

- § 486.304 **General requirements.**
- § 486.306 **Qualifications for designation as an OPO.**
- § 486.308 **Condition: Participation in organ procurement and transplantation network.**
- § 486.310 **Condition: Adherence to performance standards.**
- § 486.314 **Effect of failure to meet requirements.**
- § 486.325 **Termination of agreement with HCFA.**

7. In newly designated subpart G, all references to the section numbers listed in the following left-hand column are corrected to read as shown in the right-hand column:

Sec.	Sec.
485.303	486.304
485.304	486.306
405.305	486.308
485.306	486.310
485.309	486.318

The references that are being corrected appear in the following sections: §§ 486.302, 486.304(b)(3) and (b)(5) through (b)(7), 486.314, 486.316 introductory text, and 486.318(b).

(Catalog of Federal Domestic Assistance Program No. 93-773, Medicare—Hospital Insurance, and No. 93-774, Medicare—Supplementary Medical Insurance)

Dated: September 11, 1995

Bruce C. Vladeck
Administrator, Health Care Financing Administration.

[FR Doc. 95-24384 Filed 9-28-95; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 5460, 5510, 9230, and 9260

[WO-230-6310-02-24 1A; Circular No. 2660]

RIN 1004-AB97

Free Use of Timber: General; Trespass; Law Enforcement: Criminal

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule amends provisions of the existing Bureau of Land Management (BLM) regulations on timber trespass. The rule edits the existing regulations to make them more orderly and easier to read, and adds a list of prohibited acts necessary to

provide guidance concerning the administration of forest product contracts and free use permits, and law enforcement.

EFFECTIVE DATE: October 30, 1995.

ADDRESSES: Suggestions or inquiries should be sent to Director (230), Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Bob Bierer, (202) 452-7755.

SUPPLEMENTARY INFORMATION: The BLM published a proposed rule on timber trespass in the Federal Register on September 13, 1993 (58 FR 47847), requesting comments by November 12, 1993. During the 60-day comment period, comments were received from 3 forest industry associations. The comments are discussed in the same sequence as the sections of the proposed rule. Many of the suggestions were adopted and are reflected in the final rule.

The rule is a continuation of the effort to provide more effective control of trespass of timber and other vegetative resources on public lands. It provides further guidance to supplement the final rule published on March 11, 1991 (56 FR 10173), and includes specific prohibited acts to which BLM law enforcement personnel can refer to in issuing citations.

General Comments

The three comments noted in support of the proposed rule that theft of any timber is a serious matter and there is continued support for strong law enforcement activities, including prosecution of any person found guilty of stealing federal timber.

The law enforcement and resource protection program of the BLM is quite often involved in detecting and resolving trespasses against and thefts of timber and other vegetative resources. Uncertainty in prohibited acts or applicable penalties often causes their efforts to obtain criminal prosecution to be unsuccessful. The prohibited acts set forth in this rule will enhance law enforcement actions and serve as a deterrent to future trespass.

One comment suggested that a timber contract should allow sufficient flexibility to assure that the objectives of both parties are satisfied, especially when circumstances arise that were unforeseen at the time of contract formation. That is the intent of this final rule.

Comments on Amendment of 43 CFR Part 5460

Two comments stated that the prohibited acts relate only to BLM-

administered lands and that the final rule should clearly state this limitation. The language in § 5462.2(a) has been amended to clarify this point.

Another comment suggested deletion of the phrase "See § 9239.1 of this title for trespass and subpart 9265 of this title for criminal prosecution" from 5462.2(a). The comment has been adopted. The cross-reference is rendered unnecessary by the addition of the penalty provision at § 5462.2(c).

A comment suggested that the language in § 5462.2(b)(1) is ambiguous as to what may constitute "otherwise damaging any timber" and suggested that additional specific criteria as to what constitutes "damage" be developed to avoid arbitrary and inconsistent on-the-ground decisions. The prework conference required prior to commencement of operations provided for in the BLM Timber Sale Procedure Handbook is designed to discuss and clarify concerns such as this, and, in the context of cutting and removing timber, we do not consider "otherwise damaging any timber" to be ambiguous. The comment was not adopted.

