

1949 EDITION CODE  
OF FEDERAL  
REGULATIONS

Title — Public Lands: Interior

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**ANCHORAGE, ALASKA**

for grazing reindeer, to issue reindeer grazing permits and to issue rules and regulations to carry into effect the provisions of said section of the act.

(Sec. 14, 50 Stat. 902; 48 U. S. C., 250m) [Circ 1138a, May 26, 1938]

§ 63.26 *No reindeer leases to issue under act of March 4, 1927, after May 26, 1938.* In view of the provisions of section 14 of the act of September 1, 1937, no reindeer leases will issue under the act of March 4, 1927, after May 26, 1938, and the grazing of reindeer in Alaska will be governed by the act of September 1, 1937, and the rules and regulations that may be promulgated thereunder.

(Sec. 14, 50 Stat. 902; 48 U. S. C. 250m) [Circ. 1138a, May 26, 1938]

## Part 64—Homesites or Headquarters

### PURCHASE OF TRACTS NOT EXCEEDING 5 ACRES, ON SHOWING AS TO EMPLOYMENT OR BUSINESS

#### Sec.

- 64.1 Statutory authority.
- 64.2 Purpose of statute.
- 64.3 Use of lands.
- 64.4 Form and contents of applications.
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### PURCHASE OF TRACTS NOT EXCEEDING 5 ACRES, WITHOUT SHOWING AS TO EMPLOYMENT OR BUSINESS

- 64.6 Statutory authority.
- 64.7 Form and contents of application.
- 64.7a Applications by veterans of World War II.
- 64.8 Action on application; survey; report.
- 64.9 Publication and posting.
- 64.10 Payment and final certificate.

**AUTHORITY:** §§ 64.1 to 64.10 issued under sec. 10, 30 Stat. 413, as amended; 48 U. S. C. 461.

**CROSS REFERENCES:** For general homestead regulations, see Part 166 of this chapter; for homesteads in Alaska, see Part 65 of this chapter. For home and industrial sites in Alaska, see 36 CFR 251.7. For lease or sale of small tracts in Alaska for home, cabin, camp, health, convalescent, recreational or business sites, see Part 257 of this chapter.

### PURCHASE OF TRACTS NOT EXCEEDING 5 ACRES, ON SHOWING AS TO EMPLOYMENT OR BUSINESS

§ 64.1 *Statutory authority.* The act of March 3, 1927 (44 Stat. 1364; 48 U. S. C. 461) authorizes the sale as a homestead or headquarters of not to exceed 5 acres of unreserved public lands in Alaska, not

including mineral, coal, oil or gas lands, at the rate of \$2.50 per acre, to any citizen of the United States 21 years of age employed by citizens of the United States, associations of such citizens, or by corporations organized under the laws of the United States, or of any State or Territory, whose employer is engaged in trade, manufacture, or other productive industry in Alaska, and to any such person who is himself engaged in trade, manufacture or other productive industry in Alaska.

[Circ. 491, Feb. 24, 1928]

§ 64.2 *Purpose of statute.* The purpose of this statute is to enable fishermen, trappers, traders, manufacturers, or others engaged in productive industry in Alaska to purchase small tracts of unreserved land in the Territory, not exceeding 5 acres, as homesteads or headquarters.

[Circ. 491, Feb. 24, 1928]

§ 64.3 *Use of lands.* Care will be taken in all cases before patent issues to see that the lands applied for are used for the purposes contemplated by the said act of March 3, 1927, and that they are not used for any purpose inconsistent therewith.

[Circ. 491, Feb. 24, 1928]

§ 64.4 *Form and contents of applications.*<sup>1</sup> Applications under the act of March 3, 1927, must be filed in duplicate in the land office for the district in which the land is situated, and the claim must be in reasonably compact form.

An application need not be under oath but must be signed by the applicant and corroborated by the statements of two persons and must show the following facts:

- (a) The age and citizenship of applicant.
- (b) The actual use and occupancy of the land for which application is made for a homestead or headquarters.
- (c) The date when the land was first occupied as a homestead or headquarters.
- (d) The nature of the trade, business, or productive industry in which applicant

<sup>1</sup> 18 U. S. C. 1001 makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

or his employer, whether a citizen, an association of citizens, or a corporation, is engaged.

(e) The location of the tract applied for with respect to the place of business and other facts demonstrating its adaptability to the purpose of a homestead or headquarters.

(f) That no portion of the tract applied for is occupied or reserved for any purpose by the United States, or occupied or claimed by any natives of Alaska, or occupied as a town site or missionary station or reserved from sale, and that the tract does not include improvements made by or in possession of another person, association, or corporation.

(g) That at the date of the initiation of the claim the land was not within a distance of 80 rods along any navigable water from any homesite or headquarter site 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 from any trade and manufacturing site, homestead, Indian or Eskimo allotment, or school indemnity selection. This showing, however, is not required where petition for restoration based on an equitable claim is filed with the application, or the land has been restored from reservation.

