–114 Main Street, Suffolk, Va.; 3–1–74.

Rhea's, Inc., foodstore; Allegheny Center Mall, Pittsburgh, Pa.; 2–22–74.

Ritter's Oakwood Manor, Inc., nursing home; 400 Highway 18 West, Clear Lake, Iowa; 3–16–74.

Rogerson Restaurant, restaurant; 153 Main Avenue East, Twin Falls, Idaho; 2–28–74.

Rose's Stores, Inc., variety-department stores: No. 238, Jacksonville, Fla., 3–13–74; No. 99, Moultrie, Ga.; 2–28–74.

Rushing & Swope Maverick Steak House, Inc., restaurant; Pasadena, Tex.; 2–16–74.

Sacred Heart Hospital, Inc., hospital; 626 North Street, Loup City, Nebr.; 3–10–74.

Sanford Memorial Hospital and Nursing Home, hospital; 913 Main Street, Farmington, Minn.; 2–23–74.

Seikel's Dept. Store, variety-department store; McLoud, Okla.; 3–4–74.

O. P. Skaggs, foodstore; 28 South State, Preston, Idaho; 2–28–74.

Smith Nursery Co., agriculture; Ninth and Allison Streets, Charles City, Iowa; 3–1–74.

Spendthrift Farm, agriculture; Iron Works Pike, Lexington, Ky.; 2–28–74.

Spurgeon's, variety-department stores: 816 Fifth Avenue, Antigo, Wis., 2–25–74; 108 West Cook, Portage, Wis., 3–3–74.

Stanley's Department Store, Inc., variety-department store; 218 East Johnson Street, Greenwood, Miss.; 3–17–74.

Steve's Shoes, Inc., shoe store; 1340 East Meyer, Kansas City, Mo.; 3–15–74.

Sullivan's Restaurant, Inc., restaurant; 2510 East Genesee Avenue, Saginaw, Mich.; 3–10–74.

Sumter Dry Goods Co., variety-department store; 1 South Main Street, Sumter, S.C.; 2–23–74.

Sunny Knoll Care Centre, Inc., nursing home; 700 East Lake Street, Rockwell City, Iowa; 2–27–73 to 1–31–74.

T. G. & Y. Stores Co., variety-department stores, 3–12–74, except as otherwise indicated: No. 1618, Tuscaloosa, Ala. (3–18–74); No. 2100, Little Rock, Ark. (2–27–74); No. 634, Los Angeles, Calif. (2–28–74); No. 635, Victorville, Calif. (2–28–74); No. 301, St. Joseph, Mo. (3–18–74); No. 810, Santa Fe, N. Mex. (3–6–74); No. 10, Ada, Okla. (2–27–74); No. 44, Bethany, Okla. (3–6–74); No. 58, Pawhuska, Okla. (3–14–74); No. 1005, Purcell, Okla. (2–14–74); No. 79, Sand Springs, Okla.; No. 22, Sapulpa, Okla.; Nos. 1, 50, 68, and 401, Tulsa, Okla.; No. 350, Houston, Tex. (3–19–74); Nos. 813 and 821, Houston, Tex. (2–28–74).

Tip Top Fruit Farm, agriculture; Route 1, Penn Laird, Va.; 3–4–74.

Trey's Department Store, variety-department store; Main Street, Parkersburg, Iowa; 3–5–74.

Valley View Care Centre, nursing home; 2900 West E, North Platte, Nebr.; 2–27–73 to 1–31–74.

Victoria Pharmacy, drugstore; 512 East Rio Grande, Victoria, Tex.; 3–12–74.

White's City, Inc., restaurant; White's City, N. Mex.; 2–1–74.

Wm. A. Lewis Clothing Co., apparel store; 8037–8041 South Cicero, Chicago, Ill.; 3–12–74.

The following certificates issued to establishments permitted to rely on the base-year employment experience of others were either the first full-time student certificates issued to the establishment, or provide standards different from those previously authorized. The certificates permit the employment of full-time students at rates of not less than 85 percent of the applicable statutory minimum in the classes of occupations listed, and provide for the indicated monthly limitations on the percentage of full-time student hours of employment at rates below the applicable statutory minimum to total hours of employment of all employees.

Brainerd Drug Store, drugstore; 3240 Brainerd Road, Chattanooga, Tenn.; fountain clerk; 33 to 51 percent; 3–18–74.

Edward's, Inc., variety-department store; Duncan Highway, Route 176, Union, S.C.: salesclerk, stockclerk, checker, lay-a-way clerk, pricer; 10 to 14 percent; 2–25–74.

Ferguson Free Car Wash, service station; 3501 Werk Road, Cincinnati, Ohio; service station attendant, detailer; 46 to 78 percent; 3–14–74.

Hitching Post Restaurant, restaurant; 964 South Main Street; Maryville, Mo.; general restaurant worker; 23 to 27 percent; 3–14–74.

Morgan & Lindsey, variety-department store; No. 3113, Hodge, La.; salesclerk, stockclerk, office clerk; 12 to 45 percent; 3–4–74.

G. C. Murphy Co., variety-department stores, for the occupations of salesclerk, stockclerk, office clerk, janitorial: No. 353, Tarboro, N.C., 12 to 24 percent, 2–27–74; No. 601, Gallipolis, Ohio, 6 to 19 percent, 3–14–74.

Rose's Stores, Inc., variety-department stores: No. 239, Hammond, La., salesclerk, stockclerk, checker, window trimmer, merchandise worker, order writer, 13 to 32 percent, 3–8–74; No. 232, Asheville, N.C., salesclerk, stockclerk, 4 to 35 percent, 3–13–74; No. 237, Florence, S.C., salesclerk, stockclerk, 6 to 21 percent, 2–28–74; No. 234, McMinnville, Tenn., salesclerk, 3 to 16 percent, 3–14–74.

Sallye's Town & Country, apparel store; 1001 Fort Crook Road, Bellevue, Nebr.; salesclerk, stockclerk, office clerk, porter; 7 to 21 percent; 3–14–74.

T. G. & Y. Stores Co., variety-department stores, for the occupations of office clerk, salesclerk, stock clerk, 29 to 30 percent, 3–14–74: No. 2204, Clinton, Miss.; No. 2207, Jackson, Miss.; No. 2205, Pearl, Miss.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificate may be annulled or withdrawn, as indicated therein, in the manner provided in part 528 of title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof on or before June 28, 1973.

Signed at Washington, D.C., this 22d day of May 1973.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[FR Doc.73–10686 Filed 5–29–73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 262]

Assignment of Hearings

MAY 24, 1973.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 115826 sub 246, W. J. Digby, Inc., now assigned June 5, 1973, will be held in room 595, U.S. Courthouse, 1921 Stout Street, Denver, Colo.

MC 26396 sub 51, Popelka Trucking Co., doing business as the Waggoners, MC 26396 sub 63, Popelka Trucking Co., doing business as the Waggoners, now assigned June 11, 1973, will be held in the auditorium, Federal Office and Post Office Building, Broadway and Pattee Street, Missoula, Mont.

MC 124692 sub 96, Sammons Trucking, now assigned June 18, 1973, will be held in room 108, U.S. Courthouse, 620 Southwest Main Street, Portland, Oreg.

FD 24679, Spokane, Portland & Seattle Railway Co. and Union Pacific Railroad Co.—Control—Peninsula Terminal Co., FD 24890, Southern Pacific Co.—Common use of terminal facilities, Peninsula Terminal Co., FD 24891, Southern Pacific Co.—Common use of certain terminal facilities—Union Pacific Railroad Co., now assigned June 25, 1973, will be held in room 108, U.S. Courthouse, 620 Southwest Main Street, Portland, Oreg.

MC–123061 sub 64, Leatham Brothers, Inc., now assigned June 25, 1973, will be held in room 1151, Federal Office Building, 909 First Avenue, Seattle, Wash.

MC–138232, Inquisitor's Club, now assigned June 28, 1973, will be held in room 1151, Federal Office Building, 909 First Avenue, Seattle, Wash.

MC 107496 sub 839, Ruan Transport Corp., now assigned June 13, 1973, at St. Paul,

Minn., is canceled and the application is dismissed.

No. 35735, Publication Corp.-versus-the Baltimore & Annapolis Railroad Co., now being assigned hearing July 10, 1973 (3 days), at Baltimore, Md., in a hearing room to be later designated.

I & S 8848, proportional rates on coal to Ohio River points, now assigned June 4, 1973, at Washington, D.C., is canceled.

No. 35803, Burlington Northern, Inc.-versus-the Atchison, Topeka, and Santa Fe Railway Co., et al., now being assigned hearing September 12, 1973 (3 days), at Denver, Colo., in a hearing room to be later designated.

MC-138169, Northern Transportation Service, now assigned June 11, 1973, will be held in room 303, Post Office Building, 151 West Street, Rutland, Vt.

AB-5-sub 140, George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., trustees of the property of Penn Central Transportation Co., debtor, abandonment Central Vermont Railroad connection, Norwich, New London County, Connecticut, now assigned June 14, 1973, will be held at the Court of Common Pleas, City Hall, Union Square, Norwich, Conn.

MC-1977 sub 15, Northwest Transport Service, Inc., MC-107839 sub 150, Denver-Albuquerque Motor Transport, Inc., now assigned June 11, 1973, will be held in courtroom No. 1, Federal Building, and U.S. Courthouse, 230 North First Avenue, Phoenix, Ariz.

MC-136564 sub 1, Shippers Leasing, Inc., now assigned June 18, 1973, will be held in room 13025, 450 Golden Gate Avenue, San Francisco, Calif.

MC-136172 (sub-No. 2), Dick Bell Trucking, Inc., now assigned June 19, 1973, will be held in room 13025, 450 Golden Gate Avenue, San Francisco, Calif.

MC-107743 sub 20, System Transport, Inc., now assigned June 21, 1973, will be held in room 13025, 450 Golden Gate Avenue, San Francisco, Calif.

No. 35782, board of trade of the city of Chicago versus Burlington Northern, Inc., et al., now being assigned hearing October 1, 1973 (3 days), at Chicago, Ill., in a hearing room to be later designated.

No. 35825, board of trade of the city of Chicago versus the Akron, Canton & Youngstown Railroad Co., et al., now being assigned hearing September 17, 1973 (3 days), at Chicago, Ill., in a hearing room to be later designated.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.73-10729 Filed 5-29-73;8:45 am]

[Notice 285]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission, pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR pt. 1132), appear below:

Each application (except as otherwise specifically noted), filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before June 19, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73953. By order of May 21, 1973, the Motor Carrier Board, on reconsideration, approved the transfer to Wilson Moving and Storage, Inc., Rutland, Vt., of the operating rights in certificate No. MC-111849 issued May 3, 1972, to Reginald C. Wilson, Jr., Paul R. Howard, and C. Russell Ackley, Jr., a partnership, doing business as Wilson Moving and Storage, Rutland, Vt., authorizing the transportation of household goods, as defined by the Commission, between various specified points as indicated in Vermont, New Jersey, and New York, and points in Massachusetts, New Hampshire, Connecticut, Rhode Island, New York, New Jersey, Vermont, and Pennsylvania; and new furniture, uncrated, from North Bennington, Vt., to points in New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia. Bartley J. Costello, 47 Merchants Row, Rutland, Vt. 05701, attorney for applicants.

