

# Department of the Interior Departmental Manual

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**Effective Date:** 1/7/83

**Series:** Public Lands

**Part 601:** Federal Areas Within States

**Chapter 3:** Eligibility and Land Selections of Native Groups under the Alaska Native Claims Settlement Act

**Originating Office:** Office of the Solicitor

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## 601 DM 3

**3.1 Purpose.** This chapter sets out the Departmental policy regarding eligibility and land selections of Native groups under the Alaska Native Claims Settlement Act (ANCSA), 43 U.S.C. ' 1601 *et seq.* (1976). This policy was established by Secretarial Order No. 3083 (June 17, 1982), the provisions of which have been converted to this chapter.

**3.2 Policy.** A major objective of the Department is to expedite implementation of ANCSA. Regulations concerning the eligibility and land selections of Native groups under ANCSA have been promulgated and appear at 43 C.F.R. ' 2653.6 (1981). The waivers and clarifications of those regulations contained in this chapter are necessary in the interest of achieving the ultimate purpose of ANCSA with regard to Native groups.

**3.3 Waivers.** The following provisions of the regulations applicable to Native groups are waived:

- A. The phrase since that date in 43 C.F.R., ' 2653.6(a)(5)(1981).
- B. The clause except it shall issue a certification of ineligibility when it is notified by the Bureau of Land Management that the land is unavailable for selection by such Native group in 43 C.F.R. ' 2653.6(a)(6)(1981).
- C. The following sentence in 43 C.F.R. ' 2653.6(b)(1)(1981): Native groups will not receive land benefits unless the land which is occupied by their permanent structures used as dwelling houses is available, or in the case where such land is not State or Federally owned, the land which is contiguous to and immediately surrounds the land occupied by their permanent structures used as dwelling houses is available, and is not within a wildlife refuge or forest, pursuant to section 14(h) of the Act.

**3.4 Clarifications.** The regulations regarding Native groups are also clarified in the following respects:

- A. All facts required by 43 C.F.R. ' 2653.6(a)(4) and (5) (1981), except for the fact of enrollment, are to be determined as of April 1, 1970.

B. For purposes of determining that the Native group constitutes a majority of the residents of the locality, as required in 43 C.F.R. ' 2653.6(a)(4)(1981), the Bureau of Indian Affairs shall use all reasonable efforts to ascertain the actual residency on April 1, 1970, of all individuals in the locality. If all reasonable efforts fail to produce convincing evidence of actual residence of the members of the Native group, either at the group=s locality or elsewhere, the fact that the Native individual is enrolled to the locality shall be used to presume residence.

C. In making the determinations concerning the eligibility of a group required in 43 C.F.R. ' 2653.6(a)(5) (1981), the number of members of a group required to be actual residents at the location of the group on April 1, 1970, shall not be greater than the number of Natives required to comprise a majority of the residents of the locality.

**3.5 Procedures.** The Bureau of Indian Affairs will review and complete investigations of all pending Native group applications timely filed, make the required determinations, and forward reports of those determinations to the Bureau of Land Management, all in accordance with the applicable regulations as modified and clarified by this chapter.

1/7/83 #2461

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