

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads, Virginia can be contacted at telephone number (757) 668-5555.

(4) U.S. Coast Guard vessels enforcing the security zone can be contacted on VHF-FM marine band radio, channel 13 (156.65 MHz) and channel 16 (156.8 MHz).

(d) *Effective period:* This section is effective from 2 a.m. on August 21, 2008 to 4 p.m. on August 30, 2008.

(e) *Enforcement period:* This section will be enforced from 2 a.m. to 4 p.m. on August 21, 2008, and each subsequent day a rocket launch at the NASA Wallops Flight Facility, Wallops Island, VA, is attempted until 4 p.m. August 30, 2008.

Dated: August 18, 2008.

**Jeffrey P. Novotny,**

*Commander, U.S. Coast Guard, Acting Captain of the Port, Hampton Roads.*

[FR Doc. E8-19739 Filed 8-25-08; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### 43 CFR Part 2740

[WO-350-08 1430 PN-24 1A]

RIN 1004-AE03

#### Recreation and Public Purposes Act; Solid Waste Disposal

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

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Land Management (BLM) amends a procedural regulation pertaining to the issuance of patents for public lands leased on or before November 9, 1988, for solid waste disposal or related purposes. The existing regulation requires the express approval of the Director of the Bureau of Land Management (BLM) before the lessee may receive a patent to such lands. In 1992, when the regulation was promulgated, most of the BLM's employees with the necessary expertise were centralized in the BLM's headquarters in Washington, DC, and express approval by the Director was deemed necessary. This is no longer the case, since employees with the necessary expertise are now located in State Offices of the BLM. Consistent with Department of the Interior policy to delegate responsibility to the lowest

appropriate organizational levels, this rule removes the requirement for express approval by the Director. As this administrative final rule amends an internal agency procedure, it is exempt from the usual requirement for notice and an opportunity for public comment, under the Administrative Procedure Act.

**DATES:** This rule is effective October 27, 2008.

**ADDRESSES:** Information or questions regarding this final rule should be addressed in writing to the Director, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** For information on the substance of the proposed rule, please contact Jeff Holdren at 202-452-7779. For information on procedural matters, please contact Jean Sonneman at 202-785-6577. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individuals during business hours. FIRS is available twenty-four hours a day, seven days a week, to leave a message or question with the above individuals. You will receive a reply during normal business hours.

#### SUPPLEMENTARY INFORMATION:

- I. Background
- II. Discussion of the Final Rule
- III. Procedural Matters

#### I. Background

The Secretary of the Interior is authorized to transfer or lease certain public lands to State and local governmental agencies and to nonprofit corporations and associations for recreation and public purposes under the Act of June 14, 1926 (43 U.S.C. 869 *et seq.*), commonly known as the Recreation and Public Purposes (R&PP) Act. Regulations implementing the Secretary of the Interior's authority to sell or lease lands under the R&PP Act are located in 43 CFR part 2740. These regulations explain the following:

- Policies pertaining to the BLM's implementation of the R&PP Act (43 CFR 2740.0-6);
- Definitions of applicable terms (43 CFR 2740.0-5);
- Lands subject to disposition (43 CFR 2741.1);
- The criteria for qualified applicants (43 CFR 2741.2);
- The guidelines for conveyance and lease under the act (43 CFR 2741.5); and
- Certain other procedural matters and requirements relating to public lands conveyed by patent for the

purpose of solid waste disposal. (43 CFR subpart 2743).

The BLM promulgated the regulations at 43 CFR subpart 2743 in order to reduce or avoid Federal liabilities that might arise from the conveyance of landfills contaminated by hazardous substances. Some of the regulations directly implement amendments to the R&PP Act that became effective on November 10, 1988. One such regulation is 43 CFR 2743.2(a)(5), which requires an investigation to determine whether or not any hazardous substance is present on public lands before conveying them by patent for new solid waste disposal sites. 43 U.S.C. 869-2(b)(2).

With respect to lands leased before November 9, 1988, the BLM exercised its rulemaking discretion to promulgate a similar investigative requirement, and to require the express approval of the Director of the BLM before the lessee may receive a patent to such lands. 43 CFR 2743.3. Neither of these requirements appears in the R&PP Act. However, at the time, the BLM deemed both provisions necessary because the Bureau's environmental expertise was concentrated at its headquarters in Washington, DC. In contrast, each BLM State Office now employs one or more environmental professionals with the expertise to review locally conducted investigations. It is for this reason that this rule removes the requirement for express approval by the Director.

