

Subpart XXXX - Alaska Native Vietnam Era Veterans Land Allotments

GENERAL PROVISIONS

§XXXX.00 What is the purpose of this subpart?

The purpose of this subpart is to implement Section 1119 of the John D. Dingell, Jr. Conservation, Management, and Recreation Act of March 12, 2019, Pub. L 116-9, codified at 43 U.S.C. 1629g-1, which allows eligible individuals to receive an allotment of a single parcel of available Federal lands in Alaska containing not less than 2.5 acres and not more than 160 acres

§XXXX.01 What is the legal authority for this subpart?

43 U.S.C. 1629g-1(b)(2).

§XXXX.02 What terms do I need to know to understand this subpart?

- (a) *Native* means a person who meets the qualifications listed in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b));
- (b) *Veteran* means a person who meets the qualifications listed in 38 U.S.C. 101(2) and served in the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard, including the reserve components thereof;
- (c) *Eligible Individual* means a Native Veteran who meets the qualification listed in 43 U.S.C. 1629g-1(a)(2) and does not have a pending application or has not already received an allotment pursuant to the Act of May 17, 1906 (34 Stat. 197, chapter 2469) (as in effect on December 17, 1971); or section 14(h)(5) of the Alaska Native Claims Settlement Act (43 U.S.C. § 1613(h)(5)); or section 41 of the Alaska Native Claims Settlement Act (43 U.S.C. § 1629g);
- (d) *Allotment* is a selection of specific land awarded to an individual allottee from a common holding;
- (e) *Available Federal Lands* means land in Alaska that meets the requirements of 43 U.S.C. 1629g-1(a)(1) and that the Bureau of Land Management has certified to be free of known contamination;
- (f) *Receipt date* means the date on which an application for an Allotment is physically received by the BLM Alaska State Office, whether the application is delivered by hand, by mail, or by delivery service.
- (g) *State or Native corporation selected land* means land that is selected as of the date of the allotment application by the State of Alaska under the Statehood Act, of July 7, 1958, Pub. L. 85-508, 72 Stat. 339, as amended, or the Alaska National Interest Lands Conservation Act (ANILCA) of December 2, 1980, 94 Stat. 2371, or by a Native corporation under the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1611,1613, and that that has not been conveyed to the State or Native corporation.
- (h) *Segregate* has the same meaning as in 43 CFR 2091.0-5(b);

- (i) *Selection* means an area of land that has been identified in an application for an Allotment under this Part;
- (j) *State* means the State of Alaska;
- (k) *Native corporation* means a regional corporation or village corporation as defined in sections 3(g) and (j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602);
- (l) *Person* means any individual, firm, corporation, association, or partnership;
- (m) *Realty service provider* means a Public Law 93-638 “Contract” or Public Law 103-413 “Compact” Tribe or Tribal organization that provides Trust Real Estate Services for the Bureau of Indian Affairs; and
- (n) *Valid relinquishment* means a signed document from an authorized person representing the Native corporation or State that terminates its rights, title and interest in a specific area of State or Native corporation selected land. A relinquishment may be conditioned upon conformance of a selection to the Plat of Survey.

WHO IS QUALIFIED FOR AN ALLOTMENT

XXXX.03-1 **How will the BLM let me know if I am an Eligible Individual?**

The Bureau of Land Management (BLM), in consultation with the Department of Defense (DoD), the Department of Veterans Affairs (VA), and the Bureau of Indian Affairs (BIA), has identified Eligible Individuals. If BLM identifies you as an Eligible Individual, it will inform you by letter at your last address of record with the BIA and/or the VA.

