

**DEPARTMENT OF THE INTERIOR****Bureau of Land Management****43 CFR Part 2560**

[WO-350-1410-00-24 1A]

RIN 1004-AD34

**Alaska Native Veterans Allotments****AGENCY:** Bureau of Land Management, Interior.**ACTION:** Proposed rule.

**SUMMARY:** The Bureau of Land Management (BLM) proposes to amend its regulations to allow certain Alaska Native veterans another opportunity to apply for a Native allotment under the repealed Native Allotment Act of 1906. Congress passed the Alaska Native Veterans Law in 1998 which mandates regulations to implement it. This action would enable certain Alaska Native veterans who, because of their military service, were not able to apply for an allotment during the early 1970s, to do so now.

**DATES:** *Comments:* Send your comments to reach BLM by April 10, 2000. BLM will not necessarily consider any comments received after the above date during its decision on the proposed rule.

**ADDRESSES:** *Comments:* You may mail comments to Bureau of Land Management, Administrative Record, Room 401 LS, 1849 C Street, NW., Washington, DC 20240. You may also hand-deliver comments to BLM at Room 401, 1620 L Street, NW., Washington, DC. For information about filing comments electronically, see the **SUPPLEMENTARY INFORMATION** section under "Electronic access and filing address."

**FOR FURTHER INFORMATION CONTACT:** Connie Van Horn, Division of Conveyance Management, Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513-7599; telephone (907) 271-3767; or Frank Bruno, Bureau of Land Management, Regulatory Affairs Group (WO-630), Mail Stop 401, 1620 L Street, NW., Washington, DC 20036; telephone (202) 452-0352. To reach Ms. Van Horn or Mr. Bruno, individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1-800-877-8339 24 hours a day, seven days a week.

**SUPPLEMENTARY INFORMATION:**

- I. Public Comment Procedures
- II. Background
- III. Discussion of Proposed Rule
- IV. Procedural Matters

**I. Public Comment Procedures***Electronic Access and Filing Address*

You may view an electronic version of this proposed rule at BLM's Internet home page: [www.blm.gov](http://www.blm.gov). You may also comment via the Internet to: [WComment@blm.gov](mailto:WComment@blm.gov). Please also include "Attention: '1004-AD34' and your name and return address in your Internet message." If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (202) 452-5030.

*Written Comments*

Written comments on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal which the commenter is addressing. BLM may not necessarily consider or include in the Administrative Record for the final rule comments which BLM receives after the close of the comment period (See **DATES**) or comments delivered to an address other than those listed above (See **ADDRESSES**).

Comments, including names, street addresses, and other contact information of respondents, will be available for public review at this address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except Federal holidays. Individual respondents may request confidentiality. If you wish to request that BLM consider withholding your name, street address, and other contact information (such as: Internet address, FAX or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. BLM will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. BLM will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

**II. Background**

The Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA; 43 U.S.C. 1601 *et seq.*) repealed the Native Allotment Act of 1906 (34 Stat. 197, as amended, 42 Stat. 415 and 70 Stat. 954, 43 U.S.C. 270-1 through 270-3 (1970) on December 18, 1971. During the time just before the 1906 Act was repealed, certain Alaska Natives who were

eligible to apply for allotments were serving in the U.S. military and may have missed their opportunity to apply because of their military service.

Section 432 of Public Law 105-276 (43 U.S.C. 1629g) of October 21, 1998, allows certain Alaska Native veterans a new opportunity to apply for allotments under the 1906 Act as it was in effect before its repeal. Public Law 105-276 amended ANCSA by adding section 41, requiring the Department of the Interior to create regulations within 18 months to carry it out.

**III. Discussion of Proposed Rule***A. How To Read This Rulemaking*

What Is the Best Way To Read This Rulemaking To Understand What BLM Is Proposing and Why?

The part you are reading now is called the preamble. It discusses why BLM is proposing the regulatory text and expands on elements of it.

The "regulatory text" is the part that follows the authorization of the rulemaking by the Assistant Secretary of the Interior, and begins with "Part 2568—Alaska Native Allotments for Certain Veterans."

This regulatory text is what would become the regulation in the Code of Federal Regulations to implement the Alaska Native Veterans program should this proposed rulemaking become final. It is what BLM is proposing.

*B. The Laws Which Authorize This Rulemaking*

What Authorizes BLM To Grant an Allotment To Certain Veterans?

Section 432 of Public Law 105-276 (43 U.S.C. 1629g) of October 21, 1998 (hereafter referred to as the Alaska Native Veterans law) and ANCSA authorize this proposed rulemaking.

Why Was the 1998 Law Enacted?

Alaska Native Allotments were originally authorized by the Native Allotment Act of 1906, which was repealed by Section 18 of ANCSA on December 18, 1971. In the years before the repeal, several Native advocacy groups had anticipated that the law would be repealed. Between 1969 and 1971, they contacted eligible Alaska Natives who had not applied for allotments to help them with their applications. However, Alaska Natives who were in the military just before the repeal could not be readily reached. The 1998 law allows certain Alaska Native veterans another opportunity to file allotment applications.

### *C. Regulations Which Affect This Rulemaking*

Would Existing Regulations Also Apply To Those Filing Under These Proposed Regulations?

Yes. Existing regulations implement the 1906 Native Allotment Act (43 CFR part 2561), shorespace limitations and waivers (43 CFR part 2094), and the Department of the Interior's hearings and appeals procedures (43 CFR part 4).

How Do These Existing Regulations Relate to the Proposed Regulations?

Persons applying under these proposed regulations must also comply with the existing regulations. In the event that the regulations are inconsistent, these rules must be followed.

### *D. Interested Parties*

Is BLM Required To Consult With Anyone on These Regulations?

Yes. Section 41(e) of ANCSA requires BLM to consult with Alaska Native groups before enacting regulations which affect them.

Which Interested Parties Were Involved in This Rulemaking?

The Bureau of Land Management, Bureau of Indian Affairs, National Park Service, Fish and Wildlife Service, and the Office of the Special Assistant to the Secretary for Alaska met several times with:

- The Land Committee of the Alaska Federation of Natives (AFN).
- Various ANCSA corporations.
- Native groups providing Bureau of Indian Affairs realty services under Indian Self Determination and Education Assistance Act (ISDEA; Pub. L. 93-638) contracts.
- Other Native individuals.

How Were They Involved?