In general, the Administrative Procedure Act (APA) requires that Federal agencies give notice and provide an opportunity for the public to comment before promulgating a final rule. However, the APA provides that prior notice and comment are not required for "interpretive rules, general statements of policy or rules of agency organization, procedure, or practice." 5 U.S.C. 553(b)(A). This exception applies in this instance because this final rule simply amends the BLM's internal administrative procedures for patenting land. As discussed below, this final rule is also an action that is categorically excluded from certain requirements of the National Environmental Policy Act (NEPA). See 42 U.S.C. 4332(2)(C); 40 CFR 1508.4; 516 Departmental Manual (DM), Chapter 2, Appendix 1, CX 1.10.

#### II. Discussion of the Final Rule

The existing regulation states that when a lessee requests or concurs in the issuance of a patent to lands included in a lease, or portion of a lease, issued on or before November 9, 1988, that have been used, as specified in the plan of development, for solid waste disposal or for any other purposes that may have

resulted in or included the disposal, placement, or release of any hazardous substance on the land, the patent may only be issued with the express approval of the Director, BLM. This rule was adopted following enactment of Public Law 100-648 which provided special procedures for conveyance of public lands for solid waste disposal purposes. The rule was promulgated in 1992 at a time when BLM State Offices did not routinely have qualified environmental specialists on staff and most of the BLM's environmental expertise was located in its headquarters in Washington, DC. The environmental investigative report which precedes patent approval was, at that time, submitted to and reviewed in the BLM's headquarters in Washington, DC.

The requirement for express approval by the Director, BLM, is no longer needed because each BLM State Office now employs one or more environmental professionals with the expertise necessary to evaluate and document the conditions of the leased lands prior to patent. The existing requirement is inconsistent with Department of the Interior policy to delegate authority to the lowest appropriate organizational levels, and impedes the BLM policy goal to process requests for patents expeditiously. This final rule removes a procedural step that has become superfluous, as it is no longer necessary for full compliance with statutory intent.

### III. Procedural Matters

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

This final rule is not a significant regulatory action and is not subject to review by the Office of Management and Budget under Executive Order 12866. This final rule will not have an effect of \$100 million or more on the economy. It 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. This final rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This final rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; nor does it raise novel legal or policy issues.

#### *National Environmental Policy Act*

The BLM has determined that this final rule removing the requirement for express approval by the Director of BLM prior to patent issuance for lands leased

prior to November 9, 1988, is of a procedural nature whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis; further, the action(s) of patent issuance will later be subject to the NEPA process, either collectively or case-by-case. Therefore, this rule is categorically excluded from environmental review under section 102(2)(C) of the National Environmental Policy Act, pursuant to 516 DM, Chapter 2, Appendix 1, CX 1.10. In addition, this rule does not present any of the 12 extraordinary circumstances listed in 516 DM, Chapter 2, Appendix 2. Pursuant to the Council on Environmental Quality regulations (40 CFR 1508.4) and the environmental policies and procedures of the Department of the Interior, the term "categorical exclusion" means a category of actions which 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.

#### *Regulatory Flexibility Act*

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), 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. The BLM has determined that this final rule, removing the requirement for the Director of the BLM to expressly approve a patent to lands leased prior to November 9, 1988, will not have a significant economic impact on a substantial number of small entities under the RFA. As stated above in the preamble, the final rule only changes the administrative process for patent approval in a limited number of instances.

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

This final rule is not a "major rule" as defined at 5 U.S.C. 804(2) because it will not have an annual effect on the economy greater than \$100 million; it will not result in major cost or price increases for consumers, industries, government agencies, or regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based

enterprises to compete with foreign-based enterprises.

#### *Unfunded Mandates Reform Act*

This rule does not impose an unfunded mandate on state, local, or tribal governments or the private sector, in the aggregate, of \$100 million or more per year; nor does the rule have a significant or unique effect on state, local, or tribal governments. The rule would impose no requirements on these entities. The BLM has already shown in the previous paragraphs of this section of the preamble that the change effected by this rule would not have effects approaching \$100 million per year on the private sector. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Report Act (2 U.S.C. 1531 *et seq.*).