XXXX.03-2 **What if I believe I am an Eligible Individual, but I was not notified by the BLM?**

If BLM has not notified you that you are an Eligible Individual, you may still apply for an Allotment under this subpart. However, as described in XXXX.04-4(b), you will need to provide evidence with your application that you are an Eligible Individual. Supporting evidence with your application must include:

- (a) A Certificate of Degree of Indian Blood or other documentation from the BIA to verify you meet the definition of Native; and
- (b) A Certificate of Release or Discharge from Active Duty (Form DD-214) or other documentation from DoD to verify military service

§XXXX.03-3 **Who may apply for an Allotment under this subpart on behalf of another person?**

- (a) A personal representative of the estate of an Eligible Individual, appointed in an appropriate Alaska State court, may apply for an allotment for the benefit of the estate. The Certificate of Allotment will be issued in the name of the heirs, devisees, and/or assigns of the deceased Eligible Individual.

- (b) A guardian, conservator, or attorney-in-fact of an Eligible Individual may apply for an Allotment for the benefit of the Eligible Individual. The Certificate of Allotment will be issued in the name of the Eligible Individual.

APPLYING FOR AN ALLOTMENT

§XXXX.04-1 When can I apply for an Allotment under this subpart?

- (a) You can apply between [effective date of regulations] and [five year from effective date of regulations].
- (b) Notwithstanding paragraph (a), in the case of an application for a substitute selection for resolution of a conflict or an unavailable land selection, you can submit the application for a substitute application within 60 days of receiving the notice described in §XXXX.5-2(b), and XXXX 5-3.
- (c) The BLM will issue a decision rejecting any application received outside the time set forth in paragraph (a) or (b).

§XXXX.04-2 Do I need to fill out a special application form?

Yes. You must complete BLM Form No. AK-XXXX-XX, “Alaska Native Vietnam Era Veterans Land Allotment Application.”

§XXXX.04-3 How do I obtain a copy of the application form?

The BLM will mail you an application form if you are determined to be an Eligible Individual under XXXX.03-1. If you have not received notification or do not receive an application in the mail, you can also obtain the form at the BIA, a BIA Realty Service Provider’s office, the BLM Public Room, or WEBSITE.

§XXXX.04-4 What must I file with my application form?

- (a) You must include the following along with your application form:
 - (1) A map showing the Selection you are applying for.
 - A. Your Selection must be drawn on a map in sufficient detail to locate the Selection on the ground.
 - B. You must draw your selection on a map that is either a topographic map or a printout of a map from the BLM website [WEBSITE] that shows the section lines.
 - (2) A written description of the lands you are applying for, including (i) section, township, range, and meridian; and (ii) if desired, additional information about the location.
- (b) In addition to the materials described in paragraph (a), you must also provide the following materials, under the circumstances described below:
 - (1) If you, or the person on whose behalf you are applying, are an Eligible Individual and were not notified by the BLM that you (or that person) are an Eligible Individual as described in §XXXX 03-1, you must provide proof that you (or that person) are an Eligible Individual, consisting of:

- A. A Certificate of Degree of Indian Blood or other documentation from the BIA to verify that you (or that person) are Native; and
 - B. A Certificate of Release or Discharge from Active Duty (Form DD-214) or other documentation from DoD to verify that you (or that person) are a Veteran.
- (2) If you are applying on behalf of the estate of an Eligible Individual who is deceased, you must provide proof that you have been appointed by an Alaska State court as the personal representative of the estate, and an affidavit stating that the appointment has not expired. The appointment may have been made before or after the enactment of the Alaska Native Vietnam Era Veterans Land Allotment Act, as long as it has not expired.
 - (3) If you are applying on behalf of an Eligible Individual as that individual's guardian or conservator, you must provide proof that you have been appointed by a court, and an affidavit stating that the appointment has not expired.
 - (4) If you are applying on behalf of an Eligible Individual as that individual's attorney-in-fact, you must provide a legally valid and current power of attorney that either grants a general power of attorney or specifically includes the power to apply for this benefit or conduct real estate transactions.

§XXXX.04-5 What are the special provisions that apply to Selections that include State or Native corporation selected land?