On § 5462.2(b)(2), the comments pointed out that while it is proper in most situations to require a BLM employee to mark or designate all standing timber before it can be cut, there are instances where a logger has conflicting direction from two different Federal agencies or regulations. For example, Occupational Safety and Health Act (OSHA) regulations require operators to fell any tree constituting a hazard to safe working conditions immediately, and failure to do so may subject them to a fine. The only option available to the operator is to leave the area until a BLM employee arrives and designates the tree for felling, which is impractical for both parties. The comments noted that some allowance needs to be made for safety, or the agency must guarantee timely timber sale administration. Again, prework conferences are intended to resolve potential conflicts and procedural problems such as this, and the comments were not adopted in the final rule.

Three comments recommended removing § 5462.2(b)(3), because BLM no longer offers scaled sales. The comments were not adopted since this prohibited act is intended primarily for small salvage and firewood sales, and the BLM may occasionally offer scaled salvage timber sales where appropriate to harvest dead timber promptly to preclude excessive deterioration.

Three comments suggested that § 5462.2(b)(4) should be changed to

specify that marking or designating products in a similar manner to that employed by BLM applies only to BLM-administered lands. These comments were adopted and language added to clarify this point.

Three comments argued that proposed § 5462.2(b)(6) could result in numerous timber sale defaults, not related to timber theft. Many timber sale contract violations are minor and should be dealt with under the terms and conditions of the contract. The recommendation to remove this paragraph has been adopted in the final rule.

Three comments stated that the language in § 5462.2(b)(5) and (7) would require all persons working on a BLM timber sale or hauling logs from a sale to have copies of the contract or permit in their possession and that this is unreasonable. They suggested that requiring the purchaser or its designated representative to have a copy of the contract, as well as requiring each truck driver to have copies of the haul permit, should satisfy any accountability objective. This is an acceptable alternative, and provides for sufficient documentation and accountability. Language has therefore been added to adopt these comments.

One comment noted that § 5462.2(b)(7) authorizes any BLM employee to stop people associated with a timber sale at any time and demand that they produce a permit or contract. It questions whether all BLM employees have sufficient experience with timber sales to warrant such authority. Language was added to limit the BLM personnel to those persons acting within their designated authority as sale inspectors, contract administrators, contracting officers, and law enforcement officers.

Several comments stated that BLM lacks authority to enforce State and local laws, especially in the absence of a cooperative law enforcement agreement, and that BLM employees should concentrate their efforts on on-the-ground inspection of timber sale operations rather than enforcing State and local laws. Section 5462.2(b)(8) of the proposed rule has been amended in the final rule to make it consistent with the Federal Land Policy and Management Act provision for cooperation with State and local regulatory and law enforcement officials (43 U.S.C. 1733(d)) and the language in § 5462.2(b)(1).

For purposes of clarity, the phrase "by fraud" in § 5462.2(b)(10) of the proposed rule has been removed and replaced with language more precisely defining what constitutes fraud as it

relates to timber and other vegetative resources.

Three comments suggested that BLM define what constitutes a negligent act by an operator referred to in § 5462.2(b)(11). One of the comments added that the concept of negligence should be removed and the BLM focus on "intentional destruction." These comments were not adopted in the final rule. The prework conferences provided for in standard BLM timber sale contracts are the appropriate forums to discuss and clarify what constitutes a "negligent act."

The paragraphs of § 5462.2(b) have been renumbered in the final rule to accommodate the removal of paragraphs (3) and (6).

A comment recommended addition of a new § 5462.3 entitled "Penalties" with a description of the penalties for knowingly and willfully violating the prohibited acts under § 5462.2(b) to make it clear that criminal penalties apply to the prohibited acts. This comment has been adopted in the final rule, but by adding a new paragraph (c) to § 5462.2 rather than a new § 5462.3.

Comments on Amendments to 43 CFR Subpart 5511

One comment recommended removal of the phrase "See § 9239.1 of this title for trespass and subpart 9265 of this title for criminal prosecution" from § 5511.4(a). The comment was adopted. The cross-reference is rendered unnecessary by the addition of § 5511.5—Penalties.

