

1SUPPORTING STATEMENT A FOR PAPERWORK REDUCTION ACT SUBMISSION

Forest Management Decision Protest Process and Log Export and Substitution (43 CFR Parts 5000 and 5420) OMB Control Number 1004-0058

Terms of Clearance: None.

Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

In connection with a proposed rule (RIN 1004-AE61, "*Forest Management Decision Protest Process and Timber Sale Administration*"), the Bureau of Land Management (BLM) seeks to revise OMB Control Number 1004-0058 pertaining to its regulations for protests of forest management decisions and the administration of the timber sale process. This proposed rule would revise 43 CFR parts 5000, 5400, 5420, 5440, 5450, 5460, 5470, and 5500. Portions of this proposed rule would affect the currently approved information collections at 43 CFR 5003.3 and 43 CFR 5424.1.

The BLM uses the information to:

- Enforce statutory restrictions on:
 - (1) exports of unprocessed timber purchased from Federal lands west of the 100th meridian in the contiguous 48 states;
 - (2) the use of such timber in substitution for exported timber originating from private lands; and
 - (3) the purchase of such timber by a person who has exported such timber during the preceding 24-month period;
- Collect disposition data (i.e. how much timber is harvested or processed by small businesses) that help the Small Business Administration establish targets for the BLM to set aside a percentage of sales that must be offered exclusively to small businesses for certain geographical areas; and
- Provide an opportunity for protests of forest management decisions.

The following authorities necessitate this collection of information:

- Section 15 of the Small Business Act, 15 U.S.C. 644;
- The Timber Resources Conservation and Shortage Relief Act, 16 U.S.C. 620 – 620j;
- The Materials Act, 30 U.S.C. 601 – 604;
- The Oregon and California Lands Act, 43 U.S.C. 2601;
- 13 CFR 125.2(c); and
- 43 CFR parts 5000 and 5420.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information

received from the current collection. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.

OMB previously reviewed and approved information collection requirements contained in 43 CFR 5003.3 and 43 CFR 5424.1. Revisions to these previously approved requirements contained in this rule are explained below. However, we do not anticipate any changes to the currently approved burdens associated with these information collections.

43 CFR 5003.3: The BLM collects information at 43 CFR 5003.3 in a non-form format. This proposed rule would revise § 5003.3 to clarify when comments must be received and to improve the process by providing more instruction to the public about how to comment on proposed forest management decisions and by providing for the submission of comments electronically or by other means rather than exclusively by mail, as is currently required for protests.

Public Comment Process 43 CFR 5003.3 – Revisions to § 5003 remove the current protest process and replaces it with a public comment process as described below:

- (a) 5003.3(a) currently authorizes protests of a forest management decision to be filed within 15 days of the publication of a notice of decision or notice of sale in a newspaper of general circulation. A proposed revision of that provision would change the 15-day deadline for submitting protests to a discretionary 10-day public comment period for a proposed decision and clarify when comments on a proposed decision must be received.
- (b) Proposed § 5003.3 (b) requires comments to be substantive and allow the authorized officer to disregard non-substantive comments or a repeat of comments already submitted during an environmental-review process.
- (c) Proposed § 5003.3(c) provides that the BLM shall not consider comments on a proposed decision that are not timely filed and would allow comments on a proposed decision to be filed via regular mail, fax, hand-delivery, express delivery, messenger service, or be posted electronically to an agency website, if available.
- (d) Proposed § 5003.3(d) allows a proposed decision to become final upon expiration of the 10-day comment period if no comments are received.
- (e) Proposed § 5003.3(e) allows the authorized officer, at the conclusion of his/her review of submitted comments, to include any responses to comments in the final decision document.
- (f) Proposed § 5003.3(f) includes a new provision that would require a final forest management decision to provide instructions to the public describing the process for submitting an appeal under 43 CFR part 4.

43 CFR 5424.1: Revisions to § 5424.1 would update that regulation in accordance with statutory amendments.

The BLM uses three forms to collect the information described at 43 CFR 5424.1.

