

3. The Alaska Statehood Act, as modified by the Alaska National Interest Lands Conservation Act, contains sufficient detail for processing State selection applications; and

4. The BLM's land transfer processes, including land transfers to the State of Alaska, are being reviewed by a National Reinvention Laboratory for the purpose of increasing efficiency and improving customer service. New procedures will be written if the Laboratory concludes there is a need for significant change in the way BLM processes State selection applications.

The removal of the regulations would not be retroactive, and BLM would replace the current regulations with a statement that:

(a) BLM will process applications filed by the State of Alaska under the Alaska Statehood Act according to the regulations in existence at the time of filing; and

(b) BLM will process applications filed by the State of Alaska under the Act of January 21, 1929, according to the regulations in existence at the time of filing, unless the State and BLM enter into a subsequent exchange or agreement.

Also unaffected by the proposed removal of subpart 2627 are the three sets of regulations referred to in current subpart 2627: 43 CFR 2620; 43 CFR 2094; and 43 CFR 1824.

III. Procedural Matters

National Environmental Policy Act

BLM has determined that this rule, which proposes to remove the obsolete regulations at 43 CFR Part 2627, is a purely technical action. Therefore, it is categorically excluded from environmental review under section 102(2)(C) of the National Environmental Policy Act, pursuant to 516 Departmental Manual (DM), Chapter 2, Appendix I, Item 1.10, and that the proposed rule does not meet any of the 10 criteria for exceptions to categorical exclusion listed in 516 DM, Chapter 2, Appendix 2. Pursuant to Council on Environmental Quality regulations (40 CFR 1508.4) and the 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 and for which neither an environmental assessment nor an environmental impact statement is required.

Paperwork Reduction Act

This rule does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Regulatory Flexibility Act

BLM has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The rule proposes to remove obsolete regulations concerning land selections by the State of Alaska. There are no small entities affected by the proposed rule.

Unfunded Mandates Reform Act

Removal of 43 CFR part 2627 will not result in any unfunded mandate to State, local or tribal governments in the aggregate, or to the private sector, of \$100 million or more in any one year.

Executive Order 12612

This rule would not have sufficient federalism implications to warrant BLM preparation of a Federalism Assessment.

Executive Order 12630

This rule does not represent a government action that interferes 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 rule is to abolish unnecessary regulations, there will be no private property rights impaired as a result. 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 12866

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

Executive Order 12988

The Department 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 rule is Olivia Short, Bureau of Land Management, Regulatory Management Team, 1849 C Street

N.W., Washington, D.C. 20240; Telephone: (202) 452-0345 (Commercial or FTS).

List of Subjects in 43 CFR Part 2620

Land Management Bureau; State Grants, Alaska; Public lands.

For the reasons stated above, and under the authority of 43 U.S.C. 1740, part 2620, Group 2600, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 2620—STATE GRANTS— [AMENDED]

1. The authority citation for part 2620 continues to read as follows:

Authority: R.S. 2478; 43 U.S.C. 1201.

2. Subpart 2627 is revised to read as follows:

Subpart 2627—Alaska

§ 2627.1 The Bureau of Land Management will process applications filed by the State of Alaska under the Alaska Statehood Act according to the regulations in existence at the time of filing. The Bureau of Land Management will process applications filed by the State of Alaska under the Act of January 21, 1929, according to the regulations in existence at the time of filing, unless the State and the Bureau of Land Management enter into a subsequent exchange or agreement.

[See Code of Federal Regulations (CFR) for 43 CFR Chapter II, revised as of October 1, 1995.]

Dated: November 7, 1996.

Sylvia V. Baca,

Deputy Assistant Secretary of the Interior.

