

§61.12

made and computation of the appeal period shall begin on the earliest of the following dates:

- (1) Of delivery indicated on the return receipt;
- (2) Of acknowledgment of receipt;
- (3) Of personal delivery; or
- (4) Of the return by the post office of an undelivered certified or registered letter.

(e) In all cases where an applicant is represented by an attorney, the attorney shall be recognized as fully controlling the application on behalf of the applicant and service on the attorney of any document relating to the application shall be considered to be service on the applicant. Where an applicant is represented by more than one attorney, service upon one of the attorneys shall be sufficient.

(f) To avoid hardship or gross injustice, the Director or Superintendent may waive technical deficiencies in applications or other submissions. Failure to file by the deadline does not constitute a technical deficiency.

§61.12 Appeals.

Appeals from or on behalf of tribal members or applicants who have been denied enrollment must be in writing and must be filed pursuant to part 62 of this chapter. When the appeal is on behalf of more than one person, the name of each person must be listed in the appeal. A copy of part 62 of this chapter shall be furnished with each notice of adverse action.

§61.13 Decision of the Assistant Secretary on appeals.

The decision of the Assistant Secretary on an appeal shall be final and conclusive and written notice of the decision shall be given the individual, parent or guardian having legal custody of a minor, or sponsor, as applicable. The name of any person whose appeal has been sustained will be added to the roll. Unless otherwise specified by law or in a tribal governing document, the determination of the Assistant Secretary shall only affect the individual's eligibility to share in the distribution of the judgment funds.

25 CFR Ch. I (4-1-05 Edition)

§61.14 Preparation, certification and approval of the roll.

(a) The staff officer shall prepare a minimum of five copies of the roll of those persons determined to be eligible for enrollment. The roll shall contain for each person a roll number, name, address, sex, date of birth, date of death, when applicable, and when required by law, degree of Indian blood, and, in the remarks column, when applicable, the basic roll number, date of the basic roll, name and relationship of ancestor on the basic roll through whom eligibility was established.

(b) A certificate shall be attached to the roll by the staff officer or Superintendent certifying that to the best of his/her knowledge and belief the roll contains only the names of those persons who were determined to meet the qualifications for enrollment.

(c) The Director shall approve the roll.

§61.15 Special instructions.

To facilitate the work of the Director or Superintendent, the Assistant Secretary may issue special instructions not inconsistent with the regulations in this part 61.

PART 62—ENROLLMENT APPEALS

Sec.

- 62.1 Definitions.
- 62.2 Purpose.
- 62.3 Information collection.
- 62.4 Who may appeal.
- 62.5 An appeal.
- 62.6 Filing of an appeal.
- 62.7 Burden of proof.
- 62.8 Advising the tribal committee.
- 62.9 Action by the Superintendent.
- 62.10 Action by the Director.
- 62.11 Action by the Assistant Secretary.
- 62.12 Special instructions.

AUTHORITY: 5 U.S.C. 301, 25 U.S.C. 2 and 9.

SOURCE: 52 FR 30160, Aug. 13, 1987, unless otherwise noted.

§62.1 Definitions.

As used in these regulations:

Assistant Secretary means the Assistant Secretary of the Interior for Indian Affairs or an authorized representative acting under delegated authority.