



4310-JA

DEPARTMENT OF INTERIOR

Bureau of Land Management

43 CFR Part 2560

[LLAK940000 L14100000.HM0000 20X]

RIN 1004-AE66

ALASKA NATIVE VIETNAM-ERA VETERANS ALLOTMENTS

AGENCY: Bureau of Land Management, Interior

ACTION: Proposed Rule.

SUMMARY: The Bureau of Land Management (BLM) proposes to issue regulations to enable certain Alaska Native Vietnam-era veterans to apply for land allotments under Section 1119 of the John D. Dingell, Jr. Conservation, Management, and Recreation Act of March 12, 2019 (Dingell Act). The Dingell Act requires the BLM to issue regulations to implement the Act's land allotment provisions. This proposed rule would enable certain Alaska Native Vietnam-era veterans who, because of their military service, were not able to apply for an allotment during the late 1960s and early 1970s to do so now.

DATES: Please submit comments on this proposed rule to the BLM on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The BLM is not obligated to consider any comments received after this date in making its decision on the final rule.

The proposed rule includes information collection activities that must be approved by the Office of Management and Budget (OMB). If you wish to comment on the information collection requirements in this proposed rule, please note that the OMB is required to

make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after publication of this document in the *Federal Register*.

Therefore, a comment to the OMB on the proposed information collection requirements is best assured of being given full consideration if the OMB receives it by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments on the proposed rule, identified by the number “RIN 1004-AE66,” to the BLM by any of the following methods:

- *Mail/Personal or messenger delivery:* U.S. Department of the Interior, Director (630), Bureau of Land Management, Mail Stop 2134 LM, 1849 C St., N.W., Washington, D.C. 20240, Attention: RIN 1004-AE66.

- *Federal eRulemaking portal:* <http://www.regulations.gov>. In the Searchbox, enter “RIN 1004-AE66” and click the “Search” button. Follow the instructions at this website.

For Comments on Information Collection

Written comments and suggestions on the information collection requirements should be submitted within 30 days of publication of this document to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function.

Please indicate “OMB Control Number 1004–XXXX/RIN 1004–AE66,” regardless of the method used to submit comments on the information collection burdens. If you submit comments to the OMB on the information-collection burdens, you should provide the BLM with a copy, at the BLM address provided above, so that all written

comments can be summarized and addressed in the final rulemaking. Comments not pertaining to the proposed rule's information-collection burdens should not be submitted to OMB. The BLM is not obligated to consider or include in the Administrative Record for the final rule any comments that are improperly directed to OMB, rather than the BLM.

FOR FURTHER INFORMATION CONTACT: Paul Krabacher, Division of Lands and Cadastral, Bureau of Land Management, 222 West Seventh Avenue, Mail Stop 13, Anchorage, Alaska 99513-7409; telephone (907) 271-5681, for information relating to the substance of this proposed rule. Persons who use a telecommunication device for the deaf (TDD) may call the Federal Relay Service at 1-800-877-8339 to leave a message or question with the above individuals. You will receive a reply during normal business hours, Alaska time.

SUPPLEMENTARY INFORMATION:

- I. Public Comment Procedures
- II. Background
- III. Discussion of the Proposed Rule
- IV. Procedural Matters

I. Public Comment Procedures

If you wish to comment on the information collection requirements, you should send those comments directly to the OMB as outlined under the ADDRESSES heading; however, we ask that you also provide a copy of those comments to the BLM.

You may submit comments on the proposed rule itself, marked with the number "RIN 1004-AE66," to the BLM by any of the methods described in the ADDRESSES section.

Please make your comments on the proposed rule as specific as possible, confine them to issues pertinent to the proposed rule, and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph of the proposal that you are addressing. The comments and recommendations that will be most useful and likely to influence agency decisions are:

1. Those supported by quantitative information or studies; and
2. Those that include citations to, and analyses of, the applicable laws and regulations.

The BLM is not obligated to consider or include in the Administrative Record for the final rule comments that we receive after the close of the comment period (see "DATES") or comments delivered to an address other than those listed above (see "ADDRESSES").

The BLM has determined that a public comment period of 30 days is required for this proposed rule, per 318 DM HB 5.4(A). The universe of parties who will be affected by this proposed rule is relatively limited, and those parties have received notice that this proposed rule is being prepared, either through the enactment of the Dingell Act itself, or through the BLM's extensive pre-publication outreach efforts, or both. At the same time, Section 1119 of the Dingell Act requires a final rule to be promulgated by September 12, 2020, which cannot be accomplished with a longer comment period. Therefore, the BLM concludes that a public comment period of 30 days is adequate for all affected parties to provide feedback, and is necessary to comply with the statutory directive.

Before including your address, telephone number, email address, or other personal identifying information in your comment, be advised that your entire comment--including your personal identifying information--may be made publicly available at any time.

While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments on the proposed rule, including names and street addresses of respondents, will be posted as they arrive at the BLM, and will be available for public review at <http://www.regulations.gov>. Enter “1004-AE66” in the Searchbox to find the proposed rule.

II. Background

On December 18, 1971, Congress enacted the Alaska Native Claims Settlement Act (ANCSA; 43 U.S.C. 1601, *et seq.*), which repealed the Alaska Native Allotment Act (34 Stat. 197, as amended). During the time leading up to the repeal of the Alaska Native Allotment Act, certain Alaska Natives who were eligible to apply for allotments were serving in the U.S. military and may have missed their opportunity to apply because of their military service.

In 1998, Congress enacted a law allowing certain Alaska Native veterans a new opportunity to apply for allotments under the Alaska Native Allotment Act, as it was in effect before its repeal (Alaska Native Veterans Allotment Act of 1998; 43 U.S.C. 1629g). Those Alaska Native veterans were able to apply for allotments from July 31, 2000 to January 31, 2002. Under the Alaska Native Veterans Allotment Act of 1998, about 250 allotments were issued to Alaska Native veterans or their heirs.

On March 12, 2019, Congress enacted the Dingell Act, in order to provide an additional opportunity for Alaska Native veterans who have not applied for or received an allotment under prior laws to apply for an allotment. Congress required the BLM to issue

regulations implementing the Dingell Act. This proposed rule would carry out that congressional mandate.

The BLM, in coordination with the Bureau of Indian Affairs (BIA), consulted with the federally recognized Tribes located in Alaska and Alaska Native Corporations, and conducted presentations throughout Alaska. The purpose of these meetings was to share information and gather input from entities representing Alaska Natives who will be impacted by these regulations. Participants included both Native and non-Native individuals. Oral comments were recorded at each meeting; notes of the meetings, as well as all written comments submitted to the BLM at the meetings, are included in the administrative record for this rule.

III. Discussion of the Proposed Rule.

§ 2569.100 What is the purpose of this subpart?

This section explains why the BLM is promulgating these regulations. Specifically, promulgating these regulations is required under 43 U.S.C. 1629g-1(b)(2), and will specify the procedures under which Alaska Native Vietnam-era Veterans will be able to select and receive lands.

§ 2569.101 What is the legal authority for this subpart?

The legal authority for this subpart is 43 U.S.C. 1629g-1(b)(2).

§ 2569.201 What terms do I need to know to understand this subpart?

This section lays out the definitions that will be needed for the reader to fully understand the proposed regulations.

Allotment. The BLM adopts the definition of allotment from 43 CFR 2561.0-5, which defined “allotment” in the regulations for the Alaska Native Allotment Act. The Dingell

Act does not specifically provide for this definition, but the intent of Congress was to offer Alaska Natives who served in the military during the Vietnam era a chance to receive an allotment similar to the one that they otherwise could have received under the Alaska Native Allotment Act. Additionally, the Dingell Act uses a Certificate of Allotment as the conveyance instrument. This conveyance instrument was only used in the past for restricted fee and trust allotments. As such, the BLM adopts the definition of “allotment” as it has been used for the Certificate of Allotment under the Alaska Native Allotment Act and the Alaska Native Veterans Allotment Act of 1998. Certificates of Allotment granted under those acts include the following recitation: “[T]he land above-described shall be deemed the homestead of the allottee and his heirs in perpetuity, and shall be inalienable and nontaxable until otherwise provided by Congress or until the Secretary of the Interior or his delegate, pursuant to the provision of the said Act of May 17, 1906, as amended, approves a deed of conveyance vesting in the purchaser a complete title to the land.” A similar recitation should be used in conveyances under the Dingell Act as well to ensure that Alaska Natives receiving land under the Dingell Act will receive the same rights as those granted to Alaska Natives under the Alaska Native Allotment Act and the Alaska Native Veterans Allotment Act of 1998.

Available Federal Lands. This term incorporates the definition from the Dingell Act. In general, “available Federal land” is defined as vacant, unappropriated, and unreserved public land. Additionally, land that has been selected but not conveyed to either the State of Alaska or to an Alaska Native Corporation is available as long as the selection is voluntarily relinquished. Land that has already been conveyed out of Federal ownership is not available. “Available Federal land” further incorporates the requirement that the

land is certified as free of known contaminants, a requirement that is found separately in the statute.

Eligible Individual. This term is used throughout the proposed regulations for a Native veteran who is eligible to receive an allotment under the Dingell Act, or another person who is eligible to receive an allotment on the behalf of such a veteran. 43 U.S.C. 1629g-1(a)(2) defines such an individual as a Native Veteran who served in the Armed Forces between August 5, 1964, and December 31, 1971, and who did not receive an allotment under one of the three previous allotment statutes specified in the Dingell Act. While the Dingell Act only expressly excludes individuals who have already received an allotment under one of these three statutes, because the Dingell Act was intended to benefit individuals who missed their opportunities to apply under these statutes, the proposed regulations also exclude individuals who applied under these statutes, but whose applications remain pending.

Native. The proposed regulations restate the definition from the Dingell Act, which in turn uses the definition of Native from the ANCSA. As stated in the ANCSA, this definition requires either proof of a minimum blood quantum, or else proof that one is a citizen of the United States who is regarded as an Alaska Native by the Native village or Native group of which one claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by any village or group. Additionally, any decision of the Secretary regarding eligibility for enrollment is final. As used, this term would include all Alaska Natives, including enrolled members of the Metlakatla Indian Community, Annette Island Reserve.

Native Corporation. This term refers to the Alaska Native Corporations created pursuant to the ANCSA.

Realty Service Provider. This term refers to the tribal and intertribal organizations that provide Trust Real Estate Services pursuant to a contract or compact with the Bureau of Indian Affairs (BIA).

Receipt date. This term is used in the proposed regulations to refer to the date on which an application arrives at the BLM Alaska State Office. The Receipt Date is used to determine which application would receive preference if two or more applications contain conflicting selections.

Segregate. This term is given the same meaning in the proposed regulations that it has in the BLM's general land resource management regulations. By incorporating this widely used definition, the proposed regulations help the reader understand that once an application is received, the land selected in that application is removed from the operation of the public land laws so no other entity can make a claim on that land.