(h) That the land is not included within an area which is reserved because of springs thereon. All facts as to medicinal or other springs must be stated, in accordance with § 292.8 of this chapter.

(i) That no part of the land is valuable for coal, oil, gas, or other valuable mineral deposits and that at the date of location no part of the land was claimed under the mining laws.

[Circ. 491, Feb. 24, 1928; modified to conform to E. O. 5106, May 4, 1929, as amended by Circ. 1699, 13 F. R. 5881, Circ. 1700, 13 F. R. 6005; see also item 3 of note to chapter]

CROSS REFERENCES: See the following parts in this subchapter. For Indian and Eskimo allotments, Part 67; for mining claims, Part 69; for school indemnity selections, Part 76; for shore space, Part 77; for soldiers' additional rights, Part 61; for trade and manufacturing sites, Part 81.

§ 64.5 *Procedure on applications.* In the matter of procedure, applications for homesteads or headquarters will be governed by Part 81 of this chapter.

[Circ. 491, Feb. 24, 1928]

PURCHASE OF TRACTS NOT EXCEEDING 5 ACRES, WITHOUT SHOWING AS TO EMPLOYMENT OR BUSINESS

§ 64.6 *Statutory authority.* The act of May 26, 1934 (48 Stat. 809; 48 U. S. C. 461) amended section 10 of the act of May 14, 1898 (30 Stat. 413), as amended by the act of March 3, 1927 (44 Stat. 1364), so as to provide that any citizen, after occupying land of the character described in said section as a homestead or headquarters, in a habitable house not less than 5 months each year for 3 years, may purchase such tract, not exceeding 5 acres, in a reasonably compact form, without a showing as to his employment or business, upon the payment of \$2.50 per acre, the minimum payment for any one tract to be \$10.

[Circ. 1342, Nov. 23, 1934]

§ 64.7 *Form and contents of application.* Applications under the act of May 26, 1934, must be filed in duplicate, if for surveyed land, and in triplicate, if for unsurveyed land, in the district land office for the district within which the land is situated.

An application need not be under oath but must be signed by the applicant and corroborated by the statements of two persons and must show the following facts:

(a) Full name, post office address and age of applicant.

(b) Whether the applicant is a native-born or naturalized citizen of the United States, and if naturalized, evidence of such naturalization must be furnished.

(c) A description of the habitable house on the land, the date when it was placed on the land, and the dates each year from which and to which the applicant has resided in such house.

(d) That no portion of the tract applied for is occupied or reserved for any purpose by the United States, or occupied or claimed by any native of Alaska, or occupied as a townsite, or missionary station, or reserved from sale, and that the tract does not include improvements made by or in the possession of any other person, association, or corporation.

(e) That at the date of the initiation of the claim the land was not within a distance of 80 rods along any navigable water from any homesite or headquarter site 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 from any 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 reservation.

(f) That the land is not included within an area which is reserved because of hot, medicinal or other springs, as explained in § 292.8 of this chapter. If there be any such springs upon or adjacent to the land, on account of which the land is reserved, the facts relative thereto must be set forth in full.

(g) That no part of the land is valuable for coal, oil, gas or other valuable mineral deposits, and that at the date of settlement no part of the land was claimed under the mining laws.

(h) That the applicant has not theretofore applied for land under said act, or if he has previously purchased a tract he should make a full showing as to the former purchase and the necessity for the second application.

(i) All applications for surveyed land must describe the land by aliquot parts of legal subdivisions, not exceeding 5 acres.

(j) All applications for unsurveyed land must be accompanied by a petition for survey, describing the land applied for with as much certainty as possible, without actual survey, not exceeding 5 acres, and giving the approximate latitude and longitude of one corner of the claim.

[Circ. 1342, Nov. 23, 1934, as amended by Circ. 1699, 13 F. R. 5881, Circ. 1700, 13 F. R. 6006]

Note: See cross references following § 64.4.

§ 64.7a *Applications by veterans of World War II.* Upon the restoration or opening of surveyed public lands in Alaska with a preference right of application to veterans of World War II pursuant to section 4 of the act of September 27, 1944 (58 Stat. 748; 43 U. S. C. 282), as amended, such veterans may file applications for home or headquarter sites on such lands under the act of May 26, 1934 (48 Stat. 809; 48 U. S. C. 461). Preference right applications filed by such veterans must describe the land desired in terms of the public land surveys and must give all of the information required by § 64.7, except as to the erection of a habitable house on the land and compliance with the law in the matter

of residence. No payment will be required until proof of compliance with the residence requirements has been made. Such an applicant will be required to establish residence upon the land in a habitable house within 6 months from the date of the notice of the allowance of his application. An extension of time to establish residence may be granted under the conditions under which it may be granted to a homestead entryman. During the first year after establishing residence the claimant will be required to reside upon the land for a period of at least 5 months. He may claim credit on the period of residence required by the act of May 26, 1934, for military or naval service in like manner as is provided in the case of homestead entries.