No. MC-FC-74207. By order of May 21, 1973, the Motor Carrier Board approved the transfer to George T. Mason, doing business as Mason Wrecker Service, Casper, Wyo., of the operating rights in certificate No. MC-129285 issued May 16, 1968, to Don Cuin and L. B. Cuin, doing business as Red Desert Service, Wamsutter, Wyo., authorizing the transportation of wrecked and disabled motor vehicles and trailers, in secondary movements, in truckaway service, between points in Wyoming, on the one hand, and, on the other, points in Utah and Colorado. Houston G. Williams, suite 540, First National Bank Building, Casper, Wyo. 82601, attorney for applicants.

No. MC-FC-74211. By order of May 21, 1973, the Motor Carrier Board approved the transfer to Marvin Wyatt, doing business as Wyatt Trucking, Buckhannon, W .Va., of permit No. MC-134359 (sub-No. 1), issued to Carl J. Martin, doing business as Carl J. Martin Trucking, Buckhannon, W. Va., authorizing the transportation of: Wood residuals, from points in West Virginia, Virginia, Maryland, and a specified portion of Ohio to points and areas in Pennsylvania, Ohio, West Virginia, and Maryland. Charles E. Anderson, attorney, 1421 Kanawaha Valley Building, Charleston, W. Va. 25332.

No. MC-FC-74275. By order of May 21, 1973, the Motor Carrier Board approved the transfer of Orman James Nelson, Route 2, Box 189 G, Battle Ground, Wash. 98604, of the operating rights in certificate No. MC-134372 (sub-No. 1), issued March 30, 1971, to Edward H. Sinner, Route 1, Box 554, Toppenish, Wash. 98948, authorizing the transportation of animal and poultry feed, and animal and poultry supplements, between points in Multnomah, Clackamas, Marion, Linn, Lane, Yamhill, Deschutes, Washington, and Lincoln Counties, Oreg., on the one hand, and on the other, points in Washington.

No. MC-FC-74294. By order of May 21, 1973, the Motor Carrier Board approved the transfer to George J. Desatoff, doing business as G J D Enterprises, Los Angeles, Calif., of the operating rights in certificate No. MC-32066 issued April 7, 1971, to Raymond J. Hochstetler and Jane B. Hochstetler, a partnership, doing business as R J Trucking, Downey, Calif., authorizing the transportation of auto parts and accessories, garage equipment, materials and supplies, and office fixtures and supplies, between points in Los Angeles, Calif. William Davidson, registered practitioner, 2455 East 27th Street, Vernon, Calif. 90058, representative for applicants.

No. MC-FC-74362. By order of May 22, 1973, the Motor Carrier Board approved the transfer to A. Yeagle's Moving and Storage Corp., 20 North Hampton Street, Lock Haven, Pa., of certificates Nos. MC-103158, subs 1 and 2, issued to Cyrus W. Haagen and Harry J. Haines, doing business as Yeagle's Moving and Storage (above address), Lock Haven, Pa., authorizing the transportation of: Household goods, as defined by the Commission, and new furniture as described by the Commission, between Lock Haven, Pa., and 25 miles, in a radial movement, and points in New York, New Jersey, Ohio, Massachusetts, Maryland, Indiana, and Illinois.

No. MC-FC-74480. By order entered May 21, 1973, the Motor Carrier Board approved the transfer to Lock Trucking Inc., Wheatland, Wyo., of the operating rights set forth in certificates Nos. MC-115648 (sub-No. 5), MC-115648 (sub-No. 8), MC-115648 (sub-No. 9), MC-115648 (sub-No. 10), MC-115648 (sub-No. 11), MC-115648 (sub-No. 12), MC-115648 (sub-No. 14), MC-115648 (sub-No. 15), MC-115638 (sub-No. 17), MC-115648 (sub-No. 19), MC-115648 (sub-No. 20), MC-115648 (sub-No. 17), MC-115648 (sub-No. 22), MC-115648 (sub-No. 23), MC-115648 (sub-No. 25), and MC-115648 (sub-No. 27), issued by the Commission September 17, 1962, May 26, 1967, June 26, 1967, June 8, 1967, September 26, 1968, December 21, 1967, June 26, 1969, June 5, 1969, August 29, 1969, May 25, 1970, August 21, 1970, April 16, 1971, January 3, 1972, June 22, 1972, November 2, 1972, and April 4, 1973, respectively, to Luther Lock, doing business as Luther Lock Trucking, Wheatland, Wyo., authorizing the transportation of various specified commodities, from, to, or between points in Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Wisconsin, and Wyoming. Ward A. White, P.O. Box 568, 1600 Van Lennen Avenue, Cheyenne, Wyo. 82001, attorney for applicants.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.73-10730 Filed 5-29-73;8:45 am]

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PART II



DEPARTMENT OF THE INTERIOR

Land Management Bureau

■

ALASKA NATIVE SELECTIONS

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—LAND RESOURCE MANAGEMENT (2000)

[Circular No. 2343]

PART 2650—ALASKA NATIVE SELECTIONS

Subpart 2650—Alaska Native Selections—Generally

Subpart 2651—Village Selections

Subpart 2652—Regional Selections

Subpart 2653—Miscellaneous Selections

Subpart 2654—Native Reserves

On pages 19634–19639 of the FEDERAL REGISTER of September 21, 1972, there were published a notice and text of proposed rulemaking to add to group 2600 of title 43, Code of Federal Regulations, additional sections implementing the Alaska Native Claims Settlement Act of 1971. Review of the comments and suggestions submitted in response to that notice resulted in a substantial revision of the proposal. On pages 6504–6510 of the FEDERAL REGISTER of March 9, 1973, an amended notice of proposed rulemaking was published.

Interested persons were given until April 16, 1973, to submit written comments, suggestions, or objections to the proposed rulemaking of March 9, 1973. Thirty-two comments were received.

The written comments and suggestions received were carefully evaluated. Many conferences were held with representatives of the Alaska Natives and of the State of Alaska. After due deliberation, the regulations have been changed in many respects. Included among the changes are the following:

1. Sections 2650.0–1, Purpose and 2650.0–2, Objectives have been changed to conform to recommendations made by the Natives.

2. *Section 2650.0–5.*—The definitions of "interim conveyance" and "patent" have been amended.

3. New definitions of "conveyance" and "date of filing" have been added to § 2650.0–5.

4. *Section 2650.0–8.*—A new section has been added to authorize the Secretary to waive any nonstatutory requirement of the regulations. The section also sets out the circumstances under which minor procedural and technical errors should be waived.

5. *Section 2650.1(c).*—The section relating to continuance of forest fire protection services has been expanded.

6. *Section 2650.2.*—Application procedures have been simplified somewhat.

7. Section 2650.2(e) has been made more specific as to the maps to be used in describing lands under application. The section also clarifies that when the written description shown on the application and the map portrayal accompanying the application do not agree, the delineation on the map portrayal shall control.

8. Section 2650.2(g) which provided for filing fees to accompany selection applications, has been deleted.

9. Section 2650.3–1(c) is a new section which allows Native grantees to acquire lands by exchange under certain circumstances.

10. Section 2650.3–2(b) has been amended to set forth more completely the procedures for protecting the rights of mineral claimants.

11. Section 2650.4–3 has been amended to state the circumstances under which administration of less than fee interests will be retained, and how that retained jurisdiction will be exercised.

12. *Section 2650.4–4.*—This section is subject to amendment in the immediately foreseeable future to deal with the disposition of revenues earned from lands after the date of selection and prior to the date of conveyance.

13. *Section 2650.4–5.*—This section reflects the covenants that will appear as reservations in conveyances of national forest lands.

14. *Section 2650.4–6.*—This section has been revised to explain more fully the reservations to be made in the conveyance of land in National Wildlife Refuges.

15. *Section 2650.4–7.*—This section has been revised to provide procedures and standards for reserving and terminating easements in conveyances.

16. Section 2650.5, which sets forth the procedures for surveying and computing acreages, has been substantially revised.

17. Section 2650.6 was revised to clarify which land selections are subject to section 22(1) of the act.

18. *Section 2650.7.*—This section has been revised to provide that publication of notice of application is at the option of the applicant.

19. Section 2650.8 assigns the adjudication of land selection under the act to the Board established in § 2651.2(a).

20. Section 2651.2(a) has been revised to deal specifically with the appointment of the Board therein established and procedures in the adjudication of the eligibility of Native village corporations.

21. Section 2651.2(b), which deals with village eligibility for land benefits, has been substantially changed.

22. Section 2651.4 has been revised to identify which lands are subject to selection, to redefine contiguity and compactness, and to establish the order and manner of selection.

23. *Section 2652.3.*—Changes in this section relate to regional selections of surface and subsurface, particularly within deficiency land withdrawals.

24. *Section 2653.0–5.*—Most definitions have been rewritten.

25. *Section 2653.1.*—The method of allocating land for the purposes authorized under section 14(h) of the act has been revised.

26. *Section 2653.2.*—The maximum amount of land per member of a group has been reduced to 320 acres.

27. *Section 2653.3.*—This section has been rewritten concerning time and place of selections under section 14(h).

28. *Section 2653.6(c).*—This section was rewritten to reflect the acreage that may be conveyed to Native groups.

29. *Section 2653.7.*—The selection procedures for Sitka, Kenai, Juneau, and Kodiak are reflected in this newly written provision.

30. *Section 2653.8–2.*—This section has been rewritten to define periods of occupancy.

31. *Section 2653.9.*—Provision for release of a covenant by the Secretary has been added to this section.

32. *Section 2654.*—Changes in this section relate to observation of elections by the Bureau of Indian Affairs upon request.

It is hereby determined that the publication of this rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required. This conclusion has been reached on the basis that all actions authorized by these regulations which could significantly affect the quality of the human environment have either been directed by Congress or the action can be taken only after the exercise of discretion by the Secretary. In the latter instance an environmental impact statement will be prepared when approprite prior to the exercise of discretion.

The rulemaking is hereby adopted as set forth below. This amendment shall become effective July 2, 1973.

Group 2600 of chapter II, title 43 of the Code of Federal Regulations is amended as follows:

Subpart 2650—Alaska Native Selections—Generally

Sec.

2650.0–1 Purpose.
2650.0–2 Objectives.
2650.0–3 Authority.
2650.0–5 Definitions.
2650.0–7 References.
2650.0–8 Waiver.
2650.1 Provisions for interim administration.
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2650–1 Lawful entries and lawful settlements.
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2650.4–1 Existing rights and contracts.
2650.4–2 Succession of interest.
2650.4–3 Administration.
2650.4–4 Revenues [Reserved].
2650.4–5 National forest lands.
2650.4–6 National wildlife refuge system lands.
2650.4–7 Public easements.
2650.5 Survey requirements.
2650.5–1 General.
2650.5–2 Rule of approximation.
2650.5–3 Regional surveys.
2650.5–4 Village surveys.
2650.5–5 Cemetery sites and historical places.
2650.5–6 Adjustment to plat of survey.
2650.6 Selection limitations.
2650.7 Publication.
2650.8 Appeals.

