

object or permanent monument, giving, if desired, the approximate latitude and longitude.

§ 64.6c Failure to file notice. Unless a notice of the claim is filed within the time prescribed in § 64.6a, no credit shall be given for occupancy of the site prior to filing of notice in the proper land office, or application to purchase, whichever is earlier.

§ 64.6d Recordation of notice. Upon receipt of notice of a claim under this part, if satisfactory in form, the manager will advise the claimant of its receipt and the current serial number assigned thereto. If the notice is found unsatisfactory for proper recording, the manager, before assigning the serial number, or recording, will call upon the claimant to cure the defects by filing a new or supplemental notice. If the application is for land, which is not subject to the form of disposition specified in the notice, the applicant will be advised that the filing of the notice has not conferred on him any right to the land.

§ 64.6e Recording fee. The notice of the claim must be accompanied by a remittance of \$10.00, which will be applied as a service charge for recording the notice, and will not be returnable, except in cases where the notice is not acceptable to the land office for recording because the land is not subject to the form of disposition specified in the notice.

§ 64.7 Form and contents of application. * * *

(1) An application for surveyed land must describe the land by aliquot parts of legal subdivisions, not exceeding 5 acres. If the tract is situated in the fractional portion of a sectional lotting, the lot may be subdivided; where such subdivision, however, would result in narrow strips or other areas containing less than 2½ acres, not suitable for disposal as separate units, such adjoining excess areas, in the discretion of the regional administrator and with the consent of the applicant, may be included with the tract applied for, without subdividing, and the application will be amended accordingly. Where a supplemental plat is required to provide a proper description, it will be prepared at the time of approval of the application.

[Paragraph (1) amended by Circ. 1775, 15 F. R. 9189, Dec. 22, 1950]

§ 64.7b Time for filing application. Except as provided in § 64.7a, application to purchase a claim, along with the required proof or showing, must be filed within 5 years after the filing of notice of the claim.

Part 65—Homesteads

HOMESTEADS UNDER THE ACT OF MAY 14, 1898, AS AMENDED

- Sec.
- 65.3 Notice of settlement. [Revised]
- 65.3a Form of notice. [Added]
- 65.3b Failure to file notice. [Added]
- 65.3c Recordation of notice. [Added]
- 65.3d Recordation fee. [Added]
- 65.4 Marking corners of claim on unsurveyed lands; rights acquired by settlement on surveyed lands. [Revised]
- 65.20 Survey without expense to settler. [Amended]

HOMESTEADS SUBJECT TO MORTGAGE LOANS [ADDED]

- 65.30 Mortgage loans on existing homestead entries; allowance on homestead applications for lands subject to mortgages held by the United States acting through the Secretary of Agriculture; occupancy of the land.
- 65.31 Mortgage liens.

HOMESTEADS UNDER THE ACT OF MAY 14, 1898, AS AMENDED

SOURCE: §§ 65.3 to 65.20 set forth in this Pocket Supplement, contained in Circular 1756, 15 F. R. 3504, June 6, 1950.

§ 65.3 Notice of settlement. (a) A person making settlement on or after April 29, 1950 on unsurveyed land, in order to protect his rights, must file a notice of the settlement for recordation in the land office for the district in which the land is situated, and post a copy thereof on the land, within 90 days after the settlement. Where settlement is made on surveyed lands, the settler, in order to protect his rights, must file a notice of the settlement for recordation, or application to make homestead entry, in the land office for the district in which the land is located within 90 days after settlement.

(b) Any person maintaining a settlement claim on April 29, 1950, on surveyed or unsurveyed public land, shall file notice of the initiation of the claim in the land office for the district in which the land is situated, (1) within 90 days from that date, if the notice of location had not theretofore been filed in the recording district, or (2) within two years from

April 29, 1950, if notice of the location had theretofore been filed in the recording district.

§ 65.3a *Form of notice.* The notice must be filed on Form 4-1154, in triplicate if the land is unsurveyed, or in duplicate if surveyed and shall contain: (a) The name and address of the settler, (b) age and citizenship; (c) date of settlement, and (d) the description of the land by legal subdivisions, section, township and range, if surveyed, or, if unsurveyed, by metes and bounds with reference to some natural object or permanent monument, giving, if desired, the approximate latitude and longitude.

§ 65.3b *Failure to file notice.* Unless a notice of the claim is filed within the time prescribed in § 65.3, no credit shall be given for residence and cultivation had prior to the filing of notice, petition for free survey, or application to make entry, whichever is earliest.

§ 65.3c *Recordation of notice.* Upon receipt of notice of a settlement claim, if satisfactory in form, the manager will advise the claimant of its receipt and the current serial number assigned thereto. If the notice is found unsatisfactory for proper recording, the manager, before assigning the serial number, or recording, will call upon the claimant to cure the defects by filing a new or supplemental notice. If the application is for land which is not subject to the form of disposition specified in the notice, the applicant will be advised that the filing of the notice has not conferred on him any right to the land.

§ 65.3d *Recordation fee.* The notice of settlement claim must be accompanied by a remittance of \$10.00, which will be applied as a service charge for recording the notice and will not be returnable, except in cases where the notice is not acceptable to the land office for recording because the land is not subject to homestead settlement.

§ 65.4 *Marking corners of claim on unsurveyed lands; rights acquired by settlement on surveyed lands.* (a) A settler on unsurveyed land is required to mark the claim by permanent monuments at each corner, in order to establish the boundaries thereof.

(b) Settlement on any part of a surveyed quarter-section subject to homestead entry gives the right to enter all of the quarter section; but if a settler

desires to initiate a claim to surveyed tracts which form part of more than one technical quarter-section, he should define the claim by placing some improvements on each of the smallest subdivisions claimed.