[FR Doc. 96-29307 Filed 11-14-96; 8:45 am]

BILLING CODE 4310-84-P

43 CFR Part 5040

[WO-130-1820-0024 1A]

RIN 1004-AC93

Sustained-Yield Forest Units

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) proposes to amend 43 CFR 5040 to remove obsolete or unnecessary sections and update the remaining regulations that are still necessary for the administration of the revested Oregon and California Railroad and the reconveyed Coos Bay Wagon Road grant lands in Oregon (referred to in this proposed rule as O. and C. lands). Subpart 5042, concerning master units, an administrative subdivision of the O. and C. lands established in 1946 and 1947 to facilitate the establishment

of sustained-yield forest units and cooperative agreements, will be removed. BLM finds these 12 master units no longer necessary due to the changes in timber marketing and transportation patterns and the lack of interest in cooperative agreements. BLM still needs provisions for the determination of annual productive capacity and the establishment of sustained-yield forest units in the event it concludes such determinations are appropriate to reflect timber market conditions and to further the purposes of the Act of August 28, 1937 (50 Stat. 874, 43 U.S.C. 1181a). The section on exchanges of O. and C. lands merely restates the statutory language of the Act of July 31, 1939 (53 Stat. 1144), and will be removed from the Code of Federal Regulations (CFR). By streamlining the regulations, BLM will be able to remove unnecessary or obsolete regulations from the CFR. By removing the section on master units, BLM will be able to apportion the allowable timber sale quantity to the six western Oregon BLM districts more efficiently.

DATES: Submit comments by January 14, 1997. BLM will consider comments postmarked on or before this date.

ADDRESSES: You may hand-deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L St., N.W., Washington, D.C.; or mail comments to the Bureau of Land Management, Administrative Record, Room 401LS, 1849 C Street, NW., Washington, D.C. 20240. You may transmit comments electronically via the Internet to WOCComment@wo.blm.gov. Please include "AC 93" and your name and address in your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly.

FOR FURTHER INFORMATION CONTACT: Lyndon Werner, Telephone: 503-952-6071 or Dwight Fielder, Telephone: 202-452-7758.

SUPPLEMENTARY INFORMATION:

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

I. Public Comment Procedures

Written comments on the proposed rule should:

- (a) Be specific;
- (b) Be confined to issues pertinent to the proposed rule;
- (c) Explain the reason for any recommended change;
- (d) Reference the specific section or paragraph of the proposal which the commenter is addressing, where possible.

BLM may not necessarily consider or include in the Administrative Record for the final rule written comments postmarked or electronic comments received after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

II. Background

BLM has determined that the existing regulations on master units and cooperative sustained-yield units are obsolete and should be removed from the CFR. The regulation on the establishment of Sustained-Yield Forest Units is still necessary, and BLM will rewrite this section to remove references to Master Units and Cooperative Sustained-Yield Units. The section on Exchanges is still relevant, but is merely a restatement of the statutory language, and will be removed.

The Act of August 28, 1937 (50 Stat. 874, 43 U.S.C. 1181) (hereafter "the Act"), provides that the portions of the O. and C. lands under the jurisdiction of the Department of the Interior that are classified as timber lands and powersite lands valuable for timber should be managed for permanent forest production. The Act also provides that the timber on these lands must be sold, cut, and removed in conformity with the principle of sustained-yield, for the purposes of:

- (a) Providing a permanent source of timber supply;
- (b) Protecting watersheds;
- (c) Regulating stream flow;
- (d) Contributing to the economic stability of local communities and industries; and
- (e) Providing recreational facilities.

Section 1 of the Act authorizes the Secretary of the Interior to treat the O. and C. lands as a single unit subject to the principle of sustained-yield or to subdivide the O. and C. lands into smaller sustained-yield forest units to facilitate sustained-yield management. If the Secretary determines that sustained-yield forest units are necessary, then he must establish the boundary lines of these units so that each unit will provide, so far as practicable, a permanent source of raw materials for the support of dependent communities and regional industries. The Secretary may establish boundaries of such forest units only after the Department conducts hearings in the vicinity of such lands.

Section 1 of the Act also authorized the Secretary to determine the annual productive capacity for the O. and C. lands and to limit timber sales from any particular sustained-yield forest unit to such capacity.