Export Determination (Form 5450-17) – Revisions to §§ 5424.1(a)(1) and (a)(2) update the reporting requirement for purchasers and affiliates to report the export of private timber from within 1 year to 2 years.

The BLM uses this form to determine whether Federal timber has been substituted for exported unprocessed private timber.

In revised Form 5450-17 (Export Determination), the BLM would require applicants to disclose:

- a) The location of the processing facility to determine the tributary area;
- b) An answer (yes or no) to the question, “Have you exported private timber from lands tributary to the above processing facility within the last 24 months?”
- c) If the answer is “yes” to the above question, the date of the last export sale;
- d) The names of affiliates (as defined at 43 CFR 5424.0-5) who have exported private timber from lands tributary to the above processing facility within the last 24 months and date of last export sale;
- e) The name of the firm for identification purposes;
- f) Signature of signing officer;
- g) Title of signing officer; and
- h) Date.

Log Scale and Disposition of Timber Removed Report (Form 5460-15) – The proposed rule would not change Form 5460-15.

When logs are sold, in order to determine the basis for a sale price in a standard way, the logs are "scaled" which means they are measured, identified as to species, and deductions for defects assigned to produce a net volume of merchantable wood. In the Log Scale and Disposition of Timber Removed Report (Form 5460-15), the BLM requires purchasers to disclose:

- a) The name of the processing facility where title to Federal timber was transferred;
- b) For each processing facility and each tree species: the species, volume units, gross volume, volume by disposition category, and cull-log volume;
- c) A calculation showing a total for each and all processors for the timber data provided in (b);
- d) Selection indicating by whom the timber was scaled;
- e) The scaling methods/rules used;
- f) An opportunity to provide clarifying comments;
- g) Signatures, titles, business addresses, and signature dates of the certifying officials acknowledging the certification statement; and
- h) The name, title, and corporate seal of the witnessing corporate officer acknowledging authority of the corporate certifying official, when appropriate.

Substitution Determination (Form 5460-17) – Revisions to §§ 5424.1(a)(1) and (a)(2) update the reporting requirement for purchasers and affiliates to report the export of private timber from within 1 year to 2 years.

The BLM uses this form to determine whether Federal timber has been substituted for exported, unprocessed private timber.

In revised Form 5460-17 (Substitution Determination), the BLM would require the applicants to disclose:

- a) The name of the firm and contract number for identification purposes;
- b) The location of the processing facility to determine the tributary area;
- c) Historical base determination (the 24-month period before the firm's last export sale);
- d) Timber transactions since the historical base period (the 24-month period following the firm's last export sale);
- e) Guide for calculating whether substitution has occurred;
- f) The individual or company who determined whether substitution of Federal timber for exported private timber has occurred and the method used to determine the volumes;
- g) Comments;
- h) Name of firm for identification purposes;
- i) Signature of signing officer;
- j) Title of signing officer; and
- k) Date.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden and specifically how this collection meets GPEA requirements.

Forms 5450-17 and 5460-17 are electronically available to the public in fillable, printable format on BLM's Forms Web site at <http://www.blm.gov/noc/st/en/business/eForms.html>. A respondent may choose to submit either of these forms electronically by scanning and then emailing them to the appropriate BLM office.

Form 5460-15 is electronically available to the BLM in non-fillable, printable format on BLM's internal website. The BLM provides printed copies of the form for completion by all timber-sale purchasers.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

There is no duplication of this information with other programs. This information comes from private company records and is unique to each company and cannot be obtained from another source. Each purchaser or affiliate is the only source of its own timber-volume disposition.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

All purchasers of BLM timber are required to complete the forms including small businesses and business that qualify as such under Small Business Administration. We limit the required information to the minimum necessary to maintain a complete and accurate record of export restrictions and timber disposition on BLM timber sales, and whether there was a substitution of Federal timber for exported private timber. Each form is collected once per timber sale contract.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If the BLM does not collect the information, it would be impossible to determine if there was any substitution in violation of the regulations and contract terms, and the BLM would not be able to evaluate the market conditions affecting small business entities.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- * requiring respondents to report information to the agency more often than quarterly;
- * requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- * requiring respondents to submit more than an original and two copies of any document;
- * requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;
- * in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- * requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- * that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- * requiring respondents to submit proprietary trade secrets, or other confidential information, unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