A comment recommended addition of a new § 5511.5 entitled "Penalties" with a description of the penalties for knowingly and willfully violating the prohibited acts under 5511.4(b) to make it clear again that criminal penalties apply. The comment was adopted.

Comments on Amendment of 43 CFR Part 9230

No public comments addressed this part in the proposed rule. The BLM is currently in the process of updating and amending part 9230—Trespass. The changes promulgated in this rule relating to timber trespass will be included in the subsequent revision of part 9230.

Comments on Amendment of 43 CFR Part 9260

The BLM is also preparing to update and revise part 9260—Law Enforcement—Criminal. Organizational changes in § 9265.6 have been adopted in the final rule and language has been added to that section detailing how penalties will be determined. These changes are made in order to

standardize the penalty provisions in the various regulations that relate to timber, trees, and other vegetative resources. Paragraphs (a) and (b)(1) in the final rule are new and refer to the penalties imposed under the Sentencing Reform Act of 1984 (18 U.S.C. 3551 et seq.), as they apply to the regulations for timber sales administration and free use of timber. The penalties are statutory and would apply whether they appear in the regulations or not. Paragraph (a) in the proposed rule has been renumbered (c), and paragraph (b) in the proposed rule has been renumbered (b)(2) in the final rule. Cross references to other regulations in title 43 governing the use of timber for mining and agriculture have been added to paragraph (b)(2). Paragraph (c) in the proposed rule has been renumbered (d) in the final rule to accommodate the earlier additions. No public comments addressed this part in the proposed rule.

The principal author of this final rule is Robert Bierer, Biological and Heritage Implementation Team, assisted by the Regulatory Management Team, BLM.

It is hereby determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required. The BLM has determined that this final rule will not create environmental impacts. No critical element of the human environment is affected because the final rule merely promulgates a series of prohibited acts related to the ministerial aspects of the administration of timber sales contracts and the free use of timber. It does not prescribe or prohibit any substantive activities or methods for carrying out timber harvest operations on BLM-managed lands. It prohibits harvesting and removing timber without the requisite permits or haul tickets, prohibits the violation of other laws and regulations, including State and local laws, and using fraud or trickery to obtain a free-use permit. No sales or new uses of timber, and no other uses of land and resources, are authorized by this rule.

This rule was not subject to review by the Office of Management and Budget under Executive Order 12866.

The Department has determined under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) that the rule will not have a significant economic impact on a substantial number of small entities. There will be no cost increases imposed on the lumber industry other than those caused by violations of law, and there would thus be no economic effect on

small business entities that do not violate the law. Also, the rule does not distinguish between business entities based on their size.

The Department certifies that this final rule does not represent a governmental action capable of interference with constitutionally protected property rights. There will be no private property rights impaired as a result of this rule. Therefore, as required by Executive Order 12630, the Department of the Interior has determined that the rule would not cause a taking of private property.

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

List of Subjects

43 CFR Part 5460

Forest and forest products, Government contracts, Public lands.

43 CFR Part 5510

Forest and forest products, Public lands, Surety bonds.

43 CFR Part 9230

Penalties, Public lands.

43 CFR Part 9260

Penalties, Public lands.

Dated: July 19, 1995.

Sylvia V. Baca,

Acting Assistant Secretary of the Interior.

For the reasons stated in the preamble, and under the authorities cited below, parts 5460 of Group 5000, 5510 of Group 5500, Subchapter E, and parts 9230, and 9260 of Group 9200, Subchapter I, Chapter II of Title 43 of the Code of Federal Regulations are amended as set forth below:

PART 5460—SALES ADMINISTRATION

1. The authority citation for part 5460 continues to read as follows:

Authority: 30 U.S.C. 601 et seq.; 43 U.S.C. 1181e.

2. Subpart 5462 is amended by adding new paragraph (c) to § 5462.1 and new §§ 5462.2 and 5462.3 to read as follows:

§ 5462.1 Contract and permit compliance.

* * * * *

(c)(1) The authorized officer may cancel a contract or permit upon determining that the holder has failed to comply with a law or regulation pertinent to the contract or permit. The authorized officer may also cancel a contract or permit upon determining that the holder has failed to comply with a stipulation or requirement

contained in the contract or permit and the noncompliance is detrimental to the public interest. Individual contracts or permits may contain specific language defining the remedies or penalties associated with noncompliance.