§ 65.20 *Survey without expense to settler.* (a) The land included in a settlement claim may be surveyed without expense to the settler, provided he has sufficiently complied with the law in the matter of residence, cultivation and improvements to submit 3-year proof. A petition for a free survey may be filed whenever such requirements have been met before notice of the settlement claim is required to be filed, or at any time within 5 years after such notice has been filed.

(b) Petition for survey should be filed in triplicate and should describe the land settled upon by metes and bounds with relation to some natural or permanent monument, and give the approximate latitude and longitude and otherwise with as much certainty as possible without actual survey. Reference should be made to the serial number of the notice of settlement previously filed. If there has been any material deviation made in the description of land claimed, a full explanation must be given of the reason for such deviation. The petition should show the date when the settlement was made, the dates from which and to which the settler has resided upon the land, the number of acres cultivated each year and the results of the cultivation, and the character and value of the improvements on the land. The petition should also show that the land does not extend more than 160 rods along the shore of any navigable water or that the restriction as to length of claim has been waived and that at the date of the initiation of the claim the land was not within a distance of 80 rods along any such water from any homestead or headquarters authorized by the acts of March 3, 1927, and May 26, 1934 (44 Stat. 1364; 48 Stat. 809; 48 U. S. C. 461), or from any location theretofore made with soldiers' additional rights or trade and manufacturing site, homestead, Indian or Eskimo allotment, or school indemnity selection. This showing, however, is not required where a petition for restoration, based on an equitable claim is filed with the application, or the land has been restored from the reservation. The petition must

be signed by the applicant and should be corroborated by the statements of two persons having knowledge of the facts.

(c) Upon receipt of the petition, the manager will assign thereto the same serial number that was assigned to the notice of settlement, if one was previously filed; if not, he will assign a current serial number to the petition and will transmit the duplicate to the regional administrator. If the manager finds the showing satisfactory and no shore-space question is involved, he will, in the absence of other objection, send the triplicate copy of the petition to the Regional Chief, Division of Cadastral Engineering, Survey Office, Juneau, Alaska, who, not later than the next succeeding surveying season, will issue instruction for survey of the land without expense to the applicant. The original copy of the petition will be retained by the manager for filing with the case record.

[Paragraphs (a), (b) and (c) amended]

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HOMESTEADS SUBJECT TO MORTGAGE LOANS
[ADDED]

AUTHORITY: §§ 65.30 and 65.31 issued under R. S. 2478, as amended, sec. 1, 30 Stat. 409, as amended; 43 U. S. C. 1201, 48 U. S. C. 371.

§ 65.30 *Mortgage loans on existing homestead entries; allowance on homestead applications for lands subject to mortgages held by the United States acting through the Secretary of Agriculture; occupancy of the land.* A homestead entryman who desires to secure a loan on an existing homestead entry, or a homestead applicant who wishes to make a homestead entry for lands in a canceled or relinquished homestead entry subject to a mortgage lien held by the United States acting through the Secretary of Agriculture under the act of October 19, 1949 (63 Stat. 883, 7 U. S. C., Supp. III secs. 1006a, 1006b), should proceed in accordance with § 166.102 of this chapter.

[Circ. 1766, 15 F. R. 6312, Sept. 21, 1950]

§ 65.31 *Mortgage liens.* A mortgage lien held by the United States acting through the Secretary of Agriculture shall not extend to mineral deposits in the lands, which have been or may be reserved to the United States pursuant to law.

[Circ. 1766, 15 F. R. 6312, Sept. 21, 1950]

Part 66—Homesteads on coal, oil, and gas lands

INITIATION AND COMPLETION OF HOMESTEAD CLAIMS ON COAL, OIL, AND GAS LANDS

Sec.

66.11 *Mortgage loans on existing homestead entries allowance of homestead applications for lands subject to mortgages held by the United States acting through the Secretary of Agriculture; occupancy of the land.* [Added]

66.12 *Mortgage liens.* [Added]

§ 66.11 *Mortgage loans on existing homestead entries allowance of homestead applications for lands subject to mortgages held by the United States acting through the Secretary of Agriculture; occupancy of the land.* A homestead entryman who desires to secure a loan on an existing homestead entry or a homestead applicant who wishes to make a homestead entry for lands in a canceled or relinquished homestead entry subject to a mortgage lien held by the United States acting through the Secretary of Agriculture under the act of October 19, 1949 (63 Stat. 883, 7 U. S. C., Supp., III, secs. 1006a, 1006b), should proceed in accordance with § 166.102 of this chapter.

(R. S. 2478; 43 U. S. C. 1201) [Circ. 1766, 15 F. R. 6312, Sept. 21, 1950]

§ 66.12 *Mortgage liens.* A mortgage lien held by the United States acting through the Secretary of Agriculture shall not extend to mineral deposits in the lands, which have been or may be reserved to the United States pursuant to law.

(R. S. 2478, as amended; 43 U. S. C. 1201) [Circ. 1766, 15 F. R. 6312, Sept. 21, 1950]

Part 67—Indians and Eskimos

NOTE: Authority to take all actions formerly taken by the Secretary or the Director under this part, as to allotments, has been delegated to the regional administrator under B. L. M. Order 427, 15 F. R. 5639, Aug. 23, 1950, 15 F. R. 5853, Aug. 30, 1950, with authority to redelegate such actions.

ALLOTMENTS TO INDIANS AND ESKIMOS

Sec.

67.18a *Rules of practice for hearings upon possessory claims to lands and waters used and occupied by natives of Alaska.* [Amended]

§ 67.18a *Rules of practice for hearings upon possessory claims to lands and*