Selection. This term refers to the lands that an Eligible Individual chooses to apply for in an application.

State. This term means the political entity of the State of Alaska.

State or Native corporation selected land. This term refers to lands that have been selected by, but not conveyed to, the State or a Native corporation. This definition helps readers understand that while applicants can select from lands that have been selected by the State and Native corporations, they may not select lands that have already been conveyed to the State or a Native Corporation.

Valid relinquishment. The Dingell Act allows an Eligible Individual to select, and receive from the BLM, lands that have been selected by the State or a Native corporation if that entity “agrees to voluntarily relinquish the selection.” For the relinquishment to be valid, the voluntary relinquishment must be signed by either a person authorized by a board resolution of the Native corporation or a delegated official of the State. A valid relinquishment may be conditioned upon the application being accepted and the location of the selection being fully established by survey, and may also be conditioned upon who receives the land. This provision ensures that relinquishments go into effect only at such time as there is certainty regarding the location and that the applicant will receive the land.

Veteran. The proposed regulations incorporate the definition from 38 U.S.C. 101. The BLM found that attempting to restate all the incorporated parts of that definition within the regulations would confuse readers. Therefore, the proposed regulations point the reader to the statute instead. For purposes of implementing the Dingell Act, this definition includes individuals who died in service and who meet the other requirements of 38 U.S.C. 101.

WHO IS QUALIFIED FOR AN ALLOTMENT

§ 2569.301 **How will the BLM let me know if I am an Eligible Individual?**

The BLM has been working with the BIA, the Department of Defense (DoD), and the Department of Veterans Affairs (VA) to identify Eligible Individuals prior to the selection period. Pursuant to the Dingell Act, the VA and the DoD provided to the BIA a list of all individuals whose records indicated military service during the time period set forth in the statute. The BIA compared that list to its list of Alaska Natives and removed

those individuals who are not Alaska Natives. The BLM refined the list further to remove Native Veterans who received an allotment or have an application pending under one of the earlier statutes listed in the Dingell Act. The BLM would use this list to identify individuals that the BLM believes to be Eligible Individuals.

After the list is created, the BLM would mail letters to all individuals included on the list at the most recent addresses on file with the VA and BIA. The purpose of this initial letter would be to provide additional notice to these individuals of the opportunity to apply for an allotment. Being included on this list would not guarantee that a person is an Eligible Individual under the Dingell Act, however, and therefore, an individual who receives such notice would still be required to certify that the statements made on his or her application are complete and correct to the best of his or her knowledge and belief, including that he or she is an Alaska Native, has not received an allotment, meets the definition of a Veteran, and served during relevant time period.

§ 2569.302 **What if I believe I am an Eligible Individual, but I was not notified by the BLM?**

This section addresses the information that Eligible Individuals who were not identified through the process described above would need to provide in order to demonstrate that they are eligible. The BLM foresees that there may be individuals who would not be included on the list due to errors or inconsistencies in the records at the DoD, the VA, or the BIA. This section informs those individuals that in addition to the application, they would be required to provide a Certificate of Degree of Indian Blood or other documentation from the BIA demonstrating that they meet the definition of a Native, and a Certificate of Release or Discharge from Active Duty (Form DD-214) or other

documentation from the DOD or VA demonstrating that they meet the definition of a Veteran.

§ 2569.303 **Who may apply for an allotment under this subpart on behalf of another person?**

This section explains who may apply on behalf of an Eligible Individual who is unable to apply on his or her own behalf. In paragraph (a), the BLM addresses how a person could apply on behalf of a deceased veteran. The Dingell Act allows for a personal representative, “appointed in the appropriate Alaska State court or registrar has qualified,” to apply on behalf of the estate of a deceased Eligible Individual. The BLM understands the term “registrar,” as used in the Dingell Act, to refer to an Alaska State court employee who adjudicates informal probates. The phrase “Alaska State court or registrar has qualified” therefore allows the appointment of a personal representative only through the Alaska State court system, through either the informal probate process, which is adjudicated by the registrar, or the formal process, which is adjudicated by a judge. The BLM does not understand the Dingell Act, as enacted, to allow for personal representatives to be appointed by a Tribal court or an out-of-state court. The apparent intent of the statutory language is to ensure that the BLM would not have to decide between competing claims of individuals who assert that they are duly appointed personal representatives of the same deceased veteran.

In paragraph (b) of this section, the proposed regulations address the situation in which a veteran is alive, but is unable to apply on his or her own behalf or chooses to have another person do so. The BLM has attempted to be as broad as possible in recognizing the legal mechanisms by which a person could legally apply on behalf of a veteran. A

conservator or guardian is typically appointed by a court for a person who is no longer capable of managing his or her affairs. Unlike a personal representative, a conservator or guardian need not be appointed by an Alaska State court, because the Dingell Act contains no such restriction for conservators or guardians. An attorney-in-fact, meanwhile, is appointed by the Eligible Individual him- or herself before becoming incapacitated. An individual would also be able to appoint an attorney-in-fact if the individual is not incapacitated but would like to allow the attorney-in-fact to complete the application on his or her behalf for some other reason. Commenters are encouraged to suggest any other legal mechanisms that may not be captured in this paragraph.

APPLYING FOR AN ALLOTMENT

§ 2569.401 When can I apply for an allotment under this subpart?

This section identifies the period during which the BLM would accept applications. The application period would begin on the effective date of the final regulations and run for a period of 5 years, as provide in the Dingell Act (43 U.S.C. 1629g-1(b)(3)(B)).

Under the proposed rules, certain circumstances described in § 2569.410, 2569.502(b), or 2569.503(a) may require the BLM to request more or new information from an applicant who initially filed his or her application during the period described in paragraph (a). The BLM would continue to accept this information for up to 60 days after the information is requested, even after the termination of the 5-year period in paragraph (a). The BLM further recognizes that a legal representative may need to be appointed to provide the required information, and § 2569.507(c) would further extend the time in which the BLM could receive this information for two years when needed for the applicant or the applicant's heirs to complete that process.

§ 2569.402 Do I need to fill out a special application form?

The proposed regulations would require that applications be submitted on a BLM form, “Alaska Native Vietnam-Era Veteran Land Allotment Application,” under an OMB form number to be assigned when OMB approves the collection.

§ 2569.403 How do I obtain a copy of the application form?

The BLM is proposing to directly mail a copy of the application form to those persons who have been preliminarily identified as Eligible Individuals through the process described in § 2569.301. The applications would be mailed to the most recent addresses on file with the VA, BIA, and BLM.

This section also identifies locations where copies of the application form would be available for applicants who do not receive an application in the mail. Those locations include the BIA, BIA Realty Service Provider’s offices, BLM Public Rooms located in Anchorage or Fairbanks, or on the internet at blm.gov/ak-native-vietnam-vet-land-allotment-2019.

§ 2569.404 What must I file with my application form?

This section identifies the documents that would be necessary to file a complete application under various applicant scenarios.

Paragraph (a) applies to every applicant and explains how the applicant would identify the lands they select for their allotment. The BLM is attempting to make this process as easy as possible for applicants. Therefore, applicants would be asked to provide a map with the selection marked on the map. In previous allotment acts, the BLM required a legal description. The difficulty of creating the legal description created uncertainty for the applicant about what land they would receive, and the BLM has determined that the

map approach would create greater certainty. The BLM intends to provide a mapping tool on its website to help applicants identify available Federal lands. The BLM intends to keep this map updated with the identified available Federal lands throughout the selection period. The applicant would even be able to draw their desired selection onto a map using the map tool and know they are keeping their description within available Federal lands and within the acreage limit.

The only written requirement would be that the applicant identify the section, township, range, and meridian of the selection so that the BLM can properly locate the selection. The applicant would be able to easily find that information on the mapping tool on the BLM's website or ask a Realty Service Provider or the BLM for assistance. The BLM would also accept, but not require, any additional information about the location that the applicant would like to supply. The regulation clarifies that the BLM would defer to the depiction on the map unless the applicant specifies that they want the written description to be the controlling document.

In paragraph (b) of this section, the BLM describes the other materials that may need to be filed with the application besides the selection. Under the proposed regulations, applicants whose names appear on the list of individuals believed by the BLM to be Eligible Individuals would not have to provide proof of the applicant's military service or documentation identifying the applicant as an Alaska Native. This information would already have been collected by the DoD, VA, BIA, and BLM at the time the list of presumed Eligible Individuals is created. As noted above, however, these individuals would still need to certify that they meet the requirements for eligibility by signing the application form. Those applicants whose names did not appear on the list of presumed

Eligible Individuals, meanwhile, would need to provide proof of their status as a Native Veteran. The documentation identifying the applicant as a Native may consist of a Certificate of Degree of Indian Blood or of other documentation from the BIA verifying that the applicant meets the definition of Alaska Native, such as a letter issued by the BIA Alaska Region. The documentation showing military service, usually a Form DD-214, would need to demonstrate that the applicant served during the period between August 5, 1964, and December 31, 1971, and was released or discharged in some way other than dishonorably.

For those persons applying on behalf of another individual or his or her estate, the proposed rules also identify the types of proof that would be necessary to apply as a personal representative, guardian, conservator, or attorney-in-fact. An individual applying as a personal representative of a deceased veteran would need to prove that he or she had been appointed by an Alaska State Court and that the appointment was still in effect. An individual applying on behalf of a living veteran as a guardian or conservator would have to provide proof of his or her appointment by a court of law. An individual applying as the attorney-in-fact for a living veteran would be able to do so as long as the power of attorney documentation is legally valid and current, and is either a general grant of power-of-attorney, or specifically grants the individual either the power to conduct real estate transactions on behalf of the veteran, or the specific power to apply for this allotment program.

In paragraph (c), the proposed regulations explain that an applicant would be required to certify that the statements in the application are true, complete, and correct to the best of their knowledge. This section is included to make applicants aware that there are serious

ramifications if an applicant were to lie on the application. A person could be prosecuted pursuant to 18 USC 1001 for false statements on the application.

2569.405 What are the special provisions that apply to selections that include State or Native corporation selected land?

Under the proposed rules, an applicant could select, in whole or in part, land that has been selected by the State or a Native corporation but has not yet been conveyed to that entity.

Lands selected by the State pursuant to the Alaska Statehood Act or a Native corporation under the provisions of ANCSA are segregated from operation of the public land laws. The Dingell Act allows Eligible Individuals to select from these lands even though the lands are otherwise segregated from the operation of the public land laws. However, in order for BLM to allow such a selection, the State or Native corporation would have to choose to make that land available by relinquishing its selection.

Under the proposed regulations, an applicant could request that the State or Native corporation relinquish its selection; the proposed regulations further provide that the relinquishment could be conditioned on the approval of the applicant's application.