- (a) If the Selection you are applying for includes State or Native corporation selected land, the BLM must receive a Valid relinquishment from the State or Native corporation that covers all of the lands in your Selection that are State or Native corporation selected lands. This requirement does not apply if all of the State or Native corporation selected land included within your Selection consists of land the State or Native corporation is willing to relinquish as shown on the map at **WEBSITE**.
- (b) A Native corporation cannot relinquish selected lands if doing so would cause it to become under-selected pursuant to 43 CFR 2568.91(c).
- (c) If a Valid relinquishment is required under this section and is not included with your application, the BLM will consider your application to be incomplete, as set forth in XXXX.04-10.

§XXXX.04-6 What are the rules about the number and size of my Selection?

You may apply for only one parcel. The acreage cannot be less than 2.5 acres or more than 160 acres.

§XXXX.04-7 Is there a limit to how much water frontage my Selection can include?

Generally, yes. You will normally be limited to a half-mile along the shore of a navigable water body, referred to as 160 rods in the regulations at 43 CFR subpart 2094. If you apply for land that extends more than a half-mile, the BLM will treat your application as a request to waive this limitation. As explained in 43 CFR subpart 2094.2, the BLM can waive the half-mile limitation

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if it determines the land is not needed for a harborage, wharf, or boat landing area, and that a waiver would not harm the public interest.

§XXXX.04-8 Do I need to pay any fees when I file my application?

No. You do not need to pay a fee to file an application.

§§XXXX.04-9 Where do I file my application?

You must file your application with the BLM Alaska State Office in Anchorage, Alaska, by one of the following methods:

- (a) Mail or delivery service: Bureau of Land Management, ATTN: Alaska Native Vietnam Era Veterans Land Allotment Section, 222 West 7th Avenue, Mail Stop 13, Anchorage, Alaska 99513-7504; or
- (b) In person: Bureau of Land Management, Public Information Center, 222 West 7th Avenue, Anchorage, Alaska 99513-7504.

§XXXX.04-10 What will the BLM do if it finds a technical error in my application?

If the BLM finds a technical error in your application, such as an incomplete application form or missing materials that are required by XXXX.04-2, XXXX.04-4 or XXXX.04-5, then the BLM will send you a notice identifying any correctable errors or omissions, and will give you 60 days of receiving the notice to correct the errors or provide the omitted materials. Your corrected or completed application will be deemed received, for purposes of priority, on the date that the last correction is received, as set forth in XXXX.04-11. You must submit the corrections to the BLM within the 60-day period, or the BLM will issue a decision rejecting your application and require you to submit a new application.

§XXXX.04-11 When is my application considered received by the BLM?

- (a) An application that is free from technical errors, as described in XXXX.4-10, will be deemed received on the Receipt date.
- (b) An application that contains technical errors, as described in XXXX.4-10, will be deemed received on the Receipt date of the last required correction.
- (c) In the case of a substitute Selection for conflict resolution under XXXX.05-2 or for correction of an unavailable lands selection under XXXX.05-3, the substitute application will be deemed received on the Receipt date of the substitute selection application.

XXXX.04-12 Where can I go for help with filling out an application?

- (a) The BIA or a BIA Realty Service provider for your home area and where you plan to apply. To find the list of the BIA Realty Service providers, go to **WEBSITE**.

- (b) The BLM Public Information Centers located at, 222 West 7th Avenue, Anchorage, Alaska 99513-7504 or 222 University Ave, Fairbanks, Alaska 99709.
- (c) BLM Field Offices located at XXXXX
- (d) The VA – LEAVE THIS AS A PLACE HOLDER AS WE DISCUSS WITH THE VA WHAT THEY CAN DO WITH THE APPLICATION ASSISTANCE.
- (e) The BLM website for the description of available lands.

PROCESSING THE APPLICATION

§XXXX.05-1 What will the BLM do with my application after it is received?