Before BLM wrote this proposed regulation it asked them to comment on the Alaska Native Veterans Law, and on how it should be implemented:

- Interior Department representatives met twice with members of the AFN Land Committee to discuss the statute and its implementation.
- During the annual ISDEA Tribal Service Providers Conference in Anchorage in December, 1998, BIA, BLM, and the Special Assistant's Office held two meetings to field questions and to record suggestions from realty service providers and others.
- Also in December 1998, BLM and BIA addressed the shareholders of Bristol Bay Native Corporation to explain the Alaska Native Veterans law,

and the process of developing regulations.

- A February 5, 1999, letter from the BIA Area Director to Native leaders was distributed to hundreds of tribal and corporate Native groups in Alaska. In the letter BIA asked for comments on the existing Native allotment regulations and the Alaska Native Veterans law. Several realty contractors and ANCSA corporations submitted detailed written comments and suggestions. The Interior agencies studied these and considered them in the drafting of these proposed regulations.

- In early May 1999 BLM sent copies of the draft regulations to about 450 Native individuals and groups, and invited them to attend meetings in Anchorage on May 19 and Fairbanks on May 21, to review the draft in detail with Interior Department representatives and to discuss and record comments and suggested changes. BLM published notices of these two meetings in the Anchorage Daily News and the Fairbanks Daily News Miner. BLM also encouraged the Native entities to submit written comments. After the meetings, BLM thoroughly reviewed written comments, oral comments they had recorded, and the draft regulations to see how many suggested changes BLM could adopt. BLM did not adopt changes that were contrary to law or would have created different allotment requirements for Alaska Native veterans than those that the original allottees had to meet under the 1906 Act.

### *E. Qualifications for an Alaska Native Veteran Allotment*

How Did BLM Choose the Definitions of "Alaska Native" and "Veteran" in These Regulations?

The definition of "Alaska Native" is the same as the one currently used for the Native Allotment Act of 1906. BLM chose this definition because Native veterans must meet the same Native status requirements as persons who applied under the Native Allotment Act of 1906 while it was in effect.

Congress said in the Alaska Native Veterans law that the term "veteran" would have the same meaning as it has in 38 U.S.C. 101, paragraph 2, which is the Department of Veterans Affairs' legal definition.

### *F. Applying for an Allotment*

Who Is Eligible for an Allotment?

You may be eligible for an allotment if:

- (1) You would have been eligible for an allotment under the Native

Allotment Act as it was in effect before December 18, 1971;

- (2) You are a veteran who served at least six months between January 1, 1969, and June 2, 1971, or enlisted or was drafted after June 2, 1971, but before December 3, 1971.

You are not eligible for an allotment if you already received an allotment under the Native Allotment Act (unless you received an allotment interest by inheritance, devise, gift, or purchase) or if you had a pending allotment application on October 21, 1998.

May a Personal Representative Apply on Behalf of an Eligible Deceased Veteran?

Yes, a personal representative who acts for the benefit of the deceased veteran's heirs may apply on behalf of an eligible deceased veteran. The personal representative must prove either (1) that he or she has been appointed by the proper court or (2) that the appointment process has begun. A personal representative may apply only on behalf of an individual who, between January 1, 1969, and December 31, 1971: (1) Was killed in action; (2) was wounded in action and was later determined by the Department of Veterans Affairs to have died as a direct consequence of that wound; or (3) died while a prisoner of war.

Under What Circumstances Will BLM Accept or Reject the Appointment of a Personal Representative?

BLM will accept an appointment of a personal representative made any time after an eligible person dies, even if that appointment was made before the Alaska Native Veterans law was enacted.

BLM will reject an appointment of a personal representative if the appointment process is incomplete when the allotment application is filed and the prospective personal representative does not file proof of the appointment within 18 months after the application filing deadline.

When Must I Apply for an Allotment?

You must apply no later than 18 months after this rule becomes effective.

What Information Must I Include in My Application?

You must include the following information in your application: Name, address, date of birth, telephone number, dates of military service, branch of service, legal description of land for which you are applying, dates of occupancy of land, description and value of improvements on land, and an explanation of your specific uses of land. You must also file a Certificate of

Indian Blood, which is a Bureau of Indian Affairs form, and verification of your qualifying military service obtained from the Department of Defense.

#### Do I Have To Pay Any Fees To File My Application?

Under the proposed regulations, no. Since the Alaska Native Veterans Law gives eligible veterans a chance to file applications under the 1906 Act as it was in effect before it was repealed, a Native veteran would have to meet the same filing requirements that existed before December 18, 1971. At no time were there ever any fees required for applications under the 1906 Act. Therefore, we made the initial decision that no fees will be charged.

However, we would like those who comment on this rulemaking to give us their views on the following:

- (a) Should we charge a fee for filing an application?
- (b) If so, should this fee be refundable if you do not receive an allotment?

#### What Else Must I Do When I File My Application?

The proposed rulemaking states you must:

- (1) Post the land in your application by marking all corners on the ground with your name and address, but only after these regulations are put into effect;
- (2) give an adequate legal description of the parcel of land; and
- (3) provide a map at a scale of 1:63,360 or larger.

However, we would like those who comment on this rulemaking to give us their views on the following: Should we consider an alternative to physical posting of corners on the ground which provides certainty of the location of the allotment application and provides notice to subsequent claimants?

#### Is This Application Information Different From What Previous Applicants Had To File?

The application for Alaska Native Veterans allotments is different from the application for an allotment under the 1906 Act in that you must provide information about your military service. You must do this because your eligibility for a veteran allotment is based partly on your military service and BLM needs to know this information to determine that you qualify.

#### Why Would I Need To File Proof of Military Service and the BIA "Certificate of Indian Blood" Form?

BLM would need to verify that you have enough military service during the

proper time frame to be eligible for an allotment under the Alaska Native Veterans law.

Since the Alaska Native Veterans law also requires you to have been eligible for an allotment under the Native Allotment Act of 1906, you would need to show proof that BIA has determined you are an Alaska Native under the 1906 Act and the regulations (43 CFR 2561.0-3) associated with the 1906 Act.

#### May I File Additional Information To Prove My Use and Occupancy?

You may file supporting evidence such as photographs and statements from knowledgeable witnesses describing when and how you used the allotment for which you are applying. You may also accompany the BLM field examiner to the land and show physical evidence of your use.

#### Why Would I Have To Prove Use and Occupancy That Began More Than Thirty Years Ago? Why Can't I Simply Apply for Available Land?

To be eligible for this new opportunity, a veteran must prove use and occupancy as if he or she had applied for an allotment before the Native Allotment Act was repealed in 1971. The Alaska Native Veterans law allows veterans who missed, due to their military service, their opportunity to apply for an allotment by 1971 to apply now for an allotment under the Native Allotment Act of 1906.