AUTHORITY.—Sec. 25 of the Alaska Native Claims Settlement Act of December 18, 1871; Administrative Procedure Act (5 U.S.C. 551 et seq.).

Subpart 2650—Alaska Native Selections—Generally

§ 2650.0–1 Purpose.

The purpose of the regulations in this part is to provide procedures for orderly and timely implementation of those provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601) which pertain to selections of lands and interests in lands in satisfaction of the land selections conferred by said act upon Alaska Natives and Alaska Native corporations.

§ 2650.0–2 Objectives.

The program of the Secretary is to implement such provisions in keeping with the congressional declaration of policy that the settlement of the Natives' aboriginal land claims be fair and just and that it be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives, without litigation and with maximum participation by Natives in decisions affecting their rights and property.

§ 2650.0–3 Authority.

Section 25 of the Alaska Native Claims Settlement Act of December 18, 1971, authorizes the Secretary of the Interior to issue and publish in the FEDERAL REGISTER, pursuant to the Administrative Procedure Act (5 U.S.C. 551, et seq.), such regulations as may be necessary to carry out the purposes of the act.

§ 2650.0–5 Definitions.

(a) "Act" means the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601) and any amendments thereto.

(b) "Secretary" means the Secretary of the Interior or his authorized delegate.

(c) "Native" means a Native as defined in section 3(b) of the act.

(d) "Native village" means any tribe, band, clan, group, village, community, or association in Alaska, as defined in section 3(c) of the act.

(e) "Village corporation" means a profit or nonprofit Alaska Native village corporation which is eligible under § 2651.2 of this chapter to select land and receive benefits under the act, and is organized under the laws of the State of Alaska in accordance with the provisions of section 8 of the act.

(f) "Regional corporation" means an Alaska Native regional corporation organized under the laws of the State of Alaska in accordance with the provisions of section 7 of the act.

(g) "Public lands" means all Federal lands and interests in lands located in Alaska (including the beds of all nonnavigable bodies of water), except:

(1) The smallest practicable tract, as determined by the Secretary, enclosing land actually used, but not necessarily having improvements thereon, in connection with the administration of a Federal installation; and,

(2) Land selections of the State of Alaska which have been patented or tentatively approved under section 6(g) of the Alaska Statehood Act, as amended (72 Stat. 341; 77 Stat. 223; 48 U.S.C. ch. 2), or identified for selection by the State prior to January 17, 1969, except as provided in § 2651.4(a)(1) of this chapter.

(h) "Interim conveyance" as used in these regulations means the conveyance granting to the recipient legal title to unsurveyed lands, and containing all the reservations for easements, rights-of-way, or other interests in land, provided by the act or imposed on the land by applicable law, subject only to confirmation of the boundary descriptions after approval of the survey of the conveyed land.

(i) "Patent" as used in these regulations means the original conveyance granting legal title to the recipient to surveyed lands, and containing all the reservations for easements, rights-of-way, or other interests in land, provided by the act or imposed on the land by applicable law; or the document issued after approval of the survey by the Bureau of Land Management, to confirm the boundary description of the unsurveyed conveyed lands.

(j) "Conveyance" as used in these regulations means the transfer of title pursuant to the provisions of the act whether by interim conveyance or patent, whichever occurs first.

(k) "National Wildlife Refuge System" means all lands, waters, and interests therein administered on December 18, 1971, by the Secretary as wildlife refuges, areas for the protection and conservation of fish and wildlife that are threatened with extinction, wildlife ranges, game ranges, wildlife management areas, or waterfowl production areas, as provided in the act of October 15, 1966, 80 Stat. 927, as amended by the act of July 18, 1968, 82 Stat. 359 (16 U.S.C. 668dd).

(l) "Protraction diagram" means the approved diagram of the Bureau of Land Management mathematical plan for extending the public land surveys and does not constitute an official Bureau of Land Management survey, and, in the absence of an approved diagram of the Bureau of Land Management, includes the State of Alaska protraction diagrams which have been authenticated by the Bureau of Land Management.

(m) "Date of filing" shall be the date of postmark, except when there is no postmark, in which case it shall be the date of receipt in the proper office.

§ 2650.0–7 References.

(a) Native enrollment procedures are contained in 25 CFR 43h.

(b) Withdrawal procedures are contained in part 2300 of this chapter.

(c) Application procedures are contained in subpart 1821 of this chapter.

(d) Appeals procedures are contained in 43 CFR part 4.

(e) Mineral patent application procedures are contained in part 3860 of this chapter.

§ 2650.0–8 Waiver.

The Secretary may, in his discretion, waive any nonstatutory requirement of these regulations. When the rights of third parties will not be impaired, and when rapid, certain settlement of the claims of Natives will be assisted, minor procedural and technical errors should be waived.

§ 2650.1 Provisions for interim administration.

(a)(1) Prior to any conveyance under the act, all public lands withdrawn pursuant to sections 11, 14, and 16, or covered by section 19 of the act, shall be administered under applicable laws and regulations by the Secretary of the Interior, or by the Secretary of Agriculture in the case of national forest lands, as provided by section 22(i) of the act. The authority of the Secretary of the Interior and of the Secretary of Agriculture to make contracts and to issue leases, permits, rights-of-way, or easements is not impaired by the withdrawals.

(2)(i) Prior to the Secretary's making contracts or issuing leases, permits, rights-of-way, or easements, the views of the concerned regions or villages shall be obtained and considered, except as provided in subdivision (ii) of this subparagraph.

(ii) Prior to making contracts, or issuing leases, permits, rights-of-way, or easements on lands subject to election pursuant to section 19(b) of the act, the Secretary shall obtain the consent of the representatives of the Natives living on those lands.

(b) As provided in section 17(d)(3) of the act, any lands withdrawn pursuant to section 17(d) shall be subject to administration by the Secretary under applicable laws and regulations and his authority to make contracts, and to issue leases, permits, rights-of-way, or easements shall not be impaired by the withdrawal. To the extent that any such land is also subject to the provisions of paragraph (a) of this section, the provisions of that subsection shall govern.

(c) As provided in section 21(e) of the act, so long as there are no substantial revenues from real property interests conveyed pursuant to this act and the lands are not subject to State and local real property taxes, such lands shall continue to receive forest fire protection services from the United States at no cost. The Secretary will promulgate criteria, after consultation with the concerned Native corporations and the State of Alaska, for determining when substantial reveunes are accruing as to lands for which forest fire protection services are furnished by the Department of the Interior and no discontinuance of such service will be ordered by the Secretary

unless he finds, after notice and opportunity for submission of views, that such discontinuance is in conformity with the criteria.

§ 2650.2 Application procedures for land selections.

(a) Applications for land selections must be filed on forms approved by the Director, Bureau of Land Management. Applications must be filed in accordance with subpart 1821 of this chapter.

(b) Each regional corporation shall submit with its initial application under this section a copy of the resolution authorizing the individual filing the application to do so.

(c) Each village corporation under subpart 2651 of this chapter must submit with its initial application under this section a certificate of incorporation, evidence of approval of its articles of incorporation by the regional corporation for that region, and a copy of the authorization of the individual filing the application to do so.

(d) (1) Regional and village corporations authorized by the act subsequently filing additional or amendatory applications need only refer to the serial number of the initial filing.

(2) Any change of the officer authorized to act for any corporation in the matter of land selections should be promptly submitted to the appropriate office of the Bureau of Land Management.

(e) (1) If the lands applied for are surveyed, the legal description of the lands in accordance with the official plats of survey shall be used.

(2) If the lands applied for are unsurveyed, they shall be described by protraction diagrams.

(3) If the lands applied for are not surveyed and are not covered by protraction diagrams, they must be described by metes and bounds commencing at a readily identifiable topographic feature, such as a mountain peak, mouth of a stream, ect., or a monumented point of known position, such as a triangulation station, and the description must be accompanied by a topographic map delineating the boundary of the area applied for.

(4) Where 1:63,360 U.S.G.S. quadrangle maps with the protraction diagram plotted thereon have been published, these maps shall be used to portray and describe the lands applied for. Where 1:63,360 U.S.G.S. quadrangle maps with the protraction diagram plotted thereon have not been published, then the 1:250,000 U.S.G.S. quadrangle maps with the protraction diagrams plotted thereon shall be used.

(5) If the written description shown on the application and the map portrayal accompanying the application do not agree the delineation shown on the map shall be controlling.

(f) The selected areas may be adjusted by the Secretary with the consent of the applicant and amendment of the application by the applicant, provided that the adjustment will not create an excess over the selection entitlement.

§ 2650.3 Lawful entries, lawful settlements, and mining claims.

§ 2650.3–1 Lawful entries and lawful settlements.

(a) Pursuant to sections 14(g) and 22(b) of the act, all conveyances issued under the act shall exclude any lawful entries or entries which have been perfected under, or are being maintained in compliance with, laws leading to the acquisition of title, but shall include land subject to valid existing rights of a temporary or limited nature such as those created by leases (including leases issued under section 6(g) of the Alaska Statehood Act), contracts, permits, rights-of-way, or easements.

(b) The right of use and occupancy of persons who initiated lawful settlement or entry of land, prior to August 31, 1971, is protected: *Provided*, That:

(1) Occupancy has been or is being maintained in accordance with the appropriate public land law, and

(2) Settlement or entry was not in violation of Public Land Order No. 4582, as amended. Any person who entered or settled upon land in violation of that public land order has gained no rights.

(c) In the event land excluded from conveyance under paragraph (a) of this section reverts to the United States, the grantee or his successor in interest shall be afforded an opportunity to acquire such land by exchange pursuant to section 22(f) of the act.

§ 2650.3–2 Mining claims.

(a) *Possessory rights.*—Pursuant to section 22(c) of the act, on any lands to be conveyed to village or regional corporations, any person who prior to August 31, 1971, initiated a valid mining claim or location, including millsites, under the general mining laws and recorded notice thereof with the appropriate State or local office, shall not be challenged by the United States as to his possessory rights, if all requirements of the general mining laws are met. However, the validity of any mining claim may be challenged by the United States or by the grantee or his successor in interest at any time.

(b) *Patent requirements met.*—An acceptable mineral patent application must be filed with the appropriate Bureau of Land Management office not later than December 18, 1976, on lands conveyed to village or regional corporations.

(1) Upon a showing that a mineral survey cannot be completed by December 18, 1976, the filing of an application for a mineral survey, which states on its face that it was filed for the purpose of proceeding to patent, will constitute an acceptable mineral patent application, provided all applicable requirements under the general mining laws have been met.

(2) The failure of an applicant to prosecute diligently his application for mineral patent to completion will result in the loss of benefits afforded by section 22(c) of the act.

(3) The appropriate office of the Bureau of Land Management shall give notice of the filing of an application under this section to the village or regional corporation which has selection rights in the land covered by the application.

(c) *Patent requirements not met.*—Any mineral patent application filed after December 18, 1976, on land conveyed to any village or regional corporation pursuant to this act, will be rejected for lack of departmental jurisdiction. After that date, patent applications may continue to be filed on land not conveyed to village or regional corporations until such land is conveyed.

§ 2650.4 Conveyance reservations.