After your application is deemed received in accordance with XXXX.04-11, the BLM will take the following steps:

- (a) The BLM will enter your Selection onto the Master Title Plat (MTP) to make the public aware that the land has been segregated from the public land laws.
- (b) BLM will then determine whether the Selection includes only available Federal lands or if the Selection conflicts with any other applicant's Selection. BLM will also review its records and aerial imagery to determine any valid existing rights within the Selection.
- (c) The BLM may make minor adjustments to the shape and description of your Selection to match existing property boundaries or meanderable waterbodies or to reduce the number of corners or curved boundary segments.
- (d) After adjustments have been made, the BLM will send you a Notice of Survey, which will inform you of the shape and location of the lands the BLM plans to survey. The Notice of Survey will include:
 - (1) Your original land description;
 - (2) The adjusted land description plotted onto a Topographic Map and a MTP;
 - (3) Imagery of your original land description with the adjusted land description projected onto it;
 - (4) Draft Plan of Survey; and
 - (5) A list of valid existing rights that are on record with the BLM within the Selection.
- (e) The Notice will provide you an opportunity to challenge, in writing, the Draft Plan of Survey of the adjusted land description within 60 days of receipt of BLM's notice.
 - (1) To challenge the Draft Plan of Survey, you must include the adjustments that you would make to your original land description to meet the requirements of paragraph (b) in this section.
 - (2) You may not adjust your original land description to wholly new lands without clear and convincing evidence of your original intent to select the lands in the adjusted description. If your adjustment doesn't include such evidence, it will issue a decision rejecting your adjustment and the Draft Plan of Survey will be used.
 - (3) Your adjustment to the Selection will be considered received on the date the adjustment was received for purposes of the conflict provisions at XXXX5-2

and could result in your Selection being rejected for those areas that now conflict.

- (f) BLM will finalize the Plan of Survey based on the Draft Plan of Survey in the Notice of Survey or the adjustment you provide pursuant to paragraph (e)
- (g) The BLM will survey the Selection based on the Plan of Survey.
- (h) After survey, the BLM will mail you a document titled Conformance to Plat of Survey. That document will:
 - (1) Show the Selection as actually surveyed;
 - (2) Plot the survey onto imagery; and
 - (3) Provide you an opportunity to dispute the survey if you find an error in the way the BLM surveyed the Selection based on the Plan of Survey.
- (i) All else being regular, the BLM will issue a certificate of allotment.

§XXXX.05-2 What if more than one Eligible Individual applies for the same lands?

- (a) If two or more Eligible Individuals select the same lands, in whole or part, the BLM will:
 - (1) Give preference to the application bearing the earliest Receipt date;
 - (2) If two or more applications bear an identical Receipt date, and one or more application bears a legible postmark or shipping date, give preference to the application with the earliest postmark or shipping date; or
 - (3) Applications for the same land still tied after the criteria in paragraphs (a)(1) and (a)(2) of this section are applied will be assigned a number in sequence. BLM will then run a random number generator to pick the application that will receive preference.
- (b) BLM will issue a decision to all applicant with conflicting Selections setting out BLM's determination of preference rights. All applicants who do not have preference will be given the following choices:
 - (1) Provide the BLM a substitute Selection within 60 days of receipt of BLM's notice, which may consist of either an adjustment to your original Selection that avoids the conflict, or a new Selection located somewhere else. Your substitute Selection will be considered a new application for purposes of priority, as set forth in XXXX.05-2(a) in this section, but you will not need to resubmit any portions of your application other than the land description and map; or,
 - (2) If only a portion of your Selection is in conflict, you may request BLM to continue to adjudicate the portion of the Selection that is not in conflict. You are allowed only one Selection of land under this act, and you will not be allowed to apply for more acreage later.
- (c) If you receive decision finding your application does not have preference under paragraph (b) of this section and the BLM does not receive your choice within 60 days of receipt of the notice, the BLM will issue a decision rejecting your application. If your application is rejected, you may file a new application for different lands before the end of the application period.

- (d) If you receive decision finding your application does not have preference under paragraph (b) of this section, you may file an appeal to the Interior Board of Land Appeals under 43 CFR part 4. Note, however, that unless the BLM's decision is stayed on appeal pursuant to 43 CFR 4.21, the BLM will continue to process the conflicting applications that received preference over your application, and any substitute selection you provide under paragraph (b) of this section.