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

This rule is not a government action capable of interfering with constitutionally protected property rights. The purpose of the rule is to be able to respond more quickly to requests for issuance of patent documents. Therefore, the 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 13132, Federalism*

The 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 levels of government. It would not apply to states or local governments or state or local governmental entities. Therefore, in accordance with Executive Order 13132, the BLM has determined that this rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

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

In accordance with Executive Order 12988, the BLM has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

#### *Executive Order 13175, Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, the BLM finds that this rule will

not result in significant changes to BLM policy and that Tribal Governments will not be unduly affected by this rule. This rulemaking has no bearing on trust lands, or on lands for which title is held in fee status by Indian tribes or U.S. Government-owned lands managed by the Bureau of Indian Affairs.

*Information Quality Act*

In developing this rule, the BLM did not conduct or use a study, experiment or survey requiring peer review under the Information Quality Act, 44 U.S.C. 3516 note.

*Executive Order 13211, Effects on the Nation's Energy Supply*

This rule is a purely administrative regulatory action and has no implications under Executive Order 13211.

*Executive Order 13352, Facilitation of Cooperative Conservation*

In accordance with Executive Order 13352, the BLM has determined that this rule is administrative in content, effecting only procedural change affecting issuance of land patents. This rule does not impede facilitating cooperative conservation; takes appropriate account of and considers the interests of persons with ownership or other legally recognized interests in land or other natural resources; properly accommodates local participation in the Federal decision-making process; and provides that the programs, projects, and activities are consistent with protecting public health and safety.

*Paperwork Reduction Act*

The BLM has determined that this regulation does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

*Executive Order 12866, Clarity of 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 this regulation easier to understand,

including answers to questions such as the following:

1. Are the requirements in the final regulation clearly stated?
2. Does the final regulation contain technical language or jargon that interferes with its clarity?
3. Does the format of the final regulation (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?
4. Would the regulation be easier to understand if it was divided into more (but shorter) sections?
5. Is the description of the final regulation in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the regulation? How could this description be more helpful in making the regulation easier to understand?

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

*Authors*

The principal author of this rule is Linda Resseguie of the BLM's Division of Lands and Realty, Washington Office, assisted by Jean Sonneman of the BLM's Division of Regulatory Affairs, Washington Office.

**List of Subjects in 43 CFR Part 2740**

Intergovernmental relations; Land Management Bureau; Public lands—sale; Recreation and recreation sites; Reporting and recordkeeping requirements.

**Julie Jacobson,**  
*Deputy Assistant Secretary, Land and Minerals Management.*

■ Accordingly, for the reasons stated in the preamble and under the authority of the R&PP Act (43 U.S.C. 869 *et seq.*), the BLM amends part 2740 of Title 43 of the Code of Federal Regulations as set forth below:

**PART 2740—RECREATION AND PUBLIC PURPOSES ACT**

■ 1. The authority citation for part 2740 continues to read as follows:

**Authority:** 43 U.S.C. 869 *et seq.*, 43 U.S.C. 1701 *et seq.*, and 31 U.S.C. 9701.

■ 2. Amend § 2743.3 by revising the introductory text of paragraph (a) to read as follows:

**§ 2743.3 Leased disposal sites.**

(a) Upon request by or with the concurrence of the lessee, the authorized officer may issue a patent for those lands covered by a lease, or portion thereof, issued on or before November 9, 1988, that have been or will be used, as specified in the plan of development, for solid waste disposal or for any other purpose that the authorized officer determines may result in or include the disposal, placement, or release of any hazardous substance, subject to the following provisions:

\* \* \* \* \*

[FR Doc. E8-19745 Filed 8-25-08; 8:45 am]  
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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 1**

[MD Docket No. 08-65; FCC 08-182]

**Assessment and Collection of Regulatory Fees for Fiscal Year 2008**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, we amend our Schedule of Regulatory Fees to collect \$312,000,000 in regulatory fees for Fiscal Year (FY) 2008, pursuant to section 9 of the Communications Act of 1934, as amended (the Act). These fees are mandated by Congress and are collected to recover the regulatory costs associated with the Commission's enforcement, policy and rulemaking, user information, and international activities.

**DATES:** Effective September 25, 2008.

**FOR FURTHER INFORMATION CONTACT:** CORES Helpdesk at (877) 480-3201, option 4, or [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

**SUPPLEMENTARY INFORMATION:**

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