#### If BLM Finds Errors in My Application Will BLM Give Me a Chance To Correct the Application?

Yes. BLM will give you at least 60 days to correct errors. If you fail to do so within the time we give, BLM will reject your application.

#### G. The Type of Land Available for an Allotment

##### If I Am Eligible, What Land May BLM Convey to Me?

The BLM may only convey land that is currently owned by the federal government, is not a regularly used and recognized campsite, is not valuable for minerals, and does not have a special status. The special status may include land:

- (a) Selected but not conveyed to either the State of Alaska or a Village or Regional Corporation,
- (b) Withdrawn for any reason,
- (c) Selected or claimed, but not conveyed, under a public land law.

##### How Much Land May I Apply For?

You may apply for one or two parcels which may not total more than 160 acres. In the case of water frontage you

may apply for a half mile (160 rods) but if you apply for more than a half-mile BLM will treat your application as a request to waive this limitation.

#### What Happens if the Land for which I Qualified is no Longer Owned by the Government?

The Alaska Native Veterans law allows eligible veterans only to receive allotments of land that are currently owned by the Federal government. BLM has no authority to convey land to you that is not now owned by the Federal government, even if it was Federal land when you first began to use and occupy it. If you apply for this type of land BLM must reject your application.

#### May I Choose an Alternative Allotment If My Original Allotment Choice Is Unavailable?

You may be able to choose an alternative allotment if your original choice was for certain types of Federal land that BLM cannot convey to you. Section 2568.110 lists the types of land for which you may apply. The land must be within the same ANCSA region as the land in your original application.

Only applicants whose original choice is for land in a National Park unit, and who meet the use and occupancy requirements for that land, can qualify to receive an allotment of National Park land. You cannot choose an alternative allotment on National Park land if your original choice of land cannot be conveyed to you.

You cannot choose an alternative allotment if your original choice was for land that is not currently owned by the Federal government.

#### If I Have To Apply for an Alternative Allotment, When Do I Have To Apply?

BLM must receive your request within 12 months of when you received notification that you are eligible for an alternative allotment or within the original 18-month deadline if that is longer.

#### Can BLM Convey to Me Both the Land and the Rights to Valuable Minerals?

No. The Native Allotment Act of 1906 authorized allotment of only nonmineral land. A 1956 amendment to the Act allowed allotment of land known to be valuable for coal, oil, or gas. However, ownership of those minerals, along with the right to extract them, remains with the Federal government when BLM conveys the land.

BLM cannot convey a Native allotment on land known to be valuable for minerals like gold or silver or other hardrock minerals. If you apply for an

allotment of land known to be valuable for such minerals BLM must reject your application.

#### What If the land Is Valuable for Sand and Gravel?

Alaska Native veterans cannot receive allotments of land known to be valuable for sand or gravel. The Alaska Native Veterans law says that the eligibility for allotments is under the 1906 Act as it was in effect before December 18, 1971. Since the law at that time considered land valuable for sand or gravel to be mineral and not available for allotment, BLM cannot convey such land to Alaska Native veterans.

Some Alaska Natives who applied under the 1906 Act for land known to be valuable for sand or gravel have received their allotments. This is because Section 905(a)(3) of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) states that land valuable for sand or gravel is "nonmineral" under the 1906 Act. Since the authority under the Alaska Native Veterans Law is the 1906 Act as it was in effect in 1971, this 1980 amendment cannot be applied to Alaska veteran allotments.

#### What Is a Conservation System Unit (CSU)?

A CSU is an Alaska unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, or a National Forest Monument.

#### Can I Receive Title to an Allotment in Any One of the CSU's?

No. It may be possible for you to receive title to an allotment in certain CSU's, but you cannot receive title to an allotment of any land designated as wilderness by statute or of any land in a National Forest Monument CSU because the Alaska Native Veterans law specifically prohibits conveyance of such land.

#### In Those CSU Units Where I Am Permitted To Receive an Allotment, Are There Any Special Limitations or Procedures?

Congress provided that the CSU manager may find that conveyance of the land in your allotment application would be inconsistent with the purposes for which the CSU was established. However, you would still be able to receive an alternative allotment from other lands in or outside the CSU, other than in a National Park.

You must show that you used and occupied your original allotment choice

to be able to choose an alternative allotment. You would not have to show use and occupancy of your alternative allotment.

The Alaska Native Veterans law emerged after long discussions between Congressional staff and Department of the Interior officials. Congress could have decided not to allow any veterans' allotments within CSU's. However, to balance the rights of Native veterans and the desire to protect the unique values of the CSU's, Congress and the Department agreed to this compromise which allows allotments within certain CSU's if the allotment is consistent with the purpose of the CSU.

#### How Will a CSU Manager Determine If Conveyance of My Allotment Would Be Consistent With CSU Purposes?

Each CSU was created by a law or withdrawal order which explains the reasons the CSU was created. The manager of the CSU will make each determination on a case-by-case basis, taking into account such factors as:

- (a) The law or withdrawal order which created the CSU,
- (b) The mission of the agency that manages the CSU,
- (c) The proximity of the allotment to land that has already been conveyed to a Native corporation,
- (d) Issues relating to access to and from the allotment, and
- (e) The possible cumulative effects on the CSU of all the activities that would take place on the allotment.

#### Is It Possible That I Might Not Receive Any Land at All, Even If I Qualify To Apply for an Allotment?

Yes, it is possible that you might not receive an allotment even if you are a qualified Alaska Native Veteran. For example, if you apply for land that is not currently owned by the Federal government, BLM would have to reject your application and you would not be able to choose an alternative allotment. BLM would also reject your application if you apply for land known to be valuable for certain minerals and you would not be able to choose land elsewhere. If you fail to correct errors or fail to complete an application in a timely manner, your application may be rejected.

#### H. Appeals

##### What can I do if I disagree with any of the decisions?

You may appeal all decisions, except for the CSU compatibility decisions or determinations made by the Department of Veterans Affairs, to the Interior Board of Land Appeals. There is an appeal

process for CSU compatibility decisions that is described in §§ 2568.121 through 2568.123. Determinations made by the Department of Veterans Affairs have to be appealed through that department's process.

#### Why Is The Appeal Process for CSU Decisions Different From the Appeal Process for Other Types of Allotment Decisions?

Most allotment decisions issued by BLM that are appealed to the Interior Board of Land Appeals (IBLA) involve questions of law or evaluation of facts and evidence to determine eligibility. However, the question of whether an allotment is incompatible within a given CSU requires the technical knowledge of that CSU's managers. The three Department of the Interior agencies (Bureau of Land Management, National Park Service, Fish and Wildlife Service) responsible for CSU's already have resource decision appeal processes similar to the one contained in this proposed regulation. The Department believes this proposed CSU appeal process would be the most efficient.

