

Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

Act of January 2, 1976 (89 Stat. 1145), as amended or supplemented by Public Laws 94-456 and 95-178, referred to in subsec. (d), is Pub. L. 94-204, Jan. 2, 1976, 89 Stat. 1145, which enacted sections 1625 to 1627 of this title, amended sections 1615, 1616, 1620, and 1621 of this title, and enacted provisions set out as notes under sections 1604, 1605, 1611, 1613, 1618, and 1625 of this title, as amended and supplemented by Pub. L. 94-456, Oct. 4, 1976, 90 Stat. 1934, which amended section 1615 of this title and provisions set out as notes under section 1611 of this title, and Pub. L. 95-178, Nov. 15, 1977, 91 Stat. 1369, which amended sections 1613, 1615, and 1628 of this title, enacted a provision set out as a note under section 1611 of this title, and amended a provision set out as a note under section 1611 of this title. For complete classification of these Acts to the Code, see Tables.

§ 1634. Alaska Native allotments

(a) Approval of applications for certain lands; lands containing coal, oil, or gas; nonmineral lands; lands within National Park System; protests; voluntary relinquishment of application

(1)(A) Subject to valid existing rights, all Alaska Native allotment applications made pursuant to the Act of May 17, 1906 (34 Stat. 197, as amended) which were pending before the Department of the Interior on or before December 18, 1971, and which describe either land that was unreserved on December 13, 1968, or land within the National Petroleum Reserve—Alaska (then identified as Naval Petroleum Reserve No. 4) or within Fort Davis (except as provided in subparagraph (B)) are hereby approved on the one hundred and eightieth day following December 2, 1980, except where provided otherwise by paragraph (3), (4), (5), or (6) of this subsection, or where the land description of the allotment must be adjusted pursuant to subsection (b) of this section, in which cases approval pursuant to the terms of this subsection shall be effective at the time the adjustment becomes final. The Secretary shall cause allotments approved pursuant to this section to be surveyed and shall issue trust certificates therefor.

(B) The land referred to in subparagraph (A) with respect to Fort Davis—

(i) shall be restricted to—

(I) the allotment applications named in the decision published at 96 IBLA 42 (1987) and to the acreage involved in those applications; or

(II) the heirs of an applicant who made an application described in subclause (I); and

(ii) shall be subject to valid existing rights and an easement for the Iditarod National Historic Trail established by section 1244(a)(7) of title 16, but pending final determination of the trail's location, the easement shall be located on an interim basis by the Secretary, in consultation with the Iditarod Historic Trail Advisory Council.

(2) All applications approved pursuant to this section shall be subject to the provisions of the Act of March 8, 1922 (43 U.S.C. 270-11) [43 U.S.C. 270-11 to 270-13].¹

(3) When on or before the one hundred and eightieth day following December 2, 1980, the

Secretary determines by notice or decision that the land described in an allotment application may be valuable for minerals, excluding oil, gas, or coal, the allotment application shall be adjudicated pursuant to the provision of the Act of May 17, 1906, as amended, requiring that land allotted under said Act be nonmineral: *Provided*, That "nonmineral", as that term is used in such Act, is defined to include land valuable for deposits of sand or gravel.

(4) Where an allotment application describes land within the boundaries of a unit of the National Park System established on or before December 2, 1980, and the described land was not withdrawn pursuant to section 11(a)(1) of the Alaska Native Claims Settlement Act [43 U.S.C. 1610(a)(1)], or where an allotment application describes land which has been patented or deeded to the State of Alaska or which on or before December 18, 1971, was validly selected by or tentatively approved or confirmed to the State of Alaska pursuant to the Alaska Statehood Act and was not withdrawn pursuant to section 11(a)(1)(A) of the Alaska Native Claims Settlement Act [43 U.S.C. 1610(a)(1)(A)] from those lands made available for selection by section 11(a)(2) of the Act [43 U.S.C. 1610(a)(2)] by any Native Village certified as eligible pursuant to section 11(b) of such Act [43 U.S.C. 1610(b)], paragraph (1) of this subsection and subsection (d) of this section shall not apply and the application shall be adjudicated pursuant to the requirements of the Act of May 17, 1906, as amended, the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], and other applicable law.