Between 1939 and 1941 the General Land Office (GLO), BLM's predecessor agency, devised a plan to divide the O. and C. lands into 12 master units. These master units were not required by the Act but were created to facilitate implementation of the Act. In each unit, the GLO plan assured continual timber production within the limits of the allowable cut. GLO also compiled basic silvicultural and geographical information and a formula for calculating potential productive capacity. Each master unit would serve as the basis for a permanent source of timber supply and an effective means for sustaining dependent communities.

In 1942, GLO produced a "Forest Management Handbook" to be used in determining which units would provide the best sites for cooperative agreements between the holders of Federal and private forest lands in the O. and C. checkerboard. In 1945, GLO proposed a new plan to subdivide the 12 master units into 110 cooperative agreement areas, but cooperative agreements were never established. In 1946 and 1947, 12 Secretarial Orders established the 12 master units and their appurtenant marketing areas. The marketing area restrictions required that the processing of timber from western Oregon BLM timber sales occur in the same marketing area in which it was purchased.

The period between 1942 and 1957 was highly contentious with large and small operators contesting several cooperative agreements and the marketing area restrictions. Opponents at highly charged local hearings expressed concerns about monopoly versus free enterprise and leveled charges of conspiracy and favoritism against Federal officials. Congress held hearings on the issues and proposed legislation, but it never passed. The controversy also produced two lawsuits.

In 1956, the chairman of the New York State College of Forestry conducted a study to analyze the effectiveness and desirability of marketing areas. The report asserted that changes in costs, production techniques, transportation patterns, and marketing methods of the lumber industry since 1937 had made the program obsolete and that the marketing areas did not constitute any major base for sustained-yield management. The report recommended that the marketing areas be abolished but that the master units be retained as a means of assuring community stability. BLM abolished the marketing areas in 1957 and never established cooperative agreements involving O. and C. lands. A detailed accounting of this history is contained

in BLM's Billion-Dollar Checkerboard by Elmo Richardson, Forest History Society, Santa Cruz, California, 1980.

The current 43 CFR part 5040 regulations provide for BLM to establish master units as a basis for studies leading to the formulation of plans for sustained-yield forest units and cooperative agreements authorized by the O. and C. Lands Act. Under the current regulations, BLM is to establish sustained-yield forest units within the boundaries of each master unit in such manner that each forest unit contains sufficient land to furnish a sustained supply of timber to forest industries upon which a local community depends and to constitute a suitable base for a cooperative agreement. For the same reasons identified in the previously mentioned study, the master units are obsolete and are no longer based upon logical boundaries, given today's marketing patterns and economical log transportation distances. BLM has never formally established sustained-yield forest units as a subdivision of the master units. There is no current evidence to suggest any interest in the establishment of cooperative agreements, although they are authorized by the Act. BLM still needs regulations to establish sustained-yield forest units as an appropriate and efficient means to further the purposes of the Act. However, the establishment of master units before the establishment of sustained-yield units is an unnecessary and inefficient step. In addition, the current number of master units (which, by default, are serving as sustained-yield units) appears to be excessive to apportion efficiently the sustainable allowable sale quantity to the six western Oregon BLM districts.

Therefore, the current regulations dealing with master units and appurtenant marketing areas (Subpart 5042) and with cooperative sustained-yield agreements (Subpart 5044) are being removed. Subpart 5044 concerning land exchanges is also being removed as stated above.

III. Discussion of Proposed Rule

This proposed rule would enhance the management efficiency of BLM by removing obsolete requirements from the CFR and by removing duplicative provisions that may be found in the underlying statutes. This proposed rule would allow BLM to dissolve the existing master units and establish more appropriately configured sustained-yield forest units.

Subpart 5040—Sustained-Yield Unit and Cooperative Agreements, would be removed in its entirety. This section is merely a restatement of the language in

the Act, and its removal will have no impact on BLM's customers.