No special circumstances require the collection to be conducted in a manner inconsistent with the guidelines. We do not exceed the guidelines in 5 CFR 1320.5.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and in response to the PRA statement associated with the collection over the past three years, and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years — even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

We have prepared proposed regulations (RIN 1004-AE61, “*Forest Management Decision Protest Process and Timber Sale Administration*”) to solicit comments regarding the collection of necessary information to implement the revised information collection requirements contained in § 5003.3 and § 5424.1. A copy of the proposed rule is attached. The proposed rule solicits public comment for a period of 30 days on the information collection requirements described in this supporting statement. We will address all comments pertaining to information collection requirements in the final rule.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

We do not provide payments or gifts to the respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

The proposed rule would provide no assurance of confidentiality to respondents.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

We do not require respondents to answer questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- * **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- * **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- * **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here.**

Under the proposed rule, we do not anticipate any changes to the recently approved burden estimates under this collection. We anticipate receiving **325 annual responses** totaling **550 annual burden hours**. The total dollar value of the annual burden hours is approximately **\$38,039** (rounded).

We used table 1 from the of Bureau of Labor Statistics (BLS) News Release [USDL-20-0451](#), March 19, 2020, Employer Costs for Employee Compensation—December 2019, to calculate benefits.

We estimate the hourly cost burdens for respondents using Bureau of Labor Statistics [May 2019 National Occupational Employment and Wage Estimates](#). As shown below in Tables 12-1 and 12-2, we multiplied the mean hourly wage for each occupational code by 1.43 to account for benefits in accordance Bureau of Labor (BLS) News Release [USDL-20-0451](#), March 19, 2020, Employer Costs for Employee Compensation—December 2019.

Table 12-1
Hourly Cost Calculation for Forms 5450-17, 5460-15, and 5460-17

Position and BLS Occupation Code	Mean Hourly Wage	Hourly Rate with Benefits
Purchasing Manager, 11-3061	\$61.73	\$88.27

Table 12-2
Hourly Calculation for Protests

Position and BLS Occupation Code	Mean Hourly Wage	Hourly Rate with Benefits
Conservation Scientist, 19-1031	\$32.33	\$46.23

Hour and cost burdens to respondents include time spent for researching, preparing, and submitting information. Table 12-3, below, shows our estimates of the annual hour and hour-related cost burdens. The estimated hourly wage was calculated as shown in Table 12-1.

The frequency of response for each of the forms is “on occasion,” and is based upon the cost for each individual timber contract a purchaser is awarded, which may run for a few months or up to three years. The annual rate is entirely dependent on the number of contracts the BLM issues. The BLM provides the timber purchaser a copy of the forms at the beginning of the contract term and notifies the purchaser that the information is required at the end of the contract period. The forms use the Purchasing Manager hourly wage in the cost estimate.

For comments, the information collection is for the public to seek an administrative remedy for each forest management decision, using the opportunity provided in 43 CFR 5003. Based on historical information, the BLM receives an average of 25 protests per year. The proposed rule would replace the existing protest process with a comment-period process, which would generate about the same number of yearly submissions. Comments use the Conservation Scientist hourly wage in the cost estimate.