§ 2650.4–1 Existing rights and contracts.

Any conveyance issued for surface and subsurface rights under this act will be subject to any lease, contract, permit, right-of-way, or easement and the rights of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted him.

§ 2650.4–2 Succession of interest.

Upon issuance of any conveyance under this authority, the grantee thereunder shall succeed and become entitled to any and all interests of the State of Alaska or of the United States as lessor, contractor, permitter, or grantor, in any such lease, contract, permit, right-of-way, or easement covering the estate conveyed, subject to the provisions of section 14(g) of the act.

§ 2650.4–3 Administration.

Leases, contracts, permits, rights-of-way, or easements granted prior to the issuance of any conveyance under this authority shall continue to be administered by the State of Alaska or by the United States after the conveyance has been issued, unless the responsible agency waives administration. Where the responsible agency is an agency of the Department of the Interior, administration shall be waived when the conveyance covers all the land embraced within a lease, contract, permit, right-of-way, or easement, unless there is a finding by the Secretary that the interest of the United States requires continuation of the administration by the United States. In the latter event, the Secretary shall not renegotiate or modify any lease, contract, right-of-way or easement, or waive any right or benefit belonging to the grantee until he has notified the grantee and allowed him an opportunity to present his views.

§ 2650.4–4 Revenues [Reserved]

§ 2650.4–5 National forest lands.

Every conveyance which includes lands within the boundaries of a national forest shall, as to such lands, contain reservations that:

(a) Until December 18, 1976, the sale of any timber from the land is subject to the same restrictions relating to the export of timber from the United States as are applicable to national forest lands in Alaska under rules and regulations of the Secretary of Agriculture; and,

(b) Until December 18, 1983, the land shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands.

§ 2650.4–6 National wildlife refuge system lands.

(a) Every conveyance which includes lands within the national wildlife refuge system shall, as to such lands, provide that the United States has the right of first refusal so long as such lands remain within the system. The right of first refusal shall be for a period of 120 days from the date of notice to the United States that the owner of the land has received a bona fide offer of purchase. The United States shall exercise such right of first refusal by written notice to the village corporation within such 120-day period. The United States shall not be deemed to have exercised its right of first refusal if the village corporation does not consummate the sale in accordance with the notice to the United States

(b) Every conveyance which covers lands lying within the boundaries of a national wildlife refuge in existence on December 18, 1971, shall provide that the lands shall remain subject to the laws and regulations governing use and development of such refuge so long as such lands remain in the refuge. Regulations governing use and development of refuge lands conveyed pursuant to section 14 shall permit such uses that will not materially impair the values for which the refuge was established.

§ 2650.4–7 Public easements.

(a) Prior to reserving any public easements under section 17(b) of the act, the concerned village and regional corporations shall be afforded notice and opportunity for submission of views. If the Secretary determines that a public easement should be reserved in any conveyance, the reasons for that determination will be provided in writing, upon request of the grantee.

(b) (1) A public easement shall be reserved only if it is specific as to use and corridor location and size and both use and corridor location and size shall be reasonably related to an anticipated public use or a planned or existing governmental function.

(2) No public easement shall be reserved in such manner as to:

(i) Deprive the grantee or its successor in interest of reasonable access to bodies of water or highways in or bordering upon the land embraced in the conveyance without his consent.

(ii) Constitute a so-called scenic easement.

(c) A reserved public easement shall be subject to the following conditions:

(1) The Secretary shall terminate a public easement if it is not used for its purpose by the date specified in the conveyance, but in any event not later than December 18, 2001, or if he finds that conditions are such that its retention is no longer needed for public use or governmental function.

(2) The grantee or its successor in interest shall be entitled to just compensation for the loss of value of any improvements existing on the date of the reservation of the easement which are impaired or required to be removed by the exercise of the easement.

(3) The easement shall be no more extensive in size than is reasonably required for the purpose for which reserved. Upon the definite location of an easement or easements for which a corridor was reserved, the reservation to the extent not used for the easement or easements shall be of no further force or effect.

(4) A corridor location shall be no more extensive in width or length than is reasonably necessary to locate any easement to be reserved, taking into consideration climate, topography, terrain, and available data.

(d) The State and the Federal-State Land Use Planning Commission shall be afforded 90 days after notice by the Secretary to make recommendations with respect to the inclusion of public easements in any conveyance.

§ 2650.5 Survey requirements.

§ 2650.5–1 General.

(a) Selected areas are to be surveyed as provided in section 13 of the act. Any survey or description used as a basis for conveyance must be adequate to identify the lands to be conveyed.

(b) Surveys shall take into account the navigability or nonnavigability of bodies of water. The beds of all bodies of water determined by the Secretary to be navigable shall be excluded from the gross area of the surveys and shall not be charged to total acreage entitlements under the act. Prior to making his determination as to the navigability of a body of water, the Secretary shall afford the affected regional corporation the opportunity to review the data submitted by the State of Alaska on the question of navigability and to submit its views on the question of navigability. Upon request of a regional corporation or the State of Alaska, the Secretary shall provide in writing the basis upon which his final determination of navigability is made. The beds of all bodies of water not determined to be navigable shall be included in the surveys as public lands, shall be included in the gross area of the surveys, and shall be charged to total acreage entitlements under the act. The beds of all nonnavigable bodies of water comprising one half or more of a section shall be excluded from the gross area of the surveys and shall not be charged to total acreage entitlement under the act, unless the section containing the body of water is expressly selected or unless all the riparian land surrounding the body of water is selected. No ground survey or monumentation will be required to be done by the Bureau of Land Management of bodies of water.

§ 2650.5–2 Rule of approximation.

To assure full entitlement, the rule of approximation may be applied with respect to the acreage limitations applicable to conveyances and surveys under this authority, i.e., any excess must be less than the deficiency would be if the smallest legal subdivision were eliminated (see 62 I.D. 417, 421).

§ 2650.5–3 Regional surveys.

Lands to be conveyed to a regional corporation, when selected in contiguous units, shall be together for the purpose of survey and surveyed as one tract, with monuments being established on the exterior boundary at angle points and at intervals of approximately 2 miles on straight lines. If requested by the grantee, the Secretary may survey, insofar as practicable, the individual selections that comprise the total tract.

§ 2650.5–4 Village surveys.

(a) Only the exterior boundaries of contiguous entitlements for each village corporation will be surveyed. Where land within the outer perimeter of a selection is not selected, the boundaries along the area excluded shall be deemed exterior boundaries. The survey will be made after the total acreage entitlement of the village has been selected.

(b) Surveys will be made within the village corporation selections to delineate those tracts required by law to be conveyed by the village corporations pursuant to section 14(c) of the act.

(c) (1) The boundaries of the tracts described in paragraph (b) of this section shall be posted on the ground and shown on a map which has been approved in writing by the affected village corporation and submitted to the Bureau of Land Management. Conflicts arising among potential transferees identified in section 14(c) of the act, or between the village corporation and such transferees, will be resolved prior to submission of the map. Occupied lots to be surveyed will be those which were occupied as of December 18, 1971.

(2) Lands shown by the records of the Bureau of Land Management as not having been conveyed to the village corporation will be excluded by adjustments on the map by the Bureau of Land Management. No surveys shall begin prior to final written approval of the map by the village corporation and the Bureau of Land Management. After such written approval, the map will constitute a plan of survey. Surveys will then be made in accordance with the plan of survey. No further changes will be made to accommodate additional section 14(c) transferees, and no additional survey work desired by the village corporation or municipality within the area covered by the plan of survey or immediately adjacent thereto will be performed by the Secretary.

§ 2650.5–5 Cemetery sites and historical places.

Only those cemetery sites and historical places to be conveyed under sec-

tion 14(h)(1) of the act shall be surveyed.

§ 2650.5–6 Adjustment to plat of survey.

All conveyances issued for lands not covered by officially approved surveys of the Bureau of Land Management shall note that upon the filing of an official plat of survey, the boundary of the selected area, described in terms of protraction diagrams or by metes and bounds, shall be redescribed in accordance with the plats of survey. However, no change will be made in the land selected.

§ 2650.6 Selection limitations.

(a) Notwithstanding any other provisions of the act, no village or regional corporation may select lands which are within 2 miles from the boundary of any home rule or first-class city (excluding boroughs) as the boundaries existed and the cities were classified on December 18, 1971, or which are within 6 miles from the boundary of Ketchikan, except that a village corporation organized by Natives of a community which is itself a first class or home-rule city is not prohibited from making selections within 2 miles from the boundary of that first class or home-rule city, unless such selections fall within 2 miles from the boundary of another first class or home-rule city which is not itself a Native village or within 6 miles from the boundary of Ketchikan.

(b) Determination as to which cities were classified as home rule or first class as of December 18, 1971, and their boundaries as of that date will be made in accordance with the laws of the State of Alaska.

(c) If any village corporation whose land withdrawals encompass Dutch Harbor is found eligible under this act, it may select lands pursuant to subpart 2651 of this chapter and receive a conveyance under the terms of section 14(a) of the act.

§ 2650.7 Publication.

In order to determine whether there are any adverse claimants to the land, the applicant should publish notice of his application. If the applicant decides to avail himself of the privilege of publishing a notice to all adverse claimants and requests it, the authorized officer will prepare a notice for publication. The publication will be in accordance with the following procedure:

(a) The applicant will have the notice published allowing all persons claiming the land adversely to file in the appropriate land office their objections to the issuance of any conveyance. The notice shall be published once a week for 4 consecutive weeks in a newspaper of general circulation.

(b) The applicant shall file a statement of the publisher, accompanied by a copy of the published notice, showing that publication has been had for 4 consecutive weeks. The applicant must pay the cost of publication.

(c) Any adverse claimant must serve on the applicant a copy of his objections and furnish evidence of service thereof to the appropriate land office.

§ 2650.8 Appeals.

(a) Any decision adversely affecting any land selection shall become final, unless appealed to the Secretary by a notice filed in the office issuing the decision.

(b) Appeals to the Secretary shall be to the ad hoc Board as established in § 2651.2(a)(5) of this chapter. Appeals shall be filed and governed by the applicable regulations in part 4, subpart G of this title. All hearings held in connection with such appeals shall be conducted in the State of Alaska. The decision of the ad hoc Board shall be submitted to the Secretary for his personal approval.

Subpart 2651—Village Selections

Sec.
2651.0–3 Authority.
2651.1 Entitlement.
2651.2 Eligibility requirements.
2651.3 Selection period.
2651.4 Selection limitations.
2651.5 Conveyance reservations.
2651.6 Airport and air navigation facilities.

AUTHORITY.—Secs. 12 and 16(b) of the act.

Subpart 2651—Village Selections

§ 2651.0–3 Authority.

Sections 12 and 16(b) of the act provide for the selection of lands by eligible village corporations.

§ 2651.1 Entitlement.

(a) Village corporations eligible for land benefits under the act shall be entitled to a conveyance to the surface estate in accordance with sections 14(a) and 16(b) of the act.

(b) In addition to the land benefits in paragraph (a) of this section, each eligible village corporation shall be entitled to select and receive a conveyance to the surface estate for such acreage as is reallocated to the village corporation in accordance with section 12(b) of the act.