Subpart 5041—Annual Productive Capacity, would be rewritten for clarity but not changed in any substantial way. BLM will continue to declare the annual productive capacity of the O. and C. lands under the principle of sustained-yield. This change will have no impact on BLM's customers.

Subpart 5042—Master Units, would be removed in its entirety. For the reasons presented in the Background section above, BLM does not need to designate master units as an interim step to designating sustained-yield forest units and cooperative agreements. This removal would have no effect on BLM's customers. The currently designated master units would remain in effect until this rule is published as final and BLM completes the process for the designation of sustained-yield forest units.

Subpart 5043—Sustained-Yield Forest Units, would be revised to improve clarity and consistency with the removal of Subpart 5042—Master Units. The revision would have no effect on BLM's customers because it does not diminish the level of public involvement in BLM's determination of sustained-yield forest units.

Subpart 5044—Cooperative Sustained-Yield Agreements, would be removed in its entirety. This removal would have no effect on BLM's customers. There are currently no cooperative sustained-yield agreements or any apparent interest in their designation. If this changes, the O. and C. Lands Act provides for their designation and regulations governing their designation can again be published.

Subpart 5045—Exchanges, would be removed in its entirety. This removal would have no effect on BLM's operations, because BLM would still have the authority to exchange O. and C. lands under the Act of July 31, 1939.

The remaining sections of part 5040 would be rewritten and renumbered in a new part 5040.

IV. Procedural Matters

National Environmental Policy Act

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, 42 U.S.C. 4332(2)(C). 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. 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

This rule does not contain collections of information that require the Office of Management and Budget approval under 44 U.S.C. 3501 *et seq.*

Regulatory Flexibility Act

BLM has determined that the proposed rule would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) The proposed rule provides a new process by which BLM may establish sustained yield forest units. Before any units may be established, BLM must hold public hearings in the areas affected by the proposed units. This gives any potentially affected small entity the chance to provide input to BLM which could influence the outcome of the proposals. The O. and C. Lands Act provides that when BLM establishes sustained yield forest units it must establish units that provide a permanent source of raw materials to support local communities and industries, giving due consideration to established forest products operations.

Unfunded Mandates Reform Act

BLM has determined that this proposed rule is not significant under the Unfunded Mandates Reform Act of 1995 because it will not result in State, local and tribal government, in the aggregate, or private sector, expenditure of \$100 million or more in any one year. The proposed rule will not significantly or uniquely affect small governments.

Executive Order 12612

The proposed rule would 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. Therefore, BLM has determined that this proposed rule does not have sufficient federalism implications to warrant BLM preparation of a Federalism Assessment.

Executive Order 12630

The proposed rule does not represent a government action that interferes with constitutionally protected property

rights or would result in a taking of private property.

Executive Order 12866

BLM has determined that the proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866. The rule is therefore not subject to review by the Office of Management and Budget under section 6(a)(3) of that order.

Executive Order 12988

The Department 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 rule is Lyndon Werner, Bureau of Land Management, Oregon State Office OR-931, P.O. Box 2965, Portland, Oregon 97208, 503-952-6071.

List of Subjects for 43 CFR Part 5040

Forests and forest products, Land Management Bureau, Public lands.

Dated: November 7, 1996.

Sylvia V. Baca,

Deputy Assistant Secretary of the Interior.

For the reasons stated above, and under the authority of 43 U.S.C. 1740, BLM proposes to revise Part 5040, Group 5000, Subchapter E, Chapter II of Title 43 of the Code of Federal Regulations to read as follows:

PART 5040—SUSTAINED-YIELD FOREST UNITS [AMENDED]

Sec.

5040.1 Under what authority does BLM establish sustained-yield forest units?

5040.2 What will BLM do before it establishes sustained-yield forest units?

5040.3 How does BLM establish sustained-yield forest units?

5040.4 What is the effect of designating sustained-yield forest units?

5040.5 How does BLM determine and declare the annual productive capacity?

Authority: 43 U.S.C. 1181e; 43 U.S.C. 1740.