§XXXX.05-3 What if my application includes lands that are not Available Federal Lands?

- (a) If your Selection includes lands that are not Available Federal Lands, the BLM will issue you a notice informing you of the unavailable land selection and giving you the following choices:
 - (1) Provide the BLM a substitute Selection within 60 days of your receipt of the notice, which may consist of either an adjustment to your original Selection that avoids the unavailable lands, or a new Selection located somewhere else. Your substitute Selection will be considered a new application for purposes of priority, as set forth in in XXXX.04-11(c), but you will not need to resubmit any portions of your application other than the land description and map; or,
 - (2) If only a portion of your Selection is unavailable, you may request BLM to continue to adjudicate the portion of the Selection that is within Available Federal Lands. You are allowed only one parcel of land under this act, and you will not be allowed to apply for more acreage later.
- (c) If you receive notice of an unavailable land selection under paragraph (b) of this section and the BLM does not receive your choice within 60 days of receipt of the notice, the BLM will issue a decision rejecting your application. If your application is rejected, you may file a new application for different lands before the end of the application period.
- (d) If you receive notice of an error under paragraph (b) of this section, you may file an appeal to the Interior Board of Land Appeals under 43 CFR part 4.

§XXXX.05-4 Once I file, can I change my land Selection?

Once the BLM has deemed your application to have been received in accordance with XXXX.04-11, you will not be allowed to change your Selection except as set forth in XXXX.05-2.

§XXXX.05-5 Does the Selection need to be surveyed before I can receive title to it?

Yes. The land in your selection must be surveyed before the BLM can convey it to you. The BLM will survey your Selection at no charge to you, as set forth in XXXX.05-1(g).

§XXXX.05-6 How will BLM convey the land?

- a) BLM will issue a certificate of allotment.
- b) The certificate of allotment will be issued subject to valid existing rights.
- c) The United States will reserve minerals in the certificate of allotment.

AVAILABLE Federal LANDS - GENERAL

§XXXX.06-1 What lands are available for selection?

You may receive title only to lands identified as available Federal land. You can review the available Federal lands at (WEBSITE).

§XXXX.06-2 How will the BLM certify that the land is free of known contaminants?

The BLM will review land for contamination by using current contaminated site database information in the Alaska Department of Environmental Conservation database, the U.S. Army Corp of Engineers Formerly Used Defense Sites database, U.S. Air Force database, or Federal Aviation Administration database. Any land found to have possible contamination based on these searches will not be available for selection.

§XXXX.06-3 Will the BLM try to reacquire land that has been conveyed out of Federal ownership so it can convey that land to a Native Veteran?

No. The BLM is not authorized to reacquire former Federal land in order to convey it to an Alaska Native Veteran.

§XXXX.06-4 Are lands that are valuable for minerals available?

Yes. However, the minerals will be retained by (reserved to) the United States, and will not belong to you.

§XXXX.06-5 What happens if new lands become available?

- (a) New lands may become available during the application period. As additional lands become available, the BLM will review the lands to determine whether the land is free of known contaminants.
- (b) After review, the BLM will update the online web maps of available Federal lands to include these additional lands.

NATIONAL WILDLIFE REFUGE SYSTEM

§XXXX.07-1 If Congress makes lands available within a National Wildlife Refuge, what additional rules apply?

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You may receive title only to lands authorized by an Act of Congress subsequent to the date of enactment of this Act. Any conveyance will contain provisions that the land remains subject to the laws and regulations governing the use and development of the refuge.

APPEALS

§XXXX.8.0 What can I do if I disagree with any of the decisions that are made about my allotment application?

You may appeal all decisions to the Interior Board of Land Appeals under 43 CFR part 4.

PLEASE ADDRESS ANY COMMENTS VIA EMAIL TO:

blm_ak_native_vietnam_allotment_rule@blm.gov

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