

entered at the time of a tax levy for nonpayment of tax.

We have only one record at BLM of any activity in this program during the last 40 years, occurring in 1971. We accessed our online case recordation system and found no other record of any recent case activity. We also searched a legal data base and found that the last time the statute or implementing regulation was cited in a reported civil case was in 1948. The program's inactivity and absence of civil case citations indicate that this regulation may be obsolete. Furthermore, we believe that the regulations are impractical to administer due to the scarcity of water in public land states for agricultural purposes. For these reasons, we believe that continued publication of 43 CFR part 2780 is unnecessary and contrary to the public interest.

### III. Procedural Matters

#### *National Environmental Policy Act*

The BLM has prepared an environmental assessment (EA), and has found that the proposed rule would not constitute a major federal action significantly affecting the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). The BLM has placed the EA and the Finding of No Significant Impact (FONSI) on file in the BLM Administrative Record at the address specified previously. The BLM invites the public to review these documents by contacting us at the addresses listed above (see **ADDRESSES**), and suggests that anyone wishing to submit comments in response to the EA and FONSI do so in accordance with the "Written Comments" section above, or contact us directly.

#### *Paperwork Reduction Act*

The rule does not contain information collection requirements which the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

#### *Regulatory Flexibility Act*

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 et seq., 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. The BLM has determined under the RFA that this proposed rule would not

have a significant economic impact on a substantial number of small entities.

#### *Executive Order 12866*

According to the criteria listed in section 3(f) of Executive Order 12866, BLM has determined that the proposed rule is not a significant regulatory action. As such, the proposed rule is not subject to Office of Management and Budget review under section 6(a)(3) of the order.

#### *Unfunded Mandates Reform Act*

Removal of 43 CFR part 2780 will not result in any unfunded mandate to state, local or tribal governments in the aggregate, or to the private sector, of \$100,000,000 or more in any one year.

#### *Executive Order 12612*

The proposed rule would not have sufficient federalism implications to warrant BLM preparation of a Federalism Assessment (FA).

#### *Executive Order 12630*

The proposed rule does not represent a government action capable of interfering with constitutionally protected property rights. Section 2(a)(1) of Executive Order 12630 specifically exempts actions abolishing regulations or modifying regulations in a way that lessens interference with private property use from the definition of "policies that have takings implications." Since the primary function of the proposed rule is to abolish unnecessary regulations, there will be no private property rights impaired as a result. Therefore, BLM 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 12988*

The Department of the Interior has determined that this rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

#### *Author*

The principal author of this proposed rule is Jeff Holdren, Realty Use Group, assisted by Ian Senio, Regulatory Management Team, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240; Telephone 202/452-7779.

#### List of Subjects for 43 CFR Part 2780

Irrigation, Public lands—sale, Reclamation.

For the reasons stated in the preamble, and under the authority of 43

U.S.C. 1740, part 2780 of group 2700, subchapter B, chapter II of title 43 of the Code of Federal Regulations is removed.

Dated: September 4, 1996.

Sylvia V. Baca,

*Deputy Assistant Secretary of the Interior.*

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### 43 CFR Part 5510

[WO-350-1430-00 24 1A]

RIN 1004-AC92

#### **Use by Settlers and Homesteaders of Timber on Their Pending Claims and Free Use of Timber Upon Oil and Gas Leases**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In response to President Clinton's Government-wide regulatory reform initiative, the Bureau of Land Management proposes to remove regulations which govern the free use of timber on public lands and upon oil and gas leases because they are obsolete and have not been used in many years.

**DATES:** Submit comments by October 15, 1996. BLM may, but need not, consider comments received or postmarked after this date in preparing the final rule.

**ADDRESSES:** Comments may hand-deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L St., NW, Washington, DC, or mail comments to the Bureau of Land Management, Administrative Record, Room 401LS, 1949 C Street, NW, Washington, DC 20240.

Commenters may transmit comments electronically via the Internet to: WOComment@WO0033wp.wo.blm.gov. [For internet, please include "Attn: AC92", your name, and return address in your message.]

Comments will be available for public review at the L Street address during regular business hours from 7:45 a.m. to 4:15 p.m., Monday through Friday, except holidays.