Applicants need to be aware that even if the State or Native corporation could relinquish their selection, the law does not require them to do so.

The relinquishment would have to be in the form of a letter from the State or Native corporation, and would have to include either the legal description of the parcel the entity is willing to relinquish or a copy of the applicant's application with its land description.

The letter would also have to describe the conditions, if any, for the relinquishment. If the relinquishment is by a Native corporation, the letter would have to be accompanied

by a board resolution authorizing the relinquishment and granting the person signing the letter authority to do so. If the State or ANCSA selection were being relinquished only on behalf of an individual, the relinquishment would have to name the individual.

A conditional relinquishment would become effective when the BLM formally accepts the relinquishment, which would occur after the BLM has issued a Final Plan of Survey Notice for the application at issue. In the case of a conditional relinquishment, if the applicant was determined not to be eligible or if the application was rejected on other grounds, the relinquishment would be of no effect and the State or ANCSA selection would remain in place. The State or Native corporation would be notified in the decision rejecting the application.

The BLM also proposes to allow the State or a Native corporation to make a blanket conditional relinquishment of certain of its selections, which would take effect if any valid application is received for the lands at issue. Any selections that are conditionally relinquished in this manner would be identified on a map. Such a blanket conditional relinquishment would become effective as to a given parcel of land when the BLM formally accepts the relinquishment, which would occur after the BLM has issued a Final Plan of Survey Notice for an application embracing that parcel.

Paragraph (b) of this section describes a scenario in which a Native corporation may not relinquish a selection. Under ANCSA, each Native corporation is entitled to receive a certain amount of land. The regulation specifies that a relinquishment cannot cause a Native corporation to become under-selected. "Under-selected" refers to the situation where the Native corporation has less land selected than it needs to receive in order to fulfill its entitlement under ANCSA. For example, if a Native corporation needs to

receive 500 acres from the BLM to fulfill its entitlement and has 600 acres selected, it cannot relinquish 160 acres under these proposed regulations.

Paragraph (c) of this section defines when the lands would become segregated when an applicant applies for State or Native corporation selected land. In some cases, land that has been selected by the State or a Native corporation is “top-filed” - that is, another entity has expressed its intent to select the same land in the event that the land is not conveyed to the first entity. The BLM interprets the Dingell Act as expressing Congress’s intent to give Eligible Individuals first preference to any selections relinquished by the State or Native corporations, even if another entity has a “top-filing” on those lands. In such a case, the regulations would allow the Eligible Individual’s selection to fall into place as soon as the conditional relinquishment is accepted, and would segregate those lands immediately from the operation of the public land laws. This would resolve any conflict between the applicant and the top-filing entity in favor of the applicant.

Paragraph (d) defines what would happen if the State or Native corporation is unable or unwilling to provide a valid relinquishment. Applicants need to be aware that even if the State or Native corporation could relinquish its selection, the law does not require it to do so. In this scenario, the BLM would treat the selection like any other selection that includes unavailable land by following the procedures laid out at 43 CFR 2569.503.

§ 2569.406 What are the rules about the number of parcels and size of the parcel for my selection?

The statute provides that an applicant may select only 1 parcel of land ranging in size from 2.5 to 160 acres.

§ 2569.407 Is there a limit to how much water frontage my selection can include?

Applications made under these regulations would be subject to 43 CFR 2094. That subpart establishes a general limitation of 160 rods (one half-mile) of water frontage. An application may be submitted for a selection that exceeds the 160-rod (one half-mile) limitation, but the application would be subject to a determination that the land is not needed for a harborage, wharf, or boat landing area, and that a waiver would not harm the public interest. If the BLM could not waive the 160-rod (one half-mile) limitation, the BLM would issue a decision finding the selection includes lands that are not available Federal lands, and then follow the procedures set out at § 2569.503.

§2569.408 Do I need to pay any fees when I file my application?

The BLM does not propose to charge any fees in connection with the Alaska Native Veterans Allotment Program of 2019.

§ 2569.409 Where do I file my application?

Applications would have to be delivered to the BLM Alaska State Office in Anchorage, in person, by mail, or by delivery service. The BLM does not propose to accept electronic applications.

§ 2569.410 What will the BLM do if it finds a technical error in my application?

If the BLM finds a technical error in an application, it would send a notice identifying the error and provide 60 days after receiving the notice to correct the error. A “technical error,” as referred to in this section, includes such matters as a missing portion of the application form, a missing signature, or missing materials that would be required to be provided along with the application under § 2569.404 - 405. Generally, a “technical error” is one that the BLM can identify relatively easily upon reviewing the application.

A “technical error” does not include an application that conflicts with an earlier application or that includes lands that are not available Federal lands; these scenarios are dealt with separately, in § 2569.502 or 503, respectively.

The purpose of the proposed 60-day correction period is to allow applicants to correct technical errors without the inconvenience of submitting a completely new application package. As noted, any corrected or completed application would be deemed received, for purposes of preference, on the date that the last correction is received.

Throughout the proposed regulations, the BLM provides the applicant 60 days to respond to various requests. Because mail delivery can be unreliable in some Native villages, the BLM proposes to start the 60-day response time from the point that the applicant receives the decision or notice. Hence, any delay in the mail being received in the village would not affect the length of time for his or her reply. The BLM is not proposing a period of time longer than 60 days because an application is deemed received when BLM receives the last correction, so that the benefit to applicants of extending the period beyond 60 days would be limited.

§ 2569.411 When is my application considered received by the BLM?

Under the proposed rules, an application that is free from technical errors and from conflicts with higher-preference applications or with unavailable lands would be considered received on the receipt date – that is, the date on which the application is physically received by the BLM Alaska State Office (see paragraph 2569.02(f)). This means that even if the BLM took some time to review an application and determine whether the application is free from technical errors, the application would not lose preference during that time; once the application is reviewed and confirmed to be

complete and correct, it would receive the preference corresponding to the date on which it was physically received.

The proposed rule clarifies that applications received prior to the effective date of the regulations would be deemed received on the effective date. This would protect applicants who want to apply on the first day of the selection period from being penalized if the mail arrives to the BLM sooner than expected, while preserving the integrity of the effective date as the start date for the selection process.

If an application contained a technical error, the BLM would provide notice as set forth in § 2569.410 and require the applicant to correct the error. The application would then receive the preference corresponding to the date on which the corrected application was physically received.

If an application conflicts with higher-preference applications or with unavailable lands, the BLM would proceed according to § 2569.502 (for conflict with higher-preference applications) or 2569.503 (for conflicts with unavailable lands). In each of those cases, the applicant would have the choice to continue with adjudication of those portions of his or her selection that are free from conflict, in which case the application would receive the preference corresponding to the date on which the application was physically received (see §§ 2569.502(b)(2) and 2569.503(a)(2)). On the other hand, if the applicant chooses to file a substitute selection in order to adjust the original selection or replace it with a new selection altogether, the applicant would receive the preference corresponding to the date on which the substitute application was physically received (assuming that the substitute application is free from technical errors or conflicts).

The BLM is not proposing to allow corrected, completed, or substitute applications to “relate back” to the original application – that is, to receive the preference date corresponding to the date on which the original application was physically received – for several reasons. First, the BLM is concerned that if corrected or completed applications could relate back to earlier applications, the BLM would receive a large number of incomplete, even skeletal, “placeholder” applications at the beginning of the filing period. This would unfairly prejudice applicants who take the time to submit complete and accurate applications, because the BLM would be unable to process those applications until it waits to see whether the applicants responsible for the placeholder applications eventually file completed and corrected applications within the correction period, and then determine whether any of the placeholder applications conflict with the later-received applications.

A second reason for not allowing corrected, completed, or substitute applications to relate back to earlier applications is that doing this would not prevent unfairness from occurring, but rather would shift the potential unfairness to other situations and other applicants. Consider, for example, a situation in which Applicant A files an application containing a technical error, shortly before Applicant B files a complete and correct application that conflicts with Applicant A’s selection. Under the rules as proposed, Applicant B would receive his or her selection, while Applicant A would be required to submit a corrected or completed application, and to change his or her selection to avoid a conflict with Applicant B’s selection. While this outcome may seem unfair to Applicant A, who filed an earlier application and may have only made a relatively minor technical

error, the result is that the selection is awarded to the first applicant who submitted a complete and correct application for that land.

By contrast, if Applicant A's corrected or completed application were allowed to relate back to the original application, Applicant A would eventually receive his or her selection, after correcting all technical errors, and Applicant B would lose out. This outcome may seem fairer to Applicant A, but it would be arguably unfair to Applicant B, the first applicant to submit a complete and correct application for that land.

Moreover, this scenario could result in a chain reaction in which multiple applicants lose out to applications that were submitted later in time than their own applications. Consider what happens if Applicant B submits a substitute application to avoid the conflict with Applicant A, which in turn conflicts with the application of Applicant C, who submitted a complete and correct application in the interim between Applicant B's original and substitute applications. Under the relate-back approach, Applicant B's substitute selection would relate back to his or her original application and would receive preference over Applicant C's selection. The result would be that Applicant C, like Applicant B, would lose out to an applicant whose complete and correct application for the land in question was received *after* Applicant C's own complete and correct application. Moreover, Applicant C would then presumably file a substitute application him- or herself, potentially continuing the chain reaction.

For these reasons, the BLM believes that the approach set forth in the proposed regulations, which would not allow any new applications to relate back to earlier applications, is the fairest and most practical approach.

§ 2569.412 Where can I go for help with filling out an application?

The Department of the Interior and the VA have been tasked in the Dingell Act with providing assistance in applying for allotments.

Applicants are encouraged to seek help in filing their applications. Applicants should contact their local VA or BIA office. In addition, certain tribal and intertribal organizations that are registered as BIA Realty Service Providers could also provide assistance and information. To find the list of the BIA Realty Service Providers, go to <https://www.bia.gov/regional-offices/alaska/real-estate-services/tribal-service-providers>. The BLM would also have many locations where an applicant could receive help. You could contact the BLM in person, by email, or by telephone, Monday through Friday, excluding Federal holidays. The BLM would not provide legal advice, but would answer questions and provide assistance regarding the application process.

An applicant could also get information through the BLM's website at www.blm.gov/ak-native-vietnam-vet-land-allotment-2019. This website includes frequently asked questions and a mapping tool depicting available Federal lands. The mapping tool on the website could be used to identify and print selections.

§ 2569.413 How will I receive Notices and Decisions?

This section describes how the BLM would provide notices and decisions and would provide instructions for changing an applicant's contact information of record with the BLM after the application process has begun. The BLM would mail all decisions and notices related to the application to the address of record, and it would be very important for the applicant to be able to receive every mailing. This section makes it clear it is the applicant's duty to keep their address of record up to date.