Table 12-3
Estimates of Annual Hour and Cost Burdens

Requirement	Average Number of Annual Respondents	Average Number of Responses Each	Average Number of Annual Responses	Average Completion Time per Response	Estimated Annual Burden Hours	Hourly Rate	\$ Value of Annual Burden Hours
Substitution Determination (Form 5460-17)							
Private Sector	100	1	100	1	100	\$ 88.27	\$ 8,827.00
Export Determination, 43 CFR 5424.1 (Form 5450-17)							
Private Sector	100	1	100	1	100	88.27	8,827.00
Log Scale and Disposition of Timber Removed Report (Form 5460-15)							
Private Sector	100	1	100	1	100	88.27	8,827.00
Comment Period, 43 CFR 5003.3							
Private Sector	25	1	25	10	250	46.23	11,557.50
Totals:	325		325		550		\$ 38,038.50

13. Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)

- * The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information (including filing fees paid for form processing). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
- * If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- * Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

There is no non-hour burden estimate associated with this information collection. Applicants incur no annual capital or start-up costs, no recurring annual costs to prepare or respond to the information collection, and no fees.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

We estimate the total annual cost to the Federal Government to administer this information collection is **\$527,376**. To calculate salary costs, we used Office of Personnel Management Salary Table [2020-POR](#) to obtain the most up-to-date wages for staff. In accordance with BLS News Release [USDL-20-0451](#), March 19, 2020, Employer Costs for Employee Compensation—December 2019, we multiplied the salaries by 1.59 to calculate the fully burdened wages for each staff member. We estimated the percentage of time spent by each staff person annually to administer this information collection.

Table 14-1 – Weighted Hourly Cost Calculations

Position/Cost	Grade/ Step	Hourly Rate	Fully Burdened Rates (x1.59)	% of Time on Collection	Weighted Cost	Total Weighted Cost (See Table 14-2)
Processing Forms						
	GS-11/05	\$ 37.09	\$ 58.97	100%	\$ 58.97	\$ 58.97
Processing Public Comments						
	GS-09/05	\$ 30.66	\$ 48.75	13%	\$ 6.34	\$ 61.78
	GS-11/05	37.09	58.97	60%	35.38	
	GS-12/05	44.46	70.69	22%	15.55	
	GS-13/05	52.87	84.06	3%	2.52	
	GS-14/05	62.48	99.34	2%	1.99	

Table 14-2, below, shows the annualized Federal costs for each aspect of the collection. The estimated processing time is based on the BLM's experience and includes comparisons of the collected data with a review of BLM's contract-activity monitoring reports including the transportation and disposition of logs. The estimated hourly wage with benefits is shown at Table 14-1, above. As the content and breadth of protests can vary widely depending on the project type and scope of issues (up to 250 pages with multiple issues), the estimates below are for protests of average length and complexity.

Table 14-2 — Estimated Annual Cost to the Government

Type of Response	Number of Responses	Hours Per Response	Total Hours	Weighted Hourly Cost	Total Cost
Export Determination, 43 CFR 5424.1 (Form 5450-17)					
	100	1	100	\$ 58.97	\$ 5,897
Substitution Determination (Form 5460-17)					
	100	1	100	58.97	5,897
Log Scale and Disposition of Timber Removed Report (Form 5460-15)					
	100	1	100	58.97	5,897
Comments, 43 CFR 5003.3					
	25	330	8,250	61.78	509,685
Totals:	325	—	8,550	—	\$ 527,376

15. Explain the reasons for any program changes or adjustments in hour or cost burden.

The BLM requests three program changes. None of these would affect hour or cost burdens.

Two program changes pertain to the previously approved information-collection activities labeled "Export Determination" and "Substitution Determination" These proposed program changes are the result of a proposed revision of 43 CFR 5424.1, and the Forest Resources Conservation and Shortage Relief Act of 1990. The existing regulation authorizes the BLM to require purchasers of Federal timber, and/or their affiliates, to report private timber exported within one year preceding the purchase date. As revised, section 5424.1 would authorize the BLM to require reporting of private timber exported within two years preceding the purchase date.

The third program change pertains to the previously approved information-collection activity labeled "Protests." This change would be the result of a proposed revision of 43 CFR 5003.3 and would not involve a form. The changes to this section would replace the existing forest-

management-decision protest process, wherein the public has a 15-day deadline for protesting decisions, into a new 10-day public-comment period.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

We have no plans to publish the information in this collection.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

We will display the expiration date of the OMB approval.

18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

There are no exceptions to the certification statement.