The time frames in these proposed regulations would ensure that disagreements are resolved as quickly as possible so that conveyance of allotments would not be excessively delayed.

#### IV. Procedural Matters

##### *Executive Order 12866, Regulatory Planning and Review*

These proposed regulations are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. These proposed regulations will not have an effect of \$100 million or more on the economy. They will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. These proposed regulations will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. These proposed regulations do not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; nor do they raise novel legal or policy issues. The effect of these proposed regulations will be on a limited number of individuals who are qualified to apply for allotments and on the Interior Department agencies responsible for administering the allotment program. The allotment application period is limited by law to 18 months, and

existing staff of responsible agencies will process applications following most of the same rules that are currently in effect for allotment applications under the 1906 Native Allotment Act.

#### *Clarity of the Regulations*

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these proposed regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed regulations clearly stated? (2) Do the proposed regulations contain technical language or jargon that interferes with their clarity? (3) Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing etc.) aid or reduce their clarity? (4) Would the regulations be easier to understand if they were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "\$" and a numbered heading, for example **Sec. 2568.61 Where do I file my application?**) (5) Is the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the proposed regulations? How could this description be more helpful in making the proposed regulations easier to understand?

Please send any comments you have on the clarity of the regulations to the address specified in the **ADDRESSES** section.

#### *National Environmental Policy Act*

Section 910 of the Alaska National Interest Lands Conservation Act (ANILCA) of December 2, 1980, 43 U.S.C. 1638, made conveyances, regulations, and other actions which lead to the issuance of conveyances to Natives under ANCSA exempt from NEPA compliance requirements. Since Congress made the Veterans's Allotment Act a part of ANCSA, NEPA does not apply.

#### *Regulatory Flexibility Act*

Congress enacted the Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 601-612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. This proposed rule would apply only to certain Alaska Native veterans eligible to apply for allotments.

This rule applies only to Alaska Native veterans as individuals. Therefore, the Department of the Interior certifies that this document will not have any significant impacts on small entities under the Regulatory Flexibility Act.

#### *Small Business Regulatory Enforcement Fairness Act (SBREFA)*

These proposed regulations are not a "major rule" as defined at 5 U.S.C. 804(2). This proposed rule does not meet any of the criteria for a "major rule" under the definition contained in SBREFA. The proposed rule would result in some costs to allotment applicants, and to the Department of the Interior to implement the allotment program over the next several years. It would not result in major cost or price increases for consumers, industries, or regions, and the cost increases for government agencies would be small. This proposed rule would have no significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The total annual effect on the economy would be far below \$100 million. Based on Department of Veterans Affairs data, BLM estimates that about 1,100 individuals with at least one quarter Alaska Native blood meet the military service criteria in the Alaska Native Veterans law and may be eligible to apply for allotments. If each applicant were to choose the maximum number of land parcels allowed (2), the total number of parcels involved would be 2,200. BLM estimates the cost of processing an application for a single allotment parcel does not exceed \$25,000, including the cost of adjudication, examination, survey, and conveyance. This estimate is based on the average cost of processing allotment applications originally filed under the Alaska Native Allotment Act of 1906. The total cost to process 2,200 parcels would be \$55 million over the life of the program, which is, the statutory 18-month application period and as many additional years as necessary to complete all applications. In no case would these costs approximate the \$100 million annual impact threshold.

#### *Unfunded Mandates Reform Act*

These proposed regulations do not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year; nor do these proposed regulations have a significant or unique effect on State, local, or tribal governments or the private sector. The only mandate imposed on State

governments would be for the State court appointment of personal representatives in cases involving the estates of certain deceased applicants, but this mandate would cost far below \$100 million per year. These proposed regulations impose no mandate on local or tribal governments or the private sector. Program costs would fall primarily on the Department of the Interior. Therefore, BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

#### *Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)*

The proposed rule does not represent a government action capable of interfering with constitutionally protected property rights. The proposed rule would allow BLM to convey Federal land only under certain circumstances, and land containing other applications or entries is specifically forbidden by law from being conveyed to Native veterans. Even if a Native veteran could show use and occupancy of land before another application or entry was made, the Native would have no vested property right until he or she filed an application for an allotment under Section 41 of ANCSA. No existing applications or entries or other private property interests would be affected by this proposed rule. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

#### *Executive Order 13132, Federalism*

The proposed rule will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Section 41 of ANCSA does not allow any land selected by the State of Alaska to be conveyed to a Native veteran, so there would be no effect on the State's ability to reach its full acreage entitlement from the Federal government. Native veterans would not be able to apply for land already owned by the State, even if they could show that they used and occupied the land before the State applied for it. Allotments conveyed under Section 41 of ANCSA are not taxable, just as allotments conveyed under the 1906 Act are not taxable, so there would be no

effect on State or local property tax revenue. Therefore, in accordance with Executive Order 13132, BLM has determined that this proposed rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment. Representatives of the State of Alaska and the BLM Alaska have had general discussions on the content of the statute and the proposed regulations. Representatives of the State of Alaska and of the Natives recognize that lands selected by the State or conveyed to the State are prohibited from land availability under this statute.

#### *Executive Order 12988, Civil Justice Reform*

Under Executive Order 12988, the Office of the Solicitor has determined that this proposed rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

#### *Paperwork Reduction Act*

This proposed rule contains information collection requirements covered under the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C 3501 *et seq.* All the information requirements pertain to an application form, whereby Alaska veterans may apply for the benefits described in this proposed rule. BLM has prepared and requested OMB to review and approve an information collection package for the application form. Because all the information requirements are contained in the application form and covered by that information collection package, BLM has not prepared a separate information collection package for these regulations.

The information BLM asks for in the form identified in Section 2568.73 will be collected through the allotment application form "Alaska Native Vietnam Veteran Allotment Application," under an OMB form number to be assigned when OMB approves the collection. BLM would require individual Alaska Native veterans who apply for allotments under Section 41 of ANCSA or, in the case of certain deceased veterans, the personal representatives of their estates to comply with the information collection requirement.

Specific information to be collected is as follows:

Name, address, date of birth, telephone number, dates of military service, branch of service, legal description of land for which veteran or representative is applying, dates of occupancy of land, description and

value of improvements on land, and specific uses of land.

