

FMC's documentation, supporting its request for a capacity variance, is available to the public and located in the RCRA Information Center under Docket Number F-97-2P4P-FFFFF.

#### List of Subjects in 40 CFR Part 268

Environmental Protection, Hazardous waste, Reporting and recordkeeping requirements.

Dated: November 4, 1997.

**David Bussard,**

*Acting Director, Office of Solid Waste.*

[FR Doc. 97-29621 Filed 11-7-97; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### 43 CFR Part 4700

[NV 960-1060-00-24-1A]

RIN 1004-AD28

#### Wild Horse and Burro Adoptions; Power of Attorney

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

**ACTION:** Proposed rule.

**SUMMARY:** The Bureau of Land Management (BLM) proposes to amend its regulations to disallow the use of a power of attorney for the adoption of wild horses and burros. BLM is amending the regulations because it is possible that some adopters have misused the power of attorney to obtain large numbers of horses and burros, selling them for profit after receiving the appropriate titles.

#### DATES:

##### Comments:

Send your comments to BLM at the address below on or before January 9, 1998. BLM will not necessarily consider any comments received after the above date during its decision on the proposed rule.

#### ADDRESSES:

##### Comments:

If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to Bureau of Land Management, Administrative Record, Room 401 LS, 1849 C Street, NW, Washington, D.C. 20240. You may also comment via the Internet to WOCComment@wo.blm.gov. Please submit comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also

include "attn: AD28" 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.

Finally, you may hand-deliver comments to BLM at 1620 L Street, N.W., Room 401, Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Bud Cribley, Telephone (202) 452-5073; or Lili Thomas, Telephone (702) 785-6457 (Commercial or FTS).

#### SUPPLEMENTARY INFORMATION:

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

#### I. Public Comment Procedures

##### 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 and street addresses 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 holidays. Individual respondents may request confidentiality, which BLM will consider on a case-by-case basis. If you wish to request that BLM consider withholding your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

#### II. Background

BLM's current regulations allow for adoptions of wild horses and burros by the use of a power of attorney. A power of attorney is a written document that authorizes an agent to do something on behalf of another. One agent could get powers of attorney from several people,

and adopt more horses and burros than any one single person is allowed.

Several investigations have focused on the misuse of powers of attorney to adopt wild horses. It was alleged that certain people abused BLM's Adopt-A-Horse and Burro program by obtaining large numbers of horses in order to sell them for profit after receiving the appropriate titles. Because of these investigations, several Assistant U.S. Attorneys have suggested that BLM eliminate this practice. The elimination of power of attorney adoptions would also decrease the time and money BLM spends on inspections to ensure that the adopters are in compliance with the regulations.

It is rare that someone who wants to adopt a wild horse or burro is unable to select the animal and sign the Private Maintenance and Care Agreement (BLM estimates that this practice occurred only 12 times in 1997). For this reason, BLM feels that the benefits of preventing abuses of the program outweigh any inconvenience to persons that may want to adopt an animal with a power of attorney.

#### III. Discussion of Proposed Rule

In order to remove the provisions for power of attorney adoptions, BLM proposes to replace current sections 4750.3-3(b) and (c) with a short statement that reads:

"The Bureau of Land Management will not allow the use of a power of attorney for the adoption of wild horses and burros."

#### IV. Procedural Matters

##### National Environmental Policy Act

BLM has determined that this proposed rule would make a procedural change related to the regulations on adopting wild horse and burros. This rule, which would disallow adoptions by power of attorney, would make only a minor change in existing practices. The rule would not affect decisions that BLM makes about numbers of horses on the range or range conditions. It is unlikely that environmental impacts will occur as a result of the elimination of the use of the power of attorney. Therefore, this action 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 1, Item 1.10. In addition, the proposed rule does not meet any of the 10 criteria for exceptions to categorical exclusions 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 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.

#### **Paperwork Reduction Act**

This rule contains no collections of information that require approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

#### **Regulatory Flexibility Act**

Congress enacted The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, (RFA) 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. As discussed in the preamble above, BLM is making a technical change to the wild horse and burro adoption regulations to disallow adoptions by powers of attorney. The rule may prevent some unmeasurable number of people from adopting horses or burros, if they are unable to select the animals themselves and sign the Private Maintenance and Care Agreement. The power of attorney adoption was only used 12 times in 1997. Therefore, BLM certifies under the RFA that this proposed rule would not have a significant economic impact on a substantial number of small entities.

#### **Unfunded Mandates Reform Act**

Revision of 43 CFR part 4700 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**

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. Therefore, in accordance with Executive Order 12612, BLM has determined that this proposed rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

#### **Executive Order 12630**

The proposed rule does not represent a government action capable of interfering with constitutionally protected property rights. 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 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.

#### **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 authors of this rule are Lili Thomas, National Wild Horse and Burro Program, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520, Telephone: 702-785-6459; and Erica Petacchi, Regulatory Management Group, Bureau of Land Management, Room 401LS, 1849 C Street, NW., Washington, DC 20240; Telephone: 202-452-5084 (Commercial or FTS).

#### **List of Subjects in 43 CFR Part 4700**

Animal welfare, Horses, Penalties, Public lands, Range management, Reporting and recordkeeping requirements, Wildlife.

Accordingly, BLM proposes to amend part 4700, in group 4100, in subchapter D, in chapter II, subtitle B of title 43 of the Code of Federal Regulations as follows:

1. The authority citation for part 4700 continues to read as follows:

**Authority:** 16 U.S.C. 1331-1340; 18 U.S.C. 47; 43 U.S.C 315 and 1740.

2. Section 4750.3-3 is amended by removing paragraph (c) and by revising paragraph (b) to read as follows:

#### **§ 4750.3-3 Supporting information and certification for private maintenance of more than 4 wild horses or burros.**

\* \* \* \* \*

(b) The Bureau of Land Management will not allow the use of a power of attorney for the adoption of wild horses and burros.

Dated: November 4, 1997.

**Sylvia V. Baca,**

*Deputy Assistant Secretary, Land and Minerals Management.*

[FR Doc. 97-29612 Filed 11-7-97; 8:45 am]

BILLING CODE 4310-84-P