§ 2651.2 Eligibility requirements.

(a) Pursuant to sections 11(b) and 16(a) of the act, the Director, Juneau Area Office, Bureau of Indian Affairs, shall review and make a determination, not later than December 19, 1973, as to which villages are eligible for benefits under the act.

(1) *Review of listed native villages.* The Director, Juneau Area Office, Bureau of Indian Affairs, shall make a determination of the eligibility of villages listed in section 11(b)(1) and 16(a) of the act. He shall investigate and examine available records and evidence that may have a bearing on the character of the village and its eligibility pursuant to paragraph (b) of this section.

(2) *Findings of fact and notice of proposed decision.*—After completion of the investigation and examination of records and evidence with respect to the eligibility of a village listed in sections 11(b)(1) and 16(a) of the act for land benefits, the Director, Juneau Area Office, Bureau of Indian Affairs, shall publish in the FEDERAL REGISTER and in one or more newspapers of general circulation in Alaska his proposed decision with respect to such eligibility and shall mail a copy of the proposed decision to the affected village, all villages located in the region in which the affected village is located, all regional corporations within the State of Alaska and the State of Alaska. His proposed decision is subject to protest by any interested party within 30 days of the publication of the proposed decision in the FEDERAL REGISTER. If no valid protest is received within the 30-day period, such proposed decision shall become final and shall be published in the FEDERAL REGISTER. If the final decision is in favor of a listed village, the Director, Juneau Area Office, Bureau of Indian Affairs, shall issue a certificate as to the eligibility of the village in question for land benefits under the act, and certify the record and the decision to the Secretary. Copies of the final decisions and certificates of village eligibility shall be mailed to the affected village, all villages located in the region in which the affected village is located, all regional corporations within the State of Alaska, and the state of Alaska.

(3) *Protest.*—Within 30 days from the date of publication of the proposed decision in the FEDERAL REGISTER, any interested party may protest a proposed decision as to the eligibility of a village. No protest shall be considered which is not accompanied by supporting evidence. The protest shall be mailed to the Director, Juneau Area Office, Bureau of Indian Affairs.

(4) *Action on protest.*—Upon receipt of a protest, the Director, Juneau Area Office, Bureau of Indian Affairs, shall examine and evaluate the protest and supporting evidence required herein, together with his record of findings of fact and proposed decision, and shall render a decision on the eligibility of the Native village that is the subject of the protest. Such decision shall be rendered within 30 days from the receipt of the protest and supporting evidence by the Director, Juneau Area Office, Bureau of Indian Affairs. The decision of the Director, Juneau Area Office, Bureau of Indian Affairs, shall be published in the FEDERAL REGISTER and in one or more newspapers of general circulation in the State of Alaska and a copy of the decision and findings of fact upon which the decision is based shall be mailed to the affected village, all villages located in the region in which the affected village is located, all regional corporations within the State of Alaska, the State of Alaska, and any other party of record. Such decision shall become final unless appealed to the Secretary by a notice filed with the ad hoc board as established in paragraph (a)(5) of this section, within 30 days of its publication in the FEDERAL REGISTER.

(5) *Action on appeals.*—Appeals to the Secretary shall be to the ad hoc Board which he has personally appointed. At least one member of the ad hoc Board shall be familiar with Native village life. Among those otherwise qualified to serve on the ad hoc Board, preference will be given to those familiar with Native village life. Appeals shall be filed and governed by the applicable regulations in part 4, subpart G, of this title, except that the appellant shall have not more than 15 days from the date of filing of his notice of appeal within which to file an appeal brief, and the opposing parties shall have not more than 15 days from the date of receipt of the appellant's brief within which to file an answering brief. No more than 15 days shall be allowed for the filing of additional briefs in connection with such appeals. All hearings held in connection with such appeals shall be conducted in the State of Alaska. The decision of the ad hoc Board shall be submitted to the Secretary for his personal approval.

(6) *Applications by unlisted villages for determination of eligibility.*—The head or any authorized subordinate officer of a Native village not listed in section 11(b) of the act may file on behalf of the unlisted village an application for a determination of its eligibility for land benefits under the act. Such application shall be filed in duplicate with the Director, Juneau Area Office, Bureau of Indian Affairs, prior to September 1, 1973. If the application does not constitute prima facie evidence of compliance with the requirements of paragraph (b) of this section, he shall return the application to the party filing the same with a statement of reasons for return of the application, but such filing, even if returned, shall constitute timely filing of the application. The Director, Juneau Area Office, Bureau of Indian Affairs, shall immediately forward an application which appears to meet the criteria for eligibility to the appropriate office of the Bureau of Land Management for filing. Each application must identify the township or townships in which the Native village is located.

(7) *Segregation of land.*—The receipt of the selection application for filing by the Bureau of Land Management shall operate to segregate the lands in the vicinity of the village as provided in sections 11(a) (1) and (2) of the act.

(8) *Action on application for eligibility.*—Upon receipt of an application which appears to meet the criteria for eligibility, the Director, Juneau Area Office, Bureau of Indian Affairs, shall have a notice of the filing of the application published in the FEDERAL REGISTER and in one or more newspapers of general circulation in Alaska and shall promptly review the statements contained in the application. He shall investigate and examine available records and evidence that may have a bearing on the character of the village and its eligibility pursuant to this subpart 2651, and thereafter make findings of fact as to the character of the village. No later than December 19, 1973, the Director, Juneau Area Office, Bureau of Indian Affairs, shall make a determination as to the eligibility of the village as a Native village for land benefits under the act and shall issue a decision. He shall publish his decision in the FEDERAL REGISTER and in one or more newspapers of general circulation in Alaska and shall mail a copy of the decision to the representative or representatives of the village, all villages in the region in which the village is located, all regional corporations, and the State of Alaska.

(9) *Protest to eligibility determination.*—Any interested party may protest a decision of the Director, Juneau Area Office, Bureau of Indian Affairs, regarding the eligibility of a Native village for land benefits under the provisions of sections 11(b)(3) (A) and (B) of the act by filing a notice of protest with the Director, Juneau Area Office, Bureau of Indian Affairs, within 30 days from the date of publication of the decision in the FEDERAL REGISTER. A copy of the protest must be mailed to the representative or representatives of the village, all villages in the region in which the village is located, all regional corporations within Alaska, the State of Alaska, and any other parties of record. If no protest is received within the 30-day period, the decision shall become final and the Director, Juneau Area Office, Bureau of Indian Affairs, shall certify the record and the decision to the Secretary. No protest shall be considered which is not accompanied by supporting evidence. Anyone protesting a decision concerning the eligibility or ineligibility of an unlisted Native village shall have the burden of proof in establishing that the decision is incorrect. Anyone appealing a decision concerning the eligibility or ineligibility of an unlisted Native village shall have the burden of proof in establishing that the decision is incorrect.

(10) *Action on protest, appeal.*—Upon receipt of a protest, the Director, Juneau Area Office, Bureau of Indian Affairs, shall follow the procedure outlined in paragraph (a)(4) of this section. If an appeal is taken from a decision on eligibility, the provisions of paragraph (a)(5) of this section shall apply.

(b) Except as provided in subparagraph (4) of this paragraph, villages must meet each of the following criteria to be eligible for benefits under sections 14 (a) and (b) of the act:

(1) There must be 25 or more Native residents of the village on April 1, 1970, as shown by the census or other evidence satisfactory to the Secretary. A Native properly enrolled to the village shall be deemed a resident of the village.

(2) The village shall have had on April 1, 1970, an identifiable physical location evidenced by occupancy consistent with the Natives' own cultural patterns and life style and at least 13 persons who enrolled thereto must have used the village during 1970 as a place where they actually lived for a period of time: *Provided*, That no village which is known as a traditional village shall be disqualified if it meets the other criteria specified in this subsection by reason of having been temporarily unoccupied in 1970 because of an act of God or government authority occurring within the preceding 10 years.

(3) The village must not be modern and urban in character. A village will be considered to be of modern and urban character if the Secretary determines that it possessed all the following attributes as of April 1, 1970:

(i) Population over 600.

(ii) A centralized water system and sewage system that serves a majority of the residents.

(iii) Five or more business establishments which provide goods or services such as transient accommodations or eating establishments, specialty retail stores, plumbing and electrical services, etc.

(iv) Organized police and fire protection.

(v) Resident medical and dental services, other than those provided by Indian Health Service.

(vi) Improved streets and sidewalks maintained on a year-round basis.

(4) In the case of unlisted villages, a majority of the residents must be Native, but in the case of villages listed in sections 11 and 16 of the act, a majority of the residents must be Native only if the determination is made that the village is modern and urban pursuant to subparagraph (3) of this paragraph.

§ 2651.3 Selection period.

Each eligible village corporation must file its selection application(s) not later than December 18, 1974, under sections 12(a) or 16(b) of the act; and not later than December 18, 1975, under section 12(b) of the act.

§ 2651.4 Selection limitations.

(a) Each eligible village corporation may select the maximum surface acreage entitlement under sections 12 (a) and (b) and section 16(b) of the act. Village corporations selecting lands under sections 12 (a) and (b) may not select more than:

(1) 69,120 acres from land that, prior to January 17, 1969, has been selected by, or tentatively approved to, but not yet patented to the State under the Alaska Statehood Act; and

(2) 69,120 acres of land from the National Wildlife Refuge System; and

(3) 69,120 acres of land from the National Forest System.

(b) To the extent necessary to obtain its entitlement, each eligible village corporation shall select all available lands within the township or townships within which all or part of the village is located, and shall complete its selection from among all other available lands. Selections shall be contiguous and, taking into account the situation and potential uses of the lands involved, the total area selected shall be reasonably compact, except where separated by lands which are unavailable for selection or a section in which a body of

water comprises more than one-half of the total acreage of a section. The total area selected will not be considered to be reasonably compact if (1) it excludes other lands available for selection within its exterior boundaries; or (2) lands which are similar in character to the village site or lands ordinarily used by the village inhabitants are disregarded in the selection process; or (3) an isolated tract of public land of less than 1,280 acres remains after selection.

(c) The lands selected under sections 12 (a) or (b) shall be in whole sections where they are available, or shall include all available lands in less than whole sections, and, wherever feasible, shall be in units of not less than 1,280 acres. Lands selected under section 16(b) of the act shall conform to paragraph (b) of this section and shall conform as nearly as practicable to the U.S. land survey system.

(d) Village corporation selections within sections 11 (a)(1) and (a)(3) areas shall be given priority over regional corporation selections for the same lands.

(e) Village or regional corporations are not required to select lands within an unpatented mining claim or millsite. Unpatented mining claims and millsites shall be deemed to be selected, unless they are excluded from the selection by metes and bounds or other suitable description and there is attached to the selection application a copy of the notice of location and any amendments thereto. If the village or regional corporation selection omits lands within an unpatented mining claim or millsite, this will not be construed as violating the requirements for compactness and contiguity. If, during the selection period, the excepted mining claims or millsites are declared invalid, or under the State of Alaska mining laws are determined to be abandoned, the selection will no longer be considered as compact and contiguous. The corporation shall be required to amend its selection, upon notice from the authorized officer of the Bureau of Land Management, to include the lands formerly included in the mining claim or millsite. If the corporation fails to amend its selection to include such lands, the selection may be rejected.