(5) Paragraph (1) of this subsection and subsection (d) shall not apply and the Native allotment application shall be adjudicated pursuant to the requirements of the Act of May 17, 1906, as amended, if on or before the one hundred and eightieth day following December 2, 1980—

(A) A Native Corporation files a protest with the Secretary stating that the applicant is not entitled to the land described in the allotment application, and said land is withdrawn for selection by the Corporation pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]; or

(B) The State of Alaska files a protest with the Secretary stating that the land described in the allotment application is necessary for access to lands owned by the United States, the State of Alaska, or a political subdivision of the State of Alaska, to resources located thereon, or to a public body of water regularly employed for transportation purposes, and the protest states with specificity the facts upon which the conclusions concerning access are based and that no reasonable alternatives for access exist; or

(C) A person or entity files a protest with the Secretary stating that the applicant is not entitled to the land described in the allotment application and that said land is the situs of improvements claimed by the person or entity.

(6) Paragraph (1) of this subsection and subsection (d) shall not apply to any application pending before the Department of the Interior on or before December 18, 1971, which was knowingly and voluntarily relinquished by the applicant thereafter.

¹ See References in Text note below.

(7) Paragraph (1) of this subsection and subsection (d) shall apply, and paragraph (5) of this subsection shall cease to apply, to an application—

(A) that is open and pending on October 31, 1998;

(B) if the lands described in the application are in Federal ownership other than as a result of reacquisition by the United States after January 3, 1959; and

(C) if any protest which is filed by the State of Alaska pursuant to paragraph (5)(B) with respect to the application is withdrawn or dismissed either before, on, or after October 31, 1998.

(8)(A) Any allotment application which is open and pending and which is legislatively approved by enactment of paragraph (7) shall, when allotted, be made subject to any easement, trail, or right-of-way in existence on the date of the Native allotment applicant's commencement of use and occupancy.

(B) The jurisdiction of the Secretary is extended to make any factual determinations required to carry out this paragraph.

(b) Conflicting land descriptions in applications; adjustments; reductions

Where a conflict between two or more allotment applications exists due to overlapping land descriptions, the Secretary shall adjust the descriptions to eliminate conflicts, and in so doing, consistent with other existing rights, if any, may expand or alter the applied-for allotment boundaries or increase or decrease acreage in one or more of the allotment applications to achieve an adjustment which, to the extent practicable, is consistent with prior use of the allotted land and is beneficial to the affected parties: *Provided*, That the Secretary shall, to the extent feasible, implement an adjustment proposed by the affected parties: *Provided further*, That the Secretary's decision concerning adjustment of conflicting land descriptions shall be final and unreviewable in all cases in which the reduction, if any, of the affected allottee's claim is less than 30 percent of the acreage contained in the parcel originally described and the adjustment does not exclude from the allotment improvements claimed by the allottee: *Provided further*, That where an allotment application describes more than one hundred and sixty acres, the Secretary shall at any time prior to or during survey reduce the acreage to one hundred and sixty acres and shall attempt to accomplish said reduction in the manner least detrimental to the applicant.

(c) Amendment of land description in application; notification; protest; adoption of final plan of survey

An allotment applicant may amend the land description contained in his or her application if said description designates land other than that which the applicant intended to claim at the time of application and if the description as amended describes the land originally intended to be claimed. If the allotment application is amended, this section shall operate to approve the application or to require its adjudication, as the case may be, with reference to the amended

land description only: *Provided*, That the Secretary shall notify the State of Alaska and all interested parties, as shown by the records of the Department of the Interior, of the intended correction of the allotment's location, and any such party shall have until the one hundred and eightieth day following December 2, 1980, or sixty days following mailing of the notice, whichever is later, to file with the Department of the Interior a protest as provided in subsection (a)(5) of this section, which protest, if timely, shall be deemed filed within one hundred and eighty days of December 2, 1980, notwithstanding the actual date of filing: *Provided further*, That the Secretary may require that all allotment applications designating land in a specified area be amended, if at all, prior to a date certain, which date shall be calculated to allow for orderly adoption of a plan of survey for the specified area, and the Secretary shall mail notification of the final date for amendment to each affected allotment applicant, and shall provide such other notice as the Secretary deems appropriate, at least sixty days prior to said date: *Provided further*, That no allotment application may be amended for location following adoption of a final plan of survey which includes the location of the allotment as described in the application or its location as desired by amendment.