The BLM would attempt to deliver all notices and decisions by Certified Mail with Return Receipt. If this first attempt fails, the BLM would make a second attempt using an alternative method. If the second attempt fails, the BLM may issue a decision rejecting the application. Generally, the BLM would only issue a decision rejecting the application if a second attempt at delivery fails for a notice that requires action from the applicant, such as a notice of a decision finding that the application did not have preference under section § 2569.502.

The BLM may, in its discretion, call the applicant or contact a representative of the applicant's Tribe or Native corporation in order to resolve an issue involving undeliverable mail, but would not guarantee that it would do so in every case. Applicants should ensure that their address of record is kept up to date, and that arrangements are made to receive mail at that address at all times. If an applicant were to be unavoidably unreachable at some point during the application process, the applicant might consider designating a temporary attorney-in-fact.

PROCESSING THE APPLICATION

§ 2569.501 What will the BLM do with my application after it is received?

This section describes the steps that the BLM proposes to take after an application is deemed received, as set forth in § 2569.411. The full processing of the application would also include a review of whether an application is complete under § 2569.410 and should be deemed received.

As stated in paragraph (a), the BLM would enter the land selection into the BLM's Master Title Plats (MTPs). MTPs are large scale graphic representations of Federal ownership, agency jurisdictions, and rights reserved to the Federal Government. MTPs

for Alaska are located online within the Resources section of the BLM's website at: <https://www.blm.gov/programs/lands-and-realty/regional-information/alaska/land-transfer>.

The purpose of this step is primarily informational, to help later applicants avoid selecting lands that are subject to an earlier-received, higher-preference application. Applicants are advised that because some time may pass between the date when an application is received and the date when the MTP is updated, the fact that certain lands are not shown as selected on the MTP would not guarantee that the lands are not subject to an earlier-received application, and that selecting those lands would not result in a conflict. Additionally, inclusion in the MTP would indicate to the general public that the lands had been segregated from the public land laws for purposes other than allotment selection under the Dingell Act, such as mining claims.

In paragraph (b) of this section, the BLM would review the selection for conflicts with other applications, and for inclusion of any lands that are not available Federal lands. If the selection were in conflict, or contained unavailable lands, the BLM would proceed as described in §§ 2569.502 and 2569.503, respectively.

During this step, the BLM would also review its records to identify any valid existing rights within the selection. Any such rights that were identified by the BLM would be noted in the Notice of Survey, as described in paragraph (d). Applicants should be aware that there may be valid existing rights that the BLM does not discover through its review. Even if the BLM does not discover those valid existing rights on a selection, the conveyance of an allotment under the Dingell Act would be made subject to those rights.

Next, in paragraph (c) of this section, the BLM would make minor adjustments to the selection, if needed, in order to match existing property boundaries, roads, or meanderable waterbodies, or to reduce the number of corners or curved boundary segments. For example, if a selection appeared to stop just short of a waterbody or existing property boundary, the BLM might adjust the selection to avoid leaving a narrow strip outside the selection. Similarly, if the selection contained excessive corners or curved segments that did not correspond to existing property boundaries or significant natural features, such as waterbodies, the BLM might adjust the selection to simplify its boundaries. The BLM intends to use this authority sparingly; however, such authority is required in order to ensure that the remaining public lands outside the selection could be managed efficiently. Moreover, many of these issues that would be removed through this step are likely to be inadvertent, in which case applying this authority would result in better property boundaries in the interest of the applicant.

Next, under paragraphs (d) and (e) of this section, the BLM would send the applicant a Notice of Survey, informing the applicant of the lands that the BLM planned to survey, and provide the applicant an opportunity to challenge the Draft Plan of Survey. This step would allow the applicant to notify the BLM of any objections to the BLM's exercise of its adjustment authority under paragraph (c), or of any errors in the survey plan.

Paragraphs (f) and (g) of this section specify that the BLM would finalize the Plan of Survey and conduct the survey based on that plan.

Under paragraph (h), the BLM would inform the applicant of the survey results by sending him or her a document that shows the land surveyed and provide the applicant an opportunity to dispute any errors within 60 days.

Paragraph (i) of this section specifies that the BLM would then issue a Certificate of Allotment, as described in § 2569.506. This paragraph makes clear that the applicant would not receive title or any right to the land until the certificate is issued. This recognizes that situations may arise that show the BLM missed something in the adjudication process which would preclude issuing a certificate, even if it had finished all of the other enumerated steps above, and the applicant should not receive any right to the land. The BLM cannot convey land if at any point during the process it learns the conveyance would not meet the terms of the statute. Therefore, the applicant would not hold title to the land or have any rights to use it until he or she receives a Certificate of Allotment.

Finally, under paragraph (j) of this section, the BLM would remove the land selection from the MTP if an application is rejected. This would make the public aware that the land would be subject to the public land laws again.

§ 2569.502 What if more than one Eligible Individual applies for the same lands?

It is likely that two or more Eligible Individuals would select the same lands, in whole or part, and that the BLM would be required to decide which application would be accepted. The Dingell Act provides that if two or more Eligible Individuals submit an application for the same parcel of available Federal land, the BLM shall “give preference to the selection application received on the earliest date; and ... provide to each Eligible Individual the selection application of whom is rejected ... an opportunity to select a substitute parcel of available Federal land.”

In keeping with the statute, the BLM is proposing that first preference would be given to the complete application bearing the earliest receipt date. If two or more complete

applications bear an identical receipt date, and one or more application bears a legible postmark or shipping date, then it is proposed that preference would be given to the application with the earliest postmark or shipping date. If applications for the same land still were tied after reviewing the receipt date and postmark or shipping date, the BLM is proposing that a number in sequence would be issued to those applications that are still tied. The BLM would then run a random number generator to pick the application that would receive preference. The BLM would then issue a decision to all applicants with conflicting selections with the outcome of the BLM's determination of preference rights. An appeal of this decision could impact all conflicting applications. The proposed regulations specifically address an appeal of this decision at § 2569.801(b).

Applicants whose selections were in conflict with another application and who did not receive preference according to the methods described above would have to make a choice. Within 60 days of receipt of the BLM's notice, the applicant could provide the BLM a substitute selection that consists of either an adjustment to the original selection that avoids the conflict, or a new selection in another location. Such a substitute selection would be considered a new application, which would be assigned a new receipt date.

Under this option the applicant would need to submit the new land description and a new map but would not need to resubmit any other portions of their application.

Alternately, if only part of the selection were in conflict, the applicant could ask the BLM to keep processing the portion of the selection that is not in conflict. Under this option, the applicant would retain its original receipt date. However, the legislation only allows for one parcel of land to be selected and the applicant could not apply for more acreage later.

The applicant would have 60 days to make a choice after receiving the BLM's decision. If the applicant did not respond within that time, the BLM would issue a decision rejecting the application. The applicant could, however, then file a new application before the end of the application period.

§ 2569.503 What if my application includes lands that are not available Federal lands?

This section addresses what would happen if an applicant's selection included lands that were not available Federal lands. While the BLM is maintaining a mapping tool to help applicants identify available Federal lands, it recognizes that situations may arise where the applicant still applies for lands that were not available because the land status changed or the BLM later found the lands are not vacant. This situation could also arise where an applicant's selection is within State or Native corporation selected land and that entity refuses to relinquish its selection or the applicant applies for over 160 rods (one half-mile) worth of shoreline and the BLM could not issue a waiver under 43 CFR 2094.2 (see § 2569.407).

If an applicant's selection included lands that are not available Federal lands, the BLM is proposing that it would issue the applicant a decision informing the applicant that the lands selected are not available. The applicant would then have the same choices he or she would have under § 2569.503(b). The applicant could make a substitute selection that consists of an adjustment to his or her original selection that excludes the lands that are not available, or of a new selection in a different area. In either case, the new selection would be considered a new application, with a new receipt date. The applicant

would only need to submit a new land description and a new map, however, and would not need to resubmit any other portions of his or her application.

In the alternative, if only part of the applicant's selection is unavailable, the applicant could ask the BLM to continue processing the part of the selection that was within available Federal lands. The applicant would retain the original receipt date but would not be allowed to apply for more acreage later, since the Dingell Act only allows for one allotment for each Eligible Individual.

The applicant would have 60 days after receiving the BLM's decision to make a choice between these options. After 60 days, if the BLM did not receive a response, the application would be rejected. If the application were rejected, the applicant could file a new application for different lands before the end of the application period or appeal the decision, pursuant to § 2569.801.

§ 2569.504 Once I file, can I change my land selection?

Once an application has been received in accordance with § 2569.411, the applicant could only change his or her land selection if it was in conflict with another selection or if the selected land were not available Federal land. Allowing an applicant to change his or her land selection under other circumstances would require the BLM to expend a lot of resources when processing a selection, and may raise fairness issues, because the initial selection would segregate the land from future applicants selecting that land.

§ 2569.505 Does the selection need to be surveyed before I can receive title to it?

Yes. In order to accurately convey selected land, all land would have to be surveyed before the BLM could convey it to an Eligible Individual. The survey process is described in § 2569.501(g). The applicant would not have to pay for the survey.

§ 2569.506 How would the BLM convey the land?

The Act requires the BLM to issue a Certificate of Allotment to convey the land. Once the survey process is completed, a Certificate of Allotment would be issued to the applicant, or to the heirs of the estate of a deceased applicant. All Certificates of Allotment would be made subject to any valid existing rights and would reserve all minerals to the United States. The Certificate of Allotment is a specific type of conveyance instrument that includes a recitation similar to that found in Certificates of Allotment issued under the Alaska Native Allotment Act, which states: “The land above-described shall be deemed the homestead of the allottee and his or her heirs in perpetuity and shall be inalienable and nontaxable until otherwise provided by Congress or until the Secretary of the Interior or his or her delegate, pursuant to the provision of the Act of May 17, 1906, as amended, approves a deed of conveyance vesting in the purchaser a complete title to the land.”

§ 2569.507 What should I do if the Eligible Individual dies or becomes incapacitated during the application process?

This section deals with situations in which an Eligible Individual begins the application process but dies or becomes incapacitated before completing the process. In most cases, in order to complete the application process, a personal representative (in the case of a deceased applicant) or a guardian, conservator, or attorney-in-fact (in the case of an incapacitated applicant) would be required to be appointed to continue the application process.

Under paragraphs (a) and (b), the general provisions for an individual who dies or becomes incapacitated during the application process would be the same as the provisions

for an individual who dies or becomes incapacitated before the application begins (see § 2569.303). Specifically, a personal representative, guardian, conservator, or attorney-in-fact would be required to provide the materials described in § 2569.404(b). Note that an applicant may choose to appoint an attorney-in-fact for reasons other than incapacitation. In such a case, the applicant should follow the instructions in paragraph (b).