(f) Eligible village corporations may file applications in excess of their total entitlement. To insure that a village acquires its selection in the order of its priorities, it should identify its choices numerically in the order it wishes them granted. Such selections must be filed not later than December 18, 1974, as to sections 12(a) or 16(b) selections and December 18, 1975, as to section 12(b) selections.

(g) Whenever the Secretary determines that a dispute exists between villages over land selection rights, he shall accept, but not act on, selection applications from any party to the dispute until the dispute has been resolved in accordance with section 12(e) of the act.

§ 2651.5 Conveyance reservations.

In addition to the conveyance reservations in § 2650.4 of this chapter, conveyances issued to village corporations shall provide for the transfer of the surface estates specified in section 14(c) of the act, and shall be subject to valid existing rights under section 14(g) of the act.

§ 2651.6 Airport and air navigation facilities.

(a) Every airport and air navigation facility owned and operated by the United States which the Secretary determines is actually used in connection with the administration of a Federal program will be deemed a "Federal installation" under the provisions of section 3(e) of the act, and the Secretary will determine the smallest practicable tract which shall enclose such Federal installations. Such Federal installations are not public lands as defined in the act and are therefore not "lands available for selection" under the provisions of these regulations.

(b) The surface of all other lands of existing airport sites, airway beacons, or other navigation aids, together with such additional acreage or easements as are necessary to provide related services and to insure safe approaches to airport runways, shall be conveyed by the village corporation to the State of Alaska, and the Secretary will include in the conveyance to any village corporation any and all covenants which he deems necessary to insure the fulfillment of this obligation.

Subpart 2652—Regional Selections

Sec.

2652.0–3 Authority.
2652.1 Entitlement.
2652.2 Selection period.
2652.3 Selection limitations.
2652.4 Conveyance reservations.

AUTHORITY.—Secs. 12 (a)(1) and (c), 14 (e), (f), (h), (1), (2), (3), (5), and (8).

Subpart 2652—Regional Selections

§ 2652.0–3 Authority.

Sections 12 (a)(1) and (c)(3) provide for selections by regional corporations; and sections 14 (e), (f), (h) (1), (2), (3), (5), and (8), provide for the conveyance to regional corporations of the selected surface and subsurface estates, as appropriate.

§ 2652.1 Entitlement.

(a) Eligible regional corporations may select the maximum acreage granted pursuant to section 12(c) of the act. They will be notified by the Secretary of their entitlement as expeditiously as possible.

(b) Where subsurface rights are not available to the eligible regional corporations in lands whose surface has been conveyed under section 14 of the act, the regional corporations may select an equal subsurface acreage from lands withdrawn under sections 11(a) (1) and (3) of the act, within the region, if possible.

(c) As appropriate, the regional corporations will receive title to the subsurface estate of lands, the surface estate of which is conveyed pursuant to section 14 of the act.

(d) If a 13th regional corporation is organized under section 7(c) of the act, it will not be entitled to any grant of lands.

§ 2652.2 Selection period.

All regional corporations must file their selection applications not later than December 18, 1975, for lands other than those allocated under section 14(h)(8) of the act.

§ 2652.3 Selection limitations.

(a) To the extent necessary to obtain its entitlement, each regional corporation must select all available lands withdrawn pursuant to sections 11(a)(1) (B) and (C) of the act, before selecting lands withdrawn pursuant to section 11(a)(3) of the act, except that regional corporations selecting lands withdrawn pursuant to sections 11(a)(1) (B) and (C) may select only even-numbered townships in even-numbered ranges and only odd-numbered townships in odd-numbered ranges.

(b) Village corporation selections within section 11(a)(1) and section 11 (a)(3) areas shall be given priority over regional corporation selections for the same lands.

(c) Whenever a regional selection is made in any township, the regional corporation shall select all available lands in that township: *Provided*, That such selection would not exceed the entitlement of that regional corporation.

(d) Subsurface selections made by a regional corporation pursuant to section 12(a) of the act shall be contiguous and the total area selected shall be reasonably compact, except as separated by subsurface interests that are not the property of the United States including subsurface interests under bodies of water, and the selection shall be in whole sections where they are available, or shall include all available subsurface interests in less than whole sections and, wherever feasible, shall be in units of not less than 1,280 acres. The total area selected shall not be considered to be reasonably compact if (1) it excludes other subsurface interests available for selection within its exterior boundaries; or (2) an isolated tract of subsurface interests owned by the United States of less than 1,280 acres remains after selection.

(e) Regional corporations are not required to select lands within unpatented mining claims or millsites, as provided in § 2651.4(e) of this chapter.

(f) Regional corporations may file applications in excess of their total entitlement. To insure that a regional corporation acquires its selections in the order of its priorities, it should identify its choices numerically in the order it wishes them granted.

§ 2652.4 Conveyance reservations.

In addition to the conveyance reservations in § 2650.4 of this chapter, conveyances issued to regional corporations for the subsurface estate of lands whose surface has been conveyed to village corporations shall provide that the right to explore, develop, or remove minerals from the subsurface estate in the lands within the boundaries of any Native village shall be subject to the consent of the village corporation.

Subpart 2653—Miscellaneous Selections

Sec.
2653.0–3 Authority.
2653.0–5 Definitions.
2653.1 Conveyance limitations.
2653.2 Application procedures.
2653.3 Lands available for selection.
2653.4 Termination of selection period.
2653.5 Cemetery sites and historical places.
2653.6 Native group selections.
2653.7 Sitka-Kenai-Juneau-Kodiak selections.
2653.8 Primary place of residence.
2653.8–1 Acreage to be conveyed.
2653.8–2 Primary place of residence criteria.
2653.9 Conveyance reservations.

AUTHORITY.—Sec. 14(h) of the act and secs. 11 and 16 of the act.

Subpart 2653—Miscellaneous Selections

§ 2653.0–3 Authority.

Section 14(h) of the act requires the Secretary to withdraw and to convey 2 million acres of unreserved and unappropriated public lands located outside the areas withdrawn by sections 11 and 16 of the act. The Secretary will convey the land in part as follows:

(a) Title to existing cemetery sites and historical places to the regional corporations for the regions in which the lands are located;

(b) Title to the surface estate to any Native group that qualifies pursuant to this subpart 2653;

(c) Title to the surface estate of lands to the Natives residing in each of the cities of Sitka, Kenai, Juneau, and Kodiak, who have incorporated; and,

(d) Title to the surface estate of land to a Native as a primary place of residence.

§ 2653.0–5 Definitions.

(a) "Cemetery site" means a burial ground consisting of the gravesites of one or more Natives.

(b) "Historical place" means a distinguishable tract of land or area upon which occurred a significant Native historical event, which is importantly associated with Native historical or cultural events or persons, or which was subject to sustained historical Native activity, but sustained Native historical activity shall not include hunting, fishing, berry-picking, wood gathering, or reindeer husbandry.

(c) "Native group" means any tribe, band, clan, village, community or village association of Natives composed of less than 25, but more than 3 Natives, who comprise a majority of the residents of a locality and who have incorporated under the laws of the State of Alaska.

(d) "Primary place of residence" means a place comprising a primary place of residence of an applicant on August 31, 1971, at which he regularly resides on a permanent or seasonal basis for a substantial period of time.

§ 2653.1 Conveyance limitations.

(a) Under section 14(h) of the act, a total of 2 million acres may be selected for cemetery sites and historical places, Native groups, corporations formed by the Native residents of Sitka, Kenai, Juneau, and Kodiak, for primary places of residence, and for Native allotments approved as provided in section 18 of the act. Selections must be made within 4 years from December 18, 1971. Of this total amount: (1) 500,000 acres will be set aside to be used by the Secretary to satisfy applications filed pursuant to sections 14(h) (1), (2), and (5) of the act. The 500,000 acres will be allocated by: (i) Dividing 200,000 acres among the regions, based on population; and, (ii) dividing 300,000 acres equally among the regions; (2) 92,160 acres will be set aside for possible allocation by the Secretary to corporations formed by the Natives residing in Sitka, Kenai, Juneau, and Kodiak; (3) 400,000 acres will be set aside to be used by the Secretary to satisfy Native allotment applications approved prior to December 18, 1975, under the act of May 17, 1906 (34 Stat. 197), the act of February 8, 1887 (24 Stat. 389), as amended and supplemented, and the act of June 25, 1910 (36 Stat. 863). Any Native allotment applications pending before the Bureau of Indian Affairs or the Bureau of Land Management on December 18, 1971, will be considered as "pending before the Department". Those allotment applications which have been determined to meet the requirements of the acts cited herein and for which survey has been requested before December 18, 1975, shall be considered "approved" under section 14(h)(6) of the act, and shall be charged against the acreage.

(b) After subtracting the number of acres used in accordance with allocations in paragraphs (a) (1), (2), and (3) of this section, from 2 million acres, the remainder will, after December 18, 1975, be reallocated by the Secretary among the regional corporations in accordance with the provisions of section 14(h)(8) of the act.

(c) No Native allotment applications pending before the Secretary on December 18, 1971, will be rejected solely for the reason that the acreage set aside by paragraph (a)(3) of this section has been exhausted.

§ 2653.2 Application procedures.

(a) All applications must be filed in accordance with the procedures in § 2650.2(a) of this chapter.

(b) Applications by corporations of Native groups under section 14(h)(2) and by a Native for a primary place of residence under section 14(h)(5) of the act must be accompanied by written concurrence of the affected regional corporation. In the case of Native groups, such concurrence must also indicate how much land per member of the Native group, not to exceed 320 acres per member, the regional corporation recommends that the Secretary convey. Any application not accompanied by the necessary concurrence and recommendation of the affected region will be rejected.

(c) Native groups, and Natives residing in Sitka, Kenai, Juneau, and Kodiak, as provided in sections 14(h) (2) and (3), respectively, must comply with the applicable terms of §§ 2650.2(a), (c), (d), (e), and (f) of this chapter.

(d) The filing of an application under the regulations of this section will constitute a request for withdrawal of the lands, and will segregate the lands from all other forms of appropriation under the public land law, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act, as amended, subject to valid existing rights, but will not segregate the lands from selections under section 12 or 16 of the act. The segregative effect of such an application will terminate if the application is rejected.

§ 2653.3 Lands available for selection.

(a) Selections may be made for existing cemetery sites or historical places, Native groups, corporations formed by the Natives residing in Sitka, Kenai, Juneau, and Kodiak, and for primary places of residence, from any lands which the Secretary may withdraw for those purposes out of the National Wildlife Refuge System lands or the national forest lands which are outside of areas withdrawn by sections 11 and 16, as provided by section 14(h)(7) of the act.

(b) After December 18, 1975, selection of the lands allocated pursuant to § 2653.1(b), shall be made from any lands previously withdrawn under sections 11 or 16 of the act which are not otherwise appropriated. If the public lands withdrawn within the region pursuant to sections 11 or 16 of the act, and not otherwise appropriated, are insufficient for the selection of the full entitlement of the regional corporations pursuant to § 2653.1(b), then three times the amount of the entitlement which cannot be satisfied from lands previously withdrawn pursuant to sections 11 or 16 of the act will be withdrawn pursuant to section 14(h) of the act.