(d) Powersites and power projects

Where the land described in an allotment application pending before the Department of the Interior on or before December 18, 1971 (or such an application as adjusted or amended pursuant to subsection (b) or (c) of this section), was on that date withdrawn, reserved, or classified for powersite or power-project purposes, notwithstanding such withdrawal, reservation, or classification the described land shall be deemed vacant, unappropriated, and unreserved within the meaning of the Act of May 17, 1906, as amended, and, as such, shall be subject to adjudication or approval pursuant to the terms of this section: *Provided, however*, That if the described land is included as part of a project licensed under part I of the Federal Power Act of June 10, 1920 (41 Stat. 24), as amended [16 U.S.C. 791a et seq.], or is presently utilized for purposes of generating or transmitting electrical power or for any other project authorized by Act of Congress, the foregoing provision shall not apply and the allotment application shall be adjudicated pursuant to the Act of May 17, 1906, as amended: *Provided further*, That where the allotment applicant commenced use of the land after its withdrawal or classification for powersite purposes, the allotment shall be made subject to the right of reentry provided the United States by section 24 of the Federal Power Act, as amended [16 U.S.C. 818]: *Provided further*, That any right of reentry reserved in a certificate of allotment pursuant to this section shall expire twenty years after December 2, 1980, if at that time the allotted land is not subject to a license or an application for a license under part I of the Federal Power Act, as amended [16 U.S.C. 791a et seq.], or actually utilized or being developed for a purpose authorized by that Act, as amended [16 U.S.C. 791a et seq.], or other Act of Congress.

(e) Validity of existing rights; rights acquired by actual use and national forest lands unaffected

Prior to issuing a certificate for an allotment subject to this section, the Secretary shall identify and adjudicate any record entry or application for title made under an Act other than the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], the Alaska Statehood Act, or the Act of May 17, 1906, as amended, which entry or application claims land also described in the allotment application, and shall determine whether such entry or application represents a valid existing right to which the allotment application is subject. Nothing in this section shall be construed to affect rights, if any, acquired by actual use of the described land prior to its withdrawal or classification, or as affecting national forest lands.

(f) Reinstatement

(1)(A) Notwithstanding paragraphs (1) and (6) of subsection (a), and subject to subparagraph (B), each Alaska Native allotment application made pursuant to the Act entitled "An Act authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska", approved May 17, 1906 (34 Stat. 197), that—

(i) was pending before the Department of the Interior on or before December 18, 1971; and

(ii) describes lands within the National Petroleum Reserve-Alaska that have been selected, interim conveyed, or patented to a Village Corporation or Regional Corporation,

is reinstated only for the purpose of this section, subject to this section.

(B) The reinstatement under subparagraph (A) shall be carried out regardless of whether the application was—

(i) relinquished by the applicant; or

(ii) denied by the Department of the Interior, if the denial was based solely on the grounds that land within the National Petroleum Reserve-Alaska was unavailable.

(2)(A) To the extent that the application describes lands (or any interest in the lands) that have been selected, interim conveyed, or patented to a Village Corporation or Regional Corporation, the Secretary is authorized to accept from the Village Corporation or Regional Corporation the reconveyance or relinquishment of the lands (or any interest in the lands).