BLM estimates the total number of respondents will be approximately 1,100 and the burden on new respondents will be approximately 30,800 hours. These estimates apply to the entire 18-month application period. For a 12-month period this works out to 732 applicants and 20,496 hours. The estimate of the number of respondents is based on computer data from the Department of Veterans Affairs concerning Alaska Native veterans with at least one quarter Alaska Native blood who served in the U.S. military between January 1, 1969, and December 31, 1971. This data was further screened to identify those persons who met the 6 months' service requirement in Section 41 of ANCSA. BLM derived the total estimated burden hours by multiplying the number of potential respondents by an estimate of the 28 hours required to complete the application form and obtain the other documentation required by the form. The majority of questions on the form require brief answers, many of them simply "yes" or "no." Only two questions require narrative responses and in both cases responses are not required from all applicants.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for the Department of the Interior.

BLM considers comments by the public on this proposed collection of information in—

Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of BLM, including whether the information will have practical use;

Evaluating the accuracy of BLM's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; Enhancing the quality, usefulness, and clarity of the information to be collected; and Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; such as permitting electronic submittal of responses.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after

publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to BLM on the proposed regulations.

#### **Author**

The principal author of this rule is Connie Van Horn, Division of Conveyance Management, Bureau of Land Management, Anchorage, Alaska; assisted by Frank Bruno of BLM's Regulatory Affairs Group, Bureau of Land Management, Washington, DC.

#### **List of Subjects in 43 CFR Part 2560**

Alaska, Homesteads, Indian Lands, Public Lands, Public Lands-Sale, and Reporting and Recordkeeping requirements.

Dated: February 2, 2000.

**Sylvia V. Baca,**

*Acting Assistant Secretary, Land and Minerals Management.*

Accordingly, BLM proposes to amend 43 CFR part 2560 as follows:

1. The authority citation for part 2560 continues to read as follows:

**Authority:** 43 U.S.C. 1201, 1740.

2. Add subpart 2568 to read as follows:

#### **Subpart 2568—Alaska Native Allotments for Certain Veterans**

##### **Purpose**

##### **Sec.**

2568.10 What Alaska Native allotment benefits are available to certain Alaska Native veterans?

##### **Regulatory Authority**

2568.20 What is the legal authority for these allotments?

2568.21 Do other regulations directly apply to these regulations?

##### **Definitions**

2568.30 What terms do I need to know to understand these regulations?

##### **Information Collection**

2568.40 Does BLM have the authority to ask me for the information required in these regulations?

##### **Who Is Qualified for an Allotment**

2568.50 What qualifications do I need to be eligible for an allotment?

##### **Personal Representatives**

2568.60 May the personal representatives of eligible deceased veterans apply on their behalf?

2568.61 What are the requirements for a personal representative?

2568.62 Under what circumstances does BLM accept the appointment of a personal representative?

2568.63 Under what circumstances does BLM reject the appointment of a personal representative?

2568.64 Are there different requirements for giving an allotment to the estate of a deceased veteran?

#### Applying for an Allotment

2568.70 If I am qualified for an allotment, when can I apply?

2568.71 Where do I file my application?

2568.72 When does BLM consider my application to be filed too late?

2568.73 Do I need to fill out a special application form?

2568.74 What else must I file with my application?

2568.75 Must I include a Certificate of Indian Blood as well as Department of Defense verification of qualifying military service when I file my application with BLM? Also, if I am a personal representative filing on behalf of the estate of a deceased veteran, must I also file the Department of Veterans Affairs verification of cause of death at this time?

2568.76 Do I need to pay any fees when I file my application?

2568.77 Do I have to post the land in my application on the ground?

2568.78 Will my application segregate the land for which I am applying from other applications or land actions?

2568.79 Are there any rules about the number and size of parcels?

2568.80 Does the parcel have to be surveyed before I can receive title to it?

2568.81 If BLM finds errors in my application, will BLM give me a chance to correct them?

2568.82 If BLM decides that I have not submitted enough information to show qualifying use and occupancy, will it reject my application or give me a chance to submit more information?

#### Available Lands General

2568.90 If I qualify for an allotment, what land may BLM convey to me?

2568.91 Is there land owned by the Federal government that BLM cannot convey to me even if I qualify?

2568.92 Is there a limit to how much water frontage my allotment can include?

2568.93 Can I receive an allotment of land that is valuable for minerals?

#### Available Lands-Conservation System Units (CSU)

2568.100 What is a Conservation System Unit?

2568.101 If the land I used and occupied is within a Conservation System Unit (CSU) other than a National Wilderness or any part of a National Forest, can I receive title to it?

2568.102 Is the process by which the managing agency decides whether my allotment is not inconsistent with the CSU the same as other such determination processes?

2568.103 By what process does the managing agency of a CSU decide if my allotment would be consistent with the CSU?

2568.104 How will a CSU manager determine if my allotment is consistent with the CSU?

2568.105 In what situations could a CSU manager likely find an allotment to be consistent with the CSU?

2568.106 In what situations could a CSU manager generally find an allotment to be inconsistent with the purposes of a CSU?

#### Alternative Allotments

2568.110 If I qualify for Federal land in one of the categories BLM cannot convey, is there any other way for me to receive an allotment?

2568.111 What if BLM decides that I qualify for land that is in the category of Federal land that BLM cannot convey?

2568.112 What do I do if BLM notifies me that I am eligible to choose an alternative allotment?

2568.113 How do I apply for an alternative allotment if the CSU manager determines my application is inconsistent with a CSU?

2568.114 When must I apply for an alternative allotment if the CSU manager determines my application is inconsistent with a CSU?

#### Appeals

2568.120 What can I do if I disagree with any of the decisions that are made about my allotment application?

2568.121 If an agency determines my allotment is inconsistent with the purposes of a CSU, what can I do if I disagree?

2568.122 What then does the CSU manager do with my request for reconsideration?

2568.123 Can I appeal the CSU Manager's reconsidered decision if I disagree with it?

#### Subpart 2568-Alaska Native Allotments for Certain Veterans

##### Purpose

##### § 2568.10 What Alaska Native allotment benefits are available to certain Alaska Native veterans?

Eligible Alaska Native veterans may receive an allotment of one or two parcels of Federal land in Alaska totaling no more than 160 acres.

##### Regulatory Authority

##### § 2568.20 What is the legal authority for these allotments?

(a) The Alaska Native Claims Settlement Act, 43 U.S.C. 1601 *et seq.* (ANCSA), as amended.

(b) Section 432 of Public Law 105-276, the Appropriations Act for the Departments of Veterans Affairs and Housing and Urban Development for fiscal year 1999, which amended ANCSA by adding section 41.

(c) The Native Allotment Act of 1906, 34 Stat. 197, as amended, 42 Stat. 415 and 70 Stat. 954, 43 U.S.C. 270-1 through 270-3 (1970).