(c) A withdrawal made pursuant to section 17(d) (1) or (2) of the act shall not preclude a withdrawal pursuant to section 14(h) of the act.

§ 2653.4 Termination of selection period.

Applications for selections under this subpart will be rejected after all allocated lands, as provided in § 2653.1, have been exhausted, or if the application is received after the following dates, whichever occurs first:

(a) As to primary place of residence—December 18, 1973.

(b) As to all recipients described in sections 14(h) (1), (2), and (3) of the act—December 18, 1975.

(c) As to all recipients under section 14(h)(8) of the act and § 2653.1(b)—December 18, 1977.

§ 2653.5 Cemetery sites and historical places.

(a) The appropriate regional corporation may apply to the Secretary for the conveyance of existing cemetery sites or historical places pursuant to section 14(h) of the act. The Secretary may give favorable consideration to these applications: *Provided*, That the Secretary determines that the criteria in these regulations are met: *And provided further*, That the regional corporation agrees to accept a covenant in the conveyance that these cemetery sites or historical places will be maintained and preserved solely as cemetery sites or historical places by the regional corporation, in accordance with the provisions for conveyance reservations in § 2653.9.

(b) The survey of selected sites shall include only the area actually used and a reasonable buffer zone, not over 66 feet wide around abandoned cemeteries; not over 330 feet wide around an area identified as an historical place; and an area to provide reasonable future expansion around active cemeteries.

§ 2653.6 Native group selections.

(a) Native groups in existence on December 18, 1971, who incorporate in accordance with the laws of the State of Alaska may file applications to select the surface estate of not more than 7,680 acres.

(b) Native group selections must meet the criteria of compactness and contiguity specified in § 2651.4 (b) and (d) of this chapter.

(c) Native group selections shall not exceed the amount recommended by the regional corporation or 320 acres for each Native member of a group, or 7,680 acres for each Native group, whichever is less. Application must be for land in the area surrounding the locality in which the Native members of a group reside and are enrolled. Non-Native members of a group are not eligible for any benefit hereunder.

§ 2653.7 Sitka-Kenai-Juneau-Kodiak selections.

(a) The corporations representing the Natives residing in Sitka, Kenai, Juneau, and Kodiak, who incorporate under the laws of the State of Alaska, may each select the surface estate of up to 23,040 acres of lands of similar character located in reasonable proximity to those municipalities.

(b) The corporations representing the Natives residing in Sitka, Kenai, Juneau, and Kodiak, shall nominate not less than 92,160 acres of lands within 50 miles of each of the four named cities which are similar in character to the lands in which each of the cities is located. After review and public hearings, the Secretary shall withdraw up to 46,080 acres near each of the cities from the lands nominated. Each corporation representing the Native residents of the four named cities may select not more than one-half the area withdrawn for selection by that corporation. The Secretary shall convey the area selected.

§ 2653.8 Primary place of residence.

(a) An application under this subpart may be made by a Native who occupied land as a primary place of residence on August 31, 1971.

(b) Applications for a primary place of residence must be filed not later than December 18, 1973.

§ 2653.8–1 Acreage to be conveyed.

A Native may secure title to the surface estate of only a single tract not to exceed 160 acres under the provisions of this subpart, and shall be limited to the acreage actually occupied and used. An application for title under this subpart shall be accompanied by a certification by the applicant that he will not receive title to any other tract of land pursuant to sections 14 (c)(2), (h)(2), or 18 of the act.

§ 2653.8–2 Primary place of residence criteria.

(a) *Periods of occupancy.*—Casual or occasional use will not be considered as occupancy sufficient to make the tract applied for a primary place of residence.

(b) *Improvements constructed on the land.*—(1) Must have a dwelling.

(2) May include associated structures such as food cellars, drying racks, caches, etc.

(c) *Evidence of occupancy.*—Must have evidence of permanent or seasonal occupancy for substantial periods of time.

§ 2653.9 Conveyance reservations.

(a) Conveyances issued pursuant to this subpart are subject to the conveyance reservations described in § 2650.4 of this chapter.

(b) In addition to the reservations provided in paragraph (a) of this section, conveyances for cemetery sites or historical places will contain a covenant running with the land providing that (1) the regional corporation grantee shall not authorize mining or mineral activities of any type, any commercial activities, or any other use which is incompatible with or is in derogation of the values of the area as a cemetery site or historical place; and (2) that the United States reserves the right to seek enforcement of the covenant in an action in equity. The covenant placed in a conveyance pursuant to this subsection may be released by the Secretary, in his discretion, upon application of the regional corporation grantee showing that extraordinary circumstances, of a nature to warrant the release, have arisen subsequent to the conveyance.

(c) Conveyances for cemetery sites and historical places shall also contain the covenant required by § 2650.4–6 of this chapter.

Subpart 2654—Native Reserves

Sec.
2654.0–3 Authority.
2654.0–5 Definitions.
2654.1 Exercise of option.
2654.2 Application procedures.
2654.3 Conveyances.

AUTHORITY.—Sec. 19(b) of the act.

§ 2654.0–3 Authority.

Section 19(b) of the act authorizes any village corporation(s) located within a reserve defined in the act to acquire title to the surface and subsurface estates in any reserve set aside for the use and benefit of its stockholders or members prior to December 18, 1971. Such acquisition precludes any other benefits under the act.

§ 2654.0–5 Definitions.

"Reserve lands" means any lands reserved prior to the date of enactment of the act which are subject to being taken in lieu of other benefits under the act pursuant to section 19(b) of the act.

§ 2654.1 Exercise of option.

(a) Any village corporation which has not, by December 18, 1973, elected to acquire title to the reserve lands will be deemed to have elected to receive for itself and its members the other benefits under the Act.

(b) The election of a village to acquire title to the reserve lands shall be exercised in the manner provided by its articles of incorporation. However when two or more villages are located on the same reserve there must be a special election to acquire title to the reserve lands. A majority vote of all the stockholders or members of all corporations located on the reserve is required to acquire title to the reserve lands. For the purpose of this paragraph the stockholders or members shall be determined on the basis of the roll of village residents proposed to be promulgated under 25 CFR 43h.7. The regional corporation or village corporations or any member or stockholder of the village corporations involved may request that the election be observed by the Bureau of Indian Affairs.

(c) The results of any election by a village corporation or corporations to acquire title to the reserve lands shall be certified by such village corporation or corporations as being in conformity with the articles of incorporation and bylaws of the village corporation or corporations.

§ 2654.2 Application procedures.

(a) If the corporation or corporations elect to take title to the reserve lands, submission to the Secretary of the certificate of election will constitute an application to acquire title to those lands.

(b) If the village corporation or corporations do not elect to take the reserve lands, they shall apply for their land selections pursuant to subpart 2651 of this chapter.

§ 2654.3 Conveyances.

(a) Conveyances under this subpart are subject to the provisions of section 14(g) of the act, as provided by § 2650.4 of this chapter.

(b) Conveyances under this subpart to two or more village corporations will be made to them as tenants-in-common, having undivided interests proportionate to the number of their respective members or stockholders determined on the basis of the final roll promulgated by the Secretary pursuant to section 5 of the act.

ROGERS C. B. MORTON,
Secretary of the Interior.

MAY 23, 1973.

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PART III

ENVIRONMENTAL PROTECTION AGENCY

■

Areawide Waste Treatment Management Planning Areas and Responsible Planning Agencies

Proposed Designation

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 126]

AREAWIDE WASTE TREATMENT MANAGEMENT PLANNING AREAS AND RESPONSIBLE PLANNING AGENCIES

Proposed Designation

Notice is hereby given that the regulations set forth below are proposed by the Environmental Protection Agency. The proposed regulations are designed to serve as guides for the Governors of the States and elected local officials in identifying areas which, as a result of urban-industrial concentrations or factors, have substantial water quality control problems which require an areawide approach in planning for and implementing corrective action, and in designating agencies capable of developing waste treatment management plans for such areas.

Section 208(a) of the Federal Water Pollution Control Act, as amended 86 Stat. 816, 33 U.S.C. 1288 (1972), requires the Governor of each State to identify each intrastate area (Governors in interstate areas), which as a result of urban-industrial concentrations or other factors, has substantial water quality control problems. In addition, the Governor(s), after consultation with appropriate elected and other officials of local governments having jurisdiction in such areas, shall designate (A) the area, including its boundaries, and (B) a single representative organization, including local elected officials or their designees, capable of developing effective areawide treatment plans for such area.

The Act further provides that the Governor(s) may from time to time, and for good reason, modify previously designated boundaries, or designate additional areas and planning agencies for such areas.

In the event that a Governor remains silent regarding designation of an otherwise eligible area, the chief elected officials of general purpose local government may by agreement designate both the area and the agency responsible for the planning.

The emphasis of this section of the legislation is to provide a mechanism for effective joint areawide implementation of the planned actions in complex situations involving numerous municipal and industrial point source and nonpoint source control problems. Analysis performed in the basin plans developed pursuant to section 303(e) of the Act is used in part in developing the need and use of these areawide plans.

In view of the intention of the legislation, the Environmental Protection Agency believes that an areawide water quality management program should be carried out to gain the following objectives:

Provide cost effective, point source treatment and control for areas of urban-industrial concentrations having substantial water quality control problems.

Provide procedures and methods for control of non-point sources in urban-industrial and other areas where such controls are required, including prevention of water quality problems in the future.

Provide for a coordinated waste treatment management in such areas.

These regulations therefore set forth:

Procedures to be used by State Governors or the chief elected officials of general purpose local government in the designation of the areas requiring an areawide waste treatment management approach.

Procedures for the designation of the agency responsible for planning in each such area.

The method of submission and EPA approval of (A) the 208 planning areas, and (B) the agencies responsible for planning.

Many of the planning requirements of 208 can effectively be performed on a statewide basis. The section 303(e) planning process funded under section 106 may be utilized by the State to conduct the applicable planning.

Prior to the adoption of the proposed regulations, consideration will be given to comments, suggestions, or objections which may be submitted in writing to: Chief, Planning and Standards Branch, Office of Air and Water Programs, Environmental Protection Agency, Washington, D.C. 20460. All comments, suggestions, or objections received on or before July 16, 1973, will be considered.

ROBERT W. FRI,
Acting Administrator.

MAY 24, 1973.

REGULATION

SECTION 208(a)

Subpart A—Scope and Purpose; Definitions

Sec.

126.1 Scope and Purpose.
126.2 Definitions.

Subpart B—Procedures for Designation of 208 Planning Areas and Agencies Responsible for Planning

126.10 Criteria for determination of 208 planning areas.
126.11 Criteria for designation of agencies responsible for planning.
126.12 Procedure for designation of intrastate 208 planning areas and agencies responsible for planning.
126.13 Procedure for designation of interstate 208 planning areas and agencies responsible for planning.
126.14 Nondesignation of 208 planning areas and/or agencies by Governor(s).
126.15 Submissions of 208 planning areas and agencies responsible for planning.
126.16 Procedure for designation of 208 planning areas and agencies responsible for planning by the chief elected officials of general purpose local government.
126.17 Review of submissions.
126.18 Revision.