(B)(i) To the extent that the application describes lands (or any interest in the lands) that a Village Corporation is not willing to reconvey or relinquish pursuant to subparagraph (A), the applicant may relinquish any claim to any portion of the lands (or any interest in the lands) or may, with the consent of the affected Village Corporation, amend the application to exclude the lands and include in lieu thereof a description of lands selected by, interim conveyed to, or patented to the Village Corporation of an acreage that is not to exceed the amount of land relinquished.

(ii) The Secretary is authorized to accept the reconveyance or relinquishment of the lands (or any interest in the lands) described in the amended application from the Village Corporation or Regional Corporation in lieu of the lands

(or any interest in the lands) described in the initial application.

(C) If a Village Corporation or Regional Corporation reconveys lands (or any interest in the lands) to the United States under subparagraph (A) or (B), the Secretary shall reduce the acreage charged against the entitlement of the Village Corporation or Regional Corporation.

(D) The authority of the Secretary to accept the reconveyance or relinquishment of lands (or any interest in the lands) under this paragraph shall terminate on the date that is 6 years after October 14, 1992.

(3)(A) Subject to any valid existing rights, to the extent that the application describes lands that are authorized to be reconveyed or relinquished to the United States under paragraph (2), the Village Corporation shall file with the Secretary, not later than 3 years after October 14, 1992, the name of the applicant and the land description of each allotment proposed to be reconveyed or relinquished.

(B) Upon receipt of the land description, the Secretary shall immediately notify the State of Alaska and all interested parties of the land description proposed to be reconveyed or relinquished, and any such party shall have 60 days following notification in which to file with the Department of the Interior a protest as provided in subsection (a)(5).

(C) The Secretary shall then either—

(i) if no protest is filed, approve the application; or

(ii) if a protest is filed, adjudicate the legal sufficiency of any protest timely filed; and—

(I) if the protest is legally insufficient, approve the application; or

(II) if the protest is valid, issue a decision that closes the application and that is final for the Department.

(D) The Secretary shall, with respect to each allotment approved pursuant to this subsection—

(i) survey the allotment; and

(ii) following reconveyance or relinquishment, issue a Native allotment certificate to the applicant or heirs of the applicant.

(4)(A) To the extent a Village Corporation or a Regional Corporation reconveys lands (or any interest in the lands) to the United States pursuant to paragraph (2) and the conveyance results in a reduction in the acreage charged against the entitlement of the Village Corporation or Regional Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), the Village Corporation or Regional Corporation shall be entitled to make selections in lieu of the reconveyed lands (or any interest in the lands).

(B)(i) The quantity of acreage of the surface estate reconveyed pursuant to paragraph (2) shall be added to the quantity of acreage of underselection, if any, for the Village Corporation. The Secretary shall provide for the selection of lands for replacement in accordance with the procedures for withdrawals and selections under section 22(j)(2) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(j)(2)).

(ii)(I) A Village Corporation described in clause (i) shall be entitled to select lands for re-

placement from the lands that have been withdrawn for selection by the Village Corporation pursuant to section 11(a)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1610(a)(1)).

(II) In any case in which the lands described in subclause (I) are no longer in Federal ownership and the Village Corporation is entitled to make a selection pursuant to this subparagraph, the Secretary shall withdraw, and the Village Corporation shall select, Federal lands that are compact and contiguous with lands previously conveyed to the Village Corporation.

(C) Lands (or any interests in the lands) in the replacement of lands (or interests in the lands) reconveyed by the Regional Corporation to the United States under this subsection shall be selected by the Regional Corporation from lands that are—

- (i) compact and contiguous with other lands previously conveyed to the Regional Corporation within the National Petroleum Reserve-Alaska; and
- (ii) beneath the surface estate of lands selected and conveyed to a Village Corporation.

(D) The Secretary shall convey the lands selected pursuant to this paragraph in accordance with this subsection.

(5)(A) Each Native allotment certificate issued to an applicant or the heirs of the applicant pursuant to paragraph (3) shall be subject to any existing easement or other right that had been reserved, conveyed, transferred, or recognized by the United States prior to the issuance of the certificate.