##### § 2568.21 Do other regulations directly apply to these regulations?

Yes. The regulations implementing the Native Allotment Act of 1906, 43

CFR Subpart 2561, also apply to Alaska Native Veteran Allotments to the extent they are not inconsistent with section 41 of ANCSA or any provisions in this Subpart.

#### Definitions

##### § 2568.30 What terms do I need to know to understand these regulations?

*Alaska Native* is defined in the Native Allotment Act of 1906 as amended by the Act of August 2, 1956, 70 Stat. 954.

*Allotment* has the same meaning as in 43 CFR 2561.0-5(b).

*Conservation System Unit (CSU)* has the same meaning as under Sec. 102(4) of the Alaska National Interest Lands Conservation Act of December 2, 1980 (ANILCA), 16 U.S.C. 3102(4).

*Veteran* has the same meaning as in 38 U.S.C. 101, paragraph 2.

#### Information Collection

##### § 2568.40 Does BLM have the authority to ask me for the information required in these regulations?

(a) Yes. The Office of Management and Budget has approved, under 44 U.S.C. 3507, the information collection requirements contained in this subpart 2568 and has assigned them clearance number xxxx-xxxx for Form AK-2561-10. BLM uses this information to determine if using the public lands is appropriate. You must respond to obtain a benefit.

(b) BLM estimates that the public reporting burden for this information is as follows: 28 hours per response to fill out form AK-2561-10. These estimates include the time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed and completing the collection of information.

(c) Send comments regarding this burden estimate or any other aspect of this collection to the Information Collection Clearance Officer, Bureau of Land Management, 1849 C St. N.W., Mail Stop 401 LS, Washington, D.C. 20240.

#### Who Is Qualified for an Allotment

##### § 2568.50 What qualifications do I need to be eligible for an allotment?

To qualify for an allotment you must:

(a) Have been eligible for an allotment under the Native Allotment Act as it was in effect before December 18, 1971; and

(b) Be a veteran who served at least six months between January 1, 1969, and June 2, 1971, or enlisted or was drafted after June 2, 1971, but before December 3, 1971; and

(c) Not have already received conveyance or approval of an allotment.



(However, if you received an allotment interest by inheritance, devise, gift, or purchase you are not disqualified from applying); and

(d) Not have a Native allotment application pending on October 21, 1998.

### Personal Representatives

#### **§ 2568.60 May the personal representatives of eligible deceased veterans apply on their behalf?**

Yes. The personal representative may apply for an allotment, for the benefit of the deceased veteran's heirs, if between January 1, 1969, and December 31, 1971, the deceased veteran:

- (a) Was killed in action, or
- (b) Was wounded in action and later died as a direct consequence of that wound, as determined and certified by the Department of Veterans Affairs, or
- (c) Died while a prisoner of war.

#### **§ 2568.61 What are the requirements for a personal representative?**

The person filing the application must present proof of a current appointment as personal representative of the estate of the deceased veteran by the proper court, or proof that this appointment process has begun.

#### **§ 2568.62 Under what circumstances does BLM accept the appointment of a personal representative?**

BLM will accept an appointment of personal representative made any time after an eligible person dies, even if that appointment came before enactment of the Alaska Native Veterans Law.

#### **§ 2568.63 Under what circumstances does BLM reject the appointment of a personal representative?**

If the appointment process is incomplete at the time of allotment application filing, the prospective personal representative must file the proof of appointment with BLM within 18 months after the application filing deadline or BLM will reject the application.

#### **§ 2568.64 Are there different requirements for giving an allotment to the estate of a deceased veteran?**

No. The estate of the deceased veteran eligible under section 2568.60 must meet the same requirements for a Native allotment as other living Alaska Native veterans.

### Applying for an Allotment

#### **§ 2568.70 If I am qualified for an allotment, when can I apply?**

If you are qualified, you can apply between *(insert the effective date of rule)* and *(insert the date which is 18*

*months after the effective date of the rule)*.

#### **§ 2568.71 Where do I file my application?**

You must file your application in person or by mail with the BLM Alaska State Office.

#### **§ 2568.72 When does BLM consider my application to be filed too late?**

BLM will consider applications to be filed too late if they are:

- (a) Submitted in person after the deadline in 43 CFR 2568.70, or
- (b) Postmarked after the deadline indicated at 43 CFR 2568.70.

#### **§ 2568.73 Do I need to fill out a special application form?**

Yes. You must complete form no. AK-2561-10, "Alaska Native Veteran Allotment Application."

#### **§ 2568.74 What else must I file with my application?**

You must also file:

- (a) A Certificate of Indian Blood, which is a Bureau of Indian Affairs form,
- (b) A DD Form 214 "Certificate of Release or Discharge from Active Duty" or other documentation from the Department of Defense to verify military service, as well as any information on cause of death supplied by the Department of Veterans Affairs,
- (c) A map at a scale of 1:63,360 or larger, sufficient to locate on the ground the land for which you are applying, and
- (d) A legal description of the land for which you are applying. If there is a discrepancy between the map and the legal description, the map will control. The map must be sufficient to allow BLM to locate the parcel on the ground. You must also estimate the number of acres in each parcel.

#### **§ 2568.75 Must I include a Certificate of Indian Blood as well as Department of Defense verification of qualifying military service when I file my application with BLM? Also, if I am a personal representative filing on behalf of the estate of a deceased veteran, must I also file the Department of Veterans Affairs verification of cause of death at this time?**

Yes. If any of these documents is missing when you file the application, BLM will ask you to provide the information within the time specified in a notice. BLM will not process the application until you file the necessary documents but will consider the application as having been timely filed.

#### **§ 2568.76 Do I need to pay any fees when I file my application?**

No. You do not need to pay a fee to file an application.

#### **§ 2568.77 Do I have to post the land in my application on the ground?**

(a) Yes. Before you file your application you must post the land by marking all corners on the ground with your name and address.

(b) On land within a CSU, you must get a free special use permit from the CSU manager before you erect any signs or markers. The CSU manager may establish in the permit a maximum size of any signs or markers. If the CSU manager later decides under § 2568.104 that your allotment is not consistent with the CSU, you must promptly remove the signs or markers unless the CSU manager waives this requirement in the special use permit.

#### **§ 2568.78 Will my application segregate the land for which I am applying from other applications or land actions?**

The filing of an application with a sufficient description to identify the lands will segregate those lands. "Segregation" has the same meaning as in 43 CFR 2091.0-5(b).