**FOR FURTHER INFORMATION CONTACT:** Jeff Holdren, (202) 452-7779.

#### **SUPPLEMENTARY INFORMATION:**

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

#### **I. Public Comment Procedures**

Written comments on the proposed rule should be specific, focus on issues pertinent to the proposed rule, and explain the reason for any

recommended change. Where possible, comments should reference the specific section or paragraph of the proposal being addressed. If comments are received after the close of the comment period (see **DATES**) or delivered to an address other than the one listed above (see **ADDRESSES**), BLM will not necessarily consider or include them in the Administrative Record for the final rule.

## II. Discussion of Proposed Rule

Section 5511.1-2 of 43 CFR describes procedures that homesteaders may use to obtain free use of timber on public lands. However, no applications have been submitted to BLM under this subpart for many years, principally because of two laws. First, the Taylor Grazing Act of June 28, 1934 (43 U.S.C. 315-315r), requires that lands be classified for the proposed use before occupancy on the land is allowed. Secondly, section 702 of the Federal Land Policy and Management Act of 1976 (FLPMA), 90 Stat. 2787, repealed the homestead laws which, in effect, rendered unnecessary the regulatory requirements of Section 5511.1-2.

Similarly, the procedures under Section 5511.1-4, which lessees must use to obtain free use of timber on oil and gas leases, are outmoded. No applications under this subpart have been submitted to BLM in many years, principally because oil and gas lessees no longer need to use timber on their leases. Lessees now have access to modern industrial techniques.

Because Sections 5511.1-2 and 5511.1-4 are obsolete and there are no pending applications, these regulations serve no useful purpose. Removing these subparts will meet an objective of the Administration to eliminate outdated and unnecessary regulations from the CFR.

## III. Procedural Matters

### *National Environmental Policy Act of 1969*

The proposed rule is administrative and procedural in nature. It, therefore, is categorically excluded from the study process required by the National Environmental Policy Act of 1969 (42

U.S.C. 4331(2)(C)), pursuant to 516 Departmental Manual (DM), Chapter 2, Item 1.10, and it would not meet any of the 10 criteria for exceptions to categorical exclusions listed in 516 DM 2, Appendix 2. Under the Council on Environmental Quality regulations (40 CFR 1508.4) and environmental policies and procedures of the Department of the Interior, the term "categorical exclusions" means a category of actions that do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency. Neither an environmental assessment nor an environmental impact statement is required for categorically excluded actions.

### *Paperwork Reduction Act*

The proposed rule does not contain information collection requirements that the Office of Management and Budget must approve under 44 U.S.C. 3501 *et seq.*

### *Regulatory Flexibility Act*

BLM has determined that the proposed rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

### *Unfunded Mandates Reform Act of 1995*

This proposed rule does not include any Federal mandate that may result in expenditures of \$100 million or more in any one year by State, local, or tribal governments, in the aggregate, or by the private sector. Therefore, a Section 202 statement under the Unfunded Mandates Reform Act is not required.

### *Executive Order 12612*

BLM has analyzed this rule under the principles and criteria in Executive Order 12612, Federalism, and has determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### *Executive Order 12630*

BLM certifies that the rule does not represent a governmental action capable of interference with constitutionally

protected property rights. Thus, a Takings Implication Assessment need not be prepared under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### *Executive Order 12988*

The Department of the Interior has determined that this rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

### *Executive Order 12866*

The proposed rule does not meet the criteria for a significant regulatory action requiring review by the Office of Management and Budget under Executive Order 12866, Regulatory Planning and Review.

### *Author*

The principal author of this rule is Jeff Holdren, Realty Use Group, (202) 452-7779, assisted by Frances Watson, Regulatory Management Team, (202) 452-5006.

### *List of Subjects in 43 CFR Part 5510*

Forests and forest products, Public lands.

For the reasons stated in the preamble, 43 CFR part 5510 is amended as follows:

## **PART 5510—[AMENDED]**

1. The authority citation for part 5510 continues to read as follows:

Authority: 61 Stat. 681, as amended; 69 Stat. 367; 48 Stat. 1269, sec. 11, 30 Stat. 414, as amended, R.S. 2478, sec. 32, 41 Stat. 450; 30 U.S.C. 601 *et seq.*, 43 U.S.C. 315, 48 U.S.C. 423, 43 U.S.C. 1201, 30 U.S.C. 189.

### **§ 5511.1-2 [Removed]**

### **§ 5511.1-4 [Removed]**

2. Sections 5511.1-2 and 5511.1-4 are removed.

Dated: September 4, 1996.

Sylvia V. Baca,

*Acting Assistant Secretary, Land and Minerals Management.*

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