[Circ. 1699, 13 F. R. 5881]

§ 64.8 *Action on application; survey; report.* (a) Upon receipt of the application the manager will note its filing, assign a current serial number thereto and transmit the original application, unallowed, together with the accompanying papers to the regional administrator, and the duplicate copy to the Bureau of Land Management. With each application the manager will report the status of the land as shown by his records.

(b) Where an application is for unsurveyed land, if the manager finds the showing satisfactory, and no objections appear of record, he will, if no shore space question is involved, transmit the triplicate copy to the regional cadastral engineer, who, not later than the next succeeding surveying season, will issue instructions for the survey of the land, without expense to the applicant. If a shore space question is involved the regulations governing free survey of homestead claims without expense to settler, as set forth in the last paragraph of § 65.20, will govern.

(c) The report of a field examination, if made, should show the facts as to applicant's house and the occupancy of the land and whether the lands contain valuable deposits of coal, gas or other minerals; whether they have power or reservoir possibilities; whether they are within an area which is reserved because of hot, medicinal or other springs, and any other facts deemed appropriate.

[Circ. 1342, Nov. 23, 1934; see also item 3 of Note to chapter]

§ 64.9 *Publication and posting.* In the matter of publication and posting

these applications will be governed by the instructions given in connection with applications for soldiers' additional homestead entries as set out in § 61.15 of this chapter.

[Circ. 1342, Nov. 23, 1934, as amended by Circ. 1455, 4 F. R. 1102; see also item 3 of Note to chapter]

§ 64.10 *Payment and final certificate.* If, on examination of the application by the regional administrator, all be found regular, the manager will be directed to issue a final certificate, upon payment for the land, and in the absence of objections shown by his records.

[Circ. 1342, Nov. 23, 1934]

### Part 65—Homesteads

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

- Sec.
- 65.1 Lands subject to settlement and homestead entry.
  - 65.2 Form of settlement on unsurveyed land.
  - 65.3 Notice of settlement.
  - 65.4 Settlement on surveyed lands; time of filing application.
  - 65.5 Form of application.
  - 65.6 Showing to accompany application.
  - 65.8 Description and contiguity of lands.
  - 65.9 Area subject to appropriation.
  - 65.10 Limitation of acreage.
  - 65.11 Qualifications required.
  - 65.12 Second entries.
  - 65.13 Additional entries.
  - 65.14 Law under which homestead must be perfected.
  - 65.15 Establishment of residence.
  - 65.16 Leave of absence.
  - 65.17 Period of residence and amount of cultivation required.
  - 65.18 Effect of transfer of land before proof.
  - 65.19 Commutation of entries.
  - 65.20 Survey without expense to settler.
  - 65.21 Survey at expense of settler.
  - 65.22 Application to enter land included in special survey.
  - 65.23 Submission of proof.
  - 65.24 Fees and commissions.
  - 65.25 Publication and posting.
  - 65.26 Adverse claim.
  - 65.27 Proof of publication and posting.
  - 65.28 Issuance of certificate.
- NATIONAL FOREST HOMESTEADS
- 65.29 Procedure governing national forest homesteads.

AUTHORITY: §§ 65.1 to 65.29 issued under R. S. 2478, sec. 1, 30 Stat. 409, as amended; 43 U. S. C. 1201, 48 U. S. C. 371.

SOURCE: §§ 65.1 to 65.29 contained in Circular 491, Feb. 24, 1928, except as noted following sections affected. For editorial changes not otherwise indicated, see item 3 of Note following table of contents of chapter.

CROSS REFERENCES: For applications and entries, Alaska, see Part 60 of this chapter. For applications and entries, general, see Parts 101-108 of this chapter. For home and industrial sites in Alaska, see 36 CFR 251.7. For home sites or headquarters, Alaska, see Part 64 of this chapter. For homestead regulations, general, see Part 166 of this chapter. For homesteads on coal, oil, and gas lands, Alaska, see Part 66 of this chapter.

#### HOMESTEADS UNDER THE ACT OF MAY 14, 1898, AS AMENDED<sup>1</sup>

§ 65.1 *Lands subject to settlement and homestead entry.*<sup>1</sup> All unappropriated public lands in Alaska adaptable to any agricultural use are subject to homestead settlement, and, when surveyed, to homestead entry, if they are not mineral or saline in character, are not occupied for the purpose of trade or business and have not been embraced within the limits of any withdrawal, reservation or incorporated town or city.