#### **§ 2568.79 Are there any rules about the number and size of parcels?**

Yes. You may apply for one or two parcels, but if you apply for two parcels the two combined cannot total more than 160 acres. You may apply for less than 160 acres. Each parcel must be reasonably compact.

#### **§ 2568.80 Does the parcel have to be surveyed before I can receive title to it?**

Yes. The land in your application must be surveyed before BLM can convey it to you. BLM will survey your allotment at no charge to you, or you may obtain a private survey. BLM must approve the survey if it is done by a private surveyor.

#### **§ 2568.81 If BLM finds errors in my application, will BLM give me a chance to correct them?**

Yes. If you file your application during the 18-month filing period and BLM finds correctable errors, it will consider the application to be timely filed once you correct them. BLM will send you a notice advising you of any correctable errors and give you at least 60 days to correct them. You must make corrections within the specified time or BLM will reject your application.

#### **§ 2568.82 If BLM decides that I have not submitted enough information to show qualifying use and occupancy, will it reject my application or give me a chance to submit more information?**

(a) BLM will not reject your application without giving you an opportunity for a hearing to establish the facts of your use.



(b) If BLM cannot determine from the information you submit that you met the use and occupancy requirements of the 1906 Act, it will send you a notice saying that you have not submitted enough evidence and will give you at least 60 days to file additional information.

(c) If you do not submit additional evidence by the end of the time BLM gives you or if you submit additional evidence but BLM still cannot determine that you meet the use and occupancy requirements, the following process will occur:

(1) BLM will issue a formal contest complaint telling you why it believes it should reject your application.

(2) If you answer the complaint and tell BLM you want a hearing, BLM will ask an Administrative Law Judge (ALJ) of the Interior Department, Office of Hearings and Appeals, to preside over a hearing to establish the facts of your use and occupancy.

(3) The ALJ will evaluate all the written evidence and oral testimony and issue a decision.

(4) You can appeal this decision to the Interior Board of Land Appeals according to 43 CFR part 4.

#### Available Lands—General

##### **§ 2568.90 If I qualify for an allotment, what land may BLM convey to me?**

You may receive title only to:

(a) Land that:

(1) Is currently owned by the Federal government,

(2) Was vacant, unappropriated, and unreserved when you first began to use and occupy it,

(3) Has not been continuously withdrawn since before your 5th birthday,

(4) You started using before December 13, 1968, and

(5) You prove by a preponderance of the evidence that you used and occupied in a substantially continuous, and independent manner, at least potentially exclusive of others, for five or more years. This possession of the land must not be merely intermittent. "Preponderance of evidence" means evidence which is more convincing than the evidence offered in opposition to it; that is, evidence which as a whole shows that the fact you are trying to prove is more likely a fact than not.

(b) Substitute land explained in 43 CFR 2568.110.

##### **§ 2568.91 Is there land owned by the Federal government that BLM cannot convey to me even if I qualify?**

You cannot receive an allotment containing any of the following:

(a) A regularly used and recognized campsite that is primarily used by

someone other than yourself. The campsite area that you cannot receive is that which is actually used as a campsite.

(b) Land selected by, but not conveyed to, the State of Alaska;

(c) Land presently selected by, but not conveyed to, a Village Corporation as defined in section 3(j) of ANCSA (43 U.S.C. 1602(j)); a Regional Corporation as defined in section 3(g) of ANCSA (43 U.S.C. 1602(g)); a Native group as defined in section 3(d) of ANCSA (43 U.S.C. 1602(d)); or an urban Native corporation to which conveyance is authorized by section 14(h)(3) of ANCSA (43 U.S.C. 1613(h)(3)). A Native corporation may relinquish up to 160 acres of its selection to allow an eligible Native veteran to receive an allotment, as long as the remaining ANCSA selection comports with the appropriate selection rules in 43 CFR part 2650. Any such relinquishment must not cause the corporation to become underselected. See 43 U.S.C. 1621(j)(2) for a definition of underselection;

(d) Land designated as wilderness by statute;

(e) Land acquired by the Federal government through gift, purchase, or exchange;

(f) Land containing any development owned or controlled by a unit of government, or a person other than yourself;

(g) Land withdrawn or reserved for national defense, other than the National Petroleum Reserve-Alaska;

(h) National Forest land; or

(i) Land selected or claimed, but not yet conveyed, under a public land law, including but not limited to the following:

(1) Land within a recorded mining claim;

(2) Home sites;

(3) Trade and manufacturing sites;

(4) Reindeer sites and headquarters sites;

(5) Cemetery sites.

##### **§ 2568.92 Is there a limit to how much water frontage my allotment can include?**

Yes, in some cases. You will normally be limited to a half-mile (referred to as 160 rods in the regulations at 43 CFR part 2094) along the shore of a navigable water body. If you apply for land that extends more than a half-mile, BLM will treat your application as a request to waive this limitation. As explained in 43 CFR 2094.2, BLM can waive the half-mile limitation if it determines the land is not needed for a harborage, wharf, or boat landing area, and that a waiver would not harm the public interest.

##### **§ 2568.93 Can I receive an allotment of land that is valuable for minerals?**

BLM can convey an allotment that is known to be or believed to be valuable, for coal, oil, or gas, but the ownership of these minerals remains with the Federal government. BLM cannot convey to you land valuable for other kinds of minerals such as gold, silver, sand or gravel. If BLM conveys an allotment that is valuable for coal, oil, or gas, the allottee owns all minerals in the land except those expressly reserved to the United States in the conveyance.

#### Available Lands—Conservation System Units (CSU)

##### **§ 2568.100 What is a Conservation System Unit?**

A Conservation System Unit (CSU) is an Alaska unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, or a National Forest Monument.

##### **§ 2568.101 If the land I used and occupied is within a Conservation System Unit (CSU) other than a National Wilderness or any part of a National Forest, can I receive title to it?**

You may receive title if you qualify for that allotment and the managing agency of the CSU agrees that conveyance of that allotment is not inconsistent with the purposes of the CSU.

##### **§ 2568.102 Is the process by which the managing agency decides whether my allotment is not inconsistent with the CSU the same as other such determination processes?**

No. This process is unique to this regulation. It should not be confused with any similar process under any other act, including the incompatibility process under the National Wildlife Refuge System Improvement Act of 1998.

##### **§ 2568.103 By what process does the managing agency of a CSU decide if my allotment would be consistent with the CSU?**

(a) BLM conducts a field exam, with you or your representative, to check the boundaries of the land for which you are applying and to look for signs of use and occupancy. The CSU manager or a designated representative may also attend the field exam.