(B) Each conveyance by the Secretary to any applicant or to the heirs of the applicant under this subsection shall reserve to the United States—

- (i) except as provided in subparagraph (C), all interests in oil, gas, and coal in the conveyed lands, and the right of the United States, or a lessee or assignee of the United States, to enter on lands conveyed to the applicant or to the heirs of the applicant, to drill, explore, mine, produce, and remove the oil, gas, or coal; and
- (ii) all other rights reasonably incident to the mineral reservations described in clause (i).

(C)(i) If the oil, gas, or coal described in subparagraph (B)(i) was previously conveyed to the Regional Corporation and the Regional Corporation reserves those interests in a reconveyance to the United States, the Secretary shall reserve from the reconveyance to the applicant or to the heirs of the applicant for the benefit of the Regional Corporation the same rights and privileges that would have been reserved for the United States.

(ii) With respect to a reconveyance of lands (or any interest in the lands) by the Regional Corporation to the United States that does not convey the entire mineral estate, the Regional Corporation shall not be entitled—

- (I) to a reduction of the acreage charged against the entitlement under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); or
- (II) to select mineral interests to replace the acreage.

(6) The United States shall not be subject to liability for the presence of any hazardous substance in land or an interest in land solely as a result of any reconveyance to and transfer by the United States of the land or interest pursuant to this subsection.

(Pub. L. 96-487, title IX, §905, Dec. 2, 1980, 94 Stat. 2435; Pub. L. 102-415, §§2, 12, Oct. 14, 1992, 106 Stat. 2112, 2115; Pub. L. 105-333, §9, Oct. 31, 1998, 112 Stat. 3134.)

REFERENCES IN TEXT

Act of March 8, 1922 (43 U.S.C. 270-11), referred to in subsec. (a)(2), is act Mar. 8, 1922, ch. 96, 42 Stat. 415, as amended, which enacted sections 270-11 to 270-13 of this title. Sections 270-11 and 270-13 of this title were repealed by Pub. L. 94-579, title VII, §703(a), Oct. 21, 1976, 90 Stat. 2789. For complete classification of this Act to the Code, see Tables.

Act of May 17, 1906, as amended, referred to in subsecs. (a)(3), (4), (5), (d), (e), and (f)(1)(A), is act May 17, 1906, ch. 2469, 34 Stat. 197, as amended, which was classified to sections 270-1 to 270-3 of this title prior to its repeal by Pub. L. 92-203, §18(a), Dec. 18, 1971, 85 Stat. 710.

The Alaska Statehood Act, referred to in subsecs. (a)(4) and (e), is Pub. L. 85-508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

The Alaska Native Claims Settlement Act, referred to in subsecs. (a)(4), (5)(A), (e), and (f)(4)(A), (5)(C)(ii)(I), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

That Act, as amended, referred to in subsec. (d), is the Federal Power Act, act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§791a et seq.) of Title 16, Conservation. Part I of the Federal Power Act of June 10, 1920, as amended, is classified generally to subchapter I (§791a et seq.) of chapter 12 of Title 16. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

CODIFICATION

In subsecs. (a)(1), (3)-(5), (c), and (d), “December 2, 1980” substituted for “the effective date of this Act”, which probably meant the date of enactment of Pub. L. 96-487.

AMENDMENTS

1998—Subsec. (a)(7), (8). Pub. L. 105-333 added pars. (7) and (8).

1992—Subsec. (a)(1). Pub. L. 102-415, §2, designated existing provisions as subpar. (A), inserted “or within Fort Davis (except as provided in subparagraph (B))” after “Naval Petroleum Reserve No. 4”, and added subpar. (B).

Subsec. (f). Pub. L. 102-415, §12, added subsec. (f).

§ 1635. State selections and conveyances

(a) Omitted

(b) School lands settlement

(1) In full and final settlement of any and all claims by the State of Alaska arising under the Act of March 4, 1915 (38 Stat. 1214), as confirmed and transferred in section 6(k) of the Alaska Statehood Act, the State is hereby granted seventy-five thousand acres which it shall be entitled to select until January 4, 1994, from vacant, unappropriated, and unreserved public lands. In