§ 5040.1 Under what authority does BLM establish sustained-yield forest units?

BLM is authorized, under the O. and C. Lands Act and the Federal Land Policy and Management Act, to divide the lands it manages in western Oregon into sustained-yield forest units. BLM establishes units that contain enough forest land to provide, insofar as practicable, a permanent source of raw materials to support local communities and industries, giving due consideration to established forest products operations.

§ 5040.2 What will BLM do before it establishes sustained-yield forest units?

Before BLM designates sustained-yield forest units, it will:

(a) Hold a public hearing in the area where it proposes to designate the units. BLM will provide notice, approved by the BLM Director, to the public of any hearing concerning sustained-yield forest units. This notice must be published once a week for four consecutive weeks in a newspaper of general circulation in the county or counties in which the forest units are situated. BLM may also publish the notice in a trade publication; and

(b) Forward the minutes or meeting records to the BLM Director, along with an appropriate recommendation concerning the establishment of the units.

§ 5040.3 How does BLM establish sustained-yield forest units?

After a public hearing, BLM will publish a notice in a newspaper of general circulation in the county or counties affected by the proposed units, stating whether or not the BLM Director has decided to establish the units. If the BLM Director determines that the units should be established, BLM will include in its notice information on the geographical description of the sustained-yield forest units, how the public may review the BLM document that will establish the units, and the date the units will become effective. BLM will publish the notice before the units are established.

§ 5040.4 What is the effect of designating sustained-yield units?

Designating new sustained-yield forest units abolishes previous O. and C. master unit or sustained-yield forest unit designations.

§ 5040.5 How does BLM determine and declare the annual productive capacity?

(a) If BLM has not established sustained-yield forest units under part 5040, then BLM will determine and declare the annual productive capacity by applying the sustained-yield principle to the O. and C. lands, treating them as a single unit.

(b) If BLM has established sustained-yield forest units under part 5040, then BLM will determine and declare the annual productive capacity by applying the sustained-yield principle to each separate forest unit.

(c) If it occurs that BLM has established sustained-yield forest units for less than all of the O. and C. lands, then BLM will determine and declare the annual productive capacity as follows:

(1) BLM will treat sustained-yield forest units as in paragraph (b) of this section; and

(2) BLM will treat any O. and C. lands not located within sustained-yield forest units as a single unit.

[FR Doc. 96-29306 Filed 11-14-96; 8:45 am]

BILLING CODE 4310-84-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 96-117, N.1]

Federal Motor Vehicle Safety Standards; Power-operated Window, Partition and Roof Panel Systems

RIN 2127-AG36

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document responds to a petition for rulemaking from Michael Garth Moore, Esq. requesting two amendments to Standard No. 118, *Power-operated window, partition, and roof panel systems*. This document denies one request, but grants the other. It denies the petitioner's request to commence rulemaking to require that all power windows automatically reverse power when they encounter resistance because the agency has concluded that such a requirement would be unreasonably costly. This document grants the petitioner's other request and proposes to require each power operated window, interior partition, and roof panel in a motor vehicle to be equipped with a switch designed so that contact by a form representing a child's knee would not cause the window, partition or panel to close.

DATES: Comments are due January 14, 1997.

ADDRESSES: Comments should refer to the Docket Number referenced above and must be submitted to: Docket Section, Room 5109, 400 Seventh Street, SW, Washington, DC 20590. (Docket hours are from 9:30 a.m. to 4:00 p.m.). Do not send originals of comments to any person named below.

FOR FURTHER INFORMATION CONTACT:

(Technical information) Richard Van Iderstine, Office of Safety Performance Standards, NHTSA (Phone: 202-366-5280; FAX: 202-366-4329);

(Legal information) Paul Atelsek, Office of Chief Counsel, NHTSA (Phone: 202-366-2992; FAX: 202-366-3820).