(b) The CSU manager or representative assesses the resources to determine if the allotment would be consistent with CSU purposes at that location. You may submit any other information for the CSU manager to consider. You or your representative may also accompany, at your expense,

the CSU representative on any field exam.

(c) The CSU manager submits a written decision and resource assessment to BLM within 18 months of the BLM field exam. The CSU manager will send you a copy of the decision. You may request a copy of the resource assessment.

**§ 2568.104 How will a CSU manager determine if my allotment is consistent with the CSU?**

The CSU manager will decide this on a case-by-case basis by considering the law or withdrawal order which created the CSU. The law or withdrawal order explains the purposes for which the CSU was created. The manager would also consider the mission of the CSU managing agency as established in law and policy. The manager will also consider how the cumulative impacts of the various activities that would take place on the allotment might affect the CSU.

**§ 2568.105 In what situations could a CSU manager likely find an allotment to be consistent with the CSU?**

An allotment could generally be consistent with the purposes of the CSU if:

(a) You locate an allotment near land that BLM has conveyed to a Native corporation under ANCSA, or

(b) A Native corporation has selected the land under ANCSA and has said it would relinquish such selection, as long as the remaining ANCSA selection comports with the appropriate selection rules in 43 CFR part 2650. Any relinquishment must not cause the corporation to become underselected. See 43 U.S.C. 1621(j)(2) for a definition of underselection.

**§ 2568.106 In what situations could a CSU manager generally find an allotment to be inconsistent with the purposes of a CSU?**

An allotment could generally be inconsistent in situations including, but not limited to, the following:

(a) If, by itself or as part of a group of allotments, it could significantly interfere with biological, physical, cultural, scenic, recreational, natural quiet or subsistence values of the CSU.

(b) If, by itself or as part of a group of allotments, it obstructs access by the public or managing agency to the resource values of surrounding CSU lands.

(c) If, by itself or as part of a group of allotments, it could trigger development or future uses in an area that would adversely affect resource values of surrounding CSU lands.

(d) If it is isolated from existing private properties and opens an area of

a CSU to new access and uses that adversely affect resource values of the surrounding CSU lands.

(e) If it interferes with the implementation of the CSU management plan.

**Alternative Allotments**

**§ 2568.110 If I qualify for Federal land in one of the categories BLM cannot convey, is there any other way for me to receive an allotment?**

Yes. In this case, you may choose an alternative allotment from the following types of land within the same ANCSA Region as the land for which you originally qualified:

(a) Land within an original withdrawal under section 11(a)(1) of ANCSA for selection by a Village Corporation which was:

- (1) Not selected,
- (2) Selected and later relinquished, or
- (3) Selected and later rejected by BLM;

(b) Land outside of, but touching a boundary of a Village withdrawal, not including land described in 43 CFR 2568.91 or land within a National Park; or

(c) Vacant, unappropriated, and unreserved land.

**§ 2568.111 What if BLM decides that I qualify for land that is in the category of Federal land that BLM cannot convey?**

BLM will notify you in writing that you are eligible to choose an alternative allotment from lands described in 43 CFR 2568.110.

**§ 2568.112 What do I do if BLM notifies me that I am eligible to choose an alternative allotment?**

You must file a request for an alternative allotment in the Alaska State Office as stated in 43 CFR 2568.71 and follow all the requirements you did for your original allotment application.

**§ 2568.113 How do I apply for an alternative allotment if the CSU manager determines my application is inconsistent with a CSU?**

You should contact the appropriate CSU manager as quickly as possible to discuss resource concerns, potential constraints, and impacts on existing management plans. After you do this you must file a request for an alternative allotment with the BLM Alaska State Office as stated in 43 CFR 2568.71 and follow all the requirements of the original allotment application.

**§ 2568.114 When must I apply for an alternative allotment if the CSU manager determines my application is inconsistent with a CSU?**

Your application for an alternative allotment must be filed:

(a) Within 12 months of when you receive a decision from a CSU manager that says your original allotment is inconsistent with the purposes of the CSU or,

(b) Within six months of when you receive a decision from the CSU manager on your request for reconsideration of the original decision affirming that your original allotment is inconsistent with the purposes of the CSU, or

(c) Within three months of the date an appellate decision from the National Park Service (NPS) Regional Director, U.S. Fish and Wildlife Service (USFWS) Regional Director, or BLM Alaska State Director becomes final.

**Appeals**

**§ 2568.120 What can I do if I disagree with any of the decisions that are made about my allotment application?**

You may appeal all decisions, except for the CSU consistency decisions or determinations by the Department of Veterans Affairs, to the Interior Board of Land Appeals under 43 CFR part 4.

**§ 2568.121 If an agency determines my allotment is inconsistent with the purposes of a CSU, what can I do if I disagree?**

(a) You or your legal representative may request reconsideration of a CSU manager's decision by sending a signed request to that manager.

(b) The request for reconsideration must be submitted in person or postmarked to the CSU manager no later than 90 calendar days of when you received the decision.

(c) The request for reconsideration must include:

(1) The BLM case file number of the application and parcel, and

(2) Your reason(s) for filing the reconsideration, and any new pertinent information.

**§ 2568.122 What then does the CSU manager do with my request for reconsideration?**

(a) The CSU manager will reconsider the original compatibility decision and send you a written decision within 45 calendar days after they receive your request. The 45 days may be extended for a good reason in which case you would be notified of the extension in writing. The reconsideration decision will give the CSU Manager's reasons for this new decision and it will summarize the evidence that was used.

(b) The reconsideration decision will provide information on how to appeal if you disagree with it.

**§ 2568.123 Can I appeal the CSU Manager's reconsidered decision if I disagree with it?**

(a) Yes. If you or your legal representative disagree with the decision you may appeal to the NPS Regional Director, the USFWS Regional Director, or BLM Alaska State Director responsible for the CSU where your proposed allotment is located.

(b) Your appeal must:

- (1) Be in writing,
- (2) Be submitted in person to the CSU manager or postmarked no later than 45

calendar days of when you received the reconsidered decision.

(3) State any legal or factual reason(s) why you believe the decision is wrong. You may include any additional evidence or arguments to support your appeal.

(c) You may present oral testimony to the NPS Regional Director, USFWS Regional Director, or BLM Alaska State Director to clarify issues raised in the written record.

(d) The NPS Regional Director, USFWS Regional Director, or BLM

Alaska State Director will send you their written decision within 45 calendar days of when they receive your appeal. This period can be extended for a good reason. You will be notified.

(e) The decision of the NPS Regional Director, USFWS Regional Director, or BLM Alaska State Director is the final administrative decision of the Department of the Interior.

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**BILLING CODE 4310-84-P**