

§ 2568.91

“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 presently selected by, but not conveyed to, the State of Alaska. The State may relinquish up to 160 acres of its selection to allow an eligible Native veteran to receive an allotment;

(c) Land presently selected by, but not conveyed to, a Native corporation as defined in 43 U.S.C. 1602(m). 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 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(g) Land withdrawn or reserved for national defense, other than the National Petroleum Reserve-Alaska;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;

43 CFR Ch. II (10–1–06 Edition)

(3) Trade and manufacturing sites;
(4) Reindeer sites and headquarters sites;

(5) Cemetery sites.

§ 2568.92 [Reserved]

§ 2568.93 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.

§ 2568.94 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.

§ 2568.95 Will BLM try to reacquire land that has been conveyed out of Federal ownership so it can convey that land to a Native veteran?

No. The Alaska Native Veterans Allotment Act does not give BLM the authority to reacquire former Federal land in order to convey it to a Native veteran.

AVAILABLE LANDS—CONSERVATION SYSTEM UNITS (CSU)

§ 2568.100 What is a CSU?

A CSU is an Alaska unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails

Bureau of Land Management, Interior

§ 2568.106

System, National Wilderness Preservation System, or a National Forest Monument.

§ 2568.101 If the land I used and occupied is within a CSU other than a National Wilderness or any part of a National Forest, can I receive a 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 1997.

§ 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 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 and 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 could 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) The allotment for which you qualify is located 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 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.