(2) Cancellation shall be mandatory in cases of intentional falsification of information used to obtain the permit or contract.

§ 5462.2 Prohibited acts.

(a) The acts or omissions listed in paragraph (b) of this section apply only to BLM-administered lands and will render the person(s) responsible liable to the United States in a civil action for trespass, and such person(s) may be prosecuted criminally. If the authorized officer determines such acts or omissions to be detrimental to the public interest, the timber sale contract or permit held by the purchaser responsible for such acts or omissions may be canceled.

(b) The following activities are prohibited:

(1) Cutting, removing, or otherwise damaging any timber, tree, or other vegetative resource, except as authorized by a forest product sale contract, permit, or Federal law or regulation.

(2) Cutting any standing tree, under a permit or timber sale contract, before a BLM employee has marked it or has otherwise designated it for cutting.

(3) Removing any timber or other vegetative resource cut under a permit or timber sale contract, except to a place designated for scaling or measurement, or removing it from that place before it is scaled, measured, counted, or otherwise accounted for by a BLM employee.

(4) Stamping, marking with paint, tagging, or otherwise identifying any tree or other vegetative resources on BLM-administered lands in a manner similar to that employed by BLM employees to mark or designate a tree or other vegetative resources for cutting, removal, or transportation.

(5) Transporting timber or other vegetative resources without a valid haul ticket that pertains to the material in question, except as authorized by Federal law or regulation.

(6) Except as authorized by Federal law or regulation, purchasers or their designated representatives, while engaging in any activity connected with the harvest or removal of forest products, failing to have in their possession and/or failing to produce any required permit or forest product sale contract for inspection upon demand by a BLM employee or any official of a cooperating law enforcement agency

acting within his or her designated authority as a sale inspector, administrator, contracting officer, or law enforcement officer.

(7) Violating any State or local laws and ordinances relating to local permits, tagging, and transportation of timber, trees, or other vegetative resources.

(8) Violating any of the provisions regulating export and substitution contained in subparts 5400, 5403, and 5420 of this title.

(9) Obtaining any forest product sale contract or permit or taking any timber, trees, or other vegetative resources through falsifying, concealing, or covering up by any trick, scheme, or device a material fact, or making any false, fictitious, or fraudulent statement or representation, or making or using a false, fictitious, or fraudulent statement or entry, including altering any forest product sales contract or permit or using an unauthorized reproduction of any official load tag.

(10) Negligent or intentional destruction of or injury to any timber or other vegetative resource during operations under a forest product sale contract or permit.

§ 5462.3 Penalties.

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)), any individual who knowingly and willfully commits the prohibited acts under § 5462.2(b) is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than \$100,000 in accordance with the applicable provisions of the Sentencing Reform Act of 1984 (18 U.S.C. 3551 et seq.), or imprisonment not to exceed 12 months, or both, for each offense, and any organization that commits these prohibited acts is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than \$200,000.

PART 5510—FREE USE OF TIMBER

3. 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. 323, 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.

Subpart 5511—Free Use Regulations

§ 5511.1-1 [Amended]

4. Section 5511.1-1 is amended by removing paragraph (f)(3).

§ 5511.1-4 [Amended]

5. Section 5511.1-4 is amended by removing paragraphs (e) and (f).

6. Section 5511.2-1 is amended by revising paragraph (a) to read as follows:

§ 5511.2-1 Free use privilege; cutting by agent.

(a) Except as provided in § 5511.1-4 the only timber which may be cut under §§ 5511.2-1 through 5511.2-5 for free use in Alaska is timber on vacant public lands in the State not reserved for national forest or other purposes. The timber so cut may not be sold or bartered. The free use privilege does not extend to associations or corporations, except churches, hospitals, and charitable institutions. Any applicant entitled to the free use of timber may procure it by agent, if desired, but no part of the timber may be used in payment for services in obtaining it or in manufacturing it into lumber. Timber may not be cut by an applicant under this section after the land has been included in a valid homestead settlement or entry or other claim, except that any applicant for the free use of timber who has been granted a permit to cut as hereinafter provided, will have a right to cut the timber while the permit remains in force as against a subsequent applicant who may wish to obtain the same timber by purchase.