Paragraph (c) deals with the situation in which a deceased or incapacitated applicant has been sent a notice or decision from the BLM that requires prompt action, but no personal representative, guardian, or conservator has been appointed, or no attorney-in-fact has been designated. The BLM would allow any individual who receives the notice, or an employee of the BIA or a Realty Service Provider, to make a request for the application to be held in abeyance while a personal representative, guardian, conservator, or an attorney-in-fact is appointed. Under these circumstances, after receiving such a request, the BLM proposes to extend the time for responding to the BLM notice or decision for up to two years in order to allow for such a person to be appointed.

Paragraph (d) of this section deals with two situations in which an applicant would be allowed, but not required, to respond to a notice from the BLM. If the applicant (or his or her estate) wished to accept the BLM's determination, then no further action would be required, and no personal representative, guardian, conservator, or attorney-in-fact would need to be designated or appointed. Conversely, if the applicant (or his or her estate) wished to respond and dispute or take other action on the determination, then a personal representative, guardian, conservator, or attorney-in-fact would have to be designated or appointed, as described above. If the applicant were to die and the estate did not appoint

a personal representative, as permitted under this paragraph, then the Certificate of Allotment would issue in the name of the applicant, rather than his or her estate.

Paragraph (e) of this section clarifies that outside of the circumstances described in paragraphs (b), (c), and (d), the BLM would not accept any correspondence on behalf of an applicant from any person other than the applicant or a duly appointed personal representative, guardian, conservator, or attorney-in-fact.

Available Federal Lands - General

§ 2569.601 **What lands are available for selection**

The Dingell Act defines the lands that are available to be conveyed, and the BLM has no role in determining the lands available for selection through these regulations. The BLM is only identifying the lands that meet the definition of the Dingell Act. The lands must be federally owned lands in Alaska that are vacant, unappropriated, and unreserved, and certified as free of known contaminants. Unless Congress makes new lands available in the future, these lands are only those managed by the BLM. The Dingell Act also makes lands available that are selected, but not conveyed to, the State of Alaska or an Alaska Native Corporation, but only if the State or Native corporation chooses to relinquish its selection. Lands which the BLM cannot certify as free of known contaminants under § 2569.602 would also not be available.

The Dingell Act also states the lands cannot be in the right-of-way of the Trans Alaska Pipeline; the inner or outer corridor of such a right-of-way; withdrawn or acquired for purposes of the Armed Forces; under review for a pending right-of-way for a natural gas corridor; within the Arctic National Wildlife Refuge; within a unit of the National Forest System; designated as wilderness by Congress; within a unit of the National Park System,

a National Preserve, or a National Monument; within a component of the National Trails System; within a component of the National Wild and Scenic Rivers System; or within the National Petroleum Reserve in Alaska.

The BLM maintains an online map identifying the available Federal lands that is accessible at www.blm.gov/ak-native-vietnam-vet-land-allotment-2019 or directly at <https://arcg.is/1HTrrO>. For those without access to the internet, a physical copy of the map of available Federal lands could be requested by either calling the BLM Alaska Public Room, the BIA Regional Realty Office or Fairbanks Agency Office, or your local BIA Service Provider, or by requesting a physical copy in person at any of the offices listed above under § 2569.412.

§ 2569.602 How will the BLM certify that the land is free of known contaminants?

The BLM would review the databases listed in the regulation for contamination reports. If there were information indicating that the land is potentially contaminated in any of the databases, the land would not be available for selection. The BLM would not be able to provide warranty that the land is free from contamination beyond what is discernible from these databases.

Commenters are encouraged to suggest any other sources the BLM should review before it certifies the lands as free from contamination.

§ 2569.604 Are lands that are valuable for minerals available?

The BLM can convey an allotment that is valuable for minerals, but the ownership of the minerals would remain with the Federal Government.

§ 2569.605 What happens if new lands become available?

If new lands were to become available due to action by Congress or otherwise, such as the BLM rejecting over-selections, or the State or Native corporations relinquishing over-selections, the BLM would first review those lands for any known contamination as described in § 2569.602. The BLM would then update the map tool at <https://arcg.is/1HTrrO> and its records to show those additional lands that would become available for selection. If an Eligible Individual did not have a pending selection, the individual could apply for these newly available Federal lands.

NATIONAL WILDLIFE REFUGE SYSTEM

§ 2569.701 If Congress makes lands available within a National Wildlife Refuge, what additional rules apply?

Currently, no lands are available within National Wildlife Refuges. The Dingell Act, however, requires the U.S. Fish and Wildlife Service to conduct a study to determine whether any additional Federal lands within units of the National Wildlife Refuge System in the State should be made available for allotment selection. If a subsequent act of Congress were to make lands available within a Refuge, the Dingell Act requires that lands conveyed within a National Wildlife Refuge include patent provisions that the land remain subject to the laws and regulations governing the use and development of the Refuge.

If any such lands were made available by Congress, the BLM would update the list of available Federal lands as described in § 2569.605.

APPEALS

§ 2569.801 What can I do if I disagree with any of the decisions that are made about my allotment application?

If any party is adversely affected by a decision issued by the BLM under these regulations, that party may appeal the decision to the Interior Board of Land Appeals by filing a notice of appeal in the manner set forth in 43 CFR Part 4. The appellant would have the burden of showing that the decision appealed was in error. Failure to file a notice of appeal with the BLM within the time allowed would result in dismissal of the appeal. In order to avoid dismissal of the appeal, strict compliance with the regulations at 43 CFR Part 4 and DOI Form 1842-1, "INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS" would be required.

Paragraph (b) of this section addresses appeals of decisions made pursuant to § 2569.502(b), when more than one applicant applies for the same land. The BLM addresses this topic separately in the regulations because the applicant that receives preference for the lands could be harmed by the delay caused while a decision is being appealed by another applicant. Therefore, unless the BLM's decision were stayed on appeal pursuant to 43 CFR 4.21, the BLM would continue to process the application that received preference, and any substitute selection made by the applicant who did not receive preference. This approach is consistent with 43 CFR 4.21(a)(2), which states, "A decision will become effective on the day after the expiration of the time during which a person adversely affected may file a notice of appeal unless a petition for a stay pending appeal is filed together with a timely notice of appeal." A Petition for Stay, which must occur early in the process, requires the appellant to demonstrate he or she has a reasonable likelihood to win on the merits. If the appellant could not show a likelihood to win on the merits, the Board would not stay the decision and the BLM would continue to process the application of the applicant with preference, and potentially convey the

land despite the ongoing appeal. This provision also makes it clear that the losing party would still have the right to select a substitute parcel following the appeal.

Paragraph (c) of this section similarly informs a potential appellant that the lands included in his or her selection would become available for all future entries, such as another allotment application or a mining claim, if the decision rejecting his or her application were not stayed. A Petition for Stay, which must occur early in the process, would require the appellant to demonstrate that he or she has a reasonable likelihood to win on the merits. If the appellant could not show a likelihood to win on the merits, the BLM would not continue to segregate the land from future entries. This paragraph also informs the applicant that he or she would lose the preference right if he or she is not granted a stay, even if he or she wins his appeal. This would ensure that a later applicant who believed the land was open for entry due to the BLM lifting the segregation did not lose his or her selection when the appeal was decided. It would be inequitable for a good faith applicant to lose his or her rights to the land where the appellant could protect his rights by filing a Petition for Stay.

IV. Procedural Matters

Regulatory Planning and Review Executive Orders 12866 and 13563

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. These draft regulations are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, reduce uncertainty, and use the best,

most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rule-making process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

These draft regulations would not have an effect of \$100 million or more on the economy and will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The effect of these draft regulations would be on a limited number of individuals who are qualified to apply for allotments and on the Interior Department agencies responsible for administering the allotment program. The allotment application period is limited by law to 5 years. The regulations create simple adjudication tasks for BLM staff to implement the Dingell Act.

For more detailed information, see the Regulatory Impact Analysis (RIA) prepared for this proposed rule. The RIA has been posted in the docket for the proposed rule on the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Searchbox, enter "RIN1004-AE66," click the "Search" button, open the Docket Folder, and look under Supporting Documents.

Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)

This rule is not a significant regulatory action under E.O. 12866, and therefore is not considered an E.O. 13771 regulatory action.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980, as amended (5 U.S.C. 601 *et seq.*), to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. This proposed rule would apply only to certain Alaska Native veterans eligible to apply for allotments and applies only to Alaska Native veterans as individuals. Therefore, the Department of the Interior certifies that this document would not have any significant impacts on small entities under the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2)). This rule:

- (a) Will not have an annual effect on the economy of \$100 million or more.
- (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- (c) Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

The BLM is proposing regulations to implement Section 1119 of the Dingell Act, which provides an additional opportunity for Alaska Native veterans who have not applied for or received allotments under prior laws to apply for allotments. This rule will have no significant economic impact. This rule will specify the procedures under which

applications for allotments under Section 1119 of the Dingell Act are submitted and processed. Processing of these applications by the BLM will result in the transfer of lands selected by veterans from the Federal Government to the veterans, as required by Congress. Submitting and processing these applications will result in minor costs to the applicants and to the government.

Unfunded Mandates Reform Act

This proposed rule would not impose an unfunded mandate on State, local, tribal governments, or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments, or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

This proposed rule would not affect a taking of private property or otherwise have taking implications under E.O. 12630. Section 2(a) of E.O. 12630 identifies policies that do not have takings implications, such as those that abolish regulations, discontinue governmental programs, or modify regulations in a manner that lessens interference with the use of private property.

Under the proposed rules, lands selected by an applicant must be federally owned lands in the State of Alaska that are vacant, unappropriated, and unreserved. An applicant may select, in whole or in part, land that has been selected by the State or a Native corporation, but has not yet been conveyed to that entity; however, the State or Native corporation must choose to make that land available by relinquishing their selection.

The proposed rule would not affect private property rights. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

A federalism assessment is not required because the rule would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Civil Justice Reform (Executive Order 12988)

This proposed rule complies with the requirements of Executive Order 12988.

Specifically, this proposed rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards

Consultation with Indian Tribes (Executive Order 13175 and Departmental Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. This proposed rule complies with the requirements of Executive Order 13175 and Department of the Interior Secretarial Order 3317. Specifically, while preparing this proposed rule, the BLM

initiated consultation with potentially affected tribes. Examples of consultation to date include written correspondence, and meetings and discussions about objectives of this rulemaking effort with representatives of tribal governments.

Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

This proposed rule contains new information collections. All information collections require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number.

The information collection requirements identified below associated with the Alaska Native Vietnam Veteran Land Allotment Program require approval by OMB:

(1) ***Provide Proof of Eligibility (43 CFR 2569.302)*** – Section 2569.302 would allow individuals who believe that they are eligible to participate in the program, but who have not been automatically notified by the BLM that they are eligible, to apply for an allotment. Such individuals would be required to provide with their application supporting documents to prove they are eligible, such as a Certificate of Degree of Indian Blood, and a Certificate of Release or Discharge from Active Duty (Form DD-214).

