

## Bureau of Land Management, Interior

## § 2621.1

and lands withdrawn by Executive Order 5327 of April 15, 1930, if such lands are otherwise available for, and subject to, selection: *Provided*, That except where the base lands are mineral in character, such minerals are reserved to the United States in accordance with and subject to the regulations in subpart 2093. Except for the withdrawals mentioned in this paragraph and for lands subject to classification under section 7 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315f), as amended, the law does not permit the selection of withdrawn or reserved lands.

(d) Subsection (b) of the section 2276 of the Revised Statutes, as amended, sets forth the principles of adjustment where selections are made to compensate for deficiencies of school lands in fractional townships.

[35 FR 9607, June 13, 1970]

### § 2621.1 Applications for selection.

(a) Applications for selection must be made on a form approved by the Director, and must be accompanied by a petition on a form approved by the Director properly executed. However, if the lands described in application have been already classified and opened for selection pursuant to the regulations of this part, no petition is required.

(b) Applications for selection under the law will be made by the proper selecting agent of the State and will be filed, in duplicate, in the proper office in the State or for lands or mineral estate in a State in which there is no office, will be filed in accordance with the provisions of §1821.2 of this chapter.

(c) Applications must be accompanied by the following information:

(1) A reference to the Act of August 27, 1958 (72 Stat. 928), as amended.

(2) A certificate by the selecting agent showing:

(i) All facts relative to medicinal or hot springs or other waters upon the selected lands.

(This provision does not apply insofar as the application involves the selection of the mineral estate.)

(ii) That indemnity has not been previously granted for the assigned base lands and that no other selection is pending for such assigned base.

(3) A statement describing the mineral or nonmineral character of each smallest legal subdivision of the base and selected lands or mineral estate.

(4) A certificate by the officer or officers charged with the care and disposal of school lands that no instrument purporting to convey, or in any way incumber, the title to any of the land used as base or bases, has been issued by the State or its agents.

(d) In addition to the requirements of paragraph (c) of this section, applications for selection must conform with the following rules:

(1) The selected land and base lands must be described in accordance with the official plats of survey except that unsurveyed lands will be described in terms of protracted surveys as officially approved in accordance with 43 CFR 3101.1-4(d)(1). If the unsurveyed lands are not covered by protracted surveys the lands must be described in terms of their probable legal description, if and when surveyed in accordance with the rectangular system of public land surveys, or if the State Director gives written approval therefor, by a metes and bounds description adequate to identify the lands accurately.

(2) Separate base or bases do not have to be assigned to each smallest legal subdivision of selected surveyed lands or mineral estate and to each tract of unsurveyed lands upon application. However, prior to final approval of the selection, separate base or bases shall be assigned. Assignment of the smallest actual or probable legal subdivision as base will constitute an election to take indemnity for the entire subdivision and is a waiver of the State's rights to such subdivision, except that any remaining balance of acreage may be used as base in other selections.

(3) For purposes of selecting unsurveyed land a protracted section shall be considered to be a smallest legal subdivision except where the State Director finds otherwise.

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(4) The cause of loss of the base lands to the State must be specifically stated for each separate base.

(Secs. 2275 and 2276 of the Revised Statutes, as amended (43 U.S.C. 851, 852))

[35 FR 9607, June 13, 1970. Redesignated and amended at 46 FR 24135, Apr. 29, 1981]

### § 2621.2 Publication and protests.

(a) The State will be required to publish once a week for five consecutive weeks in accordance with § 1824.3 of this chapter, at its own expense, in a designated newspaper and in a designated form, a notice allowing all persons claiming the land adversely to file in the appropriate office their objections to the issuance of a certification to the State for lands selected under the law. A protestant must serve on the State a copy of the objections and furnish evidence of service to the appropriate land office.

(b) The State must file a statement of the publisher, accompanied by a copy of the notice published, showing that publication has been had for the required time.

[35 FR 9607, June 13, 1970. Redesignated at 46 FR 24135, Apr. 29, 1981]

### § 2621.3 Certifications; mineral leases and permits.

(a) Certifications will be issued for all selections approved under the law by the authorized officer of the Bureau of Land Management.

(b) Where all the lands subject to a mineral lease or permit are certified to a State, or if, where the State has previously acquired title to a portion of the lands subject to a mineral lease or permit, the remaining lands in the lease or permit are certified to the State, the State shall succeed to the position of the United States thereunder. Where a portion of the lands subject to any mineral lease or permit are certified to a State, the United States shall retain for the duration of the lease or permit the mineral or minerals for which the lease or permit was issued.

[35 FR 9607, June 13, 1970. Redesignated at 46 FR 24135, Apr. 29, 1981]

## 43 CFR Ch. II (10–1–99 Edition)

### § 2621.4 Application for selection of unsurveyed lands.

(a) The authorized officer will reject any application for selection of unsurveyed lands if: (1) The costs of survey of the lands would grossly exceed the average per-acre costs of surveying public lands under the rectangular system of surveys in the State in which the lands are located, or (2) if the conveyance of the lands would create serious problems in the administration of the remaining public lands or resources thereof or would significantly diminish the value of the remaining public lands. The term *remaining public lands* means the public lands from which the applied-for lands would be separated by survey.

(b) In addition to the provisions of this section, applications for selection of unsurveyed lands are subject to the provisions of subpart 2400.

[35 FR 9607, June 13, 1970. Redesignated at 46 FR 24135, Apr. 29, 1981]

## Subpart 2622—Quantity and Special Grant Selections

### § 2622.0–1 Purpose and scope.

(a) Sections 2622.0–1 to 2622.0–8 apply generally to quantity and special grants made to States other than Alaska.

(b) The regulations in §§ 2621.2 to 2621.4 apply to quantity and special grants with the following exceptions and modifications:

(1) Sections 2621.4(b) and 2621.2(c)(4); and §§ 2621.2(d) (3) and (4) and all references to base lands and to mineral estate do not apply.

(2) Section 2621.2(c)(1) is modified to require reference to the appropriate granting act; § 2621.2(c)(3) is modified to require a statement testifying to the nonmineral character of each smallest legal subdivision of the selected land; § 2621.2(d)(2) is modified to permit as much as 6,400 acres in a single selection; and § 2621.2 is modified to require a certificate that the selection and those pending, together with those approved, do not exceed the total amount granted for the stated purpose of the grant.

[35 FR 9608, June 13, 1970]