* * * * *

§ 5511.2-4 [Amended]

7. Section 5511.2-4 is amended by revising the reference "5511.2-6" to read "5511.2-5".

§ 5511.2-5 [Amended]

8. Section 5511.2-5 is removed.

§ 5511.2-7 [Redesignated as § 5511.2-5 and amended]

9. Section 5511.2-7 is redesignated as § 5511.2-5 and the reference "§ 5511.2-4" at the end of the section is revised to read "§ 5511.1-4".

10. Section 5511.4 is added to read as follows:

§ 5511.4 Prohibited acts.

(a) In addition to the prohibited acts listed in § 5462.2, the acts or omissions listed in paragraph (b) will render the person(s) responsible liable to the United States in a civil action for trespass and such persons may be prosecuted criminally.

(b) The following acts are prohibited:

- (1) Obtaining any free use permit or taking any timber, trees, or other vegetative resources through falsifying, concealing, or covering up by any trick, scheme, or device a material fact, or making any false, fictitious, or fraudulent statements or representations, or making or using any false, fictitious or fraudulent statement or entry, including altering of any free

use permit or using a reproduction of any official load tags.

(2) Using timber secured under a free use permit for any purpose other than provided for in §§ 5511.1-1(d), 5511.1-2, 5511.1-4, 5511.2-2, 5511.3-6, or 5511.3-8.

(3) Violating any of the terms and conditions of a free use permit.

(4) Exporting timber cut under a free use permit from the State in which it was cut, except as provided in § 5511.1-1(e).

(5) The cutting of timber under a free use permit for sale, barter, speculation, or use by others than the permittee.

11. Section 5511.5 is added to read as follows:

§ 5511.5 Penalties.

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a), any individual who knowingly and willfully commits the prohibited acts under § 5511.4(b) is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than \$100,000, or not more than \$250,000 if commission of the prohibited acts results in death, in accordance with the applicable provisions of the Sentencing Reform Act of 1984 (18 U.S.C. 3551 *et seq.*), or imprisonment not to exceed 12 months, or both, for each offense, and any organization that commits these prohibited acts is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than \$200,000, or not more than \$500,000 if commission of the prohibited acts results in death.

PART 9230—TRESPASS

12. The authority citation for 43 CFR part 9230 continues to read as follows:

Authority: R.S. 2478; 43 U.S.C. 1201; 43 U.S.C. 1701, *et seq.*; 18 U.S.C. 1851-1858.

Subpart 9239—Kinds of Trespass

13. Section 9239.1-1 is amended by removing paragraph (c) and (d), and revising the heading and paragraph (b) to read as follows:

§ 9239.1-1 Unauthorized cutting, removal, or injury.

* * * * *

(b) Commission of any of the acts listed in §§ 5462.2 and 5511.4 of this title constitutes a trespass.

14. Section 9239.1-2 is amended by revising the heading and paragraph (a) to read as follows:

§ 9239.1-2 Penalty for trespass.

(a) In accordance with §§ 9239.0-7, 9239.0-8, and 9239.1-1 of this subpart,

anyone responsible for a trespass act is liable to the United States in a civil action for damages and may be prosecuted under criminal law as provided in § 9265.6 of this chapter.

* * * * *

15. Section 9239.1-3 is amended by adding paragraph (a)(4) to read as follows:

§ 9239.1-3 Measure of damages.

(a) * * *

(1) * * *

(4) In the case of a purchase from a trespasser, if the purchaser has no knowledge of the trespass, but should have had such knowledge through reasonable diligence, the value at the time of the purchase.

* * * * *

PART 9260—LAW ENFORCEMENT—CRIMINAL

16. The authority citation for 43 CFR part 9260 is revised to read as follows:

Authority: 16 U.S.C. 433; 16 U.S.C. 460I-6a; 16 U.S.C. 670j; 16 U.S.C. 1246(i); 16 U.S.C. 1338; 18 U.S.C. 1851-1861; 18 U.S.C. 3551 *et seq.*; 43 U.S.C. 315(a); 43 U.S.C. 1061, 1063; 43 U.S.C. 1733.