(2) ***Appointment of Personal Representative/Guardian/Attorney-in-fact (43 CFR 2569.303 and 2569.404)*** – Section 2569.303 would allow another person to apply for an allotment on behalf of an Eligible Individual. A personal representative of the estate of an Eligible Individual could apply for an allotment for the benefit of the estate. The personal representative must be appointed in an appropriate Alaska State court by either a judge in the formal probate process or the registrar in the informal probate

process. A court-appointed guardian or conservator or an attorney-in-fact of an Eligible Individual could apply for an allotment for the benefit of the Eligible individual. Similarly, under § 2569.507 if an applicant dies or becomes incapacitated before completing the application process, a personal representative, guardian, conservator, or attorney-in-fact could be appointed to continue to represent the applicant or the applicant's estate.

Section 2569.404 identifies the information and documents that applicants would be required to include on their initial application form under various applicant scenarios. This form would collect basic contact information, along with the Eligible Individual's date of birth, and:

- A map showing the location of the requested allotment, along with a written description of the land requested. The BLM will provide an internet-based mapping tool with the identified available Federal lands;
- Appropriate documentation proving that the Eligible Individual is an Alaska Native;
- Appropriate documentation proving that the Eligible Individual is a Veteran who served during the Vietnam Conflict (between August 5, 1964, and December 31, 1971).
- If applicable, documentation from an Alaska State Court that shows that a personal representative, guardian/conservator, or attorney-in-fact is authorized to file the application or pursue an already-filed application on behalf of the Eligible Individual or his/her estate.

If additional time is needed for the applicant or the applicant's heirs to arrange for a personal representative, guardian, conservator, or attorney-in-fact to be appointed, the BLM would allow the applicant, an employee of the BIA, or a Realty Service Provider to request that the application be held in abeyance for 2 years.

NOTE: With regard to the application process, section 2569.407 specifies that if an applicant's selection contains more than 160 rods (one-half mile) of water frontage, the BLM will automatically request the Secretary to waive the 160-rod limitation contained in Section 1 of the Act of May 14, 1898 (48 U.S.C. 371).

(3) ***Request for 2-year Extension of Application Deadline (43 CFR 2569.401 and 2569.507)*** – Section 2569.401 would set a 5-year deadline for Eligible Individuals, their heirs, or representatives to submit initial applications. In the case of those who submit applications that are incorrect, incomplete, or conflict with other selections, Eligible Individuals would have 60 days after the BLM notifies them of these defects to submit corrected, completed, or substitute applications. This period may be extended for up to 2 years in order to allow a personal representative, guardian, conservator, or attorney-in-fact to be appointed. (see §§ 2569.410, 2569.502, and 2569.503) (This two-year extension language appears in both 2569.401(b) and 2569.507(c) reg text. The preamble in the proposed rule discusses the two-year extension under the 2569.401 discussion and includes the .507(c) citation.)

(4) ***Allotment Application – Form BLM No. AK-2469 (43 CFR 2569.402 and 2569.404)*** – Section 2569.402 would require applicants to fill out and sign an application form (BLM No. AK-2569). The requirements associated with 2569.404 are specified above.

Section 2569.403 would require the BLM to directly mail a copy of the application form to those persons who have been preliminarily identified as Eligible Individuals through the process described in § 2569.301. The applications would be mailed to the most recent addresses on file with the VA, BIA, and the BLM. This section also identifies locations where copies of the application form would be available for applicants who do not receive an application in the mail.

(5) ***Multiple App Applications That Include Selected State and Native Corporation Lands (43 CFR 2569.405)*** – If an applicant requests land previously selected by, but not yet conveyed by the Federal Government to the State or a Native corporation, the applicant, or the BLM acting on behalf of the applicant, could request that the State or Native Corporation relinquish the land to the applicant. This relinquishment would be conditioned upon the applicant successfully completing the application process. In conjunction with this rulemaking, the BLM anticipates that the State and Native corporations would also issue blanket conditional relinquishments of certain selected unconveyed lands. These blanket relinquishments also would take effect only if valid applications for these lands are successfully completed.

Upon receipt of an application requesting State or Native Corporation selected, unconveyed lands, if the application does not include a relinquishment request from either the State or Naive Corporation, the BLM would automatically request such relinquishment on behalf of the applicant. The BLM must receive a valid relinquishment from the State or Native Corporation, agreeing to relinquish the land to the applicant before approving the application. Following existing Alaska Conveyance Program policy, the relinquishment would be in the form of a letter from the State or Native

Corporation, and must include the legal description of the parcel the entity is willing to relinquish. The letter must also describe the conditions, if any, for the relinquishment. If the relinquishment is by a Native corporation, the letter must be accompanied by a board resolution authorizing the relinquishment and granting the person signing the letter authority to do so.

If an application requests land covered by a blanket State or Native corporation relinquishment, a relinquishment letter and a Native corporation board resolution would not be required.

(6) ***Correcting Technical Errors on Applications (43 CFR 2569.410)*** – If the BLM finds a technical error in an application, such as an incomplete or unsigned application, it would notify the applicant. The applicant would then have 60 days after receiving notification to correct the error.

(7) ***Correcting Errors in Survey-related Documents (43 CFR 2569.501)*** – After receiving an application, reviewing the legal description of the land requested, and making minor boundary adjustments, if needed, the BLM would send the applicant a Notice of Survey, informing the applicant of the shape and location of the lands the BLM planned to survey. The applicant would have an opportunity to challenge, in writing, the draft Plan of Survey within 60 days of receipt of the BLM's notice.

(8) ***Substitute Selections – Multiple Applications on Same Lands (43 CFR 2569.502)*** – If two or more Eligible Individuals select the same lands, in whole or in part, the BLM would decide which application would be given preference based on either submission dates and times, or a lottery. The non-preferred applicants could, within 60 days of receipt of the BLM's decision, either provide the BLM a new substitute selection

or request that the BLM continue to adjudicate the non-conflicting portion of the selection.

If a non-preferred applicant does not respond to the BLM's decision within 60 days, the BLM would reject the application and the Eligible Individual could file a new application for different lands before the end of the five-year program.

Upon completion of the survey, the BLM would mail the applicant a document titled Conformance to Plat of Survey. If the applicant found an error in the way the BLM surveyed the land, based on the Plan of Survey, the applicant could dispute the survey in writing within 60 days of receipt of the Conformance of Plat of Survey.

(9) ***Substitute Selections and Requests for Partial Adjudication (2569.502 and 43 CFR 2569.503)*** – If an Eligible Individual's selection includes lands that are not available Federal lands, the BLM would issue a decision informing the applicant that the land is unavailable. The applicant could, within 60 days of receipt of the BLM's decision either provide the BLM a new substitute selection or request that the BLM continue to adjudicate the portion of the selection that is within available Federal lands.

If the applicant fails to respond within 60 days of receipt of the BLM's decision, the BLM will reject the initial application and the Eligible Individual could file a new application for different lands before the end of the five-year application period.

(10) ***Appeals of BLM Decisions (43 CFR 2569.502, 2569.503, and 2569.801)***
– Applicants would be allowed to appeal any of the BLM's decisions regarding their applications to the Interior Board of Land Appeals as provided for under 43 CFR part 4. If the applicant is a non-preferred applicant under proposed 43 CFR 2569.502, the losing applicant could select a substitute parcel under proposed § 2569.502(b).

Title of Collection: Alaska Native Vietnam Era Veterans Land Allotment.

OMB Control Number: 1004-New.

Form Number: None.

Type of Review: New.

Respondents/Affected Public: Individuals and State/Local/Tribal governments.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: On occasion.

Estimated Annual Nonhour Burden Cost: \$55,000 (associated with court fees and miscellaneous expenses).

Requirement	Estimated Annual Number of Responses	Estimated Annual Hours per Response	Estimated Total Annual Burden Hours*
<i>Provide Proof of Eligibility (43 CFR 2569.302)</i>			
Individuals/Households	50	2	100
<i>Appointment of Personal Representative/Guardian/Attorney-in-fact (43 CFR 2569.303 and .404)</i>			
Individuals/Households	200	2.5	500
<i>Request for 2-year Extension of Application Deadline (43 CFR 2569.401 and 2569.507)</i>			
Individuals/Households	20	.5	10
<i>Allotment Application (43 CFR 2569.402 and 2569.404)</i>			
Individuals/Households	500	4.5	2,250
<i>State/Native Corporation Relinquishments (43 CFR 2569.405)</i>			
State/Local/Tribal Governments	75	2	150
<i>Correcting Technical Errors on Applications (43 CFR 2569.410)</i>			
Individuals/Households	175	2	350
<i>Correcting Errors in Survey-related Documents (43 CFR 2569.501)</i>			
Individuals/Households	20	2	40
<i>Substitute Selections – Multiple Applications on Same Lands (43 CFR 2569.502)</i>			
Individuals/Households	150	2	300
<i>Substitute Selections and Requests for Partial Adjudication (2569.502 and 43 CFR 2569.503)</i>			
Individuals/Households	15	.5	8
<i>Appeals of BLM Decisions (43 CFR 2569.502, 2569.503, 2569.801)</i>			
Individuals/Households	60	2	120
<i>Totals:</i>	<i>1,265</i>		<i>3,828</i>

*Rounded

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of this information collection, including:

- (1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;
- (2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

Send your comments and suggestions on this information collection by the date indicated in the DATES section to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or OIRA_Submission@omb.eop.gov (email).

Please indicate “Attention: OMB Control Number 1004–AE66” regardless of the method used to submit comments on the information collection burdens. If you submit comments on the information-collection burdens, you should provide the BLM with a copy, at one of the addresses shown earlier in this section, so that we can summarize all

written comments and address them in the final rulemaking. Comments not pertaining to the proposed rule's information-collection burdens should not be submitted to OMB.

The BLM is not obligated to consider or include in the Administrative Record for the final rule any comments that are improperly directed to OMB. You may view the information collection request(s) at <http://www.reginfo.gov/public/do/PRAMain>.

National Environmental Policy Act

The BLM does not believe this proposed rule would constitute a major Federal action significantly affecting the quality of the human environment, and has prepared preliminary documentation to this effect, explaining that a detailed statement under the National Environmental Policy Act (NEPA) would not be required because the proposed rule is categorically excluded from NEPA review. This proposed rule would be excluded from the requirement to prepare a detailed statement because, as proposed, it would be a regulation entirely procedural in nature. (For further information see 43 CFR 46.210(i)).

We have also determined, as a preliminary matter, that the proposed rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Documentation of the proposed reliance upon a categorical exclusion has been prepared and is available for public review with the other supporting documents for this proposed rule.

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in E.O. 13211. Therefore, a Statement of Energy Effects is not required.