Subpart C—State Planning in Nondesignated Areas

126.20 Determination of planning agencies in nondesignated areas.

Subpart D—Public Participation

126.30 Public participation requirements in designation of 208 planning areas and designation of agencies responsible for planning.

Subpart E—Assistance to Designated Agencies

126.40 Determination of eligibility.

Subpart F—Grants [Reserved]

AUTHORITY.—Sec. 208 and 501, 86 Stat. 816, ____ (1972).

Subpart A—Scope and Purpose; Definitions

§ 126.1 Scope and purpose.

This part establishes regulations specifying procedural and other elements and criteria for the use of State Governors and chief elected officials of general purpose local government in the designation of the areas, including their boundaries, requiring areawide planning for waste treatment management pursuant to section 208 of the Act and designation of agencies responsible for such planning. This part provides that each State should comply with the requirements of the regulation not later than 180 days after the date of publication of this regulation.

§ 126.2 Definitions.

As used in this part, the following terms shall have the meanings set forth below:

(a) The term "Act" means the Federal Water Pollution Control Act, as amended, 33 U.S.C. ——, et seq.

(b) The term "EPA" means the U.S. Environmental Protection Agency.

(c) The term "Administrator" means the Administrator of the U.S. Environmental Protection Agency.

(d) The term "208 planning areas" means the area designated under section 208(a) (2), (3), or (4) of the Act.

Subpart B—Procedures for Designation of 208 Planning Areas and Agencies Responsible for Planning

§ 126.10 Criteria for determination of 208 planning areas.

A 208 planning area must meet all the following criteria:

(a) A preference will be given by the Administrator, in approving designations, to areas of urban-industrial concentrations, because of the Act's legislative history and in view of the institutional nature of urban-industrial concentrations. For this purpose an urban-industrial concentration is that portion of a standard metropolitan statistical area (SMSA), or those portions of SMSA's, having substantial concentrations of population and manufacturing production or other factors which result in substantial water control problems. The entire SMSA(s) may be designated as the planning area. Such areas may be increased to include areas outside the SMSA(s) which have substantial water quality control problems resulting from concentrations of population and manufacturing activity or other factors

and which are contiguous to the urban-industrial area of concentration within the SMSA(s);

(b) The area must have a substantial water quality control problem. A substantial water quality control problem shall be considered to exist only where the complexity and nature of the water quality control problem requires an areawide waste treatment management plan, and where:

(1) A substantial portion of the major receiving waters available for waste discharge from the area has been classified by the State as a water quality segment, after adequate analysis demonstrating this classification, under the requirements of 40 CFR 130; or

(2) A substantial and extensive groundwater pollution problem exists.

(c) The affected general purpose units of local government within the boundaries of the problem area (208 planning area) must:

(1) Have in operation a coordinated waste treatment management system, or

(2) Show their intent, through formally adopted resolutions, to join together in the planning process to develop and implement a plan which will result in a coordinated waste treatment management system for the area.

(d) The area must be located within a State or States each of which has legislation which authorizes units of local government to enter into agreements for coordinated wastewater management as set forth in section 208 of the Act.

§ 126.11 Criteria for designation of agencies responsible for planning.

(a) The agency shall be a representative organization whose membership shall include but need not be limited to elected officials of local governments, or their designees, having jurisdiction in the designated planning area. The agency shall establish procedures for plan adoption and resolution of major issues. The agency shall have, as a minimum, waste treatment planning jurisdiction in the entire designated area. Existing, capable regional agencies may be designated consistent with the policies in title IV of the Intergovernmental Cooperation Act of 1968, as implemented by part IV of OMB Circular A-95. A single qualified agency may be designated as being responsible for planning in more than one planning area.

(b) In the selection of the areawide planning agency, the Governor(s) must consider that such agency, by Federal law, shall have the water quality management planning process fully under way no later than 1 year after its designation. Further, the agency must have the capability to complete, and shall complete, the initial water quality management plan no later than 2 years after the planning process is in operation or such earlier date as the State may require for incorporation into State plans required under section 303(e) of the Act. The Governor or, in interstate cases, the Governors, shall in the designation process, consider:

(i) The general and specific authorities and prohibitions of the agency with regard to water quality management planning, including but not limited to coordination with or participation in comprehensive planning, land use planning, water sewer planning, coastal zone planning and other related planning and development activities and controls.

(ii) The relationship of the agency (both formal and informal) with planning agencies of different levels of government including but not limited to Federal, State, interstate and Federal-State agencies as well as local government agencies.

(iii) The relationship of the agency (both formal and informal) with management and regulatory agencies such as those that possess zoning and subdivision controls, and those that construct and operate wastewater facilities.

(iv) Where an existing agency is designated:

(*a*) The agency's past record in water quality management planning with special regard to plan quality, technical, fiscal, political and economic feasibility, and environmental soundness.

(*b*) The agency's expertise, either in-house or readily available, with particular regard to water quality and comprehensive planning.

(*c*) The agency's fiscal, manpower, data, and other resources in light of existing and proposed 3 year commitments in other areas.

§ 126.12 Procedure for designation of intrastate 208 planning areas and agencies responsible for planning.

The Governor of the State shall, after proper consultation with appropriate elected and other officials of local governments having jurisdiction in such area, and such State agencies as he may desire, and having complied with the requirements for public participation as set forth in section 126.30 of this regulation, designate the 208 planning area, including its boundaries, and a single representative agency to be responsible for the planning. In designating such planning areas and agencies, the Governor shall consider the criteria set forth in §§ 126.10 and 126.11.

§ 126.13 Procedure for designation of interstate 208 planning areas and agencies responsible for planning.

The Governors of the States shall, in interstate areas, after consultation with appropriate elected and other officials of all local governments having jurisdiction and with such State and interstate agencies as they may desire, or may be required by State legislation and having complied with the requirements for public participation as set forth in section 126.30, mutually designate each 208-planning area including its boundaries, and for each area a single representative agency to be responsible for the planning. In designating such planning areas and agencies, the Governors shall consider the criteria set forth in §§ 126.10 and 126.11.

§ 126.14 Nondesignation of 208-planning areas and/or agencies by Governor(s).

In certain intrastate areas the Governor may determine not to designate a 208-planning area even though the criteria set forth in §§ 126.10 and 126.11 may be met. Specific nondesignation of a 208-planning area does not preclude later designation by the Governor.

NOTE.—Attention is called to the fact that the Governor has three specific choices of action. He may designate; remain silent; or may nondesignate specific areas. If the Governor remains silent the chief elected officials of general purpose local government in the area may make such designations if they so choose. Upon approval by the Administrator, designation by local elected officials is binding upon the Governor.

§ 126.15 Submissions of 208 planning areas and agencies responsible for planning.

Within 180 days after issuance of the regulations the Governor shall notify the Administrator of his actions regarding designation of 208 planning areas and agencies responsible for the planning. This notification shall be in writing and shall include:

(a) Identification and supporting analysis of each water quality segment included in each area, set forth in regulation parts 130 and 131 of this chapter.

(b) An exact description of the boundaries of each area including:

(1) A statement of whether in the case of urban-industrial concentrations the boundaries of the area conform with the boundaries of the SMSA(s) as defined by the Office of Management and Budget, and if in nonconformance the reasons for any departure from the recognized boundaries of the SMSA(s); or

(2) If the area is not located within an SMSA and where other factors are responsible for designation, a statement indicating:

(i) Population of the area,

(ii) Nature of the concentration and distribution of industrial activity in the area,

(iii) Degree to which it is anticipated that the area could improve its ability to control water quality problems were it designated as a section 208 area,

(iv) Factors responsible for designation.

(c) For each area a copy of the charter of existing regional waste treatment management agencies or formally adopted resolutions which demonstrate that the general purpose units of local government involved will join together in the planning process to develop and implement a plan which will result in a coordinated waste treatment management system for the area.

(d) For each area the name, address, and official contact of the agency designated to carry out the planning.

(e) A list of all eligible areas which the Governor wishes to nondesignate at this time.

(f) A statement on the factors considered in agency designation as described in § 126.11.

(g) A summary of record of the public meetings.

§ 126.16 Procedure for designation of 208-planning areas and agencies responsible for planning by the chief elected officials of general purpose local government.

(a) In the case of any intrastate or interstate area(s), if the Governor(s) of an affected area does (do) not act to designate or nondesignate it as a 208-planning area, the chief elected officials of general purpose local governments having jurisdiction in the area, after meeting the requirements for public participation as set forth in § 126.30, may designate such planning area, and a single representative agency responsibile for the planning, which shall be based upon the criteria set forth in §§ 126.10 and 126.11.

(b) After making such designation, the chief local officials shall: (1) Notify the Governor(s) of the State(s) affected by their action, and (2) submit their designation to the Administrator in accordance with the requirements set forth in § 126.15.

§ 126.17 Review of submissions.

(a) The Administrator shall review each submission of designated 208-planning areas and agencies to determine compliance with the criteria set forth in this part.

(b) Upon completion of his review, the Administrator shall notify in writing the appropriate Governor(s) or local officials making such designations of his approval or disapproval of each designation. In the event that the Administrator does not approve of one or more designations, he shall specify his reasons with his notice of disapproval.

§ 126.18 Revisions.

(a) The appropriate Governor(s) or local officials may from time to time propose in writing a revision of the boundaries of any 208-planning area previously approved. The Administrator shall approve or disapprove such proposed revision pursuant to § 126.17.

(b) The Governor(s) may also designate from time to time previously nondesignated planning areas and agencies. In such cases the designation, submission, and approval shall follow the requirements set forth in this part.

Subpart C—State Planning in Nondesignated Areas

§ 126.20 Determination of planning agencies for areas other than those classified as designated.

(a) The State shall act as the planning agency for all areas not designated under § 126.12, § 126.13, or § 126.16. Where the Governor determines that the requirements of section 208(b)(2) (F through K) should be applied on a statewide basis, the State may apply the planning process established pursuant to section 303 of the Act as the process for carrying out the requirements of the sections. Funds which may be available under section 106 of the Act may be utilized to conduct planning pursuant to this section.

(b) Assumption by the State of the planning responsibilities in these areas does not foreclose the establishment of other planning processes at the substate level.

Subpart D—Public Participation

§ 126.30 Public participation requirements in designation of 208 planning areas and designation of agencies responsible for planning.

(a) The Governor(s) shall consult with appropriate elected and other local officials prior to designating planning areas and agencies. The Governor(s), or in the case of designation by chief elected officials of general purpose local government, those officials shall, after adequate public notice, hold one or more public hearings or meetings within the proposed 208-planning area for the purpose of gaining public advice on the designation of the planning area and agency. All units of local government wishing to be heard and the general public shall be included.

(b) Record of such public meetings or hearings including notice of same shall be kept and made available to the Administrator upon request. A summary of comments and meeting notes shall be submitted to the Administrator with each designation.

Subpart E—Assistance to Designated Agencies

§ 126.40 Determination of eligibility.

Assistance under section 208 (f)(1), (g), and (h) of the Act shall be provided only to those agencies designated under § 126.12, § 126.13, or § 126.16.

Subpart F—Grants [Reserved]

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