Subpart 9265—Timber and Other Vegetative Resources Management

17. The heading of subpart 9265 is revised to read as set forth above.

18. Section 9265.0-3 is amended by inserting after "title 18 U.S.C.," the phrase "and section 1733 of title 43 U.S.C.,".

19. Section 9265.4 is amended by adding text to read as follows:

§ 9265.4 Sales of forest products, general.

Commission of any of the acts listed in § 5462.2 of this title is a violation of Federal regulations and may subject the responsible person(s) to criminal penalties under titles 18 and 43 of the United States Code.

20. Section 9265.5 is revised to read as follows:

§ 9265.5 Non-sale disposals, general.

Commission of any of the acts listed in § 5511.4 of this title is a violation of Federal regulations and may subject the responsible person(s) to criminal penalties under titles 18 and 43 U.S.C.

21. Section 9265.6 is added to read as follows:

§ 9265.6 Penalties.

(a) *Sales administration.* Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)), any individual who knowingly and willfully commits the prohibited acts under § 5462.2(b) of this

title is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than \$100,000 in accordance with the applicable provisions of the Sentencing Reform Act of 1984 (18 U.S.C. 3551 *et seq.*), or imprisonment not to exceed 12 months, or both, for each offense, and any organization that commits these prohibited acts is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than \$200,000, or not more than \$500,000 if commission of the prohibited acts results in death.

(b) *Free use of timber.* (1) Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)), any individual who knowingly and willfully commits the prohibited acts under 5511.4(b) of this title is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than \$100,000, or not more than \$250,000 if commission of the prohibited acts results in death, in accordance with the applicable provisions of the Sentencing Reform Act of 1984 (18 U.S.C. 3551 *et seq.*), or imprisonment not to exceed 12 months, or both, for each offense, and any organization that commits these prohibited acts is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than \$200,000, or not more than \$500,000 if commission of the prohibited acts results in death.

(2) *Exceptions for mining and agriculture.* This section shall not prevent any miner or agriculturist from clearing his land in the ordinary working of his mining claim, or in the preparation of his farm for tillage, or from taking the timber necessary to support his improvements, or the taking of timber for the use of the United States; or take away any right or privilege under any existing law of the United States to cut or remove timber from any public lands. Use or taking of timber for these exceptions is subject to the regulations provided in part 2920—Leases, Permits and Easements, part 3715—Use and Occupancy of Mining Claims, subpart 3802—Exploration and Mining, Wilderness Review Program, and/or subpart 3809—Surface Management.

(c) *Timber removed or transported.* Under 18 U.S.C. 1852, any person:

(1) Who unlawfully cuts, or wantonly destroys, any timber growing on the public lands of the United States;

(2) Who unlawfully removes any timber from said public lands, with

intent to export or dispose of the same; or

(3) Who, being the owner, master, pilot, operator, or consignee of any vessel, motor vehicle, or aircraft or the owner, director, or agent of any railroad, knowingly transports any timber unlawfully cut or removed from said lands, or lumber manufactured therefrom; shall be subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than \$100,000, or not more than \$250,000 if commission of the prohibited acts results in death, in accordance with the applicable provisions of the Sentencing Reform Act of 1984 (18 U.S.C. 3551 *et seq.*), or imprisonment not to exceed 12 months, or both, for each offense, and any organization that commits these prohibited acts is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than \$200,000, or not more than \$500,000 if commission of the prohibited acts results in death.

(d) *Trees cut or injured.* Under 18 U.S.C. 1853, whoever unlawfully cuts, or wantonly injures or destroys any tree growing, standing, or being upon any land of the United States which, in pursuance of law, has been reserved or purchased by the United States for any public use, or upon any Indian reservation, or lands belonging to or occupied by any tribe of Indians under the authority of the United States, or any Indian allotment while the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, shall be subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than \$100,000 in accordance with the Sentencing Reform Act of 1984 (18 U.S.C. 3551 *et seq.*), or imprisonment not to exceed 12 months, or both, for each offense, and any organization that commits these prohibited acts is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than \$200,000.

[FR Doc. 95-24289 Filed 9-28-95; 8:45 am]

BILLING CODE 4310-84-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-7626]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646-3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or