Clarity of this Regulation

We are required by E.O.s 12866 (section 1 (b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you believe that we have not met these requirements, send us comments by one of the methods listed in the "ADDRESSES" section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Author

The principal authors of this proposed rule are: Paul Krabacher and Candy Grimes, Division of Lands and Cadastral Survey; assisted by the Office of the Solicitor.

Casey Hammond
Principal Deputy Assistant Secretary
Exercising the Authority of the Assistant Secretary, Land and Minerals Management

List of Subjects in 43 CFR Part 2560

Alaska, Homesteads, Indian-lands, Public lands-sale, and Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the BLM proposes to amend 43 CFR part 2560 as follows:

1. The authority citation for part 2560 is revised to read as follows:

Authority: 43 U.S.C. 1201, 1740.

2. Add subpart 2569 to read as follows:

Subpart 2569-- Alaska Native Vietnam-Era Veterans Land Allotments

Sec.

GENERAL PROVISIONS

2569.100 What is the purpose of this subpart?

2569.101 What is the legal authority for this subpart?

2569.201 What terms do I need to know to understand this subpart?

WHO IS QUALIFIED FOR AN ALLOTMENT

2569.301 How will the BLM let me know if I am an Eligible Individual?

2569.302 What if I believe I am an Eligible Individual, but I was not notified by the BLM?

2659.303 Who may apply for an allotment under this subpart on behalf of another person?

Applying for an Allotment

2569.401 When can I apply for an allotment under this subpart?

2569.402 Do I need to fill out a special application form?

2569.403 How do I obtain a copy of the application form?

2569.404 What must I file with my application form?

2569.405 What are the special provisions that apply to selections that include State or Native corporation selected land?

2569.406 What are the rules about the number of parcels and size of the parcel for my selection?

2569.407 Is there a limit to how much water frontage my selection can include?

2569.408 Do I need to pay any fees when I file my application?

2569.409 Where do I file my application?

2569.410 What will the BLM do if it finds a technical error in my application?

2569.411 When is my application considered received by the BLM?

2569.412 Where can I go for help with filling out an application?

2569.413 How will I receive notices and decisions?

Processing the Application

- 2569.501 What will the BLM do with my application after it is received?
- 2569.502 What if more than one Eligible Individual applies for the same lands?
- 2569.503 What if my application includes lands that are not available Federal lands?
- 2569.504 Once I file, can I change my land selection?
- 2569.505 Does the selection need to be surveyed before I can receive title to it?
- 2569.506 How will the BLM convey the land?
- 2569.507 What should I do if the Eligible Individual has died or become incapacitated during the application process?

Available Federal Lands – General

- 2569.601 What lands are available for selection?
- 2569.602 How will the BLM certify that the land is free of known contamination?
- 2569.604 Are lands that are valuable for minerals available?
- 2569.605 What happens if new lands become available?

National Wildlife Refuge System

- 2569.701 If Congress makes lands available within a National Wildlife Refuge, what additional rules apply?

Appeals

- 2569.801 What can I do if I disagree with any of the decisions that are made about my allotment application?

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

Subpart 2569 - Alaska Native Vietnam-Era Veterans Land Allotments

GENERAL PROVISIONS

§ 2569.100 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

§ 2569.101 What is the legal authority for this subpart?

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

§ 2569.201 What terms do I need to know to understand this subpart?

Allotment is an allocation to an Alaska Native of land which shall be deemed the homestead of the allottee and his or her heirs in perpetuity, and shall be inalienable and nontaxable except as otherwise provided by the Congress;

Available Federal lands means land in Alaska that meets the requirements of 43 U.S.C. 1629g-1(a)(1) and that the BLM has certified to be free of known contamination;

Eligible Individual means a Native Veteran who meets the qualifications listed in 43 U.S.C. 1629g-1(a)(2), and does not have a pending application and 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);

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));

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);

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;

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;

Segregate has the same meaning as in 43 CFR 2091.0-5(b);

Selection means an area of land that has been identified in an application for an allotment under this part;

State means the State of Alaska;

State or Native corporation selected land means land that is selected, as of the receipt 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 and 1613, and that has not been conveyed to the State or Native corporation;

Valid relinquishment means a signed document from a person authorized by a board resolution from a Native corporation or the State that terminates its rights, title and interest in a specific area of Native corporation or State selected land. A relinquishment may be conditioned upon conformance of a selection to the Plat of Survey and the identity of the individual applicant; and

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, during the period between August 5, 1964, and December 31, 1971.

WHO IS QUALIFIED FOR AN ALLOTMENT

§ 2569.301 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 individuals whom it believes to be Eligible Individuals. If the BLM identifies you as a presumed Eligible Individual, it will inform you by letter at your last address of record with the BIA or the VA. Even if you are identified as presumptively eligible, you still must certify in the application that you do meet the criteria of the Dingell Act.

§ 2569.302 What if I believe I am an Eligible Individual, but I was not notified by the BLM?

If the BLM has not notified you that it believes that you are an Eligible Individual, you may still apply for an allotment under this subpart. However, as described in §2569.404(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 your military service.

§ 2569.303 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 may apply for an allotment for the benefit of the estate. The personal representative must be appointed in an appropriate Alaska State court by either a judge in the formal probate process or the registrar in the informal probate process. The

Certificate of Allotment will be issued in the name of the heirs, devisees, and/or assigns of the deceased Eligible Individual.

- (b) A court-appointed guardian or conservator or an 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

§ 2569.401 When can I apply for an allotment under this subpart?

- (a) You can apply between [EFFECTIVE DATE OF THE FINAL RULE] and [DATE 5 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE].
- (b) Notwithstanding paragraph (a) of this section, in the case of a corrected or completed application or of an application for a substitute selection for resolution of a conflict or an unavailable land selection, you can submit a corrected, completed, or substitute application within 60 days of receiving the notice described in § 2569.410, 2569.502(b), or 2569.503(a), respectively. This period may be extended for up to two years in order to allow a personal representative, guardian, conservator, or attorney-in-fact to be appointed, as provided in § 2569.507(c).
- (c) Except as set forth in paragraph (b) of this section, the BLM will issue a decision rejecting any application received after [DATE 5 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE].

§ 2569.402 Do I need to fill out a special application form?

Yes. You must complete and sign BLM Form No. AK-2569-[OMB NUMBER], “Alaska Native Vietnam-Era Veteran Land Allotment Application.”

§ 2569.403 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 § 2569.301. If you 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 on the internet at www.blm.gov/ak-native-vietnam-vet-land-allotment-2019.

§ 2569.404 What must I file with my application form?

- (a) You must include the following along with your signed application form:
 - (1) A map showing the selection you are applying for:
 - (i) Your selection must be drawn on a map in sufficient detail to locate the selection on the ground.
 - (ii) You must draw your selection on a map that is either a topographic map or a printout of a map that shows the section lines from the BLM mapping tool, available at www.blm.gov/ak-native-vietnam-vet-land-allotment-2019.
 - (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. The submitted map will be given preference if there is a conflict between the written description and the submitted map, unless you specify otherwise.
- (b) In addition to the materials described in paragraph (a) of this section, you must also provide the following materials, under the circumstances described in this paragraph (b):
 - (1) If you, or the person on whose behalf you are applying, are an Eligible Individual as described in § 2569.301, and were not notified by the BLM of

your eligibility, you must provide proof that you, or the person on whose behalf you are applying, are an Eligible Individual, consisting of:

- (i) A Certificate of Degree of Indian Blood or other documentation from the BIA to verify that you (or the person on whose behalf you are applying) are an Alaska Native; and
 - (ii) A Certificate of Release or Discharge from Active Duty (Form DD-214) or other documentation from DoD to verify that you (or the person on whose behalf you are applying) are a Veteran and served between August 5, 1964 and December 31, 1971.
- (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 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 of law, 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.

- (c) You must sign the application, certifying that all the statements made in the application are true, complete, and correct to the best of your knowledge and belief and are made in good faith.

§ 2569.405 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 for which the State or Native corporation has issued a blanket conditional relinquishment as shown on the mapping tool available at <http://www.blm.gov/ak-native-vietnam-vet-land-allotment-2019>.
- (b) No such relinquishment may cause a Native corporation to become underselected. See 43 U.S.C. 1621(j)(2) for a definition of underselection.
- (c) An application for Native corporation or State selected land will segregate the land from any future entries on the land once the BLM receives a valid relinquishment.
- (d) If the State or Native corporation is unable or unwilling to provide a valid relinquishment, the BLM will issue a decision finding that your selection

includes lands that are not available Federal lands and then follow the procedures set out at § 2569.503.

§ 2569.406 What are the rules about the number of parcels and size of the parcel for my selection?

- (a) You may apply for only one parcel.
- (b) The parcel cannot be less than 2.5 acres or more than 160 acres.

§ 2569.407 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 (one half-mile) in the regulations at 43 CFR subpart 2094. If you apply for land that extends more than 160 rods (one half-mile), the BLM will treat your application as a request to waive this limitation. As explained in 43 CFR 2094.2, the BLM can waive the half-mile limitation if the BLM determines the land is not needed for a harborage, wharf, or boat landing area, and that a waiver will not harm the public interest. If the BLM determines it cannot waive the 160-rod (one half-mile) limitation, the BLM will issue a decision finding your selection includes lands that are not available Federal lands and then follow the procedures set out at § 2569.503.

§ 2569.408 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.

§ 2569.409 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 Alaska, Public Information Center, 222 West 7th Avenue, Anchorage, Alaska 99513-7504.

§ 2569.410 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 or unsigned application form or missing materials that are required by §2569.402, 2569.404 or 2569.405, then the BLM will send you a notice identifying any correctable errors or omissions. You will have 60 days from the date you received the notice to correct the errors or provide the omitted materials. You will be required to 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. Your corrected or completed application will be deemed received, for purposes of preference, on the date that the last correction is received, as set forth in § 2569.411.

§ 2569.411 When is my application considered received by the BLM?

- (a) An application that is free from technical errors, as described in § 2569.410, will be deemed received on the receipt date, except that if such an application is received before (EFFECTIVE DATE OF THE FINAL RULE), the application will be deemed received on (EFFECTIVE DATE OF THE FINAL RULE).
- (b) An application that contains technical errors, as described in § 2569.410, 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 § 2569.502, or for correction of an unavailable lands selection under § 2569.503, the substitute application will be deemed received on the receipt date of the substitute selection application.

§ 2569.412 Where can I go for help with filling out an application?