§ 65.2 *Form of settlement on unsurveyed land.* A settlement claim on unsurveyed land must be rectangular in form, not more than 1 mile in length, located by lines running north and south, according to the true meridian, the four corners being marked by permanent monuments, unless a departure from such restrictions is authorized by the act of April 13, 1926 (44 Stat. 243; 48 U. S. C. 379, 380, 380a). The said act permits a departure from the restrictions mentioned where by reason of local or topographic conditions it is not feasible or economical to include in rectangular form with cardinal boundaries the lands desired. Under the conditions recited in the law as justifying such departure, it will be sufficient that the claims shall be compact and approximately rectangular in form and where a departure from cardinal courses in the direction of boundary lines is necessary in order to include the lands desired there will be no restriction as to the amount of such departure. The modification of former practice in the matter of form and direction of boundaries is not to be construed, however, as authorizing the lines of the claims to be unduly ex-

<sup>1</sup> The homestead laws were extended to Alaska by the act of May 14, 1898 (30 Stat. 409; 48 U. S. C. 371), which was amended by the acts of March 3, 1903 (32 Stat. 1028; 48 U. S. C. 371), July 8, 1916 (39 Stat. 352; 48 U. S. C. 373-375, 378), June 28, 1918 (40 Stat. 692; 48 U. S. C. 373-375, 378) and April 13, 1926 (44 Stat. 243; 48 U. S. C. 379, 380, 380a).

# 1949 EDITION CODE OF FEDERAL REGULATIONS

Title 43—Public Lands: Interior

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and all rental charges due the Government have been paid, to remove all personal property belonging to him, together with any fence, building, corral, or other removable range improvements owned by him. All such property which is not removed within the time mentioned shall become the property of the United States.

§ 63.23 *Appeals.* An appeal may be taken from any decision of the Manager, or of the Regional Administrator to the Director, and from any decision of the Director to the Secretary of the Interior, pursuant to the rules of practice. (Part 221 of this chapter.)

### Part 64—Homesites or Headquarters

#### PURCHASE OF TRACTS NOT EXCEEDING 5 ACRES ON SHOWING AS TO EMPLOYMENT OR BUSINESS

64.2a Notice of initiation of claim. [Added]  
64.2b Form and contents of applications. [Amended]

64.2c Time for filing application. [Added]

#### PURCHASE OF TRACTS NOT EXCEEDING 5 ACRES WITHOUT SHOWING AS TO EMPLOYMENT OR BUSINESS

64.3a Notice of initiation of claim. [Added]

64.3b Form of notice. [Added]

64.3c Failure to file notice. [Added]

64.3d Recordation of notice. [Added]

64.3e Recording fee. [Added]

64.3f Form and contents of application. [Amended]

64.3g Time for filing application. [Added]

SOURCE, §§ 64.2a to 64.7b set forth in this Supplement, contained in Circular 475, 15 F. R. 3504, June 6, 1950, except as otherwise noted.

#### PURCHASE OF TRACTS NOT EXCEEDING 5 ACRES ON SHOWING AS TO EMPLOYMENT OR BUSINESS

64.2a Notice of initiation of claim.

A notice of the initiation of a claim under the act of March 3, 1927, must designate the kind of trade, manufacture, or other productive industry in connection with which the claim is maintained or desired, and identify its ownership. The procedure as to notices will be governed in other respects by the provisions of §§ 64.6a to 64.8e.

64.4 Form and contents of applications. \* \* \*

(j) If the land desired for purchase is surveyed, the application must include a description of the tract 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.

(k) If the land is unsurveyed, the application must be accompanied by a petition for survey, describing the tract applied for with as much certainty as possible, without actual survey, not exceeding 5 acres, and giving the approximate latitude and longitude of one corner of the claim.

[Paragraph (j) and (k) added by Circ. 1775, 15 F. R. 9189, Dec. 22, 1950]

§ 64.4a *Time for filing application.* 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.

#### PURCHASE OF TRACTS NOT EXCEEDING 5 ACRES WITHOUT SHOWING AS TO EMPLOYMENT OR BUSINESS

§ 64.6a *Notice of initiation of claim.* Any qualified person, association, or corporation initiating a claim on or after April 29, 1950, under the act of May 26, 1934, must file notice of the claim for recordation in the land office for the district in which the land is situated, within 90 days after such initiation. Where on April 29, 1950, such a claim was held by a qualified person, such person must file notice of the claim in the proper land office within 90 days from that date.

§ 64.6b *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 claimant, (b) age and citizenship, (c) date of settlement and occupancy, 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.

§ 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, applicant 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, 1862, 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 LOAN, [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 1898, AS AMENDED

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

§ 65.3 *Notice of settlement.* (a.) Any person making settlement on or after April 29, 1950 on unsurveyed land, in order to protect his rights, must file 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 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 has not theretofore been filed in the recording district, or (2) within two years from