You can receive help with your application at:

- (a) The BIA or a BIA Realty Service Provider for your home area or where you plan to apply. To find the list of the BIA Realty Service Providers, go to <https://www.bia.gov/regional-offices/alaska/real-estate-services/tribal-service-providers> or call 907-271-4104 or 1-800-645-8465;

- (b) The BLM Alaska Public Room:

The Anchorage Public Room located at 222 West 7th Avenue, Anchorage, Alaska 99513-7504, by email at AK_AKSO_Public_Room@blm.gov, by telephone at 907-271-5960, Monday through Friday from 8:00 am to 4:00 pm excluding Federal Holidays

The Fairbanks Public Room located at 222 University Ave, Fairbanks, Alaska 99709, by email at BLM_AK_FDO_generaldelivery@blm.gov or by telephone at 907-474-2252 or 2200, Monday through Friday from 7:45 am to 4:30 pm excluding Federal Holidays;

- (c) The following BLM Field Offices:

Anchorage Field Office located at 4700 BLM Road, Anchorage, Alaska, by email at blm_ak_afo_general_delivery@blm.gov, by phone 907-267-1246, Monday through Friday from 7:30 am to 4:00 pm excluding Federal Holidays

Glennallen Field Office located at Mile Post 186.5 Glenn Highway, by email at blm_ak_gfo_general_delivery@blm.gov, by phone 907-822-3217, Monday through Friday 8:00 am to 4:30 pm excluding Federal Holidays

Nome Field Station located at the U.S. Post Office Building, by phone 907-443-2177, Monday through Friday excluding Federal holidays;

- (d) Your local VA office; and
- (e) Online at the BLM website which gives answers to frequently asked questions and a mapping tool which will show the available Federal lands and provide online tools for identifying and printing your selection: www.blm.gov/ak-native-vietnam-vet-land-allotment-2019.

§ 2569.413 How will I receive notices and decisions?

- (a) The BLM will provide all notices and decisions by Certified Mail with Return Receipt to your address of record.
- (b) Where these regulations specify that you must take a certain action within a certain number of days of receiving a notice or decision, the BLM will determine the date on which you received the notice or decision as follows:
 - (i) If you sign the Return Receipt, the date on which you received the notice or decision will be the date on which you signed the Return Receipt.
 - (ii) If the notice or decision is returned as undelivered, or if you refuse to sign the Return Receipt, the BLM will make a second attempt by an alternative method. If the second attempt succeeds in delivering the notice or decision, the BLM will deem the notice or decision to have been received

on the date when the notice or decision was delivered according to the mail tracking system.

(iii) If the notice or decision is returned as undelivered following the second attempt, the BLM may issue a decision rejecting your application.

(c) You have a duty to keep your address up to date. If your mailing address or other contact information changes during the application process, please notify the BLM by mail at the address provided in §2569.409(a), or by telephone at 907-271-5960. If you notify the BLM by mail, please prominently include the words “Change of Contact Information” in your letter.

PROCESSING THE APPLICATION

§ 2569.501 What will the BLM do with my application after it is received?

After your application is deemed received in accordance with § 2569.411, 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) The BLM will then determine whether the selection includes only available Federal lands or if the selection conflicts with any other applicant’s selection. The BLM will also review its records and aerial imagery to identify, to the extent it can, any valid existing rights that exist within the selection.
- (c) The BLM may make minor adjustments to the shape and description of your selection to match existing property boundaries, roads, or meanderable waterbodies, or to reduce the number of corners or curved boundary segments.

- (d) After any adjustments have been made, the BLM will send you a Notice of Survey to 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) A Draft Plan of Survey; and
 - (5) A list of valid existing rights that the BLM has identified within the selection.
- (e) The Notice of Survey 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 the BLM's notice. If no challenge is received within 60 days, the BLM will deem the Draft Plan of Survey to have been accepted.
- (f) The 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) of this section.
- (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) If you found an error in the way the BLM surveyed the selection based on the Plan of Survey, provide an opportunity to dispute the survey in writing within 60 days of receipt of the Conformance of Plat of Survey. If no notice of dispute is received within 60 days, the BLM will deem the survey to have been accepted.
- (i) The BLM will issue a Certificate of Allotment. No right or title of any sort will vest in the selection until the Certificate of Allotment is issued.
- (j) If an application is rejected for any reason, the BLM will remove the corresponding selection from the MTP to make the public aware that the land is no longer segregated from the public land laws.

§ 2569.502 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) Assign to any applications for the same land that are still tied after the criteria in paragraphs (a)(1) and (2) of this section are applied a number in sequence, and run a random number generator to pick the application that will receive preference.

- (4) For purposes of paragraphs (a)(1) and (2) of this section, an application received, postmarked, or shipped before (EFFECTIVE DATE OF THE FINAL RULE) will be deemed to have been received, postmarked, or shipped on (EFFECTIVE DATE OF THE FINAL RULE).
- (b) The BLM will issue a decision to all applicants with conflicting selections setting out the BLM's determination of preference rights. Applicants who do not have preference must make one of the following choices:
- (1) Provide the BLM a substitute selection within 60 days of receipt of the BLM's decision. The substitute selection may consist of either an adjustment to the original selection that avoids the conflict, or a new selection located somewhere else. The substitute selection will be considered a new application for purposes of preference, as set forth in § 2569.411(c), but the applicant will not need to resubmit any portions of the application other than the land description and map; or,
 - (2) If only a portion of the selection is in conflict, the applicant may request that the BLM continue to adjudicate the portion of the selection that is not in conflict. The BLM must receive the request within 60 days of your receipt of the BLM's decision. Each applicant is are allowed only one selection of land under this act, and will not be allowed to apply for more acreage later.
- (c) If you receive a 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 five-year application period.

§ 2569.503 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 decision informing you of the unavailable land selection and give you the following choices:

- (1) Provide the BLM a substitute selection within 60 days of your receipt of the decision. The substitute selection 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 preference, as set forth in § 2569.411(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 that the BLM continue to adjudicate the portion of the selection that is within available Federal lands. The BLM must receive your request within 60 days of your receipt of the BLM's decision. You are allowed only one parcel of land under this act, and you will not be allowed to apply for more acreage later.

- (b) If you receive a decision finding your selection includes unavailable lands under paragraph (a) 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 five-year application period.

§ 2569.504 Once I file, can I change my land selection?

Once your application is received in accordance with § 2569.411, you will not be allowed to change your selection except as set forth in § 2569.502 or 2569.503.

§ 2569.505 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 § 2569.501(g).

§ 2569.506 How will the BLM convey the land?

- a) The BLM will issue a Certificate of Allotment which includes language similar to the language found in Certificates of Allotment issued under the Act of May 17, 1906 (34 Stat. 197, chapter 2469), providing that the land conveyed will be deemed the homestead of the allottee and his or her heirs in perpetuity, and will be inalienable and nontaxable until otherwise provided by Congress or until the Secretary of the Interior or his or her delegate approves a deed of conveyance vesting in the purchaser a complete title to the land.
- b) The Certificate of Allotment will be issued subject to valid existing rights.
- c) The United States will reserve to itself all minerals in the Certificate of Allotment.

§ 2569.507 What should I do if the Eligible Individual dies or becomes incapacitated during the application process?

- (a) If an Eligible Individual dies during the application process, another individual may continue the application process as a personal representative of the estate of the deceased Eligible Individual by providing to the BLM the materials described in § 2569.404(b)(2).
- (b) If an Eligible Individual becomes incapacitated during the application process, another individual may continue the application process as a court-appointed guardian or conservator or as an attorney-in-fact for the Eligible Individual by providing to the BLM the materials described in § 2569.404(b)(3) or (4).
- (c) If a deceased or incapacitated Eligible Individual has received a notice from the BLM that requires a response within 60 days, as described in §2569.410, 2569.501(e), 2569.501(h)(3), 2569.502(b), or 2569.503(a), and no personal representative, guardian, or conservator has been appointed, or no attorney-in-fact has been designated, the individual who receives the notice, or an employee of the BIA or a Realty Service Provider, may respond to the notice in order to request that the BLM extend the 60-day period to allow for a personal representative, guardian, or conservator to be appointed. The BLM will extend a 60-day period under this paragraph (c) for up to two years.
- (d) If the BLM has completed a Draft Plan of Survey as described in § 2569.501(d) or a survey as described in § 2569.501(g), and the estate of the deceased Eligible Individual does not wish to dispute the Draft Plan of Survey as described in § 2569.501(e) or the results of the survey as described in § 2569.501(h), then the

BLM will not require a personal representative to be appointed. The BLM will continue to process the application and will issue the Certificate of Allotment in the name of the deceased Eligible Individual.

- (e) Other than as provided in paragraphs (b), (c), and (d) of this section, the BLM will not accept any correspondence on behalf of a deceased or incapacitated Eligible Individual from an individual who has not provided the materials described in § 2569.404(b)(2), (3), or (4).

Available Federal Lands - General

§ 2569.601 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 on the mapping tool available at www.blm.gov/ak-native-vietnam-vet-land-allotment-2019. If you do not have access to the internet, a physical copy of the map of available Federal lands can be requested by either:

- a) Calling the BLM Alaska Public Room, the BIA Regional Realty Office or Fairbanks Agency Office, or your local BIA Service Provider. The map will be current as of the date it is printed, and mailed to the mailing address provided at the time of request; or
- b) Requesting a physical copy in person at any of the offices listed in this section.

§ 2569.602 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 Corps of Engineers Formerly Used Defense Sites database, the U.S. Air Force

database, and the Federal Aviation Administration database, or any equivalent databases if any of these databases are no longer available. Any land found to have possible contamination based on these searches will not be available for selection.

§ 2569.604 Are lands that are valuable for minerals available?

Yes, however, the minerals will be reserved to the United States and will not belong to you.

§ 2569.605 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 they are free of known contaminants as described in § 2569.602.
- (b) After review, the BLM will update the online web maps of available Federal lands to include these additional lands during the five-year application period.

NATIONAL WILDLIFE REFUGE SYSTEM

§ 2569.701 If Congress makes lands available within a National Wildlife Refuge, what additional rules apply?

Any Certificate of Allotment for lands within a National Wildlife Refuge will contain provisions that the lands remain subject to the laws and regulations governing the use and development of the Refuge.

APPEALS

§ 2569.801 What can I do if I disagree with any of the decisions that are made about my allotment application?

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

- b. On appeals of decisions made pursuant to § 2569.502(b):
 - 1. 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.
 - 2. Within 60 days of receiving a decision on the appeal, the losing applicant may exercise one of the two options to select a substitute parcel pursuant to § 2569.502(b).
- c. On appeals of decisions which reject the application or of a decision made pursuant to § 2569.503(a):
 - 1. Unless the BLM's decision is stayed on appeal pursuant to 43 CFR 4.21, the BLM will lift the segregation of your selection and the land will be available for all future entries.
 - 2. If you win the appeal and the decision was not stayed, your selection will be considered received as of the date of the Interior Board of Land Appeals decision for purposes of preference under § 2569.502(a).

[FR Doc. 2020-13808 Filed: 7/9/2020 8:45 am; Publication Date: 7/10/2020]